

Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services

Submission in response to the June 2017 Draft Report from community and affordable housing industry associations

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Executive Summary

We continue to support the PC's assessment that social housing is key priority area for selectively introducing further principles of competition, contestability and informed user choice. The sector is ripe for reform, building on the successful growth of a contestable market among not-for-profit community housing providers over recent years. The choice – and voice – of tenants and people seeking housing should be at the heart of the way that social and affordable housing is owned and managed in Australia.

However, we remain of the view that failures in the broader housing system, and the severe imbalance between the supply of and needs for social housing, make significant partial and localised reforms to competition, contestability and user choice difficult. This remains the fundamental driver of the inequity in the system highlighted by the Draft Report.

Accordingly, the best prospects lie in a whole-of-system approach represented by a National Affordable Housing Strategy, which would carefully coordinate initiatives across all levels of government, the public, not-for-profit and for-profit sectors and which would make necessary reforms to tax, welfare and housing assistance programs in a coherent way.

While we acknowledge that some of these factors are outside the terms of reference of the PC's inquiry, our support for the Draft Recommendations is qualified by our view that any such reforms should be:

- modelled not just for their fiscal impact but for their impact on housing affordability for different tenant cohorts so that changes do not increase the number of households in housing stress or have unintended consequences;
- implemented in conjunction with reforms to Commonwealth-State architecture on affordable housing under the proposed new National Housing and Homelessness Agreement (NHHA), including efforts to bring more private investment to social and affordable housing via the establishment of the National Housing Finance and Investment Corporation (NHFIC); and
- coupled with reforms to support an increase in the supply and quality of social and affordable housing, acknowledged by the PC to be in strong demand, and subject to rigorous cost-benefit analysis against alternative means by which households could be relieved from housing stress.

While there are undoubtedly benefits to opening up user choice through portable subsidy arrangements that cross tenure boundaries, there are important attributes of social and affordable housing other than affordability that are relevant, which have been acknowledged by the PC in the Draft Report. These include tenure security, tenancy management that works with supports to actively sustain tenancies, alleviating the discrimination faced by many groups in the housing market and providing culturally appropriate Indigenous housing. This is important as we believe while consumer choice is valuable, there are limits upon what individual consumer choice can achieve in the context of the social housing system. Indeed, without growth in supply of social and affordable housing, it will remain difficult for the most disadvantaged households to exercise choice in a meaningful way.

With those reservations in mind, there is much in the Draft Recommendations that merits serious consideration by policymakers as a part of the new NHHA and in wider efforts to alleviate housing stress. With the right settings, elements of the Draft Recommendations could:

- represent a much more transparent subsidy system for the social housing system than the current NAHA, providing for real and meaningful comparisons between the relative performance of public and community housing;
- lead to the development of a truly contestable provider market where decisions about who should own social housing assets and provide services is made on the basis of better outcomes for, and accountability to, tenants and communities;

- alleviate the need for social housing providers to balance affordability of rent, allocation to those households most in need and their long-term financial viability; and
- by effectively guaranteeing providers market rent, develop an income stream that is far more likely to support levels of institutional investment through the NHFIC.

The “broken” system described in the Draft Report derives not from a lack of mechanisms to support consumer choice and a deficit in the accountability of public housing systems, though both need to be tackled. It derives from decades of underinvestment that has left the social housing system struggling to cope with overwhelming demand. A social housing system that is not broken caters not just for the choices of individuals but needs the needs of the community generally - by providing homes that are decent and well-maintained, by supporting inclusive and integrated communities and by ensuring that providers are accountable to tenants and financially sound.

Overview

This is a response to the PC Draft Report from the community housing sector. The eight participating organisations are peak and industry associations operating at state or national level. They work either directly for member community housing providers or - in the case of Shelter organisations - more broadly as advocates for social housing and affordable housing¹ and on behalf of service users. Not-for-profit community housing providers have capacity to:

- develop tenant influenced approaches to service delivery;
- provide additional services to tenants, or act as conduits to services provided by other largely not-for-profit organisations; and
- provide a solid return on public investment for new social and affordable housing, by raising private finance, accessing taxation concessions and investing surpluses back into assets and services.

In this submission we build upon the themes and evidence presented in our February 2017 submission to the *Reforms to Human Services: Issues Paper* issued by the PC. The Draft Recommendations if implemented would represent a significant shift in the way social housing is funded and delivered in Australia, and as such merit serious consideration by policymakers. Certainly such reforms should not be implemented selectively. Piecemeal implementation runs the risk of reducing user choice, increasing compliance burdens for providers or placing households in rental stress, without these benefits accruing or accruing to the extent envisaged. As such we have set out in this report five general themes as follows:

- A lack of social and affordable housing as a driver of inequity
- The Draft Recommendations in the context of reforms to Federal-State funding arrangements
- Allowing for both consumer choice and consumer voice
- Support for affordable housing across the continuum of need
- Taking into account the particular needs of Aboriginal and Torres Strait Islander tenants and communities

This submission then provides a response to the Draft Recommendations in Chapters 5 and 6 of the Draft Report where this is not covered in the general themes.

