



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

STANDING COMMITTEE ON COMMUNITY AFFAIRS

**Reference: National Rental Affordability Scheme (Consequential Amendments)
Bill 2008; National Rental Affordability Scheme Bill 2008**

THURSDAY, 6 NOVEMBER 2008

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

The internet address is:

<http://www.aph.gov.au/hansard>

To search the parliamentary database, go to:

<http://parlinfoweb.aph.gov.au>

**SENATE STANDING COMMITTEE ON
COMMUNITY AFFAIRS**

Thursday, 6 November 2008

Members: Senator Moore (*Chair*), Senator Siewert (*Deputy Chair*), Senators Adams, Bilyk, Boyce, Carol Brown, Furner and Humphries

Participating members: Senators Abetz, Arbib, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Brandis, Bob Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Hefernan, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Adams, Bilyk, Humphries, Ludlam and Moore

Terms of reference for the inquiry:

To inquire into and report on:

National Rental Affordability Scheme Bill 2008

National Rental Affordability Scheme (Consequential Amendments) Bill 2008

WITNESSES

CROCE, Ms Carol, Executive Director, Community Housing Federation of Australia	18
DISNEY, Professor Julian Henry, Chair, National Affordable Housing Summit	2
DREDGE, Ms Leslie, Acting Policy Manager, Aged and Community Services Australia.....	13
FARRAR, Mr Adam, Executive Director, New South Wales Federation of Housing Associations	18
FLAVEL, Mr Matthew James, Manager, Industry Tax Policy Unit, Department of the Treasury	39
FOX, Ms Julie, Special Counsel, Commercial Section, Commercial and Indigenous Law Branch, Department of Families, Housing, Community Services and Indigenous Affairs	39
HAM, Ms Sue, Section Manager, National Rental Affordability Scheme, Affordable Housing Branch, Department of Families, Housing, Community Services and Indigenous Affairs.....	39
JAGGERS, Mr Andrew, Branch Manager, Affordable Housing Branch, Department of Families, Housing, Community Services and Indigenous Affairs	39
KONZA, Mr Mark, Deputy Commissioner, Small and Medium Enterprises, Australian Taxation Office	39
LAMONT, Mr Christopher Shaun, Chief Executive, Policy, Housing Industry Association	33
LEGGETT, Mr Christopher Murray, Senior Adviser, Philanthropy and Exemptions Unit, Personal and Retirement Income Division, Department of the Treasury.....	39
NAUFAL, Mr Roland John, Consultant, Aged and Community Services Australia.....	13
PISARSKI, Mr Adrian, Chairperson, National Shelter	27
TOMKINS, Mrs Kristin Ann, Executive Director, Building Policy, Housing Industry Association.....	33

Committee met at 9.02 am

CHAIR (Senator Moore)—Good morning. This is a public hearing of the inquiry by the Senate Standing Committee on Community Affairs into the National Rental Affordability Scheme Bill 2008 and the National Rental Affordability Scheme (Consequential Amendments) Bill 2008. This inquiry was referred to the committee by the Senate on 25 September 2008 for report by 20 November. To date, the committee has received 23 submissions for this inquiry. All of those submissions have been authorised for publication and the submissions are available on the committee's website.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful to anyone to threaten or disadvantage a witness on account of evidence given to the committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

Our committee prefers all evidence to be given in public but, under the Senate's resolutions, witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken, and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee is determined to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any time.

I ask that people in the hearing room—and this particularly relates to senators—ensure that their mobile phones are either turned off or switched to silent.

[9.04 am]

DISNEY, Professor Julian Henry, Chair, National Affordable Housing Summit

CHAIR—Welcome, Professor Disney. It would be interesting to know how many times you have come to one of these. Do you keep a record?

Prof. Disney—No.

CHAIR—We have your submission from the National Affordable Housing Summit. Do you wish to make any amendments to that submission?

Prof. Disney—No, thank you.

CHAIR—I invite you to make an opening statement and then we will go to questions.

Prof. Disney—Thank you for the opportunity to be here today. The summit group I am speaking on behalf of today consists of five organisations covering a wide range of community organisations with an interest in housing: the Australian Council of Social Service, the Australian Council of Trade Unions, the Community Housing Federation of Australia, the Housing Industry Association and National Shelter. You will be hearing from some members of the group in their individual capacity as well, so I am speaking more about some broader issues to do with the scheme. The background is that the scheme, in many of its key elements, is broadly similar to a proposal that the summit group put to the then government and opposition last year and so some of the reflections on how it can and should operate reflect the work and consultations that we had during that process.

I will just briefly touch on some of the points that are dealt with in the written submission, but not at length, and then I would like to focus on some of the key priorities for the way ahead, not necessarily things that need to be reflected in legislation but which are perhaps important to bear in mind in that context. The first thing to say very strongly is that we greatly welcome this scheme. It is something that we think is a very high priority and a very important initiative, but it will take time to deliver. This is a major long-term change. In our view, many of its greatest benefits will be seen 10 years or more out from now. It is achieving a substantial readjustment in the range of resources and the effectiveness to which they can be put to address problems of low-rent housing. It just needs to be vigorously but patiently developed and adjusted to circumstances and experiences as they change.

You raised three points, I think, on which you were particularly interested in focusing. The first is targeting affordable housing for people who are most in need. I will not say a lot about this because we have dealt with it in the submission. Firstly, I will emphasise that our group believes that the main vehicle for providing affordable housing for those in the deepest need has always been and should remain fully funded public and non-profit housing. By ‘fully funded’ I mean fully funded or almost fully funded from public revenue. So in parallel with proposing what has now become this National Rental Affordability Scheme, we have also been pushing for a very substantial increase—at the very least, a restoration to the levels of the early nineties—in funding for public and non-profit housing through the Commonwealth-State Housing Agreement. We have urged also that that agreement be transformed into a national affordable housing agreement, and the government has taken that view. But we have always seen this as a twin-track approach: this scheme, in order to help trigger the private investment to come in and help with this major task, but also an increase in the availability of funding of the kind that is now provided through the CSHA. We continue to push hard for that, and you will see that in the submission we have given an extract from some of the things that we have been urging the government to adopt in the new agreement, including specific growth targets and growth funding.

But the task is too great for this to be dealt with entirely through publicly funded housing, even if that was what one thought was the best approach. There are, by any reckoning, hundreds and hundreds of thousands of low-income households in unaffordable rental housing and others who have escaped that only by living a long way away from their jobs and their families and encountering other problems and expenses. That is why we took the view that it was essential to attract private investment into this area. One of the major differences between our housing market and the housing market in most other developed countries is the almost complete lack of institutional investment in residential housing. That is a major difference from other countries. Another major difference is the almost complete lack of non-profit housing, although it is growing now, whether owned or managed by non-profit organisations. If one is looking at what one can learn from other countries, those are two key things. This scheme aims to, over time, redress that imbalance.

It would not be appropriate, in our view, for this scheme just to focus on the most deeply disadvantaged. Firstly, it would be very hard to attract the levels of private investment that we need if it is going to be targeted to that extent. Secondly, one of the lessons we need to learn from the experience of the last 15 or 20 years is the damage which is done by overtaking housing on those in the deepest disadvantage. It is, I think, very widely agreed, certainly across all our membership from the industry to the welfare sector members, that social mix in low-rent subsidised housing is crucial. That includes providing people with an opportunity to improve their circumstances without—and certainly without in the short term—losing their housing. It is very important that low-rent housing is not so tightly targeted that it becomes effectively a poverty trap, a work disincentive and a major barrier to the opportunities and mobility of the households. In our view, that is one of the reasons this scheme is not overtaking on those in the greatest disadvantage; but it will be important to ensure that it makes a substantial contribution to that. In our view, the needs of high-need households should not be addressed only through fully funded public and non-profit housing. This scheme should also help to contribute to that major task.

That is on the first point of the extent to which it is targeted and should be targeted on those in greatest need. On the second point that you raised, on efficient and effective growth in the supply of affordable housing, we take the view that there is no single method which is always and clearly better than others. We need to encourage, in fact, greater diversity and flexibility in interaction and cooperation among government provision, non-profit provision and private provision. A key part of the design of this scheme is to encourage that kind of interaction. There are some improvements, perhaps, that could be made to enhance that outcome, but one of the major goals and values of the scheme is encouraging innovative cooperative partnerships across those sectors. It is very important that there are no obstacles or inconsistencies that might reduce that.

The scheme also—although, again, there is scope here for some improvement—aims to encourage the contribution of resources from local governments and charities, for example. Already we are finding that. At the end of last week, a charitable group approached me with their interests now triggered by this scheme because they believe this in a sense can, as we say in the submission, help them drive their resources further. This is a church organisation with a lot of land. They can see how, with access to this scheme, it may be worth them trying to utilise that land for the provision of low-rent housing. That is a classic example of what the scheme was meant to achieve, to encourage people to bring resources onto the table and take advantage of the scheme to make things work. I will mention in a moment some ways in which we think the effectiveness could be increased, but generally we think it has very great potential in that area.

Your third area was facilitating investment by private investors and non-profit organisations. Firstly, as I said at the outset, we have always emphasised that it would be very unwise to see this as a quick fix. In fact, if one tried to develop it too quickly or held out hopes for it developing very quickly, it could be quite counterproductive. The experience of a broadly similar scheme in the United States clearly shows that it can and needs to develop momentum over time. When we originally proposed this scheme we had really quite modest projections for what could be achieved in the first five years or so. We also did not believe that it was realistic to expect major institutional investors and developers to come in before the first two years or so. That was one reason why we proposed that, and the government has adopted a broadly similar approach of an establishment phase of two years and then an expansion phase. The scheme needs to be bedded down in the establishment phase to get some of the basic administrative arrangements and legislative arrangements worked through. Then we can commence procedures for growing it in the expansion phase and getting institutional investors and developers involved. But it would be quite unrealistic, we believe, to expect them to come in in the first year or two, although one needs to start developing their interests towards perhaps the end of the first year. I will come back in a moment to how that might be done.

Broadly speaking again, we feel the scheme has the essence of what is necessary to achieve greater institutional investment. It is important to bear in mind that it would be unrealistic and unaffordable to expect to attract investors and developers for all parts of Australia to provide fully affordable housing for all possible tenants. It would really be a mistake to try to pitch the scheme in that way. The scheme is an attempt to try to contribute in a substantial way over time to sharing the load of this problem of unaffordable rent. It is not meant to work everywhere under all circumstances for everyone.

The scheme does allow for variations in the value of the assistance provided. This is not always appreciated perhaps. The Commonwealth incentive is fixed, and for reasons I am happy to expand on in discussion we believe that is the appropriate approach, that the Commonwealth incentive should be at a fixed level. But the state incentive and supplementary assistance is not, and that is crucial. We always had the view that it was the state and local governments who, as it were, should close the deal on particular projects. These projects,

especially the big ones, are heavily dependent on local circumstances, on urban development priorities and other forms of assistance or resistance that might come from state and local governments. We believe that it was they who were best placed and should have the responsibility to finetune the full package of assistance that is available especially for investors and developers to make it work in particular areas. That is why the \$2000 incentive was always intended—by us anyway, and it is reflected in the scheme—as just an indicator that the states would need to be involved but much of the most useful assistance they can provide will be non-cash, for example will include the cooperation that is needed to provide development approval and be clear about infrastructure plans of the government in the future and those sorts of things. So it does have a variable incentive built into it, or a variable package of assistance built into it. That is even before you take account of the fact that it is meant in many cases—and this will be the case already in New South Wales in the first round—to be combined in many cases with partial capital funding under the CSHA or what will become the National Affordable Housing Agreement. In the past we had, as it were, either full funding at one end of the spectrum or just rent assistance at the other. The national rental affordability scheme is meant to provide an additional funding stream that can be combined with one or both of those other funding schemes in order to achieve appropriate outcomes. It is not a stand-alone form of housing; it is not a separate form of housing—it is a funding stream to add to other funding schemes that are already available or could be provided in the future.

I finish by emphasising what I think are some of the priorities for the near future in two headings: firstly by the end of this year and secondly in the first quarter or so of 2009, but with the exception of the first item these may not necessarily need legislative change, which is the focus of this committee's work, of course. By the end of this year I think there are six things. The first thing is to resolve the problem of the impact of being involved in this scheme on charitable status. I am not going to expand on that now partly because Carol Croce from the Community Housing Federation of Australia, which is one of the members of our group, has been focusing especially on this and she will be able to provide more detailed analysis and proposals. Also I do think there is a reasonable prospect that the immediate needs in this area may be resolved fairly rapidly. I am happy to expand on that if you like. But there will be major problems unless it can be made clear that involvement in the scheme does not threaten charitable status. I emphasise that this raises a broader issue of the problems of relying too much on charitable status as the way of providing tax assistance. In the group's view, this should be resolved not by attempting to change the definition of charity or the definition of poverty but by recognising that this scheme has been acknowledged, in the event of its passage through parliament, as having a public interest purpose. The extent to which that purpose needs to be met by participants is spelt out in detail in the legislation and the regulations, and those who have met that public interest purpose should then attract tax concessions.

The second thing, and perhaps most important at the moment, is that we really need to encourage the states to play a more proactive role. The major difference between this scheme and the United States scheme is that this is much more centralised and we believe, especially in the expansion phase, that it is the states who should play the predominant role in determining the kinds of housing which are sought and in allocating incentives.

We believe that, even at this stage, but particularly next year in the third round, that should increasingly become predominant and that states should develop annual plans and perhaps particular portfolios of housing that they indicate they want to support through these incentives, and that they should seek applications that focus on those portfolios in addition to some others that may come just from the priorities of individual applicants. This should not just be a program that responds to submissions; it should be proactive in putting out portfolios, and the states should play a crucial role in helping to put together packages of the kind of assistance and encouragement that they can provide. So we think it is very important to start moving towards that strong state role even now.

Thirdly, it is very important to get the National Affordable Housing Agreement funding commitment in place with a substantial increase in funding and with specific growth targets. We have indicated in the submission what we think should be done there.

Fourthly—and this is absolutely essential in our view—is that the government appoint a high-level group of two or three independent advisers, led by a person with senior business experience but with an independent position in this context, to advise them on the development of the third call for expressions of interest. That is the call that is due in the first half of next year, which is when we should start to be attracting institutional investors and developers. That is a very important and difficult task and we believe it needs input from a high-level group of advisers of that kind. The department has done well in getting the establishment phase going but there will be a need for the kind of high-level independent advice and input that the summit group has been

able to obtain from the people with whom we have engaged. So we believe that before the end of this year it is crucial that the government appoints two or three people of that kind to help prepare for the third call.

Fifthly, we need to continue and strengthen the partnership facilitator scheme to help encourage people to become involved in the scheme.

Finally, there are some adjustments to the exposure drafts to the regulations that we think are needed. There are two dimensions. One is the indexation of the income limits. I think that may have been just an oversight. The second very important element is that it should not be required that the particular block of land for which an incentive is being sought should have to be identified in the application. If people can identify it, that may be a competitive advantage in their application, but we think it is very important, especially as the scheme rolls out—but even now—that people should be able to get at least a conditional approval of their application before they necessarily have the land. We need to be forward looking and give people time to develop.

That leads me to the final point, which is what are the priorities for the first quarter of next year. These would be developed, in our view, with the advice of the group of independent advisers that I have mentioned. These are two crucial things in order to move forward into the expansion phase. The first is to further develop the application and assessment process. Firstly, I have mentioned the importance of developing proactive portfolios which people are asked to express interest in, not just waiting for submissions to come in. Indications, for example, may be that a thousand incentives will be available for low-rent housing in middle-ring Melbourne over the next three years, a couple of indicators of the kinds of housing that are required and then seek expressions of interest.

Secondly, there should be a two-phase assessment process, as there is with the Housing Affordability Fund. This is particularly important with large portfolios where people will have to spend quite a lot of time and money working out detailed applications. We think it would be better for them to be able to put in preliminary applications and then there be a filtering process and those that are regarded as especially interesting can, with some further engagement with the relevant governments, be developed into a full application for the second phase.

Thirdly, there should be a more specific approach towards the provision of what one might call conditional or time limited approval, where people are given an incentive on the basis that they provide the dwelling within a couple of years and are given time to be able to pull together the land and other resources they need.

Finally, as I have mentioned, the states should play a greater role in this. We believe that, as in the United States, most if not all of the allocations should be made by the states.

Finally, in relation to starting to get major investors involved, we think it will be important to engage two or three high-level people from the business world to particularly focus over the next year on engaging with major investors, explaining the scheme to them and further understanding their needs. Our group has tried to do that over the years, but there will need to be further work in that direction to bring in some investors through that sort of proactive initiative. Thank you.

Senator LUDLAM—Thanks for your presentation, Professor. I would like to go back through a couple of things that you touched on. The ratio of Commonwealth to state support had been set at three to one. I understand that you think that is an appropriate balance. Would you explain why that is the case.

Prof. Disney—It is an appropriate balance in a sense, but only if one bears in mind that it is not the full story in terms of assistance. I say that because that is the same proportion that we proposed in our scheme, so possibly if the government had the same thinking as us then this may be relevant. Our reason for doing that was that, firstly, under the current forms of assistance, particularly in this area of the Commonwealth-State Housing Agreement, the Commonwealth does provide most of it. So that suggested that, from the point of view of palatability and to some extent consistency, that approach would be appropriate—that in the up-front incentive the Commonwealth should contribute most. We also believe, for the reasons that I mentioned, that often the states would need, in one form or another, to provide very considerable in addition to that. We feel that they should be able to decide, for example, whether they would provide a lot of assistance to get housing, let's say, in central Sydney in high-cost areas for very low income people, which in many cases would require a very big additional form of assistance of one kind or another from them, or in Tibooburra.

We believe that that finetuning and that degree of targeting around what extent you go into high-cost areas and provide perhaps a rent discount even larger than 20 per cent to make it affordable for very low income people should be done by the states and would cost them money. Therefore, they will be contributing in one way or another. I should not have said cost them money; it will cost them resources—because a key element of

this scheme is to get away from the view that cash is always the best way in which people should provide assistance. There are many non-cash forms of assistance that states and local councils can provide. Examples include free land, discounted land, fast-track planning approval, tax concessions of a number of different kinds and rate concessions. Often those, plus a commitment that a certain form of infrastructure will be provided in that area, will be of great value to developers.

Senator LUDLAM—The way that the 20 per cent below market rentals is calculated will be benchmarked, I believe, against the rental component of the CPI, but obviously rental markets around the country are in all sorts of different conditions. Do you think there is a risk in that sort of one-size-fits-all approach that what is 20 per cent below market rates in one area is going to be very different to somewhere else?

Prof. Disney—Firstly, in many cases we would envisage that the rent will be reduced below that, at least for some occupants. That again is the reason why in some cases state and local government will provide additional assistance but also why you need the availability of part funding from the CSHA. Of course, the scheme does not require that you do not discount below 20 per cent; it just says you have to discount to at least 20 per cent, and we always envisaged that in many cases it would go down either to 25 per cent below or indeed down to the public housing benchmark of 25 or 30 per cent of income. But that is a choice that should be made in individual circumstances.

Senator LUDLAM—I do not think you have covered it in your submission, but it was put to us by a couple of folk that there is a potential problem after the scheme runs out in 10 years time of a lot of this affordable housing coming off the market. Is that a concern to you?

Prof. Disney—I think there is no reason to assume that the scheme would run out in 10 years. In the United States it has been going to 20 years now and, frankly, apart from anything else the constituency for it now is pretty strong. So I think once you have a scheme of this kind substantially embedded there is a reasonable prospect that it will continue.

In fact, the Prime Minister has already committed to the idea that if the first 50,000 are not sufficient the number would go on to 100,000. The last house in that 100,000 probably would not be brought on stream in much less than a decade. It is then going to be there for 10 years so it is actually a 20-year scheme really as it is now. I think it is reasonable to assume that it will be a rolling scheme—and certainly it will need to be.

A related point there is that some people would like a particular dwelling to be in this scheme ad infinitum really and we do not share that view. There is no reason why it should. Firstly, we have not suggested that it should be precluded from a rollover or that a dwelling could not be subsidised for a further 10 years after first 10 years. But one of the problems we believe that has led to many of the difficulties in public housing is the belief that a dwelling should be characterised once and for all as a public housing or as a low-rent subsidised dwelling. We do not believe it is necessarily in the interests of anyone involved. Just as there may be value in a degree of greater tenant mobility than there has been in the past the same should be true in relation to the character of dwelling. It might start off, let us say, as a dwelling that has developed under NRAS and will be subsidised and after the 10 years it will move out to being in the private market. It may still have the same tenant. The tenant may have been able to get work and be able to pay in the private market. It may then come back later into being low-rent housing either just because it is a lot older or because it gets a subsidy again.

We also think this is important to reduce the problems of stigma that can apply, which are aggravated if dwellings are known as having a certain character in the community and are immutable. It also makes it of course more attractive for investors if they have the prospect of selling in the private market or renting it in the private market after 10 years.

Senator LUDLAM—So we are focusing obviously on the aspect of affordability that relates to rentals. But obviously the cost of living in the dwelling is more than that. There are energy costs, water bills, and transport is one cost in particular. Are you confident that the way the bill is being presented and with the exposure draft of the regs that the criteria around energy and water efficiency and sustainability and location and so on are tightly enough drafted to provide those additional affordability benefits?

