

**Enforceable Undertaking**

*Aged Care Quality and Safety Commission Act 2018*

Section 74EC

*Regulatory Powers (Standard Provisions) Act 2014*

Section 114

The commitments in this undertaking are offered to the Aged Care  
Quality and Safety Commissioner by:

**Wickro Pty Ltd as trustee for the Belmont Property Unit Trust**

**ABN 89 947 149 231**

**RACS 4075, 3976**

**269 Centre Road**

**Bentleigh, Victoria 3204**

## **Part 1. Definitions**

In addition to terms defined elsewhere in this Undertaking and in the associated legislation, the following definitions are used:

**Acceptance Date** means the date of acceptance by the Commissioner of this Undertaking.

**Aged Care Act** means the *Aged Care Act 1997* (Cth).

**Approved provider** means a person approved by the Commissioner under section 63D of the Commission Act as a provider of aged care.

**Care minutes responsibilities** means the aged care responsibilities under section 10 of the Quality of Care Principles that relate to the required amounts of direct care (noting section 54-1(1)(h) of the Aged Care Act provides that it is a responsibility of an approved provider, in relation to the quality of the aged care that the approved provider provides, to comply with such other responsibilities as are specified in the Quality of Care Principles).

**Care recipients** means individuals receiving care and services from Wickro Pty Ltd through a service who are 'counted care recipients' (as is defined in section 10(4) of the Quality of Care Principles) for the purpose of the care minutes responsibilities.

**Commission Act** means the *Aged Care Quality and Safety Commission Act 2018* (Cth).

**Commission Rules** means the *Aged Care Quality and Safety Commission Rules 2018* (Cth).

**Commission** means the Aged Care Quality and Safety Commission established by section 11 of the Commission Act.

**Commissioner** means the Commissioner of the Commission, or a person delegated under section 76 of the Commission Act to perform the Commissioner's functions or exercise the Commissioner's powers.

**Direct care** has the same meaning as the definition included in section 4 of the Quality of Care Principles.

**Direct care staff member** has the same meaning as the definition included in section 4 of the Quality of Care Principles.

**Enrolled nurse staff member** has the same meaning as the definition included in section 4 of the Quality of Care Principles

**Homestyle** means Wickro Pty Ltd as trustee for The Belmont Property Unit Trust in its capacity as an approved provider.

**Quality of Care Principles** means the *Quality of Care Principles 2014* (Cth).

**Registered nurse staff member** has the same meaning as the definition included in section 4 of the Quality of Care Principles

**Regulatory Powers Act** means the *Regulatory Powers (Standard Provisions) Act 2014* (Cth).

**Residential care service(s)** has the same meaning as in the Aged Care Act.

**Service(s)** means the residential care service(s), described below, through which Wickro Pty Ltd provides residential care:

- Ferndale Gardens Aged Care Services (RACS ID 4075), situated at 229-239 Bayswater Road, Bayswater North VIC 3153.
- Point Cook Manor (RACS ID 3976), situated at 9 Hewett Drive, Point Cook VIC 3030.

**Undertaking** means this Enforceable Undertaking.

## **Part 2. General Information**

### **2.1 The Commissioner's role**

The Commissioner may accept an Undertaking in accordance with section 114 of the Regulatory Powers Act.

### **2.2 Purpose**

The purpose of this Undertaking is to state the undertakings offered to the Commission under section 74EC of the Commission Act and section 114 of the Regulatory Powers Act in relation to the non-compliance described in Part 4 of this Undertaking.

### **2.3 Commencement**

This Undertaking commences on the Acceptance Date. Upon the Undertaking taking effect, the Undertaking may be enforced in accordance with section 115 of the Regulatory Powers Act.

### **2.4 Term of the Undertaking**

This Undertaking continues, as may be varied from time to time with the Commissioner's consent, from the Acceptance Date until it is withdrawn by Homestyle with the Commissioner's consent under section 114 of the Regulatory Powers Act or cancelled by the Commission under section 114 of the Regulatory Powers Act, whichever is earlier.

