CONSCIOUS
INVESTMENT MANAGEMENT

SUBMISSION ON AMENDMENTS TO HOUSING AUSTRALIA'S INVESTMENT MANDATE DIRECTION

NOVEMBER 2023

ACKNOWLEDGMENT OF COUNTRY

Conscious Investment Management acknowledges Traditional Owners of Country throughout Australia. We pay our respects to Aboriginal and Torres Strait Islander Elders past and present.

We acknowledge that many of our investments exist on traditional lands where Aboriginal and Torres Strait Islander people have lived for many thousands of years. We honour their ongoing connection to these lands and strive to respect the traditional custodians in our work.

EXECUTIVE SUMMARY

Conscious Investment Management ("CIM") is pleased to provide this submission on the exposure draft amendments to the National Housing Finance and Investment Corporation Investment Mandate Direction 2018, to be renamed the Housing Australia Investment Mandate Director 2018 ("Investment Mandate").

CIM is the largest dedicated impact investment fund manager, focused on social and affordable housing in Australia. We have invested over $300M in impact investments to date, with the support of over 750 investors, including institutional investors.

We have a unique 'impact partner' investment model, whereby we fund the acquisition or development of properties that are then managed and operated by Community Housing Providers ("CHPs") for the benefit of government and the people they support.

CIM has partnered with CHPs on three social and affordable housing projects to date, including partnering with (1) the Victorian Government and HousingFirst to fund the acquisition of up to 307 new social and affordable dwellings in Melbourne; (2) the NSW Government and Bridge Housing to fund the acquisition of up to 90 social housing dwellings in Sydney; and (3) Melbourne City Mission to fund up to 15 properties to house vulnerable young people.

We welcome the recent Federal Budget which provides a platform to stimulate institutional investment in the social and affordable housing sector, in particular through the Housing Australia Future Fund ("HAFF") and the National Housing Accord ("Housing Accord") programs. We commend the commitment of the Commonwealth to deliver 40,000 new social and affordable homes over the next five years, and to bring together the community housing and institutional investment market in pursuit of these objectives.

We have substantial experience and lessons learned in bringing private capital into social and affordable housing projects and express our thanks to Treasury for the opportunity to consult on the Investment Mandate.

Our submission is structured in two sections:

- **Section 1:** provides commentary and requests specific changes to the Draft Amendments to Housing Australia's Investment Mandate Direction; and
- **Section 2:** provides recommendations on the procurement processes for HAFF and Housing Accord, centred around releasing market guidance on the Commonwealth's preferred funding models, property locations and attributes, and pricing.

We look forward to supporting the Government in delivering the HAFF and Housing Accord programs. We would welcome the opportunity to discuss this submission with you, and to share ideas on how to structure and procure these initiatives to promote investment from the institutional investment market, while minimising the risks that may come from private capital involvement in these sectors.

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1. COMMENTARY ON THE DRAFT AMENDMENTS TO HOUSING AUSTRALIA'S INVESTMENT MANDATE DIRECTION

Our suggested amendments and clarifications on the Draft Amendments to Housing Australia's Investment Mandate Direction ("Exposure Draft") are outlined in the table below. References to "the Act" in this submission are to the *Housing Australia Act 2018* (Cth).

Part	Section	Commentary
Part 1	Section 4 "Definitions"	Insert a new definition: *"Affordable Housing means housing whereby the rent charged to tenants is no more than 75% of market rent."* Capitalise the words *"affordable housing"* to *"Affordable Housing"* throughout the instrument. We propose this definition in consideration of the various ways that affordable housing is defined by jurisdictions and market participants across Australia. We are open to alternative definitions of this term.
Part 1	Section 4 "Definitions"	Insert a new definition: *"Social Housing means housing whereby the rent (excluding any Commonwealth Rent Assistance) charged to tenants is no more than 30% of their income (to a maximum of 75% of market rent)."* Capitalise the words *"social housing"* to *"Social Housing"* throughout the instrument. We propose this definition in consideration of the various ways that social housing is defined by jurisdictions and market participants across Australia. We are open to alternative definitions of this term.
Part 1	Section 4 "Definitions"	We understand that several industry bodies and CHPs are recommending the addition of a definition of "*Registered Community Housing Provider"*. We also understand that some respondents are recommending that eligible project proponents are required to be not-for-profit entities registered with the ACNC. We support both recommendations and will be led by the sector and Government on how these concepts should be defined.
Part 4A	Various	The fact sheet states that *"Grants can either take the form of upfront capital to support project financing at the project delivery stage, or ongoing service payments for making housing available on agreed terms ("availability payments").*

