COALITION SENATORS DISSENTING REPORT

Executive Summary

1.1 Coalition Senators are very concerned about the negative impacts this legislation will have on many aspects of the aged care sector and will be proposing amendments to the Bills.

1.2 After 18 long months of consultations, deliberations, considerations and preparations, the Minister is now rushing forward with his response to the extensive work of the Productivity Commission and has produced his legacy legislation in the dying days of the Gillard Government.

1.3 The *Living Longer Living Better* aged care package was announced on 20 April 2012, following a Productivity Commission report which was initiated on 21 April 2010. Incredibly, meaningful debate in the House of Representatives only started on 14 May 2013.

1.4 The Productivity Commission report was provided to the Government on 28 June 2011 and released on 8 August 2011. After sitting on the Productivity Commission report for more than 250 days, the Government announced its *Living Longer Living Better* package on 20 April 2012.

1.5 The Government then waited another 327 days before tabling five (5) Bills before the House of Representatives thereby forcing the sector to accept these incomplete and potentially widespread damaging Bills within the next 16 days of parliamentary session –that's 18 months of procrastination and 16 days of action.

1.6 The Coalition referred these 5 Bills to the Senate Community Affairs Legislation Committee to examine the full impact of how these changes will affect providers, older Australians, their families and carers. The reporting date was initially set for the 17 June 2013, however a majority of Labor/Green Senators on the Senate Community Affairs Committee voted to bring the reporting date forward to 31 May 2013, thereby contracting further the period for meaningful consideration of the evidence before the Committee.

1.7 Coalition Senators also point out that the Senate is not scheduled to sit again until 17 June 2013, so even had the Senate Committee maintained its original reporting timeframe, the report would have been available in time for the Senate's first available opportunity to consider the bills, namely 17 June 2013.

1.8 Despite the work being undertaken by the Senate Committee, it was unfortunate that a media release from Alzheimer's Australia dated 22 May 2013, with the headline *'Senate committee set to stall aged care reforms'* and a copy of a placard referring to this and inviting people to join an online protest was promulgated.

1.9 While the Coalition acknowledges the importance of organisations such as Alzheimer's Australia expressing its views about the Bills and the policy changes generally, it is disappointed the media release contained a number of misleading inaccuracies and misunderstandings of the parliamentary process and the Senate Committee's deliberations to date.

1.10 The Coalition refutes this misleading assertion. On the contrary, the Bills were referred to and considered by the Senate Committee even before the Bills were passed in the House of Representatives.

1.11 Coalition Senators pushed for the Senate Committee to write to Alzheimer's Australia advising that it conducts its inquiries at the Senate's request, and has no authority to 'stall legislation', as the legislative timetable is a matter for the government and for each chamber of Parliament. While the committee has the discretion to bring forward a reporting date, it has no control of parliamentary deliberation on bills.

1.12 The difficulty for the Coalition and for the aged care sector is that we are expected to vote on these complicated Bills without sufficient time to consider the bulk of the changes which are actually in delegated legislation. During the Committee hearing, senators were advised by departmental officials that there are 19 pieces of delegated legislation. Unfortunately, some have been provided only recently as exposure drafts and key others are yet to be provided.

1.13 During the Senate Committee inquiry, powerful examples as to how these proposed changes will impact ageing services, particularly those in rural and regional Australia, were given by many of the witnesses called to appear.

1.14 Despite protestations by the Government supporting its own version of consultation, there was clear criticism of how effective this was. Indeed, the complexity of issues has resulted in a large volume of material provided to the Senate Committee after the hearing with some presenters even having to retract evidence because they misunderstood key aspects of the changes, such as the workforce supplement. In the absence of proper and meaningful consultation, it is clear that the Minister wants to railroad the sector instead of working in partnership with it.

1.15 Most aspects of this legislation are not due to commence until after July 2014 and components that do have an earlier start date can already be actioned using existing Principles without the need to accelerate the passing of the legislation.

1.16 The Senate inquiry has reaffirmed what the Coalition has been saying for a long time – that this package was nothing more than a cherry picking of a small portion of the Productivity Commission report with the key plank being the imposition of a workforce supplement. This is nothing more than a union driven industrial process, dressed up as administrative change.

1.17 The workforce compact process was designed to be an agreement between the Government, providers and unions. The negotiation process collapsed. Indeed, aged care providers boycotted the Minister's announcement of the workforce compact on 5 March 2013, with the Minister unable to even find an aged care facility to host his announcement! It is not surprising that aged care providers boycotted the announcement as they will now be forced to subsidise union membership growth in the aged care sector.

