

Senate Committee inquiry into the Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017 [Provisions]

Victorian Government response to written Questions on Notice

- 1. The Queensland Government has drawn to the committee's attention the Commonwealth's recent decision to cease funding for remote Indigenous housing. Can you go into more detail about the potential impacts of this decision on the proposed NHHA? Is it expected that this need will be met entirely by State funding or will Commonwealth funding under the NHHA form part of the resourcing?**

Victoria currently does not receive funding for remote Indigenous housing from the Commonwealth Government.

- 2. Are the States and Territories concerned that this primary agreement and secondary bilateral agreements can be finalised by the commencement date of 1 July 2018? What risks with this commencement date should the committee be mindful of?**

Victoria is working with the Commonwealth and other states and territories to reach agreement before 1 July 2018, to provide funding certainty to service providers and ensure continuity of services. However, if a suitable agreement cannot be reached in this timeframe then Victoria would support an extension to the current existing agreements until the NHHA can be finalised, to ensure continuity of services. Victoria notes that a wide range of agencies providing vital support services to homeless Victorians will require certainty of funding well in advance of 1 July 2018 to allow them to effectively plan services and resourcing requirements.

- 3. As part of a NHHA – would you support the view held by some stakeholders that the Commonwealth should be required to develop a National Housing Strategy? Are there any other requirements that the States and Territories believe the Commonwealth should commit to?**

Housing affordability is a complex issue, and requires joined up approaches across all levels of government to achieve outcomes. However, this Bill shifts responsibility for housing affordability to the States alone. This is not feasible. The Commonwealth holds significant policy levers that affect demand for housing (such as taxation, including capital gains and negative gearing, migration and income support, including the level of Commonwealth Rent Assistance). There is no mechanism in the Bill that describes the role of the Commonwealth exercising these levers or any activity that addresses demand. Where Victoria needs to respond to Commonwealth changes of policy, this creates significant financial risk for the States.

There are significant interlinkages between the social housing and homelessness supports provided by the Commonwealth and the States. A significant proportion of public housing tenants receive Centrelink support, who without public housing, would be in unstable housing or homeless. A number of people in the private rental market rely on Commonwealth Rent Assistance to maintain tenancy, which has not kept pace with the cost of renting. Acknowledging the interconnectedness of State and Commonwealth policies and the effect this has on whether a vulnerable person can access and maintain stable housing is critical to achieving positive, long-term outcomes across Australia.

Victoria considers that any standalone Commonwealth plan provide commitments to addressing housing and homelessness issues and complement state and territory strategies. Victoria also

considers that the Commonwealth's role and contributions to achieving housing and homelessness outcomes should be clearly articulated in the NHHA.

4. Can you provide details of the increased administrative burden of the new framework, particularly in relation to data provision requirements? Please provide an estimate of the costs as well.

The administrative requirements of the new framework are currently unclear, as the performance indicators are still under negotiation for the multilateral agreement and not specified in the Bill.

However, as outlined in the submission, the Bill seeks to make payment of all NHHA funds conditional upon the States fulfilling any data request of the Commonwealth Minister relating to housing, homelessness or housing affordability. There is no valid rationale for putting funding for the community's most vulnerable people at risk by making funding conditional on the delivery of information requests.

Given that the current data provision requirements are unspecified, yet funding is conditional on meeting the requirements, Victoria is concerned that future requests may not be reasonable or achievable, and that Victoria's funding is at risk if these currently unspecified requirements cannot be met.

Victoria is very supportive of improved transparency, reporting and data collection and willing to work with the Commonwealth to make these improvements. However, this should be described in the Agreement, rather than enshrined in law through legislation. It should not be linked to the provision of funding and therefore come at the expense of funding certainty. Any increases in administrative burden due to onerous data provision and reporting requirements may also come at the expense of housing and homelessness service provision.

i. What data is currently collected on housing services by the Commonwealth and what is currently collected by the States?

