

Submission to Economics Legislation Committee

Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017



21 December 2017

About ACOSS

The [Australian Council of Social Service \(ACOSS\)](#) is a national advocate for action to reduce poverty and inequality and the peak body for the community services sector in Australia. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities can participate in and benefit from social and economic life.

Summary

ACOSS supports genuine efforts to improve federal, state and territory governments' transparency and accountability in the way that affordable housing funding is used, particularly progress in improving housing outcomes for people on low incomes. We therefore welcome the development of a new national affordable housing and homelessness agreement with the stated objective of improving transparency and accountability. The move to streamline housing and homelessness funding into one national agreement and to provide longer term funding for homelessness services are positive and welcome steps.

Despite these benefits, we see a number of risks and limitations in the legislative framework for the new agreement(s), the *Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017* ('the Bill'). These can be summarised as; the absence of a national affordable housing and homelessness strategy with shared responsibility for achievement of housing targets; the risk of a funding gap arising from the 30 June 2018 deadline set out in the Bill; and the risk that the additional bilateral agreements will delay negotiations and impose additional funding conditions on state and territory governments that will not directly improve access to housing for people on low incomes and may divert resources from this purpose.

We propose a number of changes to the Bill and the negotiation process to improve the effectiveness of the new agreement and minimise the risks of reform. These include:

- a broader suite of reforms to improve Australia's housing affordability;
- a funding boost to underpin the new agreement;
- a consultative process that is informed by external stakeholders;
- an extended timeframe, with new funding arrangements taking effect on 31 December 2018;
- greater clarity around the scope of legitimate funding conditions;
- any bilateral agreements being limited in scope and providing certainty;
- requirements of state housing strategies being clearly set out and prioritising housing for low income households;
- the consequences for failing to meet targets should focus on improving performance;
- improved accountability, transparency and evaluation measures;
- greater certainty being provided about the impact of identified priority cohorts on homelessness funding; and
- a new national agreement on Aboriginal and Torres Strait Islander housing.

Recommendations

1. A new affordable housing and homelessness agreement should form part of a broader national affordable housing and homelessness strategy to be developed by the Australian Government as a reciprocal obligation to complement state and territory government housing strategies.
2. The new affordable housing and homelessness agreement should be underpinned by additional growth funding to boost housing supply for low income households. Funds under the agreement should be directed to affordable housing for people on low incomes and to homelessness programs.
3. External stakeholders should be given an opportunity to input into the process of developing a new agreement at key “ventilation points”.
4. The transitional provisions in the bill should be amended such that the new funding arrangements take effect on 31 December 2018. The NPAH should also be extended until 31 December 2018.
5. The Bill should be amended to clarify the scope of legitimate funding conditions under the agreement(s).
6. Any bilateral agreements should be limited to social housing for people on low incomes and homelessness programs and, as a minimum, aligned with nationally agreed goals and targets. They should run for a minimum of 5 years.
7. The term “credible” should be defined to clarify the required scope, level of detail and quality of information required of state and territory strategies.
8. Governments failing to achieve targets should be required to provide a public explanation and develop and publish a plan to improve performance, rather than being subject to financial penalties.
9. An expert group should develop new performance indicators and nationally consistent data guidelines. Data provided under the Agreement should be made publicly available wherever possible to inform public debate, enable monitoring of all governments’ achievement in meeting targets and performance measures.
10. An independent body should assess performance of all governments under the new agreement.
11. The new agreement should include an evaluation requirement, and a percentage of funding be allocated accordingly to enhance understanding over time of appropriateness, effectiveness and efficiency of different approaches.
12. The Australian Government should provide greater certainty about the impact of identified priority cohorts on the distribution of homelessness funding and assurances of service funding continuity.
13. The Australian Government must commit to negotiating a new national agreement on Aboriginal and Torres Strait Islander Housing which is not limited to remote housing.