We have included full references in this submission. Empirical Australian research on some of the areas of interest identified by the PC is limited; therefore overseas evidence has been consulted where necessary. There is a focus on Britain as its community housing (housing association) sector was transformed through introducing private finance and contestability from the late 1980s and user choice from the 2000s.

Our suggestions in respect of the next steps for further developing concepts around social housing initiatives, once submissions for the Issues Paper close, are:

- Evidence quoted in our submission can be emailed to the PC
- Further information based on evaluations currently in progress can be supplied in due course
- Holding a PC round-table with peak bodies and leading community housing providers would allow current reform proposals to be discussed in more detail

We would welcome the opportunity to attend a public hearing to further elaborate on this submission.

¹ We acknowledge that the terms “social housing” and “affordable housing” are ascribed various meanings by policymakers and stakeholders. In this submission we are using these terms consistently with Figure 5.1 in the Draft Report (page 147)

A lack of social and affordable housing as a driver of inequity

A shortage of social and affordable housing remains the key a driver of inequity in the housing system. Accordingly, we are of the view that reform in the nature of the Draft Recommendations should be implemented as a part of a wider National Affordable Housing Strategy designed to boost the supply of social housing and affordable housing generally.

The PC makes the observation in the Draft Report (on page 146) that

social housing as a priority sector for reform because ...the current system of financial assistance is inequitable. People on the same income and with the same characteristics, such as size of the household, can receive vastly different rates of assistance, both within social housing and between social housing and private rentals.

We recognise the point that the PC's analysis highlights. However there also needs to be recognition at the PC that an even more marked inequity arises because so many low-income Australians are deprived of decent homes by the financially driven lack of access to social and affordable housing. This means that some low-income households are well supported in social housing and others are not. This shortfall is compounded by the failure of the private market to provide supply that is affordable to low-income households and the inadequacy of CRA and forms of income support.

Elements of a supply response

Accordingly, any reform of social housing must recognise the importance not just of improving access to the private market but also on expanding the supply of social and affordable housing. As acknowledged by the PC in the draft report (page 149), social housing also fulfils a range of benefits that are not just about affordability including supporting households who face additional barriers in access the private rental market (discrimination from landlords, people with poor rental history and people with complex needs), stability of tenure and availability of supports to sustain a tenancy.

This much has been acknowledged in the 2017-2018 Commonwealth Budget, which foreshadowed an important reform to bring new investment into social and affordable housing with the establishment of the National Housing Finance and Investment Corporation (NHFIC). While its exact structure and legal form are yet to be decided, the NHFIC will operate the affordable housing bond aggregator to provide cheaper and longer-term finance for community housing providers. NHFIC will aggregate providers' borrowing requirements so it can issue bonds to the wholesale market at a lower cost and for a longer tenure than bank finance. The bond aggregator should start on July 1, 2018. The budget has set aside \$4.8m to set it up, but the rest of the funding will be in the Mid-Year Economic and Fiscal update in December or in the next budget. The details of the NHFIC will be settled after the Affordable Housing Expert Panel reports on the design of the bond aggregator later this year. It is significant that the Final Report of the working group acknowledged that the NHFIC would not alone be able to address supply issues, stating that:

Affordable housing sits within a multi-disciplinary policy context. There are a number of other policy settings that impact on incentives to invest in increasing the supply of affordable housing as well as the ability of the sector to attract private investment. These include (but are not limited to): the capacity of the community housing sector, planning and zoning, the role and capacity of local government and taxation and concessions. It will be important for these policy settings to be taken into account when developing future policy responses aimed at impacting affordable housing supply.²

² Council on Federal Financial Relations, Affordable Housing Working Group Report to Heads of Treasuries, *Innovative Financing Models to Improve the Supply of Affordable Housing* (October 2016) page 44.

While it is premature to state the impact NHFIC will have on the supply of social and affordable housing, if it can reduce financing costs by 2 per cent annually, the Community Housing Industry Association has estimated that it could save the community housing industry about \$14m pa in interest payments on its existing borrowings of around \$700m.

We would also argue that the public benefit of housing subsidies such as CRA and the proposed high cost housing payment (Recommendation 5.2) is most effectively and efficiently captured when paid to a non-profit social landlord that invests surpluses back into assets and services. For this reason we think there is merit to considering whether all landlords – government, non-profit and for-profit – should be registered in order to be able to receive the high-cost housing payment. This would ensure that tenant choice is backed by prudential oversight (to prevent failure of housing providers that threatens tenure) and regulation to protect the quality of asset and service delivery. This would naturally have implications for tenant choice, but this is perhaps analogous to the design of the National Disability Insurance Scheme where providers of disability care and support generally need to register and commit to meeting quality and safeguarding standards in order to be able to receive payments. Programs for the head leasing of privately owned housing by registered social housing providers (see page 171 of the Draft Report) may be one way to expand choice for tenants while preserving accountability for landlords.

