nsw Federation of Housing Associations inc

Submission: Proposed Federal tax incentives to encourage private and institutional investment in affordable housing – 29 September 2018

The NSW Federation of Housing Associations is the industry peak for community housing in NSW. Community housing providers (CHPs) manage over 30,000 tenancies across NSW and own $1.7b worth of social and affordable housing assets. CHPs accommodate a diverse population, although mainly households on very low incomes. The sector is set to grow further with the transfer of around 14,000 properties from public housing management taking place over the next three years.

The Federation advocates for greater investment in social and affordable housing both to respond to social needs but also recognising the contribution of a well-functioning housing system the broader economy. Housing costs that absorb a large share of incomes damage economic productivity through for example constraining consumer spending and, where one effect of high priced housing is to push workers away from job-rich locations, contributing to urban congestion.

The Federation has commissioned work to support the introduction of a financial intermediary to aggregate the sector's debt requirements and facilitate access to the bond market thus enabling provision of low-cost private finance. This project has informed the work of the Commonwealth Government's Affordable Housing Working Group and is reflected in the development of the National Housing Finance and Investment Corporation (NHIFC) as announced in the 2017 Federal budget. We are pleased to see the new consultation on this initiative announced on 22 September.

The Federation also welcomes the opportunity to comment on the Federal tax incentives to encourage private and institutional investment in affordable housing, as also proposed in the 2017 budget. This submission builds on the points raised in the consultation meeting held in Sydney on Thursday 21 September 2017. Our comments are mainly confined to implementation and administration issues rather than the efficacy and effectiveness of these mechanisms in securing additional affordable rental housing. That said, we do welcome any initiative that will help expand affordable rental housing investment and our members already have the expertise and interest to manage the additional units that may be secured through these two initiatives.

In the time made available for consultation we cannot guarantee all our members' views will be fully reflected in this submission. The document is also relatively brief and raises questions as well as making comment. We would welcome the opportunity for further involvement as the MIT initiative proceeds.

Sector Capacity

The NSW community housing industry has considerable expertise and experience in developing and managing social and affordable housing. Many Federation member CHPs manage properties leased from private owners under the state government's community-housing-leasing-program and a number play a similar role on behalf of investors attracted to the sector via the National Rental Affordability Scheme (NRAS). The tenant selection and tenancy/property management role envisaged for CHPs in this proposal is our members' core business.

The community housing industry is regulated by statute and operates to high standards. Its capacity for growth is only limited by the absence of the supporting mechanisms including funding available to develop new homes. A recently completed Australian Housing and Urban and Research Institute (AHURI) Inquiry into the capacity of the affordable housing industry provides a succinct overview of the community housing sector and is positive about its readiness to further expand.

The Federation also runs a performance and workforce benchmarking service and can provide aggregated data for the larger providers operating in NSW and some in other jurisdictions, should further evidence of 'industry capacity' be required.

The Federation is also finalising a report analysing the property development activity of the NSW sector and its future plans. This can be made available once completed.

Eligibility for affordable housing

There was considerable discussion at the consultation event about tenant eligibility assessment. NSW social and affordable housing eligibility requirements vary by program and are in certain respects quite complex. The link to the NSW Centre for Affordable Housing site sets out the criteria applied by program. Stipulating similar eligibility criteria to those existing in the relevant jurisdiction should simplify administration and also make it clearer for investors to understand the rental income they can expect to receive.

It will need to be clear whether the rent charged will be mandated at 30% of the tenant's gross income or 80% of market rent for the property or the lesser of both? This will have important implications for who can be housed. Clearly investors ('mums and dads' or MITS) will seek to maximise rent and this may compromise affordability for tenants. We appreciate that scope exists for CHPs to negotiate with investors about allocations within the eligibility criteria but clarity about government expectations would help.

Some members who responded to the consultation believe there needs to be flexibility in regards to the income eligibility criteria that are applied to recognise the high market rents prevalent in Sydney and surrounding locations. Under **NRAS** tenant eligibility rules the maximum amount a single person entering the program can earn is currently **$49,547** per annum.

That excludes a large number of households who are, at the same time, unable to afford market rents in high priced markets like Sydney. If you consider a single person earning **$75,000** could pay up to 30% of their income in rent for say a one bedroom unit in Sydney at $430 per week, then it is arguable that a higher gross income of up to $75,000 should be considered eligible in high value city locations. This does on the other hand pose a dilemma as CHPs may be pressured to let only to higher income cohorts at the expense of need.

One option would be to consider an approach which reflects the different costs of working/living in say the Greater Sydney area. This would enable the income eligibility level to be shifted upwards to allow for capture of 80% of market rent. This would mean that the eligibility for s single bedroom unit in Sydney could be adjusted up to say **$65,000** rather than **$49,500** for a single bedroom. This approach could allow the eligibility level to be adjusted differently to suit different markets.