		The Exposure Draft however only references 'loans and grants' and does not explicitly contemplate that grants may take different forms, for example being made as 'availability payments'. For example, Section 28D, states that Housing Australia can only make loans or grants which comply with paragraph 8(1A) (a), (b) or (c) of the Act. Similarly, Section 28H states that HAFF projects may be financed through loans, grants or a combination thereof. While we acknowledge that the Act states that the terms on which financing is made available will be agreed between Housing Australia and the project proponent, we request that clarifying language be included to note that a grant can be payable as a lump sum or in instalments, to ensure the Investment Mandate explicitly allows for funding in the form of availability payments.
Part 4A	Section 28E "HAFFF Projects"	In addition to the construction of new homes, HAFF funding allows for the acquisition of new dwellings (spot purchases of existing developer held stock), the renovation of existing residential dwellings, or the conversion of non-residential property to a residential dwelling. Section 28E defines a 'HAFFF project' as one which is construction compliant, being a project that meets the standards in the National Construction Code (NCC) as at October 2023 in relation to energy efficiency and liveable housing design. We request that qualifying language be included in Section 28E which enables project proponents to depart from this requirement, and Housing Australia to use discretion in exempting projects from this requirement, where the proposed project: • is under construction or has development approval as at 1 October 2023; or • involves purchasing or renovating existing housing stock. In addition, we request that the definition and assessment of energy efficiency occurs at a project level rather than at a dwelling-by-dwelling level. This is because some dwellings within a project will not meet the standard whereas others will exceed the standard and so a project level average would be more appropriate.
Federal Safety Commission registration requirements	-	For proposed projects which are already under construction or involve a take-out or renovation of existing housing stock, we request that Housing Australia has discretion to exempt these projects from the Federal Safety Commission requirements for builders who otherwise meet WHS compliance requirements but do not have FSC registration. If this requirement is strictly enforced, we understand several 'shovel ready' projects which otherwise meeting HAFF eligibility would become ineligible. Secondly, in some smaller States and Territories, there are very few builders that have the appropriate FSC accreditation, and this requirement would preclude most market participants and regions in those States/Territories from submitting eligible projects.

Part 4A	Section 28F "Eligible Project Proponent"	Private financiers are likely to support CHPs through funding a special purpose vehicle trust ("SPV Trust") which would be managed and controlled by the CHP but would not itself be a registered CHP or a constitutional corporation. This structure is beneficial because it ensures the CHP is able to own and manage the properties (and tenants) funded by its financing partners separately from one another, whilst avoiding the costly requirements associated with registering and managing multiple CHP entities. We are aware this structure has been used in multiple private financing arrangements, including in CIM's precedent social and affordable housing transactions with the Victorian Government/HousingFirst and the NSW Government/Bridge Housing. With this context, we request that the definition of project proponent be amended as follows to allow for this structure: *(1) To be eligible for finance under the HAFFF, the project proponent must be:* - - - *(f) a registered community housing provider that is a constitutional corporation or a wholly owned subsidiary of a registered community housing provider that is a constitutional corporation;* - - - *(i) a HAFFF special purpose vehicle ~~that is a constitutional corporation.~~* *(2) An entity is a HAFFF special purpose vehicle if:* *(a) it has a purpose of undertaking any of the following kinds of projects:* *(i) projects to increase available social housing or affordable housing, or both;* *(ii) projects to address acute housing needs; and* *(b) at least one of its members, partners or trustee is an entity mentioned in paragraphs (1)(a) to (h).* Additionally, in our experience, institutional investors will strongly prefer funds flowing directly to the SPV Trust, rather than passing through the registered CHP. This is important from a security and credit perspective, and supports reducing the risk and required cost of capital for a project. With this context, we request that Housing Australia is permitted to: 1. Provide funding under the HAFF and Housing Accord programs directly to SPV Trusts which are controlled by the registered CHPs; and

