

# The Royal Commission into Aged Care Quality and Safety - Opportunity Lost?

Understanding the market dynamics in aged care – contextualising the industry

May 2021



The Royal Commission into Aged Care Quality and Safety (RCACQS) was appointed by the Federal Government to research and understand what the media had reported as the shortcomings in the provision of services to older Australians and to describe what the industry needs to look like to ensure that services meet community expectations. Specifically, the Commissioners were asked to review:

- the quality of aged care services provided to Australians, the extent to which those services meet the needs of the people accessing them, the extent of substandard care being provided, including mistreatment and all forms of abuse, the causes of any systemic failures, and any actions that should be taken in response;
- how best to deliver aged care services to people with disabilities residing in aged care facilities, including younger people; and the increasing number of Australians living with dementia, having regard to the importance of dementia care for the future of aged care services;
- the future challenges and opportunities for delivering accessible, affordable and high quality aged care services in Australia, including in the context of changing demographics and preferences, in particular people's desire to remain living at home as they age; and in remote, rural and regional Australia;
- what the Australian Government, aged care industry, Australian families and the wider community can do to strengthen the system of aged care services to ensure that the services provided are of high quality and safe;
- how to ensure that aged care services are person-centred, including through allowing people to exercise greater choice, control and independence in relation to their care, and improving engagement with families and carers on care-related matters;
- how best to deliver aged care services in a sustainable way, including through innovative models of care, increased use of technology, and investment in the aged care workforce and capital infrastructure; and
- any matter reasonably incidental to a matter referred to above or that the Commissioners believe is reasonably relevant to the inquiry.

Many commentators described the Royal Commission as a once in a lifetime opportunity to reshape the industry to meet the needs of older Australians now and into the future. To achieve this, consumers, workers, providers and suppliers expected the Royal Commission to develop a clear vision of the future of aged care and a transition plan, describing how the industry would be transformed from its current state.



**Has the Royal Commission provided a fully articulated vision of the industry and a clear way forward, that Government could deliver on?**

The industry wanted the Commissioners to describe their vision for the future, a blueprint for how to get there, and establish a clear funding model that supports the transition to the future state and an ongoing sustainable industry. In fairness, Commissioners Briggs and Pagone have done this in part, providing their insights into what the service strategy should deliver, albeit this needs a fair bit of fine tuning. Arguably their comments throughout the hearings reflected a view that they did not see a need to consider how the provision of care and services would be funded. What they could not reasonably do is design and articulate the system that could support the delivering of that vision on the ground. They did set out the key components including governance, regulation, workforce, financing, and other elements required to deliver quality services, but not to the level of detail required for a clear implementation plan. The disagreement between the Commissioners shouts out that there needs to be more open and honest public debate about the differing implementation models preferred by the two Commissioners. Without this debate, any progress could be frustrated, and implementation delayed. The Commissioners left the field clear for the Government to modify their proposals under high level principles.

## The dynamics of the aged care industry

This paper attempts to describe the aged care sector as an industry through the current issues the sector is facing by considering consumer, labour and capital market forces. There are a series of conflicting pressures that shape the behavior of providers in these markets. If we want to get better outcomes for consumers, government policy needs to be cognizant of the mix of investors and sellers in the market and their legitimate drivers. There needs to be a better balance between the pressures in these different markets. This is not a commentary on home supports versus home care versus residential care. That is dealt with in spades elsewhere.

Of critical importance is the relationship between approved providers and the regulators in these markets. Approved providers are the interpreters and translators of the needs of their clients, their workers, their investors, lenders, regulators and governments. Regulators hold providers to account for the delivery of services as required by legislation. There will need to be serious collaboration to create a clear framework that ensures the industry can be sustained over the longer term without compromising the demand for quality services. Governments' role is to provide clear policy guidance and frameworks within which providers can operate and for regulators to oversee. They are also the third party funder that ensures all Australians have access to the services they need, when they need them.

It is important to note that the regulatory framework has a legitimate role in protecting the interests of consumers by oversight of the sector and the encouragement of providers to improve their quality of care. These overarching themes of promoting quality and a regulatory approach to oversight is somewhat unique in the health sector and can be contrasted with the lighter touch approach by the Australian Commission for Safety and Quality in Healthcare. It is noteworthy that the Australian private hospital sector thrives and delivers world class care without the heavy hand of the regulator as a distraction.

