



Submission to Australian Treasury

Housing Legislative Package, December 2022 – Housing Australia Future Fund Bill, National Housing Supply and Affordability Council Bill, and Amendment Bill

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1. Introduction

National Shelter welcomes the opportunity to make a submission to the Housing Legislative package, including two new Bills to establish the Housing Australia Future Fund and the National Housing Supply and Affordability Council, and an Amendment Bill to support the new legislation. The package was published by the government on the 19th December 2022.

The Housing Australia Future Fund Bill and the National Housing Supply and Affordability Council Bill seek to give effect to two of the Government's key election commitments in relation to housing – the establishment of the \$10billion Housing Australia Future Fund, and the establishment of the National Housing Supply and Affordability Council via legislation.

The Treasury Laws Amendment (Housing Measures No. 1) Bill 2023 (Amendment Bill) gives effect to other components of the Government's housing related election commitments, including renaming the National Housing Finance and Investment Corporation as Housing Australia and consequential amendments to the new Bills, as well as amendments to address a recommendation of the 2021 Review of the National Housing Finance and Investment Corporation Act 2018.

This is a high-level submission concentrating on key aspects of the proposed legislation due to the short time frame available for submissions, and limited access to legislative drafting expertise. It includes both recommendations and raises points for clarification.

We acknowledge that not all matters raised in our submission can be enacted through amendments to the legislation or be resolved in a timely manner that aligns with the expectations of the Minister of the commencement of the legislative package. However, we provide them in a healthy spirit of inquiry, with the goal of assisting fulsome implementation and maximum community impact.

On the more technical aspects of the draft legislation, we defer to the expertise of institutional investors and stakeholders such as Industry Super Funds on the optimum design of the HAFF to minimise sovereign risk, and meet the requirements of institutional investors. We also strongly endorse the submission by the Community Housing Industry Association.

1.1 About National Shelter

National Shelter is a non-government peak body that aims to improve housing access, affordability, appropriateness, safety and security for people living on low incomes.

Since 1975, National Shelter has worked towards this goal by influencing government policy and action, and by raising public awareness about housing issues.

National Shelter's aim is to work towards every Australian having access to housing that is:

- affordable — people should not be living in poverty after they have met their housing costs
- adequate — everybody is entitled to housing that meets basic standards of decency and their own basic needs
- secure — people should not live under a threat of loss of home and shelter
- accessible — access to housing should be free from discrimination and conform with universal design principles, at a minimum.
- in the right place — housing should be located close to transport, services and support networks, job opportunities, and social and leisure activities
- able to meet their lifecycle needs — people have different housing needs at different stages of their lives, and housing should be available to meet these changing needs

National Shelter is supported by the work of State Shelters and members in all jurisdictions and its national member organisations, sponsors and associate members.

2. Overview

National Shelter welcomes the return of national leadership in the development of genuine and long-term housing policy in this country and is on the record commending the government's recent housing commitments including the establishment of the Housing Australia Future Fund, Housing Australia, the Housing Supply and Affordability Council ('the Council'), and the National Housing and Homelessness Plan ('the Plan').

The commitment by the government for the HAFF is to deliver 30,000 social and affordable homes over 5 years and allocate \$330 million for acute housing needs.

The returns on the HAFF in the first five years will also fund the following:

- \$200 million for the repair, maintenance, and improvements of housing in remote Indigenous communities
- \$100 million for crisis and transitional housing options for women and children fleeing domestic and family violence and older women on low incomes who are at risk of homelessness
- \$30 million to build more housing and fund specialist services for veterans who are experiencing homelessness or are at-risk of homelessness.

As well as the delivery of the commitments from the 2022 federal election, the government announced in October 2022 the National Housing Accord ('the Accord')ⁱ. The Accord aims to 'improve affordability by addressing Australia's housing supply challenges and enabling the delivery of more social and affordable housing' and has an aspirational target of 1million homes to be delivered over five years from 2024, and bringing together 'all levels of government, investors, and the residential development, building and construction sector to unlock quality, affordable housing supply over the medium term'. The Accord acknowledges that Australia has low levels of institutional investment in housing. The further 10,000 affordable homes are to be delivered through the Accord.

