

SUBMISSION

BY

THE RETURNED & SERVICES LEAGUE OF AUSTRALIA

of the INQUIRY BY THE SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE

into

OPERATIONS OF DEFENCE HOUSING AUSTRALIA

The Returned & Services League of Australia (RSL) takes very seriously the obligation of Australian Governments of ensuring the ongoing security and defence of our nation and the Australian people. The RSL has a proud record of consistent support for the men and women in the nation's armed forces and of the need for Australia to maintain an adequately financed, fully manned, highly trained, highly effective and fully combat capable Australian Defence Force (ADF).

A critical part of maintaining and sustaining such a force is the provision of attractive conditions of service for the men and women of the ADF successive Australian Governments have deployed to war. Along with appropriate levels of remuneration, the provision of housing for ADF personnel and their families is a key element in attracting and retaining the high calibre, dedicated service personnel without which there cannot be an effective defence force.

The ready availability of contemporary and evolving community standard ADF housing in various locations throughout the nation geared to the reality of frequent moves by ADF personnel and the families which support them as they meet the demands of their quite unique occupation is essential.

Defence Housing Australia (DHA) was established for this sole purpose.

DHA is thus a force enabler and a vital part of maintaining a highly effective and fully combat capable ADF. It does not exist to provide profits or the building of saleable assets or to be a part of any other portfolio but the Department of Defence.

BACKGROUND

As invited, the RSL provides comment on the need and basis for future operations of DHA. We touch on all matters in the Terms of Reference, but focus on two issues:

- The need for the DHA to meet the needs for which it was established - to provide for a level of housing that meets contemporary and evolving community standards and reflects the nature of commitment expected of ADF personnel and their families.
- The need to ensure the governance arrangements for DHA serve to deliver DHA outcomes as defined in the *Defence Housing Act (1987)*.

Housing is one of the two most important conditions of service in the lives of ADF members and families – the other being remuneration. The provision of housing for the ADF has been recognised by successive Australian Governments as being of paramount importance. Besides maximising the operational capability of the ADF by facilitating ease of mobility, it is a key determinant in retaining highly trained combat experienced personnel. Such a vital force enabler requires good quality appropriate housing be immediately available when ADF families are required to relocate, often at short notice to meet the exigencies of their service.

The RSL is greatly concerned about ongoing speculation about the possible sale of DHA, presumably for either ideological reasons and/or to boost Commonwealth coffers.

When the RSL National President raised these concerns in personal meetings with the then Prime Minister and then Defence Minister during the first half of 2015 he was given unequivocal verbal assurances DHA would not be privatised or sold. Thereafter the RSL noted the statement quoting the Department of Finance in The Australian Business Review of 12 May 2015 that "*the Finance Ministry has canned the privatisation of Defence Housing Australia's \$10 billion real estate portfolio...After spending millions of dollars on a scoping study by financial advisers Lazard and law firm Ashurst, the government yesterday confirmed reports it would not sell Defence Housing Australia, but it did not explain why...But the Department of Finance will not leave DHA entirely alone- it will now investigate the housing provider's accounting, information technology and business reporting systems in a bid to improve transparency.*"

The National Board's concern was again heightened by the unexplained departure of the Managing Director of the DHA in late 2015. The sudden appointment of a Department of Finance Deputy Secretary as Acting Managing Director of DHA suggests an intent to distance DHA from the Department of Defence.

These significant concerns were heightened when the Chief of Defence Force (CDF) took the unusual step of publicly commenting on this change reminding all Australians that 'DHA is an essential service for ADF personnel and families'. We note CDF also affirmed his opposition to the privatisation of the body managing housing for Australian military personnel and their families.

The RSL unreservedly supports the CDF stance and his statement that 'Defence and DHA have built a positive and productive relationship over many years to meet the specific housing needs of ADF personnel that helps to mitigate many of the challenges service life entails.'