Transfers of title as a part of a supply response

In our previous submission we argued that contestable transfers of social housing management and title were an opportunity not just to expand consumer choice and improve service delivery but were an opportunity to improve and expand the supply of social housing. Such transfers can be enhanced by supporting policies, such as facilitating access to cheaper finance, and transfer of other government land.

In this context, we are disappointed that the Draft Recommendations did not support transfers of title to community housing providers. The concerns with title transfer noted in the Draft Report, including a difficulty in replacing underperforming providers and a perceived difficulty for governments to ensure that the properties are used for social housing over the long term, are not insurmountable (as demonstrated by long histories of asset transfers in the UK and Canada). A robust regulatory framework is the best safeguard against poor performance. In addition, appropriate contractual undertakings can be put in place to ensure use of assets as social housing and for the transfer of title to a different provider in the event of sustained poor performance leading to termination. Many Australian jurisdictions have enacted specific legislative instruments that are recorded on the title to properties to prevent them from being disposed of or used as security without the consent of the funding agency.³ Such concerns did not prevent the Victorian government undertaking in 2016 to transfer of approximately \$500 million in assets to Aboriginal Housing Victoria over three years.⁴

We would also highlight that title transfer is not so much about security for debt, although it can be useful for that purpose for providers that do not already have significant land holdings. Title transfer can also:

- enable providers to engage in more active asset management to dispose of properties not suited to the needs of tenants and acquire more suitable properties;
- enable providers to take advantage of changes in local property markets to redevelop undercapitalised land;
- align the interests of provider as asset owner with the community by giving providers the opportunity to engage in active asset management to ensure assets are put to their highest and best use; and
- de-politicise decision-making about the long-term use of social housing assets.

³ See for example *Community Housing Providers (National Law) (South Australia) Act 2013 (SA)* section 24, *Community Housing Providers (Adoption of National Law) Act 2012 (NSW)*, section 18, *Housing Act 1983 (Vic)* section 109.

⁴ <http://www.abc.net.au/news/2016-09-05/vic-hands-over-500m-housing-to-aboriginal-corporation/7813358>

The PC acknowledges in the Draft Report (p 167) of the desirability to address the concentration of public housing in some areas by redevelopment programs that seek to create a mix of social, affordable and private market housing. We would argue that better outcomes for the community and tenants can be achieved, not least in capturing the gains from planning and infrastructure driven land value uplifts, by title transfer to community housing providers to lead such mixed-tenure change. Major examples of such approaches are evident in Toronto (Regent Park) and Glasgow (New Gorbals). Indeed, that this state of affairs has been allowed to persist for so long - often despite the rapid gentrification of surrounding neighbourhoods, calls into question the most appropriate models to be used in such estate renewals.

By contrast, splitting asset ownership from responsibility for asset management is economically inefficient. It tends to lead to an outcome where net rental income is invested back into assets that may be less than optimal or not suited to the needs of tenants, prospective tenants and communities. The most economic outcome for some assets, particularly those which are at the end of their economic life, have heritage features or are in low demand areas is to sell them and apply sale proceeds to stock that is more useful to the social housing system. While this can be achieved by a strong partnership between government asset owning entities and providers, it adds an extra layer of complexity and a splitting of accountabilities.

Reforms to Federal-State funding arrangements

As noted in the Draft Report (page 164), there is a wider context of proposed reform to the Federal-State architecture on affordable housing. The 2017-2018 Federal Budget foreshadowed replacing the current National Affordable Housing Agreement (NAHA) with a new National Housing and Homelessness Agreement (NHHA) from 2018-19. This is to include bilateral agreements with states and territories instead of a multilateral agreement. States and territories will be asked to meet social and affordable housing targets, and to make sure they do, the Federal Government will also fund the National Competition Council to help implement the agreement and assess ongoing performance under the NHHA. In addition, states and territories will be encouraged to transfer stock to the community housing sector, thereby creating a multi-provider model that enhances tenant choice. Accordingly, the new NHHA is an opportunity to phase in many of the reforms under the Draft Report.

The complexity of the interaction between the Draft Recommendation and these reforms is demonstrated by the proposals in Draft Recommendation 5.1 (to extending CRA to tenants in public housing) and Draft Recommendation 5.2 (to charge market rents and allow a high cost housing payment for households). Because the existing NAHA applies a formula based on the population of states rather than on tenancies, there will be consequences for particular public housing programs and this needs to be considered in the context of any future bilateral agreement under the NHHA. While there is much to merit consistent treatment of tenants regardless of housing provider, this needs to be considered in the context of any future bilateral agreement under the NHHA. We understand some States and Territories modelled the impact of this reform when it was considered under the Reform of Federation proposals.

