

The Senate

Economics
Legislation Committee

Treasury Laws Amendment (National Housing
and Homelessness Agreement) Bill 2017
[Provisions]

February 2018

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Abbreviations and acronyms

ACOSS	Australian Council of Social Service
CHIA	Community Housing Industry Association
COAG	Council of Australian Governments
CRA	Commonwealth Rent Assistance
IGA	Intergovernmental Agreement
FFR Act	<i>Federal Financial Relations Act 2009</i>
MYEFO	Mid-Year Economic and Fiscal Outlook
NAHA	National Affordable Housing Agreement
NDIS	National Disability Insurance Scheme
NHHA	National Housing and Homelessness Agreement
NPAH	National Partnership Agreement on Homelessness
NPARIH	National Partnership on Remote Indigenous Housing
NPRH	National Partnership on Remote Housing
NSPP	National Specific Purpose Payment

Chapter 1

Introduction

1.1 On 16 November 2017, the Senate referred the Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017 [Provisions] (the bill) to the Senate Economics Legislation Committee (committee) for inquiry and report by 6 February 2018.¹

1.2 The bill seeks to amend the *Federal Financial Relations Act 2009* (FFR Act) to introduce new funding arrangements for Commonwealth support to states and territories for housing and to address homelessness. Specifically, it seeks to repeal the National Specific Purpose Payment (NSPP) for Housing Services and establish a new funding framework based on primary, supplementary and designated housing agreements.²

1.3 In his second reading speech, the Assistant Minister to the Treasurer, the Hon. Michael Sukkar MP stated that 'housing is fundamental to the wellbeing of all Australians. It is a driver of social and economic participation and promotes better employment, education and health outcomes'.³ The Assistant Minister explained that the measures in the bill will:

...support improved housing and homelessness outcomes by requiring jurisdictions to develop a detailed housing and homelessness strategy and to commit to improved data collection and reporting in exchange for significant Commonwealth funding. This approach will secure improved outcomes but in a way that the government believes is reasonable, that is achievable for the states and territories and does not jeopardise the funding of core social housing and homelessness services.⁴

Conduct of the inquiry

1.4 The committee advertised the inquiry on its website and wrote to relevant stakeholders and interested parties inviting submissions by 18 December 2017.

1.5 In total, the committee received 28 submissions, which are listed at Appendix 1.

1.6 A public hearing was held on 29 January 2018 in Melbourne. The names of witnesses who appeared at the hearings are listed at Appendix 2.

1 *Journals of the Senate, No. 71*, 16 November 2017, p. 2250.

2 Explanatory Memorandum, p. 3.

3 The Hon. Michael Sukkar MP, Assistant Minister to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 25 October 2017, p. 11891.

4 The Hon. Michael Sukkar MP, Assistant Minister to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 25 October 2017, p. 11891.

1.7 The committee thanks all individuals and organisations who assisted with the inquiry, especially those who took the time to make written submissions and responses to questions on notice.

Background

1.8 The government announced a comprehensive housing affordability plan in the 2017–18 Budget, including measures to improve outcomes for Australians across the housing spectrum, from first home buyers and renters to those in need of crisis accommodation and those at risk of or experiencing homelessness.

1.9 The Budget announcement stated that the new National Housing and Homelessness Agreement (NHHA) would combine funding currently provisioned under the NSPP for Housing Services and the National Partnership Agreement on Homelessness (NPAH).⁵

1.10 As part of the NHHA, the government announced that it would provide an additional \$375.3 million over three years from 2018–19 to fund ongoing homelessness support services, with funding to be matched by the state and territory governments.⁶

1.11 The bill enacts the government's decision, as part of the comprehensive housing affordability plan, to reform the way that the Commonwealth makes housing related payments to the states and territories. The bill seeks to replace the NSPP for Housing Services that supports the National Affordable Housing Agreement (NAHA), and introduces new, conditional funding arrangements from 1 July 2018.⁷

Current legislative framework

1.12 The FFR Act appropriates funds to provide financial assistance to the states and territories, and establishes payment arrangements in accordance with the federal financial relations framework agreed by the Council of Australian Governments (COAG) in the Intergovernmental Agreement (IGA) on Federal Financial Relations.

1.13 As part of this framework, the Commonwealth provides payments to the states and territories to support their efforts in delivering key services such as: health, education, skills and workforce development, community services, housing, Indigenous affairs, infrastructure and the environment.

1.14 In some policy areas, the payments are in the form of NSPPs, which require the funding under each NSPP to be spent only in the relevant sector (i.e. for Housing Services), but are otherwise unconditional. The Minister for Finance determines how funding under the NSPPs is distributed among the states and territories.

1.15 The FFR Act also provides for a range of payments in accordance with other parts of the IGA and other agreements with the states and territories, including:

5 Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2017–18*, p. 155.

6 Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2017–18*, p. 155.

7 The Hon. Michael Sukkar MP, Assistant Minister to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 25 October 2017, p. 11891.

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- GST revenue grants (sections 5 to 8 of the FFR Act);
 - national health reform payments (in relation to the National Health Reform Agreement) (section 15A of the FFR Act); and
 - national partnership payments (in relation to a wide range of National Partnership agreements) (section 16 of the FFR Act).⁸

Existing Housing and Homelessness Agreements

1.16 There are currently two separate agreements relating to housing and homelessness: the NAHA and the NPAH. The NAHA and the initial NPAH came into force on 1 January 2009. The NPAH has been subject to several short-term extensions since 1 July 2013, and the current NPAH is a one-year transitional agreement for the 2017–18 financial year.

1.17 The aim of the NAHA is to ensure that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation. The NAHA is supported by the NSPP for Housing Services, an indexed ongoing payment to the states and territories to be spent to provide housing and homelessness services (estimated to be \$1.4 billion in the 2017–18 financial year).

1.18 States and territories have budget flexibility to allocate the funds received under the NSPP for Housing Services to support the mutually agreed housing and homelessness outcomes outlined in the NAHA. Under the funding arrangements, there is no requirement for the states and territories to match the Commonwealth funding, and no other conditions on the provision of this funding except that it is spent on housing services.

1.19 Under the NAHA, four performance benchmarks were agreed on to measure progress:

- From 2007–08 to 2015–16, a 10% reduction nationally in the proportion of low income renter households in rental stress;
- From 2006 to 2013, a 7% reduction nationally in the number of homeless Australians;
- From 2008 to 2017–18, a 10% increase nationally in the proportion of Indigenous households owning or purchasing a home; and
- From 2008 to 2017–18, a 20% reduction nationally in the proportion of Indigenous households living in overcrowded conditions.⁹

1.20 The 2016 COAG Report on Performance indicated that the first three of the above four benchmarks had not been achieved or were unlikely to be met.¹⁰

8 Explanatory Memorandum, pp. 5–6.

9 Australian Government, Department of the Prime Minister and Cabinet, Council of Australian Governments, *Report on Performance 2016*, March 2016, pp. 11–14.

10 Explanatory Memorandum, p. 7.

1.21 The current NPAH provides funding of \$117.2 million for the current financial year to enable the continuation of NPAH funded homeless services, focusing on women and children experiencing domestic violence and also on homeless youth. This is a transitional agreement to ensure funding continues while new funding arrangements are being implemented. As with the NAHA, states and territories retain budget flexibility under the NPAH. However, under this agreement states and territories must meet a number of requirements to receive funding, such as matching Commonwealth funding, developing project plans and directing a certain amount of funding to priority outputs.¹¹

Economics References Committee inquiry into affordable housing

1.22 In May 2015, the Senate Economics References Committee (References Committee) tabled its report on the inquiry into affordable housing. Evidence presented to the References Committee during this inquiry from the housing industry, community stakeholders and academics raised concerns about the NAHA.¹² In its report the References Committee recommended that:

- the NAHA be reformed to improve accountability and transparency; and
- the following particular reforms of NAHA be considered and acted upon:
 - expand the agreement to include all forms of housing assistance—funding for social housing, affordable rental housing, rent assistance and the various programs to support people to remain housed;
 - develop measurable benchmarks and ensure these benchmarks are used to evaluate the effectiveness of government expenditure on affordable housing;
 - improve the collection and publication of data, especially on the number of new homes added to the pool of social housing; and
 - ensure that funding is tied directly to concrete outcomes, for example, by tightening conditions on Commonwealth funding to the states that would realise growth in the stock of social housing.¹³

Overview of the bill

1.23 The bill proposes to amend the FFR Act to establish a new framework for the Commonwealth to make payments to the states and territories to support the delivery of programs, services and reforms with respect to housing (including affordable and social housing), homelessness and housing affordability matters. Specifically, the bill seeks to amend the FFR Act to:

11 Explanatory Memorandum, pp. 6–7.

12 The Treasury and Department of Social Services, *Submission 22*, p. 7.

13 Economics References Committee, *Out of reach? The Australian housing affordability challenge*, May 2015, Recommendation 34, p. 338.