Prof. Disney—For the moment I think they are right, but I think that over time, possibly through legislation but also just through active encouragement of initiatives, we will need to move further. I think there is very a great prospect in this scheme for reducing costs not only for the general environmental benefits that would flow from it but also from reducing the utility costs to the tenant. Over time I think that a greater emphasis could be put on that in the criteria for selection of schemes. That happens in the United States where there are really very specific criteria related to environmental sustainability and to low-energy costs in the scheme. I

think that probably they have gone a little bit too far in their precision actually, but we could certainly move a bit over time here.

We envisaged, as I mentioned before, the prospects of states, for example, providing assistance. In this scheme even the \$2,000 does not have to be in cash. So if states were to agree, for example, that they would contribute particular forms of energy efficient equipment or whatever to houses as part of their contribution to this housing, that would be very good and everyone would benefit. The environment would benefit; the tenants would benefit because of the low-energy costs; the landlords would benefit because the house would be more saleable after 10 years if it had good energy efficient arrangements. So one of the best ways really for the states to contribute here—and of course the Commonwealth could do it as well—is to throw in some form or other of an energy efficient subsidy as well.

Senator LUDLAM—But it is not something that you see as lacking in the bill as it is drafted or the regs at the moment?

Prof. Disney—Not in its current form, no. I think that we need to get this scheme going and move it forward on this basis and it would not need legislative change at all. I would see that down the track as something that is developed partly through regulations maybe but also through the criteria for particular calls for expressions of interest. Further down the track most of the things that really count, that really have an impact on how this works, I expect will be in the particular call for expressions of interest, and these will change over time.

This is what happens in the United States. If you went back 10 years of course you would have much less emphasis on environmental issues in the US system than you have now. Things change with the development of thinking and changed economic circumstances and that is one of the reasons why, in addition to proposing independent advisers to help develop the third round, we believe on an ongoing basis that there should be a small advisory group. This scheme needs to be adjusted to the prevailing winds and circumstances over time.

Senator LUDLAM—In terms of the locational issues, you drew the example of where a state government might mandate that certain kinds of dwellings are built in a certain part of Melbourne. Again, do you think the bill is drafted strongly enough in the sense of encouraging states to go in that direction? I will put to you the worst case scenario: because the bill is skewed towards larger scale developments, what is there to stop people on low incomes being warehoused right on the edge of town in gigantic apartments or blocks of flats?

Prof. Disney—The first protection against that, of course, will be the selection process, because of the Commonwealth's role at the moment. We believe the states should have a larger role; but, whichever it is, there will be a government making that choice. When they are making that choice, they should be trying to avoid that kind of thing. But I must say that we have always believed that there should be a combination of Commonwealth requirements and state requirements—not too many, particularly from the Commonwealth level—aimed at preventing some of the dangers. They should be aimed, firstly, at encouraging particular priorities so that some positive criteria might be spelt out. You just mentioned some things to do with environmental sustainability, and that might be one of them.

But there should also be some things aimed at heading off risks of the kind that you mentioned that might otherwise develop. For example, if substantial portfolios are put out, there could be indications that no more than X per cent of them can be one-bedroom units in medium density or whatever; and no more than X can be in the same location—that kind of thing. This should not be micro managed; it should be trying, on the one hand, to encourage things that are regarded especially important and, on the other hand, heading off things that are bad. I think it would be better if some of that were put out in the calls for expressions of interest and not just kept inside the minds of the people making the selections. After this first round, what criteria have been applied in the first two rounds will need to be got out. That will be very important. You can end up with de facto criteria that are much more important than what is in the legislation. If it is thought by people who are bidding that they will not succeed unless they do X, then X has become a major criteria even though it is not in the legislation. Whether they are right or wrong about X, it will be a major factor. So we need to be careful there.

You need to be careful when you are spelling out a priority. For example, in the United States, the federal legislation says that preference or priority must be given—I forget which, but it is the same really—to whichever projects have the highest proportion of what they describe as their 'very low income category of households'. In some cases, that has ended up in over-targeting of that scheme. We deal with this in our submission by saying, 'By all means take into account what proportion of high needs households you have,

but don't say that automatically whoever has the highest proportion wins.' That should apply to most other criteria as well. They should just be factors to take into account, not automatic rankers in order of preference.

Senator LUDLAM—Thank you. I will leave it there.

Senator HUMPHRIES—Do you know what the average annual rent for an Australian residential property might be at the moment?

Prof. Disney—I did know it at the time when we were developing this scheme. Of course it varies. It will not be a terribly useful figure because it will vary around Australia. When we looked at our modelling of this, we looked at different categories in the \$250 to \$450 a week range of rental. That was pretty much what we were looking at. When the department gave evidence earlier this year to the estimates committee, I think they indicated that this scheme would be operating in—if I recall correctly—the \$200 to \$300 range. We were certainly aiming at getting it to work in the \$200 to \$350 and maybe \$400 range. Of course, if people want to make it work higher than that, then they can bring in extra incentives.

Senator HUMPHRIES—I am curious about the efficiency of the scheme in that sense. Let us suppose we are talking about a property where \$300 a week rent is paid. That is an annual rent of about \$15,600. The landlord provides a reduction in rent if he reduces the rent by 20 per cent or \$3,100 approximately to the tenant. For that \$3,100 worth of benefit that is conferred on the tenant, the landlord receives a \$6,000 subsidy from the Commonwealth and a \$2,000 subsidy or a subsidy in kind from the states and territories. It just begs the question whether the most efficient way of delivering that benefit to the tenant isn't actually to deliver the \$8,000 directly to the tenant or to several tenants by way of rent subsidies rather than subsidise the landlord to an extent which is greatly in excess of the benefit that the landlord then confers on the tenant.

Prof. Disney—I have a few things to say about that, starting perhaps from the rent assistance end—that is, if you just increase rent assistance. We have the view that rent assistance should be increased but that it cannot go anywhere near to addressing the scope of this problem. The reason it cannot go close to it is, firstly, cost—it would be massively expensive; secondly, it would need to be targeted substantially better than it is now; and, thirdly, there is a huge risk of inflating rents, and then you are chasing your tail. That is the major consideration. We are not against some increase in rent assistance, but relying on that as the principal and only method for addressing this problem would not be effective. It would be very expensive and inflationary on rents. Going to the other end of the spectrum, which is fully-funded public housing, the Productivity Commission and others have taken the view—and we would not disagree with it—that that is often the most cost-effective way of doing this over the long term.

Senator HUMPHRIES—To increase the stock of public housing?

Prof. Disney—Yes. Public housing or non-profit housing—fully-funded housing—that remains of that character throughout its life. We believe that is a very cost-effective way of doing it, but it takes an enormous amount of money. There is no prospect of getting sufficient money to get close to solving this problem over the next decade or two. Although we need to move in that direction, we would not want to put excessive weight on either. Also, there are the broader problems of whether you do not end up with too much of a distinction between the people in that kind of housing and the rest of the community when you just rely on fully-funded housing. That is why we throw in another approach and why we say in the submission that, in our view, there is no one method that is always the most effective. You need a mix, particularly at the moment. We have such a shortfall in supply, and this will continue for a long time.

In terms of the prospect of increasing public expenditure, a billion dollars buys you only a few thousand fully-funded public housing dwellings. That is way short of what we need. But we think that public housing and non-profit will have a major role to play in the next couple of years because you can get that going more quickly than non-profit. Then in the middle of that period, the NRAS can start to build up and contribute 100,000 dwellings. But it will still be good to have a strong mix of that with public housing, because every 10 years the dwellings under NRAS will be, as it were, lost. This is why you want to have a strong supply of housing that you are not going to lose, which is public and non-profit housing that is there for keeps. We see it as an attack on all three fronts.

Senator HUMPHRIES—When you said that it would be too expensive to provide a rent subsidy to everybody, I assume it would have to be across the board—existing housing as well as new housing. Presumably, that would be very expensive and why you say it would not be a viable alternative to this scheme.

Prof. Disney—One reason.

Senator HUMPHRIES—One of the other reasons you mentioned was that providing your rent subsidy would be inflationary and would push up the cost of rent. You have described this scheme as being deflationary of housing. Is there a danger, though, that the flow-on effect to the rest of the existing private rental market, to the extent that it is deflationary, would have the effect of reducing the amount of housing actually in the marketplace? If you are in a particular area of, say, Sydney, where lots of this sort of housing is going in and the housing is coming in at 20 per cent below the market price; you are in the private sector and have an existing house, so you cannot access this scheme; and suddenly the rental values of the houses around you are dropping by 20 per cent or more, suddenly your investment is less attractive. Couldn't it drive some people out of the marketplace and actually reduce the amount of stock in the marketplace?

Prof. Disney—Firstly, in the submission we use the term 'downward pressure' rather than 'deflationary'. It is a vague term but it is also an accurate term, because there is not much risk of rents actually being deflated. This would just reduce the rate of increase. That is the view that we have. But that will not be dramatic and it will not, as I say, lead to deflation, so I do not think there is much risk of it having the sorts of impacts that you describe. But regarding its impact on investment, this is really what happened in the United States. They made an even more substantial change than we did when the scheme was introduced here. Negative gearing, as you know, basically will tend to attract investment more at the upper part than at the lower part of the rental spectrum. In the United States, President Reagan quarantined negative gearing at the same time as he introduced the scheme. They were done together because he realised that quarantining negative gearing on its own could unduly reduce rental investment, so he brought in an incentive for low-rent investment. Here, of course, we have not quarantined negative gearing, but this to some extent complements negative gearing. You could even say that it almost offsets it in a way, because, without getting rid of negative gearing or anything, it provides an added incentive for low-rent investment. That again will tend to offset the possibility of the effect you are talking about. It is a particularly appropriate time to bring in the scheme; firstly, because there is such a shortfall in supply; and, secondly, because rents are going up so rapidly anyway that any risk of overshooting of the kind that you have described is really not there, I think.

Senator HUMPHRIES—It begs the question, I suppose: are you aware of any modelling that is being done that would describe the effect on the existing Australian rental market of this scheme operating? How would it affect others already providing housing in the private marketplace?

Prof. Disney—As you know, one of the problems in the housing area is that the outcomes are often affected far more by what one might call non-housing policy than they are by housing policy. So, frankly, I do not think you could very sensibly model its impact in any statistical way. You can only just think through in a logical way what are likely to be the various counteracting pressures. Bear in mind, of course, that, even when it is fully operative, 100,000 is going to be a small part of the overall rental market.

Senator HUMPHRIES—Okay.

Prof. Disney—But I should emphasise too that if risks of that kind develop in a way that is counterproductive then you adjust the scheme. This scheme needs to be adjusted all the time; not major changes that, of course, disadvantaged people in the past. It must be predictable. We did not push for a very big incentive amount of money for the following reason. We and all the people in the industry, including developers, investors and others, said the same; in fact, we got this from them. They said it will be far more important to have a predictable scheme—they meant also a politically predictable scheme, a scheme which was likely to attract bipartisan support over the years, as it has in the US—rather than a scheme that is all bells and whistles involving huge amounts of money but which is likely to create in the minds of developers and investors a feeling that this cannot last. That is why it has been deliberately developed in a very sustainable way, at least in our proposals and, we think, the government's.

Senator HUMPHRIES—Okay. I just have one more question. You mentioned that you thought there should be preapprovals whereby the applicant gets the approval without specifying the land that he or she wants to build on. That worries me a bit because, as Senator Ludlam touched on, it would be far more attractive for landlords to build new residences on the outer fringes of cities or even in rural and regional communities because, provided the cost of building is not higher in those places, when the rent is lower, there is a much higher ratio of subsidy to benefit that they have to deliver to the tenant. So there would be a greater net subsidy, in effect, to them in those circumstances which would make it better for them to provide them in those areas where rent is lower. Is that a danger?

Prof. Disney—Firstly, we are only talking about specifying the block of land, the particular block, so the suburb even or the ring or whatever, if they are to have any prospect of success they may find that they are

going to have to indicate that. Also the portfolios we are talking about would certainly indicate that. For example, I gave the instance of a middle ring portfolio or portfolio which says that no more than 10 per cent can be in the outer ring. Or you may have on the other side, you might put a portfolio out saying, 'We want all of these to be in regional cities,' or whatever. This is what I meant by heading off the risks that you are talking about. You do it firstly in specification of the particular portfolio, secondly in some criteria that we believe should apply to all submissions, and the final safeguard is in the selection process by the governments. This is an entitlement scheme so you cannot just say, 'I've come up with a scheme that provides a thousand houses in middle ring Melbourne. Give me the money.' You have got to come up with a scheme that is regarded as acceptable. That is the final of the three safeguards against what you are talking about.

A key part of what we are keen on is enabling cross-subsidising within large portfolios. It is in the interests of everyone, we think, that you may find that a portfolio may have some low-cost, low hanging fruit, as it were. Some one-bedroom units in an outer suburb might be part of a portfolio that gets supported as long as it has met some other criteria about high-need households and about areas of the city which are going to be higher cost. We are keen on encouraging quite large, flexible, diverse portfolios, which also incidentally help to overcome one of the problems that you find in the UK housing system et cetera, that if people get this form of assisted housing they only get it if they stay where they are, and that is a huge disincentive that we really have to get away from. If you have got a diverse portfolio, the prospects of them being able to move, under the same housing manager, from one area to another, perhaps for job reasons or for family reasons, becomes greater. That is why we are keen on diverse portfolios, not little separate projects that trap people in one house.

Senator ADAMS—I would like to talk to you about the aged care individual living units. Can these come in under the scheme?

Prof. Disney—The summit group believes that aged care providers have an enormously important role to play in this and I think you will be hearing later from them. We are very keen on that. Quite often they have land, which is a very important part of this. Many of them also have experience in large-scale management of property and finances and also combining that with some support, which will often be valuable, for some of the tenants who will be in this housing, so we are very keen on them being involved.

About independent living units, we feel the key there for the moment at least is to ensure that this scheme does lead to more housing than what otherwise have been the case. That may mean newly constructed housing on a vacant block or it may mean but this is where difficult judgements come in: would this housing have disappeared anyway? This is relevant to independent living units. If it is actually just replacement but it is replacement of housing that would otherwise not have been replaced, is that sufficient of a growth, as it were, in stock to justify support under this scheme? My understanding is that government is keen on being supportive in this area, but it will be important, I think, to make sure this scheme is not just moving around the deck chairs. It has to lead to more stock. There will be a difficult judgement in particular cases as to whether the particular stock, independent living unit or whatever, would otherwise genuinely disappear and therefore it is legitimate to support the replacement. But I think ACSA, who are speaking next, are more on top of the detail of where the government has gone on that so far. We have been supportive in principle. We are certainly very keen on that area becoming involved.

I might say that some of their current funding regime has some similarities to what we have been proposing for housing, with respect to the mixture of capital funding and particular ongoing payments. I think there is quite a lot to be learnt for the development of NRAS, both positive and negative, from the kind of funding scheme that applies to aged-care services.

Senator ADAMS—I want to go to the portfolios you were talking about, such as the example you gave of central Melbourne. I come from Western Australia, and so I am thinking about one area that is being developed in Perth. I wonder whether the same thing has happened in central Melbourne as has happened there. That is, while it is fine to have the low rental and the subsidy and everything, often food is far more expensive in those particular areas, which impacts on the suitability of having inner city accommodation. If it is anything like Perth, a lot of people from the outlying suburbs are now starting to move to more central areas and the cost of food and other basic commodities is far greater than it would have been out in the suburbs where they were. Do you have a comment on that?

Prof. Disney—I think that is a very important issue, actually, which I think does need to be handled with care. One can overdo the theory of social mix and believe that just dropping a few low-income people into high-income areas is going to help them. Supermarkets tend to be more expensive in high-income areas. I

think it is a very important practical issue. I do not think I can say anything more than that it is something that needs to be watched and one needs to avoid getting carried away with theory. I am not sure that central, really inner city, suburbs are the major problem—there would usually still be some cheapish food around at least—but it may be more of a problem in other suburbs where, if you dropped people into a high-income suburb, they would be in difficulty. On the other hand, sometimes their job prospects will be improved. It is important of course not just to look at their costs but also their prospects of income. As you know, increasingly now there is a problem of key workers living near where they are needed. So, again, that is one thing that one would look at and say, ‘Okay, this is a high-income, high-cost area but maybe at least some lowish wage households could move in here; the costs might be a bit higher than where they have come from but income might be substantially higher and job security higher, so overall they are better off.’

Senator ADAMS—There has been some planning done with respect to areas with many low-cost rental places and then many that look the same but are not, and the stigma associated with that—‘You are paying X amount; I am having to pay about double.’ How does this work?

Prof. Disney—There is no perfect answer to that problem, but there are a few ways of reducing it. One is to avoid concentrations of particular people of one category or another. Although this is not the full answer, it is also related to why we like the idea of what I described as changing the character of the dwelling so that, frankly, for quite significant periods people will not know whether a dwelling is subsidised or not; it will change its character and there would not be as much of a concentration of them as there has been in the past.

Senator ADAMS—The problem being that it is a new area and has been built with X amount of low-rental places and X amount of normal ones. So this particular one I am thinking about in Perth has been well and truly advertised, which was a bit sad really because people were looking at their neighbours and thinking, ‘Are they the low-rent ones or are they the normal-rent ones’.

Prof. Disney—There is no perfect answer to that. That is one reason why the scheme is so important in conjunction with what is often called inclusionary zoning. I prefer to just call it an affordable housing quota. Whether you are for it or against it—members of our group have different views about it, so I won’t express a view about whether it is desirable or not—I would point out that if you are going to have it, if you are going to say that 10 or 15 per cent or whatever has to be affordable housing, the fact that the developer or other people involved are going to be subsidised through NRAS, which could happen as they could get NRAS incentives for that 10 or 15 per cent, is going to reduce any argument that the other occupants might have that they are being disadvantaged, that they are in fact indirectly subsidising the people around them—because there would be a substantial subsidy coming in through NRAS to the developers and the investors for it. That is why those two initiatives of NRAS and some form of inclusionary zoning go together so well. If you are going to go forward with inclusionary zoning, NRAS reduces some of the actual or perceived problems that arise from it.

Senator ADAMS—The scheme was looking at some key workers such as teachers, childcare workers, nurses and police. For all those categories of people, as wages are rising—and in Western Australia our teachers have just had quite a substantial pay rise—they are going to be taken over the income limit for being eligible. How do you see that going as wages increase in all those categories? These are essential workers—not that everyone is not essential. If, as you commented, they cannot afford to rent anywhere near where they are working—how do you see that? Will this go higher? Do you think the level of rental affordability will be raised?

Prof. Disney—It would be important to ensure that the current levels are indexed in the regulations and, as I mentioned, they are not yet. It will be important to at least ensure they remain relatively the same. Whether they should increase or not would be something that is a judgement that needs to be made in the light of experience over time. We just need to see. There is always going to be a delicate balance there.

Bear in mind too that there is a risk of illusory victories or defeats in this area. Let us say that you increase the ceiling, as it were, on income under the scheme. But in fact the application process is such that you will not win unless you are down at the bottom end of the scale—then the upper end is irrelevant. One has to be careful of the difference between theory and practice. This is not an argument against the problem you are making. If you were to, for example, succeed in getting the upper income limit greatly increased but the reality is that in the application process the criteria favour down at the bottom level then the top level will not matter, because people are not going to be getting it at the top level. That is one reason why, in the criteria that are put out for profiles we would like in many cases a sort of minimum requirement. You have to have X number of high need households. And in many cases we would say you have to have X number of moderate income households.

Our original proposal did actually have 20 per cent moderate income households across a whole state and that people should either be required or certainly be allowed to have that. I think there may be merit in that, at least in the big portfolios. That is another reason for having big portfolios in many cases because it enables you to have some rules which will not be too rigid. They will be specific but not too rigid because it is a big portfolio. Whereas if it is a small portfolio the risk of being too rigid is very great.

I should emphasise that to get the balance right, although we are keen on large portfolios, we are also strongly of the view that the current arrangements for small projects of 20 dwellings or less should continue through to the foreseeable future. That might be adjusted over time but we do need to encourage the smaller operations as well as the bigger ones.

CHAIR—Thank you. We will now move to the next witnesses from Aged and Community Services Australia.

[10.03 am]

DREDGE, Ms Leslie, Acting Policy Manager, Aged and Community Services Australia

NAUFAL, Mr Roland John, Consultant, Aged and Community Services Australia

CHAIR—Welcome. We have your submission, thank you very much. Do either of you wish to make an opening statement?

Ms Dredge—Yes, I would like to make a statement. I was very pleased to hear that Professor Disney talked about aged care in such glowing terms.

CHAIR—Yes, we saw you smiling.

Ms Dredge—I just wanted to outline a little bit about the aged care sector because we are slightly different from the community housing sector and that has been the focus of this program—on existing community housing providers. We think we have an important and legitimate role within NRAS and I am sure the community housing sector would agree.

