# Submission by
# Ability First Australia Limited

# Review of the Operation of the National Housing Finance and Investment Corporation Act 2018

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# *Ability First Australia Limited*
# *Submission to the NHFIC Act Review*

Ability First Australia is pleased to have the opportunity to make a submission to the Review of the operation of the National Housing Finance and Investment Corporation Act 2018 (**the Review**).

Specifically, we wish to present a case to the Review which recommends broadening NHFIC's mandate to accommodate funding to registered providers of Specialist Disability Accommodation (**SDA**).

SDA:

- is a specialised class of housing designed to standards determined under the National Disability Insurance Scheme (**NDIS**), managed and governed by the National Disability Insurance Agency (**NDIA**);
- provides quality accommodation in which the disabled are cared for by Supported Independent Living (**SIL**) providers;
- SDA Providers are registered and audited by the NDIA and tenants are protected via the independent NDIS Quality and Safeguards Commission; and
- is arguably a class of community housing.

Under NHFIC's current mandate, NHFIC provides finance and services to not for profit Community Housing Providers (**CHP**) registered under the National Regulatory System for Community Housing (**NRSCH**). NRSCH is a State based registration and regulatory system. CHP's do not specifically provide appropriate housing for those living with disability as their focus has and continues to be in the provision of social and affordable housing.

The NDIS has increased community expectations for community housing that is designed for people with disabilities. SDA is specifically designed for people with more complex housing requirements, and the existing stock of community housing was not developed to meet the needs of this group. The Commonwealth Government has now committed funding for the development of SDA housing through a long-term rental stream (**SDA Funding**), however the additional costs for developing SDA are substantial, and funding is a major impediment to greater development.

SDA providers are appropriately registered, governed and audited under similar arrangements which apply to CHP providers (**SDA Providers**). NHFIC's governing legislation discriminates between SDA Providers with CHP registration and those without, notwithstanding that SDA is subject to and regulated under different legislation. Some CHP operators also provide SDA housing and may access NHFIC funding based on their CHP registration, while sole providers of SDA without CHP registration cannot access NHFIC funding which is vital to the development of this important sector. CHP registration is a complex process, is not applied consistently across all states and territories and diverts resources and funding from investment in SDA which is already appropriately regulated.

We believe that this asymmetry should be removed.

*Ability First Australia*

Ability First Australia is one of the largest not for profit strategic alliances between 14 of Australia's leading disability service providers. Our aggregated organisations employ over 14,000 staff and represent the interests of around $1.4 billion of support services to more than 92,000 people living with disabilities, their families, and carers.

We are a national body of leading disability service providers with member organisations in all states and territories. Our members have a long and trusted history, having supported people with disability for between 50 and 85 years. Each member operates independently to deliver services to people with disability.

We provide a national brand for promotion, awareness raising, cost efficiencies, advocacy and strategic alliances both domestically and globally. Our member organisations share information and best practice, benefit from economies of scale and are involved in research and learnings that benefit people with disability.

Over recent years, our members have built and acquired homes across Australia designed and completed to the specified standards required to accommodate people living with disability and in which that specific member provides Supported Independent Living Service (SIL) to its participants.

**As not for profit enterprises with limited access to capital, our members' ability to fund the chronic shortfall of suitable housing is very constrained**.

*SDA is an important element of Community Housing.*

Today, more than 28,000 people do not have access to appropriate accommodation which meets the needs of their respective disabilities. This need is a key driver of the NDIS to ensure qualifying participants are awarded SDA funding in their NDIS plans so that this SDA funding is applied directly to the provision of SDA. Specific segregation of SDA payments should assist SDA Providers attract funding to invest in the construction of homes and apartments designed for people living with disability. Despite this initiative, commercial financiers, and other investors such as superannuation funds, have yet to meet the demand for funding to expand the supply of SDA assets.

Much of this funding (including support services) was provided previously by state governments through Block Grants and other funding mechanisms. The NDIS now provides a significant proportion of funding for the provision of services provided by our members to NDIS participants. This funding is supplemented by charitable donations and other supported income services, such as NDIS funded supports, rent share of the disability support pension and in some limited cases, other Commonwealth Rent Assistance. Historically, SIL and housing largely have been linked, with SIL providers acquiring and or developing appropriate accommodation to house their customers for whom they provide care. In this model, the provision of SIL services is the dominant activity and the development and ownership of the property is essentially a by-product requiring different skills and resources.

This 'linked' model is inconsistent with the Government's objective, evidenced by its in-principle support for The Joint Standing Committee on the National Disability Insurance Scheme Report into Supported Independent Living recommendation 24, in which the Committee recommended that the

**NDIA** implement a mechanism to separate service delivery, tenancy management and support coordination for participants in SIL settings. The Government also recognised participants should be able to exercise choice and control over their NDIS supports without being limited by their choice of accommodation.

