



Date: 23 February 2023

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

CHIA Submission to the Senate Economics Legislation Committee Inquiry - *The provisions of the Housing Australia Future Fund Bill 2023, National Housing Supply and Affordability Council Bill 2023 and Treasury Laws Amendment (Housing Measures No. 1) Bill 2023*

The Community Housing Industry Association (CHIA) which represents not for profit community housing organisations (CHOs) across Australia is pleased to make this submission to this Senate Economics Legislation Committee inquiry.

Our submission is largely a summary of our recommendations made in response to the three draft bills published in December 2022. While some issues we identified have been resolved (notably the absence of a requirement for Aboriginal and Torres Strait Islander experience and expertise on either the National Housing Supply and Affordability Council or the Housing Australia's board) most have not. However, following subsequent developments (including meetings with government officials), we have modified some recommendations and reduced the number, focusing on the most important.

One of the most important issues to be resolved is providing assurance of the adequacy and certainty of HAFF cashflows to meet future obligations. For CHOs availability payments made direct to them would need to be index linked, as is the case with other similar government programs. This reflects the commercial reality that costs and expenses rise at higher rate than income from rents. While the initial \$500M cap on disbursements from the HAFF will be able to accommodate payments in respect of approved projects, this will not be the case beyond year five.

We are also concerned that Housing Australia's research function while recognised in the relevant draft bill was removed from the version introduced to Parliament. We understand that the rationale for the decision was that Housing Australia's research function was no longer required as this activity would be carried out by the secretariat to the National Housing Supply and Affordability Council. Our experience is that NHFIC's research has focused on areas to support its other functions and that it has been of value to a wide range of its stakeholders including CHIA. It is ideally positioned to build on this work given its increasing store of housing system data. The Council, via its secretariat, should be able to procure research from Housing Australia in the same way we envisage it will from (for example) the ABS or the Centre for Population. This would have the advantage of strengthening the Council's independence.

While overall, we strongly support the legislation, there are significant respects in which we believe it can be strengthened to ensure the intended housing outcomes are achieved, that the Council provides quality

independent advice and that Housing Australia over time becomes the strong national housing agency we need.

This submission should be read in conjunction with our original response which contains the reasons for our recommendations.

Housing Australia Future Fund Bill 2023

Our recommendations are concerned to (1) provide assurance of the adequacy and certainty of HAFF cashflows to meet obligations, (2) ensure that all projects - from whatever proponent - are assessed against the same standards, and (3) enable adjustments to the Fund and its operations to incorporate lessons from its implementation and the progress of other initiatives such as the National Housing Accord. Our recommendations reflect and are consistent with those made by Industry Super Australia.

Ensure that the HAFF is future proofed by:

- The annual limit for amounts debited from the HAFF Special Account as proposed in S36 Part 5 of the HAFF Bill should be indexed annually on 1 July by the housing group of the consumer price index for each year subsequent to the financial year beginning 1 July 2028.
- The Commonwealth should make clear the process through which it will underwrite the returns from the Housing Australia Future Fund to meet contractual payment commitments required to be funded from the Housing Australia Special Account.
- The approval process for payments by the Minister from the HAFF in S33 Part 4 of the HAFF Bill should occur on the explicit advice of Housing Australia after it assesses its requirements and commitments under its legislated functions and investment mandates for current and future years.

Optimising the outcomes from the HAFF by:

- Ensuring that if a decision is made to make payments direct to States and Territories, these are subject to the same treatment as those for other parties - i.e. that they are subject to a robust tendering and assessment process.
- Including clear definitions of social, affordable and acute housing in the legislation itself, and inserting 'rental' between 'affordable' and 'housing' throughout the legislation.
- Bringing forward the initial review of the HAFF to two years after its establishment.

National Housing Supply and Affordability Council Bill

Insert an additional function under section 9 to 'advise the Minister on the development, implementation and delivery of a National Housing and Homelessness Plan or Strategy'. Similarly, the Council's Annual Report should include reflection on achievements of all relevant national housing plans or strategies.

An adjustment to Division 3, section 31 that would enable the Council's secretariat or other supporting functions to be carried out by Housing Australia. This would be facilitated by removing the restriction that the 'staff assisting' the Council be 'APS employees in the Department'.