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- Establish two separate frameworks for housing and homelessness related agreements with the states and territories through the introduction of primary and supplementary agreements; and designated housing agreements.
 - Introduce six legislated conditions under which financial assistance is payable to the States under the primary and supplementary agreement framework.
 - Repeal section 14 of the FFR Act which establishes the NSPP for Housing Services. Under the new NHHA, funding will be determined by the Minister for Finance in accordance with the proposed section 15C which references the need for relevant primary and supplementary housing agreements as well as other legislative conditions.¹⁴

1.24 The bill does not affect the operation of the current NPAH which is due to expire on 30 June 2018.¹⁵

Primary and supplementary housing agreements

1.25 The primary and supplementary housing agreements will provide the architecture for ongoing Commonwealth payments to the states and territories for housing (including affordable and social housing), homelessness or housing affordability matters.

1.26 The primary housing agreement will be a multi-party agreement entered into by the Commonwealth and all states and territories. It will contain:

- details of how the Commonwealth is to provide funding to the states and territories;
- set out any national objectives and outcomes; and
- include common details that apply to all jurisdictions.¹⁶

1.27 Supplementary housing agreements will be bilateral agreements between the Commonwealth and individual states and territories. The supplementary housing agreements will recognise jurisdiction-specific circumstances, such as differences in housing markets and policy priorities.¹⁷

Designated housing agreements

1.28 A designated housing agreement is an agreement between the Commonwealth and one or more states and/or territories that relates to housing (including affordable and social housing), homelessness or housing affordability matters.¹⁸ It is not contingent on a primary housing agreement or supplementary housing agreement and

14 The Treasury and Department of Social Services, *Submission 22*, pp. 11–12.

15 Explanatory Memorandum, p. 8.

16 Explanatory Memorandum, p. 10.

17 Explanatory Memorandum, p. 10.

18 Explanatory Memorandum, p. 14.

there are no legislated conditions. This type of agreement provides flexibility to enter into other agreements as needed from time to time.¹⁹

New legislated conditions

1.29 Proposed section 15C introduces six legislated conditions under which financial assistance is payable to the states and territories under the primary and supplementary agreement framework. A state or territory is entitled to funding for a financial year under a primary housing agreement if it satisfies the following conditions:

- it spends funds in accordance with the primary housing agreement and supplementary housing agreement;
- it has a published, up-to-date housing strategy in place;
- it has a published, up-to-date homelessness strategy in place;
- it matches Commonwealth funding designated for homelessness services;
- it provides information about housing, homelessness and housing affordability matters which may be required under the terms of the primary housing agreement or supplementary housing agreement to support the development and implementation of a nationally consistent data set for housing and homelessness; and
- it has entered into a supplementary housing agreement with Commonwealth.²⁰

Payment determinations

1.30 Proposed sections 15C and 15D seek to allow the Minister for Finance to make payments, by determination, to a state or territory that is a party to a primary and a supplementary housing agreement, or to a designated agreement. This determination is not subject to disallowance. The explanatory memorandum notes the exemption of the determination from disallowance is consistent with other payment arrangements, such as NSPPs and National Health Reform payments, where there is an obligation on the Commonwealth to make payments in a prescribed manner as part of an intergovernmental body or scheme involving the Commonwealth and a state or territory.²¹

Financial impact

1.31 As noted above, the new NHHA will combine funding currently provisioned under the NSPP for Housing Services and the NPAH. Between 1 July 2018 and 30 June 2021, this equates to total funding of around \$4.6 billion, including \$375.3 million of new funding for homelessness.²²

19 Explanatory Memorandum, p. 9.

20 Explanatory Memorandum, pp. 11–13.

21 Explanatory Memorandum, p. 14.

22 The Hon. Michael Sukkar MP, Assistant Minister to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 25 October 2017, p. 11892.

1.32 The revenue implications of the proposed measures over the forward estimates period are set out below in Table 1.²³

Table 1: Financial impact (as set out in Explanatory Memorandum)

2016–17	2017–18	2018–19	2019–20	2020–21
-	-	-\$121.1m	-\$125.1m	-\$129.1m

Legislative scrutiny committees

1.33 The explanatory memorandum to the bill states that the proposed legislation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

1.34 The Parliamentary Joint Committee on Human Rights considered the bill in its *Report 12 of 2017* and found that it did not raise human rights concerns.²⁴

1.35 The bill was also considered by the Senate Standing Committee for the Scrutiny of Bills in its Scrutiny Digests 13 and 15 of 2017.

1.36 The concerns raised by the Scrutiny of Bills Committee in relation to the bill focused on:

- the appropriateness of exempting from disallowance and parliamentary scrutiny determinations made by the Minister for Finance to make payments to a state or territory that is a party to a primary and a supplementary housing agreement, or to a designated agreement;²⁵ and
- the appropriateness of delegating to the executive government the Parliament's power under section 96 of the Constitution to make grants to the states and territories, and to determine terms and conditions attaching to them, without any statutory guidance as to the types of terms and conditions that states and territories will be required to comply with (as is the case with designated housing agreements), or a statutory requirement that the relevant agreements be tabled in the Parliament and published on the internet.²⁶

23 Explanatory Memorandum, p. 3.

24 Parliamentary Joint Committee on Human Rights, *Report 12 of 2017*, November 2017, p. 96.

25 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 13 of 2017*, 15 November 2017, pp. 61–62.

26 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 13 of 2017*, 15 November 2017, pp. 62–63; and Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 15 of 2017*, 6 December 2017, pp. 108–109.

Chapter 2

Views on the bill

2.1 The proposals in the Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017 [Provisions] (the bill) seek to secure improved housing and homelessness outcomes by requiring states and territories to develop detailed housing and homelessness strategies, and to commit to improved data collection and reporting in exchange for significant Commonwealth funding.

2.2 Overall, evidence to the committee supported the intent of the bill to improve housing and homelessness outcomes, with many stakeholders endorsing the proposed improvements to accountability and transparency.

2.3 This chapter examines the evidence received in relation to the proposed framework. It first considers the roles and responsibilities of the Commonwealth and the states and territories and the conditions that must be satisfied under the new arrangements in order to receive Commonwealth payments for housing services. The chapter then focuses on the proposed commencement date for the new framework, the new mechanisms to measure performance and data collection, and the level of funding available for housing services.

Need for a new national housing agreement

2.4 The majority of evidence received by the committee in relation to this inquiry supported the recommendations that were made by the Economics References Committee in its report on the inquiry into affordable housing. In particular, submitters endorsed the proposed reforms to improve accountability and transparency, and to improve way that the Commonwealth and states and territories fund and subsidise housing outcomes.

