

Additional Comments by Labor Senators

Housing unaffordability drives growing inequality

1.1 Having an affordable, secure and appropriate home with reasonable access to services is essential to financial, social and emotional wellbeing. All Australians have the right to secure, affordable and appropriate housing throughout their lives. Having a genuine chance to live near job opportunities is essential for Australians' social and economic participation. For too many people, the housing pressures they face are getting worse, not better. Australia has a housing crisis—a crisis of supply, a crisis of affordability and a crisis of suitability and sustainability.

1.2 Homelessness is a destructive and growing social and economic problem. It is unacceptable that in a country endowed with wealth and opportunity that many of our fellow Australians have nowhere to call home. It is an inalienable human right for all Australians to have access to safe and affordable housing.

1.3 There is no greater example of increasing inequality than many of our fellow Australians having to sleep on the streets, couch-surf or live in overcrowded, unhygienic and unacceptable housing conditions while others live in unimaginable luxury and privilege.

1.4 Homelessness is an outcome of inequality, driven by a significant shortage of affordable, secure, long-term housing. Housing inequality is the single biggest driver of intergenerational inequality. Homelessness touches the whole country—in cities, in country towns, and in particular in remote Australia where many Indigenous Australians continue to live in conditions akin to those of a developing country.

1.5 In her evidence to the inquiry, Associate Professor Lisa Wood illustrated the real, long run, intergenerational effects of failure to invest in people for whom housing is unaffordable and inadequate, and who are at risk of homelessness:

We see that there is a risk of inequality. A lot of the people who are homeless have experienced childhood trauma. There are mental health issues. Many of them are victims of what has been exposed in the royal commission around sexual abuse. So they are very complex cases. It needs not just support to get them housing but to sustain that housing. So, unless there is the resourcing for that—and some of the really commendable NPARH programs did invest in helping people sustain their tenancies, but only for a short period; we need to be able to scale up those kinds of things—we are going to perpetuate those inequalities and those revolving doors between health, justice, unemployment and child protection are not going to be turned around.

...We now have people who are homeless in Australia that are third-generation homeless. I have worked with a domestic violence refuge where some of the staff have been there so long they say, 'We see children coming in who came in with their mother when she was a victim.' Those inequalities are deep-rooted. I look to what a lot of my Aboriginal colleagues who I work with would say: if we are going to address inequality we have to do more than just treat people equally. We have to

invest a lot more in those vulnerable populations to try and lift them up to anywhere near the standard that the rest of us enjoy every day.¹

Background to the Bill

1.6 The purpose of the Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017 is to amend the Federal Financial Relations Act 2009 to repeal the current National Specific Purpose Payment for Housing Services and replace it with new funding arrangements under which payments to the states and territories will be contingent on their being party to primary, supplementary and designated housing agreements.

1.7 The Bills Digest provided by the Parliamentary Library provides historical background to federal-state funding arrangements for housing and homelessness assistance and some of the problems associated with those arrangements against which the Bill should be considered.

1.8 Following the adoption of a new Intergovernmental Agreement on Federal Financial Relations, the Rudd Government introduced the National Affordable Housing Agreement (NAHA) in 2009.

1.9 The NAHA replaced the Commonwealth-State Housing Agreement (CSHA) which had, since 1945, been the main vehicle through which Australian governments introduced housing policy initiatives and, along with state and territory governments, provided funding for housing.

1.10 Under the NAHA, a number of existing Commonwealth housing and homelessness assistance programs were rationalised with a view to introducing a whole-of-housing system approach to housing affordability and placing affordable housing at the core of the national agenda. The programs that were rationalised included the Supported Accommodation Assistance Program (SAAP), a joint Commonwealth-State funded program that was introduced in 1985 to consolidate under one nationally coordinated program a range of homelessness programs that were funded by individual state and territory governments and the Federal Government.

1.11 The NAHA is an on-going agreement, but one that is reviewed every five years and amended as necessary by agreement of the Council of Australian Governments (COAG). The Agreement is supported by the National Specific Purpose Payment for Housing Services which is an indexed on-going payment to the states and territories to be spent on housing services, paid at around \$1.3 billion per annum.²

1.12 With the COAG reforms to Commonwealth-state financial relations, a number of changes were made to Specific Purpose Payment arrangements. National Special Purpose agreements, including the NAHA, were not to be subject to conditionality financial or otherwise; the focus of Specific Purpose Payments was to shift to results,

1 Associate Professor Lisa Wood, School of Population and Global Health, University of Western Australia, *Proof Committee Hansard*, 29 January 2018, p. 36.

2 Financial assistance is paid under section 14 of the *Federal Financial Relations Act 2009*.

outcomes and outputs and away from inputs; indicators were to be developed to measure performance against agreed outputs and outcomes; and, the COAG Reform Council was to independently assess states' and territories' performance against the indicators.

1.13 In keeping with the changed arrangements, the states and territories are not required to match Commonwealth Specific Purpose Payment funding. Under the NAHA there is no identified program funding—that is, funding that is provided for a specific housing or homelessness purpose (as was the case under the CSHA). Instead, the states and territories are responsible for determining the amount of funding to be directed to particular government housing programs and services. They are not required to report on their allocation of NAHA funding.