An overarching principle in relation to the sustainability of the industry, one that continues to be discussed and make headlines, is the current funding level and the uncertainty around funding. This is creating margin compression for providers leading to a capital freeze. Capital constraints are putting a high level of doubt in relation to investment

in services, both residential and home care, particularly given some providers are struggling to generate surpluses out of these activities. In residential care, this freeze not only inhibits new developments to expand or replace aged care homes, it also pushes back necessary investment in refurbishments. Some reports are indicating that current funding levels and funding uncertainty are creating higher potential for significant provider failure. Whole of industry data held by the Department and the research from the Royal Commission has not led either to alleviate this uncertainty.

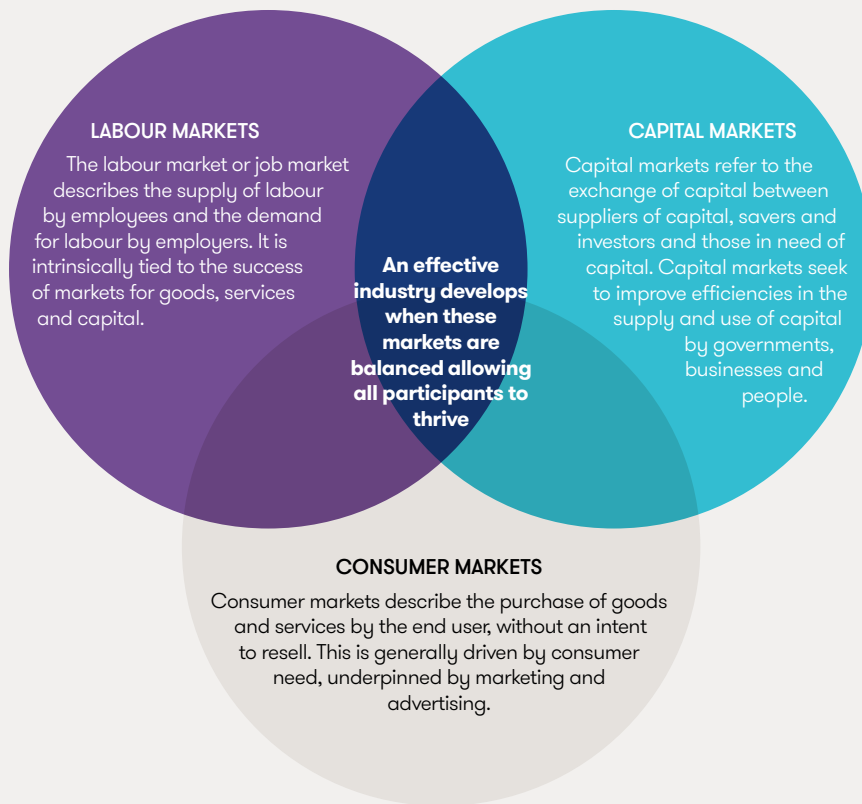
In looking at aged care as an industry, it is simplistic to consider it as a group of like businesses, with similar leadership objectives, business models and financial outcomes. For example, the residential care segment is some 900 enterprises, which, while operating in the same environment, each has different business models, leadership, objectives and financial returns. While some surveys report increasing losses by their survey participants there remains more than 50% of providers who are delivering positive results. It is a matter for further debate regarding what is appropriate return for investors in an industry so heavily subsidized by taxpayers. This notion of appropriate returns and accountability or acquittal for subsidies features in some comments by Commissioner Briggs.

At the same time any review of the ACQSC reporting will reveal that neither size nor governance arrangements are a protection from quality failures.