CHIA has been reminded by colleagues in the disability sector that neither under the functions of the Council outlined in section 9 nor in the membership expertise set out in 22 sub section 2 is there any recognition of the needs of people with disability.

Treasury Laws Amendment Bill

That an additional section is inserted into the Treasury Laws Amendment Bill to allow for a review of Housing Australia's operations, following the completion of the National Housing and Homelessness Plan.

Reinstate Housing Australia's research function in Section 5 and rename as 'research support function' and under subsection 8 insert 1D 'Housing Australia's research support function is to undertake research to assist it in the performance of its functions and in response to requests from the National Housing Supply and Affordability Council'.

Remove section 27 which concerns the power of the Minister to appoint an observer to the NHFIC (Housing Australia) board. This was supported by the 2021 independent Statutory Review of NHFIC ¹ which stated that '*it is desirable to return to a standard governance model at the earliest opportunity.*'

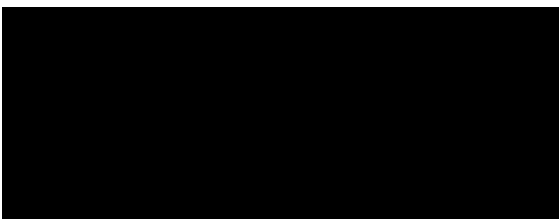
Consistent with the recommendation regarding the Council's membership, the collective expertise of the Housing Australia board should include housing for people with disability.

Government Guarantee

- Insert a requirement that a review of the guarantee be conducted at least 12 months before its planned expiry on 30 June 2028
- Include a clause that commits the Government to a regular schedule of reviews of the guarantee liability cap

We are happy to expand on this submission.

Yours sincerely,



Wendy Hayhurst

CEO, CHIA



■ <https://treasury.gov.au/sites/default/files/2021-10/p2021-217760.pdf>



Community Housing
INDUSTRY ASSOCIATION

CHIA SUBMISSION: HOUSING LEGISLATIVE PACKAGE DECEMBER 2022



Housing Legislation Package - Housing Australia Future Fund Bill, National Housing Supply and Affordability Council Bill, and Treasury Laws (Housing Measures No. 1) Amendment Bill

Summary

CHIA is the peak body representing not for profit community housing organisations (CHOs) across Australia. Our 150+ members manage an \$18 billion-plus portfolio of more than 118,000 homes, housing people on low and moderate incomes who find it hard to access affordable and appropriate tenancies in the private market.

The Community Housing Industry Association (CHIA) is pleased to offer recommendations for the amendment of the Government's December 2022 housing legislative package - i.e., the Housing Australia Future Fund Bill, National Housing Supply and Affordability Council Bill, and Treasury Laws (Housing Measures No. 1) Amendment Bill.

CHIA has previously applauded the new Government's housing commitments, both the establishment of a funding mechanism for new social and affordable rental housing, the Housing Australia Future Fund, and the institutional and policy reforms (the National Housing and Homelessness Plan, the National Housing Supply and Affordability Council and the national housing agency - Housing Australia. Put together they should provide a strong foundation for a serious effort to tackle the nation's housing affordability problem.

Our recommendations aim to strengthen both the overarching package, and the capacity of the Housing Australia Future Fund, (HAFF) to enable planned program delivery.

In the short time made available for responses we have confined our observations to the most salient issues. We do not provide a line by line critique and nor did we have access to the legal expertise necessary for detailed engagement with the legislative drafting.

We would like to acknowledge that, despite the short consultation period, Treasury officials made time to discuss the legislation and respond to our initial comments.

For avoidance of doubt, when we refer to community housing organisations, this refers solely to registered not for profit and charitable organisations. It also includes registered Indigenous Community Housing Organisations. By registration we mean one of the three community housing registration schemes – the National Regulatory Scheme for Community Housing, the Victorian Regulatory Scheme for Community Housing and the WA Community Housing Regulatory Framework.

Finally, we note that the government's National Housing and Homelessness Plan is not included in the current package. We hope that future legislation will be brought forward to put this crucial reform component on a statutory footing.

