



Submission to the Senate Standing Committee on Community Affairs

*Inquiry into National Rental Affordability Scheme Bill 2008 and National
Rental Affordability Scheme (Consequential Amendments) Bill 2008*

NSW Federation of Housing Associations
October 2008

1. The NSW Federation of Housing Associations

The NSW Federation of Housing Associations is the industry association for not-for profit affordable housing managers and developers in NSW.

Our 35 full members provide social and affordable housing across the State. The NSW housing association sector is the largest in Australia – both in total tenancies and average size of associations. The smallest manages 35 tenancies; the largest now manages 2,600, ranging from affordable housing for moderate income households to housing for complex needs tenants. Many of our members have a wide range of support partnerships to ensure that tenants with specific needs are able to sustain their tenancies. We also have 60 affiliate members, most of whom are Supported Accommodation Assistance Program (SAAP) services, who wish to access services, advice and information about the housing management aspects of their activities.

The Federation represents the sector's interests to government and other stakeholders. It also provides consultancy services to support their business, and acts as a broker to bring providers and potential partners together. It is a Registered Training Organisation and the leading provider of social housing training, delivering training in three jurisdictions to both community housing and public housing staff. For further information see our web site www.communityhousing.org.au.

The Federation is also a member of the Community Housing Federation of Australia.

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2. Summary of submission

- The Federation urges the Committee to consider the implications of non-profit organisations involved in the scheme losing their charitable tax status, and the impact of this on the wider community housing sector, and in doing so consider the potential inclusion of 'affordable housing' as a new 'head of charity' under charitable tax legislation (4.1).
- The Federation urges the Committee to expedite the Inquiry to the greatest extent possible (4.2).
- The Federation believes that the targeting of the Scheme is appropriate and notes that the community housing sector remains committed to providing the deepest possible subsidies to those in greatest need and making the Scheme available to lower income households (5.1).

- The Federation believes that the current structure of the Scheme is an efficient and effective way to deliver affordable housing, but that this should be reviewed on a periodic basis, in particular to consider any measures that can assist in attracting institutional investment (5.2).
- The Federation believes that the Scheme should be complemented by an investment in social housing to the order of 30,000 new properties. This should be considered separately to the Scheme (5.3).
- The Federation asks the Committee that it be given the opportunity to participate in any public hearings held as part of the Inquiry.

3. Background

There is now widespread consensus that Australia is experiencing a dire shortage of affordable housing¹. Among those living in unaffordable housing², households that are renting are hardest hit³. Indeed, there are more than 600,000 families and singles in the private rental market in housing stress, representing 65% of low income private renters⁴. This requires an extraordinary investment in supply. Effectively, the creation of an affordable housing industry is required.

The Federation therefore strongly welcomes the initiative by the Australian Government to place a priority on responding to the affordable housing rental crisis through the National Rental Affordability Scheme (Scheme).

As representatives of housing providers, that will be playing a central role in the delivery of affordable housing under the Scheme, we have a strong interest in ensuring that the initiative delivers a significant increase in affordable housing to help build an affordable housing industry. We believe that non-profit community housing providers are ideally placed to help create such an industry to meet the needs of low to moderate income earners in need of affordable housing.

This submission will raise and highlight two critical issues - the charitable tax status of non-profit organisations involved in affordable housing provision; and the need to

¹ See for example the 2008 Senate Select Committee on Housing Affordability in Australia: *A good housing is hard to find: housing affordability in Australia*

² Those who cannot meet all of their other basic needs such as food, clothing, transport, medical care and education (for example) due to the high costs of their housing. The widely used measure is low-moderate income earners paying more than 30% of gross income on housing.

³ Bourke, T & Pinnegar, S. (2008), *Housing Affordability: The Household's Experience*, AHURI

⁴ Yates, J & Milligan, V et al. (2007), *Housing Affordability: a 21st Century problem*, AHURI, National Research Venture 3: Housing Affordability for lower income Australians

expedite the Standing Committee review. It will then address each of the three principle issues outlined for referral of the Bills to the Committee.

