

Chapter 21

NRAS, review of housing and homelessness and the Federation White Paper

21.1 On 13 May 2014, the Hon Kevin Andrews MP, then Minister for Social Services, announced that NRAS had 'fallen well short of expectations'—it had 'simply failed to deliver for low and moderate income Australians'. He stated:

The scheme has been plagued by the late delivery of dwellings, trading of incentives, multiple changes to agreed locations, leasing to international students and roting.¹

21.2 The 2014 portfolio budget statement also announced that the Australian Government would not proceed with the final round (round 5) of NRAS. Incentives already allocated through the scheme, however, would continue to be paid for up to 10 years 'as long as eligibility requirements were met and homes were built in agreed locations according to agreed timeframes'.²

21.3 In this chapter, the committee considers developments with NRAS since the government indicated publicly it had a number of concerns with the scheme and had cancelled round 5. It looks at the proposed review of NRAS and housing more broadly; the inclusion of housing and homelessness in the Federation White Paper process; and industry's response to these developments.

Government's view of NRAS

21.4 According to the Department of Social Services, the scheme had not delivered on its targets. As at 29 July 2014 there were 23,211 incentives delivered.³ It should be noted, however, that the scheme was introduced during the GFC and the Brisbane floods caused a delay to the roll-out. Mr Palmer explained:

There was a rephasing that occurred with the scheme at the time of the Brisbane floods...but at that point there was a delaying of the phasing of the scheme to harvest some funds to help with the repair work following the Brisbane floods. The original schedule was changed at that point...The

1 The Hon Kevin Andrews, Minister for Social Services, Media Release, 'Round 5 of flawed National Rental Affordability Scheme not proceeding', 13 May 2014, <http://www.formerministers.dss.gov.au/15215/round-5-of-flawed-national-rental-affordability-scheme-not-proceeding/> (accessed 27 August 2014).

2 Department of Social Services, Portfolio Budget Statement, p. 23, https://www.dss.gov.au/sites/default/files/documents/05_2014/2014-2015_dss_pbs.pdf (accessed 18 March 2015).

3 *Proof Committee Hansard*, 30 July 2014, p. 10.

schedule of the rollout was slowed down. It was delayed quite substantially.⁴

21.5 Even so, Ms Hand referred to other developments that had frustrated progress including requests to delay delivery and to change location.⁵

As a supply side measure

21.6 In February 2015, Mr Damian Coburn, Department of Social Services, informed the committee that together with dwellings already delivered into the scheme and with further reserved allocations to be delivered, the total number of dwellings to be delivered by June 2016 amounted to 38,000. He explained that the termination of the scheme meant that there would be no further rounds but the existing arrangements would remain unaffected.⁶ With reference as to whether NRAS had succeeded in increasing the supply of affordable housing, Mr Coburn maintained that the scheme had certainly reduced the rent for the houses in the scheme. In his opinion, however, it was difficult to determine whether NRAS had succeeded as a supply-side measure. He explained that some projects may have been built that would not have gone ahead without the NRAS incentive but there were some that were already 'green lit and funded' that would have proceeded anyway and had NRAS incentives attached to them.⁷ Ms Hand supported her colleague's view that it was very difficult to measure whether overall housing had been increased under NRAS. She did note, however, that it was 'a very expensive scheme', costing about \$8,000 per dwelling per annum, whereas the Commonwealth rent assistance and public housing was about \$3,000.⁸

International students

21.7 With regard to NRAS incentives being used to provide affordable housing for overseas students, Ms Hand made clear that there was nothing in the legislation and regulations to stop NRAS dwellings being rented out to foreign students. Nonetheless, she explained that the department was looking at whether there might be a potential for changing regulations, to make it focus more on domestic Australian students. She added that the department had communicated with providers 'to reinforce the fact that there should be a focus on domestic Australian students'.⁹

4 *Proof Committee Hansard*, 30 July 2014, p. 10.

5 *Proof Committee Hansard*, 30 July 2014, p. 10.

6 *Proof Committee Hansard*, 11 February 2015, p. 22.

7 *Proof Committee Hansard*, 11 February 2015, p. 23.

8 *Proof Committee Hansard*, 11 February 2015, p. 23.

9 *Proof Committee Hansard*, 11 February 2015, p. 24.

Trading of incentives

21.8 It should be noted that in October 2014, the Department issued a caution to NRAS investors stating that the department had:

...become aware of unscrupulous persons/entities who purport to have NRAS incentives under the Scheme, and who are then selling those 'incentives' to unwary investors, developers and charitable organisations. The persons involved may have been falsifying correspondence from the Department as 'proof' that they hold the incentives.¹⁰

21.9 The statement warned of people discovering that they had paid a large sum of money for nothing.¹¹

21.10 The government also promulgated regulations, which came into effect during the latter part of 2014, designed to improve the integrity of the scheme. The committee has noted that to prevent the trading of incentives for excessive fees, change requests now require a statement of the fee model to be submitted with any such request.¹²

Proposed review

21.11 The 2014 portfolio budget statement indicated that a focus in 2014–15 would be on a review of housing and homelessness including NRAS.¹³ The Department of Social Services informed the committee that while the Commonwealth Government understood NRAS' role in providing more affordable rental housing, particularly for low income earners, it also acknowledged that there was 'significant scope' to improve the scheme's operation and administration.¹⁴ According to the department, the government had tasked it with examining options to improve the operation of NRAS and to ensure there were more stringent processes to test compliance.¹⁵

10 Department of Social Services, 'Cautionary Note to Developers, Investors and Charitable Organisations', October 2014, <https://www.dss.gov.au/our-responsibilities/housing-support/programmes-services/national-rental-affordability-scheme/cautionary-note-to-developers-investors-and-charitable-organisations> (accessed 12 January 2015).

