



# When you don't get what you want – Refurbishments and supplements

DESIGN AND CONSTRUCTION IN AGED CARE –  
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# Overview

- The policy
- Legislative framework
- What is not allowed
- The policy
- Lessons and Case studies
- Building contracts – simple tricks for new players

# Policy

- Encourage the development of additional capacity in the residential care sector  
and
- Enhanced form, quality and functionality of accommodation and amenity for care recipients.
- Objective and language rests on expression 'significant' improvements and benefits to residents. It is an objective test.

# Legislative framework

- Residential care subsidy paid to a provider is the sum of the residential care subsidy *for each care recipient* – s44-2

Step 1 – work out basic subsidy - Subdiv 44-B

Step 2 – **Add** primary supplements – Subdiv 44-C

Step 3 – **Less** reductions in subsidies – Subdiv 44-D

Step 4 – **Add** other supplements – Subdiv 44-F

= amount of residential care subsidy for the care recipient

# Legislative framework

- Accommodation supplement – s44-28
- In respect of the care recipient is the sum of all accommodation supplements *for the days* on which
  - Residential care was provided; and
  - Care recipient was eligible for supplement
- Eligible if:
  - Not lowest classification level; and
  - Not extra service; and
  - On the day of entry, means tested amount < maximum accommodation supplement amount

# Legislative framework

- Minister can:
  - Determine amount of supplement as amount or method – 44- 28(4)
  - Determine other amounts based on other matters including matters specified in Subsidy Principles.
- Subsidy Principles become important
- Minister's discretion is wide
- Note Minister's comments September 2014



# Legislative framework

- Subsidy Principles 2014
- Section 50 – Minister may determine amount of supplement *payable for a day for a care recipient who is being provided with residential care (other than respite care) based on **either or both** of the following:*
  - a determination that the premises is or is proposed to be **significantly refurbished**;
  - More than 40% of care recipients provided with residential care through the service are assisted/concessional residents, low-means care recipients or supported residents

# Legislative framework

- Residential care service significantly refurbished – s52
  - Completed on or after 20 April 2012 – occupancy certificate or completed works
  - Significantly different in form, quality or functionality
  - Significant proportion of areas refurbished are accessible to, and for the use of, care recipients
  - Provides significant benefits to assisted residents
  - Costs are capitalised **because**
    - Costs include structural improvements; or
    - Can be depreciated if not fixed items



# Legislative framework

- Refurbishments results in:
  - 40% of care recipients' rooms have been significantly refurbished (not limited to concessional); or
  - Significant benefit to at least 40% of care recipients (not limited to concessional); or
  - Extension of service involving increase of at least 25% of care recipients rooms
  - Greater proportion of concessional rooms available
  - Minimum monetary spend as determined -  $\$25,000 \times 40\% \times \text{no. care recipients rooms}$ .
- Similar concepts apply to Proposed refurbishments
  - s53

# What is not allowed

- Act and Principles don't define what is excluded.
- Guidance comes from 'Guidelines for applying for the Higher Accommodation Supplement'
- Boxed statement

**Important: Types of work that will not meet the criteria.**

**If a refurbishment project consists only of routine repairs; maintenance activity; replacement of furniture; or fire safety improvements, this will not qualify as a significant refurbishment.**

# What is not allowed

- Operational costs, fees outside scope of works, in-house costs not counted.
- Fire safety improvements – cap on amount:
  - 25% of the calculated minimum monetary spend amount; or
  - Refurb cost = total cost – (fire safety cost – 25% min spend)
- Determinations made in relation to supplement can be appealed to the AAT.
- Requires factual background to be put into place to support original decision or appeal.

# Lessons and case studies

- Distinction raised between repairing or maintaining capital items as opposed to, refurbishing or renovating capital items which gives rise to a fundamental different item of capital.
- It is not the WHAT you did.
- It is the WHY and HOW you did it.
- Questions of fact, degree, intent supported by succinct argument and facts. Not just \$ or accounting.
- Need to respond to policy objectives.

# Case Study 1

Issue	
Work Done	Repaint, new floors, replace beds – new electric beds, replace furniture
Reason for rejection	Considered repair and maintenance, though elements were ‘significant’ benefit, not ‘significant enough’ when considered as whole , items 52(b), (d) and (f) considered.
Response	Focus was to change an institutional style facility to a more ‘homely’ environment to encourage interaction and assist dementia patients through visual stimulants (paint colours chosen) and built environments. New furniture also safer, better for resident and staff.

# Case Study 2

Issue	
Work Done	Redevelop car park to improve movement, install roundabout, ramp access, garden areas around new car park space. Work done on resident rooms as well to connect the works.
Reason for rejection	Application described the physical work and did not address criteria. Interpretation that 52(b) required 'new amenity' as opposed to upgrade existing. Car park area not directly used by residents. Items 52(b), (c) and (f) considered.
Response	Focus was to make unused space more available to residents for walking and diversional/sensory purpose. Explained significant benefit and how residents can utilise upgrades.

# Case Study 3

Issue	
Work Done	Refurbishments to premises. Application however lacked information as to floor plans and other information relevant for DSS to make determination based on criteria.
Reason for rejection	No information to make decision.
Response	Information provided. Gave context of refurbishments of 'before and after' and 'significant benefit' provided to residents. Emphasis on improved form, quality and functionality of areas.



# Building lessons

- If you don't understand building contracts, take advice, your builder will know what to do and will use their knowledge.
- Lowest price not always best contractor.
- Security of payment. Make sure you respond to claims – can suspend work if not paid and make claim for whole amount of claim – may affect practical completion and knock on effect for supplement. Can pay now and argue later.
- Define scope of work and understand it.

# Questions?

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