ACSA is the national peak for the not-for-profits in aged care, so that is for the church and charitable sector. We have about 1,100 members and we represent two thirds of this huge \$7 billion and growing industry. Our members often are not just housing providers but provide a range of care. A standard aged-care provider is probably one that has residential care, some housing in independent living units and some community care. So our members have traditionally been more focused on the care aspect and less of the housing. As time goes on there is an unbundling of that where there is a different understanding about care and housing, and our members are interested in actually exploring housing further. Our members are very large providers, which surprises people when we talk about the figures. Our members have over 40,000 independent living units, retirement villages or serviced apartments around the country. We are everywhere but we are particularly in places where the market has failed. So in rural and remote areas you are more likely to find a not-for-profit provider. We also have about 100,000 residential beds around the country.

Housing affordability is not just an issue for families or first home buyers; it is very much an issue for older people. There are lots of predictions about the dire straits that older people will face in terms of housing stress, with the number of over 70s in housing stress in the last four years increasing by 100 per cent. The well respected organisation AHURI predicts that the number of older people who are low-income renters will increase by 115 per cent in the next 20 years. So it is a substantial group that requires a housing response. We say that we are actually well placed to meet some of that demand.

As well as the increase in the numbers coming through, the aged-care sector is going through a fair bit of change itself, which some of you are probably aware of. There is a new funding instrument that has just come into residential care, and you have probably heard people talk about low care and the problems with it. This new instrument focuses more attention on high and complex needs, and we think that is quite appropriate. But that means that quite a lot of people who would have come into low care, primarily for an accommodation need, will not get in there anymore. So as well as those numbers increasing, the structural change within our industry indicates that probably we are going to have more people who will not get the accommodation and the level of support they need in existing facilities. Also, as you probably all know, there is an increase in emphasis on community care. People want to stay at home; they want to stay in housing that is the right fit for them. They do not necessarily want to stay in a three- or four-bedroom family home, but they want to stay in a place that is appropriate for them.

When we talk about NRAS, it is not just based on our theory but on Roland and I having travelled around the country running workshops with our members. So it is the concerns raised by our members. That was very kindly funded by the government under the partnership facilitation. In talking to our members, we see that the strengths of the aged-care sector being involved are that we are mission driven, not necessarily profit driven. That is not to say that there is not a place for those who wish to make a profit, but what it does mean is that for our organisations generally they will be likely to stay with those properties long term, and that when ten years comes up they will not be looking to sell. They might need to sell some, but the vast majority would stay within a portfolio. So we think that that is a real strength.

I have talked about how we are everywhere, but we are also very diverse. We have very large organisations already with portfolios of ILUs of 1,000 and 1,500. We then go down to very small organisations that might only have a few. We have organisations that have very large assets in terms of land, and we met with an

organisation the other day that talked about a whole range of properties that they had that they had not developed and they thought that this was an ideal opportunity. So we are not a sector that will be looking for land; in many cases we bring that land to this program—often in very good locations. So if we talk about Adelaide, for example, some of our providers there have a lot of property in that middle ring, and that is where people are ageing anyway—they are the ageing suburbs. So they are often very appropriately placed assets. We also have the experience and knowledge of working with older people and of knowing what older people want in terms of housing and support.

The issue we see with NRAS itself—I should preface it by saying that we were wholly supportive of NRAS and we want to see it get going because we are very excited about it—is that, we think, there is capacity to make some changes over time. One of those areas is the tax issue. I am sure you are well aware of it. It is not an issue that we can resolve over time; it needs to be resolved immediately. Our providers would not be willing to sign under the current conditions where they feel that their PBR standards might be under threat. They could not afford to.

The next issue—and you mentioned it, Senator—is the ILUs. AHURI produced a wonderful report based on data from 2002 that looked at the independent living units. At that stage they were not really sure how many there were but they estimated that there were about 32,000 around the country, a third of which they predict are probably needing major upgrades. We know from our members that many members have gone through and have upgraded, but we also know that there are a large number that have not and have not had the capital to be able to do that. They are potentially at threat. In July when we ran our forum up in Canberra we did a quick ring around to some of our members to find out the state of the ILUs. In those phone calls alone we came up with about a thousand that were going to close. So we are very concerned that we are going to lose our really important social housing stock when at the same time the government is trying to develop other stock. We think that there is some capacity within RNAS to do something about these properties.

We appreciate that NRAS is about developing more stock and, as Julian put to you, we do not want to keep going around just doing up what exists already, but we think that they should at least be afforded the same priority. There should be a level playing field in terms of application so that if an application comes in it can be assessed against the location and so on. We do not want to see that they are forced to close because there are people living in these places. We would prefer that applications can be approved and then the provider can work through on how to relocate people and so on. You can appreciate that many providers are not coming forward saying that they are going to close because they do not want to upset their tenants. It is very difficult for boards to have to make decisions and for builders to have to make reports to say that these are going to close. We think that the requirement to show that these were going to close needs to be taken on a case by case basis and analysed in that light.

There are a couple of other areas that we think need some attention. In regard to the subsidy levels, we would always like more. We know that there is not always more but we know that state governments in some states are offering more. We would like to think that the age care providers could get access to some of that money. It has generally been earmarked for community housing providers because governments are interested in building them up. That is great but we also think that if we have got a good project we should not be excluded from that just by virtue of not being a community housing provider.

We are concerned a little about compliance. The amount of the grant is quite small. Compliance has got to be absolutely minimal to ensure that the value of the grant remains. If we have to become community housing providers as well as already being aged care providers and compliant under the Aged Care Act we have got another layer of compliance at a time when governments are talking about reducing regulation and red tape. We think that needs to be looked at, but probably over time.

In regard to project size, we want to ensure that, while it would be great to have really large projects, we are very conscious of the small projects in our rural and remote areas in particular. In going around we have met with people who say: 'We have done a really good needs analysis. We think we need 10 units.' And we say, 'Can't you get it up to 20?' Why should they? If they need 10 they should be able to apply for 10 if that is the appropriate size.

Finally, because of our industry's diversity—we have got some big players who are ready and champing at the bit writing applications, right through to organisations that we are still telling that the scheme exists—we think that there needs to be further funds dedicated to industry development through partnership facilitation to ensure that we keep bringing people along.

We are very excited about NRAS. We hope it will go ahead soon and we look forward to participating in it.

CHAIR—Do you have anything to add, Mr Naufal?

Mr Naufal—No, Leslie has done a terrific job.

Senator LUDLAM—Thank you for coming up this morning. Could you give us an idea of what would be the impact on your members if they were to lose their favourable tax treatment as a result of participating in this scheme?

Ms Dredge—They will not participate.

Senator LUDLAM—They will not participate.

Ms Dredge—No, because for them this is not core business. Most of them are residential care providers. That is where the bulk of their money would come from. There are only a few that would have a great number in housing, in terms of dollars, than Resicare, so I would say and from what people tell us, they will not participate.

Mr Naufal—Over the last few weeks we have seen a number of really big Australian aged care providers come to the table. They are some of the largest charities in Australia. We talked to them about this scheme. They become quite excited and then we have to say, 'But—there is a concern about PBI status.' They glaze over and are either walking away or are very hesitant about becoming further involved.

Senator LUDLAM—Have you, or your members, been in discussion with the ATO, that you are aware of?

Ms Dredge—Some of our members have, and we have also written to the Treasurer. We know that there have been discussions with the ATO and FaHCSIA has kept us up on that. We are not tax lawyers. We do not necessarily have the answer to it; we just want it fixed.

Senator LUDLAM—Sure.

CHAIR—We are not, either, Ms Dredge, but we do have the Australian Taxation Office coming this afternoon.

Ms Dredge—That is great.

Mr Naufal—That is great.

Senator LUDLAM—You are telling the committee that it still needs to be fixed, so I can take from that that you have not really had any good news from the ATO.

Ms Dredge—No.

Senator LUDLAM—The way the bill is drafted at the moment, the requirement that they quarantine a certain number of the properties for smaller places would tail off after a couple of years. Are you suggesting that you would like to see that maintained right through the life of the scheme?

Ms Dredge—Absolutely.

Senator LUDLAM—With respect to your comments on rural and remote providers, are you suggesting that perhaps this scheme will not work so well in rural and remote areas or small areas or regional cities?

Ms Dredge—We are concerned about how it might work in some of the more remote areas where the subsidies stay at that level—\$8,000 a year indexed—where building costs are high, rents are not necessarily that high and incomes are not necessarily that high. It will work in some areas, but we are concerned that it may not, particularly in Indigenous areas and in some of our rural and remote areas. But maybe it does not have to work everywhere. If there is a suite of initiatives that will provide housing, if more money is provided through the NAHA—the National Affordable Housing Agreement—that might be okay. I appreciate that this is only one of a number of initiatives. But to look at it in isolation of the others, it is hard to see how it will all necessarily fit together.

Senator LUDLAM—Lastly, you mentioned the compliance burden. Do you have a sense of what that looks like for your providers at this stage? You have raised it as a concern. What sense do you get of the scale of that burden?

Ms Dredge—In particular, the concern is around having to register as a community housing provider. It is certainly different across the country, but in some states, to be able to participate particularly in more than the \$2,000 subsidy from the state, you have to be registered as a community housing provider. People talk about that taking about six months to occur, and you have to provide a range of additional reports to the registrar. I think most people would accept that the aged care industry is highly regulated and we already provide a whole range of compliance to federal and some state governments. So we think there is potential to streamline that.

We do not see necessarily why we have to become a community housing provider. If some additional things are required on top of what we have, fine, we will do those; we would have no argument with that. But it appears that the whole community housing provider registration is around a particular stand-alone organisation that provides just housing.

Senator ADAMS—Coming back to the ACFI and the classification level 6 and 7 people who are missing out with the so-called baby boomers who will require far more from aged care in the next 10 years—whether it be residential or whether it be the independent living units—as an organisation, have you done some calculations on just how great that need will be?

Ms Dredge—From the explosion in the number of people—

Senator ADAMS—I do not really like to use the term ‘cherry picking’, but it is happening now.

Ms Dredge—Yes, it is.

Senator ADAMS—It is sad, but there is going to be a huge cohort of those people sitting out there, whereas there are only a certain number of community care packages and people who can deliver them. What I really want is a projection for the next 10 years on how critical this need is going to be as far as the independent living units go.

Ms Dredge—We have not done any concrete figures on that. We are still looking at it because, as you know, with ACFI just coming in, we are really only just starting to get a feel for what is happening in low care. And it is quite a complex issue too because those 6s and 7s, if they have enough of a bond in going in, will still probably get a place.

Senator ADAMS—They will—but if they have not?

Ms Dredge—That is right. It is taking us some time to work that out and see how it is going to play out. We have already approached the government about providing a lot more community care. We do not have a definitive figure on how much is needed, but we are asking for increases around 10 per cent per year at the moment. But the housing one has not been quantified—and it is a really important issue.

Senator ADAMS—It certainly is. Community care is fine. But people from rural areas live too far out and they have to move to town. When they try to get a place to rent, there is no rental accommodation at all. So independent living units would be great. But, again, we have to have the provider. A lot of the shires are going into partnership and helping. Otherwise, if a person can afford to own it themselves, they can pay their piece and then it will go to their estate later on. There are different ways it is organised. The workforce is the other issue with aged care. It is fine to get the extra community care places, but we do not have the people to deliver them. Where is that going? This is why I thought that, as an organisation with such—

Ms Dredge—You are from WA, aren’t you?

Senator ADAMS—I am.

Ms Dredge—And WA in particular is feeling the workforce issues. The NILS report is indicating that the ‘workforce crisis’—which a lot of people call it—in aged care is quite localised. We have been calling it a generalised crisis, but it appears to be less than that. In WA there is definitely a really big problem with workforce. There is a problem in some regional and rural areas but the data suggests that it is less of a problem on the eastern seaboard. I am sure that does not make you feel any better because it is a big concern for you. One aspect with housing, and NRAS too, is that this program, I assume, has been designed with families in mind. But with older people coming into rental accommodation, if they are over 65, it is unlikely that they are going to get another job and earn more money. So they are going to be more stable tenants, and it is likely that they might have had an asset of some sort. It would be good to explore how the financing methods commonly used in the aged-care sector could translate to NRAS. Would it work to pay an ingoing contribution? It might work for quite a lot of older people to pay an ingoing contribution, as they do in residential aged care, and then pay less in rent. It would maximise pensions and benefits and so on. We think there is capacity to look at that too. That might assist in some ways for, say, people coming in from farms, who might have some nest egg they can put into a property. I know I have not answered that well enough for you. I wish I had the answer and knew exactly how many were needed and could say that we as a sector are going to provide them. But our industry need some sort of support to ensure that that housing is put on the ground. That is why we are very excited about NRAS.

Mr Naufal—The oldest of the baby boomers are now in their early-60s. People who generally go into retirement villages and the more independent types of housing are in their early- to late-70s. The average age

of entry to a nursing home is mid-80s, and there is a short length of stay. The work that ACSA has done has shown that, if we can provide appropriate and affordable housing to people in their 70s, they can stay independent for up to six years longer and stay out of nursing homes. So NRAS comes in beautifully at that level to provide a highly cost-effective means of keeping people out of nursing homes for up to six years longer. That is one of the things that excites us. The right location and the right stock enable people to stay independent.

Senator ADAMS—And, as you have mentioned, a lot of people have got the land, which is pretty important.

CHAIR—Thank you very much.

Proceedings suspended from 10.25 am to 10.43 am

CROCE, Ms Carol, Executive Director, Community Housing Federation of Australia

FARRAR, Mr Adam, Executive Director, New South Wales Federation of Housing Associations

CHAIR—Good morning. We have your submissions. Thank you. I know that you understand about parliamentary privilege and the protection of witnesses and so on. I ask either or both of you to make an opening statement and then we will go to questions.

Ms Croce—Thanks very much for the opportunity to participate in the hearing and the inquiry. The Community Housing Federation of Australia is the national peak body that represents the views and perspectives of community housing providers across Australia. We represent peak bodies in each state and territory which represent roughly 2,100 community housing organisations that oversee around 77,000 community housing dwellings nationwide.

Our submission spoke to the terms of reference of the inquiry. I would welcome an opportunity to expand on those comments if you have questions, but what I would like to focus my brief comments on today is the issue that I think is of paramount importance to the success of NRAS and the participation of our sector, and that is the charitable tax status. Obviously we are deeply concerned about this issue, particularly that participation in NRAS could jeopardise the charitable tax status of not-for-profit organisations. 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.

In our view, the ATO have really moved the benchmark, really moved the goalposts, on this. They no longer appear to be accepting benchmarks of low income as measures of poverty. Most community housing organisations are endorsed as charitable organisations. It is based on the fact that their stated purpose is to alleviate poverty. They have accepted in the past existing benchmarks of low income. That has been the definition that the CSHA uses or that public housing uses for the definitions of low income. They have used that as a compliance measure for alleviating poverty. Therefore, if you are providing housing to people who are on low incomes then that is an allowable charitable activity.

Through recent discussions we have had—and we have been part of meetings with FaHCSIA, the Treasury and the ATO—and a recent ruling that came down, it appears that they have moved from this position. They believe that NRAS activities do not alleviate poverty and therefore participation in the scheme is not an allowable purpose. Despite this, the ATO have not given us any clear definition of precisely what is the poverty benchmark. So our organisations are left in the very untenable situation of trying to figure out when a household is no longer in poverty—when did they start breaching that benchmark so that our activity is no longer considered to be meeting a charitable purpose.

Furthermore, the ATO have also recognised that there are some activities which are allowable if they can be shown to benefit charitable purpose for an organisation. Things like fundraising activities often fall into this category. In the past the ATO have accepted that housing people on low incomes is the predominant activity that alleviates poverty, so it would be a logical extension that providing housing that may not directly alleviate poverty but contributes to the predominant purpose of the organisation would be an acceptable activity. In this instance, people who might be on modest incomes who are paying slightly more rent than people on very low incomes would effectively be contributing through cross-subsidisation to those people who are on very low incomes.

I guess what we get down to is that, without some type of legislative remedy, not-for-profit organisations are not going to participate in NRAS because of the risk to their status. Private investors are also going to be staying away from this program and not wanting to invest because of the uncertainty.

I should also say that the Community Housing Federation, like ACSA, participated in the partnership facilitation project that FaHCSIA ran. We had a lot of involvement with organisations, with advisers, and this issue came up time and time again. We have also been advised that some of our providers who have put in for NRAS applications and who are waiting to hear if they are successful have indicated that they will not be signing contracts and will not be participating if this is not cleared up. Specifically, Foundation Housing in

WA, which I believe is the largest provider in WA, has put in for a separate NRAS application and is also part of two consortiums that have also put in applications. It will not participate either as a sole applicant or in those consortiums, so that could leave WA in the position of having no NRAS applications. And I know that at least one other organisation in New South Wales has indicated the same.

We have a suggestion on how we might get past this, and expediency to us is paramount. Right now we have applicants who are waiting to hear whether they have been successful or not. We are about to embark on a second round, so an expedient remedy is important. In our submission we outlined three approaches. The first one is an administrative one, and that would be that the ATO provide a letter of assurance to NRAS applicants that participating in NRAS will not, in and of itself, cause the ATO to review or revoke their charitable tax status. This is similar to a situation in Victoria—they called them letters of comfort—where they were provided to community housing organisations who registered under the new Victorian housing legislation. At the time, the ATO indicated that providers' tax status was in jeopardy due to what it perceived as being excessive government control over the organisation's operations. The advice was very general and it was not binding, but organisations were assured that their tax status would not be impinged if they registered. And they were in this position: they either registered or they did not get any funding, so it was really quite important for them to be able to participate in the program. An assurance of this nature would provide not-for-profit organisations with the secure advice at the ATO level that their participation or merely applying to NRAS would not provoke an audit of their operations.

The second one is the legislative approach. That would be a legislative amendment to safeguard the charitable status of not-for-profit organisations that are participating in NRAS. We see this as being an interim solution, and it is necessary in order for us to get the program rolled out, to assure the applicants who have already participated or who put applications that nothing will happen to them during this time and that it will not risk their charitable status. However, this is not going to assist new entities that come in, some of the consortiums that are being formed. Unfortunately, these are the types of models that we have really pushing in NRAS. However, this type of remedy would at least get us going with the program. As Julian said, this is a program that is going to need a lot of changes as it goes, it is an evolving program, and this would at least get it off the ground.

The third prong to this approach is long term, and that would be a statement of intent from the Treasurer to deem that not-for-profit provision of affordable housing would be a charitable purpose under the tax law. We believe it is essential that affordable housing is delivered by not-for-profit organisations, is recognised as a charitable purpose to ensure the long-term viability for the community housing sector and for affordable housing initiatives like the NRAS. There is a precedent for this in the extension of charitable purposes related to not-for-profit child care, and that is outlined in our submission. A statement of intent such as this would indicate a commitment from the Treasurer to resolve the issue through a similar amendment to the tax law. This is in contrast to the interim legislative amendment, and we see that as a stopgap measure until the issue can be addressed more comprehensively through the Henry review of the tax on the transfer system. In closing, CHFA strongly advocates that both a legislative amendment and a statement of intent are required to provide the assurances necessary for the community housing sector to actively participate in NRAS and other activities at the state and territory level.

Mr Farrar—I should introduce the New South Wales Federation of Housing Associations. We are a member of the Community Housing Federation of Australia, but we represent the majority of the not-for-profit community housing providers in New South Wales and, indeed, the largest such sector in the country. Our members include the largest housing associations in the country—that is, St George Community Housing, which manages around 2,600 properties. Also, the sector is growing. The state government currently has a strategy to grow the sector to at least 30,000 properties under management, although that was before the NRAS and we have great hopes that that will be exceeded because of the current initiative with NRAS.

Our members have been very active in embracing the opportunity that has been presented by NRAS. They see it as a way of doing two things. It will enable them to expand their operations to give them the real kind of strength that is going to be necessary to be robust organisations that can meet the challenges of affordable housing in this country—and we need strong, robust organisations. This is an opportunity to provide that capability. That is pretty crucial for the not-for-profit sector. Secondly, it gives them the opportunity to meet their mission, and this is crucial—and I was very pleased to hear that ACSA used exactly the same term—because our members are mission driven. They are there to ensure that housing is provided to overcome the disadvantage which is experienced in the housing market and particularly to assist those in very high need. So I want to stress that our members are a crucial part of the mix because they are mission driven in that way.

Very broadly, there are a couple of things I want to say—and I do not want to go too much over the points raised in our submission. The first is that the introduction of NRAS responds to an absolutely critical need. Professor Disney outlined that and I am sure you are very familiar with it. But I do want to stress that, for example, unlike the United States we still have a significant undersupply problem, so supply initiatives are very important. That is one of the things which are so welcomed in the NRAS—it is a way of meeting our undersupply gap, which has two problems. It has an overall problem in terms of what is happening in the housing markets, but in the rental markets, particularly those in New South Wales, the undersupply of rental accommodation is what is pushing up rents to truly alarming levels. So something which can intervene there is a pretty crucial initiative.