11 Department of Social Services, 'Cautionary Note to Developers, Investors and Charitable Organisations', October 2014, <https://www.dss.gov.au/our-responsibilities/housing-support/programmes-services/national-rental-affordability-scheme/cautionary-note-to-developers-investors-and-charitable-organisations> (accessed 12 January 2015).

12 *Proof Committee Hansard*, 10 September 2014, p. 56.

13 Portfolio Budget Statements 2014–15, Budget Related Paper No. 1.5A, Social Services Portfolio, p. 129, https://www.dss.gov.au/sites/default/files/documents/05_2014/2014-2015_dss_pbs.pdf (accessed 18 March 2015).

14 *Submission 198*, p. 31.

15 *Proof Committee Hansard*, 30 July 2014, p. 4.

21.12 In July 2014, the department informed the committee that the Minister was keen for this review to be quick, short and sharp.¹⁶ The main reasons for the review were to:

- address short term things that could be done immediately in advance of the reviews of taxation and Federation, such as the future of the NPAH beyond the current financial year; and
- have NRAS operate more fully.¹⁷

White Paper on Federation

21.13 In August 2014, the then Minister for Social Services announced, however, that in the year ahead the government would review housing and homelessness policies and programmes to examine ways to improve housing supply and affordability. Further, this review would feed into the government's white papers on reform of the Federation and on taxation.¹⁸

21.14 At a public hearing in October 2014, Ms Hand informed the Senate Legislation Committee on Community Affairs that the review on housing and homelessness announced over a year before would now happen through this review of Federation. She explained that the white paper process on Federation, which had a particular focus, amongst other things, on housing, would serve as the government's primary vehicle for considering housing and homelessness. Noting the Commonwealth's involvement in terms of its funding role through NAHA and NPAH, she explained further:

The reform of Federation review is considered the right process to really look deeply at housing and homelessness issues because...the service delivery for housing and homelessness is done almost exclusively by the states.¹⁹

21.15 Ms Hand told the committee that the minister intended in the near future to host roundtable discussions with representatives, stakeholders and service providers on housing and homelessness matters. From these concurrent consultations and roundtables, relevant issues would then contribute to the Federation White Paper process to inform that deep review.²⁰ Ms Hand also told the Community Affairs Committee that the department had initiated its own independent audit using

16 *Proof Committee Hansard*, 30 July 2014, p. 3.

17 *Proof Committee Hansard*, 30 July 2014, p. 3.

18 Media Release by Hon Kevin Andrews MP, 'Coalition Committed to Reducing Homelessness', 4 August 2014, <http://www.formerministers.dss.gov.au/15242/coalition-committed-to-reducing-homelessness/> (accessed 12 January 2015).

19 Senate Legislation Committee on Community Affairs, *Estimates Hansard*, 23 October 2014, p. 163.

20 Senate Legislation Committee on Community Affairs, *Estimates Hansard*, 23 October 2014, p. 163.

independent organisations to do a health check. In addition, she stated that the ANAO had indicated interest in doing an audit on the program.²¹

21.16 Following on from this statement, it should be noted that the ANAO is currently undertaking an audit of the department's administration of NRAS, with a focus on the assessment of applications for incentives and management of allocations. It will also conduct a second audit, commencing in the second half of 2015, to examine the department's processing of claims for entitlements under the scheme and monitoring of approved applicants' compliance with NRAS.²²

21.17 As part of the reform of the Federation White Paper process, an issues paper on *Roles and Responsibilities in Housing and Homelessness* has been produced. The paper explained:

To some extent, the White Paper will pick up the review of housing and homelessness policies and programmes the Commonwealth Minister for Social Services had planned, reflecting that service delivery in this area is managed almost exclusively by States and Territories.²³

21.18 The committee took evidence both before and after it became apparent that the review of housing and homelessness, as initially proposed, would become part of the Federation White Paper process.

Response to government announcements

21.19 In July 2014, Mr Richard Lindsay, Urban Development Institute of Australia (UDIA), acknowledged the government's intention to review NRAS as well as some other schemes around housing and homelessness. In his view, however, any review of NRAS should be done quickly. He stated that as an industry association, it was very keen to be involved and engaged in helping to sort through any issues. Even so, according to Mr Lindsay, two years was definitely too long to wait: there being downsides to delay.²⁴ In his assessment, the scheme had reached a stage where it was 'really starting to get some acceptance and momentum'.²⁵

21 Senate Legislation Committee on Community Affairs, *Estimates Hansard*, 23 October 2014, p. 159.

22 ANAO, Audits in progress, 'Administration of the National Rental Affordability Scheme', <http://www.anao.gov.au/Publications/Audits-in-Progress?portfolio=1104C9D81F57435393DBCC1681E1B62B> (accessed 27 March 2015).

