

External independent advice

Australian Aged Care Quality Agency

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Purpose of external advice to the Quality Agency

The Australian Aged Care Quality Agency (Quality Agency) is committed to continuous improvement and presently is developing approaches to improve the efficiency and effectiveness of its work. The Quality Agency engaged Nous Group (Nous) to provide external independent advice regarding the need and opportunity to improve its approaches or processes in light of the concerns arising from the Makk and McLeay units at the Oakden Older Persons Mental Health Service in Adelaide.

A report by the Chief Psychiatrist for South Australia (the Groves review) and the findings of a (Quality Agency) Review Audit in April 2017 both identified serious issues related to the care of residents at the Makk and McLeay facility.

The significant issues raised in the Groves review raises numerous questions including some relating to the adequacy of the Quality Agency's reaccreditation audit in 2016 and its other quality monitoring activities for that facility. Those questions have included whether that experience should cause the Quality Agency to review its approaches more broadly.

The experiences at Makk and McLeay have resulted in a number of reviews and investigations to understand the causes of such significant issues at a state-owned residential aged care facility. The Quality Agency is seeking external advice to assess:

1. The adequacy of the Quality Agency's risk assessment approach and risk management procedures in relation to the reaccreditation audit of Makk and McLeay in February 2016 and more generally; and
2. With reference to the Oakden Report's findings that there had been long-term systemic issues, what changes to:
 - a. surveyor registration and training/continuing professional development
 - b. compliance monitoring through assessment contacts
 - c. policies and practices especially in the capacity to identify entity risk
 - d. whether decision makers have sufficient information to assure themselves of the finding of risk
 - e. the processes of finding Serious Risk
 - f. the risk management framework at the senior executive level
 - g. any other changes as appropriate.

This report provides the findings and recommendations identified by Nous following the work undertaken to assess the Terms of Reference.

Nous' approach and limitations

Nous developed the advice outlined in this report between May and July 2017. Nous' methods involved:

- desktop research to examine relevant aged care legislation, Quality Agency policies, the Quality Agency's reaccreditation approach and processes, documentation on Makk and McLeay from 2007 to 2017 (including audit reports, the home history report, quality surveyor notes, and the Makk and McLeay 2016 self-assessment) and other documentation on the Quality Agency structure and operations
- 20 interviews with Quality Agency stakeholders, including those directly and indirectly involved in the accreditation of Makk and McLeay in 2016 and representatives from other key organisations
- a limited review of good practice regulatory approaches and risk-based frameworks used in other sectors to determine learnings for the regulation of residential aged care.

Nous met with a Quality Agency Reference Group and the Aged Care Quality Advisory Council to share emerging findings and recommendations. The NSW/ACT State Director for the Quality Agency provided expert advice to Nous on the Quality Agency's policies and procedures.

There were limitations to both the scope of Nous' work and the information available to the Nous team. Important considerations about the limitations of the scope of Nous' work include:

- Nous' work focused on the 2016 reaccreditation audit of Makk and McLeay. Nous reviewed interactions that the Quality Agency had with the facility since 2007 to understand the context.
- The external advice focuses on the role of the Quality Agency and its interactions with care providers, specifically Makk and McLeay. The advice does not address the role of other organisations that may also have had some accountability to maintain standards and quality at Makk and McLeay.
- Nous did not consult with residents of Makk and McLeay or their representatives.
- During the course of Nous' work, the Quality Agency identified other aged care facilities that did not meet expected outcomes. These facilities were beyond the scope of Nous' advice.

A key limitation to Nous' advice was that it relied primarily on Quality Agency evidence and records. Evidence and records of other parties was not generally available to Nous. Nous did not have access to primary data and evidence from the Makk and McLeay service, such as clinical records, complaints registers, pain and medication records or other documentation associated with Makk and McLeay. Nous obtained information about Makk and McLeay and its accreditation history primarily through a review of audit outcomes from 2007, quality surveyor notes from 2016 and interviews with Quality Agency staff.

The Aged Care Quality Agency

Under the *Aged Care Act 1997* (the Act), various parties have responsibilities for regulation and compliance relating to the provision of aged care services. The Act establishes that:

- approved providers of residential aged care homes are to comply with the Accreditation Standards, which are set out in the *Quality of Care Principles 2014*.
- the Commonwealth Department of Health has policy responsibility for aged care, including legislation, funding of services and the regulatory framework (including the Accreditation Standards).
- the Aged Care Complaints Commissioner is responsible for the provision of a free complaints resolution service. This includes resolving complaints about Commonwealth Government subsidised aged care services, and educating people and providers about the best way to handle complaints.

The *Australian Aged Care Quality Agency Act 2013* sets out the functions of the Quality Agency, which are assigned to the CEO. That Act sets out the following principal functions of the CEO:

- to accredit residential care services in accordance with *the Quality Agency Principles 2013*, and the Accreditation Standards made under *the Aged Care Act 1997*
- from one July 2014, to conduct the quality review of home care services in accordance with the *Quality Agency Principles 2013*, and the Home Care Standards made under *the Aged Care Act 1997*
- to register quality surveyors of residential and home care services in accordance with the *Quality Agency Principles 2013*
- to advise the Secretary about aged care services that do not meet the Accreditation Standards or the Home Care Standards
- to promote high quality care, innovation in quality management and continuous improvement amongst approved providers of aged care

- to provide information, education and training to approved providers of aged care in accordance with the *Quality Agency Principles 2013*
- such other functions as are conferred on the CEO by this Act, the *Aged Care Act 1997* or any other Commonwealth law
- such other functions (if any) as are specified by the Minister by legislative instrument
- to do anything incidental to or conducive to the performance of any of the above functions. It is in this regulatory and operational context that the Makk and McLeay accreditation audit was undertaken in 2016.