Discussion

The current housing and homelessness funding situation

Funding for housing and homelessness services is currently provided under the National Affordable Housing Agreement (NAHA) and the National Partnership Agreement on Homelessness (NPAH). The NAHA is an ongoing multiparty agreement under which the Australian Government provides funding to the states and territories (estimated to be \$1.4 billion in 2017-18). The legislation underpinning the NAHA, the *Federal Financial Relations Act 2009*, requires that funds be spent on “housing services”. That Act does not set out other funding conditions, but the NAHA itself sets out outcomes, outputs, roles and responsibilities, performance benchmarks and reform directions. The Agreement provides a framework for the payment of block untied grants from the Commonwealth to the states. The COAG Reform Council noted the difficulty of assessing progress against a number of the key indicators due to the lack of data and inconsistent data definitions and accounting standards applying across jurisdictions. This is despite the NAHA requiring governments to collaborate in data sharing.

The NAHA has a number of fundamental flaws which have limited its effectiveness. The funding provided under the agreement is demonstrably inadequate, distributed on a per capita basis among jurisdictions regardless of social housing stock levels and funds are able to be applied to an ad hoc mix of housing assistance measures and dwelling upgrades. The agreement does not reflect the costs of maintaining and operating a social housing system, let alone support a sustainable and growing social housing system. Current arrangements provide little incentive for states to increase the supply of social housing. Further, current decision making about how to apply the limited funds under the NAHA (outside of the tied homelessness component) involves many trade-offs between different forms of assistance (e.g. rent assistance versus new supply; upgrading versus new supply, social versus “affordable” housing, funding public housing operating deficits etc.) and different needs of different groups (e.g. people who are homeless, those in rental stress, first home buyers, “key workers” etc). Despite this, we lack any national definition of housing need or shared understanding of the costs and efficacy of different possible responses against which to judge these decisions.

About the Bill

The *Treasury Laws Amendment (National Housing and Homelessness Agreement) Bill 2017* currently being considered by the Committee would have the following effects:

1. It would replace the current National Specific Purpose Payment (the NSPP) through which funds flow from the Commonwealth to the States under the NAHA. The NSPP is a current and ongoing agreement established under the *Federal Financial Relations Act 2009*. The Bill would amend the *Federal Financial Relations Act* and terminate the NSPP as of 1 July 2018.
2. It would combine the NAHA and the NPAH agreements into one agreement. The NPAH is due to expire on 30 June 2018.
3. It would require state and territory governments to meet certain conditions in order to

receive funding from the Commonwealth. These include: having “credible” housing and homelessness strategies, providing relevant data to the Commonwealth and matching Commonwealth homelessness funding (or at least the non NPAH part, but not funding for housing programs).

4. Commonwealth funding would be subject not only to the negotiation of a primary multiparty intergovernmental agreement but also to the negotiation of supplementary bilateral agreements between federal and respective state governments. The requirement for supplementary agreements is new.

Welcome reforms: transparency, accountability, funding certainty, indexation

The Australian Government announced its intention to negotiate a new national affordable housing agreement in the 2017-18 Federal Budget, continuing existing funding levels with indexation. ACOSS welcomed a move towards “stricter accounting for results”.¹ We have long supported reforms to national affordable housing intergovernmental funding arrangements to increase transparency and accountability for the way that funds are used to meet the housing needs of people on low incomes.

We welcome the commitment to provide funding certainty for both housing and homelessness services in a new agreement, which would bring to an end the persistent uncertainty around funding currently provided under the NPAH. The commitment to index the funding is also welcome, given the NPAH funding has not been indexed. So is the move to replace the separate housing and homelessness agreements with one agreement. These are all positive directions.

A broader suite of reforms to improve Australia’s housing affordability is needed

***Recommendation 1:** A new affordable housing and homelessness agreement should form part of a broader national affordable housing and homelessness strategy to be developed by the Australian Government as a reciprocal obligation to complement state and territory government housing strategies.*

A new national housing funding agreement should form part of a broader suite of reforms to address Australia’s housing affordability crisis. Priority reforms are set out in *Housing Australia’s People: A Serious Plan*, a joint policy platform released by ACOSS and National Shelter in 2017 which calls for:

- a new national affordable housing plan and funding agreement;
- national targets to achieve a net increase in the supply of housing which is affordable for people in the bottom two quintiles;
- increased funding to expand the stock of social housing for low income households;
- Commonwealth and state tax reform to reduce incentives for speculative investment;
- and
- increased assistance to low income renters through a boost to Rent Assistance.²

¹ ACOSS (2017) *Budget Analysis 2017-18* Available at: <http://www.acoss.org.au/budget-2017/>

² ACOSS, National Shelter (2017): *Housing Australia’s people: a serious plan* Available: http://www.acoss.org.au/wp-content/uploads/2017/04/ACOSS_National-Shelter_housing-affordability-issues-paper_final.pdf.