Because of that, I do want to stress that it is absolutely essential that the process which has begun is not delayed. Our members have been very active in taking up the opportunity, but that does mean entering into agreements and going out and identifying opportunities to acquire land and new properties to bring into the marketplace. They are very concerned that those opportunities will be lost if there is any greater delay. A number of them have all the problems that are associated with substantial holding costs. Others have been able in this market, which in some sense is not a bad market for this to be operating in, to identify opportunities which are going to go in a matter of days and weeks. So it is pretty crucial that we proceed, otherwise the enthusiasm, the investment, the energy and, indeed, the opportunities are going to be lost to us. I do want to leave you with that message as strongly as I can. If there are a couple of messages that my members are very keen to see delivered, that is one of the paramount ones.

I think it is useful, too, to say what we hope. This is probably moving a bit into the big picture and I will try and do it quite briefly. There is a real difference, I think, with having a government program which is just delivering a new supply in a very narrow way. We are a strong supporter of increased public housing supply, but public housing is inevitably a silo and a limited programmatic approach. What we need to see is a change in our housing market so that there is a sustainable part of our market which operates at the bottom end, not at the top end, such that we have affordable housing supply as a normal part of our market. That cannot be done without some kinds of subsidies, and NRAS provides the first really important step in trying to achieve that.

In a way we have already had subsidies, and I think Professor Disney drew your attention to negative gearing. But those subsidies have produced supply at the top end. We need, and now have, a subsidy which will shift investment towards the bottom end, where it is urgently needed. We need a sustainable marketplace; that means we need players who can operate in that marketplace and understand the bottom end of the market. That is where I go to our members, the not-for-profit housing sector, who have a mission to operate in the bottom end of the market and who understand it and can make it work.

I think if we are to see NRAS be truly effective it is going to have to provide something which goes beyond the additional supply which can come through public housing, crucial though that is. It is going to have to provide supply through normal market mechanisms and through wider forms of investment and have, if you like, an industry segment that can manage that housing effectively because it understands it and because it has a commitment to it.

I very briefly want to mention the issue of registration because it came up in the discussion with ACSA. We do believe that regulation of the not-for-profit sector is crucial. We have been very strong supporters of regulation because we believe that, since public investment goes in, public accountability is absolutely imperative. I have to say we have another reason for believing that, and that is that we know from the UK experience that having the government to an extent standing behind these investments—because it has a regulatory regime that will identify any problems as they emerge and can respond to them—has reduced the cost of funds in the UK. Anything that reduces the cost of funds is pretty important, so we support a regulatory regime.

We do want to see national consistency, though. There are quite different rules operating in different jurisdictions. I stress that one of the exciting things that has come with NRAS is that we are seeing new entrants. Mission Australia, one of the largest charities in Australia, have established a separate housing association because they see it as a crucial social need. But the rules in, for example, Victoria, mean that they have to separately incorporate in Victoria in order to meet the Victorian regulatory requirements rather than operating with one set of regulations and one registration across the country. Some of those things are important to stress.

Another really critical issue for us is tax. We have been involved for some time with one of our members who, in partnership with a private consortium, had been working with the ATO to identify whether or not they

could undertake that business. When NRAS came in it added, if you like, an imperative to get the matter resolved. That was a very frustrating experience because the ATO found it very difficult to come to terms with the provision of affordable housing as a form of business. I absolutely understand that the ATO must operate within the legislation that currently exists—nobody would want to see them do anything else and nobody would want to see benefits provided to charities inappropriately leach into other parts of the economy. That being said, in the past the ATO have taken a very, I think, productive approach and have said that they see that the provision of social housing is important and they are—to quote, I hope not inappropriately, an ATO member—not out on a search-and-destroy mission. We now feel that perhaps they have moved into that mode.

The question was asked earlier: what are the implications of losing charitable tax concessions? For our members they are catastrophic. Not-for-profits already operate in an environment where, because their income streams are pretty low—that is part of doing not-for-profit business—their wages are significantly lower than comparable wages in the private sector, certainly, and also in the public sector. Fringe benefits tax concessions allow them to bridge some of that gap and are critical to being able to employ the workforce that they need. A number of their other tax concessions are critical to being able to provide a business which remains viable. Viability and the workforce required absolutely hang on the maintenance of charitable tax concessions. It is do or die.

They were very alarmed to understand that there was a real possibility that entering into an NRAS proposal might risk that. I want to say two things about them. While they are now very, very vigilant and there will be an immediate flight if there is any clear threat to that, they nonetheless pressed on with developing NRAS proposals because they believed it was a very critical and important thing to do and it would be not just a great shame but I think they would feel unwilling to come back into the space for quite some time if all of the work that they have done, the proposals they put together, were suddenly to prove unviable because of their tax status being at risk. I want to basically say that.

One area—and Carol has covered off on most of them—of the tax position which is quite critical to the operation of NRAS is what is treated as incidental to the charitable purpose. A number of providers not only have been developing their own proposals but would be undertaking the management of proposals which are put together by private sector proponents. That is a great strength in two ways: firstly, it assists the management of the private sector product and means that it is going to be much more appropriately managed; secondly, it provides a strong income stream which can then be devoted towards their primary charitable purpose. They had always understood that that was incidental in the meaning of the act, and there is now a great lack of clarity about whether that will be the case. It will be critical to the success of a number of NRAS proposals.

I wanted to go to the issue of targeting, really to say that while it is absolutely vital that we do not see NRAS as a targeted program—that is, its role is to provide an increase in affordable housing and bring greater investment into the marketplace, and it must be viable to do that—the use of not-for-profits has a number of great benefits in terms of targeting. First of all, as I said, their mission is to provide responses for those in need. So they will always be committed not to operating at the highest level permitted by the program but to finding every possible opportunity to push down the households that are being targeted by their own proposals. That is part of the business they are in and that is what their proposals are seeking to do. Secondly—and this is a bit ironical—because of their charitable tax status, they will not be providing housing at a 20 per cent discount; they will be providing it at a 25 per cent discount, because that is where they become eligible for GST exemptions. Were they to lose their charitable tax status they would have no incentive to push down the rents that they charge. So there is a real irony here in the current risk.

Lastly, and this is quite important, not-for-profits, because of their mission, do have a very strong incentive to put together proposals and to seek ways to ensure that their portfolio, which is developed using an NRAS, remains in existence after the expiry of NRAS so that they can continue to provide assistance to low-income households and continue to provide pathways out of hardship and hopefully into employment and full social participation. So I think there is a crucial role for the not-for-profit sector, which goes to the targeting issue. There is a crucial threshold issue for them, which is the tax issue, but equally not to delay the implementation of NRAS because of the deals which, quite simply, are going to fall over if we have any great delay.

While there is a lot to be worked on in NRAS—and in our submission we say that we want to see it continually monitored and improved—we do need simply to get on with the job.

CHAIR—Thank you very much. Senator Ludlum?

Senator LUDLAM—Thank you for coming in and providing us with the evidence in the CHFA statement, but perhaps either of you can speak to this. You have suggested that you would like to see ‘more detailed and sophisticated approach to schedule 1 of the draft regulation in future NRAS rounds which would allow for the scheme to respond to area or population based need’ and so on, which I think are some of the issues that Professor Disney touched on as well. Can you give us an idea of what changes you recommend be made in future and—maybe this is a bit provocative—why you would not see us making those changes now as this is before the parliament?

Ms Croce—Some of the changes I think we are talking about were more at a submarket level. I think they were some of the things that Professor Disney talked about. It is the idea of being able to look at where there might be areas of greater need based on state priorities—whether it would be more rural or remote areas, perhaps it is particular suburbs, maybe it is particular population groups. I think the reason we thought it would be best to look at that as the program progressed is to see what we get in the first rounds, to see what kinds of responses have come as a result of the first criteria. Each of the states and territories had put out what they saw as their priorities. Applicants were aware that they needed to address that. I think it would be worth while seeing how that exchange went—whether they were actually meeting the kinds of priorities that they were hoping to, whether they got the right kinds of applications and, if they did not, finding out the reason for it. Is it that investors are not interested in those particular areas, that there is not the appropriate land in that area? What were the reasons why that particular priority did not rise to the top? I think that is something that would probably best be met as time goes on and as the program evolves.

Mr Farrar—I concur with that. It is a learning program and we will not really be able to predict all of the best solutions upfront. We need to suck it and see, I would have to say.

Senator LUDLAM—That sounds fine. How transparent is the listing process? How aware are you of what sorts of proposals have got up in round 1 or are being assessed at the moment? Are you happy with the degree to which the community housing sector is participating in the first round?

Ms Croce—What I am aware of are just sort of bulk numbers—that 56 per cent of the applications that came in came from the not-for-profit sector, which we thought was a pretty good showing. In terms of where that was after compliance issues were looked at, I am not sure. I know that the department has been quite private, I suppose, about who the successful tenderers are. I do know from our facilitation role and from talking with our peaks that there was a very high level of participation from our big organisations as well as from what I like to call our aspirational ring—those groups of providers that may not be already designated as growth providers but are definitely in the business of wanting to expand and grow. So I guess we will just have to wait and see until the announcement comes out.

Senator LUDLAM—I suppose, as you have both put it, it is going to be an adaptive process; it is going to be a bit of a learning process. But I would put to you that it is going to be essential then that everyone is properly informed about the criteria that these things are being assessed against and who is being short-listed and who is not, as we go. Are you satisfied with the degree of interaction so far with the department?

Ms Croce—Not so much the interaction. I suppose one of the concerns we had early on was that, within each of the states, as I said, they have a set of priorities about what they were looking at. Sometimes they were quite detailed; sometimes they were quite broad and vague. It was difficult for applicants to understand, within those priorities, what the priority was. What was seen as a higher priority for a state government? Was it singles or was it the location? I guess that becomes very important. As you would be aware, the assessment process is such that states have a very crucial role and a significant role in doing the initial vetting of those proposals. So it was quite important for applicants to know. There was a particular problem in Victoria, where, because the state was also doing the assessing, they felt constrained, for probity reasons, to not talk to applicants. So it was difficult for them to talk with the state, who are actually partners in this process, about what they thought would be an appropriate project, because the state did not feel that they could have that interaction. Perhaps in the future there needs to be some type of an arrangement where the part of government that is doing the assessing is perhaps separate from the part of government that is doing the partnership deal so that there can be more of that give and take and ongoing discussion when they are developing proposals.

Mr Farrar—I will just mention New South Wales, where to some extent some of those criteria have been met. I do not think there was a great deal of problem in understanding the criteria, partly because there was a two-part provision of the state’s contribution to the incentive. One part involved additional state investment, which came as a package with the incentive, and that was very familiar because it was used for other previous state investment. So it was possible to get a clear idea about the incentives. For probity reasons there has been

no engagement with the actual assessment process or who is likely to be or proving to be successful. A crucial thing will be to have that made quite transparent—in general terms, not in an identifying sense—after the process, because we do need to make this a learning process and to understand what has worked and what has not. After this first round, that kind of information will be absolutely crucial.

Senator LUDLAM—I guess that is where I was getting to. I have one more question, going to the question of scale—the 20 per cent quarantine of the scheme for proposers of between 20 and 100 dwellings going beyond the establishment phase. Would you support the continuation of that through the life of the scheme?

Ms Croce—Yes, that was one of the points we made in our submission. What we found when we were doing the partnership facilitation role was that there were a number of people who came forward who were able to put together projects but for fewer than 100 properties. Also, in that particular group, there are a number of providers who may specialise in a particular population. Because they are focusing so much on the care and support for that population, it makes more sense for them to be looking at smaller projects. Another point that came up at one of the workshops that the summit held looking at the NRAS was the fact that, with the credit situation as it is right now, there are a much larger number of investors who are able to do projects of the smaller number. Being able to come up and get the financing to do projects of 100 or more is more difficult than it was when this project was first launched, but there seem to be a much greater number of investors who could do smaller projects. So we would like to see that continuation past the establishment phase going into the expansion stage.

Mr Farrar—I want to reiterate that. I think it makes obvious good sense to see some provision for smaller tranches of investment and smaller scale projects growing to be larger as the whole scheme is proved and, indeed, the industry grows, but there are, particularly in non-metropolitan and smaller communities, particular affordability issues which require a response and which will not operate at scale. We need to be able to make sure that they can be accommodated in an ongoing way.

Senator LUDLAM—Great. I think you have both covered the tax and charitable side of things pretty emphatically, so we will leave it there. Thank you.

Senator HUMPHRIES—In your submission, Ms Croce, you make the point that the scheme will have a deflationary impact on the wider rental housing market. Professor Disney ventured the view before that the scheme probably will not be deflationary but would certainly retard the rate of growth and the rate of inflation—I think that is what he said—in rents in Australia. Would you accept that that is probably a fair view?

Ms Croce—Yes, I would. I will come back to responding to the question you asked Professor Disney when you were asking about the incentive and about whether it might be better to just provide \$8,000 to a tenant. I guess that is based on an assumption that there is enough housing out there. I do not think that providing \$8,000 to a tenant for the tenant to be able to then purchase housing does anything to increase the supply, and that is what NRAS is really focusing on: trying to get at that supply, which is lacking in the lower end of the market.

Senator HUMPHRIES—I take that point. In return, I am just a little bit concerned that we have not got at the moment any sort of analysis in front of us that demonstrates that that \$8,000 investment is the most efficient way of producing that extra housing. Possibly the work has been done somewhere that demonstrates that is the best possible way of getting that extra housing out there. The other point I want to raise with you, which leads to the other point, is that of course this scheme does not provide any incentive for those with existing housing stock out there, although I understand that the scheme is available to those who are presently building new housing in Australia. I am a bit concerned about the idea that we want to increase housing stock but are actually subsidising housing stock already in the pipeline, but I will come back to that in a minute. Should there be an extension of this subsidy in certain circumstances to those who bring existing housing into the rental market? For example, there are some who might be attracted by the scheme and want to convert housing that is not being used for rental into rental property. Should that be eligible for this scheme?

Ms Croce—My understanding is, if it is not in the residential market at the moment—and, in the commercial market, if it is a refurbishment of a single strata motel, for example—that that is allowable.

Senator HUMPHRIES—I was not so much thinking of the conversion of a building. I was thinking more of someone with a house that they might have a relative in, for example, or of someone with two houses, one down the coast and one up in Canberra, who decided because of the scheme to put one of those houses into the rental market. That would not be eligible, as I understand it.

Ms Croce—The focus for NRAS has been about trying to increase the stock and new construction. When we were looking at the idea of refurbishment, that seemed to fall in the category of bringing properties that are not inhabitable into the market.

Senator HUMPHRIES—You want new stock, though, and you want to get a lot of it. We have a projected shortfall of housing in 2009-10 of 200,000 dwellings. I understand this scheme, even if it operates as effectively as it can, will still soak up less than five per cent of that projected shortfall. Should we widen it to allow access to those who choose to bring existing housing into the marketplace because they are attracted by the nature of these subsidies?

Ms Croce—There might be another way to look at it. You mentioned the idea of houses that are already under construction and whether they should be allowed in. The NRAS was envisaged in a certain way. Say you are in the process of building 50 units. Bringing in the NRAS would allow you to add another 20 units onto that, and they would be affordable housing. So what you are doing is actually increasing the net amount of affordable housing that would be coming onto the market. We saw that as being a way, again, to increase stock.

Senator HUMPHRIES—This is actually the second point rather than the first point, but let's stay on that second point. I do not quite understand that. If someone is already building the housing, not a hotel or an office block, and it is already in the pipeline and is going to happen, how does providing them with the subsidy when they are already intending to put it into the marketplace going to help to increase the amount—

Ms Croce—We are talking about value-adding. Let's say they were doing a development that is going to bring on 50 units of your regular garden variety housing. If by bringing in the NRAS they add another 20 units onto that, which is something that a lot of our providers do right now, we are talking about the NRAS being available just for those 20 units. That total development is 70 units, but 20 of those are affordable housing. Those 20 units would be eligible for NRAS—not the whole 70, but the 20.

Senator HUMPHRIES—I see. A dwelling which was under construction before the announcement of this scheme would not be eligible per se for the NRAS subsidy.

Ms Croce—You may need to check that with FaHCSIA. My understanding is that if it is under construction and in addition to those units they are adding 20 new units—

Senator HUMPHRIES—Obviously they will be eligible. I thought that people who already had housing under construction at the time of the announcement of the scheme would be eligible for the subsidy. We can check that with the department. If that were the case, though, would you not agree that it would not be ideal to offer a subsidy to housing already destined for the marketplace? You would be better off preserving the subsidy for those who had not yet decided to build.

Mr Farrar—I would not mind having a brief comment on a couple of your other points, but just on that point I think we have something of a pragmatic issue, and that is that the pipeline for the production of new housing is fairly long. The problem is with us right now, so there is a real advantage in being able to bring the relevant players—the investors and the providers—into this new market as soon as possible. Pragmatically, some properties which might well have been destined for the market but were unlikely to actually be able to be sold—because they would have had to go into the market at a price which was higher than the market can currently bear—and would have sat empty now can be brought into the marketplace and assist the development of an ongoing pipeline. I think that is the advantage. It is a fairly pragmatic one. But, much more importantly, that is an issue which is over once we get into the next stage. The new pipelines will all be precisely that—brand new. So what we are looking at is an immediate artefact of the introduction. But nonetheless it is bringing dwellings—which, while they might have been constructed, would not have been tenanted—into the marketplace because of the NRAS. I think that is enough to justify this one-off effect—but it is a one-off effect.

Could I just also comment on your earlier point about efficiency. I think we do need to be aware, as Professor Disney said, that the most efficient way of delivering housing is to 100 per cent fund it through government funding of the construction. That is the most efficient way—there is no question about it. But we have got a number of objectives. We want to get the greatest volume in the most efficient way, in the most sustainable way. So the volume and the sustainability are why we are using the mechanism of an incentive rather than 100 per cent grant funding. Does that mean it is the most efficient way of producing each dwelling? No. Does it mean it is the most efficient way of producing volume in a sustainable way? Absolutely.

Senator HUMPHRIES—Again, though, the question I am posing is: if we are making a \$2.2 billion investment in this, have we actually worked out that we get the most number of houses at the most affordable rate with the investment of that money in this way? I would be comforted to know that there was a model somewhere that demonstrated that this was the best way of doing that, as opposed to a rental subsidy or direct funding of public housing schemes in the states.

Mr Farrar—I think I would have to go back to the sort of response that Professor Disney gave. I am not aware of the modelling. I am aware of the prima facie kinds of arguments. The option of providing it as a rental subsidy, because it is a demand side measure, is more likely to increase unaffordability than increase supply, although it would have some effect. On the face of it, that does not seem efficient. The direct supply, we know, is more efficient but does not produce volume. What we want to do is get something which will get the investment from other sources into the marketplace. That is prima facie what is the best. In terms of modelling, let us remember that we have got Professor Keen saying that house values are going to fall by 40 per cent and we have got other people saying that they are going to rise. I am not sure that we have got the modelling methodology that will ever give us really robust predictions.

Senator HUMPHRIES—I was just checking with the chair about when we have to report with this inquiry, because of this comment in your submission, Mr Farrar:

The Federation urges the Committee to expedite the Inquiry—

I assume you mean this inquiry—

to the greatest extent possible.

We are reporting on the 20th, which is the week after next. Do you feel that the 20th is not soon enough?

Mr Farrar—I am a realist. If you report on 20 November, I think that is a good thing. Do I think it would be better, if it was possible, to report earlier? Every day is having an effect in terms of the holding costs and the risks to current opportunities. So I urge you to report as soon as is proper and possible.

Senator ADAMS—Were you consulted by the government in the development of the scheme? Were both organisations part of the consultation phase?

Ms Croce—Yes, very much so. As members of the summit we had talked quite extensively with the government about it, but I was also a technical reader. I think that is in the record. As a technical reader on the technical papers and the applications I was consulted on pretty much all the aspects of the program.

Mr Farrar—Again, we were certainly involved in a lot of the discussions and advocacy in proposing the kind of scheme when we participated in the Housing Affordability Summit of the then Leader of the Opposition, the present Prime Minister, and through our national peak body we had input into the ongoing model.

Senator ADAMS—What is coming out of this is that the PBI status is just so crucial. If there is no flexibility at all, what happens?

Ms Croce—We do not participate.

Senator ADAMS—So the scheme—everything—just falls over? Is that what you are saying?

Ms Croce—Our sector, or the majority of our members, will not participate. We have two, perhaps, very large providers, who have set up separate subsidiaries, who may be able to participate because they can separate their business on this, but other than that, we will not participate.

Mr Farrar—Just to stress this, the difficulty in participating is not overcome, for example, by housing providers simply saying, ‘Well, all right, we’re going to be a niche part of this scheme; we will provide housing only to those very low income households that we know would not create any concerns for the ATO,’ because the program says—because it is meant to provide a pathway for people into more active social participation—that as a tenant’s income improves they can remain part of the scheme and should remain housed until they reach a certain threshold, which is above what the ATO would accept. The ATO has clearly said if we comply with the program, even if we were targeting initially, then our tax status would be at risk. So I think it is actually impossible for us to participate. That then means that not only 56 per cent of the current applications but also any of the others which involved tenancy management by not-for-profit providers, which I think is a critical bit of making the scheme socially responsible, would go. I think the scheme is dead.

Ms Croce—I think it is safe to say that many of the applications that would have come in from the for-profit sector would have had not-for-profit sector organisations as part of their consortium of partners. That

was what was stressed and that is really the model that we are basing it on. But even those activities we carry out as tenancy managers—in receiving what is now seen as a commercial fee for those services—are not seen as acceptable for meeting a charitable purpose. So no matter how we participate the tax status comes into play.

