The Uniting Church in Australia
QUEENSLAND SYNOD

**Moderator**
**Rev Bruce Moore**

02 February 2024

Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Committee Secretary,

**Inquiry into the provision and regulation of supported accommodation in Queensland**

The Uniting Church in Australia Queensland Synod (Queensland Synod) welcomes the opportunity to provide feedback to the Community Support and Services Committee on the Inquiry into the provision and regulation of supported accommodation in Queensland.

The Queensland Synod would welcome future opportunities to discuss this submission further. Should you require any more information, I can be contacted on 07 3377 9705.

Yours sincerely,

Rev. Bruce Moore
Moderator, Uniting Church in Australia Queensland Synod

## Submission to the Inquiry into the provision and regulation of supported accommodation in Queensland

### Introduction

We commend the Public Advocate of Queensland for the publication of the report *'Safe, Secure and Affordable?', The need for an inquiry into supported accommodation in Queensland*[1]. The report is invaluable in identifying gaps in policy and service delivery to residents in supported accommodation in Queensland who are at risk of violence, abuse, neglect and exploitation due to their need for care and support. We use the term private residential services in this submission, as we are referring to supported accommodation in the private sector in Queensland, unless we are specifically referring to level 3 residential services where we then use the term level 3 residential services.

We outline various areas where improvements are urgently needed to uphold the human rights of people with disability and people with mental health issues who are precariously housed. We make various recommendations for reforming the current regulation of private residential service. The historical context to this issue in Queensland is presented, which illustrates the origins of this form of institutionalised care. This submission also highlights the various attempts at reform to address the issue in Queensland.

We make two overarching recommendations in this submission in order for the state government to meet the housing and support needs of vulnerable residents currently in private residential services in Queensland, along with the phasing out of private residential services over a generation. Currently the thousands of residents who overwhelmingly are people with disability and mental health issues, are subsidising private residential service providers so they can remain viable, through paying out up to 90% of their Disability Support Pension. Other people with disability and mental health issues are able to access more suitable accommodation support and options and pay only 25% of their income, allowing them to have disposable income to meet other costs of living. As the state government has articulated, the government benefits from this accommodation option for vulnerable members of the community, as it doesn't have to subsidise the provision of accommodation and support for this vulnerable cohort of people[2].

### The level 3 residential services model

**1. Is the current model by which level 3 residential services are provided – which typically sees private providers delivering accommodation and support services at the cost of a majority of a resident's Disability Support Pension – an appropriate one for Queensland into the future?**

We believe the current model by which level 3 residential services are provided is not appropriate for vulnerable persons in Queensland, both now and in the future. The reasons for this are outlined below and in the answers to the remaining questions.

### Historical context

[1] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.

[2] Explanatory Notes, Residential Services (Accreditation) Regulation 2018.

The process of deinstitutionalisation that occurred in Queensland since the mid-1970s is highly relevant to the current service context for private residential services[3]. Large numbers of people with a disability were referred from government-run institutions, both psychiatric facilities and those for people with an intellectual disability, to private residential services[4]. The historical practices have left a legacy, with the trend occurring of vulnerable residents who have support needs that are inadequately met in the environment of private residential services[5].

From the 1990s, accommodation services specifically for people with a disability in Queensland operated based on the principle of community inclusion and deinstitutionalisation (Young 2003)[6]. At the same time, major reforms were carried out to develop community-based models of care and rehouse patients who had resided in Queensland's three psychiatric hospitals[7]. Many community organisations in Queensland, such as the Tenant's Union of Queensland and Queensland Advocacy for Inclusion (QAI), Queensland Shelter and the Queensland Disability Housing Coalition, have focused on advocating for residents of private residential services to improve their human rights and quality of life, since the 1990s[8]. Most of the recommendations made in reports by these organisations over the last three decades are still relevant today[9].

In the late 1990s and early 2000s in Queensland, legislative reform of the supported accommodation sector commenced resulting in a twin legislative package, the Residential Services (Accommodation) Bill 2002 (Qld) and the Residential Services (Accreditation) Bill 2002 (Qld)[10]. The reforms responded to findings that many people with disabilities were living in squalor in private residential services premises despite paying a large amount of their income to the provider[11]. The aim of the reforms was to improve the quality of life of residents by improving residents' safety, residential amenity and services, residency rights and access to external support services[12]. The Office of the Public Advocate Queensland reported in two successive annual reports that it remained concerned that the reforms would not be successful in meeting the needs of vulnerable residents[13].

[3] Robinson, S., Fisher, K., Lee, A., & Chenoweth, L. (2005). Review of Disability Services Queensland referral processes to private residential facilities. Social Policy Research Centre.
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Shepherd, N. (2020). The transition from institution to community-based mental health care in Queensland: A critical policy analysis.
[8] Tenants' Union of Queensland (2004). Residential services monitoring report.
[9] Ibid; QAI (2001). Opening the doors to life; QAI (2003). Legislation and life.
[10] Dixon, N. (2002). The Queensland context – historical context and current policy context. Queensland Parliamentary Library Research Brief.
[11] Dixon, N. (2002). Residential Services (Accreditation) Bill 2002 (Qld): standards and accreditation. Queensland Parliamentary Library; Wenham, W. (2002). Tenant groups slam housing bills. Courier-Mail, 8 March, p 7.
[12] Dixon, N. (2002). The Queensland context – historical context and current policy context. Queensland Parliamentary Library Research Brief.
[13] Office of the Public Advocate (2001). Annual report 2000 – 2001; Office of the Public Advocate (2002). Annual report 2001 – 2002.

In 2001, Disability Services Queensland (DSQ) introduced the Resident Support Program (RSP) for residents of private residential services. This provided residents of private residential services with support services and assistance to access alternative housing options.

In 1999, a client of DSQ died in a private residential service following her discharge from a Mental Health Service (MHS)[14]. The client's referral to the facility was proposed by MHS and agreed to by DSQ. In the Coroner's report released in 2002, the Coroner expressed a view that DSQ should review its system whereby a person with a disability and for whom the Department is primarily responsible, is placed in a private residential service suitable to their needs[15]. The Coroner stated that regard should be given to the adequacy of staff and service within the residential facilities[16].

Following the Coroner's Report, the then Minister for Disability Services instructed DSQ to cease referring individuals with complex support needs and challenging behaviour to private residential services for long-term placements[17]. The Minister commissioned an independent review of the processes used by DSQ when referring people with a disability to private residential services[18].

The review found that the Ministerial directive requiring DSQ not to refer people with complex support needs or challenging behaviour into the private residential sector had little impact on the number of people with a disability entering private residential facilities[19]. Participants in the review consistently expressed the view that, while referral is an important issue, it is of greater concern that there are a large number of people with complex needs who reside in private residential facilities, as they are considered to be inappropriately housed and may be at significant risk[20].

A 2007 roundtable collaboration was established between the Office of the Public Advocate Queensland, Micah Projects Inc., Queensland Public Interest Law Clearing House, Queensland Health Mental Health Outreach Team, Pindari Supported Accommodation and Assistance Program Service, Salvation Army, HART 4000, Kyabra Support Service, and the School of Human Services and Social Work, Griffith University. The purpose of this collaboration was to look at the housing and support needs of people with impaired decision making capacity who are chronically homeless. A forum was held in 2008 to collaborate with the wider human services sector in Queensland. A pilot research project was undertaken subsequently investigating the barriers and enablers for this cohort in obtaining appropriate accommodation and support to improve their quality of life[21].

[14] Robinson, S., Fisher, K., Lee, A., & Chenoweth, L. (2005). Review of Disability Services Queensland referral processes to private residential facilities. Social Policy Research Centre.
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Ibid.
[19] Ibid.
[20] Ibid.
[21] QAI (2016). Position paper on the right to a home of one's own; School of Human Services and Social Work (2010). Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness.

Suggestions for improvements to the service system in Queensland from the research findings included[22]:

- the inclusion of case management in service responses,
- simpler and more flexible access to both housing and support services, including flexible eligibility criteria for service users to access services, ideally access should be based on self-identified need,
- flexibility in service provision,
- increasing the stock of singles accommodation,
- supportive housing/supported accommodation models with wraparound support e.g., Common Ground.

In 2008, the Residential Services Reforms Committee recommended that research be undertaken to identify the service needs of the residents in private residential services to support service planning for the residents[23]. The research found unmet needs for a range of services and produced recommendations to address this[24].

By 2024, thousands of Queenslanders with disability are still living in private residential services, with most referred there by organisations that say they have "no other option" but to put people in risky situations[25]. For example, in the past year, Micah Projects referred 466 people to boarding houses, most of whom have a disability or a severe health issue[26].

**Inappropriate model of housing and support**

As the Public Advocate of Queensland's report provides, stakeholders described a range of issues that affect the human rights, wellbeing, and safety of residents in these settings[27]. In a QAI submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission), they provide the following non-exhaustive list of anecdotal examples of issues for residents in private residential services in Queensland that have been identified by service providers, Local Area Coordinators, and former residents[28]:

- A hostel provider's direct relative has become a NDIS Registered Provider of Supports and residents wanting to go with another provider have been threatened with eviction.

[22] School of Human Services and Social Work (2010). Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness.

[23] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.

[24] Ibid.

[25] Wallen, S. (2023). Advocates and housing organisations say they have 'no other option' but to refer people with intellectual disabilities to boarding houses ABC online, Sun 18 Jun 2023, available at: https://www.abc.net.au/news/2023-06-18/intellectual-disability-sleeping-in-boarding-houses/102450988.

[26] Ibid.

[27] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.

[28] QAI (2020). Submission to Disability Royal Commission group homes.

- Another hostel provider's direct relative has become a Support Coordinator for those same residents.
- Hostel providers stand over residents while negotiating NDIS support agreements.
- Providers restrict entry to residents' guests, including to independent support coordinators.
- Provider sought Guardianship order, to override disadvantageous resident decision.
- Provider yelling, abuse, coercion, threats to get compliance.
- Manager controls which activities residents do with support workers.
- One hostel owner/manager has four houses – 2 are in good condition the other 2 are extremely filthy. If someone is to visit, the residents are moved to a cleaner home for the meeting. They are registered to provide Level 3 accommodation.
- Daily meals are not cooked for residents by staff, despite that this is included in the accommodation fee. Shopping is delivered to the home; the higher functioning residents cook the meals.
- Hostel Manager stated that the participant's psychiatrist does not listen to her or share what is happening with the participant. Manager wants to force the participant to see public mental health in another location as all her other residents attend this location and the clinician shares information with her.
- NDIS plans were opened by manager/owner and not given to the residents. This was common knowledge. One participant did not see her plan till a Support Coordinator arrived to speak about her plan.
- The resident did not even know she had an active plan but this time months had passed. This has since happened with several other residents who knew nothing of having a plan, yet hostel staff had opened the mail and uploaded the plans onto the persons' files, without the participant's knowledge or consent.
- Control of residents' own money. In one instance the Public Trustee was depositing $80 per fortnight to a person's account but the hostel management would only allow the person to access $2 per day and $10 on Fridays.
- Residents are rarely able to visit their own GP, and instead a visiting GP treats all the residents, denying them choice with respect to their healthcare provision.
- One resident was on a waitlist for 6 years to have cataract surgery, but this was not followed up by the hostel owner and the resident has lost most of her vision. She then broke her right knee and left ankle when slipping over.
- The GP that visits (on an arrangement with hostel) diagnosed a resident with allergies. A concerned NGO staff took her to an external GP, and she was diagnosed with stage 4 cancer and passed away within a couple of weeks of this.

In addition, the 2023 investigative report by the Mental Health Legal Centre (MHLC) reported some concerning examples of daily life for residents of private residential services in Victoria where the operators may be a NDIS service provider[29]:

- Food has become a way to bribe residents. Residents are coaxed into changing accommodation and disability support providers through offers of fast-food 'treats' like KFC and McDonalds.

[29] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.

- Reported practices such as offering residents small amounts of money or a packet of cigarettes, as a 'rental discount' are employed to trap people into feeling like they have colluded with overcharging for services in return making it much harder to raise a complaint.
- The costs of cigarettes has had a significant impact on residents, who are disproportionately likely due to trauma, institutionalisation and poverty to be smokers. Cigarettes are now too expensive for residents to purchase for themselves and access to them and 'chop-chop' are commonly used coercively as both a reward for positive behaviour and as a restriction for noncompliance.
- Some residents have their ATM cards held by the accommodation service which 'protects' them from financial exploitation, except by the service itself. We have reports of funds being withdrawn unauthorised from resident accounts.
- People living with a psychosocial disability have reported being returned by police to an supported residential services they were trying to leave.

The Public Guardian of Queensland, in evidence given to this Inquiry, reported that appointed Guardians generally only support decisions for people to reside in level 3 residential services when there are no other accommodation options available or where the person is very clear that they wish to reside at a specific service[30]. Residential services are often an option when there is a need for urgent accommodation, for example in circumstances where a person requires an urgent bail application[31].

Problems with these types of congregate care models have been well-established across western countries, with research indicating that they are not consistent with optimal recovery outcomes and that resident have[32]: higher rates of hospital readmission; higher rates of mortality than the general population; residents living in chronic poverty; residents having negligible opportunities for participation and recovery; and female residents at significant risk of sexual violence.

Everyday choice in these settings has been shown to be severely restricted, with residents having little autonomy or control over their environment and lives[33]. The 2023 investigative report by the MHLC has likened some of the practices in private residential services as institutional domestic violence[34]. They report that there has been some limited use of Intervention Orders to restrict access by providers to some vulnerable clients from predatory businesses, however the Intervention Orders are easily breached through use of associates rather than a named person of concern. Some jurisdictions such as Ontario in Canada, have recognised the harm of what they call 'custodial

[30] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[31] Ibid.
[32] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023). Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[33] Ibid.
[34] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.

housing' and are developing new models and pathways out of these settings, which are still allowed to operate by state and territory governments in most Australian jurisdictions[35].

**Trans-institutionalisation and deinstitutionalisation**

Since the 1960's and 1970's the principles of deinstitutionalisation have underpinned disability and mental health policy in most industrialised countries[36]. Central to deinstitutionalisation discourse is the view that institutions are an inappropriate social policy response to meeting the accommodation and support needs of people with disability and people with mental health issues[37]. The deinstitutionalisation movement promoted the idea that people living with disabilities should live in ordinary housing arrangements in regular communities as part of mainstream society rather than segregated from it in institutions[38].

However, due to inadequate policy responses during the deinstitutionalisation process, public safety structures, routines, and cultures of the institutions transposed onto the community in the guise of risk management [39]. Community settings that accommodated the deinstitutionalised people adopted the same risk management practices, rights-restrictive policies, and strict structures of the institutions[40]. One research study described the use of private residential services after deinstitutionalisation as 'the privatisation of the back wards'[41]. The resources that had previously been invested in institutions did not follow the former residents of institutions out into the community[42]. Government policy failed to respond in terms of supply of appropriate housing to the increased number of people living with disability and mental health issues who required accommodation in the community[43].

The Office of the Public Advocate Queensland highlighted the link between deinstitutionalisation and private residential services in 2001 and 2002[44]:

*Deinstitutionalisation was meant to achieve the inclusive participation of vulnerable citizens in the life of the broader community. It is questionable whether this has been achieved for many people who now live in hostels and boarding houses.*

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[35] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023). Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.

[36] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.

[37] Ibid.

[38] Chenoweth, L. (2000). Closing the doors: insights and reflections on deinstitutionalisation. *Law in Context,* 17 (2), 77-100.

[39] Ibid.

[40] Ibid.

[41] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.

[42] Robinson, C. (2000). Not cheap, reasonable - the development of not-for-profit boarding houses.

[43] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.

[44] Office of the Public Advocate (2001). Annual report 2000 – 2001; Office of the Public Advocate (2002). Annual report 2001 – 2002.

*The current structure of the residential services industry is due largely to the neglect of former governments over many years. This neglect allowed boarding houses and hostels to become the destination for a range of vulnerable citizens as they exited hospitals, the mental health system and large institutions...*

By providing congregate housing for large numbers of people with disability, private residential services have been performing a very similar function to the old institutional asylums[45]. Under neoliberal policy approaches, the establishment of private residential services shifted responsibility for the support of people with disability from the public to the private sector, due to shortages of accommodation and support[46].

In evidence given to the Royal Commission, the Victorian Public Advocate described the institutionalised nature of private residential services[47]:
*Once we start to get larger scale, then we start to get institutions, and with that comes routine. So, with routine comes 'all of you will eat your dinner at 5 o'clock tonight'. The lights will go out. The doors will close. So, you start to get institutionalised behaviour and, more importantly, you get staffing that is institutionalised … You get institutionalised thinking that has a detrimental effect on the individual and goes against their ability to make choices, real choices, and to control their circumstances.*

Recent research analysing the characteristics of private residential services according to Goffman's notion of total institutions, found that these settings meet many of the criteria for a total institution[48] . According to the authors, this has two critical implications for policy and practice[49]: first, the extent to which institutionalisation in private residential services impacts on the choices residents are able to make; and secondly, the extent to which independent support and advocacy are needed to ensure residents can exercise choice and control over their lives to find pathways out of private residential services.

**Calls for the closure of private residential services**
*Why and where does this sit in the whole range of accommodation services for people with disabilities? The major challenge on the human rights side is why are they there in the first place?[50].*

[45] QAI (2003). Legislation and life.
[46] Fisher, W., Geller, J., & McMannus, D. (2016), Same problem, different century: issues in recreating the functions of public psychiatric hospitals in community-based settings. In: Perry, B.L. (Ed.) 50 Years After Deinstitutionalization: Mental Illness in Contemporary Communities, Advances in Medical Sociology, Vol. 17, pp. 3–25.
[47] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[48] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023). Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[49] Ibid.
[50] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.

In 2023 four Commissioners of the Royal Commission with lived experience of disability, made recommendations relating to the reform of group homes and to ultimately phase out group homes over a 15 year transition period[51]. This was due to their consideration that group homes are unsuitable models of housing and support for people with disability, as they are institutional in nature and place residents at risk of violence, abuse, neglect and exploitation[52].

There have been repeated calls for closure of private residential services from disabled people's representative organisations and advocacy organisations, through providing current residents support to live independently in the community in affordable and accessible housing[53]. This would also continue the process of deinstitutionalisation which began decades ago[54]. A Royal Commission research report which examined issues relating to the inclusion, integration and segregation of people with disability recommended that[55]:
*Congregated accommodation settings (e.g., institutions, hostels, and boarding house-like facilities) need to be closed. They are unsafe and unable to deliver on the expectations of (and obligations imposed by) the [United Nations Convention on the Rights of Persons with Disabilities] and the objectives of the National Disability Insurance Scheme (NDIS) Act.*

Research on the housing needs and preferences of people with disability internationally and in Australia indicates that supported group housing, with all services provided under the one roof, is not what people with disability prefer[56]. This is consistent with the decades of research illustrating the negative impact of institutionalisation on everyday choices, recovery outcomes, self-determination, and health and social outcomes[57]. Residents are constantly at risk of having their human rights compromised or violated and their citizenship denied, and drift towards experiencing various forms of precariousness exacerbated by poverty, chronic illness and social isolation[58].