		2. Lend senior debt through the Affordable Housing Bond Aggregator ("AHBA") to SPV Trusts which are controlled by the registered CHPs.
Part 4A	Section 28F "Eligible Project Proponent"	Following on from the above, we note that an SPV Trust to be established for the purposes of a HAFF or Housing Accord project would not be formed until that project was approved for funding by Housing Australia. This is because it would not be desirable for the CHP to incur the costs and ongoing compliance burden of establishing and administering the SPV Trust without surety that the project was proceeding. To solve for this timing mismatch, we request that language be included in Section 28F which enables an eligible project proponent (a CHP) to bid into a funding round on the premise that it will, if selected as the preferred proponent, establish a new project proponent (the SPV Trust) which will meet the eligibility requirements of a project proponent under the Act. With Housing Australia's consent, the original project proponent would then transfer the right to receive the government funding to the new project proponent (the SPV Trust). Note that the originally approved project proponent (the CHP) receiving the government funding and passing the funding through to the SPV Trust is not desirable from governance, credit or security perspective and hence does not solve this issue.
Part 4A	Section 28J "Investment Criteria"	We request that Section 28J(b) be amended to make it clear that "ongoing availability" means the provision of social and affordable housing both during but also after any Housing Australia financial support ceases. This would encourage the provision of perpetual social and affordable housing stock, which creates long-term housing outcomes while also increasing the asset base and capacity of the CHP sector.
Part 4A	Section 28K "Quarterly Reporting to the Minister"	We request that Treasury and Housing Australia consider making regular reporting available to the public (or at least key sector bodies and groups that have indicated interest in the HAFF and Housing Accord procurement processes). These reports do not need to be of the same level of detail as provided to the Minister.
Part 4A	Section 28J(2)(b) Criteria for financing decisions	We request that the National Housing Supply and Affordability Council reports mentioned in Section 28J(2)(b) be made available to the public (or at least key sector bodies and groups that have indicated interest in the HAFF and Housing Accord procurement processes).
Part 4B	Various	The same comments outlined above should be extended to Part 4B noting that the Housing Accord amendments are similar in nature to the HAFF.

2. RECOMMENDATIONS ON THE HAFF AND HOUSING ACCORD PROCUREMENT PROCESS

Whilst not the primary purpose of the submission, we have summarised below a set of recommendations in relation to the HAFF and Housing Accord procurement processes to be administered by Housing Australia. The recommendations are based on our learnings from funding social and affordable housing projects with private capital, and our previous experience in participating in government procurement processes in partnership with the community housing sector.

Recommendation 1: Preferred funding models

The Investment Mandate provides Housing Australia the flexibility to employ a range of different funding arrangements, including providing financing through concessional loans, upfront capital grants, availability payments or a combination thereof. Whilst this flexibility is useful, we have a strong preference for Housing Australia to provide explicit guidance on their preferred funding model.

From our experience in financing previous social and affordable housing transactions and discussions with institutional capital providers, we recommend Housing Australia encourage the use of availability payments, while preserving the use of concessional loans and upfront capital grants for projects that are less financially feasible (for example, projects in regional and remote areas or which house specific cohorts).

Recommendation 2: Guidance on preferred locations and property attributes

To focus the efforts of market participants on locations and projects which are most attractive to government, we recommend that Housing Australia releases more detailed guidance on the target number of properties in each State and Territory it would optimally procure, broken down by:

- Property type (apartment, house etc);
- Dwelling configuration (number of bedrooms, bathrooms, car parks);
- Location (ideally distinguishing between metro and regional areas);
- Any other preferred attributes by State/Territory, such as:
    - Cohorts of interest (social, affordable, and other specific cohorts); and
    - Delivery method (construction of new dwellings, acquisition of new builds etc).

Recommendation 3: Transparent price guidance

We note that previous programs such as the National Rental Affordable Scheme resulted in sub-optimal funding allocation outcomes as they did not specify target property types or locations (the subsidy took a 'one size fits all' approach).