Accordingly, the cost of extending CRA and providing the high-cost housing payment should also be modelled and quantified to understand its impact on the current funding of social housing by state and territory governments. An effective guarantee of market rent for social housing properties could also provide a consistent, lower risk income stream that is more likely to attract higher levels of institutional investment, at finer margins, through the NHIFC. This is more likely to be the case where CRA and the high cost housing payment are paid directly to providers.

While a stable, guaranteed revenue stream is welcomed by the community housing industry, this should not come at the expense of rental affordability for tenants. In the major capital cities in key inner urban labour markets, growth in market rents could further disadvantage low-income households. In addition, as a system of finance there is no necessity to adopt market rents as a benchmark, and indeed these may bear little resemblance to the costs of financing a social housing system. In other jurisdictions (the UK for example) rents are set on an operating cost model which as inferred, provides sufficient revenue to cover

services, maintenance and replacement. In most locations this rent is somewhat lower than market rates and thus requires less rental support.

Additional new supply could be supported via other subsidy mechanisms, targeted at providers who have the capacity to deliver these outcomes. Given the potential financial and social impacts of the Draft Recommendations we urge the PC to examine (or to recommend if resources do not permit) the costs and benefits of addressing inequity via alternative mechanisms including different rent setting mechanisms, CRA and the income support system and additional supply via subsidies to housing providers (or a mix of these). This should be in the form of a cost-benefit analysis that takes into account not only fairness but other outcomes such as impact on rents generally, asset supply and condition, short and long term costs, tenancy security and future demand given such factors as an aging population, disabilities and the needs of Indigenous communities.

Consumer voice as well as choice

The needs of tenants should be at the heart of the service provision. In this context we think the PC should analyse not just individual consumer choices but also tenants as whole influencing the delivery of housing and services.

Consumer choice and portability of subsidies

In principle, the idea that tenants should be able to exercise choice over their home and of the provider should lead to better outcomes and make providers more accountable. However, the ability of tenants of tenants to make choices in the marketplace is limited by non-economic factors such as a lack of tenure security, discrimination, a failure by the private housing market to produce adaptable or accessible design and in the case of Indigenous Australians, a lack of culturally appropriate housing. In our view therefore there are limits on the impact that consumer choice can have in this context.

The availability of a high-cost housing payment (Draft Recommendation 5.2) can overcome an affordability gap but may nonetheless not allow eligible individuals and households to access the private rental market or exercise choice in the manner envisaged by the PC. In a tight rental market, low-income households relying on subsidies to access private rental, often with additional non-shelter supports needs, may not be preferred by landlords who can always choose a tenant capable of paying market rent without government rental support. Social housing also provides tenure security, service delivery that works with non-shelter supports and protection from discrimination which is not available in the private market. This means that the private rental market will not be a suitable tenure for some households, and indeed it has not been structured to serve this purpose.

In addition, social housing tenants should not be limited to voicing dissatisfaction with the quality of their housing or services by moving to another home, incurring the costs and inconvenience of moving home in the process. This is particularly the case with tenants who are elderly and ageing in place, who are accessing educational or employment opportunities or who are impacted by the trauma of family violence.

In our previous submission we argued for less emphasis on changes to eligibility, allocations and rent setting. If changes were to be made to these settings then we argued that such changes should only be made on the basis of carefully designed, independently evaluated policy trials. This view remains relevant to the design of the high cost housing payment, which we expand on in further detail in our response to Draft Recommendation 5.2.

Consumer voice

What should also be taken into account is not just consumer *choice* but consumer *voice* – the ability for tenants as a whole to shape and influence the delivery of housing and services and for social housing providers. This is an essential feature of social housing provision in most European countries. Tenants play a key role in housing asset transfers and their votes drive major shifts in the mix and standards of services

delivered. Tenants often play key roles on the boards of non-profit providers and they have rights to be consulted about service choices, standards and outcomes. Regulators assessing provider performance usually report on whether providers adequately inform and consult tenants about changes. These 'voice' considerations usually relate not just to individuals and to tenants as a whole but also to local communities. Such mechanisms can be significantly more powerful in creating a more responsive and dynamic housing sector and especially in some of the more disadvantaged places of wealthy nations.

Accordingly, the Draft Recommendations also omit a further opportunity to improve choice for social housing tenants and accountability for providers in accounting for the collective voice of tenants in such contestable processes. In the UK, this has historically taken the form of a vote of tenants before such transfers can occur. Such mechanisms can improve the level of engagement between housing providers and tenants, generate a real sense of what stock improvements tenants want from landlords, set clear expectations and benchmarks for performance and create lasting dialogue between providers and communities.⁵

Such mechanisms have not featured in Australian transfers to date but there is no reason in principle or in practice why it should not.⁶ The *Better Housing Futures* transfers in Tasmania incorporated choice on an individual level with tenants being offered a choice to sign up to a new tenancy agreement with the community housing provider. One such provider secured the voluntary agreement of 89% of tenants within 18 months after taking on management of over 1,100 public housing tenancies.

