

15 March 2011

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The Hon Mr Mark Butler MP  
Minister for Mental Health and Aging  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Minister,

***Consultation Paper: Enhancing Prudential Regulation of Accommodation Bonds***

I write to advise that National Seniors Australia (NSA) has provided the attached submission on the Enhancing Prudential Regulation of Accommodation Bonds. It was sent to the Department on 8 March 2011. As you are aware the paper arises from a Government commitment on 12 April 2010 to increase protections for aged care residents' savings held as accommodation bonds. This is the second round of public consultations after an Issues Paper was released on 27 October 2010.

Dr Liz Curran, Director Policy at NSA and I met with officers from the Department as a prelude to providing the submission. It was encouraging that the officers sought comment and were positive in taking on board most of the points raised by NSA. We understand that the initial consultation attracted limited response and what was provided was from provider interests.

NSA has formed the view that the clear aims of prudential regulation remain missed or not fully understood at this late stage of the process. This is deeply concerning given that we understand it is proposed that a new risk based prudential regime will be in place by 1 July 2011.

NSA considers that the Government's aim in this process of increasing protection for aged care residents' savings held as accommodation bonds, appears unlikely to be achieved if the consultation and deliberations undertaken to date provide any indication. NSA has formed the view that the consultation, rather than tightening up the use of accommodation bonds has given providers more scope for their use, relaxed the rules and hence loosened the prudential protections.

The Consultation Paper, as currently presented, is lacking in any detail as to how the concerns raised by the Australian National Audit Office (ANAO) in its 2009-2010 report will be addressed by enhanced prudential management. These concerns include the ANAO's suggestions to improve risk assessments, information storage and action to address systemic non-compliance.

Elements in the section of the Consultation Paper on *Disclosure and Information Gathering Powers* whilst welcome do not include the necessary further clarification about how DoHA will manage and respond to this information.

It is NSA's view that prudential regulation will not be enhanced unless the ANAO recommendations are implemented and that the enhanced protection delivered through the prudential regulation being clearly and comprehensively provided to consumer interests. Only then, can consumers be assured that the review is serious about enhancing prudential regulation.

NSA has, based on the ANAO recommendations, developed benchmarks through which we were able to test the adequacy of the response to enhancing prudential regulation. NSA has provided these benchmarks to the Department. Assessing the Consultation Paper against these benchmarks has led NSA to the view that this review has not adequately taken into consideration consumer concerns, nor met the Governments 12 April commitment.

Indeed proposals in this Consultation paper would involve legislative change to broaden and relax the use of bonds without corresponding checks and balances and consumer protection safeguards being established. In some instances the Department is also being given wider discretionary powers. This does not sit well with enhanced consumer protection or greater transparency.

NSA is very concerned that in the context of the draft recommendations from the Productivity Commission report *Caring for Older Australians* the delivery of enhanced consumer protection and associated prudential standards is absolutely essential. Inadequate prudential and consumer standards place at risk the necessary broader reform of the age care system.

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Yours faithfully,

**Michael O'Neill**  
**Chief Executive**