1.14 Under the National Partnership Agreement on Homelessness (NPAH), funding is allocated to the states and territories primarily to support the provision of homelessness services. This funding is required to be matched by the states and territories. When the NPAH was introduced, it was funded over four years from 2009–10 to 2012–13. From 2013 up to the 2017–18 Budget, funding for homelessness services provided under the NPAH has been allocated through interim funding arrangements, on an annual or bi-annual basis.

1.15 The NHHA will provide \$375 million over three years from 2018–19; maintaining the current \$115 million of annual homelessness funding provided under the National Partnership Agreement on Homelessness (NPAH). This funding will be ongoing and indexed, to maintain and provide funding to front line services that help Australians who are homeless or at risk of becoming homeless. To ensure that funding for front line homelessness services is preserved, the NHHA will separately identify the indexed funding, to be matched by the States, that relates to the NPAH.

Problems with the NAHA

1.16 Figures from the 2016 COAG *Report on Performance 2016* indicate that three of the four key benchmarks identified in the NAHA have not been met.³

1.17 The four indicators were: from 2007–08 to 2015–16, a ten percent reduction nationally in the proportion of low-income renter households in rental stress; from 2006 to 2013, a seven percent reduction nationally in the number of homeless Australians; from 2008 to 2017–18, a ten percent increase nationally in the proportion of Indigenous households owning or purchasing a home; and, from 2008 to 2017–18, a twenty percent reduction proportion in the of Indigenous households living in overcrowded conditions. The COAG Reform Council reported that only the latter benchmark relating to the proportion of Indigenous households living in overcrowded conditions was on track to be met.

1.18 Australia's stock of public housing has fallen consistently over recent years. While this reduction has been offset to a slight degree by an increase in the supply of

3 Department of the Prime Minister and Cabinet, [Council of Australian Governments: Report on performance 2016](#), March 2016, pp. 11–14.

community housing, the overall stock of social housing is not increasing at a rate sufficient to keep up with demand. As at 30 June 2017, there were 189 404 applicants on the waiting list for social housing across Australia.⁴

1.19 In a 2013 report comparing the performance of jurisdictions with regard to their response to homelessness, the COAG Reform Council expressed some criticism of the performance framework set out in the NAHA.⁵ The Council argued that further work was needed to improve the measurement of sustainable housing outcomes for people who are homeless or at risk of homelessness. The Council also indicated that it had experienced difficulty in assessing performance against NAHA outcomes due to insufficient data and an inability to link activities under National Partnership Agreements to the NAHA objectives.⁶

1.20 The COAG Reform Council's criticisms were echoed in the public hearing by the Council to Homeless Persons who criticised the performance measures selected for the NAHA:

I think it's fair to say that those outcome measures were perhaps the wrong ones selected. They're quite outside the parameters of the agreement. You have an agreement that is delivering resources for social housing and some homelessness services and then you have outcome measures that talk about the proportion of low-income rental households and rental stress, most of whom are in the private market. Their rental stress is primarily being determined by Commonwealth levers that are outside the scope of the agreement. Of course, we have had an increase in the number of low-income renters in rental stress, primarily because rents are increasing faster than the maximum rate of Commonwealth Rent Assistance. The value of that payment is decreasing for households, and of course the rents are increasing, partly because of the failure of our housing tax settings to deliver private rental housing that is at a low-cost rate.⁷

1.21 A 2013 Australian National Audit Office (ANAO) evaluation of the implementation of the NPAH made similar criticisms of this agreement's performance measurement and reporting framework.⁸ Among other things, it argued that any future agreement should link payments to the achievement of agreed milestones, and that

4 Steering Committee for the Review of Government Service Provision, *Report on Government Services 2018 volume G: housing*, Productivity Commission, Canberra, 2017. 'Social housing' includes public housing, community housing and State owned and managed Indigenous housing.

5 COAG Reform Council, *Homelessness 2011–12: comparing performance across Australia*, Sydney, 2013.

6 Department of Prime Minister and Cabinet, *Reform of the Federation White Paper: roles and responsibilities in housing and homelessness*, Issues Paper no. 2, 2014, p. 47.

7 Ms Kate Colvin, Manager, Policy and Communications, Council to Homeless Persons, *Proof Committee Hansard*, 29 January 2018, p. 22.

8 Australian National Audit Office (ANAO), *Implementation of the National Partnership Agreement on Homelessness: Department of Families, Housing, Community Services and Indigenous Affairs*, Audit report, No. 31, 2012–13, ANAO, Barton, ACT, 2013.

state and territory governments should be required to report financial information to provide assurance to the Minister that they were making appropriate levels of co-contribution.

1.22 Both the COAG Reform Council and the ANAO assessments of the performance framework of the NAHA and NPAH argued for improved performance measurement against agreed milestones and outcomes.

1.23 The Bill does not provide for measurement of outputs against agreed outcomes or milestones but, rather, requires the States and Territories to commit to inputs in the form of publication of housing and homelessness strategies, provision of data, reaching a bilateral agreement with the Commonwealth and provision of matched homelessness funding as conditions for Commonwealth funding.

1.24 To this extent, the Bill is not consistent with the recommendations of the COAG Reform Council and the ANAO to improve performance measurement against agreed outcomes under the NAHA and NPAH.