Quality Agency approach and compliance monitoring tools

The Quality Agency is accredited by the International Society for Quality in Health Care. The Quality Agency's approach is based on contemporary, internationally recognised best practice for accreditation schemes. Many jurisdictions use accreditation schemes to assess the quality of care provision, including in health care, residential aged care and disability services. The scheme promotes quality and safety through both:

- accreditation (i.e. ensuring services comply with the Accreditation Standards)
- compliance monitoring (i.e. encouraging improvement through a focus on process evaluation and improvement).

The audit model involves periodic full accreditation audits. It also includes unannounced and announced visits (assessment contacts and review audits) to monitor continuing compliance with the Accreditation Standards. The approach: a) identifies the processes used by each provider, and b) gathers evidence that processes are being followed and/or are being revised to bring about continuous improvement to demonstrate the achievement of Expected Outcomes under the Accreditation Standards.

The Quality Agency uses a case management approach to assess the risk of an aged care service (as high, moderate or low). That approach is used to determine the type, scope and frequency of visits by the Quality Agency. The Quality Agency's risk assessment takes into account information from the public or media, administrative changes (e.g. change of manager or undertaking capital works) and governance issues within the provider. The Quality Agency also receives information and referrals from the Commonwealth Department of Health and the Aged Care Complaints Commissioner.

The Quality Agency has a range of regulatory tools it employs to ensure approved providers are compliant and undertake continuous quality improvement. Different circumstances can trigger the use of different tools, which differ in their resourcing level and breadth of assessment against the Accreditation Standards. The techniques assessment teams apply typically remain the same (e.g. review of documentation, observation, and interviews with staff and residents or their representatives). In line with international accreditation practices, the Quality Agency's audit model also considers and reports on consumer experience.

The different types of accreditation and compliance monitoring tools are detailed in Table 1.

Table 1: Quality Agency's regulatory tools

Regulatory tool	Trigger for the visit	Details of the approach
Accreditation		
Site Audit	<ul style="list-style-type: none"> Undertaken once a provider has applied for accreditation or reaccreditation 	<ul style="list-style-type: none"> These audits are an assessment against all 44 Expected Outcomes of the Accreditation Standards. The decision-maker can decide to not accredit a home or accredit for periods of up to three years (based on the home's performance). The size of assessment team and length of time on site are generally dependent on size of facility (i.e. the number of beds). Assessment teams are selected based on the team assignment policy – which assigns quality surveyors based on capability, conflict of interest and professional development opportunities.
Compliance monitoring		
Assessment contacts – announced and unannounced	<ul style="list-style-type: none"> Conducted to monitor performance against the standards Identify if there is need for a review audit Provide additional information to assist the home to undertake continuous improvement. 	<ul style="list-style-type: none"> These are visits to assess performance against the Accreditation Standards. They usually focus on specific aspects of care (i.e. specific Expected Outcomes/Standards). They include: <ul style="list-style-type: none"> Unannounced assessment contacts: Providers receive no notice of these visits. Every aged care home must receive at least one unannounced visit per year, as per Government requirements. Announced assessment contacts: These visits are typically to monitor a home's progress against a timetable for improvement or to assess the sustainability of improvements made. All annual unannounced assessment contacts include a scope of targeted Expected Outcomes, as determined through the Quality Agency's National Case Management process, and include specific areas to be assessed.
Review audit	<ul style="list-style-type: none"> Undertaken when there are concerns about a home's performance, based on unannounced or other site visits or intelligence from the Department of Health or other sources. 	<ul style="list-style-type: none"> A review audit is an assessment of the quality of care provided by a home against all 44 Expected Outcomes of the Accreditation Standards. At least two quality surveyors carry out a review audit, typically over two to four days (but they have the option to extend the length of the visit if required). Quality surveyors are selected based on availability, according to the Quality Agency's policy documents (as opposed to specialist expertise or capability). Anecdotally, Quality Agency staff reported that they try to send more experienced quality surveyors on review audits, where possible.

Quality Agency determinations and powers

The Quality Agency determines whether a facility meets or does not meet the Expected Outcomes. When an approved provider fails to meet one or more of the Expected Outcomes in the Accreditation Standards, the Quality Agency has processes in place to monitor performance closely. The Quality Agency sets a timetable for improvement (TFI), which the approved provider must follow to demonstrate compliance with the Accreditation Standards.

The *Quality Agency Principles 2013* and the *Quality Agency Reporting Principles 2013* set out the action required of the Quality Agency when Serious Risk to the safety, health or wellbeing of care recipients is identified. The process for Serious Risk is set out in section 2.63 of the *Quality Agency Principles 2013*. It requires a determination to be made by the CEO of the Quality Agency if a 'not met' is decided for any Expected Outcome. The determination will assess if that failure has placed or may place the health, safety or wellbeing of people receiving care at the service at serious risk.

The provider of the service must respond to that finding by revising and implementing its continuous improvement plan to the satisfaction of the Quality Agency. Serious Risk findings are reported to the

Department of Health. The Department of Health has a range of powers in these circumstances, including applying sanctions to a facility.

It is important to understand the different uses of the term 'risk' in the work of the Quality Agency. A determination of whether or not "Serious Risk" to people receiving care has or may arise from the failure of the service, refers to a specific Statutory determination which must be made by the CEO of the Quality Agency in response to any 'not met' Expected Outcomes in the accreditation or compliance monitoring processes.

In contrast to the statutory responsibility of the Quality Agency to identify 'serious risk', the general term 'risk' or 'risk-based' approaches reflects risk in a broader context i.e. considering the sources of potential threats to service quality and the safety, health and wellbeing of people receiving care, and how to identify, assess, and respond to those general (common to all, most or many services) and specific (relevant to the specific service) threats.

The Accreditation Standards (including the 44 Expected Outcomes), together with the Quality Agency risk framework and case management system, provide the means by which risk can be assessed and responded to by the Quality Agency. Risks can be sector- wide risks, risks inherent to certain services, or risks that arise intermittently in services. The type of risks include; complexity of resident needs; complexity of service; environment and building; changes to management or key staff etc.