We strongly encourage Housing Australia to pre-define target funding amounts available on a per property basis for different project types broken down by location, dwelling type, configuration, and cohort (similar to how Specialist Disability Accommodation is funded under the National Disability Insurance Scheme).

This transparent 'rate card' style pricing will enable project proponents to assess the viability of projects efficiently without incurring bid costs for projects that would not be deemed by Housing Australia to deliver value for money. It also incentivises equitable funding allocations towards preferred locations, dwelling types and cohorts, through explicitly compensating for fluctuations in land and building costs and tenant rent assumptions by project attributes such as location and property type.

Recommendation 4: Simplicity of procurement process

We have previously seen complex documents in programs such as the NSW Social and Affordable Housing Fund and other public private procurements ("PPPs"). This has resulted in very high bid costs (typically borne by CHPs) due to the requirement to appoint multiple advisors (particularly legal advisors).

Given the size of the program and the availability and cost of advisors, we encourage Housing Australia to administer a simplified procurement process relative to typical PPP processes. Specifically, we suggest Housing Australia adopts simple funding mechanisms whereby project proponents are allocated funding packages based on pre-defined price guidance (see Recommendation 3), as opposed to requiring proponents to compete for the lowest government contribution in a descending price auction (in our experience this approach would vastly limit bid costs and increase the number of quality submissions made).

Simplifying the procurement process also has the benefit of supporting a diverse range of CHPs with varying sophistication and capacity levels to respond, in turn encouraging the HAFF and Housing Accord programs to reach cohorts and geographic areas in need.

Recommendation 5: Parallel assessment of senior debt applications

Where a project proponent wishes to apply for senior debt through the Affordable Housing Bond Aggregator ("AHBA"), we encourage Housing Australia to run a parallel evaluation and approval process whereby bids are assessed for (1) the proposed HAFF and/or Housing Accord funding package and (2) Housing Australia senior debt through the AHBA. This will enable projects to minimise the required cost of capital through leveraging the AHBA (and thereby maximising value for money and housing outcomes under the HAFF and the Housing Accord) while providing proponents with certainty in relation to their senior debt availability and pricing.

We also encourage Housing Australia to be explicit with their ability to provide senior debt via the AHBA by accounting for the current total liability cap and being explicit to proponents on any requirement to raise debt financing from third party financiers.

Recommendation 6: Coordination with State and Territory Governments

We encourage the Commonwealth Government to work with State and Territory Governments in a coordinated way. A coherent approach will be more efficient for all concerned, and in particular make it easier for both private capital and CHPs to engage with government at all levels.

For projects funded under the Housing Accord where funding is sourced from both the Commonwealth and State/Territory governments, we encourage there to be one 'lead' government entity such that the project proponent is not required to submit multiple bids or negotiate project funding with multiple government agencies.

Specifically, we recommend that the bid submission and evaluation process is streamlined and does not involve a two-stage bid process (requiring the project proponent to bid for both Commonwealth and State/Territory funding in separate procurement processes).

Further, Commonwealth and participating State/Territory governments should come to market with an aligned view on contracting structures, key contractual terms, payment mechanisms and early termination provisions. Private sector capital should not be exposed to regulatory risk at two levels (i.e. the Commonwealth and State/Territory level).

APPENDIX 1: ABOUT CONSCIOUS INVESTMENT MANAGEMENT

Introducing Conscious Investment Management

CIM is one of Australia's largest dedicated impact investment fund managers with a focus on social and affordable housing. We were founded in 2019 with a vision for a fairer, more sustainable world where people and the planet thrive. We do this by investing for both positive impact and financial returns, delivering impact investments that are authentic, accessible, and scalable. To date, we have invested in assets spanning social and affordable housing, Specialist Disability Accommodation, solar, carbon farming, and social impact bonds.

We have a unique 'impact partner' investment model, whereby we fund the acquisition or development of properties that are then managed and operated by Community Housing Providers ("CHPs") for the benefit of government and the people they support.

With the support of over 750 investors, we currently have over $300M in funds under management. Our investor base includes a number of significant charitable foundations in Australia (the Paul Ramsay Foundation was an early and significant ongoing investor who has publicly noted their investment with us), superannuation funds, and wealth managers (such as ANZ Private, Crestone, Ethinvest, JBWere, Koda Capital and Netwealth). Each has joined us because they are aligned with our social and investment values – they understand and support the long-term nature of our impact investments.