23 Reform of the Federation, White Paper, *Roles and Responsibilities in Housing and Homelessness*, Issues Paper, 2 December 2014, p. 3, https://federation.dpmc.gov.au/sites/default/files/issues-paper/Housing_and_Homelessness_Issues_Paper.pdf (accessed 2 March 2015).

24 *Proof Committee Hansard*, 30 July 2014, p. 68.

25 *Proof Committee Hansard*, 30 July 2014, p. 68.

21.20 Importantly, he was not confident that the scheme could pick up from where it left off. From his perspective, the lapse of two years 'basically puts some doubt in people's minds about the scheme and what might be coming next'. He agreed that there were some elements that probably needed to be addressed and fixed, but he did not think that it would necessarily take two years to complete.²⁶ He added that as an industry association, the UDIA was very keen to be involved and engaged in helping to iron out any problems with NRAS.²⁷

21.21 COTA understood the importance of, and welcomed, the review into housing issues, but thought it was unfortunate to discontinue NRAS before the government had a good look at housing policy.²⁸ Mr Bouffler, Community Employers WA, similarly referred to the lack of certainty as to what was going to happen. He stated:

The issue that we have as employers is more the here and now. What do we do whilst all those discussions are going on? Our members employ 10,000 people; what do those people do? What do the people they support do while all these discussions are happening? We need to keep the machinery of government and the support that is provided out there in the system going every day. When you have boards doing strategic plans and investments and thinking about where they allocate their increasingly scarce resources, we need some confidence that government has a plan and knows what it is doing.²⁹

21.22 While acknowledging that the government could be working on a longer-term plan, which, in Mr Bouffler's view, was great, he maintained that people needed to be confident that funding was available and would continue.³⁰

21.23 The Equality Rights Alliance also approved of the inclusion of housing in the Tax and Federation white paper processes. It was concerned, however, that there would be no separate review into federal housing and homelessness policy.³¹

Importance of continuity

21.24 Consistent with the views of many others, COTA thought that NRAS had a lot of potential and was disappointed that the scheme had been discontinued rather than refocused.³² Likewise, National Shelter argued that NRAS was successful, exceeded expectations and was:

26 *Proof Committee Hansard*, 30 July 2014, p. 68.

27 *Proof Committee Hansard*, 30 July 2014, p. 68.

28 *Proof Committee Hansard*, 28 July 2014, p. 22.

29 *Proof Committee Hansard*, 11 November 2014, p. 15.

30 *Proof Committee Hansard*, 11 November 2014, p. 15.

31 *Proof Committee Hansard*, 10 November 2014, p. 20.

32 *Proof Committee Hansard*, 28 July 2014, p. 22.

...pretty much the only thing, along with the social housing initiative that was part of the nation-building package, that was growing housing supply in Australia, particularly at the affordable end of the market'.³³

21.25 Mr Pisarski pointed out that continuity was also 'really important'.³⁴ He explained that his sector 'always understood or expected that there would be a continuing pipeline of NRAS incentives' and, in his view, this was an expectation shared by investors and the investment community. Indeed, he informed the committee that when the proposal to create NRAS was being considered, investors, developers and the business community kept talking of the need for certainty over the long term. He indicated that they were saying:

If we have certainty, whatever the rules are, we will learn to live with them and we can plan a business case around the rules. But, if the rules keep changing, that creates real problems.³⁵

21.26 Mr Pisarski referred to the discontinuation of round 5 of NRAS and the concern it was generating. From his perspective, the cancellation of this round was a missed opportunity and suggested that the government should be looking at how NRAS might be adjusted rather than ended.³⁶ Nonetheless, according to Mr Pisarski:

...even if NRAS were to be revamped or brought back in some other shape or form, we have now created an impression amongst the investment community that it is subject to the whim of government change all of the time and we do not have that long-term certainty. That is the greatest criticism that I have been hearing of the discontinuation of round 5—that we do not now have the certainty of a pipeline that existed.³⁷

21.27 Mr Walker indicated that Queensland had some concerns about the Australian Government not proceeding with the final round of NRAS. He noted that this decision would mean that at least 2,000 new affordable rental dwellings would not be delivered under this scheme for low- to moderate-income households. He argued that this development 'very much pushes responsibility back onto states to find alternative ways to deliver affordable housing'.³⁸

21.28 His colleague, Mr Leitch, also referred to NRAS having got a 'fairly good head of steam', with most recent rounds in Queensland achieving a very high subscription. Mr Leitch indicated, however, that the decision to suspend NRAS resulted in activity associated with NRAS 'going cold'. According to Mr Leitch, there

33 *Proof Committee Hansard*, 10 September 2014, p. 38.