Context of Makk and McLeay, within the Oakden facility

The Oakden facility, including Makk and McLeay, was fundamentally more complex than most residential aged care facilities. Makk and McLeay was primarily a mental health facility (not an aged care facility).

In 1998 the South Australian Government made a decision to seek accreditation from the Quality Agency for the Makk and McLeay units as residential aged care facilities. After this time, Oakden remained a specialist mental health service, but was eligible to receive Commonwealth Government subsidies for the residential aged care places in the Makk and McLeay aged care wings.

Being a mental health service meant Makk and MacLeay remained a state operated health facility, which created complex governance and management arrangements that differed from typical aged care facilities and created an environment where multiple regulatory models applied. As a facility operated by the state health department, Makk and McLeay operated with systems, processes, infrastructure, staffing arrangements and a culture determined by that system.

The residents who were cared for at the Oakden facilities had defining characteristics and, therefore, distinctive service needs. The Oakden facilities primarily provided care for:

- older people with enduring and/or severe mental illness, who had barriers to their accessing mainstream residential aged care; and
- people with dementia, or other neurodegenerative conditions, who were unable to be cared for in mainstream dementia specific aged care facilities due to their very severe and extreme behavioural and psychological symptoms (or Tier 6 and 7 as classified by the Brodaty model).¹

The challenging behaviours associated with this resident population blurred the lines between mental health and aged care.

The Groves Review

Following the complaint from the family of a resident at Makk and McLeay, the Northern Adelaide Local Health Network CEO requested an extensive review – one that looked into all matters relevant to the clinical care of all consumers within the Oakden facility. The South Australian Chief Psychiatrist, Dr Aaron Groves, led the review of the Oakden complex (including the Makk and McLeay aged care wings).

¹ The Brodaty model is a tiered classification of the behavioural and psychological symptoms of dementia (MDPS) and their corresponding service needs. It is recognised internationally as best practice in the classification of people with dementia and their care needs. (Source: Groves A, Thomson D, McKellar D and Procter N, 2017, The Oakden Report, SA Health, Department for Health and Ageing, Adelaide)

The Terms of Reference for the Groves review outlined five focus areas for examination. The Groves review team included highly specialised experts reviewers who were experienced in mental health care and treatment. The review took four months, with four reviewers and 17 days on site, including spending significant time observing practice and interactions between staff and residents. The Groves review team experienced some challenges in uncovering some of the issues at the Oakden facility, which further demonstrates the complex nature of the facility and the care it provided.

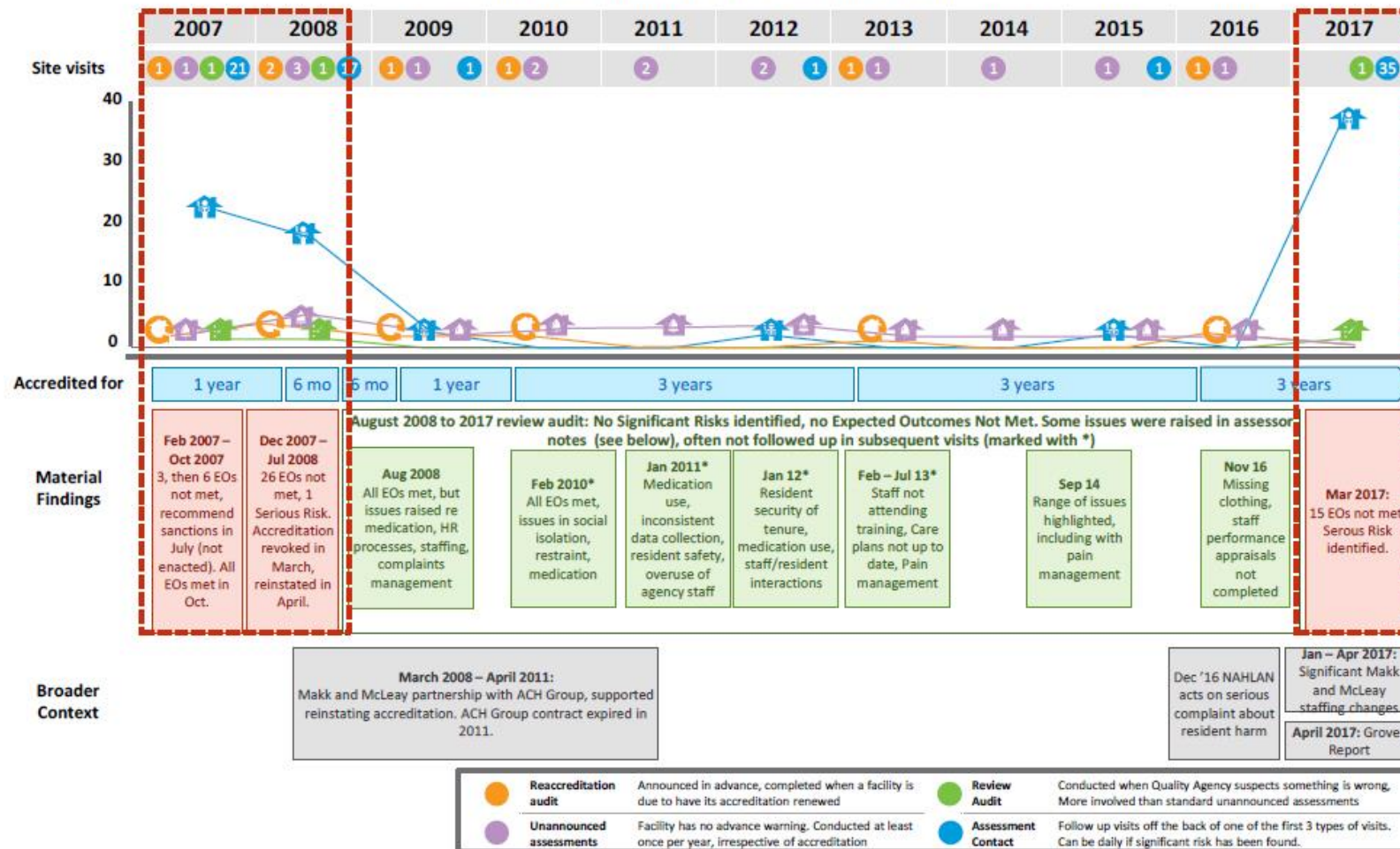
The Groves review found significant concerns and failings in all five focus areas. In particular, some of the most significant issues related to the lack of an appropriate model of care, inadequate management and clinical governance, unsuitable physical infrastructure, poor clinical records, and a long history of the overuse of restraint.