2.5 For example, Shelter NSW considered that under the current framework there is limited transparency about the use and actual outcomes of funding under the current National Affordable Housing Agreement (NAHA)—including the amount of financial contributions the states and territories are providing to support housing services.¹

2.6 ACOSS also welcomed the development of a new National Housing and Homelessness Agreement (NHHA) with the stated objective of improving transparency and accountability in the way affordable housing funding is used.²

2.7 The Treasury and Department of Social Services outlined the need for a new NHHA, as the NAHA has not met three of its four performance benchmarks.³ Indeed,

1 Shelter NSW, *Submission 21*, p. 2.

2 ACOSS, *Submission 23*, p. 1.

3 The Treasury and Department of Social Services, *Submission 22*, p. 7.

noting the NAHA's failure to achieve all of its benchmarks, PowerHousing Australia⁴ considered that the new NHHA presented a great opportunity to reform the funding arrangements for affordable housing and homelessness.⁵

2.8 National Affordable Housing Consortium was also in favour of significant reform in the way that the Commonwealth and states and territories fund and subsidise housing outcomes. It noted:

One of the shortcomings of the NAHA was that it set out very broad targets that were not realisable given the mismatch between the limited funding and industry-wide scope of the Agreement. These fabulous aspirations had the downside of setting NAHA up to fail.⁶

The role of the Commonwealth—a national strategic plan?

2.9 Homelessness Australia considered that the new requirement for state and territories to develop housing and homelessness plans should be extended to the Commonwealth to develop a national strategic plan. It noted that the Commonwealth has policy responsibility for most of the critical drivers of Australia's housing affordability crisis. In Homelessness Australia's view, the 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'.⁷

2.10 In a joint submission to the committee, the Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT (state and territory government joint submission), expressed the view that the bill will make the states and territories responsible for:

...responding to and financially supporting changes to Commonwealth levers, such as migration, taxation, welfare and the level of CRA [Commonwealth Rent Assistance], even though the States have no control over how these levers are used. This approach fails to acknowledge the Commonwealth's equal role in the functioning of the housing market and exacerbates vertical fiscal imbalances, further constraining States' ability to fund critical services.⁸

4 PowerHousing Australia was formed in 2005 when leading Community Housing executives recognised the value of collaboration and information-sharing in addressing the emerging housing affordability crisis. PowerHousing Australia facilitates a national network of 30 Member Community Housing Providers and partners with 15 national/international brand developer, financial and sector affiliates.

5 PowerHousing Australia, *Submission 27*, p. 2.

6 National Affordable Housing Consortium, *Submission 14*, p. 3.

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

8 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 4.

2.11 Shelter NSW also highlighted the need for greater shared responsibility between the Commonwealth, states and territories. It considered that the reason the NAHA had not achieved its stated outcomes was:

...such outcomes required the application of policy levers that were unrelated to the funding provided through the Agreement, the most important of which (most notably taxation) were Commonwealth responsibilities; and since almost no such policy action was taken to address housing affordability (and hence the underlying driver of homelessness), only one of the objectives has shown any improvement over the life of the Agreement.⁹

2.12 National Shelter considered that the new NHHA needs to include a national affordable housing strategy in order to effectively address housing affordability and avoid the problems encountered under the previous agreement with meeting outcomes.¹⁰

2.13 The Community Housing Industry Association also supported the need for an overarching national housing strategy and urged the Commonwealth Government to work with key stakeholders to develop a national housing strategy as a matter of urgency. It noted that 'without strong Commonwealth leadership, substantial improvement in housing affordability and homelessness outcomes under this new agreement are unlikely'.¹¹

2.14 Dr Julie Lawson, Centre for Urban Research, RMIT University, stated:

Clear targets must stem from an overarching strategic plan developed through co-operation with stakeholders. Committed, responsible and appropriate leadership is required by the Commonwealth to affect change.¹²

2.15 Mr Jeff Fiedler, National Development Worker, Housing for the Aged Action Group Inc., supported the proposed requirement for states and territories to have housing and homelessness strategies. However, he noted that there is no requirement in the proposed bill for the Commonwealth to develop a comprehensive plan to improve housing outcomes for all Australians. He observed:

This is where a joint approach is required to ensure that the Commonwealth is as accountable for having a commitment and responsibility for housing and homelessness as are the states. We see this as the fundamental flaw in this bill.¹³

2.16 However, Mr Michael Brennan, Deputy Secretary of Fiscal Group, The Treasury, highlighted that the Commonwealth Government had laid out a broad,

9 Shelter NSW, *Submission 21*, p. 2.

10 National Shelter, *Submission 5*, p. 2.

11 Community Housing Industry Association, *Submission 20*, p. 2.

12 Dr Julie Lawson, Centre for Urban Research, RMIT University, *Submission 1*, p. 7.

13 Mr Jeff Fiedler, National Development Worker, Housing for the Aged Action Group Inc., *Proof Committee Hansard*, 29 January 2018, p. 15.

multifaceted housing strategy in the 2017–18 Budget. Mr Brennan explained that the measures in the bill are only one element of this strategy, which also includes:

- tax changes in relation to the limiting of deductions for plant and equipment;
- the denial of deductions for travel expenses;
- the creation of the bond aggregator;
- the creation of the National Housing Infrastructure Facility;
- changes to the foreign ownership regime; and
- the superannuation changes to assist young first home buyers to save for a deposit.¹⁴

States and territories concerns about the new funding framework

2.17 The state and territory government joint submission included a range of proposed amendments to the bill, noting that their first preference was that the bill be rejected, and a new amendment to the FFR Act be drafted which:

...repeals the national specific purpose payment for housing services and introduces a new national housing and homelessness payment. The new legislation should operate in a similar fashion to the national health reform payments and the only condition for receiving Commonwealth assistance should be that the financial assistance is spent on housing and/or homelessness services. Consistent with other national agreements, the detail of the partnership and commitments that both levels of government enter into under the agreement can be articulated in the new NHHA.¹⁵

2.18 In summary, the state and territory government joint submission did not agree with the proposed amendment to the FFR Act to change the way the Commonwealth provides financial support for the delivery of services by the states and territories. The state and territory government joint submission argues that the bill proposes 'a more prescriptive and burdensome funding regime as it imposes a number of conditions for states and territories to receive funding'. It argues that this proposal contradicts the IGA FFR which commits the Commonwealth to reducing its prescriptions on service delivery by states and territories and provides that national agreements will not include financial or other input controls imposed on service delivery by states and territories. The state and territory government joint submission considered that:

The inclusion of detailed pre-conditions for states and territories to receive Commonwealth funding proposed in Part 3B, section 15C are input controls in direct contradiction of section 21 of the IGA FFR, and will not

14 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 54.

15 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 5.

necessarily support improved outcomes for people needing housing or homelessness services.¹⁶

2.19 The state and territory government joint submission also expressed concern that the inclusion of matched homelessness funding as a legislative requirement is inappropriate. Instead, they argue that in order to allow flexibility, funding arrangements should be included in the overarching NHHA. In this context, the states and territories expressed concern that the inclusion of a legislative requirement to match funding may set a precedent whereby the Commonwealth increasingly uses 'such legislative requirements in the future in an attempt to control how the States direct their funding'.¹⁷

2.20 In response to these concerns, the Treasury explained that while the bill represents the first time that matched funding has been legislated, it simply continues the current policy under the NPAH which had been in existence since 2009. Indeed, in evidence before the committee, the Treasury went on to highlight that by legislating the funding arrangements, the Commonwealth Government is providing greater certainty for frontline homelessness service providers.¹⁸

Proposed legislated conditions

2.21 The state and territory government joint submission considered that the proposed legislated conditions to be placed on the states and territories were too prescriptive and lacked detail:

The highly prescriptive legislation proposed by this Bill would result in a lack of flexibility for the Commonwealth and the States to adapt to changing circumstances. While the Bill is prescriptive, there is simultaneously a lack of detail about the nature and content of the requirements provided for under the Bill, which provides the states with limited guidance on how they can meet the Commonwealth's expectations.¹⁹

2.22 Accordingly, the state and territory government joint submission maintained that the bill may limit the ability of the states and territories to be innovative in their service design and delivery; and may restrict jurisdictions in their ability to respond quickly to economic, demographic and social changes.²⁰

16 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 5.

17 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 5.

18 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 53.

19 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 5.