Our team has broad experience across the finance and not-for-profit sectors. This unique combination of experience enables us to intermediate the perspectives of various stakeholders and structure investments that are 'win-win' for all parties (investors, government, local councils, builders, developers, CHPs and support providers). We also have in-house asset management capability which allows us to manage the on-the-ground impact of our investments and take on certain operating risks such as maintenance risk.

In December 2022 we were awarded Impact Asset Manager of the Year at the Australian Impact Investment Awards, sponsored by the Department of Social Services. In 2021 we were announced the winner of the "PowerHousing Australia Business Partner Award for 2021" for our innovative partnership with HousingFirst to deliver the Victorian Government's New Rental Development Program.

You can read more about our work in our 2023 Impact Report or this short video.

Our experience funding social and affordable housing

Historically, private investment into social housing has been challenging for private investors with fiduciary duties. Investments that are both impactful and meet investor expectations (around financial risk, return and liquidity), require innovative funding models and new ways of the private, not-for-profit and government sectors working together.

CIM has strong working relationships with several industry leading community housing providers, and a track record of investing in social and affordable housing. We have partnered with CHPs on three social and affordable housing projects to date, which are summarised below.

Through these partnerships we are working to demonstrate a unique and sustainable funding model that brings together the expertise and funding of private investors, government and the CHP sector. We believe there is opportunity to repeat and scale up the model across Australia – with direct applicability to the HAFF and Housing Accord programs.

Case study 1: Melbourne social and affordable housing

In 2021 we partnered with the Victorian Government (acting through Homes Victoria) and Community Housing Association, HousingFirst, to finance the acquisition of up to 307 new social and affordable housing dwellings around Melbourne. To our knowledge, this was Australia's first at-scale ($150M) privately funded social housing. The investment was covered by the AFR here.

The government framework (the 'New Rental Development Program') had existed since 2019 but had not generated supply of housing. Within 12 months of partnering with the Victorian Government, CIM sourced, secured, and financed the acquisition of 260 apartments. These apartments now house over 400 social and affordable housing tenants.

Apartments are located in high amenity suburbs close to services and economic hubs. Apartments are dispersed within large, brand-new buildings, with no more than 20% of each building being designated as social and affordable housing.

These properties are provided under a 10-year headlease to HousingFirst, who is responsible for moving in and supporting tenants, as well as coordinating wraparound supports where required. The government pays an availability payment to HousingFirst for the duration of the 10-year program. This payment is substantially below market rent and supports repayments to CIM.

Case study 2: Sydney social housing

We recently announced a partnership with NSW Department of Communities and Justice and Community Housing Provider, Bridge Housing, to deliver up to 90 social housing properties across Sydney under the NSW Government's Community Housing Leasing Program ("CHLP").

Under the program we will invest $65M to finance the acquisition of properties which will be managed by Bridge Housing as social housing for 10 years, with CHLP funding used to subsidise tenant rents.

The CHLP framework had existed for over eight years, with CHPs typically using the funding to rent properties from the private market (through real estate agents and private landlords). This approach created uncertainty of tenure and led to operating cost inefficiencies.

Leveraging CHLP funding, we have worked with Bridge Housing to structure an investment to finance the acquisition of new stock with greater security of tenure and housing stability for tenants.

Case study 3: Melbourne youth housing

CIM recently partnered with Melbourne City Mission, and their newly established Community Housing Provider, MCM Housing, to finance up to 15 shared accommodation dwellings and help establish MCM's Youth Housing Initiative ("YHI") in Melbourne.

The YHI is a 5-year housing and support program that aims to support young people experiencing homelessness to effectively transition to adulthood and exit homelessness. The YHI will provide integrated, sustained support, which comprises the provision of housing, case management and therapeutic support.

The investment aims to not only help establish the YHI pilot program, but also to help assess the effectiveness and appropriateness of the YHI in improving outcomes for vulnerable young people, and build a case for ongoing government funding for a program that is scalable and replicable.