## **Part 3. Background**

**3.1** Homestyle has been an approved provider for over 30 years and transitioned with the Aged Care Act 1997 as an approved provider of residential aged care to Victorians. Operating 10 Residential aged care homes, all with full accreditation for 3 years, the maximum accreditation period, Homestyle's quality team has tripled over recent years to meet increasing compliance requirements. Background information in relation to each of the Services which are the subject of this Undertaking is set out below.

**3.2 Ferndale Gardens Aged Care Services (RACS ID 4075)**

- Ferndale Gardens Aged Care Services is located at 229-239 Bayswater Road, Bayswater North VIC 3153.
- Following a site audit conducted by the Commission on 31 January 2024 to 2 February 2024, the Commission made a decision on 4 April 2024 to re-accredit this Service until 28 June 2027.
- As at the date of the Undertaking, this Service has 121 approved allocated places, there are 115 care recipients residing at the Service and the Service's overall star rating (under the Aged Care Act) is three stars. There are 11 key personnel (within the meaning of the Commission Act) in relation to the Service.
- There are currently 163 staff members who provide direct care to care recipients and a further 21 staff members who do not provide direct care, at the Service.
- The average amount of direct care provided through the service by direct care staff members of the approved provider per counted care recipient per day (as calculated under *section 9 of the Quality of Care Principles*) for the following period(s) were:
  - October 2023 to December 2023 181 Minutes
  - January 2024 to March 2024 181 minutes
  - April 2024 to June 2024 174 Minutes
  - July 2024 to September 2024 168 Minutes

### 3.3 Point Cook Manor (RACS ID 3976)

- Point Cook Manor is located at 9 Hewett Drive, Point Cook VIC 3030
- Following a site audit conducted by the Commission on 6 September 2022 to 8 September 2022, the Commission made a decision on 19 October 2022 to re-accredit this Service until 12 December 2025.
- As at the date of the Undertaking, this Service has 118 approved allocated places, there are 109 care recipients residing at the Service and the Service's overall star rating (under the Aged Care Act) is three stars. There are 11 key personnel (within the meaning of the Commission Act) in relation to the Service.
- There are currently 137 staff members who provide direct care to care recipients and a further 27 staff members who do not provide direct care, at the Service.
- The average amount of direct care provided through the service by direct care staff members of the approved provider per counted care recipient per day (as calculated under *section 9 of the Quality of Care Principles*) for the following period(s) were:
  - October 2023 to December 2023 188 Minutes
  - January 2024 to March 2024 188 Minutes
  - April 2024 to June 2024 183 Minutes
  - July 2024 to September 2024 187 Minutes

## **Part 4. History of non-compliance**

**4.1** Homestyle's compliance with its care minutes responsibilities has been the subject of regulatory and administrative action since at least May 2024. A history of the regulatory and administrative action taken against Homestyle with respect to its compliance with the care minutes responsibilities is as follows:

- On 28 May 2024, Homestyle participated in a videoconference meeting with representatives from the Commission and the Department of Health and Aged Care to discuss its care minutes responsibilities.
- On 30 October 2024, Homestyle received a notice from the Commission under section 74GA of the Commission Act. The notice required Homestyle to give information and/or produce documents to the Commission in relation to its compliance with its care minutes responsibilities in relation to the Services.
- Homestyle complied with the notice on 1 November 2024, by providing the relevant information and/or documents to the Commission.
- On 8 November 2024, Homestyle received a letter from the Commission which stated that an analysis of the Services highlighted that the Services had maintained gaps between the targets required to meet its care minutes responsibilities, and the actual average amount of direct care it provided to care recipients in three subsequent quarters. The letter also gave Homestyle the opportunity to offer the Commissioner an Undertaking setting out reasons for failing to meet the targets and the actions it would take to meet its care minutes responsibilities in a reasonable timeframe.