20 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 5.

2.23 Other submissions also called for more detail in the proposed legislation regarding the conditions to be met by the states and territories, arguing that a range of specific priority areas should be included—such as, including measures and funding to: support women and children escaping violence;²¹ support housing security for the ageing population;²² support for Indigenous populations both within cities and in rural and regional areas;²³ and to recognise NDIS participants as a priority cohort for housing in the NHHA.²⁴

Potential for funding uncertainty

2.24 Much of the evidence received for the inquiry concerned the potential impact the new conditional funding arrangements would have on funding certainty and whether the new framework would allow the Commonwealth to potentially penalise states or territories that did not demonstrate they had complied with the legislated requirements.

2.25 For example, National Shelter was concerned that penalties or sanctions should not impact funding vital to social housing provision or the provision of homelessness services. Of particular concern was the potential to threaten funding withdrawal or reduction if a state or territory's plans were not determined to be 'credible'. It considered that in this area the bill was 'too vague to understand or be supported'.²⁵

2.26 The state and territory government joint submission also queried the impact penalties or sanctions could have on front-line social housing and homelessness services:

...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

21 Australian Women Against Violence Alliance, *Submission 6*, and Domestic Violence Victoria, *Submission 10*.

22 Housing for the Aged Action Group Inc. *Submission 11*.

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

24 Sumner Foundation. *Submission 16*.

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

reforms. The States would support additional incentive funding from the Commonwealth for initiatives beyond the scope of the current agreement.²⁶

2.27 Mr David Martine, Secretary, Victorian Department of Treasury and Finance, considered that the potential for funding to be withheld if the states and territories are not deemed to be fully compliant with the requirements of the Commonwealth in their housing and homelessness strategies 'creates enormous uncertainty for both state and territory governments and also for community providers as well'.²⁷

2.28 Mr Martine considered that the potential for funding to be withheld by the Commonwealth far outweighed any benefits of the bill, such as indexed funding arrangements:

If the states and territories don't fully comply with the requirements of the Commonwealth in their housing and homelessness strategies, the funding could actually be withheld. That creates enormous uncertainty for both state and territory governments and also for community providers as well. While there might be some certainty that, if you do get funding, it will be indexed, that is far outweighed by the uncertainty created by the fact that at some point a Commonwealth bureaucracy or a Commonwealth government might take the view that a state and territory housing or homelessness strategy is not up to their requirements and then withhold funding. So the state and territory view is that there's more uncertainty in this bill than under current arrangements even though there is a bit more certainty around indexation.²⁸

2.29 The Community Housing Industry Association (CHIA) raised the question of how funding would be reallocated where jurisdictions failed to meet the legislative requirements. It noted that the bill does not clearly set out what the consequences might be if the legislated conditions were not met, and whether this would have an impact on funding allocations.²⁹

2.30 PowerHousing Australia argued that:

Greater certainty of terms need to be negotiated and clearly articulated to minimise the loss or delay of funding, the consequences of which could trickle down and jeopardise affordable housing and homelessness programs as well as the vulnerable Australians who rely on them.³⁰

26 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 2.

27 Mr David Martine, Secretary, Department of Treasury and Finance, Victoria, *Proof Committee Hansard*, 29 January 2018, p. 3.

28 Mr David Martine, Secretary, Department of Treasury and Finance, Victoria, *Proof Committee Hansard*, 29 January 2018, p. 3.

29 Community Housing Industry Association, *Submission 20*, p. 5.

30 PowerHousing Australia, *Submission 27*, p. 2.

2.31 In relation to the potential for funding uncertainty and the risk of funding being withheld from the states and territories, Mr Michael Lennon, Chair, Community Housing Industry Association, observed:

It's hard to imagine, given that \$1.4 billion is available for funding, that states won't comply in the most basic forms...it would be a negative and unwanted outcome for us to be in a circumstance where state funding was being held back by a state. In our view, that could be addressed by being more precise about what we mean by a strategy, and the core elements of it...³¹

2.32 The Treasury considered that the bill seeks to strike a balance between achieving accountability and transparency, and a degree of funding certainty. Mr Brennan explained further:

What the bill and the design of the agreement is attempting to do is strike that balance appropriately by saying that the states will have obligations to have a strategy, that the strategy has to meet certain minimum benchmarks in order to be basically the sort of strategy that would give the Commonwealth the confidence to invest in state housing systems—so, a strategy on housing, a strategy on homelessness—that the states meet the matched funding requirements and sign up to the data or the information requirements. If they do so, if they meet those binary requirements, then effectively 100 per cent of the funding will flow. It is not as though the Commonwealth would then withhold funding for individual numeric performance indicators not being met. So it is difficult to see how that compromises the principle of funding certainty. I think there is a reasonable degree of funding certainty to the states and to the sector if they can achieve those basic requirements.³²

Definition of 'credible housing strategy'

2.33 Paragraph 1.17 of the explanatory memorandum to the bill provides:

Under the terms of the NHHA being negotiated with States to commence 1 July 2018, the Commonwealth intends that 100 per cent of NHHA funding to be distributed to States will be subject to a limited number of specific conditions set out in the FFR Act. The States will be required to demonstrate that they have met these conditions to receive funding. The conditions include:

- having a ***current, credible housing strategy*** in place;
- having a ***current, credible homelessness strategy*** in place; and
- providing housing and homelessness information to enable the development and implementation of more transparent and consistent

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

32 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 53.

data collection and reporting across the housing spectrum.
[emphasis added]³³

2.34 The lack of clarity and the absence of a clear definition of the term 'credible' caused concern for some submitters.

2.35 The state and territory government joint submission expressed reservations about the way a 'credible housing strategy' would be assessed by the Commonwealth and the potential consequences if states and territories are unable to meet the Commonwealth's expectations. The state and territory government joint submission explained:

The Bill would permit the Commonwealth to reject the content of a state government's Cabinet-approved housing or homelessness strategy because it does not meet the Commonwealth's 'credible housing strategy' expectations, which are not defined and are open to interpretation by the Commonwealth.³⁴

2.36 Other submitters, such as National Shelter, also went as far as to suggest that the bill be amended to clarify what defines a credible plan.³⁵

2.37 The Treasury did not agree with the above assessment, and did not consider the use of the term 'credible' to describe housing and homelessness strategies to be problematic.³⁶ Mr Brennan explained that, in effect, the requirements of a state housing or homeless strategy are laid out in section 15C of the bill.³⁷ Section 15C outlines the requirements for housing and homelessness strategies as follows:

- (5) Financial assistance is payable to the State under this section for the financial year on condition that, at all times during the financial year, the State will:
 - (a) have a housing strategy for the State that:
 - (i) indicates the level of housing supply needed to respond to projected housing demand, and outlines the reforms and initiatives that will be implemented to meet this need; and
 - (ii) includes such other matters (if any) as are specified in the primary housing agreement or the supplementary housing agreement; and
 - (b) make the housing strategy available on a publicly accessible website.

33 Explanatory Memorandum, paragraph 1.17, p. 7.

34 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 3.

35 National Shelter, *Submission 5*, p. 2.

36 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 54.

37 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 53.

- (6) Financial assistance is payable to the State under this section for the financial year on condition that, at all times during the financial 25 year, the State will:
- (a) have a homelessness strategy for the State that:
 - (i) addresses the priority homelessness cohorts identified in the primary housing agreement; and
 - (ii) includes reforms or initiatives that contribute to a reduction in the incidence of homelessness; and
 - (iii) includes such other matters (if any) as are specified in the primary housing agreement or the supplementary housing agreement; and
 - (b) make the homelessness strategy available on a publicly accessible website.