Senator ADAMS—I was just looking at the percentage that the states and territories put in. Do you believe that they should be contributing more to the scheme, as an incentive?

Mr Farrar—The short answer is yes. The scheme provides a building block. It is not the answer. By itself it does not guarantee a flood of investment into affordable housing. It is a building block, and the states need to participate as well—not just in the sense of meeting their contribution to NRAS but, in states like the one that I come from, which have very high costs and therefore high social and urban impacts, it is a pretty fair argument to say that they need to provide more. We do, through the New South Wales NRAS A contribution, provide additional investment on top of the 2,000 we are required to. I should say that it is a fairly modest pool of funds that has been provided to do that. If we are to see the scheme grow, states like New South Wales will need to expand the availability of additional investment to meet their particular needs and their particular objectives. Without specifying it too tightly, I would like to see some strong incentives to the states, in the outcomes which are required from new National Affordable Housing Agreement, to provide additional investment as well as their contribution.

Ms Croce—We need to be aware that New South Wales is the only state as well that had special band A and band B that provided additional funds to a certain category that worked with growth providers. I was surprised that the states did not take up the idea that the contribution did not necessarily have to be cash, but it could be in terms of land, planning or stamp duty. There were a lot of other options. It was constructed in such a way as to be quite broad, but that was not taken up as much as I think it could have been. There are other ways that the states could have made that contribution besides having to go to their treasury and get cash grants.

CHAIR—Thank you very much.

[11.36 am]

PISARSKI, Mr Adrian, Chairperson, National Shelter

Evidence was taken via teleconference—

CHAIR—We have your submission. Thank you very much. Do you have any comments to make on the capacity in which you appear?

Mr Pisarski—I am the Chairperson of National Shelter and am also the Executive Officer of Queensland Shelter, so there may be some specific Queensland comments in here as well.

CHAIR—I hope so. I invite you to make an opening statement. At the conclusion of that we will go to questions.

Mr Pisarski—The opening comments I want to make partly go to some of the questions you were just putting to the Community Housing Federation of Australia. We were part of the National Affordable Housing Summit. The idea of an incentive, as it was termed, in the summit group's proposal came out of that process. It was also picked up in National Shelter policies that were developed in 2006 and 2007.

A major point I want to make as an opening comment relates to the distribution of rental housing in Australia. A problem identified by Professor Yates at the University of Sydney and Dr Seelig formerly of the University of Queensland is that we have a really big problem with the distribution of rental housing in that a lot of the rental housing, particularly at the affordable end of the rental spectrum, is not occupied by people on low incomes but is occupied by people on higher incomes who are seeking to save a deposit so they can enter the homeownership market. It backs up the whole rental market system and exacerbates the shortage of supply that exists in that whole market anyway. It is one of the problems we have really been trying to address in developing the idea of a rental incentive and what has now turned into the National Rental Affordability Scheme. A key point is the distribution of rental housing in terms of who occupies which categories of housing across that market spectrum.

I also want to make the comment that this is really about the supply question. We understand the projected shortfall of up to 200,000 dwellings by 2020. However, we are in a very rapidly changing environment at the moment, which I think will favour this kind of scheme rather than put problems in its way. I am referring to the global financial situation but also, specifically, to the recent cuts to interest rates in Australia. That will make NRAS a much more attractive proposition than it was when it was announced a short while ago.

We have had a change of government since the summit group started talking about this issue, and I think it is important to note that much of what we were developing was developed over the last four or five years rather than over the last 12 months. We have been talking about these ideas through the summit group for four years or more and they have emerged from a consideration regardless of politics—but the change of government has brought them along. We were not getting very far with the previous government in terms of them recognising the extent of the problem or the potential solutions to it. I do not make that point as a criticism; I make it just as a note on the changing environment that we have been working in.

The other point that I want to make is about reinforcing the idea of a continuum of need, particularly in relation to the bottom two quintiles of income distribution in Australia, but even more broadly than that. Also, NRAS itself cannot be seen as a standalone program; it must be seen as part of a continuum of responses. This initiative will work better if there are other responses developed through the national affordable housing agreement that complement it. It is not a one-off thing and it needs to be seen in conjunction with other developments. Specifically, I think the most important one is additional money for public and community housing. Capital money that builds a permanent stock of public and community housing will help this scheme work rather than be a competitor, if you like.

Even within the current agenda of the federal government, NRAS works better when it is combined with some of the other schemes that are on the table. Our view at National Shelter is that, if we could combine these things so that we could get the Housing Affordability Fund dropping the level of infrastructure charges and costs that are then complemented by building housing for rental, we would get much better value out of all of these things. Governments need to think about how we can get the most efficient and effective ways of putting such programs on the ground, and that is by looking at how a lot of these strategies are complementary and can be used together.

I will leave my introductory comments there. However, if I may, I might just comment on a couple of the questions that were being asked, or would you prefer to begin asking questions from a National Shelter perspective?

CHAIR—It is probably better for you to continue with the comments that you want to put on record in relation to things that you have heard, and if we have supplementary questions we will come in behind that.

Mr Pisarski—A point was raised before about properties under construction and whether the change of purpose was an effective use or even a legitimate use of NRAS. One of the points about that is: which segment of the housing market is being influenced? At the moment, there may be properties under construction which are destined for sale for home ownership but might be out of the reach of low and moderate income earners. If we can initially transfer some of that use of properties under construction away from home ownership and into the rental market, we start to boost the supply of rental housing. This is one of the dilemmas that we are facing and part of what I was referring to in terms of our continuum of need.

At the moment, we know that there are a lot of frustrated home owners out there who do not have access to the home ownership market, although perhaps the tripling of the first homers grant for newly constructed housing may help that—but I am not certain about it. If people cannot get access to home ownership at an affordable level, then through NRAS they may be able to get access to decent affordable rental, which also assists in the long term for some of those households at least to save for home ownership in the long term. It is about where we are increasing the supply in the housing stock. It is not just about a quantum adding to the housing stock but about the distribution of the overall housing market into segments. We are trying to boost the rental component of the Australian housing supply, and if that can be assisted by bringing on stuff that is already under construction and transferring it away from home ownership into rental, that will actually help. I wanted to make that point because I felt that there was some confusion about the purpose of the change of supply in the previous questions.

Another point was about the potential use of currently unoccupied dwellings. I think the point was really being made about potential holiday houses. There is a substantial stock of unoccupied housing in Australia. We could make better use of that unoccupied stock by allowing, for example, home owners who may have a second property to take advantage of this as rental housing. My view is that that is a separate product and would be another product that could be looked at within a continuum of response by government to meet the continuum of need. The Noosa council looked at a similar idea a couple years ago. They recognised that they had a large proportion of unoccupied stock in Noosa shire and a real problem around hospitality workers getting access to affordable housing. This was creating a real blockage or bottleneck of supply of workers into the hospitality industry. The council explored a scheme where they could bring some of that housing across into rental housing for moderate income workers. The problem was that at exactly the key times when you need the hospitality workers was generally the same time that people wanted to occupy that housing?

We have a real mismatch with the utilisation of unoccupied housing that is used largely for holiday purposes, particularly at peak times when you need it for those key workers in those key industries. There is a problem with holiday rental housing that could be addressed, I think, by looking at new products. We would need to have projects looking specifically at that stock and what might be the appropriate incentive to bring some of that unoccupied stock across to permanent rental or arrangements which would allow it to be rented when it was not being occupied by the owners. I might leave those introductory comments there and just flip back to you for questions.

CHAIR—Thank you.

Senator LUDLAM—A lot of the written and oral evidence that we have had to date has been around the issue of the charitable status of the community housing organisations that are seeking to participate. In your submission, you drew a distinction between the GST free threshold being 75 per cent and the NRAS threshold being 80 per cent of market rates. Can you clarify for us how that feeds into the concerns that everybody is raising about these groups losing their charitable tax status?

Mr Pisarski—My understanding is that many community housing organisations currently operate discounted market rent models but that they fall short of the GST requirements which protect their charitable status, and that is 75 per cent of market rate for anything that they may want to provide within a market. It is also a protection to the private sector so that they are not getting unfair competition. One of the problems that occurs now is that NRAS is constructed so that it is a discounted market rent but only by 20 per cent of the market rent and, therefore, it does not meet that threshold under the GST. It is my understanding that that is part of what threatens the charitable status of the organisations. If they are operating to provide a product at 80

per cent of market rent then that is not deemed to be charitable, whereas 0.75 per cent or 74.9 per cent of market rent is deemed to be a charitable purpose, and that has already been accepted by the ATO. Many organisations operate under discounted market rent models at that level. So it is just the difference between the current definitions around what protects a charitable status compared with what NRAS can do. It is highlighting the fact that it is not such a big difference between 75 and 80 per cent.

The other point within the submission was about the seeming contradiction between the provision of housing and the provision of, for example, nursing homes or aged-care facilities—which, at whatever rate, are deemed to be a charitable purpose. It seems to me that the tax office has a bit of confusion, or even some contradiction, around who is allowed to do what within the housing area, including whether it is about the provision of accommodation and meals—although that should not be a defining characteristic as far as we are concerned; it really ought to be about assisting low- and moderate-income Australians get into affordable rental housing. That seems to us to be enough of a purpose to protect charitable status. We think it is a bit nitpicky that there could be a distinction, for example, between 75 per cent of market rate and 80 per cent of market rate.

Senator LUDLAM—Indeed. So is it your understanding that, if NRAS participants did not charge more than 75 per cent more than market rates rather than 80 per cent, or 74.9 as you just mentioned, that would be one way of dodging the way that the ATO seems to be moving the goalposts?

Mr Pisarski—It could be, but then I think that that amount of money will be critical in terms of, for example, a community housing provider's ability to operate that kind of product. So I am not recommending that we drop the rate of NRAS below the 80 per cent.

Senator LUDLAM—It is good to be clear. Thanks very much.

Senator HUMPHRIES—You make the point in your submission, Mr Pisarski, that you feel that the private sector will buy in on this scheme. You say:

The clear and consistent message we have heard is private investors will participate but may take some time to assess their level of risk.

I have not personally seen this advice, but I am told that the Residential Property Council has done an assessment of what would be needed in general for large scale private sector involvement in a scheme like this. The council has apparently recommended—and I don't quite understand what this means, but those in the housing industry probably do—that the new asset class of this kind of accommodation needs to achieve passing yields of a minimum of five per cent with total returns of at least nine per cent to be competitive. I understand that NRAS operates on the assumption that there be a passing yield of only 4½ per cent. Are you aware of that advice from the Residential Property Council?

Mr Pisarski—I have not seen that advice, but we have been hearing of a range of points of view from a whole number of private sector organisations, many of whom have argued that it does not seem to stack up for them. Every time, through the summit group in particular, we have gone back to those sources that have been claiming that and checked the modelling on which they have done their calculations, we find that they are making assumptions that are different to the assumptions that we have made in our modelling and that the government have made in their modelling. So I think it is partly the old economists' trick of the outcome of the modelling depending on what you put in it and it being all about the assumptions you make. None of this is a perfect science, but through the summit group we have done fairly extensive modelling around what we think is a reasonable contribution by the various parties. I think talking about a difference between 4½ per cent of yield, which is the proportion of rental income relative to the capital value of the asset—which is what they are referring to in terms of 'passing yields'—and five per cent is being a bit nitpicky, particularly in an environment where your interest rates have just dropped by two per cent if you are borrowing. That is going to give you a much larger increase to your yield than an additional half a per cent might otherwise have, if you wanted it through a government subsidy.

In terms of the total net return of nine per cent that they are after, as I said, I have not seen the evidence but I am assuming that that would be based on any capital appreciation of an asset over the 10-year period where it is held as affordable rental, beyond which it may be sold back into the market. Assumptions looking forward about capital growth I think are all a bit risky at this point in time, where we are seeing some corrections to the housing market overall. It may be that that figure does not hold up. But you have to look at these things over a much longer period of time, like 10 years. That is the modelling that we have done in terms of NRAS. We have taken fairly conservative approaches to capital growth based on the idea that we could not sustain the kind of capital growth that Australia has experienced over the last 40 years. Our understanding really is that

we have had that capital growth largely because of additional household formation, and that has put much greater demand on the housing market, which has caused prices to rise much more quickly than they otherwise would have. That is probably more to do with, as Professor Disney points out, women entering the workforce at much higher rates but also divorce rates and other things causing household formation which we are not likely to see into the future.

So what they seem to be looking at is a total return of nine per cent on top of a five per cent yield. I think our modelling suggests that they could get around about that figure, and it is a bit nitpicky to look at a difference of 4½ and five per cent. These things will alter. Rents are predicted to continue to rise into the future, so that yield equation will be a changing thing and much more likely to go up than down.

Senator HUMPHRIES—Do you have a percentage of uptake of this scheme which you think ideally should be by the private sector?

Mr Pisarski—No, I do not have a certain percentage. We have tried to leave that question open. We think there are a whole range of players that can participate. We do, though, have a firm view that we think it would be best done at least in partnership with community housing organisations, because they have a great expertise in the tenancy management side but also the asset management side.

The other point that I would make about this is that private investors—I am talking more about superannuation funds and financial institutions here—have consistently told us that they behave as a herd rather than as individuals and that uptake would be slower than we might otherwise want it to be, but when they do come they will come en masse. We have always expected that, in the initial establishment phase, it would largely be something driven by community housing organisations in conjunction with private sector partners and that over a period of 18 months to two years is when we would really see the financial institutions, superannuation funds and other forms of private investment come into NRAS. I am not sure whether that has exactly answered your question, Senator Humphries, but I think it is as good as I can do.

Senator HUMPHRIES—It just seems to me that this scheme is really most successful if a large part of it is made up of private sector investors. If this scheme was 80 per cent or 90 per cent not-for-profit in community organisations then you are essentially cannibalising the existing funds in those sectors, already available in a sense, to provide affordable housing. The real strength of this scheme is the extent to which it attracts new private sector investments into the housing market. So you really do need to get not necessarily a minimum but a threshold level of private sector investment, and every additional investor you get, every additional house built through the private sector, is extra money into the affordable housing market that probably would not otherwise be there.

Mr Pisarski—I think that slightly misunderstands the scheme. My view is that, whether it is done through community housing providers or through private sector agencies or whoever, it has to attract private investment to be viable. It is not based on a level of government subsidy that might have otherwise been used for other forms of affordable housing. The subsidy is set, with some flexibility on the state end. The other money has to come through levels of investment. Whether that is through a developer putting their own equity on the line or whether it comes through financial institutions investing large amounts of money, it is all private sector investment that makes up the bulk of NRAS.

We would want to see large institutional investors come into this earlier rather than later, but I think they will want to see a demonstration that it is working before their risk analysis allows them to put large amounts of money in. It is obviously a desirable feature, but I think the whole scheme depends on leveraging a relatively small amount of public investment to get a large amount of private investment through whichever form that comes.

Senator HUMPHRIES—I have just one more question. I understand that in the United States the tax credits that in our scheme will be available only to the private sector parties or, for that matter, the not-for-profit or community parties that build these new dwellings are also available to be transferred to the parties that provide the finance. Would that not be an improvement in this system to create the flexibility for other parties to benefit from the arrangement and to make it more likely that finance would be available in these circumstances?

Mr Pisarski—It may, but I think there is a huge risk in doing that. It is our understanding that it is partially that tax credit on-sale or movement through the private system in the US which has contributed to the housing meltdown that they have had and the subprime crisis. So, when we looked at what was happening and how the tax credit system was constructed in the US compared to what we were proposing, we actually thought that the

US tax credit system was overcomplex and really needed some simplification and some more clarity to avoid the sorts of problems that subsequently they have gotten themselves into. Therefore, when we were proposing how an incentive might work and how NRAS was eventually structured, we thought that to keep it simple, clear and transparent in terms of how the subsidy or tax credit is used was a better way to go and would avoid some of the problems of obscurity of where these things end up and whose hands they end up in that have characterised some of the subprime crisis in the US.

Senator HUMPHRIES—Are you saying that the American version of NRAS has contributed to the subprime mortgage crisis in that country?

Mr Pisarski—It is my understanding that the tax credit provided, partly because it is obscured, has meant that more money has been lent to more risky property investment and, because it has not been exactly transparent, that has been part of the problem. I am not claiming to be an expert on either the subprime crisis or the US tax credit system, but when we spoke to, for example, Carrie Hamilton from the Macquarie Bank, who is an expert on the tax credit system in the US, she was advising us strongly to keep it more transparent and simple, as we did through the proposals for a rental incentive and what eventually became NRAS.

Senator HUMPHRIES—Thank you.

Senator ADAMS—I have a question on whether you would agree that there should be a sliding scale for the incentives for the different locations with the development costs and also for the different states. I come from Western Australia, and of course the cost of building and developing over there is probably very different to that in South Australia and Tasmania.

Mr Pisarski—Yes, I do. I will draw on Queensland specifically for this. We have many of the same problems that WA has, particularly around mining areas, where property prices have spiralled completely out of the reach of low- and moderate-income earners. The net result of that in many communities in Queensland has been that low- and moderate-income earners, who may have been part of that community all of their lives, are having to leave those communities because they simply cannot compete within either the rental market or the homeownership market in those communities. So, yes, we do think that there should be some additional subsidy provided to make these schemes more viable in those sorts of areas—not for the miners, who can afford the higher prices, but for the people who are displaced by the miners. It is a very important point to make that this is something not just to subsidise housing in high-cost areas but to look at who is being unfairly treated within those housing markets and to try to address those things.

In the development of the incentive and subsequently advice that National Shelter but also the summit group have provided to the federal government—and to the states, I would add—we have always thought that we set the national contribution at a much higher level than the state contribution, acknowledging exactly that: if states felt that the subsidy was not sufficient to do schemes in particular areas, they were free to put in additional resources to make that scheme work in those areas. To take a community in Queensland for example, such as in the area of Mackay or anywhere in the Bowen Basin, we think that there could be additional contributions by the state government to make these schemes work in a place like that.

But I would also apply the same logic to inner city areas or areas in a 10-kay radius of the city, which are often places where low- and moderate-income earners need to be but can never afford to live. It goes to the whole question of key workers or even workers in a whole range of fairly low-paid industries. If we want to have good infrastructure in our cities, good service systems and cities that work really well, we have to have low- and moderate-income earners able to live within them. In the inner city areas you get the same problem, where, because property values are much higher, it makes it far more difficult for organisations to put this kind of product on the ground at an affordable level. We think this is where state governments can come to the party and provide additional resources, either capital resources—land—or additional subsidies in cash, that would make schemes much more viable in areas where it currently is. So I would certainly support that notion and also back up the points that Mr Farrar was making about the direction of the New South Wales government. I think that the NRAS A and B approach is quite a sensible approach and one that should be encouraged and given sufficient resources by the state to make it really workable.

CHAIR—Thank you. I think we have exhausted the questions. Are there any other comments you want to put on record?

Mr Pisarski—No, I think that covers our points of view. I have one last comment, which is perhaps a little bit outside the terms of this hearing, about the continuum of responses we need in the housing area. NRAS is only one product within that continuum, and we really do need to boost the supply of public and community

housing through capital grants as well. We are still hopeful that the National Affordable Housing Agreement will do that, but we are less confident than we were, given the recent spending by the government and the economic outlook going forward. But we would really strongly encourage your committee to not look at NRAS as a stand-alone program but look at how it relates to other parts of the housing system and, to the extent that you can, to support our call for additional funding for public and community housing.

CHAIR—Thank you. Senator Adams has one more question.

Senator ADAMS—I am not sure whether you heard me ask this question of the other witnesses earlier. In Queensland do you see that there will be less interest in this scheme if there is no flexibility with the PBI status?

Mr Pisarski—Yes, I certainly do. I think that it will really create major problems. I might not go as far as Mr Farrar in saying that it will kill the scheme, but I think that it would create serious problems for it. I have one other point, if I may. I am just looking down at some notes I was taking when you were questioning the Community Housing Federation about what it would cost and whether NRAS is really an efficient use of funding compared to other things. We do accept that public housing is a really important part of the equation, because you get the stock permanently. But if you wanted to build, for example, 100,000 properties of public housing based on current figures in terms of the average cost of public housing units, you would be looking at direct government expenditure of something like \$30 billion or more. It might even be as high as \$50 billion by the time you deliver things in remote areas as well.

Compared to that, the investment in NRAS is a very modest investment but will leverage the enormous amounts of money when it starts to work really properly. I just wanted to make the point that compared to direct investment, for example, in public housing this is a very efficient use of government money even if we do not get the stock permanently. But to get it permanently would cost a level of support that we do not think governments really have an appetite for at this point in time. I just wanted to put that comment on record as well.

CHAIR—Thank you very much.

Mr Pisarski—Thank you, Senator Moore, and we wish you well in your deliberations.

CHAIR—I will see you soon. Good-bye.

[12.12 pm]

LAMONT, Mr Christopher Shaun, Chief Executive, Policy, Housing Industry Association

TOMKINS, Mrs Kristin Ann, Executive Director, Building Policy, Housing Industry Association

CHAIR—Good afternoon. We have your submission, thank you very much. Do you wish to make any amendments to that submission? No? I know that you have information about the protection of witnesses and privacy so I invite you to make an opening statement and then we will go to questions.