Victoria currently collects a range of social housing data, including the following:

- Information on public housing tenants, residents and their dependants including:
 - Names, date of birth, residency status, cultural background, language spoken/preferred, contact details, greatest need reason, support services, income and assets (rebate households), bond application information. Similar information is also collected on applicants for public housing.
- Information on public housing properties:
 - Number of dwellings, number of bedrooms, scheduled works, market rent, if vacant or occupied.
- Financial data collection including:
 - Capital grants and subsidies, transfer of government stock to community sector amount, rent collection amounts.
- Similar limited information is collected from Community Housing Associations.

A significant amount of this detail is provided to the Commonwealth Government for use by the Australian Institute of Health and Wellbeing and the Productivity Commission, for use in the Report on Government Services.

Victoria understands that the Commonwealth collects and holds a range of data relating to recipients of welfare payments, including those on Commonwealth Rent Assistance. The Australian Bureau of Statistics also captures data relating to housing and homelessness via the Census.

ii. Is there currently overlap in the data collected at the Commonwealth and State levels in this sector?

Victoria is supportive of efforts to improve housing and homelessness data, and in discussions with the Commonwealth and other states and territories in negotiating the National Housing and Homelessness Agreement, Victorian officials have been supportive of proposed work to improve data collection to ensure greater transparency, consistency and reliability of this data.

In relation to housing services data, Victoria aims to reduce the reporting burden placed on the community housing sector, and therefore where possible, standardised and existing reporting channels are used. For example, Victoria leverages data requested as part of the Australian Institute of Health and Welfare reporting process in order to avoid duplication and overlap.

From a homelessness perspective, homelessness data is collected by the Commonwealth through the Australian Institute of Health and Welfare. Service providers directly report client data (including demographics, need for services, the levels of services provided) to the AIHW who publicly report aggregates of this data at a State and national level and provide information to the Productivity Commission for the Report on Government Services.

There are some inefficiencies at the Commonwealth and State levels for homelessness data. In 2015-16, Victoria commenced the Homelessness Data Collection (HDC) which requires homelessness service providers to provide the Victorian Department of Health and Human Services with a copy of the data they send to the AIHW. The HDC was introduced as client-level data from the AIHW were only provided annually and the AIHW placed restrictions on the use of homelessness data in leveraging improvements out of service providers. These restrictions on use were based on the AIHW's agreement with service providers which was at odds with the department's agreement with service providers.

Victoria welcomes the opportunity to work with the Commonwealth and the AIHW to improve access to and use of AIHW data to minimise any additional requests on service providers.

iii. As drafted, do you think the bill could result in overlap?

As above, Victoria is supportive of efforts to improve housing and homelessness data, and in discussions with the Commonwealth and other states and territories in negotiating the National Housing and Homelessness Agreement has been supportive of proposed work to improve data collection to ensure greater consistency and reliability of this data.

It is Victoria's position, consistent with the joint state and territories submission, that the requirements in the Bill relating to data requests from the Commonwealth should not be a condition of funding, and are too broad and may create unnecessary administrative burden.

5. The joint submission raised concerns about the lack of clarity on how a housing or homelessness strategy will be determined to be 'credible'. In the Victorian Government's view, should it be a requirement for funding that a housing or homelessness strategy be determined by the Commonwealth as 'credible'?

It is Victoria's view that funding under the proposed legislation should not be conditional on a subjective assessment of whether state and territory housing and homelessness strategies are determined to be 'credible'. This is an input control that contravenes the principles of the IGA FFR.

The Bill is unclear on the process for how and when the Commonwealth will make its subjective determination. This detail should be included in the Agreement and not in legislation.

It is Victoria's view that Victoria is best placed to determine the content of its housing and homelessness strategies, in consultation with its partners in the housing and homelessness sectors, to ensure that they are tailored to and responsive to the unique challenges being faced in Victoria.

i. What essential conditions do you consider would need to be included in a housing or homelessness strategy in order for it to be 'credible'?