**'Sites of containment': The effect on the human rights of residents of private residential services**

[51] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[52] Ibid.
[53] PWDA (2012). Submission to exposure draft - Boarding Houses Bill 2012; People with Disability Australia PWDA (2019). Closing the door on assisted boarding houses: transitioning to contemporary, affordable and accessible housing for people with disability.
[54] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[55] McVilly, K., Ainsworth, S., Graham, L., Harrison, M., Sojo, V., Spivakovsky, C., Gale, L., Genat, A., & Zirnsak, T. (2022). Outcomes associated with 'inclusive', 'segregated' and 'integrated' settings: accommodation and community living, employment and education. University of Melbourne.
[56] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[57] Ibid.
[58] Clapton, J., Chenoweth, L., McAuliffe, D., Clements, N., & Perry, C. (2014). Precarious social inclusion: chronic homelessness and impaired decision making capacity. *Journal of Social Distress and the Homeless*, 23 (1), 32–41.

Dearn, Ramcharan, Weller, Brophy & Johnson (2023) recently proposed that: *In Australia, it is time to address the fact that the underlying model of institutional care, which is at the foundation of supported residential services, is misaligned with contemporary human rights and remains a crucial problem for residents' recovery and fails to protect human rights*[59].

The final report of the Royal Commission states that in private residential services, insufficient attention is often paid to quality, safety, autonomy, dignity, and inclusion, both for residents with disability and those without disability[60]. Institutional forms of accommodation are out of step with human rights and disability policy internationally[61].

The Residential Tenancies Authority of Queensland recognised in 2006 that there has traditionally been a significant imbalance between residents' rights and those of service providers in private residential services, particularly when many residents need additional support to understand and enforce their rights[62]. When people with disability with complex needs are inappropriately placed in private residential services, their choices and decisions about personal care and preferences in daily life at home are not available[63]. Their life must fit in with the personal routines of others and available support[64].

Living in a highly controlled environment can be psychologically damaging for a vulnerable person who in many circumstances comes from a traumatised background and needs trauma informed care[65]. The extent to which private residential services contribute to the quality of life of people with intellectual disability and people with mental illness has repeatedly been reported to be generally very poor[66]. Private residential services, because of their institutionalised nature, contravene the human rights of residents, such as the right to privacy, self-determination and access to the community[67]. Many residents have complex needs yet live within a context of risk management at

[59] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[60] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[61] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[62] Residential Tenancies Authority (2006). Size and structure of the residential services sector; Residential Tenancies Authority (2006). Monitoring the viability of the residential services industry.
[63] QAI (2003). Legislation and life.
[64] Ibid.
[65] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.
[66] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[67] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.

the expense of many of their human rights[68]. Research has called private residential services 'sites of containment' for people seen as a risk to the community [69].

Over time this denial of human rights can lead to an erosion in the very conception of what it means to have human rights[70]. Part of the reason for moving away from institutionalisation was to avoid 'civil death' amongst patients[71]. When people become accustomed to living with greatly reduced human rights, they experience a 'civil death'[72]. 'Civil death' is brought on when a person becomes accustomed to restrictions in the way they live, sleep, play, work, learn and fulfil their other basic human needs[73]. People who are forced to live in a highly controlled and unfulfilling environment can experience submissiveness, low self-esteem, deterioration of personal standards and habits, loss of interest in the outside world and a loss of interest in their own personal future[74].

Previous research has highlighted that 'choice' for vulnerable people in terms of 'choosing' to reside in private residential services is severely limited, due to the lack of alternative options[75]:
*We have a captured market in boarding houses… It's a default mechanism rather than an actual choice. People with disabilities will go into boarding houses simply because there is nothing else for them.*

In recent research, private residential services were found to be a type of closed environment; that is, not all residents could be considered to have chosen to live in private residential services, and nor could residents be considered able to move of their own volition[76]:
*Residents experienced being locked in, not due to the high walls, cliffs and barbed wire of Goffman's total institution, but because of a lack of alternative accommodation options, a lack of financial freedom and the presence of compliance-inducing legal regimes. Once there, effectively "stripped" of part of their identity and control due to the high SRS fee, without the rehabilitation or recovery support that would help them to get better and, hemmed-in by the explicit or implicit limits of the institution, and lacking financial and other resources, residents could be effectively "stuck" in this setting without an exit pathway*.

Choice also applies in terms of choice of support service providers, but practices utilised in many of private residential services are strategies used to exert control, and/or coercion to prevent residents

[68] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.
[69] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023). Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[70] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.
[71] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[72] Ibid.
[73] Ibid.
[74] Ibid.
[75] Ibid.
[76] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.

exercising choice[77]. In 2004, the Tenants' Union of Queensland reported that residents of private residential services do not have control over where they live and are often moved around from premises to premises by owners/operators, sometimes as part of commercial transactions between owners/operators, and residents are also moved between properties owned by a single owner/operator[78]. This is similar to what has been recently occurring in Victoria since the added incentive for providers substantial NDIS packages[79].

**Separation of housing and support**

In private residential services in Queensland, the provider of accommodation can also provide personal care services and/or provide NDIS services. This is contrary to the key human rights principle of the separation of housing and support, to prevent providers from controlling all aspects of a person's life, and so that if one service is lost there is still assistance from the separate, other service. The separation of housing and support services is a key safeguard for vulnerable people at risk of violence, abuse, neglect and exploitation. Previous Queensland research proposed that these residents are highly vulnerable to economic exploitation due to a prolonged lack of support over their lifetime to make decisions in their own interest [80].

Organisations such as QAI and People with Disability Australia (PWDA) have previously recommended that private residential service operators be prohibited from providing NDIS services[81]. This is also consistent with the new housing and living approach proposed by the recent Independent Review of the NDIS, which proposes that a new housing and living approach should be developed for the NDIS which prioritises a more urgent shift away from group home settings where there are concerns about 'client capture' with housing and supports provided by one provider, to an approach where participants can choose their living arrangements and the supports, they receive[82]. In addition, the NDIS Quality and Safeguards Commission have proposed that the Specialist Disability Accommodation (SDA) Practice Standard be strengthened to mandate a formal separation between SDA and living support providers[83].

This need for the separation of housing and support was recognised by the state government over 25 years ago, in 1997, by the Residential Tenancies Authority[84]. This is also currently recognised, although not prohibited, in section 8 of the Residential Services (Accreditation) Regulation 2018,

[77] QAI (2020). Submission to Disability Royal Commission group homes.
[78] Tenants' Union of Queensland (2004). Residential services monitoring report.
[79] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.
[80] Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program Final Report.
[81] PWDA (2019). Closing the door on assisted boarding houses: transitioning to contemporary, affordable and accessible housing for people with disability; QAI (2003). Legislation and life.
[82] Commonwealth of Australia (2023). Working together to deliver the NDIS Independent Review into the National Disability Insurance Scheme final report.
[83] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[84] Residential Tenancies Authority (1997). Rules for renting in Queensland: an evaluation of the first twelve months of operation of the Residential Tenancies Act 1994.

which states that *personal care services for residents are delivered, to the extent possible, through entities external to the residential service*.

The principle of the separation of housing and support is also articulated in the *Housing Principles for Inclusive Communities* developed by the Department of Housing (DOH) in collaboration with Queensland government agencies, Griffith University, National Shelter and the Queenslanders with Disability Network following consultation with older people, people with disability and their families[85]. Four principles were developed in accordance with the objective of the *Queensland Housing Strategy 2017-2027* that 'Every Queenslander has access to a safe, secure and affordable home that meets their needs and enables participation in the social and economic life of our prosperous state'[86] . The principles include:

• Rights: People with disability and older people have the same rights to housing and assistance as the rest of the community and are encouraged and supported to exercise those rights.
• Control: Where a person requires support in their home, the provision and management of their housing should be separate from the provision and management of their paid supports. This will ensure greater housing security.
• Choice: People with disability and older people have choice about where they live, who they live with, and who comes into their home and when, rather than this being determined by the provider.
• Inclusion: Appropriate housing provides pathways to independence and enables social and economic participation through alternatives to group homes and high density of people with disability.

The Queensland Government has also committed to 'Promote rights, choice, control, accessibility and inclusion in housing with support for people with disability' as part of the *Queensland Housing and Homelessness Action Plan 2021–2025*[87]. The *Queensland Housing and Homelessness Action Plan 2021-2025* commits the department to promoting rights, choice, control, accessibility and inclusion in housing with support for people with disability, as well as co-designing housing responses with people with disability and peak and expert organisations[88].

In 2021, the Queensland government commissioned a three-year Disability Housing Action Plan which is yet to be released[89]. The goal of the 2021 plan is to set out a "human rights-based approach" to deliver "housing and timely supports for people with disability". The Minister for

[85] Department of Housing (2019). Housing principles for inclusive communities.
[86] Ibid.
[87] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[88] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[89] Wallen, S. (2023). Advocates and housing organisations say they have 'no other option' but to refer people with intellectual disabilities to boarding houses ABC online, Sun 18 Jun 2023, available at: https://www.abc.net.au/news/2023-06-18/intellectual-disability-sleeping-in-boarding-houses/102450988.

Housing has said the government's $3.9 billion investment for social and affordable housing is focusing on allowing people with disability to live independently[90].

In its submission to this Inquiry, the DOH recognised that the Residential Services (Accreditation) Act 2002 pre-dates the United Nations Convention on the Rights of Persons with Disabilities, ratified by Australia in 2008, and the Department's own *Housing Principles for Inclusive Communities*[91].

The current framework for private residential services in Queensland, is contrary to the Queensland government's own policy approaches to housing and support, as well as contrary to Australia's human rights obligations. Unfortunately, this form of housing and support for vulnerable people has been constantly presented over decades as a business opportunity for the private sector, that needs financial support to improve the sector's 'viability' to make a profit.

**Preferencing the viability of the industry for profit-making over the needs of vulnerable residents**
*This research adds weight to four decades of inquiries that have questioned the adequacy of supported residential services to meet the needs of people with disability and the appropriateness of policy which, due to a lack of alternative accommodation, continues to subsidise and regulate this model[92].*

Shelter South Australia (2017) highlights that any policy reform of private residential services must keep a primary focus on the rights of residents[93]. However, various government reports over decades have highlighted that consideration of issues for vulnerable residents in private residential services needs to be balanced against consideration of the viability of the sector for private residential service providers[94]. Regulation of the private residential services sector in Queensland and in other states and territories has historically privileged the 'right' of private residential services operators to run a business, over upholding the human rights of vulnerable people. This stance has also assisted state governments to avoid responsibility for meeting the needs of these residents. As the explanatory notes for the Residential Services (Accreditation) Regulation 2018 states (emphasis added):**[95]**
*The impacts and barriers presented by the 2018 Regulation are justified in terms of the overall benefit to vulnerable residents who use the services, to residential service providers who can operate under a*

[90] Wallen, S. (2023). Advocates and housing organisations say they have 'no other option' but to refer people with intellectual disabilities to boarding houses ABC online, Sun 18 Jun 2023, available at: https://www.abc.net.au/news/2023-06-18/intellectual-disability-sleeping-in-boarding-houses/102450988.
[91] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[92] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.
[93] Shelter South Australia (2017). The end of the road, rooming housing in South Australia.
[94] Residential Tenancies Authority (1997). Rules for renting in Queensland: an evaluation of the first twelve months of operation of the Residential Tenancies Act 1994; NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[95] Explanatory Notes, Residential Services (Accreditation) Regulation 2018.

*reasonable regulatory framework,* ***and to government, which benefits from an important unsubsidised accommodation option for vulnerable members of the community****.*
*The schedule of fees in the 2018 Regulation has been retained at current levels. This will help ensure that cost recovery is balanced against the serious potential impacts on residents who would lose their accommodation; and on government,* ***which would need to find alternative accommodation for those residents, if residential services become unviable due to higher fees.***

It is not the role of vulnerable people to subsidise either the private residential service providers who are for-profit, nor the state government for its duty to provide appropriate housing and support options. The fact that residents of private residential services pay up to 90% of their income leaving them with not enough disposable income to meet their living needs, in order to 'prop up' a business opportunity that is inappropriate in this context, is unsuitable for Queensland.

We note that in the public hearing for this Inquiry, the Supported Accommodation Providers Association (SAPA) advocated for government subsidies to the private residential services again, with immediate funding to private residential service operators to 'support the viability of the sector and elevate service delivery standards', including immediate funding to support increased levels of staffing, training and capital upgrades[96]. Any government funding directed to this issue should be towards alleviating the financial burden of vulnerable people who are currently required to subside private residential service operators, from the Disability Support Pension or similar. In effect, federal government funds (i.e. from income support payments like the Disability Support Pension, along with rent allowances) are paying for accommodation and support that is unsuitable and expensive.

**Markets for services**
The failure of the market to provide innovation, consumer choice and high quality services for vulnerable people in human service provision has been highlighted repeatedly since the neoliberal trend in western countries to reduce the provision of services by government, and to leave this to the free market[97]. The reliance on market forces to achieve quality services may be appropriate for public transport or electricity services, however the incentive to achieve quality services can be compromised in the human services where the 'tendency for profit-maximising outweighs equity, effectiveness, service quality and accountability'[98].

To differing extents, organised as consumer markets, the resulting care systems have enabled the funnelling of public subsidies meant for care into the creation of wealth for private providers[99].
The rationale for privatisation of human service delivery in western countries has been that market forces would ensure quality of care, as people are viewed as active citizens who make choices about

[96] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[97] Macdonald, F. (2024). Care policies. *Journal of Australian Political Economy*, 92, pp. 86-97.
[98] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[99] Macdonald, F. (2024). Care policies. *Journal of Australian Political Economy*, 92, pp. 86-97.

their lives[100]. In its submission to the Royal Commission, the Summer Foundation pointed out that an effective market-based system requires informed and empowered consumers[101]. The Mental Health Legal Centre, in its damning report on issues relating to the NDIS and private residential services in Victoria, states that[102]:
*The marketplace for disability supports is designed to work for people living with disabilities who have strong advocates and supportive families, with the capacity to navigate a complex system to identify and utilise effective supports. It is also built on trust that Australian businesses are run ethically and appropriately regulated.*

In its investigative report on private residential services in Victoria, the MHLC proposed that the current system enables, and in many cases facilitates and financially rewards, exploitative and coercive practices including limiting access to supports, neglect, emotional manipulation, bribery, financial abuse and kidnapping[103]. Private residential service operators have a captured market[104].

The introduction of a market-based system for human service delivery for vulnerable people occurred alongside the minimised role of government in regulation. Active inspection and oversight by government agencies has gradually been phased out, with a reliance on compliant-based systems of regulation.

**Private residential service operators who are also NDIS service providers**
SAPA identified in the public hearing for this Inquiry that approximately 75 per cent of residents in private residential services in Queensland have a NDIS plan[105]. The NDIS Commission Compliance Strategy for private residential services in Victoria states that the similarity between the supports by providers in private residential services and the NDIS makes the boundaries between these systems unclear and unduly complicated for residents to navigate[106]. This lack of clarity exposes residents to risk, particularly from unscrupulous operators who may continue to charge residents for supports that are being met through their NDIS funding, or by charging residents against their NDIS plans and not delivering the required supports[107]. The NDIS Quality and Safety Commission highlighted that it is not reasonable for residents to have to navigate this complexity without assistance to understand their rights, and guidance on where to get help when they require it[108].

[100] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[101] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[102] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.
[103] Ibid.
[104] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[105] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[106] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[107] Ibid.
[108] Ibid.

The MHLC investigative report into private residential service providers who are also NDIS providers found the following issues[109]:

- There is significant conflict of interest that is currently being exploited. Businesses can own both accommodation services and NDIS services. This relationship is often hidden with only partially completed details with ASIC, including parent companies and discretionary trusts registered with multiple different businesses.
- There is a growing trend of predatory companies utilising Supported Independent Living (SIL) resources to increase their income revenue. Currently companies can collect residents, take them to undisclosed locations and syphon the funding from their packages. The average SIL package in Victoria, as at Dec 2022 is $400,100 per person. Residents with high value packages, due to poor safeguards, have become highly vulnerable to being taken to an unregistered address, housed in a four-bedroom house. Their SIL and support funding is drained and then they are returned, often in a poor condition, back to the doorstep of an SRS. It has been necessary to take out guardianship on behalf of some particularly vulnerable residents to protect them from kidnap but this is fraught with difficulties as a system-wide protection or response to risk.
- People living with a disability have reported being coerced to approve hours which allows services to charge without supports being provided.
- Another common experience of NDIS participants in private residential services is being only offered weekend supports so they are charged at a higher rate e.g., visiting a shopping mall all day, every Sunday, sitting with a worker on Sundays watching tv for 6 hours, charged as counselling, etc.
- The complaints system is broken and leaves high-risk concerns and practices to continue impacting on the rights of people living with a disability. Complaints to the NDIS Quality & Safeguards Commission are not actioned, at least in a timely and responsive manner. Red flags have been highlighted a multitude of practitioners across many different services. Urgent concerns have been raised with NDIS Quality and Safety Commission and months and years later no response has been provided and predatory, exploitative and fraudulent practices of concern continue unchecked. The enforcement actions are too soft; significant criminal charges for deliberately exploiting people living with a disability could provide more of a disincentive.

Recent research suggested that the provision of NDIS services by private residential service operators has two implications[110]: residents will need independent support and advocacy and opportunities to express their housing needs and preferences as they make decisions, purchase services and implement their NDIS plans; and pathways out of private residential services are needed so that residents can achieve choice and control over their lives.

[109] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.
[110] Dearn, E., Ramcharan, P., Weller, P., Brophy, L. & Johnson, K. (2023) Supported residential services as a type of "total institution": Implications for the National Disability Insurance Scheme (NDIS). *Australian Journal of Social Issues*, 58, 279–295.

**Characteristics of target cohort**

Two research projects conducted for the Queensland government have previously both developed resident profiles[111].

As part of the RSP evaluation, a longitudinal study of a sample of residents receiving services under the RSP, the researchers identified that were people experiencing psychiatric disability and multiple disability[112]: psychiatric disability 73 per cent; physical disability 55 per cent; neurological and intellectual disability 42 per cent; and multiple disability 64 per cent. The lives of the residents who participated in the longitudinal resident survey at the first contact were characterised by isolation within the community, estrangement from family, detachment from the labour market, poverty and reduced mobility and a fatalism about whether their situation could ever improve[113]. Literacy problems among residents was also highlighted[114].