1.25 In their submission, which has not been contradicted by the submissions made on the Government's behalf by Treasury and the Department of Social Services, the States and Territories argue that the pre-conditions for Commonwealth funding proposed in Part B, section 15C are:

Input controls in direct contradiction of section 21 of the Intergovernmental Agreement on Federal Financial Relations, and will not necessarily support improved outcomes for people needing housing or homelessness services.⁹

1.26 In the view of Labor Senators, input controls that the Bill would place on the states and territories as a condition of funding will not necessarily contribute to improved performance against housing and homelessness outcomes under the National Housing and Homelessness Agreement (NHHA).

1.27 A far more effective way to improve housing and homelessness outcomes under the NHHA would be to build mechanisms into the Agreement that provide a clear basis for measurement of outcomes.

1.28 Notwithstanding the flaw in the Bill in that it provides for input controls as conditions for the states and territories receiving financial assistance, in their evidence given at the public hearing, Treasury and the Department of Social Services said that meeting the input controls proposed in the Bill would not be onerous:

What I'm saying is that it's not that difficult for the states to meet the requirements of (proposed section) 15C. I think the states would acknowledge that fact to be absolutely honest.

...I will make a general observation that I do not think it's going to be difficult for the states to meet these basic requirements.¹⁰

9 Governments of Victoria, New South Wales, Queensland, Western Australia, Tasmania, Australian Capital Territory, Northern Territory, *Submission 15*, p. 4.

10 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury; *Proof Committee Hansard*, 29 January 2018, p. 61.

1.29 In their submission, Treasury and the Department say of the requirement that the states and territories publish their housing and homelessness strategies:

However, the Commonwealth will not assess: the form or content of a State's housing or homelessness strategies; the validity or robustness of supply and demand projections in a State's housing strategy or supplementary housing agreement (bilateral schedule) - and funding will not be conditional on whether projected supply is met; or the validity or robustness of reforms or initiatives in homelessness strategies - and funding will not be conditional on the nature or delivery of these reforms or initiatives.¹¹

The Turnbull Government has no comprehensive housing plan

1.30 In view of the identified shortcomings of the NAHA, the government indicated its intention to introduce a new NHHA as part of its 2017–18 Budget measures.¹² The government has described the measures as a comprehensive plan to improve housing affordability.

1.31 Prior to the announcement of the 2017–18 Budget measures, the Assistant Treasurer, Mr Sukkar, told Sky News:

The housing package will be extraordinarily large, it will be far reaching, it will deal with all groups on the housing spectrum ...

I will be an impressive package; it will be a well-received package.

1.32 As it transpired, the package wasn't especially well-received at all.

1.33 Mr John Daley, Chief Executive of the Grattan Institute, and an acknowledged expert in the field of housing policy said:

You'll need an electron scanning microscope to see an impact on prices.

I can't see any reason why this budget is going to make a discernible difference to housing affordability; a discernible difference on the number of younger people that buy a house.¹³

1.34 Mr Adrian Pisarski of National Shelter said in relation to claims by the government that its housing measures would be a centrepiece of the 2017–18 Budget:

It's a centrepiece without a centrepiece.¹⁴

1.35 In a media release issued in response to the 2017–18 Budget, Homelessness Australia said:

The Budget fails to deliver the big-picture solutions needed to end homelessness.

11. The Treasury and Department of Social Services; *Submission 22*, p. 13.

12. Australian Government, *Budget Measures, Budget Paper no. 2:2017–18*, p. 155; Australian Government, *A New National Housing and Homelessness Agreement, Reducing pressure on housing affordability*, Fact sheet 1.7.

13. Mr John Daley, *ABC 7:30*, 10 May 2017.

14. Mr Adrian Pisarski, *ABC News 24*, 9 May 2017

This Budget is not fair, because it fails to fix a broken housing system that encourages investors to own more than one house while 105,000 haven't a home at all.

1.36 In a statement issued after the Budget announcement, James Toomey, Executive Operations and Fundraising for Mission Australia, said:

Disappointingly, the Budget contained inadequate assistance for the many people in rental stress who remain just one step away from homelessness. Rents are becoming increasingly unaffordable for older and younger Australians alike, with those on Newstart and the age pension struggling to find a home within their means.¹⁵

1.37 Richard Holden, Professor of Economics and PLuS Alliance Fellow at the University of New South Wales, said:

Yet the measures in this budget involve not much more than tinkering.

But the biggest disappointment of all was the absence of any measure whatsoever to address negative gearing and CGT exemptions for rental properties.¹⁶

1.38 Ms Bree Marr, an aspiring first home buyer, said of the salary sacrifice superannuation measure on ABC 7:30:

It wouldn't even cover your stamp duty.¹⁷

1.39 Evidence provided to the Committee by most submitters and witnesses also argue that the 2017–18 Budget measures fall far short of a comprehensive housing strategy and that the Commonwealth lacks a credible national housing strategy.

1.40 Mr Jeff Feidler told the Committee:

The explanatory memorandum to the Bill refers to the Commonwealth's comprehensive plan to improve housing outcomes for all Australians. However, we're not particularly aware of such a plan being provided by the Commonwealth.