It is Victoria's position that funding under the proposed legislation should not be conditional on a subjective assessment of whether state and territory housing and homelessness strategies are determined to be 'credible'.

It is Victoria's view that housing and homelessness strategies will necessarily look different from jurisdiction to jurisdiction, and a single set of conditions for all jurisdictions is therefore not appropriate. For example, the challenges faced in Victoria will be different to those experienced in Tasmania, or the Northern Territory. As no jurisdiction is the same, it is important that states and territories retain the autonomy to develop and present strategies that best reflect the particular needs of its clients and the conditions unique to its jurisdiction. This means that what is an important element of one state's strategy (for example, remote Indigenous housing) may feature less prominently, or not at all, in others.

Even within a jurisdiction, conditions will change over time and states must have the autonomy to adjust forecasts and strategies. The Bill allows the Commonwealth to influence when and how often States update their strategies and decide on whether the forecasts and reforms are satisfactory or not.

ii. If the Government were to issue guidance on how States and Territories can meet the Commonwealth's expectations in relation to what will be considered a 'credible' housing or homelessness strategy, what do you think such guidance should cover?

It is Victoria's position that funding under the proposed agreement should not be conditional on a subjective assessment of whether state and territory housing and homelessness strategies are determined to be 'credible'.

Therefore, Victoria does not support the Commonwealth issuing guidance to support this requirement.

iii. In your view, what would be an appropriate consultation period on such guidance?

It is Victoria's position that funding under the proposed agreement should not be conditional on a subjective assessment of whether state and territory housing and homelessness strategies are determined to be 'credible'. Therefore, Victoria does not support the Commonwealth issuing guidance to support this requirement.

6. The Treasury and Department of Social Services (submission 22, p. 13) state that the Commonwealth will not assess the form or content of a State's housing or homelessness strategies. If this is the case, should the term 'credible' be removed from the explanatory memorandum in relation to housing and homelessness strategies?

Yes. In addition to this, as per Recommendation 2A of the joint state and territory submission, if the Bill were not to be withdrawn in accordance with the primary recommendation of the submission (Recommendation 1), Victoria would support the Bill being amended to remove the requirements that would legislate the content of state and territory housing and homelessness strategies and make funding conditional on strategies being in place at all times.

7. The joint submission raised concerns about the legislated requirements proposed in the bill, which place conditions on Commonwealth payments to states and territories for housing and homelessness services. In particular there is a concern that failure to meet these conditions could result in state and territories being penalised.

i. How could the bill be amended to address this concern?

As per the states and territories' submission (Recommendation 1), Victoria's preference is for the Bill to be withdrawn, and a new amendment to the Federal Financial Relations Act be drafted which repeals the national specific purpose payment for housing services and introduces a new national housing and homelessness payment. The new legislation should operate in a similar fashion to the national health reform payments and the only condition for receiving Commonwealth assistance should be that the financial assistance is spent on housing and/or homelessness services. Consistent with other national agreements, the detail of the partnership and commitments that both levels of government enter into under the agreement can be articulated in the new NHHA.

If the Bill is not withdrawn, Victoria would support the following amendments to the Bill, as outlined in the state and territory submission (Recommendations 2A, 2B, 2C and 2D):

- Recommendation 2A: That if the Bill retains reference to input controls (noting this is not supported by the States), that the Bill is amended to remove the requirements that would legislate the content of state and territory housing and homelessness strategies, including references to aggregate housing supply targets, projecting and meeting housing demand and identification of priority homelessness cohorts.
- Recommendation 2B: That the Bill is amended to remove the requirement for matched homelessness funding, to preserve the independence of state and territory government fiscal management.
- Recommendation 2C: That, in the absence of significant additional Commonwealth investment and commitment to joint action, the Committee recommend removing references to 'housing affordability matters' as this significantly expands the scope of the NHHA beyond that of the current agreement and may divert funding away from critical social housing and homelessness services.
- Recommendation 2D: That, to reduce uncertainty for the States, the Committee recommend replacing the broad reporting obligations imposed on the States with narrower specific obligations as specified in the primary housing agreement.

ii. What would be the impact on housing and homelessness services in Victoria if the state did not receive 100 percent of its funding allocation?