2.38 Mr Brennan noted that further details or requirements could be laid out in the NHHA.³⁸ Mr Brennan also noted that the final agreement will be a negotiated outcome, and, as such, the Commonwealth would not be in a position to impose unilateral requirements on the states and territories.³⁹

2.39 Further, the Treasury and Department of Social Services' submission explains clearly that it is not the Commonwealth's intention to assess the states and territories' housing and homeless strategies. The submission states that 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.⁴⁰

Commencement date

2.40 The commencement date of the new funding arrangements proposed in the bill is 1 July 2018. The Treasury and Department of Social Services explained that the proposed amendments to the FFR Act contained in the bill are necessary to give effect to the new NHHA by establishing the framework for the conditions on which funding

38 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 53.

39 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 64.

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

is payable to the states and territories, and to provide certainty to States and homelessness service providers around funding post 1 July 2018.⁴¹

2.41 Funding under the new framework will be conditional on states and territories having both a primary and a secondary agreement in place. The NHHA, which is still being negotiated, will be a primary housing agreement under the new framework. Many submitters raised concerns about what would happen to funding for housing and homelessness services if states and territories were unable to meet the new conditions for payments if the primary and secondary housing agreements are not agreed by the commencement date of 1 July 2018.

2.42 Homelessness Australia recommended that the transitional arrangements in the bill be amended to extend the NAHA and NPAH if the new agreement was not completed by 30 June 2018.⁴²

2.43 National Shelter highlighted the risk of rushing and forcing housing agreements by the commencement date of 1 July 2018, emphasising that such a move could be counterproductive to the development of reasonable and balanced housing plans. It recommended the commencement date should be delayed to December 2018 to ensure all jurisdictions are able to meet the deadline.⁴³

2.44 Similarly, the Aboriginal Family Violence Prevention & Legal Service Victoria supported extending NPAH funding and transitional arrangements to 31 December 2018. It maintained that this would ensure sufficient time for Commonwealth, state and territory governments to reach a 'well-considered agreement with genuine capacity to improve housing outcomes and the transparency, accountability and effectiveness of housing and homelessness funding'.⁴⁴

2.45 With respect to the NHHA, the Treasury informed the committee that there is no reason why an agreement will not be reached by 1 July 2018 and that the states and territories can have confidence that Commonwealth funding for housing and homelessness services will continue to flow.⁴⁵

2.46 The Victoria Government advised the committee that it was working with the Commonwealth and other states and territories to reach agreement before 1 July 2018. However, it indicated that it would support an extension to the existing funding arrangements if a suitable agreement cannot be reached in this timeframe in order to provide funding certainty to service providers and ensure continuity of services.⁴⁶

41 The Treasury and Department of Social Services, *Submission 22*, p. 10.

42 Homelessness Australia, *Submission 4*, p. 4.

43 National Shelter, *Submission 5*, p. 5.

44 Aboriginal Family Violence Prevention & Legal Service Victoria, *Submission 26*, p. 5.

45 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 64.

46 Victorian Government, Answers to written questions taken on notice (received 1 February 2018), p. 1.

Mechanisms to measure performance

National Housing Supply Council

2.47 A number of submitters highlighted the need to have a mechanism in place to measure performance under the new NHHA and some proposed re-establishing the National Housing Supply Council (the Council). The Council was established by the Australian Government in May 2008 to monitor housing demand, supply and affordability in Australia, and to highlight current and potential gaps between housing supply and demand. The Council was abolished on 8 November 2013.⁴⁷

2.48 The Property Council of Australia considered that the re-establishment of the Council would enable the measurement of the performance of the states and territories to fulfil their requirements and deliver better outcomes.⁴⁸

2.49 The Tasmanian Council of Social Services submitted that an independent body should be established to monitor and assess performance under the new agreement. It explained:

This body would fulfil the functions of the now defunct National Housing Supply Council, although it should have more authority than that body did to collect, analyse, publish and assess progress on delivering national and state housing plans. If adequately resourced and empowered it could help to ensure that states are meeting their targets and thus eliminate the need for financial penalties.⁴⁹

2.50 Mr Adrian Pisarski, Executive Officer, National Shelter submitted that there needs to be a properly funded and properly staffed National Housing Supply Council to provide the robust data needed to fully understand the extent of the housing and homelessness problem. He stated:

...a National Housing Supply Council is critically important to providing that robust evidence base and data that we really need to make assessments about what the level of housing supply and affordable housing supply ought to be, and then at least have a basis on how you apportion the responsibility for meeting that.⁵⁰

2.51 Mr Michael Myers, Managing Director, National Affordable Housing Consortium, recalled that all sides of politics and industry were supportive of the establishment of the National Housing Supply Council:

The reason for that, to be really blunt about it, was that the aim was to take the politics out of the figures. The aim was to provide a clear evidence base

47 The Treasury, 'The National Housing Supply Council', <https://treasury.gov.au/programs-initiatives-consumers-community/the-national-housing-supply-council/> (accessed 23 January 2018).

48 Property Council of Australia, *Submission 2*, p. 2.

49 Tasmanian Council of Social Services, *Submission 25*, p. 3.

50 Mr Adrian Pisarski, Executive Officer, National Shelter, *Proof Committee Hansard*, 29 January 2018, p. 42.

where we could make a judgment about policy. Policy is all about judgment, but the facts are the facts. Are things getting worse? Do we need more affordable housing? You can then make a policy judgment and a finance judgment about what the role of people is in doing it.⁵¹

National Competition Council

2.52 CHIA also expressed concern regarding the announcement in the 2017–18 Mid-Year Economic and Fiscal Outlook (MYEFO) that the funding that had been announced in the 2017–18 Budget for the National Competition Council to monitor performance under the agreement would no longer be progressed. CHIA considered that this decision will undermine the accountability to which this legislation aspires.⁵²

2.53 However, the MYEFO made it clear that the Treasury would assist with the implementation and ongoing assessment of performance under the NHHA, from within existing resources.⁵³

Data collection requirements

2.54 The Treasury and Department of Social Services advised that the Commonwealth intends to require states and territories to provide information about housing, homelessness and housing affordability matters under the terms of a primary housing agreement or a supplementary housing agreement. They suggest that these terms could be specified in a data schedule to the primary housing agreement or supplementary housing agreements; and could include, for example, details of:

- the data that is to be provided, including information relating to performance indicators and benchmarks that may be used to monitor and report on sector-wide performance through an annual performance dashboard;
- jurisdiction-specific performance against the outputs of the agreement;
- the evidence that enables a review of the agreement and future development of housing, homelessness and/or housing affordability policies;
- the evidence of government expenditure on housing and homelessness, including for the purposes of matched homelessness funding; and
- the manner in which data is to be provided, including format and timing.⁵⁴

2.55 The Treasury and Department of Social Services also noted, that consistent with current practice, it is proposed that the primary and supplementary housing

51 Mr Michael Myers, Managing Director, National Affordable Housing Consortium, *Proof Committee Hansard*, 29 January 2018, p. 50.

52 Community Housing Industry Association, *Submission 20*, p. 4.

53 Commonwealth of Australia, *Mid-Year Economic and Fiscal Outlook 2017–18*, December 2017, p. 186.

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

agreements and all reports produced by the Commonwealth and states and territories (as set out in the agreements) would be made publically available.⁵⁵

2.56 The state and territory government joint submission expressed concern that the bill may leave states and territories open to onerous data requests from the Commonwealth Minister in relation to housing, homelessness or housing affordability. They stated:

The States are very supportive of improved transparency, reporting and data collection and willing to work with the Commonwealth to make these improvements. However, this should not come at the expense of funding certainty, which is a significantly disproportionate risk, nor should the Bill allow for unconstrained data requests that increase overheads in administering the NHHA. Any increases in administrative burden will also come at the expense of housing and homelessness service provision.⁵⁶

2.57 ACOSS welcomed the requirement that state and territory governments provide relevant information. However, it did not consider that it was clear how the data will be improved to enhance accountability. ACOSS proposed an expert group be established to develop a new set of indicators and nationally consistent data definitions and standards.⁵⁷

2.58 Shelter Tasmania expressed the view that reporting requirements under the NHHA should include Commonwealth spending as well as state and territory spending. It suggested this would provide:

A more complete picture, and greater accountability for spending, on the housing system would be gained by reporting of national investments in Commonwealth Rent Assistance and tax subsidies for negative gearing and capital gains tax discounts (including performance against affordability indicators for the latter).⁵⁸

2.59 The Treasury advised that the Commonwealth had been working closely with the states and territories to improve data consistency and transparency under the new arrangements. Mr Brennan informed the committee that the multilateral agreement, the new NHHA, would provide further guidance and detail on the new information requirements. Mr Brennan also made it clear that the process of refining the new data requirements would likely continue after the new NHHA had been negotiated.⁵⁹

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

56 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT, *Submission 15*, p. 2.