ADF members and their families must be provided with appropriate housing, delivered in a manner that meets their needs and expectations and those of the wider community in which they live. The RSL has been monitoring ADF conditions of service for many decades and on this basis are convinced the DHA has been meeting this need.

The RSL has no fundamental objection to the involvement of the Department of Finance in DHA governance provided there is acceptance DHA is an ADF force enabler and hence a critical part of the core business of the ADF and the Department of Defence in defending the nation.

SUBMISSION

Term of Reference 1: Senior management arrangements and board composition

The RSL has a long history of strong advocacy for reasonable and appropriate conditions of service for the men and women of the ADF. We seek to remain fully informed about rates of ADF remuneration and allowances and to intervene at hearings before the Defence Force Remuneration Tribunal about such matters. Because of its criticality to the effective ongoing operations of the ADF we also closely monitor feedback we receive from many about defence housing. We have also by this means monitored the effectiveness of DHA.

The proficiency of the senior management arrangements of DHA has thus been a matter of ongoing interest to both the National Board and the RSL National Defence Personnel and Families Committee. The effectiveness of these arrangements has been judged on what we are given to understand including what we are told by ADF members, some of whom are RSL members. Our assessment over recent times is that DHA was most effective in providing homes for ADF personnel to the standard they expected in time frames consistent they found reasonable and which accorded with the exigencies of ADF service.

Thus the RSL was fully supportive of DHA senior management arrangements until late 2015 because they were delivering what the men and women of the ADF and their families needed. Of equal importance the arrangements were perceived by the RSL to be delivering what the ADF required. Given the recent replacement of the Managing Director we are less certain about these effective management arrangements. The fact that the acting Managing Director appointed at extremely short notice comes from the most senior levels of the Department of Finance strongly suggests the influence of the Department of Defence on this key ADF force enabler has been significantly weakened. Because of these concerns the RSL intends more actively monitoring the feedback we receive about defence housing.

Insofar as the composition of the Board is concerned we observe it seems appropriate for its legislated governance tasks.

Term of Reference 2: Defence Housing Australia Act – are requirements being met?

The primary function of DHA, as set out in the *Defence Housing Act (1987)*, is to provide housing and related services for members of the ADF and their families in line with Defence operational requirements. The legislation is quite clear about the function of DHA: it provides for the outcomes the RSL seeks for the ADF, and we are satisfied the DHA has an appropriate Act of Parliament.

We note from a succession of annual reports from DHA that the authority is consistently providing successful performance against stated objectives in their Corporate Plan. This is pleasing to the RSL, and indicates that the needs of the ADF are being met.

We note from discussions with the leadership in the DHA and in feedback through the RSL and allied organisations that the DHA looks to the future and consistently delivers above what might be considered to be a minimum standard. Providing homes to Defence members and their families cannot be solely driven by market forces, a point well understood by DHA who consider their primary role is provisioning for Defence's needs, not maximising profit.

The RSL acknowledges the DHA is a Government Business Entity (GBE) and under the *Public Governance, Performance and Accountability Act (2013)* (PGPA) and the *PGPA (Consequential and Transitional) Act (2014)* is required to meet financial outcomes. That said there appears to be an inherent conflict between the PGPA and DH Acts with the focus of the former being on the generation of profits and the accumulation of realisable assets; and the focus of the latter being on meeting the housing needs of ADF members and their families.

This ambiguity in legislation must be corrected so there is no doubt the tenets of the DH Act prevail. Defence housing is a key condition of service for ADF personnel and hence a combat force enabler.

The physical location of DHA as a GBE within the defence Organisation continues to be appropriate as is the lack of DHA ownership by the Department of Finance or any other entity of agency. The RSL observes that the success of DHA appears to have catalysed thus far thwarted attempts at full or partial privatisation.

