



UNSW City Futures Research Centre



**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

City Futures Research Centre welcomes the opportunity to comment on the housing legislative package published by the Australian Government in December 2022. More importantly, the Centre applauds the policy aspirations embodied in the draft bills. Along with a range of related ALP election platform commitments also being progressed, these initiatives are testament to the Commonwealth Government's timely re-assertion of national leadership on housing. State and territory government commitments and actions are also vital in confronting Australia's mounting housing challenges. Federal leadership however remains a critical pre-condition for any significant and lasting progress in tackling the complex problems involved.

This submission is structured as follows. First, in the remainder of this initial section we summarise some of the key aspects of the housing policy challenge confronting Australian governments in the early 2020s, before highlighting our view that institutional reforms and coherent strategy are vital ingredients for tackling this situation. Second, building on this foundation we outline concerns about the detail of the proposed legislation and propose some recommendations for beneficial amendments. Third, we conclude the submission with a brief summary of our concerns.

Australia's housing policy challenge

After a decade of Commonwealth neglect, Australia's housing policy challenges are now all the more pressing. As shown by our own research, these including falling home ownership¹, high and rising rates of rental stress², and rising homelessness that has continued to outpace population growth³. These problems are of concern not only due to the impaired population welfare that results, but also because of their damaging impacts on national economic productivity⁴.

One area of particular disquiet that the package begins to address is the intensifying shortage of social and affordable rental housing affecting many parts of Australia. To a large extent this results from the growing failure of the private rental market to provide adequate and affordable housing for lower income households. The past two decades have seen a steady increase in the national deficit of private tenancies affordable to Australians in the lowest income quintile. Since 1996 this deficit has grown from 48,000 to 212,000⁵. In these circumstances, the near stagnation in the provision of social housing over the past 10 years⁶ has proved especially detrimental.

¹ Pawson, H., Martin, C., Lawson, J., Whelan, S. and Aminpour, F. (2022) Assisting first homebuyers: an international policy review, Final Report No. 381, Melbourne: AHURI <https://www.ahuri.edu.au/research/final-reports/381>

² Pawson, H., Milligan, V. & Yates, J. (2020) Housing Policy in Australia: A case for system reform; Singapore: Palgrave Macmillan

³ Pawson, H., Clarke, A., Parsell, C. and Hartley, C. (2022) Australian Homelessness Monitor 2022; Melbourne: Launch Housing https://cms.launchhousing.org.au/app/uploads/2022/12/AustralianHomelessnessMonitor_2022.pdf

⁴ Maclennan, D., Long, J., Pawson, H., Randolph, B., Aminpour, F. and Leishman, C. (2021) Housing: Taming the Elephant in the Economy; Sydney: UNSW https://cityfutures.be.unsw.edu.au/documents/644/Synthesis_report-final_version_12.06.pdf

⁵ Hulse, K., Reynolds, M, Parkinson, S., Nygaard, A. and Yates, J. (2019) The supply of affordable private rental housing in Australian cities: short and longer term changes. Final Report no 323; AHURI: Melbourne <https://www.ahuri.edu.au/research/final-reports/323> It should be noted that the overall number of households experiencing rental stress is much larger, due to the fact that substantial numbers of lower rent dwellings are occupied by higher income tenants.

⁶ Pawson, H. (2021) Social housing production continues to languish, while demand has soared; CityBlog, 23 January <https://blogs.unsw.edu.au/cityfutures/blog/2021/01/social-housing-production-continues-to-languish-while-demand-is-soaring/>

Confronting the policy challenge: the need for institutional reform as well as stepped-up investment

The minimal level of social housing construction over the past decade mainly reflects the reluctance of the former Commonwealth Government to recognise any responsibility for the situation, nor to approve additional expenditure necessary to address it. For this reason, the 2022 ministerial pledge to fund a new social and affordable housing construction program (mainly via the Housing Australia Future Fund) represents a crucial component of the government's wider program.

Expenditure commitments of this kind are indeed essential, albeit that there is a strong case for such pledges to be funded by re-designating housing subsidies currently misdirected within the system⁷. However, as argued in more detail elsewhere⁸, the declining performance of Australia's housing system is also attributable to a policymaking failure that, in turn, reflects a long-term deterioration and fragmentation of governmental capacity in this realm. Both at federal and state/territory levels, the past 25 years have seen the progressive disappearance and/or downgrading of ministerial housing portfolios and associated departments. Not only have aspects of housing policy been increasingly split across departments but there has been little if any effort to foster any system-wide analysis or coordinated policy development.

Administrative changes of this kind have damagingly eroded official housing policy domain knowledge and policymaking capacity within government⁹. This process has proceeded in parallel with an increasing tendency to view housing policy as a narrowly defined subset of welfare policy. Declining human resource capacity in relevant departments can be fairly portrayed as an aspect of the hollowing out of government widely seen across many policy fields, both domestically and in comparator countries¹⁰. However, a case can be made that this process has been particularly far-reaching as it has affected housing in Australia.