The number and severity of issues resulted in the State Government's decision to close the facility and transfer the residents to other facilities.

The Accreditation history of Makk and McLeay

It is important to appreciate the Quality Agency's history of accreditation actions at Makk and McLeay. It is summarised in the Figure 1 overleaf.

Figure 1: Accreditation history of Makk and McLeay



The Quality Agency has identified risks and issues at the Makk and McLeay over the history of its accreditation and raised them with the service to support improvements in the quality of care provision. A review of the accreditation history since 2007 and resulting actions shows the Quality Agency previously has identified Serious Risk at Makk and McLeay and taken action accordingly. At different times over that period, the Quality Agency has applied daily monitoring, shorter accreditation periods and more frequent audit contacts.

The reaccreditation visits at Makk and McLeay in 2010, 2013, and 2016 identified issues but did not determine Expected Outcomes 'not met' and, as a result, did not require a determination of Serious Risk to residents. The Quality Agency did identify some concerns during this period, as noted on quality surveyors' notes; however, they were not followed up in subsequent visits. It is not known whether the serious issues at the facility would have been uncovered earlier had these issues been followed up. If the issues identified had prompted a decision to arrange a Review Audit, the failure to meet the Standards is more likely to have been detected.

Apart from the 2007/08 period, and again in 2017, the accreditation audits and compliance monitoring tools identified issues but did not result in the Quality Agency identifying the facility as being of higher risk, to cause closer monitoring of its performance against the Accreditation Standards.

Examination of the Quality Agency accreditation model

The current accreditation process has strengths which should be recognised. The overarching quality improvement methodology reinforces the elements of effective care (represented by the Standards) by requiring the Expected Outcomes to be demonstrated; actively fosters a culture of continuous improvement in systems, practices and outcomes; and celebrates better practice as a means of promoting innovation and sharing innovative practices across the sector.

The use of this quality improvement methodology over time has made an important contribution to improving systems, practice and outcomes across the aged care sector. It also has played a major role in reducing variability of care quality and reducing the overall care risk of the sector (i.e. reduction in incidence of failure in medication management). Evidence of this can be found in changing practices in the sector (e.g. the significant reduction in the use of restraint, increasing prevalence of clinical governance systems etc.). The question is whether the current approaches that the Quality Agency use can be strengthened to provide greater opportunities for the identification of issues which place consumers at risk in a particular service.

Data provided by the Quality Agency demonstrates that it is rare to find failure of care during an accreditation audit. There has been an expectation (by the Quality Agency staff and Providers' staff) that all Expected Outcomes would be met at accreditation audits, where the service has three to six months to prepare for demonstration of Standards on a specified date, and the self-assessment prepared by the provider provides the guide for the audit. It has also been relatively uncommon to identify care failure in the assessment contact visits (announced or unannounced).

The Quality Agency is more likely to identify failure in a review audit and statistics demonstrate it is the majority of review audits which identify care failure. Informed by specific or general concerns about a service from various (mainly external) sources, those audits are unannounced, directed by the Quality Agency's agenda, and commence with the expectation that there are issues in the service which should be identified.

The comparative results of accreditation audits, assessment contacts and review audits highlight the importance of receiving information from external sources to provide an indication of poor care (e.g. via a complaint, adverse media reporting about a service, or reported serious incident). They also indicate how the audit methodology and expectations of outcomes can affect the likelihood of identifying care failure.

Findings and opportunities for the Quality Agency

Makk and McLeay represented an exceptional, but not unique, situation in residential aged care. The learnings from the Makk and McLeay experience indicate the shortcomings in the current audit model and its application, and opportunities to improve the Quality Agency's processes more broadly, rather than being viewed as an isolated, one-off situation.

The Makk and McLeay experience provides an opportunity for the Quality Agency to learn from what occurred and improve its approach to the accreditation of aged care services. The Quality Agency's learnings from Makk and McLeay can be applied by building on its planned improvements of the Quality Agency, and implementing further changes to achieve its purpose of assessing whether Standards are being met in aged care services.

Current practice improvements

It is important to understand the improvements already being implemented by the Quality Agency. These improvements aim to build its efficiency and effectiveness and include:

- implementation of a revised recruitment profiling and training of new quality surveyors with a greater emphasis on the conduct of site visits
- development and implementation of a new computerised data collection and reporting tool
- introduction of consumer experience reports
- continued strengthening of the collaborative relationships with the Department of Health and the Aged Care Complaints Commissioner
- continuing to hold weekly case management meetings in each state directorate, and monthly case management meetings nationally.²

Those steps are important in improving the capacity of the Quality Agency to undertake risk assessment and risk-based audits. Risk assessment is already occurring in the Quality Agency through its review of statistics regarding which Expected Outcomes are most frequently being assessed as 'not met' and, particularly, through its case management practice. That process can be expanded to collect a broader range of relevant information and to assess different, additional types of risk and stratifying in terms entity and sector risk. The planning, conduct and reporting of audits can also continue to be enhanced.