Commonwealth funding provided to Victoria under the proposed National Housing and Homelessness Agreement is critical to supporting Victoria's social housing and homelessness systems and the wellbeing and safety of the 170,000 Victorians who receive housing and homelessness services each year.

In Victoria, Commonwealth funding under the National Affordable Housing Agreement and National Partnership Agreement on Homelessness is used to:

- sustain a public housing system of more than 65,000 dwellings¹ and ensures that Victoria's public housing portfolio remains fit for purpose, and is located in well-served areas to allow tenants to maintain access to local amenities and services, such as schools and employment.
- support more than 100,000 clients to receive homelessness assistance per year².

Withdrawal of Commonwealth funding will place the sustainability of existing services at risk. Many agencies in the service sector operate with low overheads and thin balance sheets, as such any withdrawal of funding could be expected to immediately compromise the delivery of core services with some services expected to close or be wound back.

8. The joint submission noted the bill outlines that the new NHHA will have a broader scope than previous housing agreements and will now include housing affordability in the broader residential property market. Do you have any concerns about the ongoing level of funding to address issues beyond the scope of social housing and homelessness supports that are currently funded under the NAHA and NPAH?

Victoria welcomes the decision by the Commonwealth to provide ongoing and indexed funding for homelessness services, which has not occurred for a number of years under successive short-term National Partnership Agreements on Homelessness. However this funding has not kept pace with demand, or the rising costs of providing social housing services, and as a result the value of these funds has been diminishing over time. Victoria also notes that there is no additional funding under the proposed agreement to support an increase in supply, or to address housing affordability matters.

Victoria currently directs the Commonwealth funding provided under the National Affordable Housing Agreement (NAHA) and National Partnership Agreement on Homelessness (NPAH) to support ongoing service delivery of social housing and homelessness services.

As stated in the joint submission, the expanded scope of the NHHA to introduce housing affordability creates a risk that funding for these services will be redirected away from initiatives assisting Victoria's most vulnerable people. Given that the NHHA does not provide any additional Commonwealth funding than was provided under the NAHA and NPAH, funding under the NHHA will only be sufficient to maintain existing initiatives.

- 9. The submission also implies that the current attitude of this Government is to make housing affordability the responsibility of the states? Why is this approach wrong?**
- i. The submission also says "The Commonwealth should demonstrate more willingness to use its own policy levers, such as taxation..."**

¹ DHHS Annual Report 2016-17 - Social housing and specialist homelessness services additional service delivery data

² AIHW Specialist homelessness services annual report 2016-17 - <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-2016-17>

ii. **Should tax settings be a part of a housing affordability discussion? Negative gearing and capital gains tax reform?**

The Victorian Government has made a range of significant commitments towards addressing housing supply and housing affordability through *Homes for Victorians*. Specifically, *Homes for Victorians*:

- supports people to buy their own homes through initiatives such as stamp duty relief, first home buyer grants and shared equity schemes
- introduces planning reforms to increase the supply of land and housing, including dedicated affordable housing
- introduces reforms and initiatives that improve affordability and stability for renters
- is a record investment by the Victorian Government in social and affordable housing, changing taxes and concessions, and providing certainty in planning and housing supply to ensure the best housing outcomes for Victorians across the State.

However, as stated in the joint submission, states and territories do not control all of the levers that influence the demand for housing assistance and cannot address housing affordability on their own.

10. What guidance has been given by Treasury about how the 5 conditions will be defined and evaluated? Is there any appeals process to Commonwealth decisions taken about non-compliance? Who will be carrying out the evaluation? Is there any transparency in this process?