34 *Proof Committee Hansard*, 10 September 2014, pp. 38–39.

35 *Proof Committee Hansard*, 10 September 2014, p. 39.

36 *Proof Committee Hansard*, 10 September 2014, p. 38.

37 *Proof Committee Hansard*, 10 September 2014, p. 39.

38 *Proof Committee Hansard*, 10 September 2014, p. 42.

was a lot of interest in the community which would have to be reactivated if 'we fired up'.³⁹ Mr Walker stated:

There is some loss of that momentum as a result of this current pause. The quicker we are able to resolve whether it is proceeding or not proceeding would be particularly useful.⁴⁰

21.29 Mr Somerville echoed the sentiments of many other witnesses when he highlighted the importance of having consistency and clarity. In his opinion, the changes in the policy of NRAS, through its evolution, created a fair amount of uncertainty and instability.⁴¹ He argued that continuity was essential to the success of NRAS, suggesting strongly that the scheme should be on an annual rolling basis with the capacity to vary the 'amount nationally for economic stimulus, between 5,000 and 10,000 every year'.⁴² He explained that by setting a low level of 5,000 or a high level of 10,000 allocation every year, everybody would know that an annual allocation was going to be available.

21.30 According to Mr Somerville, under round 5 of NRAS, Queensland specifically identified land available for the state's contribution to the scheme. The Western Australian and South Australian governments were also supportive of that model, which involved collaboration between the private equity and the community housing providers. Mr Somerville explained that the scheme was 'at the point of attracting institutional investment and certainly had high levels of interest'.⁴³

21.31 Ms Young informed the committee that as each round for NRAS came out, the rules changed, which made it difficult for people in the private sector to come in and out of the system and understand it. She also noted, however, that by rounds 3 and 4, NRAS had built up 'a head of steam'. But now, according to Ms Young, this impetus had effectively dissipated. She stressed that NRAS had worked and underlined the importance of having something to replace it:

That may be the state or federal government coming in with CRA funding for private investors to allow them to offer rentals at lower cost. Perhaps that means the government may offer a five-year or 10-year head lease on a private investment property, which allows somebody to come in and finance that with public bank funding—something that could secure it so that the supply continues.⁴⁴

21.32 Ms Croce, Community Housing Federation of Australia, explained that NRAS was based on a program in America called the Low-Income Housing Tax Credit

39 *Proof Committee Hansard*, 10 September 2014, p. 47.

40 *Proof Committee Hansard*, 10 September 2014, p. 47.

41 *Proof Committee Hansard*, 10 September 2014, p. 55.

42 *Proof Committee Hansard*, 10 September 2014, p. 56.

43 *Proof Committee Hansard*, 10 September 2014, p. 52.

44 *Proof Committee Hansard*, 10 September 2014, p. 29.

program. When NRAS became permanent as a part of legislation, it allowed community providers access for the first time or in an expanded way to financial institutions and they started to engage and partner in joint ventures.⁴⁵ Ms Croce noted that NRAS was the only private investment vehicle that was available. She was concerned that if something did not replace NRAS and replace it quickly, the financial institutions, investors and developers' growing confidence in the scheme would expire.⁴⁶ Mr Flynn, Mission Australia, reinforced this message:

One of the most disappointing things about the removal of the last round of NRAS, aside from the drop in the number of dwellings that will be delivered, is that it undermines the confidence of the investor sector in that marketplace. Clearly one of the successes of the US system is that private investors have a very high level of confidence in that market, which in turn has been able to deliver something—over a long period of time.⁴⁷

21.33 Indeed, Dr Burgmann, NSW Federation of Housing Associations, stated that one of the reasons the housing association industry had been so concerned about the cancellation of NRAS was because investors had just started to dip 'their toes in the water of financing affordable housing'. She stated:

We were arguing for that to become a permanent program because it does give that sense that this is a piece of the infrastructure of the Australian housing system that investors and lenders can come to with some degree of confidence. It does not matter whether it is NRAS or some other kind of program. What we would be looking for from both levels of government is to signal that investing in affordable housing is a legitimate thing to do, that the rules of the game are not going to change in a hurry, and that this is an asset class that it is worth super funds and the big banks wrapping their heads around and developing lending policies around because it is going to be here to stay.⁴⁸

21.34 Professor Yates added her voice to the many disappointed with the cancellation of NRAS. In her view, it was a 'terrible shame that NRAS does not seem to be on the books again'. She agreed that NRAS may not have been an ideal program, but the ideas behind it were important. According to Professor Yates, there was 'a need for some kind of subsidy, targeted to generate an affordable entry-level kind of housing'.⁴⁹

45 *Proof Committee Hansard*, 10 November 2014, p. 13.

46 *Proof Committee Hansard*, 10 November 2014, p. 10.

47 *Proof Committee Hansard*, 10 November 2014, p. 29.

48 *Proof Committee Hansard*, 10 November 2014, p. 13.

49 *Proof Committee Hansard*, 10 November 2014, pp. 40–41.

