

Ms. Jenni Mattila and  
Ms. Eugenie Stockman  
Level 29, Chifley Square  
2 Chifley Square  
Sydney NSW 2000

Manager  
Housing Unit  
Social Policy Division  
The Treasury  
Langton Cres  
PARKES ACT 2600

Attention: Mr. David Crawford

[HousingConsultation@treasury.gov.au](mailto:HousingConsultation@treasury.gov.au)

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Dear Mr Crawford

**Submission on Exposure Draft National Housing Finance and Investment Corporation Bill**

We refer to our earlier discussion with you and officers of the Housing Unit of the Social Policy Division at Treasury. We attach again for your reference our earlier submission in relation to our policy proposal for owner occupier affordable housing for key workers and lower middle-income earners that are currently excluded from the housing market in their local area.

We have discussed the proposal with a number of existing Co-operative Housing Providers as a method of broadening the availability of owner occupier affordable housing. It will allow existing Co-operative Housing Providers to sponsor and support new co-operatives through the start up and financing stage. Co-operative Housing Providers may also provide corporate governance and finance training and supervision until the new co-operatives are self-sufficient.

We understand that our policy proposal for owner occupied affordable housing would be able to be accommodated within the proposed National Housing Finance and Investment Corporation Bill.

Whilst it is not immediately clear we suggest that it may be covered by the draft bill and clarified under the Investment Mandate.

**BRIEF SUMMARY OF THE GUARANTEE MODEL**

The model of owner occupied affordable housing delivery that we propose is based on recommendations of affordable housing experts around the world, and supported by financiers. As previously discussed, it takes into account Australia's current legislative and taxation framework, as well as the statutory and financial constraints facing all key stakeholders – including buyers – to deliver an innovative, well-researched solution to the challenge of providing affordable housing within the Australian context.

The guarantee model of owner occupied affordable housing delivery proposes that an external body – in this case the NHFIC – provides a guarantee to the financial institution lending the funds to cover the costs of construction. This funding model de-risks the project for all stakeholders, and delivers perpetual affordable housing in a cost-effective manner.

The key features of the model are outlined below. Please refer to our earlier submission for further details.

- An existing registered community housing provider sponsors the establishment of a new site-specific housing co-operative specifically relating to an identified development site, and registers it under the Co-operatives legislation in the relevant State.
- This new co-operative takes on the role of property developer, on behalf of the future owner-occupiers. Two key conditions of membership of the new co-operative are that:
  - members must have the intention of purchasing accommodation through the co-operative on completion of the project; and
  - must have an in-principal offer of finance for the purchase of their accommodation.
- The new co-operative takes out a loan from the NHFIC to purchase the land. Alternatively, the land may be owned by the Commonwealth, State or Local Council with a deferred settlement date. The NHFIC is noted as mortgagee on the certificate of title and, as mortgagee, it has step-in rights.
- On acquiring the land, or deferred settlement on the land, the new co-operative prepares the development application for construction of the dwellings, and funds all associated professional and statutory fees. The Co-operative must provide funding to cover the costs of the development application statutory and other professional costs.
- Construction costs are covered by a loan from a financial institution, with the NHFIC providing security for this loan in the form of a guarantee; the NHFIC thus becomes the guarantor for the construction loan.
- At project completion, settlement occurs whereby each member of the co-operative pays the balance due on their individual dwelling, the co-operative repays the NHFIC and the financial institution, and the financial institution returns the guarantee to the NHFIC.

## **HOW WE BELIEVE THE LEGISLATION CAN INCLUDE THE GUARANTEE MODEL FOR OWNER OCCUPIERS**

### **1. OBJECTS**

#### ***3 Object of this Act***

*The object of this Act is to establish the National Housing Finance and Investment Corporation to contribute to efforts to increase the supply of housing by:*

- (a) encouraging investment in housing (particularly in the social or affordable housing sector); and*

- (b) providing finance, grants or investments that complement, leverage or support Commonwealth, State or Territory activities relating to housing; and*
- (c) contributing to the development of the scale, efficiency and effectiveness of the community housing sector in Australia.*

### **Comment on the Guarantee Model in Relation to the Object**

The guarantee model is a low-cost opportunity for NHFIC to increase the supply of owner occupier affordable housing. The funding is provided by the banking sector supported by a NHFIC guarantee, subject to NHFIC determining the credit requirements of these projects. At the present time we believe it would be preferable for an existing co-operative housing provider to sponsor any new site-specific co-operatives and provide the relevant information to NHFIC. NHFIC may wish to consider bundling a number of the projects to improve cost efficiencies.