To tackle the problems of a complex system, strategic direction is essential

Because housing is a complex and interactive system, micro-measures targeting selected aspects of that system are liable to have minimal or even counter-productive impacts. Therefore, as argued elsewhere¹¹, housing logically demands a strategic (rather than an incremental or reactive) policymaking approach. For this reason, the new Commonwealth Government's pledge to formulate a National Housing and Homelessness Plan is another highly laudable component of its wider housing policy agenda.

Another key argument for a meaningful national plan or strategy is the benefit of policy coherence in consolidating momentum and ensuring durability for a housing reform agenda. Or, at the very least, reducing the risk that such an agenda quickly degrades due changes in Ministerial personnel and/or immediate government priorities. Here it is instructive to recall the last notable set of national housing policy initiatives: those enacted by the 2007-2010 Rudd Government. While beneficial in

⁷ Pawson, H. (2021) The Australian public purse is already pumping big money into housing – just not where it's needed; Guardian Australia, 24 May <https://www.theguardian.com/commentisfree/2021/may/24/the-public-purse-is-already-pumping-big-money-into-housing-just-not-where-its-needed>

⁸ Pawson, H., Milligan, V. & Yates, J. (2020) Housing Policy in Australia: A case for system reform; Singapore: Palgrave Macmillan

⁹ Milligan, V., & Tiernan, A. (2012). No Home for Housing: The Situation of the Commonwealth's Housing Policy Advisory Function. Australian Journal of Public Administration, 70(4), 391–407

¹⁰ Tingle, L. (2015) Political Amnesia: How we forgot how to govern; Quarterly Essay no. 60

¹¹ Pawson, H., Milligan, V. & Yates, J. (2020) Housing Policy in Australia: A case for system reform; Singapore: Palgrave Macmillan

themselves, these measures suffered from the absence of any strategic framing. This detracted from both their impacts and their durability.

2. Comments and recommendations on the draft legislation

In commenting on the proposed legislation, we refer to the Exposure Draft Explanatory Materials document. Paragraph number referencing relates to this paper. It is recognised that not all of the document's content is in fact embodied in the draft Bills themselves. Comments on such clauses are, we appreciate, more accurately described as observations on policy rather than law.

In the main, our concerns relate to the institutional architecture envisaged as being created through the package. As such, most of the comments relate to the section of the memorandum relating to the National Housing Supply and Affordability Council Bill.

Housing Australia role

Para 1.4. Program delivery will be guided by a package of reforms, including ... expanding the remit of the National Housing Finance and Investment Corporation (to be renamed Housing Australia) to deliver the Government's social and affordable housing programs.

Characterisation of Housing Australia as purely a 'delivery agency' is problematic. While strongly supporting the upgrading of NHFIC to form a national housing agency, named as such, we believe that this should have a wider remit to inform policymaking and to support the NHSAC. To build up vital housing policymaking expertise and domain knowledge within government it is essential that Housing Australia is treated accordingly.

National Housing and Homelessness Plan

Para 1.4. Program delivery will be guided by a package of reforms, including ... the National Housing and Homelessness Plan, which will set out the key short, medium and longer term reforms needed to improve housing and homelessness outcomes across the spectrum, including to make it easier for Australians to buy a home, easier to rent, and reduce homelessness.

In the absence of any published detail on the scope and ambition of the NHHP at this stage, it is encouraging that this passage refers to short, medium and longer term reform ambitions. It is, however, concerning that there is no explicit strategic underpinning for the NHHP within the legislative package. It is to be hoped that this does not indicate any lack of priority or status for this initiative. Statutory underpinning would not only confer importance, but would signify acknowledgement that the pledged 'Plan' represents a commitment to an ongoing process – i.e. recognising the permanency of need for national housing strategy. We argue that this should be legislated. Such provisions could usefully define, for example, the overarching purpose and scope of the strategy, as well as the nature and periodicity of its review and renewal. On this basis we would commend the Canadian Federal Government's action in establishing a legislative basis for Canada's 2017 National Housing Strategy¹².

¹² Government of Canada (2019) National Housing Strategy Act <https://laws-lois.justice.gc.ca/eng/acts/n-11.2/FullText.html>

NHSAC functions

Para 2.5. The [National Housing Supply and Affordability] Council's functions include ...monitoring and reporting on conditions in the housing sector that impact on home ownership, housing supply and affordability, rental affordability, homelessness, and the number of new social and affordable houses being built annually.

Firstly, we would strongly suggest that the list of functions included in this para (and the relevant clause in the legislation) includes 'advising on the NHHP'.