Scope for improvement

21.35 While some witnesses and submitters had reservations about certain aspects of the way NRAS was implemented, they did not advocate its abolition. Indeed, most agreed that the scheme should be further refined or replaced by one with the same objective of increasing the supply of affordable housing.⁵⁰ For example, Catholic Health Australia recommended that:

The Government reinstate it [NRAS] with some modifications, or establish a successor program that continues to offer incentives for Church or charitable non-government organisations to invest in provision of new, or undertake refurbishment of existing, housing stock for utilisation by vulnerable older Australians.⁵¹

21.36 The Community Housing Council of South Australia gave unilateral support for the continuation of NRAS, particularly in the way in which community housing providers had adopted and used the scheme.⁵² It acknowledged that, as was the case with all programs, there were 'opportunities for refinement and change'.⁵³ Ms Coleman was of the view that while NRAS had the bones of a good scheme, she was sure that it could be improved. From her perspective, the principle of seeking private investment to match government investment was important because she could not envisage a time where social housing was going to be fully government funded. In her view, the market must be involved.⁵⁴ Likewise, the Property Council of Australia suggested that NRAS was a 'vital affordable housing program', but that it should be recalibrated.⁵⁵

21.37 According to Mr Myers, National Affordable Housing Consortium, 40 per cent of the current investor market was indicating that it would like 'to buy another NRAS product within that next five years'. He stated that this would account for \$100 million worth of additional investment from just one agency alone.⁵⁶

21.38 From the UDIA's viewpoint, NRAS had been 'a really useful program', which had gained growing acceptance from the private sector in recent years.⁵⁷ In its view,

50 See, for example, Mr Flynn, *Proof Committee Hansard*, 10 November 2014, p. 26. See also Grace Mutual Limited, *Submission 1*; Neumann and Turnour Lawyers, *Submission 20*; National Affordable Housing Consortium, *Submission 31*, p. 6; and Women's Housing Company, *Submission 52*, p. 2.

51 *Submission 49*, p. 3.

52 *Proof Committee Hansard*, 28 July 2014, p. 38.

53 *Submission 99*, p. 1.

54 *Proof Committee Hansard*, 30 July 2014, p. 57. See also Ms Milne, *Proof Committee Hansard*, 10 September 2014, p. 21.

55 *Submission 212*, pp. 3, 5.

56 *Proof Committee Hansard*, 10 September 2014, p. 57.

57 *Proof Committee Hansard*, 30 July 2014, p. 67.

NRAS was a way in which the Commonwealth could engage in addressing supply-side issues. Although Mr Foley, UDIA, conceded that the scheme may not have been implemented as well as it could, he was of the view that basically the framework was a good one. In summary he stated:

...the fundamental basis of NRAS, which is a cooperative scheme between the private sector and the federal government to provide affordable housing for low- to middle-income households, is solid.⁵⁸

21.39 Mr Foley explained that homes have and will be delivered directly because of that policy position. In his view, NRAS had made a useful contribution to the supply-side and the experiences gained from the program could be built on to make NRAS better.⁵⁹ Mr Foley believed that the reasons for NRAS not attracting institutional investors was around the current incentives being provided and the time taken for the private sector to become used to the scheme, to build trust in, and acceptance of, it.⁶⁰

21.40 His colleague, Mr Lindsay, also pointed to a timing issue whereby the introduction of the scheme 'basically landed slap-bang in the middle of the GFC'.⁶¹ In his opinion, it took a couple of years, in particular, for the scheme 'to get up and running and to get industry involved and engaged'. Mr Lindsay saw the potential for NRAS, if it kept going, to attract increasing numbers of institutional investors as they became more aware and more comfortable with the concept.⁶² Essentially, he thought the whole principle of the scheme was good and it was achieving some valuable outcomes.

The basis of the scheme is sound, but we probably do need to look at addressing some of the ways in which it has been implemented.⁶³

21.41 Without doubt, NRAS encountered some troubles during its short life but, as many witnesses noted, the shortcomings, many of which were teething problems, could be fixed. The very fundamentals of the scheme were solid and NRAS was starting to make a very significant contribution to the supply side of affordable housing. The government discontinued the scheme just as it was beginning to gain traction with the private sector: just as partnerships were being developed between the public, not-for-profit and private sector. The committee supports the call for the review of NRAS to be completed expeditiously and for the government to begin to send reassuring signals to both the not-for-profit sector and private investors that it is committed to working with both sectors to ensure that the work started under NRAS would continue and furthermore be built on.

58 *Proof Committee Hansard*, 30 July 2014, p. 69.

59 *Proof Committee Hansard*, 30 July 2014, p. 68.

60 *Proof Committee Hansard*, 30 July 2014, p. 68.

61 *Proof Committee Hansard*, 30 July 2014, p. 68.

62 *Proof Committee Hansard*, 30 July 2014, p. 68.

63 *Proof Committee Hansard*, 30 July 2014, p. 69.

21.42 While many submitters recognised that NRAS had shortcomings: they believed that the scheme had great merit; that it should not be jettisoned; and could be reformed for the better. They identified ways in which they thought NRAS could be improved.