## **Part 5. Acknowledgement of Commissioner's concerns**

**5.1** As a result of the matters referred to in Part 4 above, the Commissioner has, and continues to have, concerns with respect to the provider's compliance with its care minutes responsibilities, specifically its responsibilities under sections 10(2), 10(3) and/or 10(3A) of the Quality of Care Principles. Wickro Pty Ltd Acknowledges these concerns.

## **Part 6. Admissions**

**6.1** Homestyle admits the non-compliance identified in Part 4 in relation to the Services and accepts the Commissioner's concerns identified in Part 5.

## **Part 7. Undertakings**

In accordance with the operation of section 114 of the Regulatory Powers Act and section 74EC of the Commission Act, the provider has offered, and the Commissioner has accepted, the following undertakings:

## 7.1 In relation to Ferndale Gardens Aged Care Services:

- To conduct up to 50 interviews by 15 January 2025 with a view to hiring the following additional direct care staff members:
  - three registered nurse staff members;
  - three direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To make offers by 30 January 2025 for the following positions:
  - three registered nurse staff members;
  - three direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To request acceptances to offers for the following positions by 14 February 2025:
  - three registered nurse staff members;
  - three direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To commence staff members who have accepted offers for the following positions by 14 March 2025:
  - three registered nurses; and
  - three direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To amend the roster for Service to incorporate the following additional shifts effective from 3 February 2025:
  - one registered nurse staff member shift from 10:00 pm to 7:15 am;
  - two registered nurse staff member shifts from 3:00 pm to 10:15 pm.
- To increase the hours worked by direct care staff members who are not registered nurse staff members or enrolled nurse staff members in the fortnightly roster for the Service by 5.5 hours by 1 March 2025.
- By 14 March 2025, to determine whether resident profile has resulted in changes to the care minutes responsibilities and, if so, to meet those new requirements by 30 June 2025.

- To submit a comprehensive and detailed self-assessment of the above undertakings to the Commissioner by 31 January 2025, and each month thereafter until 30 June 2025, demonstrating with clear evidence:
  - what steps Homestyle has taken to give effect to each undertaking;
  - the impact of those steps on achieving compliance with its care minutes responsibilities; and
  - a statement explaining how improved compliance will be sustained.
- To be compliant with its care minutes responsibilities at the Service by 30 June 2025.

**7.2** In relation to the Point Cook Manor Service:

- To conduct up to 50 interviews by 15 January 2025 with a view to hiring the following additional direct care staff members:
  - two registered nurse staff members;
  - four direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To make offers by 30 January 2025 for the following positions:
  - two registered nurse staff members;
  - four direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To request acceptances to offers for the following positions by 14 February 2025:
  - two registered nurse staff members;
  - four direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To commence staff members who have accepted offers for the following positions by 14 March 2025:
  - two registered nurse staff members;
  - four direct care staff members who are not registered nurse staff members or enrolled nurse staff members.



- To amend the roster for Service to incorporate the following additional shifts by 3 February 2025:
  - one registered nurse staff member shift from 10:00 pm to 7:00 am;
  - one registered nurse staff member shift from 2:45 pm to 10:00 pm;
  - two shifts from 7:00 am to 2:00 pm for direct care staff members who are not registered nurse staff members or enrolled nurse staff members;
  - two shifts from 2:45 pm to 10:00 pm for direct care staff members who are not registered nurse staff members or enrolled nurse staff members.
- To increase the hours worked by registered nurse staff members in the fortnightly roster for the Service by 13,230 minutes by 1 March 2025.
- By 14 March 2025, to determine whether the requirements of staffing to meet its care minutes responsibilities have changed and, if so, to meet those new requirements by 30 June 2025.
- To submit a comprehensive and detailed self-assessment of the above undertakings to the Commissioner by 31 January 2025, and each month thereafter until 30 June 2025, demonstrating with clear evidence:
  - what steps Homestyle has taken to give effect to each undertaking;
  - the impact of those steps on achieving compliance with its care minutes responsibilities; and
  - a statement explaining how improved compliance will be sustained.
- To be compliant with its care minutes responsibilities at the Service by 30 June 2025.