Support for affordable housing across the continuum of need

We would also draw the PC's attention to a contestability of roles emerging within the community housing sector. While the focus of social housing provision is most often on individuals and households most disadvantaged in the housing market, parts of the community housing sector have over the last decade started carving out a wider role that looks at various forms of housing disadvantage. In some instances they are responding creatively to clear market failures, on the part of private providers, in remaking communities, shaping effective local partnerships and in innovative design and service provision to meet special housing needs and deliver local sustainable development aims. The reputation of many of the providers in the sector as both 'patient capital' and 'caring landlord' can create reputational and trust arrangements with others that are not always available to many less transparent and profit driven private providers.

In recent times in Australia, this role has included what the PC describes in its report (in Figure 5.1) as *affordable housing* – a bridge between social housing and the private market. Such programs offer a shallower subsidy than social housing, with rents calculated on either a household income or discount to market rent basis, and usually with broader eligibility criteria. Community housing providers have a range of motivations for wanting to deliver affordable housing, including to:

- alleviate rental stress amongst low and moderate income working households;
- increase the supply of quality, tenure-secure housing that allows individuals and households to access key labour markets and opportunities for education and training;
- provide more options to people to assist with a transition out of social housing and into the private market;
- prevent the concentration of people with complex needs within a particular housing setting; and

⁵ Maclennan and Miao, 2017

⁶ Pawson, H., Martin, C., Flanagan, K. and Phillips, R. (2016) Recent housing transfer experience in Australia: implications for affordable housing industry development, AHURI Final Report No. 273, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/273>, doi:10.18408/ahuri-7108101.

- diversify and build sources of income to improve leverage of their portfolio.

Other community housing providers have established non-profit real estate management businesses, variously to generate revenue, encourage philanthropic landlords and to improve access to the private rental market by low and moderate income households. The industry is also exploring its potential role in subsidised home ownership models.

Accordingly, we consider that there are dangers (and potential inequities) in focusing, as the Draft Report tends to, on a narrow focus on providing social housing to those most disadvantaged households. Rather, this broader spectrum of housing need continues to be given scant attention by policymakers. Indeed, it has been argued that targeting of allocations to households most disadvantaged is part of what has caused the decline of public housing systems across Australia.⁷ Yet participation by community housing providers in such programs spreads and diversifies costs and risks for providers, promotes consumer choices and allows providers to play a wider role in the housing market and in communities.

Indigenous housing

Any proposed reforms must take particular account of the needs of Aboriginal and Torres Strait Islander tenants and communities. Indigenous Australians in urban, regional and particularly in remote areas face particular barriers in accessing and securing safe and affordable housing, including discrimination and poverty.

In particular, any reform to rent-setting, eligibility and subsidies must recognise the complexity of current Indigenous housing arrangements, provider models and community needs. Some Indigenous housing providers have moved or are moving to registration under the NRSCH and similar state-based systems, most notably in NSW and Victoria. However, it is unclear whether all such providers of culturally appropriate housing, including Indigenous community organisations and Land Councils will (or indeed should) join such regulatory systems, consistent with the right of self-determination of Indigenous people.

Any model also needs to recognise that much Indigenous housing remains in a poor condition and that supplementary funding (above what could probably be charged in rent) is needed to bring it to acceptable standards. The NSW draft iPART report acknowledged this.⁸

One NSW Aboriginal housing provider has told us that:

The needs of our community for housing is growing substantially ever year. We have many young families living in overcrowded conditions and some of them homeless. We have people living in garages, sheds and even in their own vehicles. Some are living in refuges and homeless places but they can only stay three months and then they have to find their own means. We can't house them because we have NO new housing. We can only help when someone is evicted. This is no solution because the evicted family (very few) then becomes homeless. Most Aboriginal people do not register their needs for housing because of the most culturally inappropriate method of applying for housing with mainstream Community Housing or NSW Housing. They still are under the false opinion that they can put in an application with the LALCs and get on the list.

This quote emphasises the very real cultural factors that stand in the way of Indigenous Australians exercising choice in the social housing system and the private rental market. Indigenous families are four times more likely to be living in overcrowded housing than non-Indigenous families. While Indigenous families represent only 1.4% of all families in Australia, they account for 22% of families assessed as

⁷ Jacobs, K. et al. (2010) What future for public housing? A critical analysis AHURI Final Report No. 151. Melbourne: Australian Housing and Urban Research Institute.

⁸ <https://www.ipart.nsw.gov.au/Home/Industries/Special-Reviews/Reviews/Affordable-Housing/Review-of-Social-and-Affordable-Housing-Rent-Models>

homeless and 38% of families living in improvised dwellings. This reinforces the need to ensure we understand the impact of reforms.

Discrimination in the private sector is a very real issue for Aboriginal and Torres Strait Islander people. Culturally sensitive management in the community and public housing sphere is variable and poorly supported by government. Accordingly, many Aboriginal people argue for more Aboriginality managed housing to increase choice for Aboriginal people. All social landlords need support to improve practice to provide housing that is culturally appropriate.