Mr Lamont—Firstly, HIA welcomes the commitment of the Australian government's aim to increase the supply of affordable housing. The National Rental Affordability Scheme is one of the most innovative measures we have seen in recent times to encourage institutional investment and increase the supply of affordable rental accommodation for the private rental market. It is clear from HIA's perspective that without an increase in government spending and/or additional incentives for investment in new affordable residential accommodation the incidence of rental stress and homelessness will surely increase. Insufficient housing supply necessary to meet growing demand, a consequence of Australia's rapidly expanding migration program, and household formation rates, will put further pressure on existing public, community and private rental housing stock and emphasises the importance of housing supply measures.

HIA has made a number of recommendations to assist in the implementation of the National Rental Affordability Scheme. These include: a slight amendment to the advance of eligible tenants identified within the current arrangements; some proposals to simplify the evaluation methodology to determine the actual rent charged by providers of NRAS accommodation; a change to the shared household category to allow low-income earners from key worker groups to be eligible for the National Rental Affordability Scheme; and a significant change in respect of a NRAS incentive band which would allow for a public tendering arrangement for the securing, if you like, of NRAS incentive payments.

HIA is keen to support this initiative and has provided assistance through the Housing Summit Group and to the state and federal governments over the last 12 months in looking at the most appropriate way to implement the scheme. We think that it is a tremendously positive scheme and, with a mix of other measures which have already been announced, we think will provide some assistance in addressing rental stress.

CHAIR—Mrs Tomkins, do you wish to add anything at this stage?

Mrs Tomkins—No.

Senator LUDLAM—You have recommended increases to the upper income limit for NRAS tenants. Can you give us a bit of an idea as to why you have proposed that?

Mr Lamont—I think we need to look at the key worker group within areas of capital cities in Australia. That area has the highest incidence of rental stress throughout the country. Rather than having an exclusive group, we think that the system would benefit from a wider band being proposed and potentially greater priority being given to low-income groups within that band. So you would actually have a greater pool of eligible tenants to take up accommodation within the NRAS accommodation. We think that could also assist with respect to investment in the particular scheme itself, which may be an issue going forward, depending on what we see with the financial crisis.

Senator LUDLAM—You have proposed a bit of a departure in terms of the incentive structure, which, as it is proposed at the moment, is just a flat three-to-one contribution from Commonwealth and state. You have proposed a more complex set of increasing incentives according to scale. Can you describe why you have gone there, because that is a bit of a departure from what others have suggested?

Mr Lamont—We proposed it by way of an example. The issue, in our view, will be that in certain areas across Australia there will be a higher construction cost and there may well be a higher land component to build NRAS accommodation. We offered, by way of an example, an NRAS incentive sliding scale or incentive band that started at \$8,000 and potentially could go as high as \$12,000. We cited an example in our submission of the Commonwealth contribution increasing to \$8,000 and the states' contribution increasing to \$4,000. That is not a strict recommendation but an example of where the NRAS incentive band may go. We understand that states like New South Wales have entertained an additional contribution. Where possible, the states should be encouraged to continue to provide an additional contribution which could be in kind, such as fast-track development applications or reduction in infrastructure charges for new forms of accommodation. But what is

more important is to recognise that the cost of construction is probably a little lower in Yass, to use a local example, than it is in the heart of Sydney.

Senator LUDLAM—For sure. Is putting this model forward one way of saying that you do not think the incentives are enough as they are proposed?

Mr Lamont—I think it is probably a question for institutional investors working with the community and social housing group to decide. Rather than set an arbitrary target, have it staged in a competitive environment where proponents to the scheme will elect, again in a competitive environment, what they could actually provide the accommodation for and in which locations. That would give you the capacity, if for example you did not get a number of proposals in a certain area at a certain price, to determine what was the going rate of a partnership between community and social housing providers and private institutional investors.

Senator LUDLAM—Okay. Thank you.

Senator HUMPHRIES—I postulated earlier that the flat nature of this incentive would see people, particular private sector investors, more attracted to take up the subsidy in places like Tasmania and South Australia—where rents would be lower and therefore the subsidy would be much greater vis-a-vis the amount that had to be deducted from the rent to attract the subsidy—than it would be in inner-city Sydney or Melbourne. I assume that is why you propose that sliding scale, so you get as much incentive to provide those sorts of developments in Sydney and Melbourne as you do in Tasmania or South Australia.

Mr Lamont—Absolutely. This is about providing accommodation for those in most need, those key worker groups.

CHAIR—Senator Humphries, can Senator Bilyk ask a question she has on the same point?

Senator HUMPHRIES—Sure.

Senator BILYK—Chair, Senator Humphries has jumped the gun and basically asked my question, though in a different way, so that is fine. You keep going, Senator Humphries.

Senator HUMPHRIES—To anticipate what Senator Bilyk might have been about to say as well—to further jump her gun—there is nothing wrong, I suppose, with providing a stronger incentive for places like Tasmania and South Australia but you also do not want to have all the subsidies being delivered in those states; you want to have them spread across the places of greatest need.

Mr Lamont—Overriding that too, though, will be an expectation of investors to look at capital gain, then make an informed investment decision based upon the merits of investing in Tasmania or South Australia versus in an area of New South Wales. To offset that effect, there is a view to look at the capital gain from that investment. But the initial hurdle, if you like, with respect to making that investment in some of Australia's capital cities in particular may not be overcome—we are not prefacing an absolute here; it may not be overcome—by an arbitrary target as defined within the current regs.

Senator HUMPHRIES—I get the impression in looking at this scheme that, in some ways, we are letting off the state and territory governments a little bit lightly. I suspect that they have some windfalls out of some of these arrangements in things like stamp duty and the GST payments, but their subsidy is notionally pegged at \$2,000 and that some of that is not necessarily in cash but in kind. Do you think that the scheme should be more aggressive in developing a bigger contribution by state governments?

Mr Lamont—Professor Disney is probably more familiar with the original concept of NRAS than I am, but certainly the expectation in my recollection of the summit group is that the states would be actively encouraged to contribute more than the baseline contribution that is entertained in the current paper. We understand that state governments have made indications of a greater contribution and that will certainly assist in a cost benefit sense in getting projects over the line. The disposal of surplus state assets for this purpose, reducing stamp duty, producing development applications which in turn have an effect on holding costs, particularly at the moment, are practical ways to provide valuable assistance. In some ways, the in-kind support has a greater effect on making a project viable than a simple cash incentive. I am referring specifically to development applications. If a project is held up for three to four years, the impact on the bottom line for that project is far greater than an additional contribution of \$3,000 or \$4,000 per lot. So, where state governments can encourage efficiency in regulations for development applications, we certainly call upon that. My recollection is that the summit group were very keen for that to occur.

Senator HUMPHRIES—I have no doubt some states certainly will go beyond the minimum required, but we know from experience that sometimes they do not. Possibly there is room for a little more pushing in that

respect, but that is more of a comment than a question. Can I ask you for a comment about the flexibility that is envisaged in the scheme for the kinds of dwellings that can be put into the scheme. I understand, for example, that if you take an office block and convert that into housing it would be eligible for this scheme—there has been a fair bit of that going on in Canberra in recent years—but that if you take existing housing stock that is not designed to be affordable housing and you convert it for that purpose it is not eligible for the attraction of the subsidy. Do you think there should be more flexibility to provide that kind of outcome?

Mr Lamont—I think the fundamental issue in the early stages of this program should be to augment the supply of housing. Transforming, if you like, office accommodation into residential accommodation provides a net gain in the supply of private residential accommodation. I think that is appropriate, particularly in the current climate where residential vacancy rates in the private sector are probably nudging 1.2 or 1.3 per cent. In the short term, I think the emphasis should rightly be on augmenting supply from the housing industry. I would naturally advocate that everything should be new construction from the ground up, but I think that the bigger issue should be adding to housing stock. Going forward, we would not have any reservation in looking at existing housing stock being transformed but only once we were satisfied that the supply to demand ratio for construction was equalised. At the moment, when we have a sufficient gap between underlying demand and supply, we would have concerns with that occurring.

Senator HUMPHRIES—We heard an exchange earlier on about whether it was appropriate to have housing already in the pipeline included in this scheme. Representing those who are building these new dwellings, do you support the provision of the subsidy to housing already in the pipeline before the scheme was announced? If so, why?

Mr Lamont—There is some housing stock scattered throughout Australia that could be soaked up in the initial round of the scheme. The delay that we face in bringing new stocks to market through development application processes and raising capital at the moment, which is a major issue, provides some impediments to getting results to start new projects from scratch at this point and having them come online within the next 12 to 18 months. So, practically, I do not think that we have much of a choice but to look at stock that is already in the pipeline, whether it be at a land development stage or at a construction stage.

We have seen a drop-off in effective demand probably as a consequence of economic concerns in the general economy. So there will be some stock that could be soaked up in the earlier rounds. But going forward, our appetite would naturally enough be for new projects geared towards this particular initiative. That may also see, as I mentioned before, some particular benefits in respect to the rezoning and development application process. If projects were marked with an NRAS application attached to them, we would like to see those sorts of projects get priority through state planning schemes to ensure that they did come on line much faster. But in the short term, we have no fierce objection to existing housing stock, albeit currently under construction, to be used for rounds one and two of NRAS.

Senator HUMPHRIES—I appreciate that you have no objection to it, but if the scheme is designed to provide for new housing, to increase the amount of housing stock, it does not seem to me to be appropriate to subsidise stock that is already coming down the pipeline. You want to save that subsidy for stock that would not otherwise be built, surely?

Mr Lamont—The issue also is that you have that stock available for this section of the private rental market for 10 years, and that is certainly of interest to us in the current climate. I guess the practicality of getting investment for this segment of the private rental market in the short term, given the supply bottlenecks we have, would be very difficult, to say the least.

Senator HUMPHRIES—Do you have an idea of what sort of interest there is in the private sector taking part in NRAS?

Mr Lamont—Look, I think with all new innovative schemes the private sector is naturally nervous about making any major commitments. That has been compounded by difficulties, particularly in the medium to high rise sector of the residential industry, to get finance to commit to something like this. It is certainly too early to tell. Our members have indicated an interest for this scheme primarily in Queensland, Victoria and South Australia at this point. It is fair to say that given the depressed level of activity in New South Wales at the moment that the industry will need the incentives that I understand are on the table from the New South Wales government to make the system work. The second and third round of NRAS may have greater appeal to the industry, particularly as we have seen some movement in official interest rates. That may allow them to make this proposal stack up a little more positively on a balance sheet.

Mrs HULL—Okay. Thank you very much.

Senator BILYK—Going back to Senator Humphries' comments, that funding from the states, as I understand it, is to be recurrent. Is that correct?

Mr Lamont—I understand that it is a mix. There may be initial incentives to get projects happening, if you like, in respect of an initial development application process.

Senator BILYK—So some states may well be more able to act quicker than other states in regard to—

Mr Lamont—To front-end the incentives, if you like. There may be other concessions given in respect to land tax, et cetera. I am not aware of the details of the proposals at this stage, but certainly measures that provide what we would term front-end incentives to allow construction to commence—

Senator BILYK—Sorry, can you just give me an idea of what you mean by 'front-end incentives'?

Mr Lamont—Okay. If, for example, your development contribution were \$90,000 to build a new in-field development—we are talking 90,000 per lot—a reduction of that to \$50,000 by the relevant state or local council would make a significant difference.

Senator BILYK—So an in-kind contribution by reducing costs or something like that?

Mr Lamont—Well, an offset of your fixed costs of construction would probably be a more appropriate term.

Senator BILYK—I am obviously a Tasmanian senator and there are some pockets in Tasmania—for example, in the centre of Tasmania, which I was only speaking to someone about earlier this week—where there is a demand for basically independent aged-care units. Would you see this sort of proposal being used in that sort of area?

Mr Lamont—Provided the tenants were eligible.

Senator BILYK—Provided you can get a builder!

Mr Lamont—The issue with areas, and I think Senator Humphries identified this, is that there is potentially—and I say this because it has to be offset against what an investor may feel is the appropriate capital gain over a period of time—the incentive for projects that look at detached lower density given their relative cost-effectiveness in construction to be more advantaged by this particular model. But, like I said, that has to be taken into consideration of whatever capital gain an investor is targeting, shall we say, through this incentive.

Senator BILYK—Do investors that you have spoken to seem fairly keen to be involved?

Mr Lamont—They are looking at it with interest. We have had a relatively unusual six months, so investor confidence is not high. I think the real potential take-up from the institutional sector will come in rounds 2 and 3. Stabilisation that we have seen recently, as I have mentioned—

Senator BILYK—So maybe 12 months after or further down the track?

Mr Lamont—You are into late 2009 and 2010. Certainly that is the feedback we are getting. I think it is fair to say that investors are having difficulty putting product on market at the moment through constraints in the availability of finance for full paying owner-occupied customers because of presale requirements that have gone from 50 per cent to 75 per cent. So what does that mean? That is effectively a developer to secure finance requiring 75 per cent of sales in a new project. That is proving to be a difficult task at the moment, so, hopefully, in 12 to 18 months will see that settle somewhat and then schemes like this will become more attractive to some of our members and developers.

Senator BILYK—Thanks for that. My last question: in your submission you say 'key workers form group households'. Could you explain to me your classification of key workers.

Mr Lamont—I think it is more of an income distribution, if you like, but if you look at, say, first- to third-year teachers, nurses and police men and women, we think there should be the flexibility to allow two work colleagues, for example, to share an NRAS accommodation provided that they are within a defined income bracket as a shared household. Particularly we see benefit in a productivity sense from a labour market being more closely located to its source of employment. If you draw concentric circles around Australia's capital cities, we are seeing key workers being pushed out further and further, so the advantage of a scheme like this is that we could see key workers, effectively defined by income group, able to take advantage of

accommodation more closely located to where they work, the economic benefits being a reduction in congestion, time et cetera. We think that has particular merit from this scheme.

Senator BILYK—Thank you for that.

Senator ADAMS—To continue on with that, I notice your upper income limit for that particular shared household is \$85,000. I am from Western Australia, and, of course, our schoolteachers have been really battling. They have just been given quite a wage increase and the combined income of two of them would probably exceed that. For those key workers could you see it being pushed a little higher? Say there are two or three of them. Often in a household there may be three teachers, three nurses or three students of some description going through or having just completed their training. That would well and truly take them out of that category.

Mr Lamont—We proposed this as a start. I guess we envisaged a situation where you might have two people relatively new in their careers being able to share. You have situations, all the more frequently these days, where people are continuing their studies on a part-time basis and working part time. We saw this as an interesting or an appropriate way to add some flexibility to the tenant category. We also feel that investors would be encouraged by having that type of tenant through this mix. I think the issue is that, particularly in some of the metro areas, you broaden the pool of eligible tenant as a consequence of what we are proposing. For an investor looking to ensure that this accommodation remains tenanted, that is an appropriate mechanism.

Certainly going forward if there was availability at the lower end of the spectrum as well that could be satisfied, we would not be opposed to that. But I guess the issue will be the take-up from an eligible tenant point of view. I do not think it will have a shortage of eligible tenants for this particular scheme—

Senator ADAMS—I am sure you won't.

Mr Lamont—But we may have a shortage of eligible investors. So that remains the issue.

Senator ADAMS—And the shortage of houses as well, because rental properties in Perth are as scarce as hen's teeth at the moment. I do not know whether you were here before, but I have asked all witnesses about the PBI status. If there is no flexibility within this for the scheme, what would your observation be as far as developers really wanted to take it up

Mr Lamont—It certainly would reduce the take-up of the scheme. By what quantum I could not define.

Senator ADAMS—It has been mentioned before about Western Australia. I would like to know what the situation is there from your people as to the support for the scheme.

Mr Lamont—We have not heard a lot out of Western Australia. It is interesting to note that West Australian building approvals came off 30 per cent for the last quarter and we are still at a 1.1 or 1.2 vacancy rate throughout the entirety of WA. In the mining communities we understand it is close to zero. So I have not been in a position to talk to the West Australian government about their particular interest in this scheme. We have had a number of members who have expressed interest in providing proposals for WA. It remains to be seen whether their proposals are appropriate in the scheme of the actual proposal for NRAS itself. But we are aware of our members registering interest in NRAS.

Senator ADAMS—We had Aged and Community Services Australia as witnesses earlier. With the baby boomers coming on and a lot of their independent living units being a little tired and not really up to date and up to standard, they may be going to look at redoing these or just taking them out of the system altogether. If they were prepared to take away the existing stock because it is not suitable for their clients and to rebuild, would you see them being eligible for this scheme?

Mr Lamont—Potentially down the track. I mentioned earlier that the biggest benefit we would like to see from the scheme, particularly in its first application, is to improve and bolster the supply of private rental stock. I do not think I can emphasise strongly enough the chronic shortage that there is in the private rental market at the moment. We only tend to hear about it on lease renewal cycles, which is about July and January-February each year. We are expecting a relatively horrific time in February 2009 on account of a chronic shortage in the private rental market which we have not been able to address over 2008 by way of additional supply. In terms of a longer-term goal, measures such as this may be of use to provide that investment, but I think we probably need to look more closely at the support provided to public and other community housing sectors to address some of those concerns as well. I certainly do not see, and neither does HIA, NRAS as the panacea, if you like, for an ageing stock of accommodation, particularly for the elderly and those in most need.

Clearly we see a greater role for public housing to take up some of the slack in that area and once again to improve the quality of housing stock.

Senator ADAMS—Just to forecast on rentals, where do you think they are going to go in the next—

Mr Lamont—In terms of increase in price?

Senator ADAMS—That is right. Mine has gone up \$60 a week this year, I have just been advised, and last year it went up \$50 a week. It is not good. I will be moving out, but I just wonder how people who are not in the same position as I am are going to manage. From what I can gather from a quick run around Perth, it is just crazy.

Mr Lamont—I recall in late 2006 we forecast for the following three years rent increases of plus 10 per cent year on year. Indeed, some of the forecasts we made were closer to 15 per cent year on year. I think my organisation was accused of being alarmist at that particular point. It is regrettable that we were actually right. The recent downward movement in interest rates may provide some assistance, and I preface that by the word 'some'. Certainly the shortage is taking its toll in some areas, but I think we should be mindful that yields in the private rental market are only really four per cent and many private investors have been less concerned about yields and more focused on the capital gain. Investors in the private rental market are overwhelmingly mum and dad investors. They understand the housing market, or they profess to understand it because they can see and touch their investment, and therefore they are prepared to forgo yield, if you like, in a general investment sense on the hope that they will realise additional value in capital gain. If there are fears about capital gain, and we have seen a reduction in the established house prices for the last quarter of just under two per cent, one may expect investors to have a healthier expectation in respect to yield. But, sadly, I think a double-digit rent increase in 2009-10 is certainly on the cards.

CHAIR—As there are no further questions, thank you very much. The committee will suspend until two o'clock.

Proceedings suspended from 12.41 pm to 1.59 pm

HARDY, Mr Michael, Assistant Commissioner, Parliamentary, Issues Management, Technical, Not-for-Profit and Government, Australian Taxation Office

KONZA, Mr Mark, Deputy Commissioner, Small and Medium Enterprises, Australian Taxation Office

FOX, Ms Julie, Special Counsel, Commercial Section, Commercial and Indigenous Law Branch, Department of Families, Housing, Community Services and Indigenous Affairs

HAM, Ms Sue, Section Manager, National Rental Affordability Scheme, Affordable Housing Branch, Department of Families, Housing, Community Services and Indigenous Affairs

JAGGERS, Mr Andrew, Branch Manager, Affordable Housing Branch, Department of Families, Housing, Community Services and Indigenous Affairs

FLAVEL, Mr Matthew James, Manager, Industry Tax Policy Unit, Department of the Treasury

LEGGETT, Mr Christopher Murray, Senior Adviser, Philanthropy and Exemptions Unit, Personal and Retirement Income Division, Department of the Treasury

CHAIR—Welcome. Thank you very much for coming. We have a submission from the Department of Families, Housing, Community Services and Indigenous Affairs. You have all been to hearings before and you all understand that you do not have to give information about policy and all those things. That will not stop senators asking you, in many cases, but you know what the situation is. Would any of you know to make an opening statement and then we will go to questions. You may or may not have been following the evidence today. I am sure some of you have had a look at the submissions so you know the kinds of questions that will be asked. Would anyone like to make an opening statement?

Mr Jagers—We have been working with the Department of Treasury and state and territory governments on the design and implementation of the National Rental Affordability Scheme. The government has consulted widely on the scheme. The Prime Minister released a technical discussion paper on the proposed operating arrangements for the scheme on 2 May this year for public comment and feedback and to help the government in settling the final design and policy framework for the scheme. The department has been assisted by a group of critical readers, including Dr Julian Disney from the National Affordable Housing Summit, Ms Carol Croce from the Community Housing Federation, Mr Adrian Pisarski from National Shelter and Ms Carrie Hamilton from Macquarie Bank. So we received expert assistance in developing the technical discussions.

CHAIR—We have had most of those people as witnesses.