It is apparent that the take up of the NDIS SDA offering has not met initial expectations, and commercial providers of equity and debt are not yet comfortable with this asset class, its risks, and the ability to provide acceptable returns over the long term. The need for SDA has continued to grow and the shortfalls of appropriate housing have placed additional pressures on the Social and affordable housing sectors that the NDIS SDA offering was intended to address.

### *Limitations of a Linked Model*

Achievement of the Government's preference to separate SIL and SDA is limited by the current model and has some inherent inefficiencies. Evidence suggests:

- Status quo is **not meeting demand**. Providing SIL services generates an income stream which, together with the other assets and income of SIL providers, can support limited investment by providers in additional SDA accommodation. That broader revenue base may facilitate borrowing from commercial lenders for the purpose of investment in incremental accommodation. However, that borrowing must be supported by all assets of the relevant organisation, creating risks that the organisation is not necessarily experienced to manage. Nonetheless, the deficit in SDA accommodation is already substantial and continues to grow.
- The **combined model is inefficient** as resources required to develop and manage SDA properties are fundamentally different from those required to manage and provide SIL services
- **Funding is limited** for investment in additional SDA. The sector is reliant on private donations and charitable organisations and some limited commercial bank lending which is largely dependent on the financial strength of the entity seeking to invest in new accommodation.
- The **private sector is presently reluctant to finance** existing and new SDA properties without a broader income stream; or to assume the risks of construction, completion and establishing and maintaining tenancies sufficient to service any loans.
- **Large Superannuation funds do not presently invest** in SDA in any material way given their lack of familiarity with the sector. Further, it will take some time for this asset class to reach the scale necessary for inclusion in their strategic investment allocations.

### *Addressing these limitations*

We have established an entity, Ability First Australia Community Housing Limited, for the sole purpose of acquiring existing SDA assets first to create a seed portfolio, and second to acquire and develop substantial new additional SDA facilities over time. We have commenced discussions with several disability service providers regarding the purchase of existing SDA assets. If successful:

- Consolidating SDA assets into one entity will result in **improved efficiencies and lower costs** of maintaining and managing these properties.

- Aggregating existing properties would establish a broader revenue base which, over time, would **facilitate acceptable commercial financing and potentially attract long term superannuation fund investment.**
- Enables the development of **additional new SDA assets** together with refurbishment and upgrade of existing and legacy housing **–** one of the key objectives of the SDA funding commitment contained in the NDIS.
- Separation of the SIL and SDA activities would be **consistent with the Government's stated objective**.
- Allows highly qualified and experienced SIL providers to **focus on their core objective** in the provision of quality SIL services rather than the assets themselves.

### *A simple solution - How NHFIC might assist*

The Issues Paper described four main types of housing in Australia. While it may not represent a mainstream segment of the housing market, we believe that disability housing should be recognised as an important component of that market. In the second reading speech, the Assistant Minister to the Treasurer made the following statement…"*While housing is primarily a state responsibility, the Commonwealth Government nonetheless has an important role to play when it comes to addressing housing affordability and securing better outcomes for Australians, **particularly the most vulnerable***".

NHFIC's governing legislation essentially ties NHFIC's purpose to providing financial support solely for registered community housing providers (**CHP**). The NHFIC Act and the Investment Mandate Direction does not appear to accommodate disability housing unless that asset is owned by a CHP. A CHP is defined only by reference to state legislation and is not specific. State definitions are also inconsistent. One solution would be for SDA providers to apply for CHP registration. Yet, though the NRSCH is notionally a national scheme, several states do not subscribe to the national model. This would therefore require an SDA Provider to apply for CHP registration in multiple jurisdictions which is a costly, lengthy, and uncertain process. Further, CHP registration is not relevant to SDA which is governed by the NDIA pursuant to the requirements of the NDIS.

Additionally, the Registrars under the NRSCH, require an entity seeking registration as a CHP, to acquire community housing assets (ie. interpreted as social and affordable housing) which would significantly divert investment from additional specific and much needed SDA.

The **simple solution is to amend the NHFIC Act** to permit funding for disability housing to registered SDA Providers without requiring them to be registered CHPs. The decision to increase NHFIC's lending limit from $2 billion to $3 billion should provide sufficient capacity to provide some much-needed SDA funding.

*Why should NHFIC assist*

There are sound reasons why governments intervene in commercial markets when existing policy interventions and service delivery are not achieving the desired results. We believe that NHFIC's support for this sector would increase stakeholder interest and leverage private capital to achieve improved social outcomes. In the finance sector in which NHFIC operates, there are three important reasons for government intervention. These include addressing market failures, providing a demonstration role and crowding in private sector capital.

**Market Failure**: We have canvassed the commercial banking sector and the superannuation industry over the past 18 months without success.