Improving the risk-based focus

The Makk and McLeay experience, and the broader statistics, demonstrate the importance of risk assessment and risk-based auditing approaches. A risk-based approach, if fully implemented, would focus the Quality Agency's resources and efforts on services that are higher risk (due to their inherent nature, history and/ or recent changes, incidents or activities). It would transparently direct the focus and use of regulatory tools to better assess quality with those services.

An increased focus on risk by the Quality Agency would also ensure that appropriate resources and tailored audit techniques were utilised to address the specific risks associated with any particular service. For example, if a service serves residents with severe behavioural symptoms, the audit approach would give priority to areas such as behaviour management, restraint, and medication management. Alternatively, if a service is in a bush fire zone, the audit approach would ensure specifically that all required procedures were in place and had been tested for the service's responses in the event of a bushfire. By strengthening its current risk approach, the Quality Agency would build on the steps already taken to ensure that accreditation audits and assessment contact visits have a greater likelihood of identifying when services are at risk of care failure.

We believe that a risk-based approach for each service would still enable the Quality Agency to evaluate the 44 Expected Outcomes in the Standards. The difference between the current approach and a more comprehensive risk-based accreditation approach would be recognition of different risk weightings to

² Based on Nous' consultations with Quality Agency stakeholders in June.

each Expected Outcome. That assessment would be made for each service, and result in varying priorities, tailored audit approaches and different levels of effort allocated to each Expected Outcome.

Utilising the review audit approach

The Quality Agency can further develop and apply approaches from its Review Audit processes across accreditation and compliance monitoring activities. In the case of Makk and McLeay, the Quality Agency conducted a review audit with three team members, including one with mental health experience, between 6 and 17 March 2017. The visit in March 2017 was triggered by a concern raised with the Quality Agency by one of its staff members, which led to an assessment contact visit and, based on findings from that visit, led to the review audit. The review audit conducted in March 2017 found 15 of the 44 Expected Outcomes in the Accreditation Standards to be 'not met,' and that the failures at the service placed or may place residents at serious risk

There is a stark contrast between the findings in the Quality Agency's 2016 reaccreditation audit and those of both the Quality Agency's 2017 review audit and the Groves review. The following information about the reaccreditation audit conducted in 2016 assists in understanding why it did not identify the significant issues which were found in 2017:

- **Resources:** A team of two quality surveyors visited over two days. One had visited Makk and McLeay previously in 2015. One had previous experience in nursing. The team was assigned according to the Quality Agency process. Based on its recent accreditation history, a small number of residents (in Makk and McLeay, not the wider facility) and the absence of external evidence such as complaints, the reaccreditation audit did not attract resource allocations that may have been applied if it had been attributed an assessment of high risk.
- **Prior information:** The quality surveyor team received the facility's self-assessment survey, which indicated that the facility was compliant with the Accreditation Standards and provided evidence of continuous improvement. Reference to the previous reaccreditation report would have indicated that all 44 Expected Outcomes were met. It should be noted that one team member had visited Makk and McLeay previously and was, therefore, aware of its complex nature. There was no prior recognition of heightened risk, or allegations of negligence or abuse.
- **Site visit process:** The assessment team requested information on the processes the facility had in place, then tested/corroborated that they existed. They asked for specific evidence and documents, which the facility provided, and followed the standard Quality Agency guidelines for dividing responsibilities for different aspects of the audit and regrouped to determine findings. They were escorted on a visit around the facility. Interviews with residents' representatives indicated they had no major concerns (as noted in the audit report).
- **Decision-making process:** The decision maker had the ability to review previous information about Makk and McLeay. A review of previous information would have provided the outcomes associated with previous reviews, which did not indicate any 'not met' Expected Outcomes or Serious Risk (between 2010 and 2016). While it is now understood complaints had been made, none had been received by the Quality Agency from the state or Commonwealth health departments, the Aged Care Complaints Commissioner or other external sources.

Conduct of the Site Visit in 2016 followed the usual Quality Agency procedures. The appointed team applied the Quality Agency's processes in conducting the reaccreditation audit.

A review of the different audit methods used by the Quality Agency at Makk and McLeay over time, suggests the ability of the Quality Agency to identify service failure is improved when external evidence of concerns has been obtained and when a review audit is conducted. It also suggests that the Quality Agency's approach and processes, together with a culture emphasising quality improvement, limit the Quality Agency's abilities to detect the absence of minimum standards in high risk services, or address ongoing quality issues in services that are inherently and persistently of higher risk.

Summary of the findings and opportunities

Table 2 outlines the key findings of the review and the opportunities for improvement, structured against the Terms of Reference. Prior to Nous' engagement, the Quality Agency has undertaken its own internal review to identify opportunities for improvement. Those include improvements specific to learnings from Makk and McLeay, and related to the accreditation model more broadly.

