

# EXPOSURE DRAFT



EXPOSURE DRAFT (04/11/2022)

## **National Housing Finance and Investment Corporation Investment Mandate Amendment (Social and Affordable Housing) Direction 2022**

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I, Julie Collins, Minister for Housing, make the following direction.

Dated 2022

Julie Collins **[DRAFT ONLY—NOT FOR SIGNATURE]**  
Minister for Housing

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## 1 Name

This instrument is the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Social and Affordable Housing) Direction 2022*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsection 12(1) of the *National Housing Finance and Investment Corporation Act 2018*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *National Housing Finance and Investment Corporation Investment Mandate Direction 2018*

#### 1 Section 4

Insert:

*constitutional corporation* means a corporation to which paragraph 51(xx) of the Constitution applies.

*housing-enabling infrastructure*—see subsection 21A(2).

*housing-enabling infrastructure project*—see subsection 21A(1).

*housing-enabling infrastructure special purpose vehicle*—see subsection 22(2).

*local governing body* has the same meaning as in the *Local Government (Financial Assistance) Act 1995*.

*social or affordable housing project*—see subsection 21A(3).

*social or affordable housing special purpose vehicle*—see subsection 22A(2).

*the Act* means the *National Housing Finance and Investment Corporation Act 2018*.

#### 2 Section 4 (definition of *special purpose vehicle*)

Repeal the definition.

#### 3 Section 4

Insert:

*underlying eligible member*:

- (a) of a housing-enabling infrastructure special purpose vehicle—means a member of the housing-enabling infrastructure special purpose vehicle that is an entity mentioned in paragraphs 22(1)(a) to (f); or
- (b) of a social or affordable housing special purpose vehicle—means a member of the social or affordable housing special purpose vehicle that is an entity mentioned paragraphs 22A(1)(a) to (f).

#### 4 Section 4 (definition of *Underlying eligible member*)

Repeal the definition.

#### 5 Part 4 (simplified outline)

Repeal the simplified outline, substitute:

**The National Housing Infrastructure Facility**

The purpose of the NHIF is:

- (a) to overcome impediments to the provision of housing that are due to the lack of necessary infrastructure; and
- (b) to increase the availability of social and affordable housing.

The NHIF does this by providing finance for eligible infrastructure and housing projects that would not otherwise have proceeded, or that would only have proceeded at a much later date or with a lesser impact on new social or affordable housing.

## 6 Before section 22

Insert:

### 21A Housing-enabling infrastructure projects and social or affordable housing projects

- (1) A *housing-enabling infrastructure project* is a project that:
  - (a) would provide housing-enabling infrastructure; and
  - (b) would not itself provide housing; and
  - (c) would not provide community infrastructure, such as parks, day-care centres or libraries.
- (2) *Housing-enabling infrastructure* is:
  - (a) critical infrastructure to support new housing (particularly new affordable housing), including new or upgraded infrastructure for services such as water, sewerage, electricity, telecommunications or transportation; or
  - (b) site remediation works relating to new housing (particularly new affordable housing), including the removal of hazardous waste or contamination.
- (3) A *social or affordable housing project* is a project that would provide new social or affordable housing (whether or not the project would also provide other types of new housing).

## 7 Section 22 (at the end of the heading)

Add “for housing-enabling infrastructure projects”.

## 8 Subsection 22(1)

After “under the NHIF”, insert “for a housing-enabling infrastructure project”.

## 9 Paragraph 22(1)(b)

Omit “as defined in section 4 of the *Local Government (Financial Assistance) Act 1995*”.

## 10 Paragraphs 22(1)(c) and (d)

Omit “corporation to which section 51(xx) of the Constitution applies”, substitute “constitutional corporation”.

## 11 Paragraph 22(1)(g)

Before “special purpose vehicle”, insert “housing-enabling infrastructure”.

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## 12 Subsection 22(2)

Repeal the subsection, substitute:

- (2) An entity is a *housing-enabling infrastructure special purpose vehicle* if:
  - (a) it has a purpose of undertaking housing-enabling infrastructure projects; and
  - (b) at least one of its members is an entity mentioned in paragraphs (1)(a) to (f).