Mr Jagers—In response to the technical discussion paper we received 127 submissions. The vast majority of those submissions were positive about the scheme and were very useful in settling the final design arrangements for the scheme. We also were involved in discussions across the country about the scheme and those discussions were facilitated by the National Affordable Housing Summit. As a result of the feedback from key housing stakeholders, consultations with states and territories and further consideration by the departments, the government broadened the proposed tenant eligibility criteria as previously outlined in the technical discussion paper to allow greater access to the scheme by moderate income tenants. The scheme's design was also adjusted to facilitate smaller scale proposals which will support local solutions and more specifically identified groups—disability service groups, for instance. The government also established a mechanics workshop under the COAG housing working group, which was a forum of state and territory officials and the Commonwealth to sort through some of the technical details about how the scheme might operate in practice and how the state and territory contributions and Commonwealth contributions would work together.

Consultations have also taken place with institutional investors, including banks, superannuation funds and members of the building and developing industries. To assist with that process the Treasurer launched a business perspective on 24 July which outlined the details of the scheme so that that sector was informed about the scheme and could also participate in settling the final arrangements for it. The scheme is underpinned by the National Rental Affordability Scheme Bill and the National Rental Affordability Scheme (Consequential Amendments) Bill, and a lot of the detail of how the scheme will work is contained in the regulations. We sent you an exposure draft of those regulations on 14 October.

CHAIR—Thank you very much. They were appreciated.

Mr Jagers—I am happy to outline some of the key aspects of the scheme but if you would prefer to go straight to questions, I am in your hands.

CHAIR—Do Treasury or Tax have anything to add at this stage?

Mr Konza—No.

CHAIR—Senator Humphries, would you like to start?

Senator HUMPHRIES—If I could, yes. I just have a few questions about the overall aim of the NRAS. Do you have a postulated level of private sector involvement as part of this scheme, or are you just going to see what comes out of this process?

Mr Jagers—We have called for expressions of interest in the first application round of the scheme and we have received considerable interest from the private sector.

Senator HUMPHRIES—When you say ‘considerable interest’, exactly how much interest do you mean?

Mr Jagers—As I understand it—I will check with Ms Ham—56 per cent of the applications in the first round were made by for-profit organisations—

Senator HUMPHRIES—Fifty-six per cent?

Mr Jagers—fifty-six per cent, with around 44 per cent from not-for-profit organisations. So in the first round we think that the response from the private sector has been good but we acknowledge that, as the scheme builds up slowly, the targeting of institutional investors will also build up over the first four years. So our expectation is that there will be a greater involvement from the not-for-profit sector in initial rounds but that it will build towards the commercial sector in later rounds.

Senator HUMPHRIES—All right. But there is no target as such? You will not say, if you only get 20 per cent actually fronting up and everything is done and dusted, if that is a failure, ‘We will proceed no matter what the level of private sector involvement is’?

Mr Jagers—We have not set targets, but all applications are being assessed competitively, against each other, so we will be selecting the best applications that are made. We have not set a minimum target for not-for-profit or for-profit organisations.

Senator HUMPHRIES—It has been suggested to me that the costs of the scheme—I think it is \$622 million over the first four years—are based on an assumption of a certain amount of private sector involvement.

Mr Jagers—Yes, that is right.

Senator HUMPHRIES—What is that assumption?

Mr Jagers—In the first round, there are 3½ thousand incentives that we are proposing to allocate or hoping to allocate. In the forward estimates, the expectation is that 50 per cent would be for-profit organisations and 50 per cent for not-for-profit organisations. They are not targets as such, that in the application round we are skewing the application process towards those, but that is how the forward estimates were worked out. That decreases to 10 per cent not-for-profit organisations by year 4, with 90 per cent for-profit organisations. The way it has been worked out is that part of the contributions or incentives will be paid as a tax credit to not-for-profit organisations—

Senator HUMPHRIES—I understand how it works, yes.

Mr Jagers—And so, in the forward estimates, there was a split between the expected impact on revenue and the funding that would go out through FaHCSIA as grants.

Senator HUMPHRIES—Presumably it is cheaper to provide a tax credit, though, than cash—and you would be providing cash more to not-for-profit organisations and tax credits more to for-profit organisations, presumably?

Mr Jagers—We expect that, yes.

Senator HUMPHRIES—So would the scheme be more expensive than the figures that have been provided, if you end up with less than 50 per cent in that first year? If those expected outcomes—I will not use the word ‘targets’—are not met for private sector involvement, will the cost of the scheme rise commensurately?

Mr Jagers—It is possible that there could be some change in cost if the mix of tax credits and grants were to be different. We do not really have any information at this stage to suggest that it will or will not be different.

Senator HUMPHRIES—Okay. I have to go now; I will catch up later. Sorry.

CHAIR—Sure. Senator Ludlam.

Senator LUDLAM—In the original FaHCSIA submission to the committee, you said:

If problems arise as a result of the genuine involvement of the not-for-profit sector in the National Rental Affordability Scheme, the Government has indicated that it will consider what steps are required to better assist them to participate.

So I put it to you that problems have arisen; we certainly heard that loud and clear this morning. Can you give us a bit of an update on where that issue of charitable status stands?

Mr Leggett—We acknowledge the concerns that have been raised by the community housing sector. As you know, the statement in FaHCSIA's submission that the government will monitor the situation is a direct quote from the second reading speech of the minister. All I can say at this point is that discussions are continuing amongst the agencies at this table and with potential housing providers with the aim of alleviating their concerns.

Senator LUDLAM—This legislation is before the Senate next week, so I wonder whether you are confident that this issue will be resolved before it is debated in parliament?

Mr Leggett—We hope that the issue will be resolved by that stage.

Senator LUDLAM—I think a lot of people are probably hoping so, but you are not able to give us a specific update as to how this—

Mr Leggett—In the end, it is a matter of policy for the government, so we cannot comment.

Senator LUDLAM—I think the policy is fairly clear. All participants and the government want this scheme to work, so I think the policy itself is very clear. And the policy, as we understand it, is to encourage the community housing sector to get behind it, which in fact it has done. Now, at the last minute, we are finding that it looks as though this problem could derail the process. So it is not really a policy question; it is a question of how to fix this matter before about this time next week?

Mr Leggett—It is a policy question to the extent that to alleviate a lot of the concerns would require a change to charity law and tax law, so to that end it is a policy question for the government as to whether or not they change charity and tax law to alleviate the concerns.

Senator LUDLAM—What would be the impact on the scheme if a large proportion of the community housing organisations were to pull out, as some have indicated that they will need to do if this matter is not resolved?

Mr Jagers—We are not aware, although we understand that there are problems, which the endorsed charities, in particular, which are going to participate in the scheme have identified. I am not in a position to say whether or not they are likely to pull out of the scheme. We think that the scheme, as advertised, has initially attracted a lot of interest and, following the passing of legislation, we would be able to directly deal with those successful applicants and their applications. But, clearly, for the scheme to work we would need to work with applicants who are successful after decisions are made.

Senator LUDLAM—Sure. I am not trying to get you to answer a hypothetical question. I gather the uptake by the community housing sectors are upward of 56 per cent or so for the first round, which is good and, as I said, everybody wants this scheme to work. But I do not think it is hypothetical when Foundation Housing, in Western Australia, which I think is the largest housing provider in Western Australia, has non-hypothetically said they will be pulling out if the issue of the charitable status is not resolved. I wonder what effect will it have on the scheme if community housing organisations cannot be a part of it?

Mr Jagers—Certainly, we would be concerned if anyone who intended to be a part of the scheme pulls out of it, which is why we are working with Treasury and also with the endorsed charity housing sector to see whether there are solutions that we can put in place to ensure their participation in the scheme.

Senator LUDLAM—The committee is due to report on 20 November. Obviously, this is the only day of hearings. Will you be able to advise us perhaps early next week whether there has been any movement on or any resolution to that problem?

Mr Jagers—That would be something for the government to do.

Senator LUDLAM—I am just asking whether you are able to take that on notice, whether it comes from the ATO, Treasury or FaHCSIA.

Mr Leggett—We can take that on notice.

Mr Jagers—Certainly.

Senator ADAMS—I have been asking the question of each witness today if there was no flexibility with respect to the PBI what would happen to the applications, and each witness has said that it will greatly affect them. And when you read the transcript you will see the evidence we have received. That is probably the main issue as to whether the scheme will be successful, and that evidence has come through very strongly this morning.

Senator LUDLAM—We have heard quite a bit of evidence as to the adaptive nature of the policy in that in round 1 we are just trying to get a sense of who is applying and in what locations and so on. I am interested to know, from the department's point of view, how transparent the process of short listing for the various application rounds will be. How much information will be provided as to not just who is being chosen for the various rounds but also the reasons and criteria on which they will be based?

Mr Jagers—Certainly, there has been a very transparent expression of interest application process. I might ask Ms Ham to quickly go through that for you.

Ms Ham—The minister released mandatory requirements of the scheme and five weighted criteria prior to the launch of the prospectus. They were the basis upon which we received applications, and those applications have been assessed against those requirements and criteria. Following the settling of the legislation, when formal announcements on the final outcomes of round 1 are made, there will be information provided on the website and also to individual applicants regarding feedback around how the assessment process has gone. In preparation for round 2, we will be delivering information sessions around the country. We will be talking at those information sessions about the feedback that we have publicly provided in relation to how application processes have gone and to talk in more detail about the sorts of things that we will be looking for in applications coming forward for round 2.

Senator LUDLAM—Okay, great. So, regarding other developers or other organisations that might be considering applying in the later rounds of NRAS, we will know not just who has been listed for round 1 but also why they were chosen—that is, the balance of reasons why one particular project was chosen and another might not have been.

Ms Ham—I think we would be making an announcement based on the applications that we received. We assess them against those criteria as satisfactory or excelling, so they would have been selected on that basis.

Senator LUDLAM—Okay. Can you tell us how you are benchmarking energy efficiency, for example?

Ms Ham—Yes. We contracted KPMG to provide us with some expert assistance as part of the assessment process. They brought in some specialist expertise to provide us advice on how we would assess the sustainability and accessibility criterion as part of those selection criteria. Because there are no national standards or uniform standards across states and territories, we looked at the use of a couple of planning initiatives which are recognised as best practice in Australia. We looked at the business regulation for the state of Victoria and the BASIX planning initiative of the New South Wales government. We also looked in those applications for other demonstrated proof of how applicants were addressing those particular issues.

Senator LUDLAM—How have you handled water efficiency? I am just picking on the things that would provide longer term affordability for tenants.

Ms Ham—I think—

CHAIR—Ms Ham, are you reading from a public document?

Ms Ham—No. Some of these questions were asked at a different estimates, and these are our preliminary responses.

CHAIR—I thought that if the information that Ms Ham was reading was available we could just get it tabled, but I cannot help you.

Senator LUDLAM—Actually, I think some of the questions were asked by me, so I suppose it will suit, sooner or later. Carry on. I was just asking about water efficiency and how you are judging that.

Ms Ham—Regarding the best practice regulations that we were looking at, some of those look at water efficiency and some do not. So, where applicants referred to those as meeting those requirements, they were automatically assessed as satisfactory for that component of the criterion. Where they did not refer to that, we were looking for whatever information they provided in their applications, and that varied greatly across jurisdictions.

Senator LUDLAM—All right. This goes to some of the matters that were raised in additional estimates, around the fact that the sustainability guidelines in the draft regs are very loosely worded, so a developer can get away with not addressing energy efficiency or water efficiency. It is up to the developer to address them or not. What are your thoughts about whether that should be mandatorily addressed by all developers in the scheme?

Mr Jagers—I guess it is a point of competition between applicants. Applicants that are able to demonstrate greater claims against that criterion, other things being equal, would do better and get the incentives. Those who are really trying to address this criterion will have to make a case for how they are able to demonstrate they are better than other applicants in this area.

Ms Ham—In addition, applicants had to be rated as meeting at least the ‘satisfactory’ assessment for each criterion. So, whilst it was not part of the mandatory criteria, they certainly had to, overall for that criterion, achieve a ‘satisfactory’ rating to progress in the assessment process.

Senator LUDLAM—The HIA in their submission proposed a series of varied or stepped incentives. What is on the table at the moment is just a baseline incentive that is common across the whole country. Do you have any thoughts on how that might work in future rounds?

Mr Jagers—The Commonwealth contribution is \$6,000 per incentive. That is obviously indexed to the rental component of CPI. We are aware that in response to the technical paper there were some submissions suggesting different rates and, as you suggest, one with a sliding set of rates to deal with different market conditions. We see the Commonwealth contribution as an incentive for applicants to be innovative in the way they put forward applications in relation to the construction of houses. Our preference is for larger portfolios and, within those portfolios, an applicant or an NRAS proponent might have a mix of dwellings in different markets. Some of those markets might have higher capital appreciation and some higher yields, but the incentive is a fixed incentive which, I guess, incentivises applicants to look at how they can make it work in a range of markets, possibly seeing some cross-subsidisation between different markets. But there is certainly no intention for the Commonwealth to reconsider that amount at this stage.

Senator LUDLAM—I suppose that was how the policy was designed to work in theory. How are you seeing that reflected in the first round of applications that you are assessing at the moment, in terms of the balance between inner metro, middle ring, outer ring and regional?

Mr Jagers—I think that we are just providing some limited information about the application process. I think we are happy to say that there was a good mix between jurisdictions and different locations but, as that assessment process is currently underway, we do not have really detailed information for you on what is likely to be successful or not and what those locations are likely to be.

Senator LUDLAM—I guess time will tell. I might leave it there for the time being.

Senator ADAMS—Just to continue with that: as far as the states go, what have you done there? With the \$2,000 is there any further incentive from them as far as in kind goes or development as rural areas or different states? I come from Western Australia. For a development in Western Australia in the current climate, compared with somewhere in South Australia or Tasmania, it is very, very different. What approach did the department make to the states when the policy was being drawn up?

Mr Jagers—Certainly we have been working very closely with state jurisdictions. Of course, because they are making a contribution to this scheme as well, they have wanted to be very closely involved in how the scheme is designed and how it works in practice. We have achieved that mostly through this mechanics workshop that we established with the relevant state and territory officials who were involved in the scheme. Our contribution is set at \$6,000 as either a cash contribution or as a tax credit. The states’ contribution has more flexibility attached to it. We know that some jurisdictions have indicated that they might, rather than providing cash in all cases, provide land or a reduction in other fees that the state might have. So there is some flexibility within the state component either to go above that \$2,000 if they wish or to make the cash payment of \$2,000. I guess that is a matter for jurisdictions. As we have not yet completed the first round, I guess we will see the outcomes of that once decisions are able to be made.

Ms Ham—In addition, all states and territories also agreed to match the indexation rate that the Commonwealth has in place, the indexation rate being the rental component of the consumer price index, which was not part of the initial announcement.

Senator ADAMS—As far as the current climate goes, with the financial situation, do you see anything changing there as far as your applications go or with some of the developers being able to borrow money and the ceiling that has been put upon that from the banks?

Mr Flavel—I do not know that there is that much we can usefully say given how rapidly things are changing at this stage. Will it have an effect? Most likely. What will that be? I do not think we could reasonably say what that might be.

Senator ADAMS—So you have not done any sort of analysis yet on where you have got to and the future?

Mr Flavel—Again, it is difficult. When investors go into this, they will go into it with a view to the long-term returns. While there is quite a lot of short-term volatility at the moment, it is still not clear what the implications might be in terms of some of those longer term effects.

Mr Jagers—I will add that I think that the need for the scheme is still demonstrated. I guess two fundamentals are that housing supply is not meeting demand—there are a number of different forecasts from organisations like HIA, BIS Shrapnel and others suggesting that the shortfall between the supply of housing and the demand for it is around 30,000 houses at the moment—and that rental prices are still high and rental vacancy rates very low. At least in most capital cities, rental vacancy rates remain at two per cent or lower. So in this environment we still see that there is a strong need for the scheme.

Senator ADAMS—I am sure there is; I am just a bit worried. The reason I am asking the questions is that I am a bit worried that, because of some of the constrictions and things that we have heard about today, it might fall over. We desperately need it, so somehow everyone has to work together to come out with some way for the applicants to go forward and not withdraw their applications. That is my concern. I am fully aware, having been renting in Perth, of what is available and just how desperate people are. That brings me to my next question, on another category which we have had suggested to us: a group housing area, where you might have two or three teachers just starting out, but of course their combined salaries are going to go over the threshold of the rent for living within that property. Has anything been done in that respect on key workers living in a group household whose combined income is going to go over the top?

Mr Jagers—The income thresholds were set with key workers very much in mind. There is no separate income limit for group houses or share houses.

Senator ADAMS—No, I know there is not. It is a suggestion that has come forward today.

Mr Jagers—I understand that is a suggestion. I guess I could say that the income thresholds are set in the regulations, which does give the government some flexibility if they want to look at that issue down the track. I would say, though, that we estimate that the scheme is open to up to 1.5 million households currently, and there are 50,000 dwellings. Increasing the income thresholds in order for more people to be involved will not increase the number of houses. I guess it is always possible to increase those thresholds, but that then takes the targeting of the scheme away, so it is always a balance of how the scheme is targeted to particular people and what the supply of the houses is likely to be. As I say, with 1.5 million households eligible for access to the scheme, increasing that may not be the best approach to take.

Senator ADAMS—If they had to, they have got to say what they are doing and they would come under some sort of criteria that was just a way for people who are desperate to try to rent. Rather than having three of them each trying to rent single accommodation you have got three in a house because of the way it was structured. It is something that I thought you could look at.

Mr Jagers—I think it is. I guess I was just alluding to it being a balance. When looking at the income thresholds we had to take into account how many people have access to it and who are the people we think the scheme should be targeted towards. We did have key workers very much in mind, but we have not made special provision at this stage for those households.

Ms Ham—In addition, in our submission we noted that, for example, we have yet to address the issue of boarding houses. Currently, boarding houses can be involved in the scheme but they would only be allocated one incentive for the boarding house. We recognise that it is an unresolved policy issue and that is something that we would seek to address into the future. But some detailed analysis is needed to determine how we might treat that. I think that a shared household falls into that category as well.

Senator ADAMS—Another thing was raised earlier by Aged and Community Services Australia regarding independent living units. With a lot of these aged care facilities, the boards own quite a lot of land. With the baby boomers coming along a lot of the accommodation that has been there for, say, 20 years is really not

suitable so they are either looking at getting rid of it completely or rebuilding. If they were to rebuild those units would they be eligible for this scheme?

Ms Ham—Under the current regulations, where those independent living units are seen to be of such a poor quality or a poor standard that they need to be completely rehabilitated, they are eligible under the scheme.

Senator BILYK—We heard earlier that the initial offering was heavily oversubscribed. I was wondering if a) you could confirm that and b) if it is true, what action is being taken to resolve that situation.

Ms Ham—We have not released full information about the assessment process for round 1 because we are still in the assessment for round 1. At additional estimates we indicated that we had received 69 applications for just over 13,000 incentives. The 13,000 incentives were not just for the first year or for the establishment phase of the scheme. There is the ability under the scheme to forward allocate, so those incentives covered the first four years of the scheme. I think it is fair to say that we had a greater number of incentives being applied for in the first year because we were particularly interested in receiving applications for dwellings in the first year. Then that gradually tails off as you move into the second, third and fourth years.

Senator BILYK—Can you explain to us how the assessment criteria for application to participate in the scheme will interact with the priority areas of interest, taking into account the overall assessment process?

Ms Ham—The priority areas of interest were addressed under criterion 2 of the application process and took into account the priorities that each state and territory government advised applicants at the time that the first call was made. So part of the assessment process took into account what each state and territory was particularly looking for. That was just part of the assessment process.

CHAIR—I just want to clarify something for the record. We have had a large amount of evidence in submissions and in evidence today about how the tax process operates. We have had different versions and issues raised. For the sake of our committee's record: what specific provisions in the tax law have triggered the warning from the ATO that participation in the NRAS will trigger close scrutiny by the ATO of the organisations status as a charity? Exactly which part of the law has been discussed? And also, because none of us are members of the economics committee—we do not have that blessing—we would like to know for the record exactly how they would work. We have had written submissions which have given an outline of how they perceive it is working, we have had some evidence that also talked about it, but it would be good for the sake of our committee to have it clearly on record about what information has been exchanged.

Mr Konza—Senator, perhaps if we took that on notice and provided you with a one- or two-page summary?

CHAIR—That would be useful. How quickly could you do it?

Mr Konza—Probably within 48 hours.

CHAIR—Working days?

Mr Konza—Monday afternoon? Is that all right?

CHAIR—I think that would be very useful. We have had people telling us how they perceive it would operate, and we understand there are ongoing discussions to address it, but it would be nice to have that threshold basis. We accept that, that would be useful.

Senator LUDLAM—I want to come back to where we started about the institutional learning or the adaptive nature of the policy. Can you describe for us the review schedule about how you will be reviewing whether the policy is working or not and which parts will be public and which parts will be internal to the department?

Ms Ham—We are planning to do what the department calls a post implementation review following the conclusion of round 2, which I guess is the end of the establishment phase of the scheme. A formal valuation is planned for the National Rental Affordability Scheme, but I cannot remember the actual dates. I might have to take that on notice and come back to you. But certainly that evaluation would take account and be a public process, so it would involve getting feedback from stakeholders and also participants in the scheme, including tenants.