...This places an unfair onus on the states as it doesn't recognise that housing and homelessness is a national problem and could possibly be in some cases caused by a failure of the federal government's lack of policy action.¹⁸

1.41 In its submission to the inquiry, the Council to Homeless Persons said:

The Federal Government has policy responsibility for most of the critical drivers of Australia's housing affordability crisis. A national housing plan, developed collaboratively with the states and territories, also has capacity to

15 Mr James Toomey, Mission Australia, *Media statement*, 9 May 2017.

16 Richard Holden, *The Conversation*, 9 May 2017.

17 Ms Bree Marr, *ABC 7:30*, 10 May 2017.

18 Mr Jeff Fiedler, National Development Worker, Housing for the Aged Action Group Inc, *Proof Committee Hansard*, 29 January 2018, p. 13.

leverage additional funding, and other actions within state policy jurisdiction.

Unfortunately, the Bill in its current form does not include any requirement on the Federal Government to deliver a plan, and instead in the Bill's Explanatory Memorandum shifts blame to the states and territories for outcomes that are primarily driven by federal policy drivers, including increasing homelessness and housing stress in the rental market.¹⁹

1.42 Ms Jenny Smith, Chair of Homelessness Australia and CEO, Council to Homeless Persons, elaborated on this point at the public hearing:

The other thing that the legislation doesn't include is a federal plan, the plan we need to end homelessness. That plan would need to bring together policy on the security and adequacy of welfare payments, family violence and mental health, as well as for specialist homelessness service delivery and social housing provision. We also need to be doing additional work to support many people and prevent them from entering homelessness, as well as to gain and keep the housing they get following a period of homelessness. We need a plan that pulls all of these elements together and for them to be pulling in the same direction, and that would also include research and evaluation to help us be sure that the service delivery models that are out there can be continually improved. We could do as they have in Finland and effectively end homelessness. But what we have before us is only a requirement for the states and territories to plan, when really most of the critical drivers of homelessness sit with the federal government.²⁰

1.43 Associate Professor Lisa Wood told the Committee:

Firstly, it's my view that it's premature to introduce a new national agreement in the absence of a complementary and urgently needed national strategy on homelessness and affordable housing. As it stands, a new agreement alone is insufficient. It doesn't provide the strategic vision for Commonwealth leadership or the cross-sectional evidence-based plan that is needed to address the tsunami of Australians facing homelessness and insecure housing. The Canadian national housing strategy, launched recently in November 2017, is a fantastic example of international best practice from a federated nation. I believe that Australia needs a 10-year strategy like this: a national strategy with a compelling vision, clear measurable targets, a whole of government approach and a sharp focus on those who are most vulnerable. The Canadian strategy interestingly sees that it's critical to expand federal leadership on housing and homelessness and it has backed it with a \$40 (b)illion investment to achieve the targets it has set.²¹

19 Council to Homeless Persons, *Submission 2*, p. 2.

20 Ms Jenny Smith, *Proof Committee Hansard*, 29 January 2018, p. 20.

21 Associate Professor Lisa Wood, School of Population and Global Health, University of Western Australia; *Proof Committee Hansard*, 29 January 2018, p. 33.

1.44 Mr Adrian Pisarski, Executive Officer of National Shelter, told the Committee during the public hearing:

Essentially, I think all this Bill does is bring two previous payments within one payment and a little bit of architectural tinkering around the side. It is not doing enough to provide a robust and coherent support social support system in terms of housing and homelessness. We are a long way short of that. It is going to require significantly more resources than either the Commonwealth or any of the states currently provide.

...There is no magic bullet. There is no magic pudding. There is no silver bullet. There is the need for a lot of elements to come together to address this problem, which is why we come back to this notion of a strategy. It isn't just about a funding pool to build affordable housing; it is also about providing the appropriate incentives to get the private investment at the scale that we really need to do this, but that is going to require a subsidy.²²

1.45 Mr Michael Myers said of his more than thirty years' experience in the housing sector:

I wanted to start by saying I've been working in the social and affordable housing space since 1982, in homelessness, public housing, public policy, community, the private sector and the community sector, and I've sat in many times with committees and put many submissions in. I think the one thing that is consistent through all that time is that there is a need for a national housing strategy. Who plays what role in that strategy needs to be worked out once we identify the purpose of the strategy and what kind of outcomes we want for our community.²³

1.46 Mr Myers went on to tell the Committee:

I do think that, when the Commonwealth says, 'Here's a comprehensive plan for housing affordability for all Australians' and then says, 'Here's a national housing agreement,' 'Here's a bond aggregator' and 'Here's an infrastructure fund,' it's not connected up. There are policies pulling in different ways. There are expenditures or tax foregone over here offset by some expenditures over here, and we're not making a more rational use of the resources. That's because we haven't got some national goals. We haven't got a national goal that says a well-housed society would look like that.²⁴

1.47 The bill places requirements on the States and Territories with little commitment from the Commonwealth to use its own policy levers. Homelessness Australia characterises it this way:

22 Mr Adrian Pisarski, Executive Officer, National Shelter, *Proof Committee Hansard*, 29 January 2018, p. 43.

23 Mr Michael Myers, Managing Director, National Affordable Housing consortium, *Proof Committee Hansard*, 29 January 2018, p. 47.

24 Mr Michael Myers, Managing Director, National Affordable Housing consortium, *Proof Committee Hansard*, 29 January 2018, p. 48.

Unfortunately, the Bill in its current form does not include any requirement on the Federal Government to deliver a plan, and instead in the Bill's Explanatory Memorandum shifts blame to the states and territories for outcomes that are primarily driven by federal policy drivers, including increasing homelessness, and housing stress in the rental market.²⁵

1.48 Stakeholders explained very clearly that to address housing affordability, there needs to be joint effort at both the Commonwealth and State and Territory Government levels.