Contact: Wendy Hayhurst CEO, CHIA: wendy.hayhurst@communityhousing.com.au

Recommendations in Summary

The body of our submission sets out the rationale and further background to these recommendations.

Housing Australia Future Fund

Ensure that the HAFF is future proofed by:

- Inserting an intention, at a minimum, to maintain the real value of the \$10B investment over the long term
- Committing to at least three yearly reviews of the disbursement cap and a clear process to trigger an earlier review should this be timely
- Making it explicit that, should revenues from the HAFF be insufficient to meet contractual obligations, the government will provide the resources to cover the shortfall
- Under Section 64 the delegations of the Housing Minister are solely directed to Treasury officials. To ensure this does not constrain future action, the delegation powers should include senior officials in other Commonwealth entities and in particular Housing Australia

Optimising the outcomes from the HAFF by:

- Making registered not for profit CHOs the sole delivery agent for the HAFF's social and affordable rental housing investment programs. This does not preclude CHOs partnering with other entities or state and local government
- Remove the intention to disburse payments via the COAG Reform Fund and ensure that if a decision is made to make payments to States and Territories that these are subject to the same process as those for other parties i.e., that they are subject to a robust tendering and assessment process
- Including clear definitions of social, affordable and acute housing in the legislation itself, and inserting 'rental' between 'affordable' and 'housing' throughout the legislation
- Inserting a requirement for the Future Fund board to report on expenses debited from the HAFF

Escalating the investment in the HAFF by:

- Bringing forward the initial review of the HAFF to follow on from the completion of the National Housing and Homelessness Plan, and make it explicit that this assessment will include consideration of the scale of the investment required to fund an ongoing housing program of the necessary size identified by the Plan.

National Housing Supply and Affordability Council Bill

Insert an additional function under section 9 to ‘advise the Minister on the development, implementation and delivery of a National Housing and Homelessness Plan or Strategy’. Similarly, the Council’s Annual Report should include reflection on achievements of all relevant national housing plans or strategies.

Strengthen clauses relating to Council membership by inserting an additional clause under *Membership*, that the Minister must ensure that:

- the Council members collectively have an appropriate balance of qualifications, skills or experience in the fields mentioned in subsection (2); and
- At least two Council members have appropriate qualifications, skills or experience in acute, social or affordable rental housing or homelessness services
- That an additional Aboriginal or Torres Strait Islander member is appointed to the Council - with the appropriate qualifications, skills and experience outlined in sub section (2)

Reports prepared under sections 10 and 11 should include a statement of the implications for Aboriginal and Torres Strait Islander peoples.

An adjustment to Division 3, section 31 that would enable the Council’s secretariat or other supporting functions to be carried out by Housing Australia. This would be facilitated by removing the restriction that the ‘staff assisting’ the Council be ‘APS employees *in the Department*’.

Treasury Laws Amendment Bill

That an additional section is inserted into the Treasury Laws Amendment Bill to allow for a review of Housing Australia’s operations, following the completion of the National Housing and Homelessness Plan.

Secretariat Function for the Council

Insert an additional function to enable Housing Australia to undertake the secretariat function for the Council

Housing Australia Board Membership

Section 18 should be updated to include a requirement that at least two members must have qualifications, skills and experience in social and affordable rental housing. In addition, there should be a requirement for at least one Aboriginal and Torres Strait Islander Board member.

Government Guarantee

- Insert a requirement that a review of the guarantee be conducted at least 12 months before its expiry on 30 June 2028
- Include a clause that commits the Government to a regular schedule of reviews of the guarantee

Introduction

The National Housing Accord released by the Government in October 2022 *'brings together all levels of government, investors, and the residential development, building and construction sector to unlock quality, affordable housing supply over the medium term'*.ⁱ In the Accord's introduction there is recognition of the *'acute housing pressures'* facing many Australians and specifically that *'the national rental vacancy rate is at a record low of 0.9 per cent, with advertised rents 10.2 per cent higher in capital cities and 9.7 per cent higher in regional areas over the 12 months to September 2022.'* Analysis of the 2021 Census data commissioned by CHIA demonstrates the extent of unmet housing need amongst lower income households. At this time, there were 659,000 households in the bottom two income quintiles in rental stress, i.e., paying more than 30% of income on housing costs. Without appropriate policy interventions, this total is forecast to rise to almost one million households by 2041ⁱⁱ.