At present, apart from moves to develop a new funding agreement and the welcome establishment of a National Housing Finance Investment Corporation, there is no Australian Government commitment to a broader reform agenda. ACOSS strongly urges the Australian Government to work with state and territory governments as well as relevant peaks, organisations representing low-income tenants and prospective home-owners, financial institutions, housing and homelessness service providers, and those directly affected by policy change in this area to **develop a national housing and homelessness plan** containing **national targets** and complemented by a suite of policy reforms and necessary funding to achieve them.

A funding boost is needed to underpin the new agreement

***Recommendation 2:** The new affordable housing and homelessness agreement should be underpinned by additional growth funding to boost housing supply for low income households. Funds under the agreement should be directed to affordable housing for people on low incomes and to homelessness programs.*

While the 2017-18 Budget expressed the Australian Government's intention to maintain current funding levels with indexation and put homelessness funding on a longer term footing, it has not committed any growth funding despite clear evidence of a shortfall in supply of affordable housing for low income households.³

The new agreement will not be effective without a funding boost. It should contain a capital or growth fund dedicated to the development of new housing stock for people on low incomes (in the bottom two income quintiles, i.e., social housing), as well as funding for the maintenance of existing social housing stock and homelessness programs. The capital growth fund would complement the private fund raising of the National Housing Finance Investment Corporation.

We note that the Bill would not require state and territory governments to match Commonwealth funding for housing programs, nor we understand for the non-NPAH funding for homelessness. We believe that a broader requirement for matched funding remains reasonable, and note that it was a condition of previous intergovernmental housing agreements. State contributions could take the form of funding, capital and land transfers.

The negotiation process should be consultative and informed by external stakeholders

***Recommendation 3:** External stakeholders should be given an opportunity to input into the process of developing a new agreement at key "ventilation points".*

We have consistently called for a staged reform process that is broadly consultative and informed by a national housing review. While we welcome the current moves to develop a new national affordable housing and homelessness agreement, we are disappointed that the process is largely being conducted between governments, with little transparency about the issues in play, and no opportunity for affected stakeholders to engage.

Our 2017-18 Budget Submission noted that "the development of a future agreement may take

³ See the Affordable Housing Working Group's 2016 and 2017 reports which acknowledged the funding gap and need for additional investment.

some time” but that in the short term a process for review and reform should be mapped out “with meaningful opportunities for community, industry and academic experts to be actively involved in the process (i.e. such major reforms should not just be negotiated behind closed COAG doors).” We had hoped, at a minimum, that external stakeholders would be given an opportunity to input into the process of developing a new agreement at key “ventilation points”. While we appreciate that this would likely lengthen the negotiation process, we submit that such a process would lead to a better, more effective agreement with broader ownership and support.

New funding arrangements should take effect on 31 December 2018

***Recommendation 4:** The transitional provisions in the bill should be amended such that the new funding arrangements take effect on 31 December 2018. The NPAH should also be extended until 31 December 2018.*

This Bill would repeal the current funding arrangements on 30 June 2018, regardless of whether a new intergovernmental agreement and requisite supplementary agreements have been negotiated. This seems to be intended to pressure negotiating parties to come to agreement to ensure the continuation of funding. While we welcome the Commonwealth prioritising reform in this area, we would be concerned if the timeframe resulted in a less effective intergovernmental agreement than might have otherwise been agreed.

Extending current arrangements to 31 December 2018 should enable sufficient time for the negotiation of a new agreement and remove the risk of a funding gap occurring due to the inability to reach agreement by the 30 June 2018 deadline. As the NAHA is ongoing, funds should continue to flow until this time, but the NPAH would need to be extended by a further 6 months as it expires on 30 June 2018.

An extension would also enable sufficient time for a consultative and informed process to be conducted, as recommended above.