Of the 682 people who used the RSP, about two-thirds were male, and about two-thirds were aged between approximately 33 and 65. 5 per cent were as being Indigenous[115]. The research suggests that a high proportion of private residential services residents are likely to have high levels of disability and drug and alcohol dependence problems, and they also face multiple disadvantages as a consequence of poverty and inability to rely on a family member or carer who can help them negotiate their needs[116]. Estimates of the profile of residents emphasised vulnerability due to intellectual disabilities, financial status and low literacy[117]. Many resident seldom leave the premises, and are very socially isolated, despite living in populous areas, and live institutionalised lives[118].

A research project by the Griffith Health Institute, funded under the National Homelessness Research Agenda 2009-2013, investigated the social exclusion of people with impaired decision making capacity who were experiencing chronic homelessness in Queensland and South Australia[119].

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[111] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre; Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program final report. Social Policy Research Centre.

[112] Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program final report. Social Policy Research Centre.

[113] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.

[114] Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program Final Report.

[115] Ibid.

[116] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.

[117] Ibid.

[118] Ibid.

[119] Clapton, J., Chenoweth, L., McAuliffe, D., Clements, N., & Perry, C. (2012). Precarious social inclusion: chronic homelessness and impaired decision-making capacity final report; Clapton, J., Chenoweth, L., McAuliffe, D., Clements, N., & Perry, C. (2014). Precarious social inclusion: chronic homelessness and impaired decision making capacity. *Journal of Social Distress and the Homeless*, 23 (1), 32–41.

Community service providers and government agencies working in the homelessness sector in Queensland and South Australia. estimated that the percentage of people with impaired capacity living in supported accommodation facilities such as boarding houses and hostels in Queensland and in South Australia, was around 85%[120].

The pilot research for the above study had the following findings about the characteristics of this cohort[121]:
• vulnerability to being easily influenced/taken advantage of by others
• limits in cleanliness of self and accommodation
• difficulties in following rules or instructions easily or at all, difficulty with comprehension
• difficulties with budgeting and management of money
• difficulties with forward planning
• experience exclusion from services, real estate agencies, and public housing, and
• living in poverty.

The pilot study indicated that people with impaired capacity who are chronically homeless experience personal difficulties in self-regulation and decision-making in regard to finances, hygiene, health, employment, and tenancy[122]. Overwhelmingly the target group live in poverty, may lack insight, have poor relationship skills, be impulsive and/or anxious, and suffer memory loss[123]. These issues cannot only be attributed to perceived deficit characteristics of individuals, as deeper societal issues exist such the restrictions and failures of service systems, and a lack of ethical practice skills and ethical practice frameworks[124].

The DOH, in its submission to this Inquiry, has observed that residents are more likely to be male, older, facing complex mental and/or physical health issues, and the majority are in receipt of a Centrelink Pension[125]. In the public hearing for this Inquiry, the Public Guardian reported that here are approximately 150 adults across all residential services who have the Public Guardian appointed for decision-making, with 132 of those residing at a level 3 residential service[126]. In addition, the Public Trustee of Queensland reported that it is likely that a significant number of residents

[120] Clapton, J., Chenoweth, L., McAuliffe, D., Clements, N., & Perry, C. (2012). Precarious social inclusion: chronic homelessness and impaired decision-making capacity final report.
[121] School of Human Services and Social Work (2010). Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness.
[122] Ibid.
[123] Ibid.
[124] Ibid.
[125] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[126] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.

experience complex support needs and impaired decision-making ability and engage with services across a range of government organisations including the Public Trustee[127].

The 500 lives, 500 homes project collected data on residents of level 3 residential services in the Brisbane region, using the Vulnerability Index - Service Prioritisation Decision Assistance Tool (VI-SPDAT)[128]. Of the 221 people surveyed[129]:

- the majority or 62% were male (n=137) and 36.6% were female (n=81).
- there was a wide age spread of people in supported accommodation, the oldest person was 92 and the youngest person was 15 years of age, average age was 53.9 years.
- residents predominately identified as Australian.
- acuity of need: 49.3% (n=109) of residents will require minimal support to maintain their tenancy.
- 16.7% (n=37) of residents had a heart condition and 24.4% (n=54) are affected by diabetes. One of the highest health issues at 41.2% (n=91) is in relation to dental health.
- there is a relatively high percentage of tri-morbidity of level 3 residents at 26.7% (n=59), meaning that they have mental health issues, abuse substances and have a serious medical condition.
- nearly one fifth of residents reported that they are victims of violence.
- nearly one quarter of all residents reported having had a brain injury or trauma.
- 28.5% self-identified with being told that they have a learning disability or developmental disability.
- 15% of residents identified having had a foster care experience.

The NDIS Commission Compliance Strategy for Supported Residential Services in Victoria gives some contemporary data about residents in supported residential services in Victoria who are NDIS participants, which is similar to the findings of previous research in Queensland and other jurisdictions[130]. The majority of residents have a mental illness that requires ongoing treatment and support, or cognitive impairment, or both[131]. Many residents have considerable health problems, including chronic health conditions requiring multiple medications, deteriorating health related to ageing, and are at high risk of further health problems as a result of poor diet, heavy smoking, and alcohol use[132].

[127] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[128] Project 500 Lives 500 Homes (2014). Emerging trends VI-SPDAT supported accommodation.
[129] Ibid.
[130] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[131] Ibid.
[132] Ibid.

There is a significantly greater proportion of NDIS participants living in Supported Residential Services in Victoria who identify as having a primary disability of psychosocial, compared to the national population of NDIS participants[133].

- Psychosocial disability is 59% compared to 11% of all NDIS participants nationally
- Intellectual Disability is the primary disability for 20% of these participants compared to 18% nationally
- 11% of these participants have an acquired brain injury or stroke related disability compared to 5% nationally.

The above characteristics align with the observations about characteristics of the residents that were made in the Public Advocate report[134].

**Support and service needs of target cohort**

The Royal Commission heard evidence that most people living in private residential services have support needs beyond those that a private residential service can provide, given that these services often have inadequate staffing levels, staff often have minimal experience and training, including in areas related to case work, health, mental health first aid, harm minimisation, conflict management, aggressive behaviour management, and cultural diversity and safety[135].

DSQ commissioned research to identify the service needs of residents in private residential services in Queensland, which was published in 2008[136]. The research found that there were high levels of service need among people living in private residential services and similar accommodation[137]. The research showed higher levels of vulnerability, multiple vulnerability and poor access to services to address the support needs associated with these vulnerabilities[138]. Their vulnerabilities and support needs were likely to be complex in two respects[139]: First, many experience multiple vulnerabilities; and second, they are as a rule living in environments that add to their vulnerability in terms of the risk to safety from other people living in the facility[140].

The research found that people living in private residential services compared to other people are more likely to have support needs – for example levels of disability in this group could be overall between 1.5 and 2.5 times higher than among people who live in private households[141].

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[133] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[134] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[135] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[136] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.
[137] Ibid.
[138] Ibid.
[139] Ibid.
[140] Ibid.
[141] Ibid.

The research found unmet need for case management, advocacy, assistance with decision making and financial management[142]. The greatest unmet need was for allied health, support with transport, community participation including shopping, and mental health services[143]. The research highlighted unmet need for support services such as mental health case management and disability services accommodation support, with other specialist services most needed by people living in PRS are specialist services relating to their vulnerabilities (such as, disability, mental health, home care, drug and alcohol services and housing)[144].

The support service needs identified from the research are as follows[145]:

- Health-related services – physical and allied health services, such as quality general practitioner services, nursing care, dental, optical, therapies, support for ageing residents, health screening (e.g., pap smears and breast screening) and counselling services (personal, responsive and goal oriented); mental health services; and drug and alcohol rehabilitation services;
- Support services to assist with daily living – needs included personal care such as bathing, showering, personal hygiene, toileting, dressing or eating; meals and nutrition; and physical assistance with moving e.g., getting in and out of bed. They also included support to do activities outside the PRS such as assistance with shopping and transport. These findings are consistent with the high level of disability among people living in PRS;
- Support services for social and economic participation – support for social and economic participation, including education, employment and participation in community activities;
- Support in planning and decision making – case management, advocacy, assistance with decision making and financial management. A minority of residents have substitute decision makers. Others require such support but do not have access to it; and
- Housing and accommodation support – according to respondents, residents of PRS have a lower priority of access to stable housing and accommodation support because they at least have a roof over their head.

The research found access rules for some support services either prevent or do not prioritise PRS residents accessing support services[146]. Facilitators to improving access to these support services included[147]:

- review criteria for priority of access to these support services to improve the likelihood that people living in private residential services are recognised as highly vulnerable, comparable to the needs of homeless people;
- recognition in the way that services are provided that support needs are likely to be prolonged, if not ongoing, because of the nature of the vulnerabilities experienced and historical service neglect of this group of people, which may have aggravated their vulnerabilities.

[142] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.
[143] Ibid.
[144] Ibid.
[145] Ibid.
[146] Ibid.
[147] Ibid.

Recommendations included that[148]:

- flexible service delivery and outreach be implemented to address resident's complexity of needs and to identify residents in need of support.
- simple models of service support that minimise the number of organisations involved are more likely to effectively coordinate the complex support needs of residents.
- simple models of case management can be more responsive to the person's needs.

The DOH shared the following observations in relation to service and support needs of residents as part of its submission to this Inquiry[149]:

- residents living in level 1 accredited services who need additional support to maintain a tenancy;
- residents of level 1, 2 or 3 accredited residential services who do not have a NDIS package but are potentially eligible for NDIS assistance;
- residents of Level 3 accredited residential services who have high personal care assistance requires but are not eligible for either a NDIS or an Aged Care package;
- anecdotally the Department is aware that many residents of residential services may have tenure of multiple years and may not be a preferred model of accommodation[150].

The NDIS Commission Compliance Strategy for Supported Residential Services in Victoria gives some contemporary data about residents in supported residential services in Victoria who are NDIS participants[151]. The NDIS takes into account a person's functional capacity and how a reduced functional or psychosocial functioning impacts on a person undertaking activities such as communication, social interaction, learning, mobility, self-care or self-management[152]. The NDIA categorises a person's function on a scale of 1-15, one being low functional impact and 15 being the highest functional impact[153]. The compliance strategy reports that for residents of private residential services in Victoria who receive NDIS services[154]:

- 4% of these participants are high functioning compared to 38% of all NDIS participants Nationally,
- 40% of these participants are low functioning compared to 26% nationally
- 56% are moderate function compared to 46% nationally

**Housing availability and affordability**

There is a dire lack of social and affordable housing in Australia, which disproportionately impacts on people with disability, particularly those with high support needs who are more likely to have fixed

[148] Fisher, K.R., Tudball, J., Redmond G., & Robinson S. (2008). Service needs of residents in private residential services in Queensland summary report. Social Policy Research Centre.
[149] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[150] Ibid.
[151] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[152] Ibid.
[153] Ibid.
[154] Ibid.

or low incomes[155]. Some people with disability have little choice but to remain in substandard accommodation, such as boarding houses, with limited occupancy rights and oversight[156].

A cost-benefit analysis conducted in 2017 showed that for every $1 invested by governments to address the housing and homelessness crisis through social and affordable housing with support services, $2.70 worth of benefits are generated for the community over 20 years[157]. This is because of less healthcare use and fewer emergency admissions, less involvement in crime (both as victims and perpetrators), more likelihood of reconnecting with employment and education, and greatly improved quality of life[158].

The Royal Commission reported that people with disability face multiple barriers to securing accessible, appropriate and safe housing[159]. They suggested that governments are required to[160]:

- increase supply of accessible and adaptive housing for people with disability
- increase tenancy and occupancy protections for people with disability
- improve regulatory oversight of supported accommodation
- improve responses to homelessness
- address gaps in housing and disability policy and strategy frameworks to ensure people with disability are given appropriate priority in government planning and actions
- support transitions to safe and secure housing for people who lack housing security and are at risk of homelessness, and for those experiencing chronic homelessness.
- deliver a much greater supply of inclusive housing options that support people with disability, particularly for those with more profound disability or complex needs, to enable them to live on their own terms in the community, with genuine choices and options.

To address gaps in housing and disability policy and strategy to ensure people with disability are given appropriate priority, the **Royal Commission makes four recommendations. We support these four recommendations**, below.

**Recommendation 7.33 Prioritise people with disability in key national housing and homelessness approaches**
a. The Australian Government should, in collaboration with state and territory governments, expressly identify people with disability in key housing-related agreements and planning including the: National Housing and Homelessness Agreement (NHHA), which should include people with disability as a priority group of housing and homelessness reforms
proposed National Housing and Homelessness Plan, which should include people with disability as a priority group, and include the measurement and evaluation of outcomes for people with disability

[155] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[156] Ibid.
[157] Witte, E. (2017). The case for investing in last resort housing. Melbourne Sustainable Society Institute.
[158] Ibid.
[159] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[160] Ibid.

National Housing Supply and Affordability Council, which should include people with disability as a priority group in the development of housing supply and affordability policy advice, data collection and reporting.
b. All state and territory governments should include people with disability in housing and homelessness strategies, policies and action plans developed under the NHHA. This should include people with disability as a priority group, and the monitoring and evaluation of implementation and outcomes for people with disability.

**Recommendation 7.34 Include homelessness in Australia's Disability Strategy**
The Australian Government should increase the focus on homelessness in Australia's Disability Strategy by:
a. ensuring consultations concerning, and reviews of, Australia's Disability Strategy include people with disability at risk of experiencing homelessness and their representative organisations
b. expressly including homelessness as a policy priority within the 'Inclusive Homes and Communities' key outcomes.

**Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings**
The Australian Government (including the National Disability Insurance Agency (NDIA)) and state and territory governments should commit to a policy of 'no leaving into homelessness' for people with disability.
The Australian Government (including the NDIA) and state and territory governments should establish or nominate a lead agency with responsibility for planning and coordinating the transition of people with disability from service or institutional settings (including health services, mental health services, correctional facilities, and out-of-home care) directly into safe and appropriate housing.
The lead agency should be the NDIA when the person is a National Disability Insurance Scheme (NDIS) participant (consistent with the role of the NDIS under Applied Principles and Tables of Support). If the person is not an NDIS participant, the lead agency should be the agency responsible for the service or institutional setting at the time the person leaves.
The role of the lead agency should include:

- developing and implementing individual plans for people with disability leaving service or institutional settings to identify housing, services and supports for a successful transition into secure housing
- ensuring supports can be put in place before a person with disability leaves the service or institutional setting
- coordinating the implementation of the plan until the person with disability has successfully transitioned to safe and appropriate housing.

**Recommendation 7.40 Address homelessness for people with disability in the National Housing and Homelessness Plan**
In developing the National Housing and Homelessness Plan, the Australian Government, working with state and territory governments, should:

a. identify people with disability, particularly people with intellectual disability or cognitive impairment, as a discrete cohort or cohorts for intensive homelessness support, recognising their needs, circumstances and diversity
b. review the adequacy of funding for homelessness, with particular regard to the cost of providing more intensive homelessness support for people with disability and complex needs, and current levels of unmet demand
c. expand pathways and support for people with disability out of homelessness, including through Housing First programs
d. consider establishing free, independent legal advice and advocacy services for people with disability experiencing homelessness to help them navigate the different homelessness supports to which they are entitled at state or territory and Australian Government levels.

As mentioned, the Royal Commission heard evidence that the barriers to accessing suitable social and affordable housing can be higher for people with disability, sometimes due to a mismatch between accessibility needs and the housing offered, and barriers to obtaining modifications[161]. **The Royal Commission recommended** that state and territory governments commit to increasing the supply of accessible and adaptive housing for people with disability by adopting the voluntary Livable Housing Design Standard for all new social housing construction. As the Office of the Public Advocate Queensland pointed out in 2002, the government needs to meet its responsibility to vulnerable citizens by ensuring an adequate supply of public and social housing. **We support this recommendation, below.**

**Recommendation 7.35 Increase the availability and supply of accessible and adaptive housing for people with disability through the National Construction Code**
State and territory governments should commit to increasing the availability and supply of accessible and adaptive housing for people with disability by:
a. immediately adopting the mandatory Australian Building Codes Board (ABCB) Livable Housing Design Standard for all new dwellings if they have not done so already, and developing a plan for the full implementation of the standard, including timeframes and outcomes measures
b. adopting the voluntary ABCB Livable Housing Design Standard for all new social housing construction
c. auditing the demand for, and accessibility of, current crisis housing (including domestic family violence shelters and refuges, and natural disaster crisis accommodation) to –
• determine the appropriate amount, location and cost of crisis housing required to meet the needs of people with disability
• set appropriate targets for new crisis housing construction and refurbishment that meet the voluntary ABCB Livable Housing Design Standard.

**The Royal Commission recommended** that state and territory governments develop and implement accessible and inclusive processes for allocating and modifying social housing for people with disability. **We support this recommendation**, below.

[161] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

**Recommendation 7.36 Improve social housing operational policy and processes**
State and territory governments should develop and implement accessible and inclusive processes for allocating and modifying social housing for people with disability, including by:
a. reviewing and amending application processes to:
• identify whether applicants have a disability or accessibility needs, including those relating to communication, housing and access to community/support networks and services
• put processes in place to update this information as needs change
b. reviewing, amending and publishing (in accessible formats) housing allocation and 'reasonable offer' policies and procedures to ensure these can be easily understood and do not disadvantage people with disability seeking particular adjustments or modifications, or people who decline housing for accessibility reasons.
c. reviewing, amending and publishing (in accessible formats) housing modification policies. The policies should clearly articulate who is responsible for organising and funding housing modifications, expected timeframes, and contacts for following up and raising concerns

**The Royal Commission recommended** that states and territories increase tenancy and occupancy protections for people with disability. **We support this recommendation**, below.

**Recommendation 7.37 Increase tenancy and occupancy protections for people with disability**
States and territories should review legislation governing the tenancy and occupancy rights of people with disability and adopt the best regulatory and legislative models currently in force, including:
a. in the case of tenancies – enacting legislation to replace landlords' 'no-grounds' termination rights with 'reasonable grounds' as currently specified in Victoria, Queensland and Tasmania for both social housing and private housing tenancies, where a tribunal has discretion whether or not to order termination of the tenancy or that the tenant give up possession, empowering the tribunal to take the tenant's or a co-occupier's disability and the nature of that disability into account.
b. in the case of non-tenancy accommodation – adopting the provisions included in the *Residential Tenancies Act 1997* (Vic) Part 12A to protect residents of Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme introducing 'occupancy principles' similar to those under the *Boarding Houses Act 2012* (NSW), to cover all non-SDA housing, such as assisted boarding houses in New South Wales and supported residential services in Victoria extending these occupancy principles to cover 'general boarding houses' in New South Wales and unsupported boarding and rooming houses in other jurisdictions where many people with disability live. This reform should include conferring jurisdiction on the appropriate tribunal to resolve disputes, particularly in relation to eviction in hearing disputes about eviction, tribunals be required when determining whether to make an eviction order to consider the occupant's disability, the nature of that disability, the possibility of retaliatory eviction, and the likelihood of finding suitable alternative accommodation.