Our response to the Draft Recommendations

In this section we provide some detailed comments on the Draft Recommendations. These should be read in light of the overarching comments made in the submission.

DRAFT RECOMMENDATION 5.1

The Australian Government should enhance Commonwealth Rent Assistance (CRA) by:

- *extending CRA to cover tenants in public housing*
- *increasing the current maximum CRA payment by about 15 per cent to address the fall in the relative value of CRA caused by average rents rising faster than the consumer price index since 2007*
- *indexing the maximum CRA payment amount to reflect changes in rental prices nationally.*

The long-term decline in the real value of CRA poses a considerable risk to its adequacy as a rental support for the many Australians that rely upon it to maintain housing in the private rental market. The current arrangements for CRA also pose a challenge for community housing providers in the long term owing to the failure of CRA to keep pace with the costs of managing social housing stock.

Increases to CRA need to be carefully modelled. This includes the impact of applying a flat rate of CRA that is not adjusted for locational factors, which has the potential to lead to locational disadvantage for low income people. In broadly comparable systems, such as in the UK housing benefit system or the US low income housing tax credit approach, regional variations in median rents are recognised as a better basis for support calculations than national averages.

DRAFT RECOMMENDATION 5.2

State and Territory Governments should abolish the current assistance model for social housing where rents are set at a proportion of the tenant's income and enhance user choice by:

- *providing a high-cost housing payment funded by State and Territory Governments for eligible tenants, such as those with a demonstrated need to live in a high-rent area*
- *delivering the high-cost housing payment to the tenant in a way that would enable it to be used in either the social or private rental markets*
- *offering existing tenants in social housing an option between continuing to pay rent set at a proportion of their income for up to ten years, or electing to move to the new assistance model*
- *charging market rents for tenants in social housing.*

We support moves to a more sustainable rental model for the social housing system. A system of market rents supported by appropriate and flexible subsidies to households would have the benefit of breaking the current trade off inherent in the business model for the community housing industry in Australia. Australia's system of rent-setting is one where a single system of rent is designed to provide both affordability for households and support the financing of the social housing system. This approach leaves providers grappling with a tension between affordability of rent, allocation to those households most in

need and their long-term financial viability. The PC proposal has the potential to reduce that shift of scope, however there are also challenges associated with this as a system of finance for the social housing system as we have noted previously.

The design of the high-cost housing payment is therefore crucial to making the PC's proposal to work for both households and social housing providers. This includes:

- the adequacy of the payment so as to genuinely cover the gap between market rent and an affordable out of pocket outlay on rent for the household;
- eligibility for the payment not being overly restricted or subject to unreasonable conditions, including being time-limited or used as a means to create limited tenure in social housing.

We do not think that the proposed high cost housing payment should be used as a mechanism to effectively make significant adjustments to the current settings on eligibility and rental affordability for households (currently managed via rent setting).

If this high cost housing payment is too hard to obtain, or time limited (based on an idea that most people should transition out of social housing) or too low, then this funding model will not support good outcomes for tenants. It could leave providers with an unstable tenant base, having to respond to tenants in rental stress or faced with unenviable choices between affordability for households and financial viability.

The high-cost housing payment needs to be flexible enough to account for adjustments in local market conditions to as to prevent households from being forced from high-market rent areas where they have local connections. We are also skeptical of the notion in the Draft Report that under a contribution to rent model, tenants have an incentive to resist any opportunistic increases in rent by landlords because they pay part of any increase in rent. There are a number of factors that prevent tenants from pushing back on market rent assessments, including a lack of information about market rents on the part of tenants and an imbalance of bargaining power between landlords and tenants.

Caps or restrictions on the pace of rent escalation in pressured metropolitan markets for existing tenancies are widely used internationally. In Australia it may not be possible to prevent households in social housing from being placed in housing stress unless the high-cost housing payment is sufficiently flexible to adjust for such changes in market rents. Australia's rental housing markets in metropolitan areas are not elastic housing supply systems that reach long term market equilibrium quickly (the apparent PC assumption underpinning their market rent recommendations). There are some parts of Australia where no functioning market exists, such as remote communities and some seaboard centres, making assessment of market conditions challenging.

We also believe that there are some practical and conceptual difficulties in applying market price comparables to social housing stock and tenants. It may well be that such systems could have the unintended consequence of enticing disadvantaged households away from locations that are close to services and employment.

In addition, affordable housing programs operated by community housing providers which operate on a discount-to-market basis would be undermined by mandating a shift to market rents, unless the eligibility for CRA or the proposed housing payment were also adjusted to account for households supported by such programs.

Whilst supporting the PC's approach towards a coherent rent setting mechanism and recognising the in-principle merits in market based pricing (though noting our comments about other rental models) our concerns about implementing their proposals in real housing markets are significant and we would seek to discuss with the PC a deliverable, sustainable approach to market based pricing.

