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## **Submission to the Senate Inquiry into the NRAS Bill 2008**

24<sup>th</sup> October 2008

### **1. QCHC and QAHC**

Dear Senators,

Thank you for the opportunity to present our views to your Committee. This submission is from Queensland Community Housing Coalition Ltd [QCHC] and Queensland Affordable Housing Consortium Ltd [QAHC ]

QCHC is the independent peak body for not-for-profit community housing providers in Queensland and is a member of the Community Housing Federation of Australia. [CHFA]. Through CHFA, we have been an active partner in the National Affordable Housing Summit Group and have contributed extensively to the development of the rental incentive policy and modelling, and the broader proposals around a National Affordable Housing Agreement.

Our members include housing associations, co-operatives, not-for-profit housing companies, homelessness services, indigenous community housing organisations and local governments.

QCHC is member-owned and represents the sector to all levels of Government. It also engages with the wider community on social and affordable housing issues. It is a registered training organisation and provides resourcing to the sector.

Queensland Affordable Housing Consortium Ltd is a not-for-profit consortium established by the Queensland Community Housing Coalition in consultation with the Local Government Association of Queensland and the Urban Development Institute of Australia.

Its' members are community housing providers, local governments, developers, builders and investors. Its aim is to provide 5,000 affordable rental homes in

Queensland under NRAS. It brings together different stakeholders in a complementary partnership that makes best use of each sectors expertise to address the needs of Queensland households.

## **2. Four main issues**

The three main issues we would draw your attention to are:-

- Charitable status and NRAS
- Superfund engagement
- Evolution of the initiative
- Capacity Building

### ***2.1 Charitable Status***

#### **Background:**

Most community housing organisations are endorsed charities.

There is no ‘Head of Charity’ for affordable housing. Most community housing providers apply for endorsement under the ‘Relief of Poverty’ heading.

Until the introduction of the New Tax System, charities had very little engagement with the ATO. This changed when the GST was introduced and GST concessions were granted to Charities providing ‘non-commercial’ supplies. The ATO took on a substantial new role in endorsement and compliance.

In 1999 and 2000 the Government went to great lengths to re-assure community housing providers that the new system would not impede their activities. Extensive discussions were held that illustrated the range of social and affordable housing activities undertaken by the sector and guidance was provided on the meaning of ‘non-commercial’ activity that essentially protected these activities if delivered at less than 75% of the market rent or cost of supply.

Most community housing organisations have always needed to cross subsidise a range of housing provision in order to meet the needs of those in poverty and those with complex needs. Most would not be viable if they didn’t undertake cross-subsidy.

The main charitable tax concessions are GST concessions on the provision of housing as a ‘non-commercial’ supply, Fringe Benefit Tax exemptions up to the ‘cap’ for Public Benevolent Institutions and deductible gifts for Endorsed Deductible Gift Recipients.

The GST concession simply retains the pre 1999 status quo. [i.e Government didn’t want to impose new tax liabilities onto charities]. FBT is important to assist with the retention of staff and partly assists to compensate the low resource/low wage status of the sector. There are few DGR’s in our sector.

The 'relief of poverty' has been the purpose of most community housing charities, but the complexity of issues of housing need in the 21<sup>st</sup> Century do not sit easily with a narrow interpretation of the terms 'relief' and 'poverty'.

Examples of the tension between a narrow interpretation and the needs of a community include:-

- community housing charities seeking to **prevent** poverty and crisis, not just pick up the pieces once a family is in crisis.
- charities wanting to **address discrimination** in the housing market that impacts on people with disability, aboriginal people and single mums who may or may not be in poverty, but are severely disadvantaged
- charities seeking to make the housing system more responsive to diverse community needs and to **address social exclusion** and the isolation faced by many households in low income

The arrival of NRAS has shone a light on these tension, but the tension are not exclusive to NRAS, as many of these activities have been undertaken by charities within the social housing system and prior to the New Tax System reforms.