The National Housing Accord released by the Government in October 2022 *'brings together all levels of government, investors, and the residential development, building and construction sector to unlock quality, affordable housing supply over the medium term'*.ⁱⁱⁱ In the Accord's introduction there is recognition of the *'acute housing pressures'* facing many Australians and specifically that *'the national rental vacancy rate is at a record low of 0.9 per cent, with advertised rents 10.2 per cent higher in capital cities and 9.7 per cent higher in regional areas over the 12 months to September 2022.'* Analysis of the 2021 Census data commissioned by CHIA demonstrates that at this time, there were 659,000 households in the bottom two income quintiles in rental stress, i.e., paying more than 30% of income on housing costs. Without appropriate policy interventions, this total is forecast to rise to almost one million households by 2041^{iv}.

In response to this challenge, the Government has made a series of institutional, policy and funding commitments that together, provide a foundation to relieve high and growing levels of homelessness and rental stress across Australia. The commitments announced to date represent a significant initial contribution to tackling the shortfall in social and affordable rental housing. However, if we are to transform Australia's housing market, it is critical that we have a robust policy framework and optimal operational arrangements in place immediately. Commonwealth leadership, as exemplified by the promise of a new Federal body in Housing Australia is the essential ingredient that will enable real and lasting improvements in housing affordability to be made.

Our recommendations are made with the objective of (1) ensuring Housing Australia is given a bigger leadership role so that it can give effect to the Government's ambitious reform agenda and (2) specifically that the Housing Australia Future Fund, (HAFF) succeeds in securing a reliable stream of government and institutional investment to boost the supply of social and affordable rental housing.

Housing Australia Future Fund Bill 2023

Firstly, we have set out our understanding of the context in which the HAFF is situated and what it is anticipated to achieve.

In its conception it was envisaged that for the 30,000 homes the HAFF would operate, *'similar to the Social and Affordable Housing Fund (SAHF), established and operated by the current NSW Government, a proportion of the investment returns will fund annual service payments that will be paid to community*

housing providers over 25-years to bridge the gap between rental revenue and operating costs.^{iv} In addition another portion of the HAFF's investment returns would, 'be available to fund acute housing needs in perpetuity.'

The HAFF was predicated on utilising CHOs as the delivery agent. This will ensure that the homes (or equity) remain as social and affordable rental, in perpetuity. The advantages that will come from using the sector, include the tax exemptions that arise from CHOs' charitable status which improve project viability. For example, unlike the private or public sectors, CHOs do not pay GST on development and are therefore capable of delivering more homes from any given investment.^{vi} Over the past decade, CHOs have continued to grow across Australia, both responding to opportunities (both development and management) and, in states and territories where these have been thin on the ground, initiating their own schemes.^{vii, viii, ix} Unlike public housing providers or private developers, CHOs are subject to strict regulatory requirements that provide investors, governments and tenants with assurance of their compliance against performance standards covering tenancy and asset management, financial viability and good governance. Recognising that a strong ESG proposition can attract investors, the community housing sector has collaborated on a ESG reporting standard, due to be officially launched in March 2023. ^x

It is also our understanding that the homes generated through the HAFF will be additional to those that states and territories could be reasonably expected to fund from their own resources. As with previous Commonwealth housing initiatives such as the Rudd government's Social Housing Initiative (SHI) it might (also reasonably) be anticipated that states and territories would see the value of supplementing the funds available from the HAFF by contributing public land, to optimise the housing outcomes for households in their areas. As KPMG's 2012 review of the SHI found, a key benefit of the program's was that it provided *'the foundation to leverage future growth across the community housing sector, including predicted growth of 1,201 dwellings across NSW and 448 in Western Australia. Victoria provided immediate leverage through grants to the community housing sector and will result in an additional 623 dwellings.'*^{xi}

Since the HAFF was announced rising interest rates and increased construction costs^{xii} have combined to sharpen the challenge of achieving the stated social and affordable rental housing targets. It is possible that the Future Funds returns will not be sufficient to cover the entire funding gap, particularly for social housing. Additional contributions in the form of (for example) state and local government land, planning concessions, philanthropic donations and CHO equity will be required to bridge this gap.