DRAFT RECOMMENDATION 5.3

State and Territory Governments should introduce choice-based letting for tenants entering into, and transferring between, social housing properties.

Consistent with our previous submission, we support feasibility testing and policy trials for Choice Based Letting in consultation with stakeholders, which, based on overseas evaluations, have improved user choice and system efficiency in these jurisdictions. This would also look to establish a uniform high-level national social housing allocations approach, taking into account standardised assessment of housing need. This can help create a more competitive social housing landlord market. Such systems naturally need to take into account regional factors, Indigenous cultural considerations and strategies to create socially sustainable communities in buildings or areas with a high concentration of social housing.

We maintain however that where social housing shortages are chronic, that choice based lettings will make only modest improvements to real choice processes. Any such system needs to be properly funded and supported so that social housing tenants, many facing significant disadvantage, able to exercise meaningful choice.

DRAFT RECOMMENDATION 5.4

State and Territory Governments should continue to make the management of social housing properties contestable, on a staged basis. The management of social housing properties should be subject to a tender process that is open to all providers, including the government provider.

We agree with the principle that no particular provider entity should be prioritised in a transparent and fair social housing system. Contestability and competition is a key mechanism to drive service improvement and innovation. This contestability must naturally be based on a level playing field between different providers. Indeed, the NRSCH is already open to participation by both non-profit and for-profit providers. The lack of interest to date in social and affordable housing from private interests is unsurprising given the very low rental yields and the lack of asset and service standards currently in the private rental sector. This may change with the package of reforms proposed in the Draft Report, but it is likely that the competitive tension between providers will remain between public and non-profit providers. We agree with the principle that there is a need for a proper evaluation of the outcomes of such transfers. One key barrier has been the lack of a clearly identified rationale by governments for past transfer programs, which have variously included increased revenue from CRA, improved services to tenants and building the capacity of the community housing sector.

DRAFT RECOMMENDATION 6.1

When commissioning tenancy support services, State and Territory Governments should:

- *clearly separate the funding and commissioning of tenancy support services from tenancy management services*
- *ensure that tenants renting in the private market have the same access to support services as tenants in social housing*

We support this Draft Recommendation. In our previous submission we argued for measures to better disaggregate community housing services - including non-shelter outcomes - and explicitly include these in funding agreements and social housing transfer contracts.

We believe there is more work to be done to better define what constitutes tenancy support and what constitutes enhanced tenancy management. Enhanced tenancy management is not well defined in Australia and is probably more landlord dependent than tenure dependent. The AHURI cost effectiveness

study estimates the amount spent by providers on these functions.⁹ We also draw the PC's attention to the HouseKeys project noted in our previous submission. In the UK, enhanced tenancy management under Supporting People (now housing related support) covers support to:

- Find somewhere to live and set up home
- Direct assistance to deal with rent arrears, debt and budgeting
- Learn life, domestic and social skills to help tenants stay independent
- Apply for all the benefits a tenant may be entitled to
- Find training and support to get a job
- Get an alarm to call for help in an emergency

In respect of tenants in the private market accessing support services, we naturally believe that all people should be able to access appropriate support services based on need. If there is a perception that people in social housing are better able to access services, this perhaps derives from the way in which social housing has been allocated to households assessed as most in need.

We also think that good social landlords play a key role in brokering and coordinating support for tenants as an essential element of their landlord function. Community housing providers have a strong track record in this area. Indeed, NRSCH and similar regulatory systems embed obligations to facilitate access to appropriate support services as a part of responsibilities to sustain tenancies at risk and to use eviction as a mechanisms of last resort. While there is no reason in principle why a for-profit or private landlord could not also undertake the same responsibilities, the private rental sector has to date shown little interest in undertaking such responsibilities. New Zealand had a failed experiment with this in 1999-2001 which led to landlords withdrawing from contracts.

DRAFT RECOMMENDATION 6.2

State and Territory Governments should ensure that the entity responsible for managing social housing assets is separate from the entity responsible for social housing policy. The entity managing social housing assets should be subject to competitive neutrality policies

In our previous submission we argued for a more clearly differentiated role for the state government in its various roles as:

- Funders of social housing
- Policy makers on matters such as social housing eligibility and rent structures
- Providers of social housing
- Regulators of community housing

In South Australia, an arrangement where Renewal SA sets policy and contracts with community housing providers and Housing SA manages the public housing system (and is a separate part of government reporting to a different Minister) has been seen as beneficial.

In a truly contestable system, the part of government with responsibility for making decisions about the appropriate entity to both manage and own social housing assets should be separate from the part of government delivering public housing. Decisions about the appropriate ownership of assets should be made fairly and transparently and in the best interests of tenants and communities as well as on the basis of the most efficient use of public assets. To that end, it would be useful for the PC to clarify that its Draft

⁹ Pawson, H., Milligan, V., Liu, E., Phibbs, P. and Rowley, S. (2015) Assessing management costs and tenant outcomes in social housing: recommended methods and future directions, AHURI Final Report No.257 Melbourne: Australian Housing and Urban Research Institute Limited. Available from:<<http://www.ahuri.edu.au/publications/projects/p71025>>.