We believe further discussion will be required to resolve this. Better understanding of investor motivations, and the target groups the Government wishes to see housed through the initiatives could inform this discussion. Has the Treasury examined whether the proposed concessions are likely to prove sufficient to attract individual investors and institutional investors in sufficient numbers? Will the capital gains tax discount be sufficient incentive where markets have peaked? What sort of return will investors expect and can this be delivered while rents remain affordable to those on lower incomes?

Is it assumed that the capital gain bonus in a pressurised market will be sufficient to offset the lower rental return that the investor will receive (as compared with letting a property at a market rent). Are investors clear about the management fees providers will charge?

With MITs there may be scope to specify that proportions of a Fund's portfolio are allocated to set numbers of households on low and moderate income bands.

At the consultation we spoke about how tenants would be identified. In NSW providers allocate to social housing from a centralised waiting list Housing Pathways. There is no centralised affordable housing list although the NSW Government has allocated funds to the Federation to develop a listing service. This is at the very early stages and the Government's scope is not yet finalised. In the meantime providers have established mechanisms to advertise properties and would use these to identify potential tenants for homes generated through the proposed tax incentives.

Administration/compliance costs – such as record keeping, reporting requirements and the annual 'certificate' to be provided by CHPs

The Federation appreciates that CHPs will need to keep records for compliance reporting and in principle has no objection to the certification and reporting proposals. We argued at the consultation that the reporting mechanism and certification process should be streamlined and that lessons should be learned from the overly bureaucratic compliance and reporting required for NRAS. Reporting and compliance costs will be priced into providers' management fees and in the end reduce the attractiveness of the return to investors.

We appreciate that the ATO will require information as part of its assessment of individual's taxation and it is with regard to the certification of tenant eligibility that there is scope for minimising the administrative burden on community housing providers.

The NSW community housing industry is subject to a strong regulatory regime (the National Regulatory System for Community Housing – NRSCH) that includes annual compliance assessments against seven performance standards, including probity. We encourage the Treasury to work with the relevant state Registrars to minimise overall regulatory and compliance burdens by placing reliance on the regulatory regime wherever possible.

Disclosure of information to state registrars about CHPs – the Commissioner of Taxation will be permitted to disclose information to registrars, if the Commissioner has information suggesting that a CHP should no longer be registered.

If a disclosure is in relation to a material breach which would otherwise place the provider's registration at risk, then permission to disclose this to the registrars would appear appropriate.

Increasing supply of affordable housing

We appreciate from the discussion at the consultation event that the Treasury has not forecast the additional affordable housing that might be generated from the two proposed measures. We appreciate the difficulties but an estimate by locations would be useful in terms of community housing providers business planning and whether to enter the market. For most a minimum number may be required to make a decision to enter the market.

At the consultation Treasury confirmed that MITs could take advantage of planning mechanisms such as inclusionary zoning (IZ) or voluntary planning agreements (VPAs) where this is state policy and, we assume, where any relevant additional criteria are met, such as targeting at specific income groups.

The Federation supports that properties transitioning out of NRAS should in principle be eligible.

Property standards

CHPs will be able to choose whether or not to accept the management of properties offered by investors. NRSCH regulators have clear expectations of the property standards required for all registered community housing providers, but it may also be useful for Treasury to ensure that's its guidance to investors includes statements about the necessity to meet property condition and amenity standards to avoid investor disappointment.

CHPs may refuse properties where demand is low, where overall affordability is questionable (i.e. where management fees are high), and where asset condition is poor.

CHP involvement

We welcome that only registered CHPs will be allowed to manage properties generated through these two initiatives. Registration is open to any entity – including for- profit providers – that meet regulatory criteria.

There are three categories (tiers) of registration indicating the scale and scope of the provider. The Federation believes that providers in all tiers should be considered eligible to manage MITs.

The National Register provides information about providers, but only of a minimal nature and possibly insufficient for investors, particularly MITs, to decide. In NSW the Government's development agency Landcom is in the later stages of developing a CHP panel which will allow the industry to record details of their operations. When introduced in 2018 this will give investors much more information for them to decide upon potential property managers.

Management issues

At the consultation event we raised concerns both about the length of time investors must let their property as affordable to gain the benefits and also the non-continuous nature of the period.

We strongly encourage the Treasury to reconsider these requirements. In terms of offering security to tenants we believe that at the least properties should be let continuously as affordable housing. To allow otherwise decreases tenant security and increases the risk that some investors will enter and leave the market when they perceive a benefit. While understandable from the investor perspective it is not community housing industry practice to let using short-term tenancies for the target households.

CHPs may offer incentives for a commitment to longer and / or continuous lettings periods as administration costs should be lower (less turnover), and they would thus be in a position to offer a lower management fee.

It may be useful for government to maintain a register of investors with information to allow providers to do their own due diligence checks.

Assessment

Is it envisaged that outcomes from the programs will be specified in order to assess and evaluate their effectiveness. We support inclusion of outcomes around additional supply, length of tenancies, household cohorts assisted etc.