A second and more detailed point relates to the phrase 'conditions in the housing sector'. It would be good to clarify whether this refers to the physical condition of the housing stock. Or could it be more accurately worded as referring to 'conditions in the housing market'?

Para 2.5. The [National Housing Supply and Affordability] Council's functions include ...working collaboratively with other Commonwealth bodies, State, Territory and local governments and other stakeholders in the housing sector to support the collection and publication of nationally consistent data.

The list of collaborations could also usefully refer to 'relevant regulators' and official statistical agencies – to acknowledge the importance of the National Regulatory Scheme for Community Housing, the AIHW and the ABS in this respect.

NHSAC support function

*Para 2.38. Staff assisting the Council are Australian Public Service employees in the Treasury Department whose services are made available to the Council, by the **Secretary** of the Treasury Department, in connection with the performance of any of the Council's functions. These staff remain part of the Treasury Department and do not form part of the new statutory agency, for the purposes of the Public Service Act 1999 but are subject to the directions of the Council when performing services for the Council. [Definition of Secretary in sections 5 and 31 of the Housing Council Bill]*

Consistent with our view that Housing Australia should be designated to undertake a wider role, we believe that supporting/assisting the Council should be primarily delegated to Housing Australia, not Treasury. This will ensure that advisors are housing domain experts and will underpin the accumulation of housing domain expertise within Housing Australia, argued above as an important objective in itself.

Para 2.44 The [Council's Annual Report] will provide important insights into the key research outcomes the Council have found, and any findings, conclusions and recommendations that have been made as a result of this work. In particular, the report should contain an overview of the state of the housing sector in any given financial year, including details on the demand of housing supply and affordability of housing. [Subsection 10(2) of the Housing Council Bill]

Again, we argue that secretariat support for this function should be logically provided by Housing Australia.

NHSAC functions in relation to NHHP

Para 2.48. The Council also has an advisory function. The Council will provide independent advice to the Minister on the appropriate allocation of disbursements from the Housing

Australia Future Fund to the COAG Reform Account, Housing Australia Special Account and the Housing Australia Future Fund Payments Special Account. This advice should be consistent with the operation of the Bill. [Paragraphs 9(1)(c) and (d) of the Housing Council Bill]

This is the clause where NHSAC input into the NHHP could be usefully mentioned.

NHHP scope

Para 2.52. The matters the Council may consider in performing its functions include the performance of the housing sector, the need to a build strong evidence base, macro-prudential regulation, rental market regulation, taxation, urban land use and planning, climate change, building codes, changing demographics, social policy, the availability, quality and consistency of data, and improving housing outcomes for vulnerable groups. [Subsection 9(2) of the Housing Council Bill]

This is useful – and there should be some read-across to the scope of the NHHP. Crucially, this passage makes clear that the Council’s remit will span both housing affordability and housing condition/quality. This should be similarly reflected in the scope of the Plan.

Scope of Housing Australia research role

4.21 The Housing Australia Investment Mandate directs Housing Australia about the performance of these four functions. The activities that further these functions include ... the research function to support Housing Australia in the performance of its functions.

*4.34 Another function of Housing Australia is its **research function**, defined with reference to subsection 8(1D), which is used in conjunction with Housing Australia’s other functions, to ensure accurate and informed decisions are made in the performance of these functions.*

[Schedule 2, items 1 and 3, definition of ‘research function’ in section 5 and subsection 8(1D) of the Housing Australia Act]

We believe the wording of these clauses is too constraining. They should also specify that the Housing Australia research function can support 1. the NHSAC in its functions and 2. the NHHP.

3. Concluding comments

Most of our observations on the legislative package reflect a concern that the proposals could be enhanced in terms of their coherence, and that they could do more to avoid perpetuating the administrative fragmentation that is, on our analysis, a distinct source of recent housing policymaking failure.

A central theme of our critique is the need to more fully embrace the need for a permanent centre of housing policymaking and housing domain knowledge within government that can help to co-ordinate relevant decision-making across the many departments and agencies where housing-relevant powers are held. In part, this vision is inspired by the configuration of current and former national housing agencies in comparator countries, notably the Canada Mortgage and Housing Corporation (CMHC), the former Housing Corporation (England, 1964-2008) and the former Scottish Homes (1989-2001).

Specifically, we argue that:

- Housing Australia should be accorded a wider analytical and research role to inform policymaking and to support the NHSAC

- Housing Australia should be tasked with formulating the NHHP (in place of DSS), with co-ordinating NHHP implementation and review, with developing as well as implementing the Housing Accord, and with informing re-negotiation of the National Housing and Homelessness Agreement
- NHSAC functions should include an oversight/advisory role on the NHHP
- The NHHP should be ambitiously scoped as well as legislated.

While acknowledging that not all of these recommendations can be enacted through amendments to the proposed legislation, we believe that alterations to the draft Bills could give effect to some of them, while others would call for new legislation and/or policy development.