

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

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

By email: [cssc@parliament.qld.gov.au](mailto:cssc@parliament.qld.gov.au)

Dear Committee

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

Thank you for the opportunity to provide feedback on the inquiry into the provision and regulation of supported accommodation in Queensland (the **Inquiry**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on this important issue.

#### **About ADA Australia**

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

#### **Terms of Reference**

We have reviewed the terms of reference and provides the following for the Committee's consideration.

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ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.  
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ADA is grateful to the Queensland Public Advocate (the **Public Advocate**) for its report, *Safe, secure and affordable?*,<sup>1</sup> which highlights the issues that demonstrate the need for the Inquiry.

The report sets out two threshold questions:

1. Are the current residential services regulatory criteria appropriate, and appropriately monitored?
2. Is there sufficient regulatory oversight of the interplay between multiple systems, particularly the state-regulated residential services system, and the federally-regulated NDIS?

The answer to both questions is 'no'. ADA agrees with the Public Advocate's description of the current framework, which refers to "*the level of regulatory complexity and entanglement associated with the regulation of accommodation and services at local, state and federal levels.*"<sup>2</sup>

The Public Advocate identifies the existing framework noting particularly a lack of monitoring or oversight about a resident's entry to level 3 residential services. ADA considers this to be a critical issue: not only should there be greater transparency regarding entry to these services, with a focus on ensuring the appropriateness of a supported accommodation option for an individual (as opposed to there simply being no other options available), but there are concerns that a misunderstanding or improper application of the principles of supported decision-making are not being consistently applied with respect to supported accommodation. This can result in individuals unreasonably being deprived of the opportunity to be consulted and to express views and preferences in relation to their housing options and choices.

ADA has concerns about the limited understanding of supported decision-making across the supported accommodation process, from before the point of a resident's entry until exiting.

We agree that the existing regulatory framework is complex, and is not geared towards identifying or promoting the rights of the individual.

### **'Residential services' and the Residential Services (Accreditation) Act 2002**

The *Residential Services (Accreditation) Act 2002* (the **RS Act**) was introduced in response to recognition that residents of the sector are oftentimes persons that experience exploitation, with limited access to the exercise of their own choices.

The RS Act set out minimum standards for a provider to be accredited, with registration and accreditation processes overseen by the Department of Housing. The Public Advocate's report details the other agencies which are involved in the approval process.

The self-assessment aspects of accreditation are an example of inadequate oversight and monitoring. This is reinforced by the period of accreditation, which may be up to 3 years.

The complexity of the regulatory framework and the challenges for a resident seeking to ensure that they receive services in accordance with the minimum standards are linked.

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<sup>1</sup> Public Advocate (Qld), 'Safe, secure and affordable'? The need for an inquiry into supported accommodation in Queensland, August 2023.

<sup>2</sup> Ibid, page 9.

ADA advocates assist clients residing in level 3 supported accommodations. Quality of services and standards of accommodation are regularly reported to be severely lacking. Rent is excessively expensive, especially in comparison to the quality of housing, and usually costing a client the majority of their Disability Support Pension. This leads to extremely limited finances to engage in activities of interest outside of the home.

Routinely, poor living conditions are observed. Advocates report mattresses being defleaed and general upkeep and maintenance being poorly adhered to.

Clients and advocates also gave examples where though the minimal standards were generally met, the environment was sterile and soulless. The atmosphere of a 'home' indicates a level of caring about whether the occupants are valued.

Avenues to make complaints and resolve disputes remain difficult and are often inaccessible for residents. These difficulties are exacerbated by the poorly understood framework of supported decision-making, which in turn contributes to an environment in which the rights and choices of a resident or potential resident are unnecessarily limited.

Rental increases are a commonly reported issue by ADA clients. Advocates report examples where rental payments were increased without reason or appropriate justification. In cases associated with supported independent living arrangements (**SILs**), complaints made to the NDIS Commission did not resolve the dispute for the client, with the Commission responding that rental payments are out of scope and should be referred to the Residential Tenancies Authority (**RTA**). ADA advocates have assisted clients with applications to the RTA, and note that the complexity and success of these applications depends significantly on:

- the particular housing/supported accommodation arrangement;
- the ability of the client to obtain supported documentation/contracts, which they often do not have in their possession and which in some examples, were met with pushback when they asked for a copy from their service providers (if they existed in the first place);
- providers and agencies not upholding the presumption of capacity or utilising a supported decision-making approach; and
- the involvement of independent advocacy services to assist the client/resident.

### **Residential tenancy legislation**

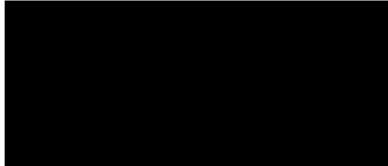
Legislative reform is required to ensure that all types of supported accommodation arrangements are captured by Queensland's tenancy laws, and provides, at a minimum, an equitable standard of protection and enforcement pathways that are available to any other tenant.

This should include provision for Qld tenancy laws to appropriately integrate with or have regard to associated compliance requirement under the NDIS Act and rules, such as the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*.

We also note the Victorian framework in which specialist disability accommodation is included in the *Residential Tenancies Act 1997*, and therefore these types of agreements the protections available under Victorian renting laws in addition to the rules and duties set out in the state's *Disability Act 2006*.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact me at [REDACTED] or Vanessa Krulin, Solicitor and Senior Policy and Research Officer via [REDACTED]

Yours faithfully

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**Geoff Rowe**  
Chief Executive Officer