Considerable work has already been undertaken to inform the design of the HAFF. To optimise the Government contribution and deliver the 30,000 homes within the government's stated timescale will involve facilitating institutional and other investment into social and affordable rental housing. Critical to securing this investment will be designing the fund so as to reduce the perceived risk to institutional investors and thus the rate of return sought by them. Recent research commissioned by Industry Super Australia sets out the 'impediments to institutional investment in affordable housing.' These include 'lack of ongoing and reliable government funding'; and 'lack of continuity across political leadership and government departments' and specifically 'the lack of a stable national program of gap funding to complete feasibility on affordable housing projects'^{xiii}. At the same time, the report was positive about the potential for investment, provided that these barriers can be overcome.

While discussions are ongoing, it is we understand currently envisaged that investors would be provided a fixed income investment over a period of up to 25 years. Investor returns would, in this scenario, be secured by the Commonwealth's commitment to make the scheduled repayments. The HAFF would need to fully cover coupon payments and capital return to investors.

Our recommendations are grouped under the following headings: future proofing the HAFF so that it both delivers on its intended objectives and attracts institutional investment; optimising the outcomes from the Fund; and building on the Fund's foundations to meet the much greater need for social and affordable rental housing.

Ensuring that HAFF is future proofed

As the legislation is currently drafted there are insufficient assurances that the HAFF will deliver on its objectives. The HAFF (at its current real value) will, in all probability, exhaust its potential to fund social, affordable housing and acute projects beyond the current objectives - i.e., in its first five years of operations - until these funding commitments cease. However, these commitments are for the long term and will need to be both future proofed against inflation, loss of investor interest unless coupon payments maintain their real value, as well as against the sovereign risk involved in the multiple changes of government that may well transpire during contractual terms resulting. There are examples of new governments seeking to change or terminate their predecessor's programs. If institutional investment is to be secured the legislation needs to be strengthened to protect against these risks.

There should be a stated intention to maintain the HAFF in real terms over the long term recognising that at particular points this may not be possible because of other pressures.

While there is no mention that annual payments to investors (or CHOs) will be index-linked it is inconceivable that this would not be the case. Without an explicit commitment (via either regular 'top ups' to the fund and / or reinvestment of 'surplus' returns in the fund's early years) there is therefore a high risk that returns in later years will be insufficient to meet the government's contractual obligations.

A potential alternative to a commitment to topping up the fund is for the legislation to make explicit how a shortfall in revenues from the Fund will be addressed by inserting a clause that commits the government to transferring additional funds to the *Housing Australia Future Fund Payments Special Account*.

We have noted Part 2, Division 4, section 15 states '*The Future Fund Board must take all reasonable steps to ensure that the balance of the Housing Australia Future Fund Special Account is sufficient to cover the debits of amounts for the purposes specified in sections 12, 13 and 14.*' And further that '*this may require the Future Fund Board to realise an investment of the Housing Australia Future Fund in accordance with section 40*'. However, this is not a viable long term strategy if the value of the Future Fund investment is to be maintained.

Part 5, section 36 places a cap on 'the total amount debited from the Housing Australia Future Fund Special Account'. The total amount '*must not exceed \$500 million*' and the explanatory memorandum explains that the 'adequacy' of this amount '*will be considered periodically as part of the legislated reviews*'. Part 8, section 65 sets out the detail of these reviews the first of which '*will be completed by 31 December 2028,*

with five-yearly reviews thereafter.’ There is no commitment to (1) reviewing earlier should this be necessary or (2) increasing the cap and by an amount that will comfortably cover the forecast disbursements at the time the next review will be completed. At the very least there should be a commitment to at least three yearly reviews and a clear process to trigger an earlier review should this be timely.

Under Section 64 the delegations of the Housing Minister are solely directed to Treasury officials. To ensure this does not constrain future action, the delegation powers should include senior officials in other Commonwealth entities particularly Housing Australia.