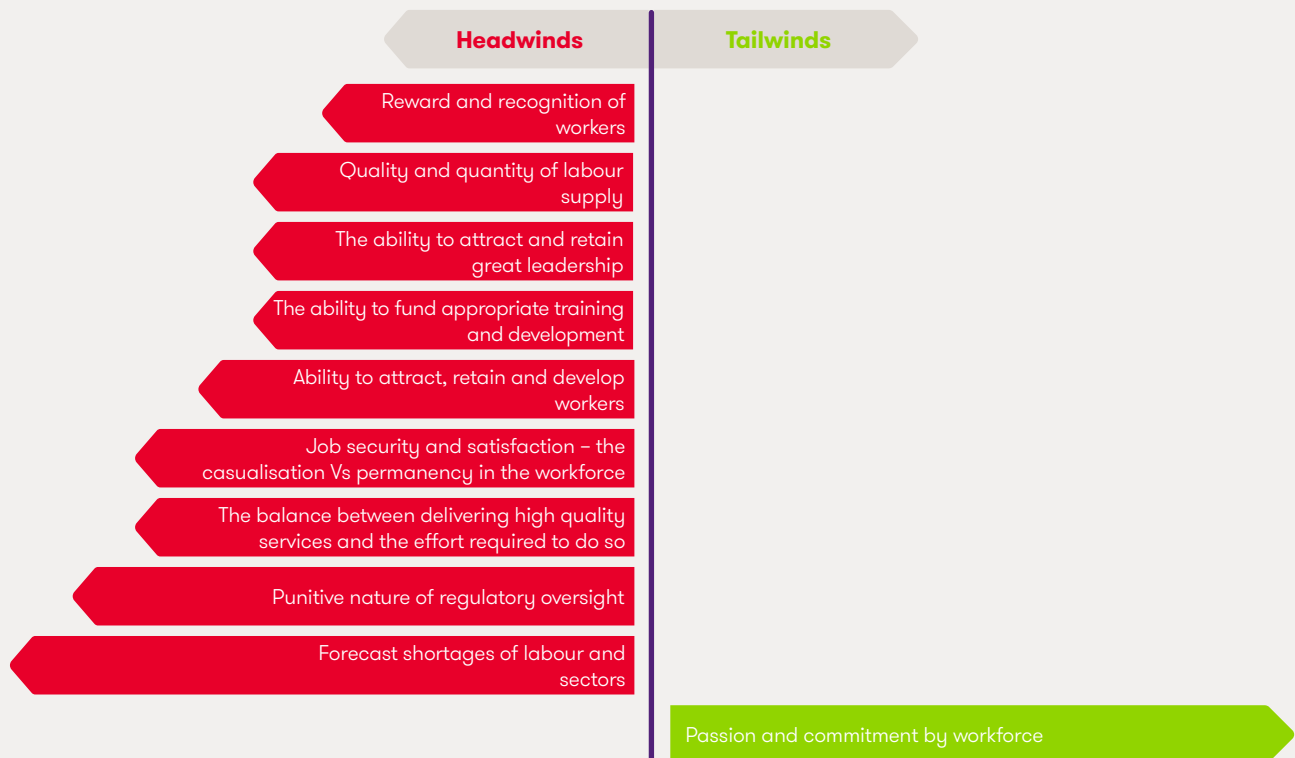
Unlike other sectors where market failures are considered part of the economic and business cycle, aged care provides services to vulnerable Australians. The idea of market failures in aged care is abhorrent to the community, in part because of the level of subsidy provided to the industry, and in part because it is personal for everyone involved in a failure.

The key drivers and impacts on the ability of the industry to drive positive outcomes for all stakeholders are described in terms of the markets that interact in the sector. Consumer markets describe the engagement of sellers and their buyers. Labour markets describe the interaction of employers and their workers, and capital markets describe the relationships between providers as investors in the industry, and the sources of debt and capital to fund those investments. >

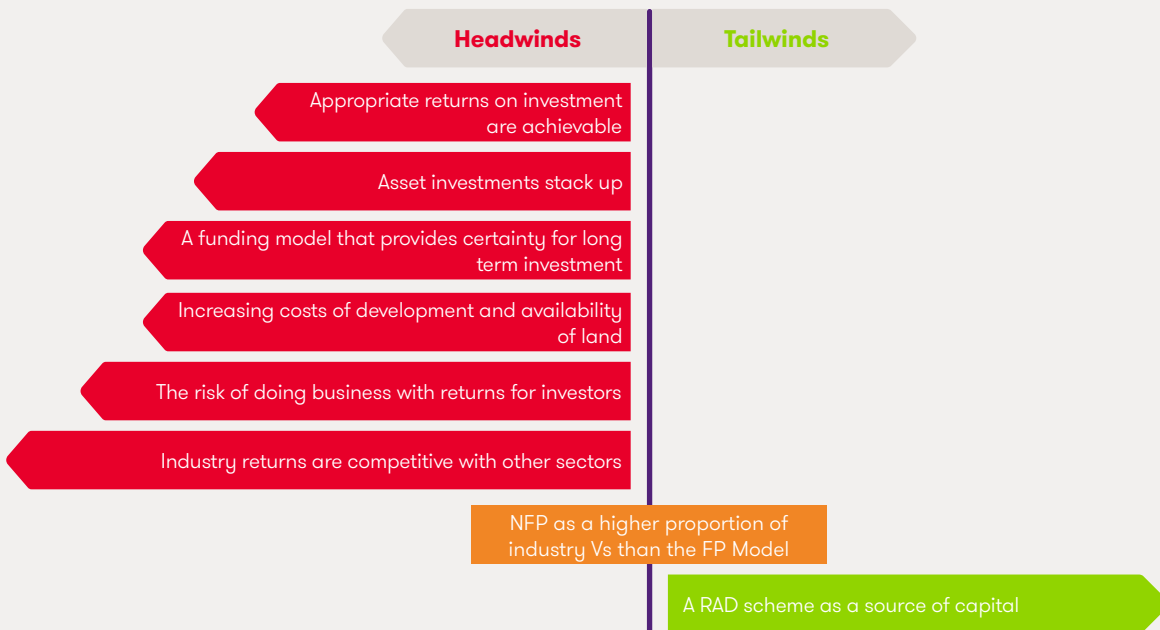
# Aged Care in Australia – is it an industry or just subcontracted government services – that is the question