1.49 Labor Senators note the appalling process put in place by the Commonwealth that lead to the introduction of the National Housing and Homelessness Agreement legislation before the Commonwealth and State Treasurers had actually met to agree to the details contained in the legislation. This process has not made reaching agreement between all jurisdictions any easier.

1.50 Specifically, there was no consultation with the States or Territories that the matched funding requirements would be contained in the legislation, ahead of the legislation being introduced into the parliament. The Treasury acknowledged this fact at the Senate Economics Committee Estimates hearing on 25 October 2017:

Senator GALLAGHER: ...my question really is around the requirement or the preference of the Commonwealth, it appears, to put those payment requirements in the overarching legislation. Was feedback received from the states on that?

Mr Robinson: We didn't have specific conversations with the states around the level of detail that would be in the legislation.

Senator GALLAGHER: So you didn't tell them that the Commonwealth wanted to tie funding arrangements in the legislation and have that as part of the overarching act? That wasn't run past the states?

Mr Robinson: Not previously.²⁶

1.51 The day before, the Treasurer, Scott Morrison, had been championing a Productivity Commission report recommendation on closer cooperation with the states and territories:

The Commission is principally saying that as a Federation we need to work together better, to play nice, including on securing productivity gains.²⁷

1.52 Introducing legislation that governs the operation of Commonwealth-State agreements into the Parliament before states and territories have been consulted over crucial measures in the bill is not evidence of working 'together better'.

25 Homelessness Australia, *Submission 4*, p. 2.

26 Senate Economics Legislation Committee, *Estimates Committee Hansard*, 25 October 2017, pp. 143–144.

27 Hon Scott Morrison MP, *Address to CEDA*, 24 October 2017, accessed via <http://sjm.ministers.treasury.gov.au/speech/026-2017/>

1.53 The joint submission by the Governments of Victoria, New South Wales, Queensland, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory also make it very clear that the Commonwealth can control policy settings such as taxation, migration and income support, which all have a strong influence on housing outcomes:

The States also contend that the Commonwealth should demonstrate more willingness to use its own unique levers (such as taxation, migration and income support, including the level of CRA) to jointly contribute to outcomes.²⁸

1.54 The Government's policy on housing affordability worsened on 14 September 2017 when the Treasurer announced a ban on Managed Investment Trusts investing in housing, apart from affordable housing. The announcement was with immediate effect.

1.55 The announcement was totally at odds with the government's claims that its policy framework will work to increase supply right across the housing spectrum.

1.56 This announcement completely ambushed the property and construction sector.

1.57 The shock move stands to kill the emerging 'build-to-rent' movement that has already taken off in the US and more recently in the United Kingdom. It is a potential new billion dollar addition to the Australian real estate market.

1.58 By killing build-to-rent outside of narrowly defined affordable housing, the Treasurer is killing off a section of the industry that could provide stable, long term living arrangements for many people and substantially add to Australia's stock of market rental housing that in turn, would take pressure off existing private market stock that is increasingly occupied by young, higher income households that are locked out of the owner-occupier market.

1.59 The Turnbull Government has also disappointed State and Local Governments by taking a decision to discontinue funding through the National Partnership on Remote Housing (NPRH).

1.60 As stated by the Queensland Government in its letter dated 24 January 2018, the discontinuation of funding places further pressures on State Governments:

On 22 December 2017, Commonwealth officers advised Queensland officers that there will be no further remote housing agreement, and that Queensland maybe be able to access a small transition payment (approximately six months) before the Commonwealth exits its remote housing responsibilities altogether.

...

The removal of Commonwealth funding will increase pressure on Queensland to reprioritise already stretched resources, and will likely result

28 Joint submission by the Governments of VIC, NSW, QLD, WA, TAS, ACT & NT, *Submission 15*, p. 2.

in reduced levels of service delivery to a highly disadvantaged population, in remote locations where that disadvantage is felt most sharply.²⁹

1.61 The Local Government Association of Queensland also stated in its letter dated 25 January 2018 stated that this discontinuation of NPRH funding is a sign of the Turnbull Government abrogating its responsibilities and that this decision will place further pressures on NAHA funding:

Despite good faith discussions with the Commonwealth Government, including meetings with indigenous mayors facilitated by the LGAQ, tours of communities experiencing severe overcrowding and submissions to the Federal Government's Remote Housing Review into the NPARIH program 2008-2018, the LGAQ understands that there will be no further funding to address the housing crisis in indigenous communities.

...

In the LGAQ's view and without consultation, the Government has abrogated its Closing the Gap responsibilities. As the explanatory notes to this Bill highlight, "the overarching objective of the National Affordable Housing Agreement is to ensure that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation. The NAHA is a framework for improving outcomes for all Australians". The Commonwealth Government has failed in this objective if funding in some form is not continued to address the lack of housing in remote indigenous communities.

...