Term of Reference 3: How the review announced by the Minister for Finance on 11 May 2015 will affect its accounting, information technology and business reporting systems

Drawing on our own assessment from the DHA's annual report, the RSL cannot understand the reason the Department of Finance is investigating the housing provider's accounting, information technology and business reporting systems. The RSL understands the investigation is being undertaken with the aim of improving transparency. This appears to be either an ill-conceived waste of taxpayers' money or a thinly veiled attempt to severely constrain the finances of DHA and hence its ability to provide ADF personnel with contemporary and evolving community standard housing.

The RSL noted with concern the non-transparent nature of the Lazard review and consider the current May 2015 review by a company widely known as expert administrators of enterprises facing insolvency is unjustified. No cogent reasons have been advanced for this review of a successful and service-orientated organisation meeting the outcomes expected of it, and delivering a good return to its shareholders.

Term of Reference 4: What role land sales will play in future business planning, and what implications there are for current residents if existing housing stock is sold

As part of its authorised business activities DHA undertakes land development activities. This is an important part of the DHA business model, allowing DHA to produce an admirable return on investment, allowing DHA to offer a much better service to ADF personnel and their families across all the places in Australia where the ADF needs this support. The RSL supports both the development of land and the rotation of stock as this provides for the delivery of better housing.

Term of Reference 5: Other Issues – Governance

The RSL contends there is unnecessary organisational tension in DHA due to the way the authority is expected to deliver its outcomes as the *Defence Housing Act (1987)*, and the way the *Public Governance, Performance and Accountability Act (2013)* (PGPA) and the *PGPA (Consequential and Transitional) Act (2014)* are being applied. The presence of two first priorities is drawing the DHA in opposite directions. We accept it is appropriate the Minister for Defence and the Minister for Finance are Shareholder Ministers; and that responsibility for operational matters is delegated to the Assistant Minister for Defence. We also accept that prudent management of funds is necessary, but contend the conflict created by differing outcomes (as a crucial force enabler to the ADF while simultaneously generating return on investment) requires this conflict to be addressed in a different governance process than that extant now. This would best be addressed by amending legislation.

The DHA has an independent Board managing its own affairs, and an advisory body assisting the Board to ensure it meets the needs of its 'customers' – the members of the ADF and their families. But this body is only advisory, and has no authority to ensure the DHA meets its commitments under the Act. The Board has a fiduciary duty under the PGPA to act to safeguard funds advanced from the public purse. The DH Act requires DHA to make housing for members its first priority. Over the last few years, DHA has been able to achieve both, provide good housing and make a profit.

It would appear that, by its own success in delivering housing that met the needs of the ADF, internal processes in Defence relied on DHA's continuance in delivering housing outcomes without matching these closely enough to the needs and expectations of the ADF. Defence Housing Policy (Pay & Conditions Manual - PACMAN CH7 (Housing)) outlines only a minimum entitlement for members and is thus at odds with both the expectations and needs of ADF personnel and what DHA has been providing.

To meet rising community expectations and to meet future housing needs, DHA has clearly delivered to those rising standards, creating a conflict with the Department of Finance which wished to hold DHA to delivering to a minimum standard, to the detriment of members. DHA, as identified in its Act, tries to provide 'suitable' housing to the members, remembering that DHA's charter is to support ADF capability by ensuring that housing is not seen as an impact on morale and supports the ADF retention goals. DHA does not define 'suitable' as 'minimum' – and for the reasons advanced in this submission the RSL entirely agrees with this stance.

This appears to have resulted a conflict of interest, generated by differing governance expectations under two separate Acts and has created a situation where it is being posited that if Defence wants its members in anything more than 'minimum standards', then Defence must pay that extra out of its budget, freeing up DHA profits to be returned to consolidated revenue.

This conflict between two acts has caught DHA in the middle. This situation can only be resolved by changes to the governance arrangements for DHA – arrangements that balance the differing requirements of the DHA Act and the PGPA.

The RSL suggests Defence more clearly define what is required from DHA - but not as a minimum. This might best be done by ensuring the Service agreement between DHA and Defence better reflects contemporary and evolving community standards for housing and allows DHA sufficient flexibility to provide flexible and future-focused outcomes.

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