Suggested improvements

21.43 Mr Pisarski suggested that there should be a broader portfolio approach where incentives were allocated at scale—at 1,000 a time—to single providers in order to achieve the scale take-up that was required. Also, he would remove the location-specific requirement. Mr Pisarski favoured an approach whereby minimal requirements would be stipulated for NRAS around set percentages in middle-ring suburbs, in regional areas, in outer-ring suburbs, of various bedroom sizes and types and of affordability. In his view, community housing providers and developers would have the scope to use their own creativity to make a viable operation out of the scheme. According to Mr Pisarski, NRAS could still be adjusted over time to fit such a model. He stated further that even within those requirements, limits or conditions could be set, for example, on student housing to foreign students.⁶⁴

Queensland as a model

21.44 In the previous chapter, the committee detailed Queensland's approach to NRAS with its greater level of control and the additional measures it introduced to help preserve the integrity of the scheme and improve its efficiency—tighter eligibility criteria and application and management processes. Also, with regard to NRAS, Queensland achieved well above the average level of delivery on a per capita basis than the other states and, according to Mr Leitch's understanding, trading in approvals 'did not happen in Queensland, pretty well at all'.⁶⁵ He stated:

Regarding the way we managed it in Queensland, I think we had a very diligent approach as to how that was managed and, because it was tied in with the rest of our housing products, we had a better focus on where things were going.⁶⁶

21.45 Having witnessed some of NRAS' successes in Queensland, Mr Walker was convinced that there was much benefit in such a program. Based on Queensland's positive and encouraging experience, he explained that if the Australian Government were to rework NRAS in any way, then Queensland would certainly be supportive. He stated further that the Queensland Government would be:

64 *Proof Committee Hansard*, 10 September 2014, p. 38.

65 *Proof Committee Hansard*, 10 September 2014, p. 49.

66 *Proof Committee Hansard*, 10 September 2014, p. 49.

...particularly keen to be involved in any conversations with the Australian government on what worked for us and on what might make for a better scheme moving forward.⁶⁷

21.46 Also, referring to Queensland, Mr Somerville recognised that the state had put more resources into NRAS and made the criteria far more specific—including the eligibility for tenants. He suggested that Queensland had a much higher level of control and far more rigid requirements through the application and management process as well as embracing the scheme.⁶⁸ For example, as noted earlier, Mr Somerville explained that:

When the floods occurred they said, 'We'll have another 5,000 NRAS.' So they had the additional numbers, the additional resources, and it was much more tightly managed.⁶⁹

21.47 Mr Myers noted the 2,800 dwellings delivered in Queensland in the last five years, all with private investment. NRAS providers borrowed other people's capital and made the affordable housing equation work. Mr Myers was certain in his mind that aspects of the Queensland model should be applied nationally. In particular, he cited accountability—the ability to demonstrate who is getting what—noting that Queensland had more relevant data than the other states. He maintained that, because members of the National Affordable Housing Consortium operated under that system, 26 per cent of people in NRAS housing in its portfolio were on a disability support pension and a third of those were also on the public housing waiting list. He stated:

So we can demonstrate that this is the gap in the market that we keep saying needs much more sophisticated filling so that people can move into products that are more suited to their income and household needs.⁷⁰

21.48 Mr Myers reminded the committee, however, that Queensland, at 3.2 per cent, had one of the lowest levels of social housing of any state.⁷¹

Tailoring incentives

21.49 It should be noted that there are two streams of investors in the rental market: mum and dad investors; and institutional investors.⁷² Mr Somerville suggested that there should be two specific application criteria—for institutional models and for the individual investor model. He explained the difference:

The individual investor model is driven by the tax benefits, largely, and a 10-year NRAS with the tax benefits is a very attractive proposition for an

67 *Proof Committee Hansard*, 10 September 2014, p. 47.

68 *Proof Committee Hansard*, 10 September 2014, p. 54.

69 *Proof Committee Hansard*, 10 September 2014, p. 54.

70 *Proof Committee Hansard*, 10 September 2014, p. 54.

71 *Proof Committee Hansard*, 10 September 2014, p. 55.

72 Mr Myers, *Proof Committee Hansard*, 10 September 2014, p. 57.

individual investor. But for an institutional investor it is about longevity, so a lesser amount over a longer term would suffice, or different mechanisms than the rebatable tax offset, over a longer term.⁷³

21.50 Mr Myers elaborated further on the taxation incentives and the benefits they offer to different classes of investors:

...if you work out the incentive's real economic value—to a 47-cents-in-the-dollar taxpayer, to a 30-cents-in-the-dollar taxpayer and to a 15-cents-in-the-dollar taxpayer, or a super fund who may not pay anything in the dollar on what they are doing—then what you are saying is, effectively, you are giving a super fund a not-for-profit cash payment. It is not enough yield. If you were to split it down the middle and say, 'well, actually we need a mechanism that gives them the same as, say, a 30-per-cent company taxpayer', you would actually get buy-in. And you can get buy-in over 20 years.⁷⁴