**The Royal Commission recommended** that access to alternative housing options be improved for people with disability, through the adoption of more inclusive and alternative models of housing for people with disability. **We support this recommendation**, below.

**Recommendation 7.42 Improve access to alternative housing options**

The National Disability Insurance Agency (NDIA) should work with the Australian Government, and state and territory governments, to expand alternative housing options and support for people with disability to access and transition to these options through a proactive market enablement strategy. This should include:

a. an increase in innovative housing options, such as by – expanding the NDIA Home and Living Demonstration Projects with additional rounds from 2024. These rounds should –

- focus on exploring diverse market mechanisms for sustainable housing models
- include ongoing extensive and independent evaluation and dissemination of emerging best practice to help bring new models to scale
- establishing a policy unit to co-design, guide and influence the development and implementation of more contemporary accommodation models
- conducting comprehensive market research to assess market demand and understand National Disability Insurance Scheme (NDIS) participants' housing preferences to inform state and local governments, housing authorities and developers, and drive innovation.

b. reform of NDIS participant funding models, including Supported Independent Living, Specialist Disability Accommodation and Individualised Living Options to provide greater flexibility. In particular, this flexibility should ensure that administrative and pricing mechanisms do not favour group home living over other models of inclusive housing.

c. development of clear and supportive transition pathways that provide access to advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition. This should include –

- an individualised assessment of a person's housing needs and preferences, with the option for this to be regularly updated
- an update of a person's NDIS plan to include specific support, including capacity building to support the decision to transition to more independent living
- where a person is interested in changing housing, the development of an individual transition plan that identifies current available and emerging alternative housing options, beyond the offerings of their current provider
- access to independent advocacy and an independent support coordinator to provide support for and facilitate the transition.

d. prioritisation of the implementation of the NDIA Home and Living Framework, including –

- establishing explicit timeframes for its implementation that recognise the urgency of these reforms, in relation to realising the rights of people with disability under the *Convention on the Rights of Persons with Disabilities*
- continuing work with the disability community to identify key outcomes and measures, and developing a comprehensive monitoring and evaluation plan to measure and report on progress
- ensuring the chosen approaches address the key elements set out above in this recommendation, including – providing a dedicated pathway for participants with a current or anticipated high need for home and living supports
- ensuring participants taking this pathway have appropriate and timely support to explore and design individualised home and living solutions that work for them.

Unless a participant is eligible for SDA, the NDIS does not generally directly fund long-term accommodation[162]. The final report of the Independent Review of the NDIS has findings consistent with those of the Royal Commission, that there should be increased focus on promoting safe and effective support for participants with 24/7 support needs[163]. The Independent Review of the NDIS highlighted that NDIS participants often do not have access to the information, advice and support they need to make genuine informed choice on where and with whom they live, in line with a human rights framework[164]. Many participants are not supported to prepare for housing and living solutions early, and when considering their options, they cannot easily access the information and support that would enable them to explore and compare different housing and living solutions, both within and outside the scheme[165]. This particularly affects those with cognitive disability and people with limited informal support networks[166]. The Royal Commission suggested that access to independent advocacy and person-centred support was important to explore and transition into housing alternatives[167].

The Independent Review of the NDIS recommended that NDIS participants requiring 24/7 living supports should receive funding to trial new living arrangements before they commit to them[168]. In addition, it was recommended that NDIS participants sharing supports should be assisted by a Shared Support Facilitator to have a say in the governance of their shared living arrangements, irrespective of their level of access to informal supports, and in who fills a vacancy in a shared living arrangement[169].

The Independent Review of the NDIS also recommended that a diverse and innovative range of inclusive housing and living supports be delivered by governments, so that NDIS participants can choose an option based on their needs and circumstances[170]. They found that there are very limited opportunities for NDIS participants to trial alternative housing and living solutions, which makes it difficult to make informed choices when NDIS participants have not had the opportunity to experience different options[171]. The Independent Review of the NDIS suggested that NDIS participants requiring 24/7 living supports should receive funding to trial new living arrangements before they commit to them. The review also suggested that reforms to improve the range of available housing should be accompanied by a dedicated pathway to support people with disability to understand and explore their housing options, make decisions about transitioning to the housing

[162] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[163] Commonwealth of Australia (2023). Working together to deliver the NDIS Independent Review into the National Disability Insurance Scheme final report.
[164] Ibid.
[165] Ibid.
[166] Ibid.
[167] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[168] Commonwealth of Australia (2023). Working together to deliver the NDIS Independent Review into the National Disability Insurance Scheme final report.
[169] Ibid.
[170] Ibid.
[171] Ibid.

of their choice, and receive support for that transition[172]. They also recommended that a new specific Practice Standard for 24/7 living supports should be developed, and widespread adoption of the Livable Housing Design Standard in the National Construction Code to improve accessibility of general housing stock[173].

**Overarching recommendations**
The current model by which private residential services are provided, particularly for level 3 residential services, is not appropriate for Queensland, now and in the future.

The recommendations from the four Commissioners with lived experience of disability, relating to the immediate reform of group homes and a roadmap for a 15 year transition period to phase out group homes, provides a blueprint for how private residential services in Queensland could be phased out, with residents supported to move into alternative housing and support options that meet their needs[174]. This could be facilitated by conducting a targeted initiative to move existing residents who wish to move, to the existing accommodation and support services provided by the state government. Similar projects have already been undertaken in Queensland, such as Project 300 that was undertaken to transition residents of former institutions to living in the community. **We make the following overarching recommendations** which provide for immediate reform of private residential services, while planning for the phasing out of private residential services in Queensland over a generation.

**Recommendation for reform of private residential services in Queensland**
The Queensland government should reform the provision of private residential services, regardless of whether they are to continue to operate in Queensland or not, by :
a. prohibiting private residential service operators and their associates from providing personal care services or NDIS services to their own residents.
b. strengthening regulation of private residential services through:

1. introducing a state government rental subsidy for residents of private residential services, that contributes to any rental fees above 25% of a resident's income.
2. providing case management to residents to access existing state and federal government support programs or a newly created Resident Support Program, accompanied by adjustments to eligibility criteria and extended timeframes for support to existing state government programs of support and existing state government supported accommodation/supported housing, in order to prioritise access for people living in private residential services who have support needs. The case management should also be used to identify alternative housing options in the community that residents could access.
3. brokerage should be provided as part of the above support services.
4. implementing the rest of the recommendations in this submission that have been provided for each of the questions.

[172] Commonwealth of Australia (2023). Working together to deliver the NDIS Independent Review into the National Disability Insurance Scheme final report.
[173] Ibid.
[174] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

Research has suggested that the compartmentalisation of people's needs by funding and resourcing specific programs in the human services based on the aetiology of a person's needs, through policy-imposed and practice-imposed eligibility criteria, deny access to services and subject people to further harm and/or inappropriate service provision[175]. Policies and practices reflecting political justice frameworks that support capabilities, rights and access to resources are needed, such as supporting "no-exclusion" expectations and creating support practices that can accommodate unconditional, flexible and wrap around support[176].

**Recommendation for development of a roadmap to phase out private residential services within 15 years**

The Queensland government should develop and implement a comprehensive roadmap to phase out private residential services within the next 15 years. This roadmap should address delivering inclusive housing supply to meet demand, support for the transitioning of people with disability to better housing options, and implementation planning for phasing out private residential services. It should include:

a. delivery of inclusive housing supply to meet demand, by –

- undertaking a comprehensive assessment of existing service demand (including people with disability who are currently living in private residential services ) and projected service demand (forecasted demand for supported accommodation over the next 15 years)
- assessing projected supply of alternative housing to inform planning for the transition of people out of private residential services, including conducting a stocktake of existing housing assets that may be repurposed or used to increase the supply of inclusive housing
- increased investment in government-owned inclusive housing and demand modelling to meet future inclusive housing needs.

b. support for transitioning people currently living in private residential services, including through –

- a transition pathway that provides access to advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition. This should be a dedicated initiative such as Project 300 or 500 lives, 500 homes.
- interim improvements in regulation of private residential services to ensure residents of private residential services are safe and have greater choice and control during this transition period (see Recommendation 1 above and the remaining recommendations in this submission)

• grandfathering arrangements for those people who wish to stay in private residential services, including a state government rental subsidy (see Recommendation 1 above)

d. implementation planning undertaken through co-design with residents of private residential services, including –

- a specific timeframe for ceasing approval of accreditation of any new private residential services (within the next two years)

[175] Clapton, J., Chenoweth, L., McAuliffe, D., Clements, N., & Perry, C. (2014). Precarious social inclusion: chronic homelessness and impaired decision making capacity. *Journal of Social Distress and the Homeless*, 23 (1), 32–41.

[176] Ibid.

- a specific timeframe for private residential services to stop accepting new residents (within five years)
- a specific timeframe for completing transition of those residents who wish to move from private residential services to alternative housing options (within 15 years).

**We recommend** as part of the interim improvements mentioned in the recommendation above, that residents contributions to rent be in line with social housing rental contributions and be capped at 25% of their income (plus rent assistance), with the state government subsidising the remainder of the rent to the level 3 residential service providers. This would alleviate housing stress for these vulnerable residents. Alternatively, the state government could purchase the buildings owned by level 3 residential service providers, with rental contributions from residents capped at 25% of their income.

**We also recommend** that the interim improvements explicitly prohibit level 3 residential service providers or a closely related entity from providing both accommodation and personal care services and from providing NDIS services to their own residents. Allowing for a private residential service provider to provide NDIS services to their own residents creates conflicts of interest which requires a high level of regulation and oversight, which is missing in the current regulatory framework.

**2. Should new models of service delivery that meet the needs of particular cohorts of residents (e.g., residents with significant mental health concerns or with significant drug and alcohol use) be trialled?**

*If you were going to fund private boarding houses, why wouldn't you move people into more adequate facilities, funded by the government, provided by reputable non-government providers? Why would you give it to a private operator who is going to take some of that money at least for profit and they will try and exercise the same economic imperatives quite rightly because that's their business to cut all overheads to the bare minimum to give the prominence to making profits. Why would you do that? There is no internal logic other than if you are a part of that sector and say that is my right to make a profit out of that asset and I wish to do that by using people with a disability*[177].

**Current and previous models of service delivery in Queensland that could be expanded or re-established**

**Current models**

Current programs of relevant support services delivery in Queensland funded by the state government include: the Queensland Community Support Scheme (QCSS); the Housing and Support Program (HASP); Accommodation Support and Respite Services (AS&RS); and the Homeless Health Outreach Team (HHOT). It is unclear why these existing options are not utilised for this vulnerable resident cohort now.

[177] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.

The **QCSS** is a program of support services delivered to Queenslanders by the Department of Communities[178]. The QCSS supports can contribute to improving an individual's capacity for independence and wellbeing through the provision of time limited, low intensity, flexible and tailored supports that consider the individual's unique circumstances and the goals they want to achieve[179]. The objectives are achieved through direct care and support and community connection supports and underpinned by a state-wide access and assessment mechanism[180].

The **HASP**, delivered by the Department of Health, enables people with a psychiatric disability to live in the community with stable social housing and enjoy an improved quality of life[181]. In 2006, the HASP program was established to support individuals with severe psychiatric disability who were unable to be discharged from mental health services due to a lack of housing[182]. Sustainable housing and independent living support for HASP participants are seen as key elements in supporting their recovery and reducing the need for hospital care[183]. As part of the transition to the NDIS, the HASP funding has been transferred from the State to the Commonwealth. For the small number of people who were receiving HASP support but deemed not eligible for the NDIS, State funding has continued for their support[184].

**AS&RS** is delivered by the Department of Disability Services [185]. AS&RS provides two different types of accommodation services, accommodation support and overnight respite[186]. AS&RS offers accommodation support to people with an intellectual disability living in shared households with one or more other people with a disability[187]. In a typical AS&RS household, 2 to 4 people share their home and are supported by a team of Residential Care Officers working a 24-hour roster[188]. People receiving accommodation services from AS&RS usually require higher levels of support (e.g., 24 hour

[178] Queensland Government (2023). Queensland Community Support Scheme practice manual.
[179] Ibid.
[180] Ibid.
[181] Queensland Health (2024). Housing and support program (HASP). https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/clinical-staff/mental-health/resources/housing-support
[182] Shepherd, N. (2020). The transition from institution to community-based mental health care in Queensland: A critical policy analysis.
[183] Ibid.
[184] Queensland Health (2024). Housing and support program (HASP). https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/clinical-staff/mental-health/resources/housing-support
[185] Department of Disability Services (2023). AS&RS services. https://www.dcssds.qld.gov.au/our-work/disability-services/accommodation-respite-forensic-services/accommodation-support-respite-services/rs-services#:~:text=AS%26RS%20offers%20accommodation%20support%20to,working%20a%2024%2Dhour%20roster
[186] Ibid.
[187] Department of Disability Services (2023). AS&RS services. https://www.dcssds.qld.gov.au/our-work/disability-services/accommodation-respite-forensic-services/accommodation-support-respite-services/rs-services#:~:text=AS%26RS%20offers%20accommodation%20support%20to,working%20a%2024%2Dhour%20roster.
[188] Ibid.

support with an awake nightshift)[189]. The overnight respite service offers people with an intellectual disability an opportunity for a short break living in one of the respite centres sharing support with up to 4 other people[190].

**HHOT** provides health services, including mental health and drug and alcohol services to people within the Gold Coast region who are experiencing either primary or secondary homelessness[191]. HHOT provides assessment and intervention services to people experiencing a diverse range of mental health concerns, including psychosis, mood disorders, anxiety, substance misuse and suicidal thoughts[192]. An extended hours assertive outreach service is provided to people where they reside in the community or where they access food and support[193]. HHOT is a multi-disciplinary team consisting of psychologists, social workers, welfare officers, occupational therapists, mental health nurses, drug and alcohol workers, a psychiatrist, and administrative support[194].

**Previous models**

**RSP**

Before the NDIS commenced, the Queensland government funded the RSP program which started in 2001. The RSP was a joint DSQ and Queensland Health (Health) funded initiative that aimed to provide support services through community organisations to residents with a disability living in private residential facilities, as defined in Section 4 of the Residential Services (Accreditation) Act 2002 (Queensland)[195]. The three service types were[196]:

- Strategies to support residents in mainstream community and leisure activities, Community Linking Projects (CLP) (funded by DSQ);
- Support with basic self-care and presentation, Disability Support Services (DSS) (funded by DSQ); and
- Support with health and wellbeing, Key Support Workers (funded by QH through the Home and Community Care (HACC) program.

The program operated on a small scale in five locations with two approaches trialled[197]:

[189] Department of Disability Services (2023). AS&RS services. https://www.dcssds.qld.gov.au/our-work/disability-services/accommodation-respite-forensic-services/accommodation-support-respite-services/rs-services#:~:text=AS%26RS%20offers%20accommodation%20support%20to,working%20a%2024%2Dhour%20roster.
[190] Ibid.
[191] Queensland Health (2024). Homeless Health Outreach Team (HHOT). https://www.goldcoast.health.qld.gov.au/our-services/homeless-health-outreach-team-hhot
[192] Lloyd, C., & Bassett, H. (2010). HHOT The role of an Australian homeless health outreach team. Part 1: background. *International Journal of Therapy and Rehabilitation*, 17(7), 290-295.
[193] Ibid.
[194] Ibid.
[195] Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program final report.
[196] Ibid.
[197] Ibid.

- Individual approach: residents were identified for assistance (Brisbane, Ipswich and Toowoomba); and
- Premises approach: specific premises were identified and all eligible residents in them were offered assistance (Townsville and Gold Coast).

An evaluation of the pilot program found measurable benefits to residents who use the program in relation to important aspects of their quality of life, including improved health and wellbeing, satisfaction with accommodation and social and economic participation[198]. The cost effectiveness analysis showed that for people who participated in the program, measurable improvements were evident at a relatively low cost[199]. Benefits were evident from each of the program types. The two program approaches, individual and premises, each had advantages, with the main difference the ability of the individual approach to reach a wider range of residents and flexibly respond to residents moving between premises[200]. The research also suggested that brokerage to overcome chronic human services shortages would also be necessary to effect the goals of the program[201].

**Current and previous targeted initiatives in Queensland to move vulnerable people into suitable housing and support arrangements**

**Current initiatives**

The DOH currently has an established process for residents to access other housing solutions, however it is only applied in the event that a residential service ceases operation or is required by the DOH to cease operation. The DOH responds in these situations with housing solutions for the impacted individuals[202]. The DOH reports that this is a coordinated response which is deployed at a local level, bringing together the Housing Service Centre and other local housing and support providers to provide direct housing assistance to impacted individuals[203]. The DOH reports that in many cases these individuals may be eligible for social housing or assisted to access other housing solutions as appropriate, including bond loans, rental grants, rental security subsidies and assistance to find an affordable private rental property (RentConnect)[204].

**Previous initiatives**

**Project 300** was established in 1995 with the aim of assisting 300 people with psychiatric disability to move from institutional care to supported living arrangements in the community[205]. The program

[198] Fisher, K., Abelló, D., Robinson, S., Siminski, P., & Chenoweth, L. (2005). Evaluation of the Resident Support Program final report.
[199] Ibid.
[200] Ibid.
[201] Ibid.
[202] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[203] Ibid.
[204] Ibid.
[205] Shepherd, N. (2020). The transition from institution to community-based mental health care in Queensland: A critical policy analysis.

involved a cooperative arrangement between three state government departments: health; housing; and disability services[206]. Funding was provided to non-government organisations to provide lifestyle support to clients in their homes[207]. The support provided include clinical treatment and support by the state funded mental health service using a case management approach and outreach services; and disability support provided by nongovernment services[208].

The program was formally evaluated and showed beneficial outcomes for the clients[209]. Project 300 demonstrated that given adequate support and good case management, the accommodation needs of people with long-term psychiatric disabilities can be met through ordinary housing in the community[210]. The evaluation identified the critical role of the DOH in providing accommodation that met the individual needs of consumers accessing Project 300 and concluded that the involvement of consumers in the selection of housing was critical to this process[211].

Importantly, the evaluation found that the participants were very positive about their new homes in the community and the support provided to them, especially by support workers[212]. While they missed the company of staff and the other patients in hospital, they felt that the freedom, autonomy, dignity and the sense of hope that community living had to offer more than compensated for this[213].