Recommendation considers that the “entity responsible for managing social housing assets” is intended to be appropriately separate from the entity which provides tenancy management.

DRAFT RECOMMENDATION 6.3

State and Territory Governments should ensure that applicants for social housing assistance:

- *receive a comprehensive up-front assessment of their eligibility for: a social housing placement; the high-cost housing payment (draft recommendation 5.2); and tenancy or other service support, including support to enable the tenant to choose their home*
- *are made aware: that the high-cost housing payment would be payable if they chose to live in either the private or social housing markets; and of the extent to which support services available in social housing would also be available in the private market.*

This Draft Recommendation would be a necessary element of all of the Draft Recommendations implemented as a package.

DRAFT RECOMMENDATION 6.4

State and Territory Governments, in conjunction with the Australian Institute of Health and Welfare, should improve the data that are collected on:

- *the efficiency of social housing*
- *tenant outcomes, including high-cost housing payment and service recipients who choose to rent in the private housing market.*

State and Territory Governments should clearly define the outcomes they are seeking to achieve to support the commissioning of tenancy management and tenancy support services, and put in place frameworks to assess their success in meeting these outcomes over time. Outcomes data should, to the extent possible, be consistent and comparable to that developed for family and community services (draft recommendation 7.3).

We support this Draft Recommendation. Indeed, in our previous submission we argued for:

- measures to improve data collection, analysis and transparency to allow public agencies and social housing users to differentiate between landlords and make informed choices;
- a move to an evaluation culture, enabling better understanding and knowledge sharing of housing delivery innovations and policy changes;
- involving users in designing reforms of social housing delivery and regulation, and formalising their ongoing role across public, not-for-profit and private landlords.

DRAFT RECOMMENDATION 6.5

State and Territory Governments should:

- *publish information on expected waiting times to access social housing, by region, in a format that is accessible to prospective tenants*
- *make publicly available the regulatory reports on the performance of community providers that are undertaken as part of the National Regulatory System for Community Housing.*

To facilitate choice-based letting, State and Territory Governments should publish information on available social housing properties, such as the rent charged for the property, number of bedrooms and the location

of the property. This information should be disseminated across a range of mediums, such as online and printed leaflets.

In principle we support the idea of the transparency of the regulatory performance of all social housing providers – government and non-government. This not just builds accountability of providers and makes tenant choice more meaningful, it is also a means by which confidence in regulated entities can be built amongst financiers in particular. Getting the system of regulation right is a key element of the future ability of the NHFIC to raise private finance on behalf of the sector. Experience in the UK is that private investors are readily able to back entities that are assessed as being financially sound by an independent regulator and this can considerably lower the cost of finance for the sector.¹⁰

Consideration should be given to a system similar to that which exists in Scotland where regulation plans are published and comparative performance data is available. There are a range of approaches to such regulatory reports, and we would advocate for greater consultation with the community housing industry before this step is initiated.

INFORMATION REQUEST

The Commission supports the principle of consistent regulation across different types of social housing providers. The Commission is seeking information and evidence on whether changes to the National Regulatory System for Community Housing (NRSCH) are needed to accommodate different types of providers. This includes information and evidence on:

- *whether the NRSCH is flexible enough to regulate different types of providers and, if not, the changes that are necessary*
- *the costs and benefits of extending the NRSCH to include different types of providers of tenancy management services*
- *the extent to which inconsistencies between jurisdictions add to administration costs and create barriers to entry (the Commission would welcome quantitative evidence on the costs incurred by providers)*

In our previous submission we argued for substantial reform of the NRSCH and for it to cover all social housing landlords, be truly national, and focus more on users and service quality.

The effectiveness of the NRSCH has been undermined by the failure of Victoria and Western Australia to participate to date, the lack of support for mechanisms such as the National Regulatory Council to ensure a consistency of approach and the absence of Commonwealth leadership and participation. However, the NRSCH has achieved a consistency of regulatory standards across participating jurisdictions and gone some way to breaking down barriers for providers to operate in multiple jurisdictions. To that end, the NRSCH does provide a sound platform for further regulatory reform that establishes a single national regulatory function and regulates all social housing providers – government and non-government – consistently. There is no reason in principle why public housing authorities should not be assessed against the same standards as the community sector is currently subject.

We are of the view that the NRSCH is capable of being reformed quite easily to cover any landlord (a for profit can register now) and public housing could easily be included with minor legislative changes. The existing National Regulatory Code is already applied differently to large and smaller providers in the form of different requirements under the Evidence Guidelines, and this could be further adapted for government providers.

¹⁰ Maclennan and Miao, 2017

Submission from the community housing sector

Any such reform should be carried out collaboratively with all providers and be subject to appropriate governance mechanisms.