Table 2: Findings, opportunities and recommendations

Area	Findings	Opportunities for improvement	Recommendations (see pages 17-19)
Case management	<p>F 1. The accreditation process for Makk and McLeay did not allow the earlier history of the facility to be understood and applied to the assessment of risk and compliance monitoring. The Quality Agency did not consider the inherent risk of Makk and McLeay (as a facility with residents with highly complex mental health support needs and severe behavioural symptoms).</p> <p>F 2. The various visits to Makk and McLeay identified issues but did not result in a decision to escalate to a Review Audit. The Review Audit in 2017 was triggered by external information.</p> <p>F 3. The Quality Agency has a risk framework, including a risk assessment approach. However, this does not sufficiently differentiate the risk profiles of services the Quality Agency accredits and monitors, or guide adequately the required levels of resource allocation.</p>	<p>O1. More comprehensive risk assessment can be used to stratify, profile, and monitor facilities, including high-risk facilities such as Makk and McLeay.</p>	<ul style="list-style-type: none"> • Recommendation 1.2 • Recommendation 1.3
Workforce	<p>F 4. More complex services present more difficulty in identifying issues than less complex services. They require senior surveyors with experience and a willingness to look through the complexity to assess care processes, practices and outcomes.</p>	<p>O2. Specialist skills should be available to assist in the assessment of services with residents with complex specialist clinical conditions, or complex services.</p> <p>O3. Quality surveyor teams require greater time and/or more surveyors to conduct visits for higher risk services.</p>	<ul style="list-style-type: none"> • Recommendation 1.4 • Recommendation 2.13 • Recommendation 3.14 • Recommendation 3.16 • Recommendation 3.17 • Recommendation 3.18
Compliance monitoring	<p>F 5. The Review Audit model is better equipped than other forms of Quality Agency audits to identify service failure. Reaccreditation visits and assessment contact visits are not as successful at identifying service failure</p> <p>F 6. Complex services include dimensions of complexity associated with complicated governance, physical infrastructure complexity and, most crucially, complexity of resident needs.</p> <p>F 7. Assessment using the 44 Expected Outcomes and standards did not question the overall operating model, which was a particular focus for Groves.</p> <p>F 8. Quality surveyors make extensive notes which include maintaining comprehensive diaries, detailed hand written notes and duplications of files. These processes consume significant time.</p>	<p>O4. Quality surveyors need: appropriate time and tailored audit approaches, based on identified risks, to gather and assess evidence; verify that the service's processes are appropriate and being applied successfully; and where required, access professionals with additional specific skills / experience.</p> <p>O5. Audit teams require adequate time and arrangements to corroborate emerging findings, determine the best approaches to gathering evidence, reach conclusions and agree actions e.g. contact the Quality Agency to request advice or variations.</p> <p>O6. Quality surveyor time spent taking notes could be lessened by using technology (e.g. photographic evidence of physical spaces).</p>	<ul style="list-style-type: none"> • Recommendation 1.1 • Recommendation 1.6

Area	Findings	Opportunities for improvement	Recommendations (see pages 17-19)
Assessment, policies and practices	<p>F 9. Makk and McLeay was not resourced on the basis of complexity. The determinants of complexity include a wider range of factors than resident numbers and building characteristics.</p> <p>F 10. The reaccreditation visit resource allocation was insufficient to conduct an assessment of a high risk facility, find non-compliance and determine Serious Risk because of the breadth of work required, and the inappropriate interaction of staff and residents within the facility would have been apparent only over a longer timeframe.</p> <p>F 11. The accreditation and compliance monitoring practices were not appropriate for more complex or higher risk facilities. They were:</p> <ul style="list-style-type: none"> - able to identify evidence of improvement within the facility to satisfy the Quality Agency requirement, despite the service not reaching minimum acceptable standards - lacking an appropriate method of prioritising the Accreditation Standards to allow sufficient Quality Agency resources to be dedicated to high priority areas (such as restraint, behaviour management and medication management). <p>F 12. Access to service records including resident files, complaints and process documentation underpins the quality of the quality surveyor's work, but gaining access to allow for an assessment of a representative sample can be difficult given time constraints or complex records management environments.</p>	<p>O7. A greater allocation of time and/or more senior and specialised resources are required for higher risk services.</p> <p>O8. Different approaches to obtaining information (e.g. obtaining the Consumer Experience feedback at a different time to the reaccreditation visit) may be required to determine what occurs in the facility outside of the accreditation visit.</p> <p>O9. The provision of information prior to planning and conducting the site visit:</p> <ul style="list-style-type: none"> - Site visits can be better planned using a broader range of available information rather than relying mainly on the providers' self-assessments. - Planning can also be more closely coordinated with the decision maker, to allow the defining characteristics of services to be better understood and addressed in the audit approach. 	<ul style="list-style-type: none"> • Recommendation 2.8 • Recommendation 2.9 • Recommendation 2.10 • Recommendation 2.11
Decision-making	<p>F 13. The separation between quality surveyors and decision makers did not allow planning to focus on the risks associated with Makk and McLeay. The separation between the different statutory functions of quality surveyors and decision makers is to ensure an impartial assessment.</p>	<p>O10. Decision makers can be better supported by reports that:</p> <ol style="list-style-type: none"> a. present information in ways that identify the key issues/findings from surveyors' notes b. present information that helps assess the defining features/higher risk aspects of services (if applicable) c. present all relevant evidence, particularly when the recommendation on an Expected Outcome was uncertain or was made after considering conflicting evidence. 	<ul style="list-style-type: none"> • Recommendation 1.5 • Recommendation 3.19 • Recommendation 3.20 • Recommendation 4.22 • Recommendation 4.23 • Recommendation 4.24

Area	Findings	Opportunities for improvement	Recommendations (see pages 17-19)
Serious risk	<p>F 14. Serious Risk has a statutory meaning. It is a significant step and has implications for the provider and the Quality Agency. This places the burden of proof on the quality surveyors, decision makers and senior staff in the Quality Agency.</p> <p>F 15. When significant issues were identified in 2007/8 and 2017 at Makk and McLeay, the Quality Agency determined and reported Serious Risk. That demonstrates that the Quality Agency has the mechanisms to make that judgment.</p> <p>F 16. When the Quality Agency identifies Serious Risk, it takes remedial action to monitor the situation and protect the residents, by working closely with the Department of Health.</p> <p>F 17. The Standards and 44 Expected Outcomes, together with the Principles, provide the framework to understand and apply risk as a means of allocating resources, directing regulatory tools and conducting audits using a risk-based approach.</p>	<p>O11. The Groves review suggests a requirement to either modify or at least interpret the Standards in a way that assesses the appropriateness of the overall service model to the residents' needs and risk profile.</p> <p>O12. Makk and McLeay highlight the importance of understanding risk in a wider sense to inform case management, visit planning, conducting audits and informed decision making.</p>	<ul style="list-style-type: none"> • Recommendation 1.3 • Recommendation 3.14 • Recommendation 3.20
Governance and oversight of risk	<p>F 18. The governance of the Quality Agency is responsive to the identification of service failure and monitors services at risk. However it is reliant on a comprehensive assessment of risk, audit processes which identify significant issues, and being provided with the information needed to inform decisions and act.</p>	<p>O13. There are opportunities for the Quality Agency to improve in each of those areas.</p>	<ul style="list-style-type: none"> • Recommendation 1.3

Recommendations to improve based on lessons from Makk and McLeay

Nous has developed four recommendations and related actions, based on the learnings from Makk and McLeay, to be utilised by the Quality Agency in its continuous improvement program. This advice can also assist the Quality Agency in its engagement with other reviews which have been established following the Groves review.