**500 Lives 500 Homes** was a community-wide collaborative effort to break the cycle of homelessness for families, young people and adults, using Housing First principles to assist to end their homelessness [214]. In 2014, a coalition of government and non-government agencies set a goal to house 500 individuals and families over 3 years[215]. The campaign began with a community-wide registry where local agencies and volunteers surveyed 961 families, young people and adults in the Brisbane Local Government area who were homeless or vulnerably housed[216]. Since then, a further 1,733 people were registered through the campaign[217]. After three years, the campaign exceeded its goal by housing 580 individual and family households (373 individuals and 207 families with 430 children ) to end their homelessness[218]. 56% entered public housing, 31% community housing, and

[206] Shepherd, N. (2020). The transition from institution to community-based mental health care in Queensland: A critical policy analysis.
[207] Ibid.
[208] Ibid.
[209] Edwards, R., Fisher, K.R., Tannous, K., & Robinson S. (2009). Housing and associated support for people with mental illness or psychiatric disability. Social Policy Research Centre; Meehan, T. (2001). Evaluation of Project 300. Queensland University of Technology.
[210] Shepherd, N. (2020). The transition from institution to community-based mental health care in Queensland: A critical policy analysis.
[211] Ibid.
[212] Ibid.
[213] Ibid.
[214] Micah Projects (2016). Housing First: a roadmap to ending homelessness in Brisbane.
[215] Micah Projects. (2017). 500 Lives 500 Homes impact statement 2014–2017.
[216] Ibid.
[217] Micah Projects. (2017). 500 Lives 500 Homes impact statement 2014–2017.
[218] Ibid.

13% private and other housing. This was achieved by access to supportive housing and affordable housing with ongoing support to sustain tenancy and quality of life.

**Current supportive/supported housing and supportive/supported accommodation models**
There are also current models of supportive/supported housing and supportive/supported accommodation in Queensland that this vulnerable cohort could access with government intervention to enable access for those who are not already eligible. Again, it is unclear why these existing options are not utilised for this vulnerable resident cohort now.

Supported housing is used to describe the provision of support to people living in private or social housing settings where support is guaranteed for the term of the tenancy, that is support is in the walls of the housing[219]. Supported Housing services provide case management linked with specified housing dwellings[220]. Unlike mobile support, support is guaranteed for the term of the tenancy and may not follow the client if they move to other housing[221]. Support can be provided on-site and off-site:
• on-site services that provide case management support to people within a housing complex or single building with workers based in the same building;
• off-site services that provide case management support to people within a housing complex or single building by workers who are not based in the same building.

Examples of the supported housing responses currently delivered by the department include Brisbane Common Ground and the Southport Supportive Accommodation Project [222].

**Brisbane Common Ground** (BCG) was opened in 2012 and provides supportive housing consisting of secure long-term housing with on-site support. Property and tenancy management services including a 24/7 concierge service is provided by Common Ground Queensland and support services are provided by Micah Projects Ltd. BCG consists of 146 residential units (135 studio and 11 one-bedroom units), and space for onsite service delivery located at 15 Hope Street, South Brisbane. The key policy aim is the provision of a program offering housing with integrated support to people with high and complex needs with a headline target of reducing the incidence of homelessness and repeat homelessness. BCG has a unique target mix of tenants, comprising 50 per cent of people who have experienced chronic homelessness and 50 per cent of people with a low to moderate income. Tenants are predominantly single adults.

**The Southport Supportive Accommodation Project** proposal, announced on 8 September 2023, will be a supportive housing development, comprising up to 150 dwellings for people in challenging personal circumstances who require wrap around on-site services, such as allied health, mental

[219] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[220] Ibid.
[221] Ibid.
[222] Ibid.

health support, counselling services and employment assistance[223]. It is proposed that occupants would have access to on-site health and employment services and have the support to transition from social-assisted living to independent living.

If private residential services are to continue to operate in Queensland, **we recommend** that support services should be provided by the state government to assist those residents who are already eligible for assistance from either federal government programs such as the NDIS, aged care home support packages, or Department of Veterans Affairs services, to access these programs of support. In the Public Trustee of Queensland's experience, most customers living in level 3 supported accommodation would be entitled to funding through other government agencies such as NDIS, aged-care home care packages etc., to meet their care and support needs[224]. We are pleased to see that the state government Assessment and Referral Team has a refocus from the 18th of December 2023, including to support adults living in level 3 supported accommodation access and navigate the NDIS process.

**We recommend** that for those residents who are not eligible for the federal government programs, that existing state government support services or existing accommodation and support options are reviewed to revise eligibility criteria to enable priority access for residents of private residential services. **We recommend** that if existing options are not suitable for residents, that a program similar to the previously implemented Resident Support Program be developed to provide long-term support.

**Transitioning from government facilities and being referred by government departments**
The 2005 review of DSQ referral processes to private residential facilities recommended that to ensure the immediate safety of individuals who are placed in private residential facilities and to facilitate their access to more responsive and individualised accommodation and support options, it is critical that DSQ staff follow up and actively support these individuals[225]. Other recommendations from the review included that the state government[226]:

- Continue the restriction on the placement of people with high and complex support needs or challenging behaviour into private residential facilities.
- Develop and implement consistent statewide policy-guided practice.
- Research and make explicit issues concerning the provision of information, duty of care and privacy of clients in referral activities, and
- Review prioritisation practice for alternative accommodation and support.

[223] Parliament of Queensland (2023). Speech By Hon. Meaghan Scanlon homelessness services. Record of Proceedings, 14 September 2023.
[224] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[225] Robinson, S., Fisher, K., Lee, A., & Chenoweth, L. (2005). Review of Disability Services Queensland referral processes to private residential facilities. Social Policy Research Centre.
[226] Ibid.

Similarly, a recommendation from pilot research in Queensland on people with impaired decision making who are chronically homes was for the state government to end the practice of vulnerable people being exited from the care of the state into homelessness e.g., upon prison release, and when children turning 18 start to exit from out-of-home care[227] . The DOH reported to this Inquiry that there are existing referral pathways from DOH Housing Service Centres, funded housing and homelessness providers and other government departments, such as Queensland Health and Queensland Corrective Services to private residential services[228].

The need for improved exit planning from government services was described to the Royal Commission as critical to reducing the risk of homelessness among people with disability[229]. The Productivity Commission's study report on the National Housing and Homelessness Agreement (NHHA) also recommended that 'eliminating the exit of people from correctional facilities, health facilities and out-of-home care into homelessness' be included as a focus area[230]. The Royal Commission reported that some people with disability leaving institutionalised settings such as places of detention require the following supports to access housing on their release to eliminate or reduce the risk of homelessness[231]: assistance to gain access to income support programs and to financial assistance to secure rental accommodation; advocacy provided by bodies such as tenancy rights services; employment opportunities available to people with disability; and formal and informal support networks.

**The Royal Commission recommended** that an appropriate lead agency be designated in each Australian jurisdiction to provide this additional support and system navigation for people with disability[232]. Where a person is not a NDIS participant, responsibility for coordinating services should sit with the agency responsible for the service they are leaving[233]. The service from which the person is leaving will need to plan for and support the person with disability to transition to adequate housing and to have supports in place to prevent the person experiencing homelessness[234]. **We support this recommendation**, below.

**Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings**

[227] School of Human Services and Social Work (2010). Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness.
[228] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[229] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[230] Ibid.
[231] Ibid.
[232] Ibid.
[233] Ibid.
[234] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

The Australian Government (including the National Disability Insurance Agency (NDIA)) and state and territory governments should commit to a policy of 'no leaving into homelessness' for people with disability.
The Australian Government (including the NDIA) and state and territory governments should establish or nominate a lead agency with responsibility for planning and coordinating the transition of people with disability from service or institutional settings (including health services, mental health services, correctional facilities, and out-of-home care) directly into safe and appropriate housing.
The lead agency should be the NDIA when the person is a National Disability Insurance Scheme (NDIS) participant (consistent with the role of the NDIS under Applied Principles and Tables of Support). If the person is not an NDIS participant, the lead agency should be the agency responsible for the service or institutional setting at the time the person leaves.
The role of the lead agency should include:

- developing and implementing individual plans for people with disability leaving service or institutional settings to identify housing, services and supports for a successful transition into secure housing
- ensuring supports can be put in place before a person with disability leaves the service or institutional setting
- coordinating the implementation of the plan until the person with disability has successfully transitioned to safe and appropriate housing.

**Case management**
In the Public Advocate of Queensland's report, several stakeholders suggested that many residents, and particularly those with complex needs, may require assistance from a case manager, or someone with a similar role, to support them to navigate systems and access the services that they need[235].
In the public hearing for this Inquiry, the Public Advocate of Queensland suggested that the possible threshold criteria for access to case management external to the private residential services operator would be that the person is living in a residential service and currently has significant unmet support needs[236]. This is consistent with the Royal Commission recommendation that the the Australian Government urgently engage with state and territory governments about funding and arrangements for a provider of last resort scheme, and that the scheme should be designed to address access to case management for people with disability at heightened risk of violence, abuse, neglect and exploitation[237].

If private residential services are to continue to operate in Queensland, **we recommend** that case management be a part of any support service and/or initiative to transfer residents to appropriate housing and support arrangements.

[235] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[236] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[237] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

**Wet house models**

There are a lack of wet house models of accommodation and support, which are based on a harm minimisation approach, in Queensland. In Canada, the Toronto Christian Resource Centre Self-Help Inc. Housing Office's portfolio is made up of 33 houses located in different parts of Toronto, with each house having between four and nine rooms[238]. The Office uses a "facilitative management model" where residents collaborate closely with each other on the maintenance and management of their house[239]. They are also involved in selecting new tenants[240]. Residents can choose the type of rooming house they wish, with categories including[241]:

- "Dry by program", for people who go to Alcoholics Anonymous, Narcotics Anonymous, have a sponsor etc;
- "Dry by choice", where people do not have alcohol addictions;
- "Responsibly wet house," where one can drink as long as they do not cause problems for others, neighbours or the house; and
- "Women's house" for women only.

**We recommend** that harm minimisation approaches such as wet house models of accommodation and support be explored by the state government, for implementation in Queensland.

**Costs and charges**

**3. Are current charges for level 3 residential services reasonable?**

**a. Do they enable residents to have sufficient disposable income to ensure a reasonable quality of life?**

**b. Do they enable providers to deliver quality services on a financially viable basis?**

**c. Should a cap be placed on the amount that residents are able to be charged?**

As noted in the Public Advocate of Queensland's report, stakeholders reported that many level 3 residential service providers charge residents between 70 and 85 per cent of their pension (often the Disability Support Pension), and the full amount of any Rent Assistance payments that they receive[242]. Some residents may also be paying fees for additional services such as laundry or the administration of spending money[243]. In evidence given to this Inquiry by the Public Trustee of

[238] Calhoun Research and Development (2011). Good practices in rooming houses . A research project carried out for the Homelessness Partnership Strategy, Homelessness Knowledge Development, Human Resources and Skills Development Canada.

[239] Ibid.

[240] Ibid.

[241] Ibid.

[242] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

[243] Ibid.

Queensland, staff stated that the fees and charges are excessive and do not seem to be reasonable[244]:

*What we are seeing is our customers have very limited funds left in their budget. We are talking about a budget surplus of maybe $10 a fortnight, if that, because they still have to pay for their medication, clothing, haircuts—all personal items—and we are seeing very limited funds left available for that. When you are seeing a rooming agreement where it is significantly more than 25 per cent of your pension and your rent assistance is directed just towards the rent component of the accommodation, that seems a bit excessive.*

The Public Trustee of Queensland reported the following financial impacts on their customers living in supported accommodation facilities[245]:

- the fees and charges may not allow sufficient disposable income to improve their quality of life; there may be insufficient personal spending for purchases such as clothing, medication and toiletries;
- customers potentially pay twice for a support service;
- customers' personal spending is at times paid to the facility; and
- a lot of the clients who reside in level 3 supported accommodation are smokers and their tobacco costs are significant. Usually what the Public Trustee is seeing is by the time medication, board and lodgings, and tobacco are paid there is no money left. Therefore, at times our customers may choose to leave these facilities and may choose homelessness to allow them to meet their personal needs such as tobacco purchases and choice and control of their personal spending amounts.

The Royal Commission highlighted that if rent charges for accommodation exceeds 30 per cent of a person's income, they may be considered to be in 'housing stress', which will affect a person's ability to purchase other essentials, to participate in social or community-based activities, and to access appropriate supports[246]. The Public Trustee of Queensland reported that typically with both social housing and NDIS Specialist Disability Accommodation (SDA) housing, residents are charged at 25 per cent of their pension plus Commonwealth rent assistance[247].

As with other forms of private market accommodation, the Residential Tenancies and Rooming Accommodation Act 2008 and the Residential Services (Accreditation) Act 2002 does not regulate the amount of rent that can be charged by a residential service provider, and the amount charged

[244] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[245] Ibid.
[246] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[247] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.

for meals or personal care services[248]. We note that it was proposed in 1997 by the Residential Tenancies Authority (RTA) that the new legislation to be developed to regulate private residential services in Queensland should limit the fees and charges that service providers may charge[249].

We do not think that the current charges for rent and personal care services are reasonable, as they do not enable the vulnerable residents to have sufficient disposable income to ensure a reasonable quality of life. The current fees and charges, when compared to fees and charges in government-subsidised accommodation, such as social housing, and government-subsidised personal care services, such as those provided through the various human services sectors, are unreasonable. It is not acceptable that this form of supported accommodation has much higher fees and charges than other forms of supported accommodation for this vulnerable cohort of residents.

**We recommend** that if level 3 residential services are to still be available in Queensland, that residents contributions to rent be in line with social housing rental contributions and be capped at 25% of their income (plus rent assistance), with the state government subsidising the remainder of the rent to the level 3 residential service providers. Alternatively, the state government could purchase the buildings owned by level 3 residential service providers, with rental contributions from residents capped at 25% of their income.

**4. Should greater transparency be required of level 3 residential service providers concerning the fees charged for accommodation, food, and personal care services?**
The Public Trustee of Queensland reported to this Inquiry that they see significant inconsistencies between what service providers charge and what is outlined in the rooming agreement[250]. At times the rooming agreement would indicate that they are provided level 3 supported accommodation; however, no personal care services are identified in the agreement[251].

In evidence given to this Inquiry, SAPA stated that current practice by providers could be improved, and that currently providers may not provide the appropriate breakdown of fees and charges for an individual resident in their agreement, as they are trying to divide the costs between individuals for the whole of the costs of providing 24/7 'care'[252]:
*Providers as a rule do not see it on an individualised basis because they are looking at a facility from a whole level. If there is $50 or $100 put down for support—there are different models of care here, so I cannot speak for everyone in the industry—many providers will look at it on a holistic basis because it*

[248] Department of Housing (2023). Written briefing requested by the Community Support and Services Committee in relation to the *Inquiry into the provision and regulation of supported accommodation in Queensland*.
[249] Residential Tenancies Authority (RTA) (1997). Rules for renting in Queensland: an evaluation of the first twelve months of operation of the Residential Tenancies Act 1994.
[250] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[251] Ibid.
[252] Ibid.

*is a safeguarding issue from their perspective. They have staff on 24/7 who provide care in the event of an emergency or ad hoc. If, for example, a resident had that personal care service removed, do the staff onsite not provide care for that person in an emergency, or if they soiled themselves, or they are in need of a shower or otherwise? From their perspective, it is a safeguard issue. They are paying $390,000 per year for 24/7 staff coverage. That is the cost for one staff member to be onsite around the clock. It takes a team of about four or five people. That is the cost of that. From a provider perspective to chip at this little bit you cannot provide that care. It is a holistic approach to providing that.*

This highlights that providers are deliberately not adhering to this legal requirement to outline what consumers are receiving for their money, as well as the alarming practice of costs being shifted by the provider to residents to pay for the overall operations of the facility. This places vulnerable residents in the position of subsidising the private residential service for a for-profit provider. We recommend that the DOH immediately rectify this situation by undertaking compliance action to address this.

In addition, there is little or no monitoring or regulation of the interface between services provided as a part of level 3 residential services and NDIS services, or payment for these services[253]. This means that a person could receive the personal care support that would typically be provided as part of their level 3 residential service as part of their NDIS funded support, however the charge for their level 3 residential service may not be reduced to reflect this arrangement[254].

The below statement from SAPA given to this Inquiry also highlights the subsidising that residents of private residential services are paying for gaps from service provision in the NDIS:
*If you took out the care component. What the Public Trustee would typically do is they would look at the rental component, which might be $500 or $600, then they would see the food component and then they would see the care component. Then they would typically come back and say, 'This person has a NDIS care plan. We want to get our provider to cater to that care plan, so we would like to take the care side off of that.' From a residential perspective they are saying, 'My staff are here regardless. The NDIS staff are on scheduled services. They are not here after-hours. They are not here in emergencies. My staff is here, so you cannot take that away.*'

If private residential services are to continue to operate in Queensland, **we recommend** that level 3 residential service providers be prohibited from being able to provide both accommodation and support services, and that residential service providers be prohibited by being NDIS providers to their own residents.

It has been suggested that there is a case for public registers of private residential services to include descriptions of accommodation, prices and opportunities for customer ratings to provide increased

[253] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[254] Ibid.

market transparency[255]. This is consistent with other sectors such as in the aged care sector. **We recommend** that a public register of private residential services in Queensland be created on the DOH website, with sufficient information available about fees and charges for informed decisions to be made about the suitability of private residential services to meet resident's needs.

In addition, residents who are a participant in the NDIS and who have the Public Trustee of Queensland appointed as their financial administrator are disadvantaged by the issue of the Public Trustee not being given access to the residents NDIS plan, in order to ascertain whether there is a doubling up of fees and charges for support services provided by the NDIS and supports services provided by a level 3 residential service providers. **We recommend** that the Queensland government support the Public Trustee of Queensland to advocate to the NDIA to provide for this important safeguard.

**Service standards**

**5. Do current service standards set appropriate benchmarks for the provision of level 3 residential services, particularly in relation to personal care?**

The service standards for level 3 residential services in Queensland, when compared to other similar quality frameworks for the provision of accommodation and support to vulnerable people, such as the Human Services Quality Framework and the NDIS quality system and practice indicators, is inadequate to safeguard against the violence, abuse, neglect and exploitation of the vulnerable cohort who predominantly use level 3 residential services.

Currently, service standards and accreditation criteria are focused on building standards, fire safety, pest control, and food hygiene rather than the on evidence of appropriate care and support, the safety of residents in terms of their human rights, the quality of the support services they receive as part of the residential service, and quality of life.

Researchers have identified that the concept of risk has not been developed in relation to the issue of accommodating people in need of care and support in congregate facilities[256]. A risk-based approach to regulation is required which distinguishes between the risks associated with buildings and maintaining the safety and amenity of the building, and the risks associated with housing vulnerable people[257].

We suggest that this limited focus for regulation has resulted in placing vulnerable people at heightened risk of violence, abuse, neglect and exploitation, due to inappropriate and insufficient standards and oversight. As the Public Advocate of Queensland states in the public hearing for this

[255] Dalton, T., Pawson, H., & Hulse, K. (2015). Rooming house futures: governing for growth, fairness and transparency. Australian Housing and Urban Research Institute (AHURI).
[256] Ibid.
[257] Ibid.