We also suggest that it is Housing Australia that make recommendations for the annual disbursements from the HAFF Payments Special Account and Housing Australia Payments Account (and the COAG Reform Fund if it is used – see our recommendation below) to the Minister for authorisation. The Minister should make a public statement if an alternative disbursement was considered necessary.

Optimising the outcomes from the HAFF

In order to realise the original intent of the HAFF and to secure the benefits described above from the CHO sector having ownership and management of the homes, the legislation needs to be explicit that in respect of the HAFF’s social and affordable rental housing programs, it is only not for profit, regulated entities that will be the delivery agents. Currently the legislation appears to provide discretion to allocate funds to a wide range of unregulated entities, including states and territories and, individuals, allowing all to become grant recipients. By specifying that regulated CHOs are the sole delivery agents it would not prevent CHOs leading partnerships (if they chose) with private sector, non registered charitable entities, state, territory or local governments. This could involve arrangements to access land and to settle the terms on which it is provided at a project level.

The current legislation (Part 3, Division 4, Section 29) allows for the COAG Reform Fund, to be used to transfer grants to states and territories. It is unclear what benefit would be realised by awarding grants via the HAFF to states and territories when they have other mechanisms to fund their contribution to supply and, indeed, a risk that the availability of such payments may sap their motivation to make such commitments. States and territories are already provided with funding via the National Housing and Homelessness Agreement and a number (but not all) have recently committed to self-funded social and affordable housing programs. However, if grants are to be made to the states and territories these should not be subject to a separate process from payments to other parties. Payments should be subject to the same scrutiny, approval process, and reporting, and, should be administered via Housing Australia. Further, if the COAG Reform Fund was envisaged as a mechanism to facilitate payments for access to state and territory land, as noted earlier this should be effected at the project level via partnerships with CHOs.

Our understanding is that the HAFF is intended to subsidise the provision of rental housing in perpetuity. This makes sense as the government has alternative policy options for supporting home ownership such as the Help to Buy Scheme, and also offers deposit guarantees. However, affordable housing is, in particular a vague and variable concept and in some jurisdictions even includes low cost home ownership options as noted in the explanatory memorandum. Without a clear definition of affordable housing there is a distinct possibility that some low income households, particularly those ineligible for social housing but unable to

afford discount to market rates of 75-80%, will miss out. The legislation should therefore be strengthened by (1) including a clear definition of social, affordable and acute housing in the definitions section and (2) inserting 'rental' between 'affordable' and 'housing' throughout the legislation. Note this would not preclude a development including low cost home ownership options, just that these units would not count towards the 30,000 target.

CHIA welcomes the intention to require the Future Fund board to report on performance as set out in Part 7 and include the amount of expenses debited from the HAFF.

Building on the Foundations, Escalating the investment in the HAFF

As noted earlier, the HAFF is an excellent first step by the Commonwealth Government to address the housing unaffordability experienced by lower income households. At the current level it is, however, only able to support a fraction of the new social and affordable rental housing needed. What is needed is regular crediting of further resources to the HAFF to enable it to fund an ongoing social and affordable rental housing program.

While housing outcomes are primarily a state/territory responsibility under the Australian constitution, it is only the Commonwealth that possesses the scale of tax-raising and borrowing powers required to underpin the scale of investment needed. The Australian Government is also committed to producing a National Housing and Homelessness Plan by 2024. This is likely to identify significant additional effort is required to make inroads into housing stress. We thus recommend the initial review of the HAFF is brought forward to coincide with the Plan's completion, and that it is made explicit that this first review will include a consideration of the scale of the investment the HAFF requires to meet an ongoing housing program.

This will also ensure that the concept of a social and affordable housing investment class is realised, and further enhance institutional investment.

National Housing Supply and Affordability Council Bill, and Treasury Laws (Housing Measures No. 1) Amendment Bill

CHIA supports both the creation of the National Housing Supply and Affordability Council (Council) and the transition of NHFIC to Housing Australia. We also applaud the government in creating a Council that is able to consider the full range of issues impacting on Australia's housing.