57 ACOSS, *Submission 23*, p. 8.

58 Shelter Tasmania, *Submission 13*, p. 4.

59 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 55.

Adequacy of funding levels for housing services

2.60 Many submissions reflected on the current funding levels for housing services and whether they are sufficient to improve housing affordability.

2.61 For example, Shelter NSW suggested that the inadequate level of funding in the system for housing and homelessness is the 'most important limitation on any Agreement whose objective is to improve housing affordability or the more limited task of improving responses and services for low income households in housing stress'.⁶⁰ In particular, in order to reduce homelessness, Shelter NSW argued that there needs to be funding to improve the service system and to increase access to social and affordable housing for vulnerable households.⁶¹ With respect to funding under the new framework, Shelter NSW noted that:

...a substantial part of the funding under the NSPP funded part of the operating deficits of state public housing operations. That means that these funds cannot be directed to improving housing affordability as proposed by the NAHA objectives, but rather, are required to help prevent further loss of social housing.⁶²

2.62 Homelessness Australia also argued that the Commonwealth should commit to additional funding for social housing:

In 2017, 195,000 Australian households are on social housing wait lists. For many, the wait is indefinite. Each year, 288,000 Australians came to homelessness services for assistance, and that number is only expected to grow. Australia is in the midst of a housing and homelessness crisis.

Yet the Federal Government has failed to deliver any new funding to support the increased number of people experiencing homelessness every day. Over 66,000 people were turned away from a homelessness service last year without receiving any support. Meanwhile there is a shortfall of 458,000 affordable homes across Australia.⁶³

2.63 Ms Jenny Smith, Chair, Homelessness Australia, said that while the collaborative process that appeared to be proceeding between the Commonwealth and the states and territories was encouraging,⁶⁴ adequate funding was critical to deliver effective housing and homelessness plans, noting that for decades there has been 'inadequate funding to achieve the growth in social housing and support that has been required'.⁶⁵

60 Shelter NSW, *Submission 21*, p. 6.

61 Shelter NSW, *Submission 21*, p. 6.

62 Shelter NSW, *Submission 21*, p. 2

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

64 Ms Jenny Smith, Chair, Homelessness Australia, *Proof Committee Hansard*, 29 January 2018, p. 24.

65 Ms Jenny Smith, Chair, Homelessness Australia, *Proof Committee Hansard*, 29 January 2018, p. 20.

2.64 The St Vincent de Paul Society National Council Australia considered that, without a significant boost to funding for social housing, the new NHHA would not be effective:

Without significant investment from the Commonwealth, the NHHA will ultimately fail to deliver the objectives stated in the Bill. To support this investment, we believe funding should support a capital or growth fund dedicated to the development of new housing stock for people on low incomes, as well as funding for the maintenance of existing social housing stock.⁶⁶

2.65 Associate Professor Lisa Wood expressed concern that the small increase through indexing and recurrent funding would not meet the demands for social housing, homelessness and domestic violence services. Professor Wood considered that 'a new agreement without substantial additional funding for a problem that is now far bigger than ever before is, at best, tinkering at the edges of the problem and, at worst, setting it up to fail'.⁶⁷ She explained that there has been an accumulation of compelling international and Australian evidence over the last decade demonstrating 'that increasing the spending on social housing and ending homelessness is, in fact, a cost-saving measure for government, to reduce the burden in other costly sectors such as health and justice'.⁶⁸

Indexation

2.66 The Treasury and Department of Social Services' submission advised that from 2019–20, the Commonwealth's financial contribution will be the 2018–19 base indexed annually by Wage Cost Index 1.⁶⁹

2.67 Submitters, such as CHIA and the St Vincent de Paul Society National Council Australia, questioned the appropriateness of the Wage Cost Index 1 formula, arguing that it does not factor in relevant drivers of housing demand, such as population growth.⁷⁰

2.68 CHIA observed that the bill does not contain specific details on the method by which payments under the NHHA will be indexed. As such, CHIA proposed that:

...the legislation set out the indexation method to be applied, specifically that it reflects five-year trend growth in the number of households for the

66 St Vincent de Paul Society National Council Australia, *Submission 14*, p. 14.

67 Associate Professor Lisa Wood, personal capacity, *Proof Committee Hansard*, 29 January 2018, p. 33.

68 Associate Professor Lisa Wood, personal capacity, *Proof Committee Hansard*, 29 January 2018, p. 33.

69 The Treasury and Department of Social Services, *Submission 22*, p. 14.

70 Community Housing Industry Association, *Submission 20*, p. 5 and St Vincent de Paul Society National Council Australia, *Submission 14*, p. 14.

housing component of the agreement and trend-growth in population for the homelessness service component.⁷¹

2.69 However, the Treasury drew the committee's attention to the fact that the bill ensures for the first time, 'that the funding allocated to homelessness services will be ongoing and indexed'. Mr Brennan explained that:

Over the next three years this equates to total funding of around \$4.6 billion, including \$375.3 million of funding for homelessness...⁷²

Expanded scope of the new housing agreement

2.70 The state and territory government joint submission noted the bill outlines that the new NHHA will have a broader scope than previous housing agreements and will now include housing affordability in the broader residential property market. They noted that the Commonwealth has not committed to any additional funding to address issues beyond the scope of social housing and homelessness supports that are currently funded under the NAHA and NPAH. In addition they considered that the bill:

...creates the risk that funding for critical services for the most vulnerable will be diverted to a range of other areas that impact the supply and cost of housing (for example, planning and zoning reforms, assistance to people in the private rental market and home ownership).⁷³

2.71 The Treasury and Department of Social Services explained that the states and territories had raised these concerns during negotiations; however, in the Commonwealth's view, 'a greater emphasis on increasing housing supply (including through planning and zoning reform) is the best way to improve outcomes across the housing spectrum'.⁷⁴

2.72 Homelessness Australia also raised concerns about broadening the scope of the NHHA without providing additional funding, and the risk that this may result in redirecting resources away from the most vulnerable households. In its view, the bill should be amended to:

...require that each state and territory and the Federal Government should have housing plans that indicate the level of housing supply needed to respond to housing demand, and that outlines the reforms and initiatives that will be implemented to meet this need giving priority to addressing homelessness and meeting the needs of people on low incomes.⁷⁵

2.73 Similarly, Shelter Tasmania expressed the strong view that there needs to be additional funding from the Commonwealth to support the broadening of outcomes

71 Community Housing Industry Association, Submission 20, p. 5.

72 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 55.