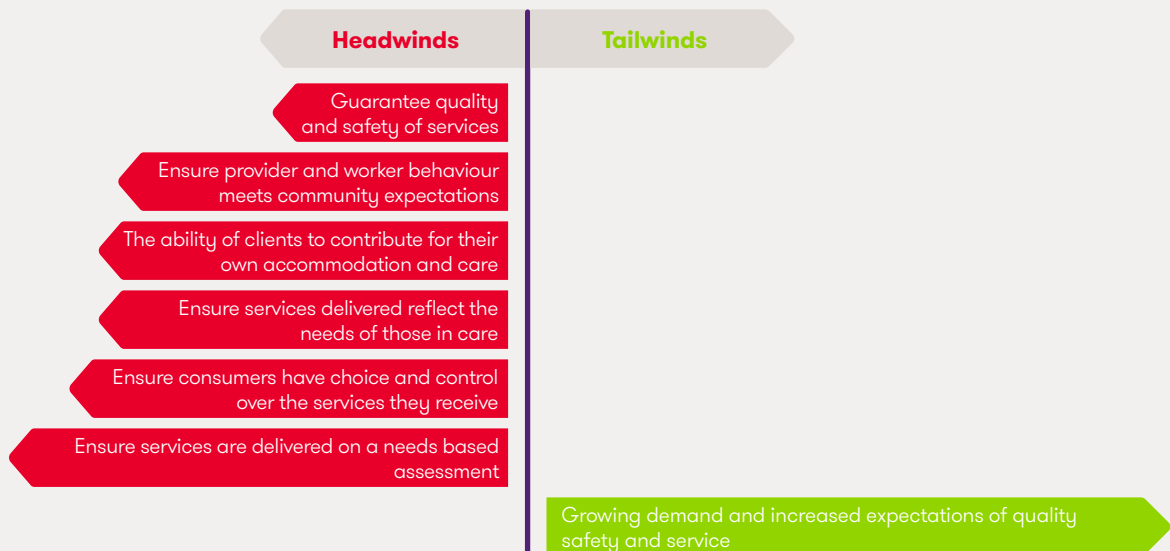
## Labour Markets – Driving Forces



## Capital Markets – Driving Forces



## Consumer Markets – Driving Forces



## Regulatory framework

The regulatory framework needs to set the parameters that supports consumers and ensures that providers are delivering the appropriate quality of services to them . It needs to recognise the markets at play in the sector and develop appropriate measures to monitor and manage them to ensure they remain in balance. Maybe we need a regulatory system that is fit for purpose?

## Government

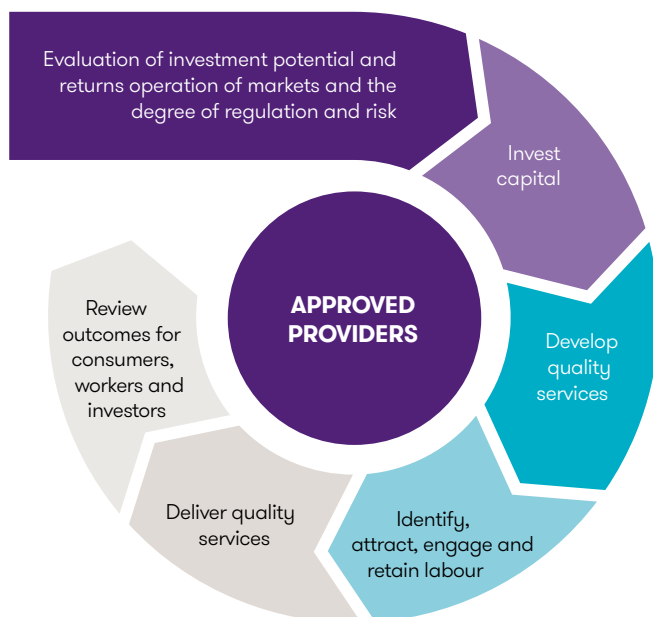
Government needs to set clear unambiguous policy and provide an appropriate level of funding to ensure providers can deliver quality services, consumers can buy, workers can engage, and investors can invest with a high degree of confidence and certainty.