The Treasurer has also announced the Treasurer's Investor Roundtable to 'identify and unlock investment opportunity in national priority areas'ⁱⁱ. The first roundtable focused on housing including addressing barriers to investment within the housing sector, improving revenue streams and investor confidence, and identifying partnership opportunities.

The combination of the HAFF, Housing Australia, the Council, and the Accord are a framework of elements that have the opportunity provide a clear approach to addressing Australia's housing crisis, and a strategic direction to developing a healthier housing system that is more responsive and coordinated.

This is long overdue, as by almost every measure, Australia is facing a nationwide housing crisis with low private rental vacancy ratesⁱⁱⁱ, significant increases in private rental prices^{iv}, deteriorating rental affordability^v, house prices outstripping wages^{vi vii}, and increased homelessness^{viii}.

There has been a significant underinvestment in social and affordable housing comparative to increasing demand. The winding up of the National Rental Affordability Scheme (NRAS) means that approximately 25,000 affordable homes will be lost between 2023 and 2026 placing additional pressure on the lower end of the market^{ix}.

Recent research has demonstrated that by 2041 there will be 940,000 households with unmet housing needs^x. The 30,000 social and affordable dwellings to be delivered through the HAFF and the 10,000 affordable dwellings through the Accord are a significant first step towards meeting the need. However, it is imperative that the HAFF and institutional arrangements are designed to be able to deliver a pipeline of development that can adequately meet this demand, as well as create investor confidence.

3. Housing Australia Future Fund Bill 2023

Part 1 - Section 2A Objects of the Act and Section 4 Definitions

The legislation would benefit from a clear, consistent definitions of 'affordable housing', 'social housing' and 'acute housing'. The definition could include the income levels, proportion of income spent on housing costs, discount to market rents, and the mechanism for delivery (such as community housing organisations).

It would also be beneficial to confirm that affordable housing is affordable rental housing rather than housing that is affordable for purchase. This would be useful if for some reason the private sector is involved in the delivery of the HAFF, and ensure that there is an opportunity for housing delivered through the HAFF remains in perpetuity.

Part 2 – Division 3 – Credit of the amounts of the Housing Australia Future Fund Special Account

National Shelter welcomes the decision to invest the whole \$10billion in one single tranche into the Housing Australia Future Fund Special Account with the income generated utilised for grants.

While the legislation does make provision for further credits into the Housing Australia Future Fund Special Account, there is no commitment by government that this will occur.

A pipeline of ongoing investment is needed to deliver more than the 30,000 social and affordable homes already committed. We are concerned that once the funds are exhausted there will be a significant delay to the delivery of further social and affordable homes from the fund. Other jurisdictions, such as Queensland, have topped up their Housing Investment Fund reflecting the demand for additional social and affordable housing. The additional investment also reflects the impact of rising costs of building materials, labour, and interest rates on the construction sector. Topping up the fund is likely to be required to ensure that the government can meet its commitment to deliver 30,000 social and affordable homes during inflationary periods.

The legislation is not clear on whether payments will be made as upfront grants or availability payments over time. If payments are made as availability payments, the legislation is silent on whether these payments will be indexed to meet contractual obligations. An assurance is needed in the legislation that the fund is able to meet its future commitments.

Part 2 – Division 3 – Debits of the amounts of the Housing Australia Future Fund

The legislation states that the Housing Australia Future Fund Special Account can be debited in relation to costs and other obligations incurred by the Future Fund Board to manage the HAFF. National Shelter recommends that in the interests of transparency the reporting by the Future Fund include the amount of costs, and expenses debited against the HAFF.

Part 3 – Division 2 – Grants

It is not clear whether the payment of grants is an upfront grant or an availability payment. It is also not clear the processing of determining funds. The draft Explanatory Materials state the Council will have an advisory role in relation to the HAFF, however, it would be beneficial to have a clearer understanding of how funding will be determined and allocation. Ideally, it would be informed by an independent needs assessment and research. This could be undertaken by the National Housing Supply and Affordability Council and Housing Australia., and could also be informed by the Plan once developed.