73 The Treasury and Department of Social Services, *Submission 22*, p. 10.

74 The Treasury and Department of Social Services, *Submission 22*, p. 4.

75 Homelessness Australia, *Submission 4*, p. 4.

(such as for affordable housing) under the NHHA. It raised concerns that otherwise there was a risk already inadequate funding for the social housing system could be eroded.⁷⁶

2.74 The Treasury informed the committee that the scope of the current NAHA is very similar to the new NHHA, in that both are intended to span the entirety of the housing spectrum.⁷⁷ As such, the Treasury explained that there is effectively no change to the overall scope of the new bill and the new agreement compared to previous agreements.⁷⁸ The Treasury pointed out that:

The aspirational objective of the NAHA is that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation (clause 6). The NAHA's outcomes include that people can purchase affordable housing and people have access to housing through an efficient and responsive housing market (clause 7, paragraphs (c) and (d)).⁷⁹

Funding for remote housing

2.75 The Queensland government raised concerns that the 2017–18 MYEFO did not include funding for remote housing beyond the expiry of the National Partnership on Remote Housing (NPRH) on 30 June 2018.⁸⁰ The NPRH replaced the National Partnership on Remote Indigenous Housing (NPARIH) in 2016. The NPRH is an agreement between the Commonwealth, Northern Territory, Queensland, South Australia and Western Australia Governments.⁸¹

2.76 The Queensland Government informed the committee that on 22 December 2017 it had been advised that the Commonwealth did not intend to extend the remote housing agreement beyond its expiry date, effectively shifting full responsibility for Indigenous housing to the states and territories.⁸² The Queensland Government advised:

The removal of Commonwealth funding [for remote housing] will increase pressure on Queensland to reprioritise already stretched resources, and will likely result in reduced levels of service delivery to a highly disadvantaged

76 Shelter Tasmania, *Submission 13*, p. 3.

77 The Treasury, Answers to written questions on notice, received 1 February 2018, p. 1.

78 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 53.

79 The Treasury, Answers to written questions on notice, received 1 February 2018, p. 1.

80 Queensland Government: Tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018, p. 1.

81 Department of Prime Minister and Cabinet, 'National Partnership on Remote Housing', <https://www.pmc.gov.au/indigenous-affairs/housing/national-partnership-agreements> (accessed 1 February 2018).

82 Queensland Government: Tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018, p. 1.

population, in remote locations where that disadvantage is felt most sharply.⁸³

2.77 Mr Adrian Warner, Director of Intergovernmental Outcomes, Department of Communities, Western Australia, also expressed concern that the Commonwealth may be considering including remote housing within the scope of the bill and the new NHHA:

To the extent that this bill contemplates funding to support Indigenous housing outcomes that are currently funded under another agreement, that would be a significant redirection of current funding away from social housing or maintaining the current social housing system in a highly disadvantaged area of remote community housing. So there would be significant impacts if the scope of this bill and the proposed agreement were contemplating funding for remote community housing unless funding were significantly increased from current levels.⁸⁴

2.78 These concerns were echoed by other stakeholders. For example, the Local Government Association of Queensland brought to attention the absence of any funding allocation in MYEFO for remote indigenous housing and conveyed that the Commonwealth had not confirmed whether the NPRH would be continued or replaced.⁸⁵

2.79 In response to these concerns, the Treasury advised the committee that there was no Commonwealth Government decision and no Commonwealth Government announcement about what will follow after 30 June 2018, when the NPRH is due to expire.⁸⁶ The Treasury also informed the committee that the Commonwealth is currently in discussions with relevant jurisdictions about future arrangements for remote Indigenous housing.⁸⁷

Committee view

2.80 The committee believes that housing is fundamental to the wellbeing of all Australians, and a driver of social and economic participation that promotes better employment, education and health outcomes. The committee acknowledges that despite Commonwealth spending of more than \$9 billion since 2009, the current arrangements for Commonwealth support to states and territories for housing and to

83 QLD Government: Tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018, p. 2.

84 Mr Adrian Warner, Director of Intergovernmental Outcomes, Department of Communities, Western Australia, *Proof Committee Hansard*, 29 January 2018, p. 7.

85 Local Government Association of Queensland: Tabled by the Committee Deputy Chair at a public hearing in Melbourne on 29 January 2018, p. 1.

86 Mr Michael Brennan, Deputy Secretary, Fiscal Group, The Treasury, *Proof Committee Hansard*, 29 January 2018, p. 56.

87 The Treasury, Answers to questions taken on notice at a public hearing in Melbourne on 29 January 2018 (received 1 February 2018), p. 1.

address homelessness are not working to achieve the benchmarks under the current NAHA.

2.81 Evidence presented to the committee from the states and territories, and other stakeholders, established that there is a need for improved housing and homelessness outcomes. The committee recognises this need and is confident that the broad, multifaceted housing strategy outlined in the 2017–18 Budget, of which the measures in the bill are an element, will secure improved outcomes in a way that is achievable for states and territories.

2.82 The committee agrees with stakeholders that the funding of core social housing and homelessness services is critical to protecting vulnerable Australians. The committee considers that the proposed framework for a new national housing agreement between the Commonwealth, states and territories will ensure adequate ongoing funding for housing and homelessness services.

2.83 With respect to the new legislative requirement for matched funding, the committee notes that this has been a part of NPAH policy since 2009. Therefore, the committee considers that including this policy in legislation provides greater certainty for frontline homelessness service providers.

2.84 The committee notes the findings of the Senate Economics References Committee in its report on the inquiry into affordable housing, and in particular, the recommendation to improve accountability and transparency in respect of housing and homelessness outcomes. The committee considers that this bill acts on that recommendation by inserting requirements on jurisdictions to develop detailed housing and homelessness strategies and to commit to improved data collection and reporting in exchange for significant Commonwealth funding. In this context, the committee considers that the bill strikes a reasonable balance between achieving accountability and transparency, and a degree of funding certainty to the sector.

2.85 The committee acknowledges the concerns expressed about the details of the requirements for housing and homelessness strategies, data collection and reporting. However, the committee believes that these concerns will be addressed as part of the new NHHA negotiations.

2.86 The committee notes that the current the NPRH is due to expire on 30 June 2018 and that the Commonwealth is currently in discussions with relevant jurisdictions about future arrangements for remote Indigenous housing. The committee draws the government's attention to the concerns raised about this funding during the course of this inquiry.

Recommendation 1

2.87 The committee recommends that the bill be passed.

**Senator Jane Hume
Chair**

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 Robison: 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 Robison: 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

Additional comments by the Australian Greens

1.1 The Australian Greens believe that housing is a human right and that access to secure, affordable and appropriate housing is a crucial determinant in health and well-being. Australia's current approach to housing as a commodity has resulted in an increase in the need for social housing.

1.2 The Explanatory Memorandum states the bill engages with Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, stating that everyone has the right to an adequate standard of living for himself and his family, including... housing... and that 'appropriate steps' be taken to 'ensure the realization of this right'.¹

1.3 When questioned about whether this bill, as it stands, engages with Article 11.1, a number of witnesses expressed concern that this bill was not an 'appropriate' step towards the realisation of housing as a human right:

1.4 Ms Amity Durham, Deputy Secretary, Strategy and Planning, Department of Health and Human Services, Victoria:

...it is fair to say it is an enormous challenge and requires both levels of government to work together on demand and supply side solutions. Obviously, 'appropriate' means within what is possible from a funding perspective for both sides of government, but we do believe the way this bill has been framed is not appropriate, because of the level of uncertainty it puts on the future funding stream and Commonwealth funding, which puts some of those services at risk and therefore undermines those objectives of ensuring the realisation of the right to housing.²

1.5 Mr Jeff Fiedler, National Development Worker, Housing for the Aged Action Group Inc.:

We don't believe the bill does work to that end in the sense that believe there does need to be a comprehensive national strategy and a national approach to this issue. If it is going to be dealt with effectively it does need to bring together all the levers of government at both the Commonwealth and state level; it needs to incorporate all of the various departments that impact on the availability of affordable housing for people generally. What we're really seeing with the current policy levers is a dramatic worsening of the situation. Our recent research in New South Wales shows a 54 per cent increase in five years of older people who are paying unaffordable rents in the private rental market. This is an escalation from 21,000 people to 33,000 over a five-year period. So, while this bill is fundamentally about the agreements over supply of funding for services, we believe that, because

1 Explanatory Memorandum, p.16

2 Ms Amity Durham, Deputy Secretary, Strategy and Planning, Department of Health and Human Services, Victoria, *Proof Committee Hansard*, 29 January 2018, p. 11.

of its reference to the requirement to have housing and homelessness plans, there does need to be a joint approach.³

1.6 Ms Jenny Smith, Chair, Homelessness Australia:

We spoke earlier about how housing is a very sensible way to turn off the tap to our prisons, to assist people dealing with health problems and to lower psychiatric conditions in our community. It's not possible to participate economically and it is usually disastrous for our social participation as well. We're not going to see any progress on that until we have a joined approach in this country. As it is currently drafted, the bill does not contribute to that.⁴