SDA funding is a component of NDIS packages (presently legislated for a minimum of 20 years) which represents a very secure and stable income stream for the SDA Provider. Yet while some general interest has been shown by commercial lenders, no firm offer of finance has yet been made, nor has a detailed proposal progressed beyond a cursory internal review. NHFIC has however expressed interest in financing this asset class but requires its borrower to be a CHP and will not progress with detailed due diligence until this registration is well underway.

Our interactions with commercial banks have confirmed that their assessment of this proposition is largely consistent with their approach to conventional property finance rather than owner occupied home lending, with a dominant focus on the value of the real property security rather than the ability to service the debt over an acceptable long-term tenor.

Similarly, discussions with superannuation funds indicate little interest in this asset class, with lack of scale being a major deterrent.

We have provided an independently prepared comprehensive financial model to several potential financiers, based on existing assets, actual occupancy rates, revenues, and expenses. This analysis demonstrates the sound ability to service loans and/or generate an acceptable risk adjusted rate of return. We believe the lack of appetite to meet this need this is an example of market failure – and one which warrants Government intervention as an enabler to develop this new market.

**Demonstration Role**: Successful outcomes where governments support transactions in the absence of commercial funding can demonstrate financial viability and motivate private capital to participate. The Clean Energy Finance Corporation is an example where government funding has led, and commercial lenders have followed. Increased stock of established SDA, facilitated by increased availability of funding, will in our view then attract private investment. Initial funding would be returned to government to be recycled.

**Crowding in private capital**: Government willingness to provide finance where commercial financier appetite is insufficient may catalyse private market participation. Examples include the activities of Export Finance Australia and the Northern Australia Infrastructure Facility where co-financing is a common feature with government funding filling the financing gap.

***When governments intervene to address market failures and demonstrate the viability of new business opportunities, the private market often responds positively, and a competitive market develops. Enabling NHFIC to provide finance for SDA as a component of community housing, without the need to be a CHP, would demonstrate viability, facilitate private investment, and encourage competitive finance from commercial lenders – at minimal risk to government.***

*Limited Risks to Government*

The following factors mitigate the risk of investing in SDA:

- While tenants are primarily responsible for meeting their rental obligations, those obligations are essentially underwritten by the NDIS support payments they receive, and directly underwritten where that tenant receives approved SDA funding in their NDIS support plan.
- Occupancy is stable. Turnover is extremely low with residents remaining in their accommodation for many years or often for their lifetime. This is quite different from the general rental market where turnover is often high.
- Vacancies are rare and short term when they occur. There is a significant deficit of suitable SDA housing relative to the demand for such accommodation.

These characteristics would normally attract commercial finance. From our experience, commercial lenders analyse this type of financing requirement as a commercial property transaction, though an owner-occupied residential home purchase financing is a more relevant comparison. This commercially driven approach requires a significant equity contribution and loan terms of generally not more than 5 years. These constraints limit the ability to acquire or develop more SDA assets. As a not-for-profit organisation, it is particularly challenging to source the capital this model requires.

Consistent with the rules applying to CHP's, Government may wish to consider limiting access to NHFIC funding for SDA to not-for-profit organisations.

Should NHFIC be empowered to provide finance to NDIA registered SDA Providers on similar terms to that which CHP's are accessing funding, we and other similar qualifying and governed organisations would be able to develop much needed SDA assets, potentially relieving the Government of a growing need to accommodate some of the most vulnerable Australians.

The risk to Government would be no greater, and likely somewhat less than NHFIC's existing exposure to the CHP sector.

*Material Benefits for Government*

We expect our proposal would offer a net benefit and represent a cost-effective delivery mechanism for Government to deliver on intended outcomes. Specifically, it:

- Facilitates investment in new and refurbished community housing specifically designed for those living with disability.
- Addresses the need to raise competitive finance to fund much-needed shortfall in SDA assets.
- Relieves pressure on other parts of the public health system – eg. young people with disability living in nursing homes and hospitals.
- Complements existing funding of SDA rental contributions from the NDIS.
- Motivates private financiers to participate in this underfunded sector.
- Leverages available charitable contributions.
- Provides protection to some very disadvantaged Australians.

*Conclusion*

Our submission draws Government's attention to the following:

- There is a significant and growing deficit in appropriate housing for disabled Australians.
- Provision of SDA is heavily reliant on donations and charitable foundations.
- Despite the Government's commitment to provide a long-term SDA rental streams, access to commercial debt and equity is extremely limited.
- NHFIC Act and Investment Mandate discriminates between SDA Providers with CHP registration and those without, denying access to funding for the latter.
- There is a simple and ready solution with minimal risk but significant benefits to Government, which should catalyse private market participation in this critical sector.

This Review requires consideration of potential limited amendments to the Act. In this context, we believe that the expansion of NHFIC's mandate to include SDA funding on the basis proposed is consistent with NHFIC's broader purpose, is an appropriate amendment for Government to consider and we strongly encourage Government to do so.