Leadership and Co-ordination

Our first recommendations in respect of these two exposure drafts are motivated by a concern to see clear national leadership and co-ordination on housing policy and our views informed by research we commissioned to develop a proposal for a consolidated national housing agency.^{xiv}

The National Housing Accord was released in October 2022. However, it remains unclear which Commonwealth Government agency will have responsibility for driving delivery of the Accord's initial, aspirational, national target of '*one million new well located homes*' from 2024 to 2029. Coordinating the activities of Accord partners, providing leadership to address implementation barriers and monitoring of

progress on delivery of Accord commitments and outcomes are critical activities that depend on consistent and focused agency resourcing for their success.

The Government has also pledged to develop a long term National Housing and Homelessness Plan. As noted above, the requirement to produce, review and update this Plan is not legislated. We strongly recommend that this is considered as part of the review of the Council, using the Canadian 'National Housing Strategy Act' as example.^{xv} Appropriately, the Canadian Federal Government also established a National Housing Council '*for the purpose of furthering the housing policy and the National Housing Strategy*'. Its membership includes representation from relevant governments and departments (including the national housing agency) but its membership is predominantly independent.

The two draft exposure bills dealing with the Council and NHFIC's transition to Housing Australia suggest continuation of the present fragmented housing policy governance arrangements. It appears that important opportunities for much needed Commonwealth coordination and leadership could be being missed. For example:

- there is no structural connection between the two significant repositories of affordable housing expertise, the Council and Housing Australia. The proposed arrangements establish information silos at time when evidence-based, informed, approaches are critical for addressing Australia's affordable housing problems.
- It is still not clear which entity, if any, will be responsible for implementing the Government's broader housing commitments, such as the Accord. Housing Australia's delivery role is apparently to be limited to specific programs, with its research function purely subsidiary to these. The Council's role, while important, is purely advisory.
- The states and territories are significant stakeholders whose support is critical to achievement of the proposed affordable housing programs and targets. As the exposure drafts currently stand, neither Housing Australia nor the Council will have the scope to work with state and territory governments on the range of activities necessary for production of housing supply. Housing Australia's scope is limited to program funding and Council's is limited to data collection. Neither appears to have a role in relation to national meetings of the Housing and Homelessness Ministers.
- The relationship between the Department of Social Services and specifically its responsibilities for leading on the National Housing and Homelessness Plan, the National Disability Strategy legacy programs such as the National Rental Affordability Scheme and new initiatives such as the Emergency Accommodation for Women and Children experiencing domestic and family violence should be explicit. The Council's role in inputting into and reporting on the National Housing and Homelessness Plan is also unclear.
- Connections between other welcome Commonwealth Government initiatives such as the National Energy Performance Strategy, Infrastructure Australia and the review of the NDIS also remain unclear.

CHIA accepts that the issues raised here are unlikely to be resolved in the short term. Our recommendations therefore seek to keep options open and also allow the opportunity for further changes to Housing Australia's remit to be made following the completion of the National Housing and Homelessness Plan. Our recommendations on the Plan are below.

We propose that the Council's secretariat / supporting function is carried out by Housing Australia. NHFIC has already begun to accumulate the expertise and experience in producing the type of research that could inform the Council's deliberations, including the annual 'State of the Nation's Housing' report. An adjustment to Division 3, clause 31 that would enable the Council's secretariat or other supporting functions to be carried out by Housing Australia now or indeed at a point in the future. This would be facilitated by not restricting the 'staff assisting' to 'APS employees in the Department whose services are made available to Council' and instead including other Commonwealth corporations and entities.

Locating supporting services with Housing Australia, would involve no compromise with the principle that the Council is independent of government departments or agencies, but would tie it to an agency that could in future be tasked with the essential policy co-ordinating role. This would be facilitated by not restricting the 'staff assisting' to 'APS employees in the *Department* whose services are made available to Council' and including other Commonwealth corporations and entities.

We recommend that an additional section is inserted into the Treasury Laws Amendment Bill to allow for a review of Housing Australia's operations, following the completion of the National Housing and Homelessness Plan. This will enable consideration of whether Housing Australia should be tasked to perform additional functions to assist in the delivery of the plan.