1.7 Associate Professor Lisa Wood:

...No, the bill in its current form cannot really make significant inroads to that. And I would hate to think that it becomes like 'no child living in poverty' and other kinds of motherhood statements that we've had over the years in politics, from all sides of the fence, that I don't see that we can achieve for all Australians, and particularly for the most vulnerable Australians, with the bill as it currently stands and with the level of investment that is currently behind it.⁵

1.8 Mr Adrian Pisarski, Executive Officer, National Shelter:

It certainly is a step to help people into housing, but I don't think it's sufficient or adequate. I'd prefer to put it in those terms. I think it tries to fulfil an obligation that Australia has signed up to in terms of its international obligations, but it fails to meet it.⁶

1.9 Mr Michael Myers, Managing Director, National Affordable Housing Consortium:

Australia is a very well housed country in the main, but I think housing equality becomes even more of a stark contrast. So the answer is: if this agreement could show us that, in five or 10 years time these wait list times and key indicators of need and housing poverty were being reversed and we were making positive progress, rather than just slowing down how badly we're doing, then I think it could deliver that. In its current form it doesn't give me any confidence that we know that things are going to be better in 10 years time. Anywhere in this agreement does it say that we will be a better housed nation in 10 years time? I think that the human rights charter

3 Mr Jeff Fiedler, National Development Worker, Housing for the Aged Action Group Inc., *Proof Committee Hansard*, 29 January 2018, p. 17.

4 Ms Jenny Smith, Chair, Homelessness Australia, *Proof Committee Hansard*, 29 January 2018, p. 26.

5 Associate Professor Lisa Wood, *Proof Committee Hansard*, 29 January 2018, p. 26.

6 Mr Adrian Pisarski, Executive Officer, National Shelter, *Proof Committee Hansard*, 29 January 2018, p. 46.

is saying that governments must make reasonable efforts to make progress. We've got to be making progress, and we're a rich country and we can afford to make the progress. We're going to spend \$1.5 billion a year, but we're still not saying that we're making progress, because it doesn't tell us who's going to benefit, how many or when, or whether we're generally improving. So, it is not clear to me that it can meet those requirements.⁷

1.10 A number of submissions called for a national strategic plan on housing. This is imperative as the Commonwealth has power over a number of external factors that ultimately affect housing and the housing plans of states and territories. If implemented, the following recommendations would assist to promote housing as a human right.

Recommendation 1

1.11 The government should develop a national strategic plan and re-establish a body similar to the abolished National Housing Supply Council.

1.12 A number of submissions called for increased funding. National Shelter called for a capital fund to complement the proposed National Housing Finance and Investment Corporation to meet subsidy gaps.⁸

Recommendation 2

1.13 Following an analysis by a national body of the current shortfall and expected demand for social housing, and in consideration of a national housing strategy, capital funding should be allocated to meet that need.

1.14 By threatening to withhold funding if state plans are not 'credible', the bill places providers, and the community, under great uncertainty. In addition to the lack of a definition of 'credible', such a punitive measure is inappropriate when it comes to funding for such vital services.

1.15 The Department of Health and Human Services, Victoria argued:

The level of uncertainty it puts on the future funding stream and Commonwealth funding, which puts some of those services at risk and therefore undermines those objectives of ensuring the realisation of the right to housing.⁹

7 Mr Michael Myers, Managing Director, National Affordable Housing Consortium, *Proof Committee Hansard*, 29 January 2018, pp. 51–52.

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

9 Ms Amity Durham, Deputy Secretary, Strategy and Planning, Department of Health and Human Services, Victoria, *Proof Committee Hansard*, 29 January 2018, p. 11.

Recommendation 3

1.16 The withdrawal of funding as a penalty or sanction should be removed and substituted with alternative penalties or sanctions that do not impact funding for social housing or homelessness services.

Senator Lee Rhiannon

Senator for New South Wales

Appendix 1

Submissions and additional documents

Submissions

- 1 Dr Julie Lawson, Centre for Urban Research, RMIT University
- 2 Property Council of Australia
- 3 Council to Homeless Persons
- 4 Homelessness Australia
- 5 National Shelter
- 6 Australian Women Against Violence Alliance
- 7 Central Highlands Homelessness Alliance
- 8 Homelessness NSW, Domestic Violence NSW and Yfoundations
- 9 Sacred Heart Mission
- 10 Domestic Violence Victoria
- 11 Housing for the Aged Action Group Inc.
- 12 Assoc Prof Lisa Wood
- 13 Shelter Tasmania
- 14 National Affordable Housing Consortium
- 15 Governments of Victoria, NSW, Queensland, WA, Tasmania, ACT and NT
- 16 Summer Foundation
- 17 NT Shelter Inc.
- 18 Tenants Queensland Inc
- 19 Gippsland Homelessness Network
- 20 Community Housing Industry Association
- 21 Shelter NSW
- 22 The Treasury & Department of Social Services
- 23 Australian Council of Social Service (ACOSS)
- 24 Melbourne City Mission
- 25 Tasmanian Council of Social Service
- 26 Aboriginal Family Violence Prevention & Legal Service Victoria
- 27 PowerHousing Australia
- 28 St Vincent de Paul Society National Council Australia

Answers to questions on notice

- 1 Treasury: Answers to written questions taken on notice (received 1 February 2018).
- 2 Treasury: Answers to questions taken on notice at a public hearing in Melbourne on 29 January 2018 (received 1 February 2018).
- 3 VIC Government: Answers to written questions taken on notice (received 1 February 2018).
- 4 VIC Government: Answers to questions taken on notice at a public hearing in Melbourne on 29 January 2018 (received 1 February 2018).

Tabled documents

- 1 NSW Government: Tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018.
- 2 QLD Government: Tabled by the Committee Chair at a public hearing in Melbourne on 29 January 2018.
- 3 Local Government Association of Queensland: Tabled by the Committee Deputy Chair at a public hearing in Melbourne on 29 January 2018.

Additional hearing information

- 1 Letter of clarification from Peta Winzar, Community Housing Industry Association (CHIA) regarding evidence given at a public hearing in Melbourne on 29 January 2018 (received 5 February 2018).

Appendix 2

Public hearings

Melbourne, 29 January 2018

Members in attendance: Senators Cameron, Hume, Ketter, Rhiannon

AUSTER, Ms Amy, Deputy Secretary, Department of Treasury and Finance, Victoria

BRAGG, Ms April, Co-Manager, Housing for the Aged Action Group Inc.

BRENNAN, Mr Michael, Deputy Secretary, Fiscal Group, The Treasury

CAREW, Ms Jessica, Acting Principal Adviser, Housing Policy Unit, Social Policy Division, Fiscal Group, The Treasury

COLVIN, Ms Kate, Manager, Policy and Communications, Council to Homeless Persons

DURHAM, Ms Amity, Deputy Secretary, Strategy and Planning, Department of Health and Human Services, Victoria

FIEDLER, Mr Jeff, National Development Worker, Housing for the Aged Action Group Inc.

FOA, Mr Nicholas, Director of Housing and Deputy Secretary, Housing, Infrastructure, Sport and Recreation, Department of Health and Human Services, Victoria

LENNON, Mr Michael, Chair, Community Housing Industry Association

MARTINE, Mr David, Secretary, Department of Treasury and Finance, Victoria

MYERS, Mr Michael, Managing Director, National Affordable Housing Consortium

ISARSKI, Mr Adrian, Executive Officer, National Shelter

SMITH, Ms Jenny, Chair, Homelessness Australia

WALSH, Ms Karen, Vice Chairperson, National Shelter

WARNER, Mr Adrian, Director of Intergovernmental Outcomes, Department of Communities, Western Australia

WINZAR, Ms Peta, Executive Director, Community Housing Industry Association

WOOD, Associate Professor Lisa, Personal capacity