While the HAFF has targets in relation to specific cohorts (women, children, First Nations people, and veterans) and maintenance of existing dwellings, a comprehensive needs assessment would also inform locations for the delivery of dwellings.

There is considerable discretion afforded to the Minister to around disbursements. An independent needs assessment and a clear, impartial process would also provide confidence that the allocations are based on evidence, and reduce the need for ad hoc payments by the Minister. It would be reasonably assumed that the Minister would be provided with recommendations and give final authorisation following a clear and impartial procurement process, rather than award grants outside of such a process. What is needed at this point in time is a supply of social and affordable housing based on evidence and program of investment that responds to articulated need.

Clarification is sought on who will deliver the housing funded by the HAFF. It is assumed based on the information available from the initial development of the fund that community housing organisations would be the primary delivery agent rather than the private sector. Community housing organisations (CHOs) have experience of leveraging funding in partnership with external finance, private developers, as well as government. The industry is subject to a national regulatory framework (NRSCH) and well represented across all states and territories. This would allow for the dwellings to remain in perpetuity as social and affordable housing stock, and where title is held, allow for ongoing portfolio expansion and growth, to meet future demand.

Part 3 – Division 4 – Channelling State/Territory grants through the COAG Reform Fund

Clarity is sought about the provision of grants via the HAFF to states and territories when there are existing mechanisms such as the National Housing and Homelessness Agreement (NHHA) for funds to the states and territories.

National Shelter is concerned that the provision of funds via the HAFF to states and territories may result in some states and territories reducing their commitments to social and affordable housing outside of the NHHA.

There is a clear role for the states and territories in the delivery of social and affordable housing, and this has also been defined through the Accord. States and territories can provide additionality to the HAFF in the form of land contributions, planning reform, infrastructure designations, and the inclusion of their own housing investment funds e.g. Queensland Housing Investment Fund (HIF).

Furthermore, the development of the National Housing and Homelessness Plan and a renegotiated NHHA, as well as research via the Council and Housing Australia provide an opportunity to articulate the role of states and territories more comprehensively in the delivery of social and affordable housing.

Part 5 – Annual limits on amounts debited from the HAFF special account

National Shelter seeks clarification on the rationale for the \$500million annual limit. It would be useful to understand if this limit is linked to financial control, anticipated return, or other reasons.

National Shelter notes that the first review is not scheduled to be completed by 31 December 2028. We recommend that the first review be brought forward with an interim review scheduled earlier to ensure that the fund is operating as well as intended, and for additional reviews to occur every three years instead of every five years.

Part 8 – Miscellaneous

64 – Delegation by the Minister

As Housing Australia is designated to be a housing agency responsible for the delivery of the HAFF, National Shelter recommends that the delegations by the Minister for Housing be expanded to other senior officials including Housing Australia.

65 - Review of operations of the Act

National Shelter recommends that the legislation require the Minister for Housing or other responsible minister report to parliament annually on the fund, particularly the outcomes being achieved referencing the objects of the legislation.

Reporting should include both housing outcomes as well as outputs, and consideration should be given to how the delivery of the HAFF, and its reporting, aligns with the commitment by the government on a wellbeing budget and measuring what matters.

As mentioned previously, it is recommended to bring forward the first review of the HAFF to ensure the annual limit of \$500million is appropriate, the fund is functioning as intended, and interim outcomes are being achieved.

4. Treasury Laws Amendment (Housing Measures No. 1) Bill 2023

National Shelter welcomes the expansion of the remit of the National Housing Finance and Investment Corporation (NHFIC) to become Housing Australia. A housing agency at the Commonwealth level is long overdue.

However, National Shelter recommends that the remit of Housing Australia is expanded to not just focus on the delivery of programs and other functions (finance, guarantees, capacity and research), but become a housing agency in the fullest sense of the term. Naming it a housing agency does not make it so.