Victoria's concerns are not necessarily around what guidance material has been provided by officials but relate to the uncertainty of the legislated requirements of the conditions. Victoria also considers that the requirements lack clarity around the assessment criteria and decision review processes. Regardless of advice from officials, conditions will always be open to interpretation by the government of the day. The risks associated with this are unnecessary and the policy objectives of the Commonwealth would be better achieved through negotiation of the agreement and a partnership approach to joint action. Any guidance should be included in the Agreement, rather than in legislation. This also allows for flexibility over time.

11. Is it the States and Territories understanding that to the extent that Commonwealth funding will be conditional on the requirements of proposed subsection 15C(5) in the Bill, does the requirement place an obligation on them to include in their strategy indications of the level of demand for private market owner-occupied and private market rental housing? If so, does the requirement mark a shift in the purpose of Commonwealth housing assistance under the NHHA away from social housing assistance towards private market housing assistance?

As indicated in the joint submission, the inclusion of clause 15C(a)(i) creates a risk that funding for social housing and homelessness services will be diverted to wider affordability responses.

Victoria currently directs the Commonwealth funding provided under the National Affordable Housing Agreement (NAHA) and National Partnership Agreement on Homelessness (NPAH) to support ongoing service delivery of social housing and homelessness services. As stated in the joint submission, the broader scope of the NHHA creates a risk that funding for these services will be redirected to other areas that impact the supply and cost of housing in the wider housing market. Victoria notes that other than indexation, the NHHA does not provide any

additional Commonwealth funding than was provided under the NAHA to address housing affordability matters.

As per the state and territory submission, it is Victoria's view that if a broader approach that encompasses housing affordability is to be pursued, this can only be achieved with a more holistic plan for the overall housing system and this approach must be supported by significant additional Commonwealth investment, as well as a commitment from the Commonwealth to use the many levers at its disposal.

12. And with Recommendation 2C – I take it to mean that the States would like to see a meaningful commitment from the Commonwealth to joint action on housing affordability and homelessness? Do you have any more detail to add on what isn't being acted on by the Commonwealth?

It is not the States' role to recommend Commonwealth policy. Housing and homelessness is a dynamic policy area, with divergence across and within states and territories. The States are seeking a partnership approach with the Commonwealth to address these housing and homelessness challenges.

The Victorian Government has made a range of significant commitments towards addressing housing and homelessness through *Homes for Victorians*, including to address housing affordability in Victoria. Specifically, *Homes for Victorians*:

- supports people to buy their own homes through initiatives such as stamp duty relief, first home buyer grants and shared equity schemes
- introduces planning reforms to increase the supply of land and housing, including dedicated affordable housing
- introduces reforms and initiatives that improve affordability and stability for renters
- invests over \$2.7 billion to increase and renew social housing
- invests \$109 million towards housing and services for people who are homeless, or at risk of homelessness
- is a record investment by the Victorian Government in social and affordable housing, changing taxes and concessions, and providing certainty in planning and housing supply to ensure the best housing outcomes for Victorians across the State.

However, as stated in the joint submission, states and territories do not control all of the levers that influence housing outcomes and cannot address housing affordability on their own.

13. How does this bill set a precedent for future Commonwealth-State relations, both positive and negative? What should the committee be mindful of?

As outlined in the joint state and territory submission, the changes to the *Federal Financial Relations Act* proposed by this Bill are inconsistent with the Intergovernmental Agreement on Federal Financial Relations.

It is Victoria's view that the inclusion of fixed and prescriptive requirements underpinning ongoing funding in the Bill, and the application of these requirements to all states and territories regardless of their circumstances will create funding uncertainty and limit the

flexibility of the states and territories to respond quickly to economic, demographic and social changes as they arise.

The Commonwealth has legislated content that would normally have been included in a multi-lateral or bilateral agreement. This creates inflexibility for the Commonwealth and the States. It also transforms non-compliance of the conditions into a legal matter.