The significance of the experience at Makk and McLeay has motivated a number of significant responses including:

- a Senate Inquiry into failings in clinical care at the Oakden OPMHS, due to report in February 2018
- an independent Ministerial Review on national aged care quality regulatory processes by Professor Ron Paterson ONZM and Ms. Kate Carnell AO, due to report in August 2017
- a South Australian ICAC enquiry into the Oakden Older Persons Mental Health Service, focused on examination of the adequacy of complaint mechanisms and actions taken by public servants and ministers.

These activities will provide a deeper understanding of the issues associated with Makk and McLeay and result in further learning and changes.

This external advice was undertaken to ensure the Quality Agency is proactively seeking to understand how it can learn from Makk and McLeay in order to improve its own approaches and working methods. These learnings form part of planned changes including the changes to the quality framework and standards.

More immediately, the external advice identifies opportunities to make practical and fundamental changes in a timely manner.

Recommendations to apply the lessons from Makk and McLeay

Makk and McLeay highlight the importance of each of the roles of the Quality Agency. It illustrates the need to apply the Quality Agency's focus and application of the Standards, including the 44 Expected Outcomes, and to apply the Principles in ways that support continuous improvement and safeguard minimum standards. The use of Review Audits as a regulatory tool, demonstrates that the Quality Agency can and should conduct its practices to focus on the more important risks, and in ways that apply risk-based approaches.

Nous' recommendations include steps to strengthen the context for the work of the Quality Agency, which may extend beyond the ability of the Quality Agency to bring into effect. Nous' external advice has also identified four overarching recommendations with related actions for consideration or implementation for the Quality Agency. These recommendations combined, can enhance the impact of the existing quality model to act on lessons from Makk and McLeay. These include 9 actions which should be implemented before the proposed introduction of the new single set of Standards in June 2018.

Recommendations to enhance the quality framework

Nous has identified opportunities to strengthen the quality framework surrounding the Quality Agency. These are:

- clarify the role of the Quality Agency concerning responsibilities for minimum standards where there are overlapping or interrelated regulatory requirements shared by health, mental health and ageing
- expand the standards to explicitly allow the appropriateness of the overall service model to be assessed. This includes consideration to the resident population e.g. is this a service that should be mainly assessed by the Quality Agency and if so, is the service model appropriate (which looks at staffing levels and skills and clinical practices specifically related to the needs of residents).

Recommendations for the Quality Agency

The four recommendations and actions detailed below are provided to address the lessons from Makk and McLeay. It includes those steps which the Quality Agency may be able to take immediately.

A Risk based approach to quality compliance and improvement	Recommendation 1. Embed risk-based practices to better direct compliance monitoring and approaches to high risk and complex services
	<ol style="list-style-type: none"> 1. Revise the existing risk framework, and redesign policies and procedures to improve the identification and management of higher risk facilities and to address the specific risks in different types of services. Under the strengthened risk-based model, more frequent compliance monitoring and targeted approaches would be applied to higher risk facilities than those with low risk. The risk framework should provide the Quality Agency: <ol style="list-style-type: none"> i. revised risk stratification model that identifies the characteristics of low, medium and high-risk facilities ii. process for determining the causes behind any significant change in compliance status (e.g. from many 'not met' EOs to none in a short timeframe) iii. process for a compliance monitoring watch list for the highest risk facilities, whether or not they have non-compliances recorded iv. process for tailoring the audit plan to address specific risks relating to certain services and applying to site visits for high-risk facilities, and ideally all services. 2. Strengthen case management to include a balance of announced and unannounced visits and allow more time for assessment teams to reflect on findings, and structured feedback on risks identified at