Senator LUDLAM—Would that end up being a public document?

Ms Ham—Yes, it would be a publicly released evaluation.

Senator LUDLAM—Round 1 has closed. Sorry if I missed this information before, but when are you expecting to publish the successful participants in round 1?

Mr Jagers—After legislation is passed and regulations are proclaimed, we would be able to make the decisions and then announce after that. We think we are close to ready to go once we get those things in place.

CHAIR—Everything is all ready to go?

Mr Jagers—Pretty close.

Senator LUDLAM—I think it was Ms Ham, in response to a question I asked before about benchmarking against the different criteria, who said applicants would need to be rated satisfactory against the various criteria. I did not catch how you would judge whether something was satisfactory or not—for example, whether it is energy, water et cetera. We did not talk about the location issues around access to public transport and so on. How are you judging what is satisfactory in those cases?

Ms Ham—We had an assessment team that was provided with an assessment tool that it used. We had various examples against a rating scale from 0 through to 5, with satisfactory being 2, so that we could finally look at those applications that had been supported. Over time we will see a build up and there will be much stronger competition, so we wanted to make sure that we could finally differentiate the competition between applications. In that assessment tool, we had a range of things that gave guidance to those assessment people as to how we would make an assessment against each of the criteria and the components within the criteria.

Senator LUDLAM—I am wondering, again within the limits of probity, how much of that will eventually be made a public document after the list has been announced in terms of who scored what and how the various things were judged?

Ms Ham—The scoring will not be publicly available and the assessment tool is an internal document for the department. As I said, we will be providing feedback on how the assessment process went generally for applicants, but also for those people considering coming into the scheme. We would look to provide more information in information sessions for people interested.

Senator LUDLAM—Mr Konza, this might go to some of the material that you have offered to provide for us next week. I do not know whether you have had time to review the submission of National Shelter. They put to us the case that potentially the threshold question around charitable status is exceeding the GST-free limit of 75 per cent of market rates, whereas NRAS is offering 80 per cent as a benchmark. I am wondering how important that figure is within the thinking of the ATO.

Mr Konza—I might clear up one misapprehension. This morning the committee was told that if you failed to provide goods at 75 per cent it would threaten your charitable status. That is not the way the law works. The way the law works is that a charity which provides goods at 75 per cent of their commercial value may claim the GST credits back. So if you do not provide it at 75 per cent, you cannot get the credits back but you are still a charity.

CHAIR—It is very important to have that on record.

Senator LUDLAM—I am not quite sure whether that answered my question though. I suppose the question is: are we missing out by five per cent on not having a problem with the tax office?

Mr Konza—As I say, the 75 per cent does not go to the question of whether you are a charity or not, so it plays no part in the ATO's thinking. However, it does play a significant part in the thinking of those consortiums that are looking to go into the NRAS because the arrangements we have seen have included arrangements which position the not-for-profit entity as the holder of the properties and allows for a claiming back of the GST input tax credits on the total price of the construction of the premises. They will need to make sure that they meet the 75 per cent test if they want to do that.

Senator LUDLAM—I look forward to reading the document you provide us with next week.

Senator HUMPHRIES—I am sorry to have left the room for a little while. I do not want to cover anything that has already been covered. Can I ask a little bit about the round 1 applications that have been made? You mentioned that 56 per cent of them came from the full-profit sector. Are they spread evenly across all states and territories in a proportionate sense? Is there anything else you can tell us about the demographic make-up of these applications?

Mr Jagers—We may need to give you a state-by-state rundown of where the applications came from.

Senator HUMPHRIES—I will wait and see if you have it there, but you could take that on notice if you like.

Ms Ham—I might have to take that on notice. I just cannot put my hands on it right at the minute.

Senator HUMPHRIES—All right. I assume that break up between for-profit and not-for-profit is more or less consistent across the country as well, that you have not got all of one in one state and all of the other in another?

Mr Jagers—I can say that there were applications from all states and territories. We could take on notice the proportion of for-profit and not-for-profit by jurisdiction. We are happy to provide some basic information about where applications have come from, but we will probably not go into too much detail as the assessment process is still running. I am sure we can provide that basic information on notice.

Senator HUMPHRIES—I understand that you will need to have the legislation passed before you can make any grants under that first round.

Mr Jagers—That is correct.

Senator HUMPHRIES—What is the timetable for passing the legislation? Is it the government's intention to put it to the Senate before the end of the year?

CHAIR—Senator, I do not think that is a question that they can answer.

Senator HUMPHRIES—All right, Chair. Mr Jagers, can you give me any information about the cost of overheads and administration as a proportion of the cost of the scheme itself?

Mr Jagers—Yes, we can.

Ms Ham—We have a commitment for four years of funding for the administration of the scheme. That is \$6.4 million—\$1.4 million in this financial year, \$1.6 million in the second year and \$1.7 in the last two years of the first four years of the scheme.

Senator HUMPHRIES—How will the administration work? I understand that an applicant needs to demonstrate that they will provide a rental at 20 per cent below the market for the particular area. Is the applicant expected to show that the property will actually be at 20 per cent below the market for a property of that kind? Is he or she expected to show that, for that kind of property in that area, he or she is charging 20 per cent below the market? In other words, do you have to inspect each dwelling to see whether the rent being charged is actually 20 per cent below what the market would command for it?

Ms Ham—In the regulations we have asked for independent evaluation of rents at the time that the dwelling is first made available for rent and in the fourth and seventh year. We have not required that every year, just because of the cost to the participant, but between those years we have asked them to adjust their rent upwards but by no more than the capital rate or the rental component of the CPI for that area. We would be looking for them to provide a valuation of a dwelling of that type in that particular area.

Senator HUMPHRIES—So it is a cost borne by the applicant?

Ms Ham—That is right. That information has to be provided to the department on an annual basis, and we will be doing some compliance checking to ensure that the rents are at the expected rate of 20 per cent or more below the market rate.

Senator HUMPHRIES—Let's say I am an individual landlord who provides my new house for this purpose. When a person comes to me seeking to rent the premises, how do I establish that they fall within one of the targeted income groups?

Ms Ham—Under the regulations there is information on the initial and ongoing eligibility of tenants. Again, they are required to assess tenants' eligibility on an annual basis.

Senator HUMPHRIES—'They' being the landlord?

Ms Ham—That is right. And they would be looking for evidence of eligibility. We have not been too prescriptive about that evidence, but certainly the landlord is required to undertake that work and report that on an annual basis.

Senator HUMPHRIES—Say a landlord rents to a family that receives an income support benefit of some kind and, in the course of the year, the children become old enough to work and obtain jobs but they still live at home—that might put them above the income threshold. How does the landlord know about that?

Ms Fox—Each year there is a date set for the return of a statement of compliance report from the eligible applicant for the incentive. Each year in that statement of compliance they will report whether they fell within or outside the income limits. You will also see in the regulations that there is a period of grace where tenants can exceed the upper income level before becoming ineligible as a tenant.

Senator HUMPHRIES—So are we relying on the landlord to ask the tenant the details of their income in order for the landlord to be able to accurately fill in that return to the department to say that the tenant is eligible for this benefit?

Ms Fox—We are. The landlord, on behalf of the incentive recipient, can report against that. So, yes.

Senator HUMPHRIES—If you do one of your spot checks and you discover that the tenants are actually ineligible because they are earning too much, who is at fault there? Who can be potentially prosecuted for having rorted the system: the landlord or the tenant?

Ms Fox—Under the scheme, they will not be prosecuted but they will not qualify for the incentive payment if they have not got an eligible tenant within the parameters set out by the regulations.

Senator HUMPHRIES—So you could actually ask for a refund of a subsidy that has been provided on the basis that the tenant was not eligible at the time?

Ms Fox—If we discovered that it has been reported in error and that in fact they were not an eligible tenant and did not qualify for the incentive payment then there is the capacity to recover overpaid incentive.

Senator HUMPHRIES—Are there no criminal penalties associated with this?

Ms Fox—No.

Senator HUMPHRIES—There must be an obligation imposed on the landlord to make diligent inquiries about these things, but presumably the landlord is entitled to rely on what the tenant tells him or her. What if you discover that the tenant is earning above the threshold and the landlord asked the tenant to tell him or her what their level of income had been over the last 12 months and the tenant lied and the landlord received the benefit because they relied on information provided by the tenant? Is it really reasonable to withdraw the benefit from the landlord in those circumstances?

Ms Fox—I do not know about a question of ‘reasonableness’, but the scheme is set up to deny the entitlement to incentive. I guess it would be anticipated that the landlord would seek certain rights and entitlements under any leasing arrangement.

Ms Ham—Part of the assessment process for applicants covered the tenancy management processes. So we were looking for information about how they would manage tenancies which included how they would undertake to do those annual reviews. They would obviously need to comply with tenancy legislation in the relevant jurisdictions but we are certainly conscious of the sorts of processes that are in place and those processes would include evidence being provided to the landlord of income. It would not just be a verbal conversation with the landlord.

Senator HUMPHRIES—Okay, but I, again, come back to a situation where the tenant deliberately deceives the landlord. Does the landlord have the right to ask the tenant to produce pay slips, for example, or income tax returns?

Ms Fox—That is not a right set out in the legislation.

Mr Jagers—As I understand it, that is usually how the community housing sector operates. They might check the income eligibility, particularly if they are a charitable—

Senator HUMPHRIES—I am thinking more of the for-profit sector—a private sector landlord who might have only one tenant.

Mr Jagers—A landlord would have to have more than one tenant to receive incentives under the scheme. We have set a minimum requirement in the regulations. I guess we are hoping for 100 dwellings as a minimum number in a portfolio but we have opened up the possibility of having not fewer than 20. So you could have providers in the scheme who have 20 tenants, but it would not go below that kind of level. We are expecting the tenancy managers to have systems in place to deal with this and we are assessing those systems in the application process.

Senator HUMPHRIES—Lastly, there has been some discussion about whether the implementation of a scheme like this would distort that part of the market place which is not subject to the scheme—existing dwellings, for example. Is there any economic modelling which the department or any of the agencies have access to, about the effect on the rest of the market of this scheme operating?

Mr Flavel—We do not have access to specific modelling. The only point I would note is that this is but one of a number of government initiated housing policies that are in place. There are clearly things that do not directly affect the private rental market—things like the first home saver accounts and recent changes to the

first home buyers grant and other changes—so it would be quite difficult to isolate the effects of this specific scheme in terms of the distortion that could occur.

Senator ADAMS—I would like to ask a question of the ATO. I would like you to comment on an approach was advocated by the Community Housing Federation of Australia this morning. It is a three pronged approach. The first is that the ATO provide a letter of assurance to NRAS applicants saying that participation in NRAS will not, of itself, cause the ATO to review or revoke their charitable tax status. That is the first prong. The second was a legislative amendment to safeguard the charitable status of the not-for-profit organisations that participate in NRAS. The third prong was a statement of intent from the Treasurer to deem the not-for-profit provision of affordable housing as a charitable purpose under the tax law. Do you have any comments on those three?

Mr Konza—I would be happy to comment on the first one and I will pass to my treasury colleagues the second two because they relate to legislation and policy. The letter of assurance is a troubling concept because the question of whether you are acting charitably is a matter of your objectives and your activities. There are many possible formulations of how people might participate in the affordable housing scheme. We are quite happy to acknowledge that and even to advise people about how, under the current law, they can participate in the scheme and not threaten their charitable status. But we are not able to give a global assurance that no matter how you participate in a scheme your charitable status would not be affected. We are able to envisage methods by which people could participate which would threaten their charitable status. So for that reason we are not able to give a global letter of comfort as was suggested this morning.

Senator ADAMS—So with each applicant it is really tricky, because these people are going to put an application in if they think they are going to be protected but if they are not going to be protected they will be withdrawing their applications. Will the ATO have any access to the application to say yes or no? How will this go? I see it being quite confusing.

Mr Konza—Applicants can come to the ATO and apply for a ruling, and we can give them that level of assurance. But at this stage there is no scheme—

Senator ADAMS—I realise that.

Mr Konza—so it is difficult to give a ruling to an individual applicant.

Senator ADAMS—But someone might put an application into the department and think that they are right and then go to you and find they are not, so then they have to withdraw their application. This is what is worrying me. With the evidence that we have had today, possibly this could happen in a number of cases. How are we going to fix this to get the scheme up and running? Does anyone have any suggestions?

CHAIR—Mr Leggett and Mr Flavel said that discussions are still taking place.

Mr Leggett—Yes, discussions are still continuing amongst the agencies. We are not in a position to say any more to the committee at this stage.

CHAIR—Are they truly just letters of comfort?

Mr Konza—It was news to me that we had issued letters of comfort to an entire industry, but I do not know what that was—

CHAIR—It is just that when I heard it this morning it was very interesting terminology. I liked it. A letter of comfort—I wouldn't mind one!

Mr Konza—The witness this morning could only give very brief details, of course. The only thing I could conclude from the very brief details that they had time to give was that the circumstances in those taxpayers' cases were all very uniform. The trouble for us is that we already see, in just the preliminary discussions that have been taking place so far, a wide spectrum of activity.

Senator ADAMS—I can certainly see that too. That is why I was thinking: how are we going to get this whole thing off the ground and get it moving? There seem to be so many pitfalls with so many different ways that people have got their tax-exempt or their PBI status—the way they fit as to their organisation.

Mr Konza—The Commissioner of Taxation just administers the tax laws. In the area of charities, we apply the common-law definition to make sure that charities are acting charitably. We also look at some of the arrangements, because we have to check that they comply with the tax laws. We have serious concerns about whether some of the arrangements we have seen will even comply with the tax laws. Some of the

arrangements give us concern that aspects of the arrangements have been designed principally to obtain a tax benefit.

Senator ADAMS—Treasury, do you have any comment? Do you want me to read those again?

Mr Leggett—No. I have actually got them in front of me. On the second prong approach, a legislative amendment goes to policy, and that of course is a matter for government and I cannot comment on that one. With regard to the bottom one, again that is a matter for the Treasurer, but he is not in a position to deem anybody to be charitable when they are not charitable. It is effectively a matter of law, whether you are charitable, and the ATO is the independent administrator in that regard. So the Treasurer could not deem that. It is a matter in the end for the parliament if it chooses to change charity law.

Senator ADAMS—I just wanted those clarified. Thank you very much. That is good.

Senator LUDLAM—I have a couple of quick questions. I come back to a point you made before, Mr Konza. How long does it take to get a ruling from the ATO on a matter like this?

Mr Konza—It will take a month at least to get a ruling.

Senator LUDLAM—Mr Jagers, a few people have spoken to us about indexation. Can you tell us where that is contained in the bill or the regulations?

Mr Jagers—The indexation of the incentive?

Senator LUDLAM—Yes.

Mr Jagers—It is in the regulations.

Ms Fox—There is a definition of the NRAS index in the regulations.

Senator LUDLAM—Can you just point me to that briefly.

Ms Fox—Regulation 4.

Senator LUDLAM—I want to go back to some comments that were made a little bit earlier by the representatives from Aged and Community Services Australia. They pointed out that they are very concerned about the compliance burden, given that they are not formally community housing providers. They did not want to have to be regulated as such to be part of the scheme. Do you have any thoughts on that? Is that something that you have evaluated or thought about?

Mr Jagers—We think the scheme's design minimises compliance requirements to the degree that we are comfortable with. We think having the scheme in legislation and in regulations that are very transparent assists so that we are not negotiating separate contracts with each provider and adding extra costs associated with that contracting process to providers. There is a single compliance process at the end of the NRAS year that we think is necessary for proponents to be able to demonstrate that they have met the conditions of the scheme. There is always a balance between needing to know how funds have been spent to the extent that we are getting what we are paying for through this incentive.

We have also worked with states and territories to ensure that we have a single compliance process so that, to the degree possible, there are not separate processes for the state and territory contributions as well. Where the states and territories are going to be making a cash contribution, we will be looking at whether we can make that from the same source, so the Commonwealth might make the payment on behalf of the states and have a single compliance process. We have had a mind to it and have, in our view, stripped it back to a reasonable level.

Senator LUDLAM—I do not think the aged-care representatives had a debate with you on any of those points about it being transparent, given that there are public funds involved. They were specifically concerned about whether or not they would need to be registered as community housing providers. Is that something you are able to confirm or deny? Is that something you would be requiring?

Ms Ham—It is currently different under each jurisdiction. It is certainly a matter that has been discussed with states and territories in the mechanics workshop. I would have to say that we are still working through that particular issue going forward.

Senator LUDLAM—We are getting fairly late in the day now. We have legislation before us next week. When are you expecting a resolution? These are providers who have the expertise, the land and a long history in this sort of work, and this scheme is up and running already.

Ms Ham—It is not a requirement of the scheme but community housing providers in some states and territories are required to be registered. That is a matter for state jurisdictions. For the scheme it is not an issue, but for states and territories needing to come to address that issue, that will need to be looked at.

Senator LUDLAM—That goes to my final question, which was about the different kinds of compliance and the different sorts of regulations that would apply across the different states and territories: what sort of role are you playing in harmonising that and trying to make that simple for people? It sounds as though it is still very much a work in progress, but can you describe what that actually involves?

Mr Jagers—What the coordination mechanisms are?

Senator LUDLAM—What coordination, yes, and also what Ms Ham is pointing out: what constitutes the organisations that might apply is regulated differently across the states and territories. I think everybody is on board about having it be fairly simple and transparent, but how are you harmonising that across the country?

Mr Jagers—That is an issue that is outside the scheme, but it is certainly something that, under the mechanisms we have under the COAG process, we are able to take forward with states and territories. There is the broader issue of regulation of the community housing sector nationally which is a bit outside the scope of the scheme, but it is something on which the government is interested in working with states and territories more broadly.

Senator LUDLAM—Does this scheme work if community housing providers are not involved and it just ends up being for-profit?

Mr Jagers—Does the scheme work? We have given you the split of current applications. Our position is that the scheme has been designed with the not-for-profit housing sector in mind as well as the for-profit sector. We certainly want to see institutional investors getting involved in the scheme, particularly in the out years. Of course it would be a concern to us if the not-for-profit sector were not part of the scheme. We think that they will be part of the scheme. I guess we have targeted the scheme partly towards that sector by making, in principle, the large change of having part of the scheme funded through grants rather than through tax credits. We think they are a critical part of the scheme.

Senator ADAMS—When do you expect to get this scheme up and running? I know it is linked to the legislation, but you must have a time frame with this.

Mr Jagers—The time frame is completely dependent on the legislation and regulations being proclaimed. As I said, with the first round of applications we are pretty much ready to go once the legislation is passed, provided that there is a strong degree of consistency between the current and final make-up of the scheme once the legislation is passed. We are pretty much ready to go with the first round of applications. We will move very quickly to advertise for the second round once the legislation and regulations are in place.

CHAIR—What is the ongoing consultation with the community and stakeholders that is built into the scheme from now on? We have had a range of advisory committees and specialist groups working up till now. What is the system in the future for bringing people's knowledge and commitment together?

Mr Jagers—We do have an enabling and capacity-building strategy that the department has developed. I might ask Ms Ham to talk to it.

Ms Ham—The formal evaluation process, which we have yet to fully design, would certainly include consultation processes, as I said before: working with key stakeholder groups and also including tenants that are accessing dwellings under the scheme. We continue to have formal and informal contact with stakeholder groups. FaHCSIA was part of stakeholder consultation groups that were run by the national affordable housing summit group last week in Sydney and Melbourne. We will continue to be involved in those sorts of processes so that we can provide feedback but also hear the views of people who are seeking to participate or are participating in the scheme.

The enabling and capacity-building strategy that Mr Jagers referred to is a small amount of additional funding we have to support the establishment of the scheme. That has allowed us to put some partnership facilitators in place to support the first round and move into the second round of the scheme. Those partnership facilitators undertook essentially a role of bringing together different groups that may be interested in the scheme that may not be necessarily well connected with the community or the affordable housing sector with developers and with investors. There is also funding there to support access to clearing house material and other workshops to help those people really examine whether they want to come into the scheme.

CHAIR—Is that all part of the \$6.4 million?

Ms Ham—No. It is an additional amount of funding, which is \$1.154 million over three years.

CHAIR—So it is not part of the actual set-up but it is additional for partnerships—something along those lines.

Ms Ham—It is called the enabling and capacity-building funding.

Senator ADAMS—I know the applications are confidential, but has any provision been made for Indigenous communities or areas where there are a large number of Indigenous people?

Ms Ham—Certainly in the application process we were particularly interested to see applications that targeted Indigenous tenants. We have had some early discussions with, for example, the Aboriginal Land Council in New South Wales, and we are conscious that we need to do more work in that area. Leading into the implementation of the scheme there was a limit to what we could do, but we would be seeking to work with those communities into the future.

CHAIR—Thank you very much. If we could get the response from tax. I do understand it creates an extra workload, but we have a tight time frame and we are waiting with interest to find out about the ongoing discussions on that issue—as we all are, I would imagine. Thank you for your time on a Friday afternoon; we do appreciate it. Thank you, Hansard.

Committee adjourned at 3.16 pm