While the LGAQ understands the Bill being considered does not consider the NPARIH arrangements, and notwithstanding a formal submission has not been previously made within the relevant timeframes, the Committee should be aware of the pressure that will be placed on the associated (and limited) funding for housing and homelessness under consideration if NPARIH funding ceases without replacement.³⁰

1.62 During the hearing, Treasury officials confirmed that the Government has made no decision or announcement on future funding for remote indigenous housing, indicating that they will likely be included in future bilateral agreements. However, at this point the committee has no information on the quantum of funding that might be provided by the Commonwealth:

Mr Brennan: ... Obviously, as is well known, the National Partnership Agreement on Remote Indigenous Housing is a time-limited agreement that

29 Queensland Government, Additional Document tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018, accessed via https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Homelessness/Bill2017/Additional_Documents

30 Local Government Association of Queensland, Additional Document tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018, accessed via https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Homelessness/Bill2017/Additional_Documents

expires at the end of June 2018. At this point there is really no government decision and no government announcement about what will follow from 30 June. I must confess that because the negotiations on that are headed by Minister Scullion and are really conducted under the auspices of the Department of the Prime Minister and Cabinet, which has responsibility for Indigenous affairs and that agreement, I am not aware precisely of where those negotiations are up to. I am happy to take the matter on notice and if there is anything I can add—I understand you need responses to these questions quite quickly to finalise the report—I am happy to come back to a committee on that. But at this point there has been no decision or announcement.

...

Senator KETTER: So, if I am reading between the lines of what you are saying it is the bilateral agreements under this new scheme that will pick up funding for remote Indigenous housing?

Mr Brennan: Not necessarily pick up the funding. I think there will be a stand-alone negotiation in relation to remote Indigenous housing and anything that would follow on from the current agreement. So it is not that we would seek to bring the remote Indigenous housing arrangements underneath this agreement. I am merely saying there is a possibility that what a state wanted to put in its bilateral agreement with the Commonwealth may have some bearing on the other negotiations, I guess. I am leaving open that possibility. As you say, I certainly couldn't rule that out and say that the two couldn't be connected in some way.³¹

1.63 And questions on notice received by Treasury have not revealed any more information:

The Department of the Prime Minister and Cabinet have policy responsibility for Remote Indigenous Housing matters. They advise that the Commonwealth is in discussions with relevant jurisdictions about future arrangements for remote Indigenous housing. Negotiations will be progressed through direct conversations with the jurisdictions involved.³²

1.64 The Turnbull Government's decision to discontinue funding through the NPRH while having no alternative arrangement has added further confusion and uncertainty to a sector that serves some of the most vulnerable and disadvantaged communities in our nation.

31 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, pp. 56–57.

32 Answers to questions on notice – The Treasury, accessed via https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Homelessness/Bill2017/Additional_Documents

The Bill places housing and homelessness funding at risk

1.65 Many of the submissions received by the Committee and evidence provided at the public hearing expressed strong criticisms of the conditionality the Bill places on payment of housing and homelessness assistance to the States and territories.

1.66 The states and territories expressed strong criticism of this aspect of the Bill:

The NHHA will provide \$4.6 billion nationally over three years for housing and homelessness. The conditions proposed by this Bill allow the Commonwealth to withhold all funding for the States for housing and homelessness under the NHHA. Therefore, billions of dollars of support for the most vulnerable in our communities could be at risk each year if the Commonwealth rejects the content of a state's own housing or homelessness strategy, or deems information provided by a state as being not compliant with the legislation. This places critical social housing and homelessness services at risk, prevents effective forward planning by service providers and may have serious impacts on vulnerable Australians.

This approach is punitive and disproportionate and does not work toward the stated objectives of the NHHA of improving housing outcomes for vulnerable people. The States are committed to working with the Commonwealth toward improving outcomes, transparency, reporting and data collection, but must have funding certainty to progress any significant reforms. The States would support additional incentive funding from the Commonwealth for initiatives beyond the scope of the current agreement.³³

1.67 In its submission, National Shelter argue that there should be no triggers to reduce or cease the flow of funds to the states and territories:

Where penalties or sanctions are required they should not impact on funding vital to social housing provision or the provision of homelessness services. Threatening funding withdrawal or reduction if state plans are not "credible" begs the question of whose and what criteria determine "credible".³⁴

1.68 Homelessness Australia expressed concern about the immediate risk the Bill poses to payment of housing and homelessness funding to the states and territories:

The Bill imposes a particular funding risk for 2018, with the termination of the NAHA funding. This means no funding will flow to the states for housing and homelessness until they have signed a new primary agreement (between the Federal Government and all the states and territories) and a supplementary agreement (between each state separately and the Federal Government). This places the states in an extremely poor situation to negotiate fair and realistic targets. A process that is more likely to maximize outcomes would see the current arrangements continue until a national agreement has been agreed, and signed by all the states and territories and the Federal Government.