Inquiry[258]: *To be effective here, the regulation of the sector needs a person-centred, human services approach.*

This focus of regulation on the amenity of the buildings has been raised in other Australian jurisdictions[259]:
*My understanding is that the YACS Act came about because people were concerned about the standards of the boarding houses that these people lived in and foolishly what they did was set up physical standards that already existed under the Local Government Act for fire standards and so forth. They focussed on those and did nothing about the welfare of the individuals who lived in the boarding houses.*

The Royal Commission recommended that all minimum standards as well as monitoring and oversight practices for supported accommodation should be reviewed and strengthened in each jurisdiction[260]. The Royal Commission proposed five key areas that should be addressed through these reviews[261]:

1. The development of support plans. At a minimum, these plans should address personal care, financial management, medication management, use of restrictive practices, and the standard of food and accommodation to be provided. Support plans should also describe the frequency of the supports to be provided, how the supports will be provided, the needs and preferences of the person with disability, and a regular review of support needs within the plan.
2. Supported Residential Service providers should keep up-to-date records of how services are delivered in line with support plans to allow regulatory bodies to more effectively monitor the quality of supports and services.
3. Clear complaints management and incident management processes should be established. This should include how complaints are reported to the central registration body, and the feedback loop for residents, their family and advocates.
4. Residents should be guaranteed access to independent advocacy services through advocacy organisations and community visitor schemes. This is a critical enabler of the complaints and incident management standards described above.
5. Residents should be supported to access independent advocacy services, focused on identification of alternative, longer term accommodation options. This would recognise that supported residential services are unlikely to be the preferred housing option for some people with disability living in supported residential services.

[258] Community Support and Services Committee, transcript of proceedings, Wednesday, 13 December 2023, Brisbane public hearing—Inquiry into the provision and regulation of supported accommodation in Queensland.
[259] Drake, G. (2010). The privatisation of the back wards: the accommodation of people with intellectual disability and people with mental illness in licensed boarding houses in Sydney.
[260] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[261] Ibid.

The Royal Commission identified six priority reform areas that should be addressed through these reviews[262]:

1. All supported residential services and equivalent services should be required to register with the relevant state or territory department responsible for supported residential services standards.
2. All supported residential services and their equivalents should be required to undergo an initial audit when seeking registration, and ongoing audits (at minimum yearly) for monitoring and compliance purposes with all minimum standards. Audits should include direct engagement with people with disability residing in supported residential services and their equivalents and should be undertaken centrally by the responsible state or territory department. Ongoing monitoring audits should consider compliance with all minimum standards, focusing on:
    - the use of and response to the use of restrictive practices
    - the assessment of living conditions including squalor, maintenance and access
    - the assessment of the quality of supports provided within supported residential services, in line with resident support plans
    - the assessment of complaints, risk and incident management processes
    - how people with disability are supported to transition from supported residential services into alternative housing options should they so wish.
3. Jurisdictions should establish procedures to monitor services in response to complaints and incidents, including when and how investigations will be undertaken by the relevant state or territory department.
4. Jurisdictions should specify compliance action required in response to outcomes from audits and investigations following complaints and incidents. This should include the circumstances in which registration may be suspended or cancelled.
5. Jurisdictions should establish in their monitoring frameworks the specific rights of community visitors to attend and report on standards within supported residential services and their equivalents.
6. In strengthening these monitoring and oversight functions, specific steps should be taken to address gaps in the regulation of services between different funded service systems. A cohesive regulatory framework needs to be in place for people with disability receiving supports and services in Supported Residents Services and equivalent settings. Providers that are the subject of substantiated infringements should be notified to other relevant oversight bodies in the jurisdiction and the NDIS.

The Royal Commission recommended that minimum service standards and monitoring and oversight of supported residential services and their equivalents be developed for states and territories, including guaranteeing access to independent advocacy services through advocacy organisations and community visitor schemes and also that service providers must support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options. **We support this recommendation, below**.

**Recommendation 7.38 Minimum service standards and monitoring and oversight of supported residential services and their equivalents**

[262] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

This recommendation applies to state and territory government entities responsible for regulating privately operated and government-funded board and lodging-type supported accommodation services – including supported residential services (SRS) (in Victoria), assisted boarding houses (in New South Wales), Level 3 residential centres (Queensland), and supported residential facilities (SRF) (in South Australia). The entities should develop and implement minimum service and accommodation standards, strengthen oversight mechanisms, and increase service-level monitoring activities and compliance action, as follows:

a. Minimum standards should require all SRS providers and their equivalents in other jurisdictions to:
    - develop support plans for each resident, covering personal care, financial management, medication management, and the use of restrictive practices
    - keep up-to-date records of how services are delivered in line with support plans, to allow regulatory bodies to more effectively monitor the quality of supports and services by regulatory bodies
    - establish clear complaint management processes, including how complaints are reported to the central registration body, and a feedback loop for residents, their family and advocates
    - guarantee access to independent advocacy services through advocacy organisations and community visitor schemes
    - support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options in recognition of the transitionary nature of these services.

b. Monitoring and oversight mechanisms for SRS and their equivalents in other jurisdictions should:
    - require central registration for all SRS and equivalent services with the relevant state or territory department responsible for SRS standards
    - require all SRS and their equivalents to undergo an initial audit when seeking registration, as well as ongoing audits (minimum yearly) for monitoring and compliance with all minimum standards. Audits should include direct engagement with people with disability residing in SRS and their equivalents, and should be undertaken centrally by the responsible state or territory department
    - establish procedures to monitor services in response to complaints and incidents, including when and how the relevant state or territory department will undertake investigations
    - establish compliance activities in response to audit results and investigations following complaints and incidents, including when registration will be impacted
    - include the specific rights of community visitor programs to attend and report on standards within SRS and their equivalents
    - be developed in consultation with other regulatory systems to identify and close regulatory gaps between schemes and settings including SRS, the National Disability Insurance Scheme, and in aged care and mental health services.

c. Regulatory entities should have adequate powers to enforce all standards. Up-to-date records of infringements, enforcement action and remedies should be maintained centrally. The regulatory entities should notify substantiated infringements by providers to other oversight bodies with responsibilities for those providers, including the NDIS Quality and Safeguards Commission.

d. States and territories should consider whether these recommendations should be implemented in relation to other forms of marginal accommodation for people with disability, including general boarding houses and caravan parks.

**We recommend** that a requirement for level 3 residential services to have a reportable conduct scheme should be added to the service standards, in line with quality requirements in other sectors. This would assist to safeguard residents of level 3 residential services.

**We recommend** exploring the use of the Human Services Quality Framework in conjunction with the existing service standards, for enhancing regulation of the private residential services.

**6. Should the assessment of whether level 3 residential services meet particular standards require more thorough evidence, including greater on-site monitoring and more direct engagement with residents and relevant representative agencies?**

Evidence

The '*Site Audit Tool for renewal of accreditation of a residential service'* used by auditors to assess quality has insufficient indicators of evidence. The validity of some of the measures used in the site audit tool are questionable. For example, under the heading 'Bedrooms and provide personal space, security and privacy to Residents e.g., lockable doors', the evidence requirements are: a pest control report (within the last 12 months) and a fire safety evacuation plan. It is unclear how the existence of a pest control report and a fire safety evacuation plan relates to ensuring the security and privacy of residents. If private residential services are to continue to operate in Queensland, **we recommend** that the validity of the evidence indicators be reviewed for effectiveness in demonstrating compliance with the service standards.

Monitoring

In the current accreditation system, audits under the service standards for level 3 residential services are conducted once every 3 years. Only 5 auditors are employed by the state government to cover all level 3 residential services across Queensland. These auditors are usually a Regulatory Analyst, who is appointed as an Inspector under the *Fair Trading Inspectors Act 2014*. We are not confident that these arrangements allow Inspectors to have sufficient knowledge and skills of the provision of quality support services to vulnerable people and the upholding of their human rights, and we believe this is not sufficient oversight of environments which are high risk for violence, abuse, neglect and exploitation of vulnerable people.

We agree with the Royal Commission's recommendation that all private residential services SRS should be required to undergo an initial audit when seeking registration, and annual audits for monitoring and compliance purposes. If private residential services are to continue to operate in Queensland, **we recommend** that this be implemented in Queensland.

The DOH reported that once registration and accreditation has been achieved, the oversight and monitoring by DOH is via the management of complaints and targeted compliance campaigns. The Royal Commission's final report states that 'Compliance-based systems of oversight and monitoring tend to focus on more serious incidents rather than cumulative day-to-day failures that form the

experience of people with disability and that can result in abuse, and neglect in particular'[263]. Professor Sally Robinson suggested to the Royal Commission that this problem could be addressed through 'a process of qualitative evaluation involving the perspectives of people with disability [to] replace the current system of auditing'[i]. If private residential services are to continue to operate in Queensland, **we recommend** that the state government review their use of audits, to identify improvements to how monitoring and oversight is conducted with a view to moving more towards a 'process of qualitative evaluation'.

More direct engagement with residents and relevant representative agencies
**We recommend** that a separate satisfaction survey of residents be developed and conducted annually. The results should be published as part of the annual reporting of the DOH.

**We recommend** that a consumer with lived experience be part of the auditing team from the DOH, similar to the use of a consumer technical expert in NDIS quality audits, under the *NDIS (Approved Quality Auditor Scheme) Guidelines 2018*.

**NDIS providers that are also level 3 residential services providers**
We believe that the monitoring of NDIS-funded services provided to residents of level 3 residential services is inadequate. The NDIS Quality and Safety Commission has been criticised in a range of reports over the last few years for not actively inspecting and monitoring NDIS services in general[264].

**We recommend** that the Queensland government ask for a compliance strategy to be urgently developed by the NDIS Quality and Safety Commission for private residential services in Queensland, as has been done recently in Victoria, in response to reports of clients being effectively kidnapped by providers for the client's NDIS package[265]. The Victorian strategy states that the Commission will consider applying this approach more broadly following review of its application in the Victorian context, and consideration of the risks to participants residing in similar accommodation arrangements in other jurisdictions[266].

**7. Should the residential services regulator be required to publicly report on the compliance of service providers with accreditation standards?**
If private residential services are to continue to operate in Queensland, **we recommend** that publicly available information on compliance status and compliance actions is provided, via the creation of a public register. This is consistent with other sectors, such as the residential aged care sector.

[263] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[264] See for example: Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report; Commonwealth of Australia (2023). Working together to deliver the NDIS Independent Review into the National Disability Insurance Scheme final report.
[265] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[266] Ibid.

**Staff**

**8. Are current minimum qualification and training requirements for staff of level 3 residential services appropriate?**

The Royal Commission final report highlighted that the action plan from the NDIS Quality and Safeguards Commission Own Motion Inquiry into Supported Accommodation includes that the NDIS Commission work with providers to co-design and pilot aspects of the best practice model for supported accommodation proposed by Professor Christine Bigby, including Frontline Practice Leadership and Active Support[267]. These evidence-informed models of practice should ensure that residents are actively supported to have greater social interaction and community participation, and positively influences the quality of life for residents, across the domains of personal development, emotional wellbeing, autonomy, interpersonal relationships, and social[268].

If private residential services are to operate in Queensland, **we recommend** that staff and operators of private residential services who provide personal care services, be required under the service standards to be trained in Frontline Practice Leadership and Active Support, in line with the proposed requirements for NDIS service providers.

The NDIS Quality and Safeguards Commission have also proposed that a new specific Practice Standard for 24/7 living supports be developed. **We recommend** that this new Practice Standard be incorporated in the current service standards for private residential services.

**9. How might greater assistance be provided to level 3 residential services to manage difficult scenarios, including those that occur outside business hours?**

As the Public Advocate of Queensland's report states, during the period from 1 January 2023 to 31 March 2023, the QAS received 859 calls to attend level 3 residential services[269]. The most common reasons provided for the call were coded by the QAS as 'psychiatric/ abnormal behaviour/ suicide attempt' (162 calls, 18.9%), 'sick person' (137 calls, 15.9%), and 'chest pain' (115 calls, 13.4%)[270].

Current requirements under the service standards do not specify the requirement for after-hours arrangements for emergencies related to the behaviour of residents. It is unclear whether level 3 residential services use existing services such as 1300 MH CALL, the mental health tele-triage service that provides mental health information and advice 24 hours a day, 7 days a week. If private residential services are to continue to operate in Queensland, **we recommend** that the service standards require residential service providers to have after-hours arrangements for emergencies, such as a crisis response service.

[267] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[268] Bigby, C. (2022). Evidence about best practice in supported accommodation services –what needs to be in place. Living with Disability Research Centre.
[269] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[270] Ibid.

**Conflicts of interest and transparency**

**10. Further to question 4, should greater transparency be required concerning the fees that are charged to residents when their level 3 residential service provider, or a closely related entity, also provides them with NDIS-funded services?**

If private residential services are to continue to operate in Queensland**, we recommend** that increased monitoring and oversight activities by both the DOH and the NDIS Quality and Safety Commission should be undertaken to enforce existing requirements for private residential fees and charges to be set out separately, along with existing requirements for NDIS providers to outline fees and charges separately.

**We recommend** that the Queensland government ask for a compliance strategy to be urgently developed by the NDIS Quality and Safety Commission for residential services in Queensland, as has been done recently in Victoria, in response to reports of clients being effectively kidnapped by providers for the client's NDIS package[271]. The Victorian strategy states that the Commission will consider applying this approach more broadly following review of its application in the Victorian context, and consideration of the risks to participants residing in similar accommodation arrangements in other jurisdictions[272].

**11. When a level 3 residential service resident chooses their accommodation provider, or a closely related entity, as their NDIS service provider, what evidence should the service provider be required to provide to demonstrate that the resident has exercised an independent choice?**

**We recommend** that level 3 residential service providers be prohibited from providing NDIS services to their own residents.

**12. Is the monitoring of NDIS-funded services provided to residents of level 3 residential services adequate?**

The monitoring of NDIS-funded services provided to residents of level 3 residential services by the NDIS Quality and Safety Commission is inadequate. The NDIS Quality and Safety Commission has been criticised by the Royal Commission for example, for not actively inspecting and monitoring NDIS services in general across Australia[273]. Victoria is the only state that currently has a NDIS Quality and Safety Commission compliance strategy for NDIS services that are delivered in private residential services. The compliance strategy was only developed after disturbing public reports of residents being exploited and, in some cases, actually kidnapped by providers, in order to secure residents substantial NDIS packages[274].

If private residential services are to continue to operate in Queensland, **we recommend** that increased monitoring and oversight activities by both the DOH and the NDIS Quality and Safety Commission should be undertaken to enforce existing requirements for private residential fees and

[271] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[272] Ibid.
[273] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[274] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.

charges to be set out separately, along with existing requirements for NDIS providers to outline fees and charges separately.

**We recommend** that the Queensland government ask for a compliance strategy to be urgently developed by the NDIS Quality and Safety Commission for residential services in Queensland, as has been done recently in Victoria, in response to reports of clients being effectively kidnapped by providers for the client's NDIS package[275]. The Victorian strategy states that the Commission will consider applying this approach more broadly following review of its application in the Victorian context, and consideration of the risks to participants residing in similar accommodation arrangements in other jurisdictions[276].

**Oversight and safeguards**

**13. How can existing safeguards be improved to provide better protections for residents living in level 3 residential services?**

Existing safeguards

If private residential services are to continue to operate in Queensland, changes to existing safeguards are urgently needed, including all the recommendations we have provided in the answers to the questions in this submission, as well as the introduction of further safeguards,.

The key existing safeguards for residents of level 3 residential services include:

- the service standards,
- the regulation of the service standards,
- community visitors, and
- the rooming agreement.

Further safeguards

The independent review of the NDIS suggested that state and territory governments should have a coordinated and collaborative safeguarding strategy that delineates between government responsibilities. As part of this, governments should step up their efforts to support people with disability at risk of harm through Community Visitor schemes and Adult Safeguarding Agencies (ASAs). ASAs are an emerging service in some states and territories offering that can deliver holistic, person-centred support for safety across programs and service systems, comparable to existing child protection systems[277]. The Royal Commission has also recommended that the role of adult safeguarding functions should be articulated in a national adult safeguarding framework, and that adult safeguarding bodies should have the following functions[278]:

- receiving, assessing and investigating reports where there are reasonable grounds to believe an adult with disability is or may be subject to violence, abuse, neglect, or exploitation in a community setting – regardless of whether the risk is ongoing

[275] NDIS Quality and Safety Commission (2022). Compliance strategy: supported residential services in Victoria.
[276] Ibid.
[277] Commonwealth of Australia (2023). Working together to deliver the NDIS independent review into the National Disability Insurance Scheme final report.
[278] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

- providing advice and assistance, including referrals to independent advocacy and legal services, police or other regulatory authorities or appropriate bodies
- coordinating safeguarding responses tailored to the circumstances of the adult with disability
- taking direct safeguarding action, including action in a court or tribunal, where the adult safeguarding body reasonably believes it is necessary
- collecting, analysing and publicly reporting data about contacts and reports of violence against, abuse, neglect, or exploitation of, adults with disability in community settings
- inquiring into and reporting on systemic issues relating to safeguarding adults with disability from violence, abuse, neglect, or exploitation of adults in community settings
- promoting and assisting in the development of coordinated best practice strategies for preventing, and early intervention on, violence, abuse, neglect, or exploitation of adults with disability in community settings
- raising public awareness about matters relating to violence against, and abuse, neglect, and exploitation of, adults with disability in community settings
- advising and making recommendations to the relevant minister about violence against, and abuse, neglect and exploitation of, adults with disability in community settings.

In addition, adult safeguarding bodies should, at a minimum, have the following powers:

- dealing with a matter as a report if the adult safeguarding body reasonably believes it relates to violence against, and abuse, neglect and exploitation of, a person with disability
- making preliminary inquiries to decide how to deal with a report
- referring a report to another relevant person or body
- investigating a report
- when investigating a report, compelling any person to attend a meeting or produce a document
- conducting a public inquiry, when investigating a report, if it is in the public interest. The adult safeguarding body should consider the seriousness of the matter and the will, preference and privacy of the affected person with disability
- applying for and executing an authorised search warrant
- enforcing undertakings that the perpetrator of the alleged abuse entered into
- applying for a court order if it is necessary to safeguard an individual
- adult safeguarding bodies and relevant prescribed bodies should also have the power to exchange information if doing so is necessary to safeguard an adult with disability.

The Royal Commission has recommended the creation of adult safeguarding agencies that would facilitate complaints for vulnerable adults, be implemented in all states and territories[279].
**We support these recommendations for implementation in Queensland**. The relevant recommendations from the Royal Commission are below.