21.51 Mr Myers noted that the National Affordable Housing Consortium had worked with institutions and that they would like to see a 20-year term. He stressed that institutional investment 'has got to be one of the core policy objectives to improve both supply and affordability'.⁷⁵

21.52 In its submission, the Queensland Council of Social Service suggested that the Commonwealth and states continue funding for the NRAS and undertake the following actions:

- commit to a consistent amount of NRAS incentives every year for five years;
- centralise the administration of the scheme to reduce delays and processing timeframes;
- review eligibility criteria and allocation processes to ensure that housing is allocated to low and moderate income renters;
- vary income eligibility by region to account for differences in regional housing markets; and
- increase the financial incentives available for NRAS dwellings in high need areas, including rural and regional areas, to promote uptake of the scheme in these areas.⁷⁶

21.53 As noted earlier, the government has already taken some measures and promulgated regulations to improve the implementation of NRAS, especially to remove the opportunity for the trading of incentives. Clearly there is further scope to

73 *Proof Committee Hansard*, 10 September 2014, p. 56.

74 *Proof Committee Hansard*, 10 September 2014, p. 56.

75 *Proof Committee Hansard*, 10 September 2014, p. 57.

76 *Submission 175*, p. 3.

reform NRAS and it would appear that the Queensland model could provide a starting point. Furthermore, many in the industry have identified in both general and specific terms areas of NRAS that could be tightened or changed and have indicated their willingness to engage in this process of refinement. Finally, the ANAO audit on the administration of NRAS should provide clear guidance on ways to improve the scheme's administration.

Committee view

21.54 Observations made in this chapter about the value in tailoring incentives for classes of investors and of tightening eligibility criteria and application processes coupled with the shortcomings identified in the previous chapter, demonstrated that a review of NRAS was warranted. The cancellation of round 5, however, was a very different matter. This cessation has set back the scheme just as it was gaining the trust and support of the private sector and beginning to make a material contribution to the supply of affordable housing. Not only has it undermined investor confidence in this scheme, it has also fed into the general uncertainty that has engulfed the national policy on affordable housing. In this regard, the committee also notes the abolition of the home and homelessness program.

21.55 The committee is firmly of the view that the government should start immediately to rekindle the confidence that institutional investors were starting to show in investing in affordable housing and to provide greater certainty in order to attract such investors.

Recommendation 36

21.56 The committee recommends that:

- **in the absence of any credible alternative scheme designed to increase the supply of new affordable housing and considering steps have already been taken to improve the administration and implementation of NRAS, that the Australian Government continue with NRAS round 5;**
- **the Federation White Paper process look at the Queensland NRAS model, which appeared to have much tighter controls over eligibility, as a means of determining where further improvements or fine-tuning could make the system more robust and effective;**
- **the Federation White Paper process look at how NRAS or a replacement scheme could be reframed to take account of the particular housing circumstances of regional Australia and ensure that NRAS housing was better targeted to areas in most need; and**
- **as part of the Federation White Paper process, a thorough cost benefit analysis of NRAS be undertaken, and that any such analysis include comparison of forgone revenue from demand subsidies such as the first home owners grant, and negative gearing and capital gains tax.**

Recommendation 37

21.57 The committee recommends that when considering NRAS, the Federation White Paper process:

- **take note of the concerns raised by many submitters and witnesses about the need for continuity and certainty in order to attract and to gain the confidence of private investors; and**
- **ensure that any proposed refinement or a replacement of the scheme:**
 - **places the highest priority on restoring and building on the initial success that NRAS had in attracting private investors;**
 - **provides investors with certainty regarding the scheme by committing to a consistent flow of incentives extending over a period of at least five years; and**
 - **takes note of lessons to be learnt from NRAS such as the need for clear and tight eligibility criteria and better targeting to areas of need (the ANAO audit should provide a sound starting point).**

21.58 In the context of NRAS, a few witnesses raised the matter of the charitable status of community housing providers as a matter of concern.

Possible loss of charitable status

21.59 In 2008, the Standing Committee on Community Affairs inquired into legislation providing for regulations to prescribe NRAS. Witnesses representing the community housing sector who appeared before the committee agreed that their biggest concern around their participation in NRAS was the possibility that such engagement would compromise their charitable or public benevolent institutions (PBI) status. At that time, a position taken by the Australian Taxation Office (ATO) generated concern as summarised by Ms Croce:

The ATO have indicated that any organisation with charitable status will seriously jeopardise that status if they participate in NRAS. They have further indicated that organisations such as consortiums that participate in NRAS will not be endorsed as charitable organisations. Furthermore—and this is one that sent chills down the spine of the sector—participation in NRAS may cause the ATO to heavily scrutinise all of the activities of a participating not-for-profit organisation, not just those that pertain to participating in NRAS. The ATO have indicated that some of the current activities that our community housing organisations are involved with may no longer satisfy this test for charitable purpose.⁷⁷

77 Standing Committee on Community Affairs, *National Rental Affordability Scheme Bill 2008 [Provisions]: National Rental Affordability Scheme (Consequential Amendments) Bill 2008 [Provisions]*, November 2008.