	<p>a service.</p> <ol style="list-style-type: none"> 3. Regularly review the regulatory performance of the Quality Agency to ensure that the risk stratification of services, compliance outcomes of various types of audits, emerging sector risks and quality improvements in the sector are correlated. This would involve regular analysis of facilities that have regular or significant non-compliance with the Accreditation Standards or determination of 'Serious Risk' findings to identify trends or common characteristics. 4. Based on the risk stratification ensure that Quality Agency resources are allocated for greatest impact. Including using a risk management process to smooth out the high peak workloads of assessments during the reaccreditation cycle by varying the intervals between visits. 5. Explore (with the Department of Health) options for differentiating performance under the aged care quality framework e.g. the Care Quality Commission arrangement of allowing decision makers to determine 'needs improvement' rather than only 'met' or 'not met', to recognise the occasions where improvement is required but does not necessitate an absolute finding. 6. Develop and resource a more established approach to external intelligence gathering on services including determining arrangements to support the better exchange of information in services where multiple parties are involved in regulation and quality monitoring to ensure pertinent information is shared and reduce unnecessary regulatory burden. <p>First actions to improve risk based practices should include:</p> <ul style="list-style-type: none"> • Revise the risk framework to ensure the assessment of higher risk services and the more extensive capture of information from sources of key indicators of risk are used to inform case management, visit planning and resource allocation. • Identify services that are inherently higher risk or have an ongoing history of issues to consider how these should be monitored under case management, including a watch list of high risk facilities. • Expand the case management to monitor high risk services (identified under the first step).
Pre-planning audits	<p>Recommendation 2. Pre-planning of audits to allow a service's characteristics, history and risks to inform conduct of the audit and ensure the allocation and composition of assessment teams</p> <ol style="list-style-type: none"> 8. Strengthen involvement of the delegate/ decision maker in pre-planning for accreditation site audits with the assessment team so that risks are identified and understood by the assessment teams including information from previous site visits, and any intelligence received about the home. 9. Ensure the pre-planning process for an audit or compliance monitoring visit makes consistent use of information about a facility's characteristics, performance and risks such as a facility's history, past performance and other indicators of risk. 10. Where multiple parties are involved in regulation and quality monitoring, establish processes to ensure that the Quality Agency seeks pertinent information about the performance of higher risk services during the planning of the audit. 11. Seek legislative amendments to reinstate the requirement that the provider submit a self-assessment in a form approved by the CEO in advance of the reaccreditation visit. This information should be available prior to the audit in order to support planning and case management. Use the self-assessment provisions of the <i>Quality Agency Principles</i> more effectively to require the approved provider seeking accreditation/ reaccreditation to disclose key performance information (e.g. complaints, incidents etc.). 12. Provide clear communication to the assessment teams under 2.14 of the <i>Quality Agency Principles</i> to focus the audit on areas of risk and ensure the conduct of the audit obtains sufficient performance evidence to support compliance decisions. 13. Allocate Quality Agency teams for quality assessment based on the risk level and nature of the services. This includes review of the team assignment policy for site visits to allow selection of team leaders and quality surveyors based on a broader range of criteria. <p>Early actions to improve pre-planning should include:</p> <ul style="list-style-type: none"> • Strengthen preplanning for accreditation site audits by the decision maker with the assessment team to design accreditation, assessment contact visit or review audit approaches for high risk services jointly, to ensure the characteristics/risks of the service, and the history of improvement are identified and understood by the assessment teams including information from previous site visits, and any intelligence received about the home.

	<ul style="list-style-type: none"> Review resource allocation for audits based on the assessed risk level of facilities.
Workforce Development and Culture	<p>Recommendation 3. Strengthen capability in risk-based approaches and provide clinical or specialist support for quality surveyors and decision makers in the assessment of quality of care and services.</p>
	<ol style="list-style-type: none"> Promote a risk-based culture that is focused on quality improvement and safety through mechanisms to better support quality surveyors during assignments, such as: <ol style="list-style-type: none"> better engagement to identify non-compliance during site visits/ the accreditation process and provide sufficient time for exploration of potential issues or areas of deficiency revising the approach of announcing assessment team recommendations at the completion of the onsite visit culture and process of the audit should encourage quality surveyors and decision makers to question unclear evidence ensuring continuity for compliance monitoring measures in services where previous non-compliance has been found especially where serious risk to care recipients has been a finding. Adopt the use of technology to reduce report writing and allow greater time on high value activity during the audit. Improve the standard and efficiency of report writing through continuing the implementation of the CAAT system, and through training, improved guidance and regular feedback. Introduce structured mechanisms to report audit information based on the experience and discernment of the quality surveyors. This may include tacit knowledge or observations about the quality of care and services, the likelihood of improvement or failure and the compliance posture of a service. Strengthen current initiatives around recruitment profiling and improved training, by implementing consistent and comprehensive feedback, performance management and review for quality surveyors. Build on training for quality surveyors, with a particular focus on the skills required for 'observation' methods, understanding specialist conditions associated with ageing (e.g. dementia, cultural implications of ageing), and risk-based approaches. Introduce mechanisms for the registration/ appointment of specialist assessors and/ or a panel of clinical specialists on which the quality surveyors and decision makers can draw as required. Consider undertaking annual peer review audits of a sample of audits, particularly those with higher or specific risks, by experienced quality surveyors from peer review/ other States or offices to provide feedback and learnings to audit teams and decision maker. Modify the resourcing process to allow for a national pool of more experienced quality surveyors to periodically assess interstate facilities (particularly high-risk facilities) and play a mentoring role to new quality surveyors.
	<p>Early actions to improve workforce and culture include:</p> <ul style="list-style-type: none"> Conduct a capability audit of quality surveyors (and external consultants) to enable allocation processes to be based on their demonstrated performance, skills, specialist knowledge, and experience. Identify preferred options for appointment of specialist assessors and/ or introduction of a panel of clinical specialists on which the quality surveyors and decision makers can draw as required.
	<p>Recommendation 4. Support and recognise the significant role of decision makers in determining audit outcomes and in setting the expectations for quality surveyors.</p>
	<ol style="list-style-type: none"> Strengthen the support for decision making functions for accreditation of high-risk facilities. This includes: <ol style="list-style-type: none"> considering what decision support through policy, processes, or expertise can be provided to assist with decisions about accreditation and case management of high-risk services. risk-based triaging of the decisions that decision-makers are required to make, to ensure that senior decision makers have the time to participate in making decisions regarding higher risk services. Recognise the specific role of decision makers by providing dedicated education and training for

decision-makers including quality surveyors who may be promoted to this level.

24. Ensure audit reports to decision makers contain sufficient evidence and specific commentary, evidence relating to the identified risk characteristics. This involves better guidance for quality surveyors on:
- i. the type of evidence to examine
 - ii. how to better verify and triangulate data as well as in specific unusual and higher risk contexts
 - iii. stronger focus on observation and verifiable data to evaluate performance.

Immediate actions to improve decision making should include:

- Change the process of announcing outcomes at the completion of the site visit.
- Use National Case Management to triage decisions for high risk services to ensure that senior decision makers have the time to participate in making decisions regarding higher risk services and ensure audit decision makers have sufficient evidence relating performance given the identified risk characteristics of a service.

Appendix A Risk-based audit model

Figure 2: A strengthened risk-based audit model for the Quality Agency