This includes responsibility for strategic housing policy directions and coordination, being the secretariat for the Council, the development of the National Housing and Homelessness Plan, the lead agency of the National Housing Accord, and taking carriage for the connections with other agencies with significant influence on housing outcomes (including Infrastructure Australia, disaster management, the NDIS, among others).

A more explicit connection to the research functions of the National Housing Supply and Affordability Council would also be helpful to ensure that the approach by government to housing is more cohesive.

5. National Housing Supply and Affordability Council Bill 2023

National Shelter welcomes the establishment of the National Housing Supply and Affordability Council as an independent advisory body to the government on matters relating to housing supply and affordability. We see the standing up of such a body as long overdue to provide impartial advice to government on housing in Australia.

Part 2 Section 8(9) on the functions of the Council restrict the Council to working collaboratively with other levels of government or agencies on data only. There is no recognition of the need to work with other jurisdictions or agencies on other significant matters affecting housing.

With reference to clause 2 of the function of the Council, we recommend that the Council consider the performance of the housing market – not the housing sector. While this may seem particularly pedantic, National Shelter believes the Council ought to focus on the broader housing market and the factors that influence supply and affordability. Confining it to the ‘housing sector’ seems restrictive, in our view. We welcome that the Council has been provided with a wide remit to consider broader fiscal and economic matters that influence housing. We also encourage the inclusion of incomes and income support measures as a matter for consideration by the Council, particularly on the demand for housing and affordability.

As mentioned previously in this submission, National Shelter would like to see the secretariat function of the Council to be transferred to Housing Australia, rather than Treasury. This is a view shared by the other housing and homelessness peak and industry bodies.

We encourage the government to amend the provisions of the membership of the Council to ensure that the interests of First Nations people and housing organisations, low-income households, people with lived experience of homelessness, and rural and regional areas are well represented. This could include identified positions combined with relevant qualifications, skills or experience, that reflect Aboriginal and Torres Strait Islander housing organisations, housing and homelessness services, and/or experience in rural and regional locations.

While the National Housing and Homelessness Plan is only referenced in the bills, we strongly encourage government to bring forward legislation for the development of the plan. This would set out the long-term vision for housing in Australia, and clearly articulate the roles for Housing Australia and the Council in development, implementation and review of the plan. Alternatively, the current bills could be more explicit about the involvement of Housing Australia and the Council in the production of the national plan. Other countries, such as Canada (see ‘National Housing Strategy Act’), have gone so far as to legislate their housing strategies to ensure ongoing commitments transcend political terms in office and deliver new accountability measures through the federal parliament^{xi}.

National Shelter and the Shelter network look forward to working constructively with the government to contribute to the design, consultation and implementation of the National Housing and Homelessness Plan.

ⁱ <https://ministers.treasury.gov.au/sites/ministers.treasury.gov.au/files/2022-10/national-housing-accord-2022.pdf>

ⁱⁱ <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/treasurers-investor-roundtable>

ⁱⁱⁱ <https://www.domain.com.au/research/vacancy-rates-november-2022-1186725/>

^{iv} <https://www.domain.com.au/news/rent-prices-soar-to-record-highs-across-australias-capital-cities-1174319/>

^v <https://www.sgsep.com.au/projects/rental-affordability-index>

^{vi} <https://www.smh.com.au/property/news/one-graph-shows-why-it-s-so-hard-to-buy-a-house-even-in-a-downturn-20221130-p5c2kx.html>

^{vii} <https://everybodyshome.com.au/rental-surge-red-zones-revealed-as-nation-marks-homelessness-week/>

^{viii} <https://www.launchhousing.org.au/ending-homelessness/research-hub/australian-homelessness-monitor-2022>

^{ix} https://www.dss.gov.au/sites/default/files/documents/11_2022/september-2022-nras-quarterly-performance-report.pdf

^x <https://www.communityhousing.com.au/chia-media-release-housing-stress-could-envelope-one-million-households-by-2041/>

^{xi} <https://laws-lois.justice.gc.ca/eng/acts/n-11.2/FullText.html>