[279] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

**Recommendation 11.1 Nationally consistent adult safeguarding functions**
States and territories should each:
a. introduce legislation to establish nationally consistent adult safeguarding functions, including:
- definitions of 'adult with disability', 'violence', 'abuse', 'neglect', and 'exploitation'
- at a minimum, the principles, functions and powers outlined in Table 11.1.1
- data collection and public reporting, including demographic data (for example, relating to First Nations, culturally and linguistically diverse, and LGBTIQA+ people with disability)
- a mechanism to review the legislation after a reasonable period to examine its efficacy.

b. ensure adult safeguarding functions are operated by adequately resourced independent statutory bodies
c. develop a National Adult Safeguarding Framework led by the appointed adult safeguarding bodies
d. consider whether to co-locate the adult safeguarding function with the 'one-stop shop' dependent complaint reporting, referral and support mechanism (see Recommendation 11.3).

**Recommendation 11.2 An integrated national adult safeguarding framework**
The Australian Government should incorporate the National Adult Safeguarding Framework proposed in Recommendation 11.1 into the Safety Targeted Action Plan within Australia's Disability Strategy or another suitable authorising document.

**Recommendation 11.3 'One-stop shop' complaint reporting, referral and support**
States and territories should each establish or maintain an independent 'one-stop shop' complaint reporting, referral and support mechanism to receive reports of violence, abuse, neglect and exploitation of people with disability. This mechanism should perform the following functions:
a. receive complaints or reports from anyone concerned about violence, abuse, neglect and exploitation involving a person with disability in any setting
b. provide advice and information to people with disability, representative organisations and other interested parties about appropriate reporting options
c. with a person's consent:
• make warm referrals to appropriate complaints bodies
• make warm referrals to advocacy and other services who can support them in the complaint process
d. refer 'third party' reports to police, including anonymous reports
e. collect, analyse and publicly report annual data on complaints and reports received and on referrals.
The mechanism should be co-designed with people with disability to ensure entry points are accessible to and effective for people with a range of abilities, language and communication needs. The mechanism should be placed, if possible, within an existing independent organisation which has appropriate expertise and relationships with services to perform its functions.

In addition, the Royal Commission has recommended that a national mechanism be established to link people to the independent complaint and referral mechanism in their state or territory that has been recommended by the Royal Commission. **We support this recommendation,** below.

**Recommendation 11.4 Creating accessible complaint pathways**
The Australian Government should work with states and territories to establish a national 1800 number, website and other accessible reporting tools to direct people to the independent complaint and referral mechanism in their state or territory

**Advocacy**
The independent review of the NDIS heard that there is approximately twice as much demand for advocacy in comparison to supply. The review recommended that: National Cabinet should agree to jointly invest in achieving nationally consistent access to individual disability advocacy services. **We support this recommendation**. **We recommend** that any Queensland government-funded advocacy programs also receive increased investment to meet demand.

The Royal Commission recommended the NDIA develop a program to connect NDIS participants living in supported accommodation with independent advocacy services, below. **We support this recommendation. We recommend** that similar arrangements should be implemented for all residents of level 3 residential services in Queensland.

**Recommendation 10.5 Advocacy**
a. The National Disability Insurance Agency (NDIA) should develop a program to connect National Disability Insurance Scheme (NDIS) participants living in supported accommodation with an appropriate disability advocacy organisation. The program should be co-designed with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies. The program should:
• promote advocacy in the course of NDIS planning processes
• increase awareness of the role of advocacy in disability services among NDIS participants and their families and supporters
• strengthen advocacy referral processes when participants and their families and supporters raise concerns, make complaints or report incidents
• foster relationships between NDIS participants, their families and supporters, and disability advocacy organisations
• strengthen collaboration between disability service providers and disability advocacy organisations to enable advocates to maintain periodic contact with people with disability so they can identify potential or emerging issues. The program should commence by January 2025.
Following an evaluation of the program's impact and outcomes, the NDIA should consider expanding the program to reach other groups of people with disability who are identified as being at heightened risk of violence, abuse, neglect or exploitation
b. The NDIS Quality and Safeguards Commission, when reviewing complaints and reportable incidents, should also actively promote the value of independent advocacy for NDIS participants identified as being at heightened risk of violence, abuse, neglect or exploitation, and/or those who live in supported accommodation.

In addition, as mentioned previously in this submission, the Royal Commission recommended (Recommendation 7.38 Minimum service standards and monitoring and oversight of supported residential services and their equivalents) that minimum service standards and monitoring and

oversight of supported residential services and their equivalents be developed, including guaranteeing access to independent advocacy services through advocacy organisations and community visitor schemes. The recommendation also included that service providers must support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options. **We support this recommendation. We recommend** that similar arrangements should be implemented in the service standards for all residents of level 3 residents services in Queensland.

**Community Visitors**
In the Royal Commission's Recommendation 7.38, it also recommends monitoring and oversight of private residential services should include the 'specific rights of community visitor programs to attend and report on standards '.

The independent review of the NDIS proposed that information between Community Visitor schemes and a new National Disability Supports Commission should flow seamlessly, so they can prioritise the safeguarding of people with disability. The Royal Commission also recommended, below, that the NDIS Quality and Safety Commission and Community Visitor schemes be able to share information. **We support** this recommendation, below.

**Recommendation 11.13 Integration of community visitor schemes with the NDIS**
a. The Commonwealth should amend the National Disability Insurance Scheme Act 2013 (Cth) to formally recognise community visitor schemes (CVS) as a safeguard for people with disability and provide the authorising environment for information-sharing between the NDIS Quality and Safeguards Commission (NDIS Commission) and CVS.
b. The Australian Government should:
• enter into a national agreement with states and territories that commits CVS and the NDIS Commission to:
◦ sharing relevant information to effectively exercise their respective functions
◦ developing common standards for guiding the work of CVS relating to people with disability.
• update the NDIS Quality and Safeguarding Framework to formally recognise the important safeguarding role played by CVS.

**Criminal history checks**
Staff working with vulnerable people in other sectors such as the NDIS sector and aged care sector, are required to undergo criminal history checks to ensure their suitability to work with vulnerable people. Residential service providers are required to undergo criminal history checks; however, it is unclear whether staff of level 3 residential services undergo criminal history checks. **We recommend** that staff of level 3 residential services be required to undergo criminal history checks.

**14. Are there unintended consequences from the participation of residents of level 3 residential services in the NDIS that warrant regulatory reforms?**
**We recommend** that if level 3 residential services are to continue to operate in Queensland, level 3 residential service providers should be prohibited from providing NDIS service to their own residents.

**Complaints mechanisms**

**15. Should a 'no wrong door' approach be established under which residents of level 3 residential services are assisted to lodge complaints about service provision across a range of service sectors, including the accommodation, NDIS, and aged care sectors?**

The Royal Commission has recommended the creation of adult safeguarding agencies that would facilitate complaints for vulnerable adults, be implemented in all states and territories[280].
An adult safeguarding agency would provide 'warm referrals' to appropriate complaint bodies including police, and link people with local advocacy and other services that can support them to participate in the complaint process[281].

**We support this recommendation for implementation in Queensland and we recommend** that this adult safeguarding agency be used for the 'no wrong door 'approach to complaints about service provision across a range of service sectors. The relevant recommendations from the Royal Commission are below.

**Recommendation 11.1 Nationally consistent adult safeguarding functions**

States and territories should each:

a. introduce legislation to establish nationally consistent adult safeguarding functions, including:

- definitions of 'adult with disability', 'violence', 'abuse', 'neglect', and 'exploitation'
- at a minimum, the principles, functions and powers outlined in Table 11.1.1
- data collection and public reporting, including demographic data (for example, relating to First Nations, culturally and linguistically diverse, and LGBTIQA+ people with disability)
- a mechanism to review the legislation after a reasonable period to examine its efficacy.

b. ensure adult safeguarding functions are operated by adequately resourced independent statutory bodies

c. develop a National Adult Safeguarding Framework led by the appointed adult safeguarding bodies

d. consider whether to co-locate the adult safeguarding function with the 'one-stop shop' dependent complaint reporting, referral and support mechanism (see Recommendation 11.3).

**Recommendation 11.2 An integrated national adult safeguarding framework**

The Australian Government should incorporate the National Adult Safeguarding Framework proposed in Recommendation 11.1 into the Safety Targeted Action Plan within Australia's Disability Strategy or another suitable authorising document.

**Recommendation 11.3 'One-stop shop' complaint reporting, referral and support**

States and territories should each establish or maintain an independent 'one-stop shop' complaint reporting, referral and support mechanism to receive reports of violence, abuse, neglect and exploitation of people with disability. This mechanism should perform the following functions:

a. receive complaints or reports from anyone concerned about violence, abuse, neglect and exploitation involving a person with disability in any setting

[280] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[281] Ibid.

b. provide advice and information to people with disability, representative organisations and other interested parties about appropriate reporting options
c. with a person's consent:
• make warm referrals to appropriate complaints bodies
• make warm referrals to advocacy and other services who can support them in the complaint process
d. refer 'third party' reports to police, including anonymous reports
e. collect, analyse and publicly report annual data on complaints and reports received and on referrals.
The mechanism should be co-designed with people with disability to ensure entry points are accessible to and effective for people with a range of abilities, language and communication needs. The mechanism should be placed, if possible, within an existing independent organisation which has appropriate expertise and relationships with services to perform its functions.

In addition, the Royal Commission has recommended that a national mechanism be established to link people to the independent complaint and referral mechanism in their state or territory that has been recommended by the Royal Commission. **We support this recommendation,** below.

**Recommendation 11.4 Creating accessible complaint pathways**
The Australian Government should work with states and territories to establish a national 1800 number, website and other accessible reporting tools to direct people to the independent complaint and referral mechanism in their state or territory

**Rooming agreements**
**16. Do current regulatory requirements concerning rooming agreements adequately protect the rights of residents of level 3 residential services?**
Current regulatory requirements and oversight concerning rooming agreements do not adequately protect the rights of residents of level 3 residential services. In the Public Advocate of Queensland's report, some stakeholders expressed concerns that rooming agreements have limited protections for people in level 3 residential services, as the period of notice required for a *Notice to Leave* is typically shorter for rooming agreements compared to general tenancy agreements[282]. In comparison, tenants in public or community housing must be given seven days' notice to leave on the grounds of a serious breach[283].

If private residential services are to continue to operate in Queensland**, we recommend** that the Residential Tenancies and Rooming Accommodation Act 2008 be amended to mandate a seven day notice period under a *Notice to Leave*, for residents of level 3 residential services.

For residents of level 3 residential services, immediate eviction can occur in some circumstances, which results in the loss of both their accommodation and any supports provided as part of the

[282] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[283] Ibid.

service[284]. They also risk losing access to other funded supports, such as those provided under their NDIS package, if they are not able to find alternative accommodation in which their service provider can deliver these services[285]. Immediate eviction often results in the person having nowhere else to go, with limited assistance to identify suitable alternative accommodation or to access necessary support services[286].

**We recommend** that a requirement for a service provider to document how they have tried de-escalation strategies and a crisis response service, before issuing a *Notice to Leave* to a resident, should be included in the service standards.

The Royal Commission highlighted that ensuring people with disability have greater security of tenure, particularly in supported accommodation, is important to stop them being caught in a cycle of poverty and disadvantage[287]. The Royal Commission has made the recommendation below to increase tenancy and occupancy protections, including in supported residential services[288]. **We support this recommendation.**

**Recommendation 7.37 Increase tenancy and occupancy protections for people with disability**
States and territories should review legislation governing the tenancy and occupancy rights of people with disability and adopt the best regulatory and legislative models currently in force, including:
a. in the case of tenancies: enacting legislation to replace landlords' 'no-grounds' termination rights with 'reasonable grounds' as currently specified in Victoria, Queensland and Tasmania
for both social housing and private housing tenancies, where a tribunal has discretion whether or not to order termination of the tenancy or that the tenant give up possession, empowering the tribunal to take the tenant's or a co-occupier's disability and the nature of that disability into account.
b. in the case of non-tenancy accommodation:

- adopting the provisions included in the *Residential Tenancies Act 1997* (Vic) Part 12A to protect residents of Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme
- introducing 'occupancy principles' similar to those under the *Boarding Houses Act 2012* (NSW), to cover all non-SDA housing, such as assisted boarding houses in New South Wales and supported residential services in Victoria
- extending these occupancy principles to cover 'general boarding houses' in New South Wales and unsupported boarding and rooming houses in other jurisdictions where many people with disability live. This reform should include conferring jurisdiction on the appropriate tribunal to resolve disputes, particularly in relation to eviction in hearing disputes about eviction, tribunals be required when determining whether to make an eviction order to consider the occupant's

[284] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[285] Ibid.
[286] Ibid.
[287] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.
[288] Ibid.

disability, the nature of that disability, the possibility of retaliatory eviction, and the likelihood of finding suitable alternative accommodation.

**Informal safeguards and capacity building**

**17. What additional steps should be taken to ensure that residents of level 3 residential services understand and are able to exercise their rights?**

If private residential services are to continue to operate in Queensland, **we recommend** that the service standards be amended to include that residents must be given upon entry to a level 3 residential service, the following information in an accessible format suitable for their communication needs:

- information about their human rights and consumer rights;
- information about complaints pathways for level 3 residential services; and
- information about available training in self-advocacy, local peer-advocacy groups, and independent advocates.

This information should be developed by the DOH in consultation with residents, advocacy agencies, and service providers. **We also recommend** that information about access to interpreters for residents if needed, is included in these requirements.

The need for information to be provided in an accessible form is consistent with the recommendation that was proposed by the Royal Commission to develop and implement a national plan to promote accessible information and communications by the end of 2024[289]. **We support this recommendation.**

**Recommendation 6.1 A national plan to promote accessible information and communications**

The Australian Government and state and territory governments should develop and agree on an Associated Plan in connection with Australia's Disability Strategy 2021–2031 to improve the accessibility of information and communications for people with disability. The Associated Plan should be co-designed with people with disability and their representative organisations. It should be finalised by the end of 2024.

The Associated Plan should:

• consolidate and build on existing initiatives and commitments by governments

• recognise the diversity of people with disability and the many formats and languages that people may require information to be provided in

• consider the roles of various stakeholders, including the Australian Government, state and territory governments, disability service providers, disability representative organisations and organisations representing people from culturally and linguistically diverse backgrounds

• focus, in the first instance, on information and communications about preparing for and responding to emergencies and natural disasters, and public health

[289] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

• include targeted actions to ensure access to information and communications for people with disability in the criminal justice system; supported accommodation, including group homes; Australian Disability Enterprises; and day programs
• identify and allocate appropriate funding and resources for delivery
• include mechanisms for review and public reporting of progress made against the Associated Plan.

**18. How can the voice of residents become more central to the regulation of level 3 residential services?**
If private residential services are to continue to operate in Queensland, **we recommend** that consultation with residents of level 3 residential services be undertaken by the DOH, to ascertain residents ideas and preferences for being included in the regulation of level 3 residential services.

**We recommend** that a separate satisfaction survey of residents be developed and conducted annually. The results should be published as part of the annual reporting of the DOH.

**We recommend** that a resident with lived experience be part of the DOH auditing team, similar to the use of a consumer technical expert (CTE) in NDIS quality audits as set out in the *NDIS (Approved Quality Auditor Scheme) Guidelines 2018*.

**We recommend** that if private residential services continue to operate in Queensland, that funding be given to an organisation such as QAI or QDN, to establish a reference group of current and former residents of private residential services, to represent the interests of residents in private residential supported accommodation in Queensland.

**The suitability of personal care services**
**19. Should a standardised intake assessment process be developed and implemented for potential residents of level 3 residential services to ensure that their accommodation and support needs will be able to be met in this setting?**
As the Public Advocate reports, it is not clear how providers of level 3 residential services currently determine whether the needs of a potential or current resident can be, or are being, appropriately met by their current staff and the types of services they offer[290].

If private residential services are to continue to operate in Queensland, **we recommend** that a standardised intake assessment process be included in the service standards, to be used across the private residential services sector. **We recommend** that implementation of this must be accompanied by comprehensive training and practical guidance for providers and staff on how to use the standardised intake assessment process.

As mentioned in the Public Advocate of Queensland's report, the Department of Child Safety, Seniors and Disability Services, in collaboration with the peak body for level 3 residential service providers in Queensland, the Supported Accommodation Providers Association (SAPA), have received funding

[290] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.

from the federal Department of Social Services to design and test a non-clinical assessment tool in level 3 residential services across Queensland, to be completed by 30 June 2024[291].
It is unclear if residents have been included in this project as partners in the development of this standardised intake assessment process. **We recommend** that residents be included in the development of this tool.

We note that the Vulnerability Index - Service Prioritisation Decision Assistance Tool (VI-SPDAT) has been used successfully in Queensland as part of the 500 lives, 500 homes project[292] . The VI-SPDAT has been used to assess the support needs of residents, acuity of need (acuity refers to the level and severity of issues that impact on people's ability to sustain housing and access support), and to prioritise appropriate intervention. **We recommend** that the Queensland government consider the use of this validated tool with a strong evidence-base, for a standardises intake assessment process.

**20. How might the service and support needs of residents of level 3 residential services be reliably and regularly assessed?**
If private residential services are to continue to operate in Queensland, **we recommend** that, due to the vulnerability of the residents, reassessment of service and support needs in level 3 residential services be required under the service standards to occur every six months, as well as when a resident's circumstances change that requires a change in the service and support delivered.

**Access to funding**
**21. Should greater assistance be provided to residents of level 3 residential services who need to navigate and engage with multiple service systems (including in the fields of housing, NDIS, aged care, mental health, alcohol and other drugs, and the justice system)?**
Please see the answers to Questions 1, 2, and 22.

**External service providers**
**22. What changes are required to ensure that residents of level 3 residential services are able to access external services, including advocacy services?**
If private residential services continue to operate in Queensland, the accreditation process and the standards currently require that residents are allowed access to external service providers of their choice and advocacy services. **We recommend** that these requirements should be actively monitored more regularly such as every six months, rather than by self-assessment upon applying for accreditation and as part of a five-yearly audit by the DOH.

We are pleased to see that the Queensland government's Assessment and Referral Team for the NDIS will have a refocus from the 18th of December 2023, including to support adults living in level 3 supported accommodation access and navigate the NDIS process.

[291] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[292] Project 500 Lives 500 Homes (2014). Emerging trends VI-SPDAT supported accommodation.

**We recommend** that the state government develop and implement a program for all residents of level 3 residential services to access appropriate support services for them across the human services sector, that is similar to the Queensland government's Assessment and Referral Team for the NDIS[293].

The final report of the Royal Commission recommended support plans should articulate how services and supports provided to residents by level 3 residential service providers are separate from services and supports provided through an individual's NDIS plan, in order to increase transparency[294]. **We support this recommendation, below**.