33 Op cit, p. 2.

34 National Shelter, *Submission 5*, p. 3.

Should funding to states and territories for housing and homelessness services be cut, the 394,0006 Australian households who currently reside in social housing would be put at risk of homelessness, and services to the 288,0007 Australians who access specialist homelessness support in a year would be reduced.³⁵

1.69 In its submission, Melbourne City Mission, which is Victoria's largest funded provider of youth homelessness services said:

The Bill contains conditions that allow the Commonwealth to withhold all funding for the States for housing and homelessness under the NHHA. This creates significant risk for frontline services like Melbourne City Mission and, more importantly, for the nation's most vulnerable citizens.³⁶

1.70 At the public hearing, the Secretary of the Victorian Department of Treasury and Finance drew the Committee's attention to the risks associated with the funding conditionality provisions in the Bill that allow subjective judgments to be made about state and territory housing and homelessness strategies:

We've had numerous discussions with Commonwealth representatives, essentially through Treasury—heads of Treasury meetings. We've had several discussions on this and we've been advised a similar thing, which is: states and territories, don't worry; we won't interpret the legislation as anything more than, provided you have a strategy and it's up on your website, that will be fine. Now I don't suggest that those individuals themselves aren't telling us the truth, but one day there'll be some bureaucrats or a government or a minister who will decide to interpret the legislation differently, because the literal reading of the legislation is: requires someone in the Commonwealth to exercise judgement as to whether a state's housing and homelessness strategy sufficiently meets the requirements of the legislation. And, once you introduce judgement, then there's uncertainty about whether the funding will actually flow. So you can envisage situations where, for whatever reason, there's a big argument between two governments across jurisdictions and money could be withheld.³⁷

1.71 Mr. Michael Lennon, Chair of the Community Housing Industry Association expressed his organisation's concern if an outcome of the Bill is that Commonwealth housing and homelessness assistance were to be withheld from a state or territory:

It's hard to imagine, given that \$1.4 billion is available for funding, that states won't comply in the most basic forms. And I agree with you completely that it would be a negative and unwanted outcome for us to be in a circumstance where state funding was being held back to a state. In our view, that could be addressed by being more precise about what we mean

35 Homelessness Australia, *Submission 4*, p. 3.

36 Melbourne City Mission, *Submission 24*, p. 2.

37 Mr. David Martine, Secretary, Department of Treasury and Finance, Victoria; *Proof Committee Hansard*, 29 January 2018, p. 9.

by a strategy, and the core elements of it—and, as I indicated before, by the Commonwealth doing a similar thing itself.³⁸

1.72 Mr. Pisarski on behalf of National Shelter pointed out that withholding funding from a state or territory would be a highly undesirable outcome if the Bill were to be read as allowing to Commonwealth to do so:

We think it would be perverse, if the states weren't providing enough affordable housing, that the Commonwealth then turned off the dollars that provide that affordable housing. We think that's a perverse outcome and not really part of a credible strategy.³⁹

Tax reform is essential

1.73 When the subject of tax reform was raised during the public hearing and in submissions, the universal view is that reform of negative gearing and capital gains tax discounts should form part of any credible national housing affordability plan.

1.74 Asked about whether current negative gearing and capital gains tax treatment of property investment was assisting low income households, Ms Peta Winzar, Executive Director of the Community Housing Industry Association told the Committee:

...as a point of principle I'd say that we would think that that's capital gains tax and negative gearing distributions should equally benefit the whole of the community, not just those on high incomes, or those who are in a position to accumulate wealth through property.⁴⁰

1.75 Mr Pisarski, appearing on behalf of National Shelter expressed a very clear view on the need for reform of negative and capital gains tax:

There's a lot of money in tax reform that we could be extracting—revenue around negative gearing. I'd actually go after capital gains tax more than I would negative gearing, because I think that if you can address the capital gains tax anomalies, inequalities and inequities that we have within that system then negative gearing probably starts to take care of itself over time. It's the drive for capital appreciation that means so many people are after the capital gains tax exemption, and it's also a way of people getting some foothold in the property market without being able to become an owner-occupier. There are all sorts of equations around that, but it's become a huge inequity that costs the federal government billions and billions every year in forgone revenue. Even a proportion of that, if it could be saved and retasked to appropriate incentives to get the private investment coming in which would then build the community housing sector, or help build the

38 Mr Michael Lennon, Chair, Community Housing Industry Association; *Proof Committee Hansard*, 29 January 2018, p. 28.

39 Mr Adrian Pisarski, Executive Officer, National Shelter; *Proof Committee Hansard*, p. 41.

40 Ms Peta Wanzar, *Proof Committee Hansard*, 29 January 2018, p. 31.

community housing sector, to a point where we were starting to win instead of going backwards, is the kind of thing we're talking about.⁴¹

1.76 Mr Pisarski drew to the Committee's attention the disparity between the effective subsidy negative gearing and capital gains tax discounts provide to private market rental housing and the depth of subsidies provided to social housing and the very different standards of accountability and transparency the government demands from each sector:

One of the exercises that I did about 12 months ago, when we were in the recent round of discussions on this, was look at what the government expenditure on capital gains tax exemptions and negative gearing tax expenditures were for investors. I broke that down per property and compared it to what the Commonwealth spent on social housing per property. We spend probably 60 to 70 per cent more per property supporting private investors to provide private rental housing than we do for state governments to provide public housing, yet we don't demand any accountability measures from those private individuals who take advantage of the tax benefits of negative gearing and capital gains tax exemptions, but we bash states over the head with bricks, if we can, to make the point that they don't do enough with the billion dollars of expenditure that the Commonwealth provides them for social housing. So there seems to me to be a double standard in that. There is a double standard for the Commonwealth where it is perfectly prepared to hold the states accountable for a billion dollars' worth of spending but for some—I think the figure is \$14 billion or \$17 billion worth of tax expenditure that goes to support the private rental market—there is no accountability—none at all. So you are not demanding standards⁴².