Charities are now faced with the loss of their status

#### *The community benefits of Charities engaging with NRAS*

- local community housing organisations are well placed to know about, and respond to, community needs
- they will pass on greater benefits to tenants, including greater discounts in rents charged at 74.9%
- they will create opportunities to retain some housing permanently in the affordable housing sector
- having a track record and strong community accountability helps improve community confidence and allay 'fears or concerns' about affordable housing developments
- it is very important that those at the bottom end of the income scale get their fair share of NRAS. Without community housing provision the scheme may not meet needs in a balanced way
- design and location based on real knowledge of diverse needs can be informed by the organisation. This will help prevent problems like putting dwelling in isolated location.

#### *The ATO, Charitable Status and Triple Jeopardy*

Since 2000, I have represented the Community Housing Federation on the ATO Charities Consultative Committee [CCC] and the remarks I make below reflect the views expressed by the ATO at the CCC and at a specially convened meeting involving the ATO, community housing sector, Fahcsia and Treasury

The ATO have made it clear that NRAS as it is presented is not consistent with the charitable purpose of relief of poverty.

The relief of poverty is a 'sole purpose test'. In practical terms this means a Charity cannot assist those not in poverty. The way the ATO may interpret this has implications beyond NRAS. For example social housing provision is not solely about the relief of poverty.

The ATO has indicated that Charities could establish 'subsidiary' organisations to undertake affordable housing activities. Such a proposal would impose substantial costs and extra red tape onto charities already overburdened by such imposts. It is more likely that Charities would simply not undertake such activities into the future and the community would be worse off as a result.

The ATO has presented the sector with a potential triple jeopardy:-

- Charities that engage in NRAS are putting their charitable status in 'serious jeopardy'
- New not-for-profit entities, like the Queensland Affordable Housing Consortium will not be endorsed as a Charity
- The management of privately owned NRAS stock for moderate income people will not be seen as an "incidental" activity, even where it is tied to the Charity aiming to use the fee it charges to cross subsidise low income households.

*A possible solution:*

The sector has long argued for 'Affordable Housing' to be legislated as a Head of Charity. [See CHFA submission to Charities Definition Inquiry 2004]

The previous Government did amend charity law to provide a Head of Charity for not-for-profit Childcare provision. This reform reflected a modernisation of Heads of Charity to reflect community circumstances and needs.

The Henry Tax Review might provide an opportunity to progress such a reform, but that would still leave great uncertainty for Charities seeking to provide affordable housing through NRAS.

In addition, the Committee should be aware that just dealing with NRAS would mean that Charities delivering other social and affordable housing programs will remain vulnerable to losing their status.

We would propose a two-step solution:-

- a) Amend the NRAS Bill to designate NRAS activities as charitable for not-for-profit providers who meet all the other tests of a charity [See Childcare example] **And**
- b) Request that the Treasurer refer the issue of an "affordable Housing' head of Charity to the Tax Review within a context that reflects the changing needs of society and the role of charities in meeting those needs.

## ***2.2 Superfund Engagement***

The Government intends NRAS to stimulate a new class of Institutional Investment.

This is certainly an important goal if we are to achieve a real and long term affordable housing 'industry' rather than simply a Government funding program.

Whilst the fundamentals of the scheme may be about right, the Government needs to consider what else they can do to remove barriers to Superfund participation.

This is particularly true in the current environment, where the lack of any track record of institutional investment in residential ownership is further complicated by economic and financial uncertainty.

In the short term, government can share some of the risks with Institutions in order to build confidence and bring forward new supply that meets community need and also stimulates economic activity in residential development.

The Government could consider one or all of the following options:-

- Providing [greater] protection of the income yield
- Underpinning capital investment through a 'no-loss' guarantee
- Providing funds to not-for-profits to invest alongside Super Funds [Say on 40% - 60%] basis to share risk and to provide a greater pool of funds to retain assets for the long term

## ***2.3 Evolution***

It is good to see the Government moving ahead with the Scheme and challenging its own bureaucracy and our sector and industry to come up with practical solutions to the issues raised by the Scheme.