National Housing and Homelessness Plan

Our understanding from discussions about the Council's role is that it is expected to advise on the production, implementation and review of the National Housing and Homelessness Plan. While the Plan is not legislated this does not preclude adding an additional function under section 9 to 'advise the Minister on the development, implementation and delivery of a National Housing Plan or Strategy'. Similarly, the Council's Annual Report should include commentary on relevant national housing plans or strategies.

Membership of the Council

The interim Council membership includes a balance of skills and expertise with the exception that it there is no Aboriginal or Torres Strait Islander representative. Given the disproportionate number of First Nations peoples in poor housing or homelessness there is a case to be made for an additional member of the Council and that every report published by the Council includes a section outlining the implications for Aboriginal and Torres Strait Islanders.

To ensure that a balance of skills and expertise is retained over the long term, and recognising the real risks that the interests of lower income renter and homeless households may not always be sufficiently well-represented, there is a need to strengthen clause 22 on appointments. We recommend the insertion of similar clauses to those in the National Housing Finance and Investment Corporation Act 2018 Act that concern board membership. In summary, that in appointing Council members, the Minister must ensure that:

- The Council members collectively have an appropriate balance of qualifications, skills or experience in the fields mentioned in subsection (2); and

- At least two Council member has appropriate qualifications, skills or experience in acute, social or affordable rental housing or homelessness services
- That an additional Aboriginal or Torres Strait Islander member is appointed to the Council - with the appropriate qualifications, skills and experience outlined in sub section (2)

Government Guarantee

The Treasury Laws Amendment Bill extends the Guarantee by the Commonwealth to 1 July 2028 as recommended by the 2020 NHFIC review^{xvi}. This amendment is welcome as the Commonwealth Guarantee has demonstrably brought down the cost of finance to CHOs. The NHFIC Review also recommended that a review of the guarantee be conducted at least 12 months before its expiry and allow time for a further extension of the guarantee should this prove prudent. It is, therefore, recommended that this additional requirement is added to Schedule 3, Item 1, subsection 51(2).

The NHFIC review also recommended that there should be an orderly process for reviewing the liability cap, rather than the current ad hoc process. The current cap is \$5.5B and is insufficient to meet the anticipated demand for finance. The legislation should include a clause that commits the Government to a regular schedule of liability cap reviews. This will have minimal budgetary impact but will give certainty to (1) CHOs about the future availability of low cost finance and (2) investors about the ongoing commitment of the Commonwealth Government to this central aspect of Housing Australia's mission.

Housing Australia Board Membership

Given the expansion of Housing Australia's role, it is timely to review whether section 18 needs updating. It currently prescribes that at least one Board member has appropriate qualifications, skills or experience in social and affordable housing. This should be updated to include at least two members. In addition, there should be a requirement for at least one Aboriginal and Torres Strait Islander Board member.

References

ⁱ National Housing Accord 2022, p. 1.

ⁱⁱ <https://www.communityhousing.com.au/wp-content/uploads/2022/11/CHIA-housing-need-national-snapshot-v1.0.pdf?x22076>

ⁱⁱⁱ National Housing Accord 2022, p. 1.

^{iv} <https://www.communityhousing.com.au/wp-content/uploads/2022/11/CHIA-housing-need-national-snapshot-v1.0.pdf?x22076>

^v Australian Labor Party 2021, HOUSING AUSTRALIA FUTURE FUND - BACKGROUND

^{vi} [Community Housing Opportunities - Shelter WA](#)

^{vii} <https://www.foundationhousing.org.au/looking-for-housing/affordable-housing/elevatehousing/>

^{viii} [Student accommodation – Advance Housing](#)

^{ix} <https://bhcl.com.au/developments/arbor-sherwood/>

^x [Key Initiatives – Community Housing Industry Association](#)

^{xi} Social Housing Initiative Review, 2012, KPMG for the Housing Ministers Advisory Council

^{xii} [Australia's construction costs continue to rise at record rates | CoreLogic Australia](#)

^{xiii} [The investment opportunity in Australian private markets » Industry Super](#)

^{xiv} A National Housing Agency for Australia, Catherine Stuart, CHIA, forthcoming 2023

^{xv} [National Housing Strategy Act \(justice.gc.ca\)](#)

^{xvi} <https://treasury.gov.au/sites/default/files/2021-10/p2021-217760.pdf>