1.77 Ms Jenny Smith suggested that an effective national housing and homelessness plan would include a range of Commonwealth levers, including taxation measures:

That new plan would need to bring together into a single plan—a single national housing plan—the policy levers that affect social housing delivery, and they are taxation on housing, direct investment in social housing, Commonwealth rental assistance, affordable housing subsidies, and planning and infrastructure policy. It's probably no surprise that almost all of the submissions to the committee have made this point, because it's a no-brainer, but it's not in the legislation.⁴³

Conclusion

1.78 Labor Senators agree that there is a need for greater accountability and transparency in the expenditure of Commonwealth housing assistance payments. This

41 Mr Adrian Pisarski, Executive Officer, National Shelter; *Proof Committee Hansard*, pp. 43–44.

42 Op cit, pp. 45–46.

43 Ms Jenny Smith, Council to Homeless Persons; *Proof Committee Hansard*, 29 January 2018, pp. 20–21.

has been a long-standing position of Labor. The question that the Bill does not adequately answer is; what type of accountability and transparency?

1.79 Labor Senators agree with the great weight of evidence put to the inquiry both in submissions and oral evidence that the Commonwealth does not have the comprehensive housing strategy that is necessary to resolve the country's large and growing crisis of housing affordability and supply for low and very low income households.

1.80 As Labor said after the 2017–18 Budget measures were announced, the Prime Minister and the Treasurer had a chance to reform negative gearing and capital gains and they have failed. Worse still, the superannuation measure aimed at helping young people to save for a house deposit undermines the retirement incomes of young Australians. The package is a complete sham. The measures in the Budget tinker at the edges but will do nothing to put first home buyers back on to a level playing field with investors or take the heat out of the housing market. The housing affordability measures announced in the Budget fail the fairness test and don't come close to the Budget centrepiece the Treasurer and his junior Minister had been promising for months. It is a grab-bag of unrelated measures that will not address key drivers of housing unaffordability that are in the Commonwealth's control like winding back negative gearing and the capital gains tax discount. There is not a housing expert in the country who thinks the Government should have left unchanged Australia's housing tax concessions, the most generous housing tax concessions in the developed world. Yet this is what the Government has done.

1.81 Labor senators agree that the Bill as drafted presents a clear and unacceptable risk to ongoing housing assistance to the states and territories while it retains provisions that would allow a Commonwealth Minister to make a subjective or capricious judgement about the validity, credibility or prospects of success of a state or territory's housing or homelessness strategy.

1.82 However, Labor Senators do not believe the Bill should not be passed because should it fail to pass, the homelessness support that is dependent on the Bill passing would be placed in serious jeopardy.

1.83 Simply put, if the Bill does not pass, the *Federal Financial Relations Act 2009* is not amended. Under the obligations the Act places on the Commonwealth under section 14, the Commonwealth would be required to provide the previous amount of \$1.34 billion to the states, indexed as the Minister (in this case the Treasurer) saw fit.

1.84 However, the National Partnership Agreement on Homelessness expires on 30 June 2018 and absent the passage of this Bill, there is no legal obligation on the Commonwealth to provide homelessness assistance to states beyond that date. The Government's intention is to provide this funding in the context of amendments to the Act provided for in the Bill.

1.85 Labor Senators note the submission made on by Treasury and the Department of Social Services on behalf of the Commonwealth which states:

Publication of strategies ensures a degree of accountability through public scrutiny.

However, the Commonwealth will not assess: the form or content of a State's housing or homelessness strategies; the validity or robustness of supply and demand projections in a State's housing strategy or supplementary housing agreement (bilateral schedule) - and funding will not be conditional on whether projected supply is met; or the validity or robustness of reforms or initiatives in homelessness strategies - and funding will not be conditional on the nature or delivery of these reforms and initiatives.⁴⁴

1.86 Labor Senators are of the view that this submission be given legal effect in the Bill by way of an amendment that would prevent the Minister from withholding, withdrawing, delaying, reducing or adversely affecting a payment to a state or territory provided the state or territory meets the basic conditions of transparency and accountability imposed on them by the proposed sections 15C and 15D of the Act.

Recommendation 1

1.87 That the Government take urgent steps to address the overwhelming evidence in submissions and oral evidence to the inquiry that it has no comprehensive national strategy on housing and homelessness designed to reduce intergenerational housing inequality, increasing housing unaffordability and end the unfair tax treatment of residential investment property that predominantly benefits high income earners.

Recommendation 2

1.88 That the Government, in its ongoing negotiations with the states and territories, develop a range of reasonable, effective and robust accountability and transparency measures including relevant and appropriate performance benchmarks for the expenditure of Commonwealth housing and homelessness assistance payments.

44 The Treasury and Department of Social Services, *Submission 22*, p. 13.

Recommendation 3

1.89 That the Bill be amended to provide certainty of Commonwealth housing and homelessness assistance to the states and territories provided the states and territories meet the basic requirements of proposed sections 15C and 15D.

1.90 Specifically, assistance shall not be withheld, withdrawn, reduced, delayed or otherwise adversely affected because of any assessment made or opinion formed by the Minister about the validity, credibility or likely effectiveness of any strategy made and published, or any information provided by a state or territory in accordance with the requirements of the Act.

**Senator Chris Ketter
Deputy Chair**

**Senator Doug Cameron
Senator for New South Wales**

**Senator Jenny McAllister
Senator for New South Wales**