The provision of finance would be indirect through the banking sector however the provision of the guarantee should fall within the definition of an investment.

The guarantee approach would allow NHFIC to be able to significantly improve the scale of funding for owner occupied affordable housing as the guarantee would be shown in the accounts as a contingent liability. NHFIC guarantees (funds) would be able to be rolled over approximately every 3 years at construction completion and settlement by owner occupiers. Sponsorship would be through an existing Co-operative Housing Provider who could also assist with reporting progress to NHFIC if required.

## **2. FUNCTIONS OF NHFIC**

### **8 Functions of the NHFIC**

**(1) The functions of the NHFIC are:**

- (a) to make loans, investments and grants to improve, directly or indirectly, housing outcomes; and**
- (b) to determine terms and conditions for such loans, investments and grants; and**
- (c) any other functions conferred on the NHFIC by this Act or any other Commonwealth law; and**
- (d) to do anything incidental or conducive to the performance of the above functions.**

**(2) Without limiting subsection (1), the functions of the NHFIC include:**

- (a) to grant financial assistance to States and Territories for the purposes of any of the matters mentioned in subsection (1); and**
- (b) to determine terms and conditions for the grants of financial assistance.**

**(3) In performing its functions, the NHFIC must act in a proper, efficient and effective manner.**

### **Comment on the Guarantee Model in Relation to Functions of NHFIC**

It appears that the guarantee model would fall within the definition of an indirect investment. NHFIC would receive income from the provision of the guarantee. The provision of the

guarantee would appear to fall within the definition of an investment that would improve housing outcomes. The terms and conditions of the guarantee should be standard across the bundled projects and would be settled between the bank and NHFIC and subsequently signed by the co-operative as a party to the guarantee.

## **MATTERS COVERED BY THE INVESTMENT MANDATE**

### **12 Investment Mandate**

- (1) *The Minister may, by legislative instrument, give the Board directions about the performance of the NHFIC's functions, and must give at least one such direction. The directions together constitute the Investment Mandate.***

**Note:** *Section 42 (disallowance) of the Legislation Act 2003 does not apply to the direction—see regulations made for the purposes of paragraph 44(2)(b) of that Act.*

- (2) *In giving a direction, the Minister must have regard to the object of this Act and any other matters the Minister considers relevant.***
- (3) *In performing its functions, the NHFIC must take all reasonable steps to comply with the Investment Mandate.***

### **13 Matters covered by Investment Mandate**

***The Investment Mandate may include directions about the following:***

- (a) strategies and policies to be followed for the effective performance of the NHFIC's functions;***
- (b) decision-making criteria for making loans, investments and grants, and granting financial assistance to States and Territories;***
- (c) limits on making loans, investments and grants, and granting financial assistance to States and Territories;***
- (d) risk and return relating to NHFIC's investments;***
- (e) any other matters the Minister thinks appropriate.***

## **COMMENTS ON MATTERS COVERED BY THE INVESTMENT MANDATE**

We note that the Investment Mandate takes the form of a Ministerial Direction to the NHFIC Board.

We suggest that the guarantee model could be clarified as an option by explicitly including a NHFIC guarantee as a form of investment (or finance) in the definition section of the Bill. Alternatively, the guarantee model could be specifically included in the Investment Mandate as a form of investment.

If the guarantee model were included as a strategy and policy as part of the Investment Mandate, it would improve the cost effectiveness of the funds available to NHFIC. It could also be included as part of the decision-making criteria for investments, in particular, it would give available funding for NHFICs a much wider impact.

NHFIC would of course need to develop suitable credit worthiness requirements for guarantees. We note again that affordable housing for middle income owner occupiers, key employees (police, health care workers, teachers) and older single women are an important

demographic that has been priced out of the current market. We believe that a NHFIC backed guarantee to the banks available until construction is completed and settlement occurs can be used in part to address this area of market failure.

Yours sincerely,

Jenni Mattila &

Eugenie Stockman

Attachment 1