1.18 Coalition Senators accept that wage rises are good and well justified for hard working staff, but they need to be affordable and sustainable. If the aged care providers are not viable now, how can they afford to pay the increases?

1.19 Had it been worth the wait for bills that essentially followed the guidance of the Productivity Commission, the Coalition would be far more confident of the future of the aged care sector.

1.20 While it is acknowledged there are worthwhile aspects in the package, Coalition Senators are very concerned at the overall impact of the Bills on the viability of the sector.

1.21 The last major review of the aged care sector was in 1997 when the Howard Government introduced the *Aged Care Act* and forever changed the way care and accommodation services are developed and delivered in Australia.

1.22 With the increasing demands and expectations of the baby-boomer generation, the increasing impact of dementia, extended life expectations of older Australians, it is no wonder that aged care in Australia today is very different to the situation that existed in 1997.

1.23 Therefore, it is not surprising that industry, consumers and the workforce have held great expectations on how the Government would respond to the many and wide-ranging recommendations of the Productivity Commission.

1.24 Industry has held hopes that changes would improve the financial viability for providers. Consumers wanted greater choice and continued improvements in the quality of care and accommodation services. The hard-working staff across all sections of the industry wanted higher wages, improved conditions, greater security and better job-satisfaction.

1.25 Achieving these outcomes in an environment where the government of the day has very little new money with which to fund radical change was always going to result in questions of balance, trade-offs and compromise.

1.26 It is long acknowledged that neither the Government nor the industry has the financial capacity to fund the major changes necessary to achieve the hoped for perfect solution. In this three-cornered exercise, it is only consumers who have a remote capacity to draw on the lifetime of financial resources to make any additional contribution to change. The Gillard Government is experiencing Budget pressures from many quarters. The aged care industry has been stretched to its limits – and sometimes beyond reasonable, good business situations.

1.27 The Productivity Commission recognised this dilemma and formed its recommendations in light of these harsh realities.

1.28 *Living Longer, Living Better* is the culmination of the Government’s response and the $577 million of new money in their ten-year plan is simply not good enough.

1.29 In its response to the Productivity Commission's report, the Government accepted in principle the Productivity Commission's findings about the state of Australia's aged care system, but its May 2012 response asserted the PC's assumptions were not correct and that the Government did not proceed with the key recommendation of the PC to move from a rationing system to an entitlements system because the Australian public was not ready for it. Regrettably, the Government has failed to substantiate these assertions and produce evidence to this effect. At this stage, other than limited modelling done by KPMG undertaken as a knee-jerk reaction to criticism during the Senate inquiry and which relates only to accommodation payments, no other modelling has been provided.

1.30 The general industry consensus is that the Government has cherry picked only about 5-6% of the PC's recommendations. Having said this, the sector will be pleased with the relaxation of rules on bonds and the removal of the high care/low care distinction.

1.31 Consumers will be pleased with the minimal changes to policies around assets – especially those relating to the family home; but many won't be pleased that those who have accumulated healthy assets are going to have to pay more for their accommodation costs and daily living services. Consumers will also welcome additional home care services and the new focus on dementia care.

1.32 However, these improvements contributing to aged care reform are swamped by far too many negative aspects that will seriously affect the financial sustainability of many aged care providers – big and small; private and not-for-profit operations. It is our contention that there must be balance in any reform agenda - especially one that has so many competing and, at times, opposing aspects.

1.33 It is also concerning to Coalition Senators that the underlying structure of these bills reinforces the Government's consistent approach that in aged and community care it is very much "one-size-fits-all". If such an approach was ever justifiably appropriate for the aims and expectations of older Australians, it is certainly not appropriate in the way in which aged and community care is delivered today.

1.34 The Senate Committee inquiry process has been extensive with large numbers of individual written submissions and witness statements at hearings in Perth, Melbourne, Canberra and Sydney.

1.35 However, the Coalition Senators note with concern that the one body on which the Government (and the Minister) appear to stake great reliance – the National Aged Care Alliance (NACA) – has not made a collective submission to the Committee, despite being invited to do so. The obvious divisions in thinking and attitudes within NACA resulting in an inability to reach consensus on a submission then leads to questioning of why the Government puts so much stock into its reliance on advice from NACA and its skewed positions on key issues.

1.36 In summary, the concerns of Coalition Senators relate to:

(a) Workforce Supplement;

(b) ACFI Appraisal;

(c) Lifetime Contribution Caps;

(d) Dementia Supplement;

(e) Accommodation Payments;

(f) Pricing Commissioner; and

(g) Rural and Regional.