**Recommendation 7.38 Minimum service standards and monitoring and oversight of supported residential services and their equivalents**
This recommendation applies to state and territory government entities responsible for regulating privately operated and government-funded board and lodging-type supported accommodation services – including supported residential services (SRS) (in Victoria), assisted boarding houses (in New South Wales), Level 3 residential centres (Queensland), and supported residential facilities (SRF) (in South Australia). The entities should develop and implement minimum service and accommodation standards, strengthen oversight mechanisms, and increase service-level monitoring activities and compliance action, as follows:

c. Minimum standards should require all SRS providers and their equivalents in other jurisdictions to:
    - develop support plans for each resident, covering personal care, financial management, medication management, and the use of restrictive practices
    - keep up-to-date records of how services are delivered in line with support plans, to allow regulatory bodies to more effectively monitor the quality of supports and services by regulatory bodies
    - establish clear complaint management processes, including how complaints are reported to the central registration body, and a feedback loop for residents, their family and advocates
    - guarantee access to independent advocacy services through advocacy organisations and community visitor schemes
    - support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options in recognition of the transitionary nature of these services.
d. Monitoring and oversight mechanisms for SRS and their equivalents in other jurisdictions should:
    - require central registration for all SRS and equivalent services with the relevant state or territory department responsible for SRS standards
    - require all SRS and their equivalents to undergo an initial audit when seeking registration, as well as ongoing audits (minimum yearly) for monitoring and compliance with all minimum standards. Audits should include direct engagement with people with disability residing in

[293] Queensland Government (2023). Assessment and Referral Team. https://queenslandcommunities.engagementhub.com.au/art
[294] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

SRS and their equivalents, and should be undertaken centrally by the responsible state or territory department
- establish procedures to monitor services in response to complaints and incidents, including when and how the relevant state or territory department will undertake investigations
- establish compliance activities in response to audit results and investigations following complaints and incidents, including when registration will be impacted
- include the specific rights of community visitor programs to attend and report on standards within SRS and their equivalents
- be developed in consultation with other regulatory systems to identify and close regulatory gaps between schemes and settings including SRS, the National Disability Insurance Scheme, and in aged care and mental health services.

c. Regulatory entities should have adequate powers to enforce all standards. Up-to-date records of infringements, enforcement action and remedies should be maintained centrally. The regulatory entities should notify substantiated infringements by providers to other oversight bodies with responsibilities for those providers, including the NDIS Quality and Safeguards Commission.
d. States and territories should consider whether these recommendations should be implemented in relation to other forms of marginal accommodation for people with disability, including general boarding houses and caravan parks.

The Royal Commission also recommended that the NDIA develop a program to connect NDIS participants living in supported accommodation with independent advocacy services, below. **We support this recommendation.**

**Recommendation 10.5 Advocacy**
a. The National Disability Insurance Agency (NDIA) should develop a program to connect National Disability Insurance Scheme (NDIS) participants living in supported accommodation with an appropriate disability advocacy organisation. The program should be co-designed with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies. The program should:
• promote advocacy in the course of NDIS planning processes
• increase awareness of the role of advocacy in disability services among NDIS participants and their families and supporters
• strengthen advocacy referral processes when participants and their families and supporters raise concerns, make complaints or report incidents
• foster relationships between NDIS participants, their families and supporters, and disability advocacy organisations
• strengthen collaboration between disability service providers and disability advocacy organisations to enable advocates to maintain periodic contact with people with disability so they can identify potential or emerging issues. The program should commence by January 2025.
Following an evaluation of the program's impact and outcomes, the NDIA should consider expanding the program to reach other groups of people with disability who are identified as being at heightened risk of violence, abuse, neglect or exploitation
b. The NDIS Quality and Safeguards Commission, when reviewing complaints and reportable incidents, should also actively promote the value of independent advocacy for NDIS participants

identified as being at heightened risk of violence, abuse, neglect or exploitation, and/or those who live in supported accommodation.

**Unregistered residential services**

**23. How might unregistered services that meet the current level 3 residential services criteria, and that are therefore required to obtain registration and accreditation, be more reliably identified?**

If private residential services are to continue to operate in Queensland, **we recommend** that the DOH continue its work to communicate with providers of accommodation (other than existing residential services) and assist them to determine if they should be registered and accredited as a residential service provider[295].

**We recommend** that the DOH implement a dedicated phone number that service providers, advocacy agencies, the public, government human service agencies, local councils, and other community agencies across all sectors can report unregistered residential services that they become aware of through the course of their work.

**Emerging, unregulated models of accommodation**

**24. What regulatory steps should be taken to better protect residents of level 3 residential services from predatory provider behaviour?**

If private residential services are to continue to operate in Queensland, **we recommend** that information be developed that is distributed to support service providers across different sectors, all relevant advocacy organisations, all relevant government agencies, and all residential service providers who are accredited, for distribution to their clients, on the range of accommodation types in operation and their risks. This should also include information about the overlap between personal care services and NDIS support services. This information could include a list of questions that potential residents could ask of accommodation and support providers to ascertain whether the accommodation and support services are regulated.

**We recommend** that the DOH investigate whether consumer law protections could be used for better regulation and oversight of emerging, unregulated models of accommodation.

**Decision-making**

**25. How might residents, and potential residents, of level 3 residential services be better supported to make their own accommodation and service-related decisions?**

The 2023 MHLC investigative report states that people with disability may have varying levels of decision-making capacity and may be vulnerable to predatory business practices, however this shouldn't be confused with having no decision-making capacity[296]. The MHLC recommended that effective supported decision-making should be provided to ensure informed consent and increase capacity to make decisions[297].

[295] Public Advocate (2023). 'Safe, Secure and Affordable?' The need for an inquiry into supported accommodation in Queensland.
[296] Mental Health Legal Centre (2023). Multiagency choice and control project – 3-month interim report.
[297] Ibid.

The Royal Commission has recommended that the NDIS services practice standards be amended to encourage the use of supported decision making by NDIS service providers, and that a practice guide on supported decision-making be developed for NDIS service providers. **We support these recommendations,** below. **We recommend** that similar requirements be included in the service standards for private residential services.

**Recommendation 10.6 Supported decision-making in disability services**
The NDIS Quality and Safeguards Commissioner should amend the *National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018* (Cth) to reflect that each participant:
• is entitled to support to make everyday life decisions including what services they receive, in what way and from whom
• has opportunities to make decisions about their goals and aspirations
• is supported to develop their decision-making skills
• is supported to communicate their will and preferences
• has the right to choose their own supporter. Amendments should be completed by 30 June 2025.

**Recommendation 10.7 Practical guidance on supported decision-making**
The NDIS Quality and Safeguards Commission should co-design – with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies – a practice guide on supported decision-making for service providers. This should be consistent with the NDIS Supported Decision Making Policy and the supported decision-making principles outlined in Recommendation 6.6.

**We recommend** that guidance should be developed for residential service providers and staff on the implications of applying to QCAT for a substitute decision maker to be appointed for a resident, such as the difficulty for people under substitute decision makers to have orders reviewed and revoked. This guidance should explain the human rights obligations relating to use of supported decision making and should highlight that substitute decision-making should be used as a last resort and in the least restrictive manner .

**Zero tolerance policies**
**26. Has the adoption of 'zero tolerance' policies by some level 3 residential service providers had unintended consequences that require a regulatory response?**
There are a lack of wet house models of accommodation and support, which are based on a harm minimisation approach, in Queensland. In Canada, the Toronto Christian Resource Centre (CRC) Self-Help Inc. Housing Office, its portfolio is made up of 33 houses located in different parts of Toronto, with each house having between four and nine rooms[298]. The Office uses a "facilitative management model" where residents collaborate closely with each other on the maintenance and management of

[298] Calhoun Research and Development (2011). Good practices in rooming houses . A research project carried out for the Homelessness Partnership Strategy, Homelessness Knowledge Development, Human Resources and Skills Development Canada.

their house[299]. They are also involved in selecting new tenants[300]. Residents can choose the type of rooming house they wish, with categories including[301]:

- "Dry by program", for people who go to Alcoholics Anonymous, Narcotics Anonymous, have a sponsor etc;
- "Dry by choice", where people do not have alcohol addictions;
- "Responsibly wet house," where one can drink as long as they do not cause problems for others, neighbours or the house; and
- "Women's house" for women only.

If private residential services are to continue to operate in Queensland, **we recommend** that the service standards prohibit service providers from implementing 'zero tolerance' policies in relation to drug and alcohol use on site. **We recommend** that a harm minimisation approach be required under the service standards, including responses such as a warm referral to an Alcohol and Other Drugs (AOD) support service if a resident has problematic use of AOD.

**Restrictive practices**

**27. How should the use of restrictive practices in level 3 residential services be minimised and more effectively regulated?**

The Royal Commission final report has recommended the implementation across Australia of stronger legal frameworks for the authorisation, review and oversight to restrictive practices for registered NDIS providers or services that provide disability services that are not funded by the NDIS[302]. This is in order to reduce and eliminate the use of restrictive practices. **We support this recommendation, below, and recommend** that when this recommendation is implemented in Queensland, that the authorisation framework explicitly prohibit restrictive practices in private residential services, unless the private residential services provider is a registered NDIS provider implementing restrictive practices on NDIS clients who are not their own residents.

**Recommendation 6.35 Legal frameworks for the authorisation, review and oversight of restrictive practices**

a. States and territories should ensure appropriate legal frameworks are in place in disability, health, education and justice settings, which provide that a person with disability should not be subjected to restrictive practices, except in accordance with procedures for authorisation, review and oversight established by law.

b. The legal frameworks should incorporate the following requirements, appropriately adapted to sector-specific contexts. Restrictive practices should only be used:

[299] Calhoun Research and Development (2011). Good practices in rooming houses . A research project carried out for the Homelessness Partnership Strategy, Homelessness Knowledge Development, Human Resources and Skills Development Canada.

[300] Ibid.

[301] Ibid.

[302] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

- as a last resort, in response to a serious risk of harm to a person with disability or others, and only after other strategies, including supported decision-making, have been explored and applied
- as the least restrictive response possible to ensure the safety of the person with disability or others
- to the extent necessary to reduce the risk of harm and proportionate to the potential negative consequences from the use of restrictive practices
- for the shortest time possible.

Decisions to authorise restrictive practices should be subject to independent review.
The use of restrictive practices should be subject to independent oversight and monitoring.
c. The legal frameworks should set out the powers and functions of a Senior Practitioner for restrictive practices in disability service provision (or equivalent authority). These powers and functions should include:

- promoting the reduction and elimination of the use of restrictive practices
- protecting and promoting the rights of people with disability subjected to restrictive practices
- developing and providing information, education and advice on restrictive practices to people with disability, their families and supporters, and the broader community
- considering applications to use restrictive practices in disability service settings and authorising their use according to procedures consistent with the Draft Principles for Consistent Authorisation
- developing guidelines and standards, and providing expert advice, on restrictive practices and behaviour support planning
- receiving complaints about the use of restrictive practices and the quality of behaviour support planning
- investigating the use of restrictive practices and the quality of behaviour support planning, either in response to complaints or of its own motion
- acting in response to complaints and investigations where appropriate.

The Royal Commission has also recommended that states and territories take immediate action to prevent the use of certain restrictive practices by NDIS registered providers in disability, health, mental health and education settings[303]. **We support this recommendation below and recommend** that it apply to all registered NDIS providers who deliver services in private residential services.

**Recommendation 6.36 Immediate action to provide that certain restrictive practices must not be used**
State and territory governments should immediately:
Adopt the list of prohibited forms of restrictive practices agreed by the former Disability Reform Council in 2019 and provide that the use of seclusion on children and young people is not permitted in disability service settings.
Provide that the following are not permitted in health and mental health settings:

[303] Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023). Final report.

- using seclusion and restraint as a means to reduce behaviours not associated with immediate risk of harm
- using seclusion and restraint as a form of discipline, punishment or threat restrictive practices that involve or include deliberate infliction of pain to secure compliance
- using prone or supine holds, using any restraint intended to restrict or affect respiratory or digestive function, or forcing a person's head down to their chest
- secluding a person who is also mechanically restrained
- secluding a person who is actively self-harming or suicidal
- using metal handcuffs or hard manacles as a form of mechanical restraint
- (unless under police or other custodial supervision while in the health
- facility)
- vest restraints for older people
- neck holds
- drugs, or higher doses of drugs, that create continuous sedation to manage
- behaviour
- seclusion of children and young people.

• Provide that the following are not permitted in education settings:
◦ the use of restrictive practices:
• as a form of discipline, punishment or threat
• as a means of coercion or retaliation
• in response to property destruction
• for reasons of convenience
◦ life threatening physical restraints, including physical restraints that restrict a student's breathing or harm the student by:
• covering the student's mouth or nose, or in any way restricting breathing
• taking the student to the ground into the prone or supine position
• causing hyperextension or hyperflexion of joints
• applying pressure to the neck, back, chest or joints
• deliberately applying pain to gain compliance
• causing the student to fall
• having a person sit or kneel on the student
◦ chemical restraints
◦ mechanical restraints
◦ clinical holding:
• as a behaviour support strategy
• to enforce the compliance of a student in undertaking personal care that is non-urgent and does not present a risk to the student
• to punish a student
◦ denial of key needs, such as food and water.

The Disability Reform Council's agreed list of prohibited practices for NDIS settings is below[304] .
Specific forms of physical restraint
a) The use of prone restraint, which is subduing a person by forcing them into a face-down position.
b) The use of supine restraint, which is subduing a person by forcing them into a face-up position.
c) Pin downs, which is subduing a person by holding down their limbs or any part of the body, such as their arms or legs.
d) Basket holds, which is subduing a person by wrapping your arm/s around their upper and or lower body.
e) Takedown techniques, which is subduing a person by forcing them to free-fall to the floor or by forcing them to fall to the floor with support.
f) Any physical restraint that has the purpose or effect of restraining or inhibiting a person's respiratory or digestive functioning.
g) Any physical restraint that has the effect of pushing the person's head forward onto their chest.
h) Any physical restraint that has the purpose or effect of compelling a person's compliance through the infliction of pain, hyperextension of joints, or by applying pressure to the chest or joints.
Punitive approaches
a) Aversive practices, which is any practice which might be experienced by a person as noxious or unpleasant and potentially painful. For example, threats, deliberate cold baths, applying chilli powder to the hands to prevent biting, sitting on a person to prevent them from self-harming.
b) Overcorrection, which is any practice where a person is required to respond disproportionately to an event, beyond that which may be necessary to restore a situation to its original condition. This is often used as a punitive measure. For example, a child draws all over their desk at school and they are made to clean the whole classroom.
c) Denial of key needs, which is withholding supports such as owning possessions, preventing access to family, peers, friends and advocates, or any other basic needs or supports. For example, denying access to basic needs such as toilet paper, sanitary items, stopping a person from seeing their friends or family.
d) Practices related to degradation or vilification. For example, practices that are degrading or demeaning to the person; may be perceived by the person or their guardian as harassment are unethical.
e) Practices that limit or deny access to culture. For example, actions that limit participation opportunities or access to community, culture and language, including the denial of access to interpreters.
f) Response Cost, which is a punishment of a person who forgoes a positive item or activity because of the person's behaviour. For example, a planned outing is cancelled because the person did not follow the morning routine.

[304] NDIS Quality and Safeguards Commission (2022) . Practices proposed to be prohibited. https://www.ndiscommission.gov.au/sites/default/files/2022-02/attachment-practices-proposed-be-prohibited.pdf

**'Positive behaviour plans'**
It is unclear why requirements for what is called a 'positive behaviour plan' are included in the auditing of the service standards. If this is meant to refer to a 'positive behaviour support plan' as defined under the NDIS for use by registered NDIS providers, it is inappropriate for the DOH to be regulating this, as this falls under the remit of the NDIS Quality and Safety Commission. If it refers to a positive behaviour support plan under the Public Guardian's authorisation framework for restrictive practices in Queensland, then this should be regulated by the Office of the Public Guardian.

**We recommend** that the use of 'positive behaviour plans' be removed from the *Site Audit Tool for renewal of accreditation of a residential service* check the tool used by auditors to assess quality site audit, as this falls under the regulation of restrictive practices in Queensland by the Office of the Public Guardian.

**Emergency and disaster planning**
**28. Are current disaster planning measures adequate across level 3 residential services?**
If private residential services are to continue to operate in Queensland, **we recommend** that in the local government areas where there are private residential services, that local government be required to implement Disability Inclusive Disaster Risk Reduction (DIDRR) in their annual planning for disasters, through the use of the DIDRR Framework and Toolkit for Queensland, which has been trialled in certain locations in Queensland[305]. The Queensland DIDRR Framework and Toolkit provides a roadmap for people with disability, community and disability support services, and local disaster management to work together to co-design DIDRR innovations and implement these[306]. One important part of the DIDRR Framework focuses on actions that people with disability need to take in order to increase their personal emergency preparedness. That is the focus of the Person-Centered Emergency Preparedness (P-CEP) planning resource[307].

**We recommend** that the DOH provide all residents of private residential services and all private residential service providers with information on how people with disability can make their own plans in case of a disaster, through the use of the P-CEP planning resource, the P-CEP workbook. The P-CEP workbook enables people with disability to make emergency preparedness plans that are tailored to their individual support needs[308].

**We recommend** that Section 6 of the Residential Services (Accreditation) Regulation 2018, under the heading 'Security and emergencies', which states that *The service provider takes reasonable action to ensure emergency services personnel and vehicles have access to the registered premises at all times*,

[305] Villeneuve, M., Dwine, B., Moss, M., Abson, L., & Pertiwi, P. (2019). Disability Inclusive Disaster Risk Reduction (DIDRR) framework and toolkit. The Centre for Disability Research and Policy.
[306] Ibid.
[307] Ibid.
[308] Queenslanders with Disability Network (QDN) (2021). P-CEP Resources and Videos. https://qdn.org.au/our-work/disability-inclusive-disaster-risk-reduction/p-cep-resources-and-videos/

be amended to *The service provider ensures emergency services personnel and vehicles have access to the registered premises at all times*[309].

**Pathways out of level 3 residential services**

**29. How might residents of level 3 residential services be assisted to develop skills that will enable them to move into other accommodation settings, where this is their preference?**

The Independent Review of the NDIS suggested that capacity building supports for people with disability should start from an early age and continue throughout their life, with a focus on independent living skills[310]. This would reduce the need for future high intensity living supports for some participants[311]. The pilot research conducted in Queensland on people with impaired decision making capacity who are chronically homeless also recommended that training in life skills for clients was crucial to maintaining accommodation for vulnerable persons[312].

If private residential services are to continue to operate in Queensland, **we recommend** that the state government identify an independent living skills training program or programs, that could be funded by the state government to offer free independent living skills training to all residents of residential services. Preferably, the training would be offered on-site at level 3 residential services. Alternatively, if the RSP is reintroduced, **we recommend** that the provision of independent living skills training should be a required component of the program for those that need or want assistance with this.

[309] Under 'Security and emergencies', Section 6 Matters prescribed for level 1 accreditation decision, Residential Services (Accreditation) Regulation 2018.
[310] Commonwealth of Australia (2023). Working together to deliver the NDIS independent review into the National Disability Insurance Scheme final report.
[311] Ibid.
[312] School of Human Services and Social Work (2010). Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness.