

EXPOSURE DRAFT

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

National Housing Supply and Affordability Council Bill 2023

No. , 2023

(Treasury)

**A Bill for an Act to establish the National Housing
Supply and Affordability Council, and for related
purposes**

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1 **A Bill for an Act to establish the National Housing**
2 **Supply and Affordability Council, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act is the *National Housing Supply and Affordability Council*
9 *Act 2023*.

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Part 1 Preliminary

Section 2

1 **2 Commencement**

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

6

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	1 July 2023.	1 July 2023

7

Note: This table relates only to the provisions of this Act as originally enacted.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

8

9

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

13 **3 Simplified outline of this Act**

14

This Act establishes the National Housing Supply and Affordability Council as an independent advisory body to the Commonwealth Government on matters relating to housing supply and affordability.

15

16

17

18 **4 Object**

19 The object of this Act is to establish an independent advisory body
20 to advise the Commonwealth Government on matters relating to
21 housing supply and affordability.

22 **5 Definitions**

23

In this Act:

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Preliminary **Part 1**

Section 5

1 ***appointed member*** means a member other than the member that is
2 a Deputy Secretary.

3 ***Chair*** means the Chair of the National Housing Supply and
4 Affordability Council.

5 ***Deputy Chair*** means the Deputy Chair of the National Housing
6 Supply and Affordability Council.

7 ***Deputy Secretary*** means a Deputy Secretary of the Department.

8 ***member*** means a member of the National Housing Supply and
9 Affordability Council and includes:

- 10 (a) the Chair; and
11 (b) the Deputy Chair; and
12 (c) the Deputy Secretary who is primarily responsible for
13 housing policy matters.

14 ***Secretary*** means the Secretary of the Department.

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Part 2 The National Housing Supply and Affordability Council

Section 6

Part 2—The National Housing Supply and Affordability Council

6 Simplified outline of this Part

The National Housing Supply and Affordability Council is established as an independent advisory body.

The Council's functions include:

- (a) reporting to the Minister on matters relating to housing supply and affordability, on the Council's own initiative and on request by the Minister; and
- (b) advising the Minister on matters relating to housing supply and affordability being considered at intergovernmental forums involving the Commonwealth; and
- (c) advising the Minister in relation to the total amount of grants of financial assistance to be made under the *Housing Australia Future Fund Act 2023*, and the total amount of payments to be made under paragraph 47C(1)(b) of the *Housing Australia Act 2018* to Housing Australia, in a financial year.

The Council must annually report on its research into housing supply and affordability.

7 The National Housing Supply and Affordability Council

- (1) The National Housing Supply and Affordability Council is established by this section.
- (2) For the purposes of paragraph (a) of the definition of **Department of State** in section 8 of the *Public Governance, Performance and Accountability Act 2013*, the National Housing Supply and Affordability Council is prescribed in relation to the Department.

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1 Note: This means that the members are officials of the Department for the
2 purposes of the *Public Governance, Performance and Accountability*
3 *Act 2013*.

4 **8 Membership**

5 The National Housing Supply and Affordability Council consists
6 of the following members:

- 7 (a) the Chair;
- 8 (b) the Deputy Chair;
- 9 (c) the Deputy Secretary who is primarily responsible for
10 housing policy matters;
- 11 (d) 4 other appointed members.

12 **9 Functions**

13 (1) The National Housing Supply and Affordability Council has the
14 following functions:

- 15 (a) to report to the Minister on the following:
 - 16 (i) any matters that the Council considers have the potential
17 to materially impact housing supply and affordability;
 - 18 (ii) specific matters relating to housing supply and
19 affordability, as requested by the Minister;
- 20 (b) to advise the Minister on matters relating to housing supply
21 and affordability being considered at intergovernmental
22 forums involving the Commonwealth;
- 23 (c) to advise the Minister in relation to the total amount of grants
24 of financial assistance to be made under subsections 18(1)
25 and (3) of the *Housing Australia Future Fund Act 2023* in a
26 financial year;
- 27 (d) to advise the Minister in relation to the total amount of
28 payments to be made under paragraph 47C(1)(b) of the
29 *Housing Australia Act 2018* to Housing Australia in a
30 financial year;
- 31 (e) to undertake research on matters relating to housing supply
32 and affordability for the purposes of giving reports referred

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Part 2 The National Housing Supply and Affordability Council

Section 9

- 1 to in paragraph (a) or advice referred to in paragraphs (b) to
2 (d), including by:
- 3 (i) monitoring conditions in the housing sector that impact
4 housing supply and affordability, including in relation to
5 home ownership, rental affordability, homelessness and
6 the number of new social and affordable houses being
7 built annually; and
- 8 (ii) working collaboratively with other Commonwealth
9 bodies, State, Territory and local governments and other
10 stakeholders in the housing sector or homelessness
11 sector to support the collection and publication of
12 nationally consistent data on housing supply and
13 affordability and on demand for affordable housing;
- 14 (f) any other function conferred by this Act or any other law of
15 the Commonwealth;
- 16 (g) any other function that is incidental or conducive to the
17 performance of any of the above functions.
- 18 (2) Without limiting subsection (1), the Council may consider the
19 following matters when performing its functions:
- 20 (a) the performance of the housing sector;
- 21 (b) the need to build a strong evidence base to support advice on
22 housing supply and affordability matters, including for the
23 purposes of assessing the value for taxpayers of
24 Commonwealth, State, Territory and local government
25 investment in the housing sector;
- 26 (c) the impacts of the following on housing supply and
27 affordability and on the demand for affordable housing:
- 28 (i) credit conditions;
- 29 (ii) taxation;
- 30 (iii) macro-prudential regulation;
- 31 (iv) rental market regulation;
- 32 (v) other regulation of the housing sector, such as in
33 relation to land use, planning, zoning and building
34 codes;
- 35 (vi) climate change;
- 36 (vii) demographic change;

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- 1 (viii) social policy;
- 2 (d) the availability, quality and consistency of data on housing
- 3 supply and affordability and on demand for affordable
- 4 housing and how the data could be improved by:
- 5 (i) consulting widely with, and drawing on expertise from,
- 6 other Commonwealth bodies, State, Territory and local
- 7 governments and other stakeholders in the housing
- 8 sector or homelessness sector; and
- 9 (ii) building on the research of those bodies, governments
- 10 and stakeholders and other bodies that undertake
- 11 research into housing supply and affordability;
- 12 (e) the important role intergovernmental forums play in
- 13 promoting cooperation between the Commonwealth and the
- 14 States and Territories to improve housing supply and
- 15 affordability, including cooperation to improve the
- 16 availability, quality and consistency of data on housing
- 17 supply and affordability and on demand for affordable
- 18 housing;
- 19 (f) the need to improve housing outcomes for vulnerable groups;
- 20 (g) the need to ensure climate resilience in housing supply.

21 **10 Annual report**

- 22 (1) Each financial year, the National Housing Supply and
- 23 Affordability Council must report to the Minister on the research
- 24 into housing supply and affordability undertaken by the Council in
- 25 that year.
- 26 (2) A report under subsection (1) for a financial year must include:
- 27 (a) an overview of the state of the housing sector in the financial
- 28 year, including the demand for, supply of and affordability of
- 29 housing; and
- 30 (b) an outline of the research undertaken by the Council in the
- 31 financial year and any findings, conclusions or
- 32 recommendations made as a result of that research.
- 33 (3) The report must be:

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Part 2 The National Housing Supply and Affordability Council

Section 11

- 1 (a) given to the Minister no later than 10 months after the end of
2 the financial year; and
3 (b) published on the Council's website.

4 **11 Minister may request report**

- 5 (1) The Minister may request the National Housing Supply and
6 Affordability Council to undertake research and report on a
7 specific matter relating to housing supply and affordability.
- 8 (2) The Minister may include in such a request terms of reference
9 (including time frames) for the research and report.
- 10 (3) The Council must comply with such a request.
- 11 (4) If such a request is made in writing, the request is not a legislative
12 instrument.
- 13 (5) The Minister may withdraw or amend such a request at any time
14 before the Council reports to the Minister.

15 **12 Reports may be published**

- 16 The National Housing Supply and Affordability Council may
17 publish a report given to the Minister:
- 18 (a) as requested under subsection 11(1) by the Minister; or
19 (b) on the Council's own initiative in performing the function in
20 subparagraph 9(1)(a)(i).

21 **13 Powers**

22 The National Housing Supply and Affordability Council has power
23 to do all things necessary or convenient to be done for or in
24 connection with the performance of its functions.

25 **14 Independence**

26 Subject to this Act and any other Act, the National Housing Supply
27 and Affordability Council:

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The National Housing Supply and Affordability Council **Part 2**

Section 14

- 1 (a) has complete discretion in performing or exercising the
2 Council's functions or powers; and
3 (b) is not subject to direction from anyone when doing so.

4 Note: The Council must comply with a request under subsection 11(1) to
5 undertake research and report on a specific matter.

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Part 3 Decision-making

Section 15

1 Part 3—Decision-making

2

3 15 Simplified outline of this Part

4

The National Housing Supply and Affordability Council must hold meetings for the efficient performance of its functions.

5

6

Questions arising at meetings are to be determined by a majority of the votes of the appointed members present and voting

7

8 16 Convening meetings

9

- (1) The National Housing Supply and Affordability Council must hold such meetings as are necessary for the efficient performance of its functions.

10

11

12

Note: For example, the Council must hold a meeting in order to determine that a report be given to the Minister. Such a determination requires a majority of the votes of the appointed members present and voting at the meeting: see section 19.

13

14

15

16

- (2) The Chair:

17

(a) may convene a meeting at any time; and

18

(b) must convene at least 6 meetings each financial year; and

19

(c) must convene a meeting within 30 days after receiving a written request to do so from another appointed member.

20

21 17 Presiding at meetings

22

- (1) The Chair of the National Housing Supply and Affordability Council must preside at all meetings at which the Chair is present.

23

24

- (2) If the Chair is not present at a meeting but the Deputy Chair is present, the Deputy Chair must preside at the meeting.

25

- 1 (3) If neither the Chair nor the Deputy Chair is present at a meeting,
2 the appointed members present must appoint one of themselves to
3 preside at the meeting.

4 **18 Quorum**

- 5 (1) At a meeting of the National Housing Supply and Affordability
6 Council, a quorum is constituted by 4 appointed members.
- 7 (2) However, if:
- 8 (a) an appointed member is required by rules made for the
9 purposes of section 29 of the *Public Governance,*
10 *Performance and Accountability Act 2013* not to be present
11 during the deliberations, or to take part in any decision, of the
12 Council with respect to a particular matter; and
- 13 (b) when the appointed member leaves the meeting concerned
14 there is no longer a quorum present;
15 the remaining appointed members at the meeting constitute a
16 quorum for the purpose of any deliberation or decision at that
17 meeting with respect to that matter.

18 **19 Voting at meetings**

- 19 (1) A question arising at a meeting of the National Housing Supply
20 and Affordability Council is to be determined by a majority of the
21 votes of the appointed members present and voting.
- 22 (2) The person presiding at a meeting of the Council has a deliberative
23 vote and, if the votes are equal, a casting vote.

24 **20 Conduct of meetings**

25 The National Housing Supply and Affordability Council may,
26 subject to this Act, regulate proceedings at its meetings as it
27 considers appropriate.

28 Note: Section 33B of the *Acts Interpretation Act 1901* contains further
29 information about the ways in which members may participate in
30 meetings.

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Part 4 Members, staff and consultants

Division 1 Simplified outline of this Part

Section 21

1 **Part 4—Members, staff and consultants**

2 **Division 1—Simplified outline of this Part**

3 **21 Simplified outline of this Part**

4 The members of the National Housing Supply and Affordability
5 Council are appointed by the Minister, other than the member who
6 is a Deputy Secretary.

7 The Council is assisted by APS employees in the Department
8 whose services are made available by the Secretary. The Secretary
9 may engage consultants to assist the Council.

1 **Division 2—Members**

2 **22 Appointment**

3 (1) Appointed members are to be appointed by the Minister by written
4 instrument.

5 Note 1: An appointed member may be reappointed, subject to subsection
6 23(2): see section 33AA of the *Acts Interpretation Act 1901*.

7 Note 2: The member that is a Deputy Secretary is not an appointed member:
8 see the definition of *appointed member* in section 5.

9 (2) A person is not eligible for appointment as an appointed member
10 unless the Minister is satisfied that the person has:

- 11 (a) substantial experience, expertise or qualifications; and
12 (b) significant standing;

13 in at least one of the following fields:

- 14 (c) economics;
15 (d) urban development;
16 (e) residential construction;
17 (f) urban planning;
18 (g) demography;
19 (h) social housing;
20 (i) social policy;
21 (j) housing and homelessness policy;
22 (k) regulation, taxation or government policy relating to housing.

23 (3) The Minister must:

- 24 (a) appoint one appointed member to be the Chair; and
25 (b) appoint one appointed member to be the Deputy Chair.

26 (4) An appointed member holds office on a part-time basis.

27 **23 Period of appointment**

28 (1) An appointed member holds office for the period specified in the
29 instrument of appointment. The period must not exceed 4 years.

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Part 4 Members, staff and consultants

Division 2 Members

Section 24

- 1 (2) A person must not hold office as an appointed member for a total
2 of more than 8 years.

3 **24 Acting appointments**

4 *Acting Chair*

- 5 (1) The Deputy Chair is to act as the Chair:
6 (a) during a vacancy in the office of Chair (whether or not an
7 appointment has previously been made to the office); or
8 (b) during any period, or during all periods, when the Chair:
9 (i) is absent from duty; or
10 (ii) is, for any reason, unable to perform the duties of the
11 office.

12 Note: For rules that apply to persons acting as the Chair, see section 33A of
13 the *Acts Interpretation Act 1901*.

14 *Acting Deputy Chair*

- 15 (2) The Minister may, by written instrument, appoint an appointed
16 member to act as the Deputy Chair:
17 (a) during a vacancy in the office of Deputy Chair (whether or
18 not an appointment has previously been made to the office);
19 or
20 (b) during any period, or during all periods, when the Deputy
21 Chair:
22 (i) is absent from duty; or
23 (ii) is, for any reason, unable to perform the duties of the
24 office.