### **7.3 Commitment**

- Homestyle commits to giving the Commission information and/or documents in response to any request the Commission may make for information and/or documents to monitor progress and compliance with the terms of the undertaking throughout the duration of the Undertaking.
- Homestyle is responsible for demonstrating compliance with the Undertaking and evidence of compliance will be submitted to the Commission in accordance with clauses detailed in Part 7.1.

### **7.4 Costs of Compliance**

- Homestyle undertakes that it will pay all costs associated with its compliance with this Undertaking. Noting that Payroll Tax applicable in Victoria will form a significant oncost that is not funded by the Commonwealth, totalling in excess of \$5,100,000 after the undertakings above are implemented.

## **Part 8. Acknowledgments and statements**

### **8.1 Homestyle acknowledges that the Commissioner:**

- Will publish this Undertaking on the Commission's website.
- May make public reference, including by way of media release and/or Commission publications, to the acceptance of this Undertaking, referring to its terms and to the concerns of the Commissioner which led to its acceptance. However, the terms of any media release must be consistent with this Undertaking.

### **8.2 Homestyle acknowledges that:**

- This Undertaking has no operative force until accepted by the Commissioner.
- The date of the Undertaking is the date on which it is accepted by the Commissioner.
- The Undertaking is given voluntarily by Homestyle, who has obtained legal advice in relation to its obligations under, and the effect of, this Undertaking.
- The Commissioner's acceptance of this Undertaking does not affect any rights, remedies and powers available to the Commission, or the Commonwealth.
- The Commission may undertake compliance monitoring activities to verify the evidence submitted as required by Part 7 and Homestyle's compliance with the Undertaking.

- The Commissioner has the power to enforce the Undertaking under section 115 of the Regulatory Powers Act and may exercise this power if any requirement or condition of the Undertaking is breached.
- If any part of this Undertaking is held invalid, that part shall be severed from this Undertaking and the remainder of this Undertaking will continue to be valid and enforceable.
- The references to provisions of Commonwealth Acts of Parliament and Legislative Instruments in this Undertaking shall include references to those provisions as amended from time to time and in the event of a repeal of any of them, any equivalent provision from time to time.

### **8.3 Statement of ability to comply**

- 8.3.1 Homestyle confirms it has the operational and financial capacity to comply with the Undertaking.

## **Part 9. Provision of Documents**

- 9.1 The address for providing the Commission with any notice or document which this Undertaking requires to be provided is:

Via email to [compliance@agedcarequality.gov.au](mailto:compliance@agedcarequality.gov.au) , attention Senior Executive, Scott Rumbold.

If you are unable to provide the document by way of email, please send to:

### **Aged Care Quality and Safety Commission**

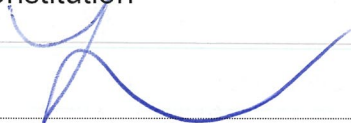
GPO Box 9819

CANBERRA ACT 2601

Attention: Peter Edwards  
Deputy Commissioner  
Regulatory Operations Division

**Executed by Wickro Pty Ltd as trustee for the Belmont Property Unit Trust**

**ACN 006 936 410** in accordance with its constitution



Signature of Chief Executive Officer

Timothy Humphries

Name of Chief Executive Officer



Signature of Witness

Kerrie Varellas

Name of Witness

Date accepted by the Commissioner: 19 December 2024

**ACCEPTED** by the **AGED CARE QUALITY AND SAFETY COMMISSIONER or DELEGATE** under section 74EC of the Commission Act and Section 114 of the Regulatory Powers Act



Peter Edwards a/g Deputy Commissioner

Aged Care Quality and Safety Commissioner or delegate



Witness

Scott Rumbold

Witness full name (*please print*)