## The investment cycle

### The relationships between accessing and deploying capital, engaging labour and addressing the needs of consumers

The investment cycle described below identifies the way capital is invested to allow providers to develop the services for consumers to buy. These services are reliant on a qualified, motivated, recognised and rewarded workforce that has the passion and commitment to serve those in need of care. Efficient markets allow the prices charged for goods and services to meet demand at the level of quality the consumer chooses. This stimulates investment.



## The role of approved providers of services

In the aged care sector, approved providers of services are the translators and interpreters of these markets and the mechanisms that deliver services within a very refined regulatory framework. This role requires providers to be all things to all people, friends and advocates for those they serve, employers of choice for their workers, managers of capital, indeed investors as well, and delivery drivers for ever changing government policy and aged care quality and safety requirements.

This is a highly complex, sometimes ambiguous and volatile environment that is underfunded.

The funding gap and regulatory uncertainty is leading to significant questions over sustainability of some approved providers and strains on their leadership. In an environment where some succeed and some fail, one might ask what role the quality of leadership plays in achieving or not achieving outcomes.



## The regulators

Capital markets are overseen by organisations such as the Australian Securities and Investments Commission, The Reserve Bank of Australia, The Australian Charities and Not for Profits Commission and for listed entities, the Australian Stock Exchange.

Labour markets are managed under the Industrial conciliation and arbitration frameworks in place in state and federal jurisdictions, and overseen, federally at least, by the Fair Work Commission.

Consumer markets are regulated by the Australian Competition and Consumer Commission, whose responsibility is to promote competition and fair trade in markets to benefit consumers, businesses, and the community.

In addition to these regulators this sector is overseen by the Aged Care Quality and Safety Commission (ACQSC). The added responsibilities on providers are evidenced in the Aged Care Quality Standards. At this time the ACQSC is perceived as punitive and “binary” in its approach, focusing on its role as the “police” in the sector, and sometimes as judge and jury. The concept of “an iron fist in a velvet glove” is more likely to improve the quality and safety of services, by being of assistance and guidance in the first instance, while taking appropriate action when providers don’t or can’t respond to positive support in a reasonable time.

## Forward thinking aged care policy

Forward thinking aged care policy will ensure that consumer, labour and capital markets are balanced to provide certainty to providers to invest in quality and safe services. It will:

- Create regulatory frameworks that protects consumers but at the same time supports providers to improve services and empower providers to develop and implement improvements and without fear
- Establish frameworks to ensure consumers and their families understand the services provided by approved providers to support and engage with them
- Ensure there is adequate supply of labour including through migration processes, domestic development of capability and retention, through appropriate reward and recognition
- Ensure funding arrangements encourage workforce development, training and remuneration reflecting skills
- Create a funding model that provides investors and funders with sufficient returns to want to continue to provide aged care services into the future and that returns will be adequate to fund additional development in services and facilities to meet ongoing demand
- Embed a governance function over the sector that monitors the tensions and balance between consumer, labour and capital markets together with the way providers translate and interpret them to ensure consumers are receiving the quality services our community expects.

# Contact us



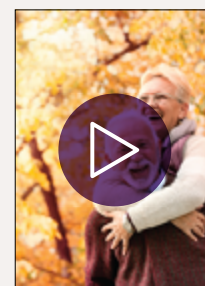
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## Our Health & Aged Care resources

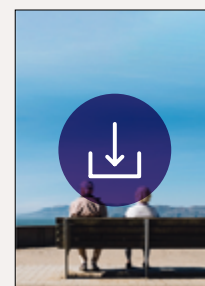
Download our Federal Budget 2021/22 report



Watch the discussion around what a dynamic health and aged care industry could look like and what you need to know to prepare for its impact



Download our reports - Redesigning and funding Australia's future aged care sector



Download our 10 year retrospective report



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