4. Critical issues for Committee consideration

4.1 Recognition of 'affordable housing' in charitable tax legislation

A critical issue to the success of the Scheme, and one which should be considered by the Committee in relation to the Bill, is that of charitable tax legislation as it relates to the provision of affordable housing. That is, there is a significant risk to the involvement of non-profit organisations in the Scheme, due to the ATO suggesting it could cost them their charitable status. The inquiry is an opportunity to explore this risk and solution.

The vast majority of housing associations have public benevolent institutional (PBI) tax status. Organisations with PBI status must be a charity. The characteristics of a charity are that⁵: it is an entity that is also a trust fund or an institution; it exists for the public benefit or the relief of poverty; its purposes are charitable within the legal sense of that term; it is non-profit; and its sole purpose is charitable.

Broadly, charitable purposes are those that are of benefit to the community, or a section of it⁶. More specifically, there are four 'heads of charity' under tax legislation⁷ - the relief of poverty; the advancement of education; the advancement of religion; and other purposes beneficial to the community.

It is possible that risk to non-profit organisations' charitable tax status will best be resolved by the government legislating to add 'affordable housing' as a new head of charity.

- The Federation urges the Committee to consider the implications of non-profit organisations involved in the scheme losing their charitable tax status, and the impact of this on the wider community housing sector, and in doing so consider the potential inclusion of 'affordable housing' as a new 'head of charity' under charitable tax legislation.

4.2 The need to expedite the Standing Committee Review

The Federation believes there is a great need to develop an affordable housing industry to address the supply shortfall in affordable housing properties. Indeed, the

⁵ Australian Government, ATO. (2007), *Tax Basics for nonprofit organisations: An overview of tax issues relating to non-profit organisations including charities, clubs, societies and associations*, Australian Government ATO

⁶ Ibid

⁷ Ibid

community housing sector has seen the Scheme as the long awaited opportunity to respond to the ongoing crisis of undersupply of low cost rental housing, and to significantly grow the sector.

To do this requires encouraging investment in the development of new properties. The Scheme seeks to do this by confining funding to new developments or the purchase of new developments currently underway.

One of the biggest risks to property developments is delays. They can have serious cost implications and potential loss of opportunities. Indeed some development opportunities are extremely time limited in scope. If they are not taken up within a set period, holding costs will necessitate them being sold for alternative purposes to affordable housing provision.

The Federation notes that tenders under Round 1 of the Scheme have already been submitted for consideration. We understand that these tenders amount to just under 13,000 affordable housing properties. In relation to applications under the scheme, 56% were from not-for-profit organisations, with a large portion of the remainder involving community housing tenancy management. We are very concerned that some of these projects may fall through if the passage of the Bills is delayed significantly. If some of these are lost due to delay, it will be a serious set back to the sector and for those in need of affordable rental housing.

- We therefore urge the Committee to expedite the Inquiry to the greatest extent possible.

5. Issues outlined for referral of the Bills to the Committee

5.1 Whether the Bills are targeted to deliver affordable housing to those in greatest need

The affordable housing crisis is evident across the housing system. It is therefore only a system-wide approach that can address it. For example, a lack of social housing means there is no exit housing for people leaving homeless services, placing more pressure on those services. Equally, a lack of affordable housing means that the social housing system is unable to operate sustainably.

The Federation believes that different initiatives are needed to address each part of the system. That is, the Scheme should not be a stand-alone initiative; rather it should be part of a package of initiatives across a spectrum from homelessness service provision; to social housing provision; to affordable housing (both rental and home ownership).

The Federation supports the 'Housing for a Fairer Australia' campaign⁸ call for the Federal government to increase funding to build 30,000 extra public and community housing properties. We also support initiatives to address homelessness such as 'A Place to Call Home'. This investment is crucial to ensure ongoing viability of the affordable housing system.

As a response to low-moderate income earners, the Scheme should be viewed as complementary to funding for those areas of the housing system, but no less important. Without responding to this broader client group, responses to homelessness and social housing eligible tenants will be unsustainable.

It is with the housing system as a whole in mind that the targeting of the Scheme can be contextualised. That is, the Scheme is not intended solely as a response to those in greatest need. The Federation believes that the current annual income limit for initial tenant eligibility⁹ in the Scheme is appropriate. We note that one of the weighted criteria¹⁰ obliges applicants to address five 'Priority Areas of Interest for the Establishment Phase', one of which is the inclusion of "tenants with special needs (such as people with disabilities, older Australians and Indigenous people)"¹¹. It should be noted that the community housing sector remains committed to housing people in greatest need as their core business and, where viable, through the Scheme. We further note that the Scheme will be reviewed in the first few years to consider, among other things, whether it is adequately focused on those in rental stress.