21.60 The ATO reasoned that NRAS was intended to assist not only low income earners, but people on moderate incomes. In this way, the ATO argued that a charitable organisation's participation in NRAS might fall foul of the 'sole purpose test', which required organisations holding PBI status to have as their sole purpose the provision of charity.⁷⁸

21.61 The then government took measures to provide assurances that participating in NRAS would not jeopardise the status of not-for-profit organisations as charities. Even so, concerns persist that charitable organisations could risk their charitable status by participating in NRAS.

21.62 According to the Community Housing Federation of Australia, a charitable tax status allows providers access to a range of tax concessions, including exemption from income tax and GST, access to the Fringe Benefits Tax and often local government concessions on rates and utility bills. It argued that the charitable tax status was an essential component of the community housing model because the concessions lowered their operating, construction and development costs. The Federation told the committee that these concessions, however, were contingent on a community housing provider satisfying the ATO that its organisation's purpose met the criteria for charitable status. Despite measures taken since 2008 to preserve the status of NFP community housing providers as charitable institutions, the Federation explained:

Over the last several years the sector has operated under the threat and uncertainty that many of its activities, especially in the delivery of affordable housing, would not be considered to have met the criteria of the relief of poverty and could jeopardise the charitable status of community housing providers. The legislation that was purported to constrain housing activities through a narrow interpretation of permissible activities was withdrawn earlier this year. However, other legislation passed in June 2013 contained some tax conditions that may have a similar impact on providers' charitable status, resulting in limiting their participation in the affordable housing market for fear of putting their charitable tax status at risk.

Other legislation, such as the new definition of charity that went into effect 1 January 2014 provided some clarity on the situation...[but it] has been mooted for repeal leaving the sector back in the position it was before with ambiguous interpretations of housing activities allowable as a charitable organisation.⁷⁹

21.63 The Community Housing Federation drew attention to 'the unsettling environment in the charities and tax arena' which would 'cause continuing uncertainty for the sector for forward planning in the affordable housing market'. It noted:

78 Standing Committee on Community Affairs, *National Rental Affordability Scheme Bill 2008 [Provisions]: National Rental Affordability Scheme (Consequential Amendments) Bill 2008 [Provisions]*, November 2008, pp. 6–7.

79 *Submission 171*, pp. 17–18.

...providers are at risk of incurring a significant tax liability if the ATO judges their activities to be ineligible for concessions and at worst, they could lose their charitable status if the ATO deems their activities do not meet their charitable purpose.⁸⁰

21.64 In addition, Ms Croce expressed concern regarding the possibility of community housing providers, incurring significant tax liabilities or, at worst, losing their charitable status because they were inadvertently non-compliant with certain tax laws.⁸¹ According to Ms Croce, there needed 'to be some certainty that affordable-housing activities are acceptable charitable activities'.⁸² In her view, the current uncertainty made it difficult for community housing providers to make decisions about their work plans and future strategy.⁸³ The community housing industry was calling for policy consistency and appropriate tax policies, which would allow for 'a comprehensive definition of housing provision that encompasses a broad range of housing activities'.⁸⁴

21.65 The NSW Federation of Housing Associations similarly highlighted the worry that the charitable status of community housing providers remained relatively unclear because the future of the recent legislation defining 'charitable' was not certain. In its view, this matter needed to be resolved as a matter of urgency, 'as it has implications for the type of growth and business structures community housing providers can pursue and the capacity to hold back the expansion of the industry'.⁸⁵ Neumann & Turnour Lawyers also argued that the charitable sector required certainty that their ongoing participation in NRAS, or any similar scheme, was in fact charitable. According to Neumann & Turnour Lawyers, the government could provide such certainty through legislative recognition.⁸⁶

Committee view

21.66 The committee is firmly of the view that the Australian Government must take steps to provide certainty for community housing providers engaged in NRAS or similar schemes designed to provide affordable housing that their charitable status is not in jeopardy by participating in such schemes.

21.67 The committee understands that community housing providers must be financial sustainable if they are to continue to assist people gain access to affordable housing and provide the support services needed to keep people housed. To do so,

80 *Submission 171*, p. 18.

81 *Proof Committee Hansard*, 10 November 2014, p. 10.

82 *Proof Committee Hansard*, 10 November 2014, p. 10.

83 *Proof Committee Hansard*, 10 November 2014, p. 18.

84 See the Community Housing Federation of Australia, *Submission 171*, p. 18.

85 *Submission 80*, p. 3. Also see *Proof Committee Hansard*, 10 November 2014, p. 18.

86 *Submission 20*, p. 8.

means that they may well enter into commercial activities. It should be clear, however, that their charitable status should not be at risk provided they turn any surplus arising from those activities to their charitable purpose.

Recommendation 38

21.68 The committee recommends that the Australian Government, through legislative recognition of charitable status, resolve any uncertainty over the effect that participation in NRAS or any similar scheme would have on the tax status of entities operating as charities, or public benevolent institutions (PBIs).