25 Note: For rules that apply to acting appointments, see sections 33AB and
26 33A of the *Acts Interpretation Act 1901*.

27 **25 Remuneration**

- 28 (1) An appointed member is to be paid the remuneration that is
29 determined by the Remuneration Tribunal. If no determination of
30 that remuneration by the Tribunal is in operation, the appointed

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1 member is to be paid the remuneration that is prescribed under
2 subsection (4).

3 (2) An appointed member is to be paid the allowances that are
4 prescribed under subsection (4).

5 (3) This section has effect subject to the *Remuneration Tribunal Act*
6 *1973*.

7 (4) The Minister may, by legislative instrument, prescribe:

8 (a) remuneration for the purposes of subsection (1); and

9 (b) allowances for the purposes of subsection (2).

10 **26 Leave**

11 The Minister may grant leave of absence to any appointed member
12 on the terms and conditions that the Minister determines.

13 **27 Terms and conditions**

14 An appointed member holds office on the terms and conditions (if
15 any) in relation to matters not covered by this Act that are
16 determined by the Minister.

17 **28 Disclosure of interests**

18 (1) A disclosure by an appointed member under section 29 of the
19 *Public Governance, Performance and Accountability Act 2013*
20 (which deals with the duty to disclose interests) must be made to
21 the Minister.

22 (2) Subsection (1) applies in addition to any rules made for the
23 purposes of that section.

24 (3) For the purposes of this Act and the *Public Governance,*
25 *Performance and Accountability Act 2013*, the appointed member
26 is taken not to have complied with section 29 of that Act if the
27 appointed member does not comply with subsection (1) of this
28 section.

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Part 4 Members, staff and consultants

Division 2 Members

Section 29

1 **29 Resignation**

- 2 (1) An appointed member may resign the appointed member's
3 appointment by giving the Minister a written resignation.
- 4 (2) The resignation takes effect on the day it is received by the
5 Minister or, if a later day is specified in the resignation, on that
6 later day.

7 **30 Termination of appointment**

- 8 (1) The Minister may terminate the appointment of an appointed
9 member:
- 10 (a) for misbehaviour; or
11 (b) if the appointed member is unable to perform the duties of
12 the appointed member's office because of physical or mental
13 incapacity.
- 14 (2) The Minister may terminate the appointment of an appointed
15 member if:
- 16 (a) the appointed member:
- 17 (i) becomes bankrupt; or
18 (ii) applies to take the benefit of any law for the relief of
19 bankrupt or insolvent debtors; or
20 (iii) compounds with the appointed member's creditors; or
21 (iv) makes an assignment of the appointed member's
22 remuneration for the benefit of the appointed member's
23 creditors; or
- 24 (b) the appointed member is absent, except on leave of absence,
25 from any 4 meetings of the National Housing Supply and
26 Affordability Council in any 12 month period; or
- 27 (c) the appointed member fails, without reasonable excuse, to
28 comply with section 28 of this Act or with section 29 of the
29 *Public Governance, Performance and Accountability Act*
30 2013 (which deals with the duty to disclose interests) or rules
31 made for the purposes of that section.

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Members, staff and consultants **Part 4**

Staff and consultants **Division 3**

Section 31

1 **Division 3—Staff and consultants**

2 **31 Arrangements relating to staff of the Department**

3 (1) The staff assisting the National Housing Supply and Affordability
4 Council are to be APS employees in the Department whose
5 services are made available to the Council, by the Secretary, in
6 connection with the performance of any of the Council's functions
7 or the exercise of any of the Council's powers.

8 (2) When performing services for the Council, the staff are subject to
9 the directions of the Council.

10 **32 Consultants**

11 The Secretary may, on behalf of the Commonwealth, engage
12 consultants to assist in the performance of any of the National
13 Housing Supply and Affordability Council's functions or the
14 exercise of any of the Council's powers.

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Part 5 Review

Section 33

1 **Part 5—Review**
2

3 **33 Simplified outline of this Part**

4

A review of the effectiveness of this Act must be undertaken as 5 soon as possible after 1 July 2026.
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6 **34 Review**

- 7 (1) The Minister must cause a review of the effectiveness of this Act to
8 be undertaken as soon as possible after 1 July 2026.
- 9 (2) The persons undertaking the review must give the Minister a
10 written report of the review as soon as possible after the review is
11 completed.
- 12 (3) The Minister must cause a copy of the report of the review to be
13 tabled in each House of the Parliament within 15 sitting days of
14 that House after the report is given to the Minister.