- The Federation believes that the targeting of the Scheme is appropriate and notes that the community housing sector remains committed to providing the deepest possible subsidies to those in greatest need and making the Scheme available to lower income households

5.2 Whether the Bills are an efficient and effective way to deliver increased affordable housing

With 600,000 families and singles in the private market in housing stress¹² and approximately 180,000 on public rental housing waiting lists¹³, there is a clear and urgent need to address the chronic undersupply of affordable housing. The extent of

⁸ Australia Fair, 2008, see: <http://www.australiafair.org.au/public/News.aspx?ArticleID=5121>

⁹ National Rental Affordability Scheme Guidelines, July 2008, p25

¹⁰ National Rental Affordability Scheme, July 2008, *Application Guidelines*, p10

¹¹ Ibid, p11

¹² Yates, J & Milligan, V et al. (2007), *Housing Affordability: a 21st Century problem*, AHURI, National Research Venture 3: Housing Affordability for lower income Australians

¹³ AIHW. (2006), *Public Rental housing 2006-2007: Commonwealth State Housing Agreement national data report*, px

the problem should be the driver of any government response to the issue. Government funding alone is unlikely to close the gap.

A significant investment of private finance, in particular institutional investment, is also required. That is, government funding should be used to leverage private finance and other resources into affordable housing. The Scheme seeks to do this. In subsidising new properties and encouraging the involvement of non-profit providers, the Scheme can extend the reach of government funding to significantly increase supply in a relative short period of time. This has the potential to create an affordable housing industry of non-profit organisations developing and managing affordable housing properties. This relatively new area of business for community housing organisations complements their current provision of housing to greatest need tenants, creating more viable and sustainable organisations to play a wider role in housing those in need, while continuing to house those in greatest need as their core business.

With the urgent need to increase the supply of low cost housing in a very short period of time, it is the view of the Federation that the Scheme is an effective and efficient way to deliver affordable housing. However, effectiveness and efficiency should be central to review of the Scheme which should occur early in its implementation and on an ongoing and periodic basis. The extent to which the Scheme attracts institutional investment should be part of such a review process.

- The Federation believes that the current structure of the Scheme is an efficient and effective way to deliver affordable housing, but that this should be reviewed on a periodic basis, in particular any measures that can assist in attracting institutional investment.

5.3 Whether the Bills facilitate investment in social housing by not for profit community housing organisations, as well as private investors

The Scheme will bring together a range of resources beyond the government incentive – banks, financial organisations, developers, non-profit organisations, property trusts and institutional investors. In the case of NSW, the Debt Equity model¹⁴ stipulates that contributions from the bank and the non-profit organisation, as well as state government are made. This type of model is likely to be a common approach to Scheme applications. This facilitates the investment of significant extra resources beyond the Federal government incentive investment.

It should be noted that the Scheme is intended to address the dire shortage of affordable rental housing by increasing the supply of new dwellings for low to moderate income households. These will be delivered at least 20% below market

¹⁴ Housing NSW, *National Rental Affordability Scheme NSW Program Requirements: Round 1*, <<http://www.housing.nsw.gov.au/NR/rdonlyres/80F6B67E-BOAC-4773-988B-CB15626C4B32/0/NSWProgramRequirementsv2.pdf>>

rent and, in cases where non-profit organisations are involved, at least 25%¹⁵ below market rent for those households.

As noted above, this will have an impact across the sub-market housing system and the ongoing capacity of non-profit organisations to deliver housing to those in need. However, the Scheme must be complemented by a significant investment in the social housing system, at least to the order of 30,000 new social housing properties. This investment should be a separate initiative to the Scheme.

The Federation believes that the Scheme should be complemented by an investment in social housing to the order of 30,000 new properties. This should be considered separately to the Scheme.

¹⁵ In order to maintain their charitable tax benefits under tax legislation, non-profit organisations must rent at a maximum of 74.9% of market rent.