## 13 After section 22

Insert:

### 22A Eligible project proponents for social or affordable housing projects

- (1) To be eligible for finance under the NHIF for a social or affordable housing project, the project proponent must be:
  - (a) a State or Territory; or
  - (b) a local governing body; or
  - (c) a local government-owned corporation (other than a utility provider) that is a constitutional corporation; or
  - (d) a State government-owned corporation (other than a utility provider) that is a constitutional corporation; or
  - (e) a Territory government-owned corporation (other than a utility provider) [that is a constitutional corporation]; or
  - (f) a registered community housing provider that is a constitutional corporation; or
  - (g) a social or affordable housing special purpose vehicle that is a constitutional corporation.

Note: If the project proponent is a local governing body, the project may be financed only through a grant of financial assistance to a State or Territory: see subsection 24(6).

- (2) An entity is a *social or affordable housing special purpose vehicle* if:
  - (a) it has a purpose of undertaking social or affordable housing projects; and
  - (b) at least one of its members is an entity mentioned in paragraphs (1)(a) to (f).

## 14 Paragraphs 23(a) to (d)

Repeal the paragraphs, substitute:

- (a) both:
  - (i) is a housing-enabling infrastructure project; and
  - (ii) would be unlikely to proceed, or would be likely to proceed only at a much later date, or with a lesser impact on new affordable housing, without finance under the NHIF; or
- (b) both:
  - (i) is a social or affordable housing project; and
  - (ii) would be unlikely to proceed, or would be likely to proceed only at a much later date, or with a lesser impact on new social or affordable housing, without finance under the NHIF.



## **15 Paragraph 23A(1)(a)**

After “potential projects,”, insert “in each State and Territory”.

## **16 Paragraph 23A(1)(a)**

Omit “funding”, substitute “financing”.

## **17 Subsection 24(1)**

Repeal the subsection, substitute:

- (1) A project may be financed under the NHIF through:
  - (a) one or more loans; or
  - (b) if the project is a housing-enabling infrastructure project—one or more investments; or
  - (c) one or more grants; or
  - (d) any combination of any of the above.

## **18 Subsection 24(4)**

After “in relation to a”, insert “housing-enabling infrastructure”.

## **19 At the end of section 24**

Add:

*Financing local governing bodies for social or affordable housing projects*

- (6) If the project proponent for a social or affordable housing project is a local governing body, the project may be financed only through a grant of financial assistance to a State or Territory.

Note: A term or condition for the grant of financial assistance may be that the State or Territory make a loan, investment or grant to the local governing body.

## **20 Paragraph 25(1)(a)**

After “section 22”, insert “or 22A”.

## **21 Paragraph 25(2)(a)**

Repeal the paragraph, substitute:

- (a) if the project is a housing-enabling infrastructure project—the likely effect of the project on the supply and ongoing availability of affordable housing;
- (aa) if the project is a social or affordable housing project—the likely effect of the project on the supply and ongoing availability of social or affordable housing;

## **22 Paragraph 25(2)(h)**

Before “special purpose vehicle”, insert “housing-enabling infrastructure special purpose vehicle or a social or affordable housing”.

## **23 Paragraph 26(1)(b)**

Repeal the paragraph, substitute:

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## Schedule 1 Amendments

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- (b) if the project is a housing-enabling infrastructure project—the extent of any public benefit that would result from the housing-enabling infrastructure;
- (ba) if the project is a social or affordable housing project—the extent of any public benefit that would result from the new housing;

### 24 At the end of Part 4

Add:

### Division 3—General matters

#### 28A Quarterly reporting to Minister in relation to housing-enabling infrastructure projects and social or affordable housing projects

- (1) As soon as practicable after the end of:
  - (a) the 3 months starting on 1 January 2023; and
  - (b) each successive 3 months;the NHFIC must report to the Minister on the activities of the NHFIC under Divisions 1 and 2 during the 3 months.
- (2) Without limiting subsection (1), a report for 3 months must set out the following information in relation to each housing-enabling infrastructure project or social or affordable housing project that the NHFIC decided, during the 3 months, to finance under the NHIF:
  - (a) the project proponent of the project;
  - (b) the location of the project;
  - (c) the types of persons that would be assisted by the project;
  - (d) the relative amounts of:
    - (i) social housing; and
    - (ii) affordable housing; and
    - (iii) other housing;that would be provided by the project;
  - (e) information about the financing for the project under the NHIF, including:
    - (i) whether the financing is to be through a loan, grant or investment, or through a combination of 2 or more of these types of financing; and
    - (ii) details of each loan, grant or investment for the project;
  - (f) the level of financing for the project from sources other than the NHIF;
  - (g) the expected completion date of the project.
- (3) This section does not limit subsection 23A(2) (reports about the activities of the NHFIC in identifying suitable projects and promoting the NHIF).