There are certainly a number of ideas that need to be part of the evolution of NRAS if we are to get best value for the community, these include:-

- Pre-approval of not for profit applicants to enable a 'Rolling Program' of projects to be negotiated. If the Consortium had a pre-allocation of NRAS credits it would strengthen its ability to negotiate with developers and financiers and therefore influence factors like design and price to get better value for the taxpayer
- Over time we could have a more sophisticated system that reflected the differential costs of supply in relation to location and dwelling size. For example, whilst NRAS works well in meeting the community need for smaller dwellings, how do those with large families have their needs addressed when NRAS cannot deliver an equivalent return to investors? The Government may consider enabling this innovation through a supplementary funding stream linked to proven 'additional' costs.

- NRAS has a great potential to ‘steer’ innovation in market provision. Whilst the criteria for NRAS includes consideration of environmental factors and universal design it would be a positive move to provide a greater incentive to dwellings that met very high sustainability ratings. This would help produce better housing whilst recognising that, at this time, such improvements do have an additional up-front cost.
- Mixed income and mixed tenure neighbourhoods can enhance social inclusion. The ability to apply for NRAS and the Housing Affordability Fund [to improve affordability for home buyers] is acknowledged, but the Government could make it much easier to put up combined schemes and also address the level of HAF funding per dwelling that a joint project might access.
- If unemployment rises and home repossessions increase, the Commonwealth could provide a mixture of capital grant and NRAS funding to not-for-profit providers to buy existing homes with those families remaining in their homes as affordable rental tenants. This would avoid the social dislocation of a forced move [eg Children needing to go to a new school], mitigate against added financial pressure and cost on the family and help avoid unreasonable pressure on declining market values in neighbourhoods experiencing a high rate of repossessions.

## ***2.4 Capacity Building***

Without a much greater Capacity Building effort by the Commonwealth and States, the not-for-profit sector will always be at a major disadvantage in its ability to deliver NRAS at scale and to protect and enhance social outcomes in negotiations with the private sector.

It is naive to believe that power differentials that reflect the strength of the parties don’t matter. Simply stating that the Government believes community housing providers should play a significant role in NRAS won’t make it happen.

For example our Consortium model explicitly recognises that most community housing organisations do not have the resources, skills and viability to undertake NRAS activities / partnerships in their own right. Yet even the Consortium has struggled to have the resources to establish itself and build a partnership for its round 1 submission of 742 dwellings, based only on an expectation of success. The value of community and pro-bono contributions to get us to this stage has been in the order of \$100,000

We have done this without 1cent in support or 1 hour in direct assistance from the Commonwealth [or State]. This is no way to build a new affordable housing system where the outcomes depend as much on social performance as they do on commercial viability.

The Commonwealth has indicated that around \$1.5million is available for capacity building over the next year or so and has made a modest allocation to the Community Housing Federation to get the ball rolling.

The fact is that capacity building should **precede** submission rounds, and then we can have an ongoing process to bring in new players and new ideas as the system evolves.

We would recommend that the Commonwealth calls for immediate submissions from community housing peak bodies, not-for-profit consortia and other community stakeholders and allocate these funds directly. This includes allocating money to those organisations that are actually delivering NRAS properties as well as to those who are facilitating partnerships

In addition, the Commonwealth should look to establish proper national infrastructure to support the growth of not for profit affordable housing. This means direct investment in the sector and establishing proper processes for the involvement of the sector in decisions that impact on them. This approach is in direct contrast to the ongoing series of Commonwealth / State bureaucratic working groups that the sector is excluded from and which allocate resources to enhance Government capacity, not the sectors capacity.

*Thank you for your kind attention.*

*Mike Myers  
QCHC Executive Director  
QAHC Company Secretary*