The scope of legitimate funding conditions under the agreement(s) should be clarified

***Recommendation 5:** The Bill should be amended to clarify the scope of legitimate funding conditions under the agreement(s).*

The Bill states that all funds will be provided to state and territory governments if specified conditions are met, but there is ambiguity in the Bill about the scope of conditions. The Bill provides that agreements may include *any* “housing affordability matter” which is defined very broadly as “a matter that is likely to affect the affordability of housing”. The Australian Department of Social Security website provides some clues about the matters which the Commonwealth may seek to include in negotiations stating that “funding to state and territory governments will target jurisdiction specific priorities including supply targets, planning and zoning reforms and renewal of public housing stock while also supporting the delivery of

frontline homelessness services.”⁴ Some of these reforms could require legislative change (e.g. planning), which may not attract the support of state and territory parliaments. This creates additional uncertainty. Conditions should be limited to the provision of social housing and homelessness programs.

Any bilateral agreements should be limited in scope and provide certainty

***Recommendation 6:** Any bilateral agreements should be limited to the provision of social housing for people on low incomes and homelessness programs and, as a minimum, aligned with nationally agreed goals and targets. They should run for a minimum of 5 years.*

While the diversity of housing conditions around the country may suggest a role for bilateral agreements, their scope should be limited to social housing for people on low incomes and homelessness programs and, as a minimum, aligned with nationally agreed goals and targets. The scope of funding “conditions” under the Bill should be limited accordingly. This would remove the risk of additional conditions being imposed on state or territory governments that are contentious or would not directly improve access to affordable housing for low income households.

Any bilateral agreements should run for a minimum of 5 years to create some certainty and avoid the experience of the NPAH, which has been repeatedly extended for short term periods. The purpose of further “designated housing agreements” should be clarified.

Requirements of state and territory housing strategies should be clearly set out and prioritise housing for low income households

***Recommendation 7:** The term “credible” should be defined to clarify the required scope, level of detail and quality of information required of state and territory strategies.*

State government strategies are required to be “credible” for funds to be received, but this term is not defined. Section 1.34 of the Bill provides that each state must have “a published, up-to-date housing strategy that indicates the level of housing supply needed to respond to projected housing demand, and outlines the reforms and initiatives that will be implemented to meet this need; and includes other matters (if any) detailed in a primary or supplementary housing agreement”. Beyond this, little information is provided about the expected scope, purpose, focus, level of detail and quality of information required in the plans.

***Recommendation 8:** State plans should be required to set targets to improve net levels of housing stock that is affordable to people on low incomes and to outline a strategy to achieve these targets.*

We recommend that section 1.34 be amended to prioritise housing supply that is affordable to *low income households* (in the bottom two income quintiles), and seek clarity that this will require state and territory governments to set targets to improve net social housing stock.

⁴ Australian Government Department of Social Services webpage *National Affordable Housing Agreement* Available at: <https://www.dss.gov.au/housing-support/programmes-services/national-affordable-housing-agreement/b>

For example, this section could require that each State must have “a published, up-to-date housing strategy that indicates the level of housing supply needed to respond to projected housing demand, and outlines the reforms and initiatives that will be implemented to meet this demand by increasing social and affordable housing stock giving priority to meeting the housing needs of people on low incomes (in the bottom two income quintiles); and includes other matters (if any) detailed in a primary or supplementary housing agreement.”

Consequences for failing to meet targets should focus on improving performance

***Recommendation 9:** Governments failing to achieve targets should be required to provide a public explanation and develop and publish a plan to improve performance, rather than being subject to financial penalties.*

The consequences of a State or Territory Government not meeting targets set need to be made clear and assurances given that financial penalties will not be imposed where this would impact on funding for housing services for people on low incomes. There should be accountability by both levels of government for poor performance in meeting national and state housing targets. Where a Government is failing to achieve the targets set, they should be required to provide a public explanation and develop and publish a plan to improve performance, rather than being subject to financial penalties.

Improvements to accountability, transparency and evaluation

***Recommendation 10:** An expert group should develop new performance indicators and nationally consistent data guidelines. Data provided under the Agreement should be made publicly available wherever possible to inform public debate, enable monitoring of all governments’ achievement in meeting targets and performance measures.*

***Recommendation 11:** An independent body should assess performance of all governments under the new agreement.*

***Recommendation 12:** The new agreement should include an evaluation requirement, and a percentage of funding be allocated accordingly to enhance understanding over time of appropriateness, effectiveness and efficiency of different approaches.*

The requirement that state and territory governments provide relevant information “to enable the development and implementation of more transparent and consistent data collection and reporting against the housing spectrum” is welcome, given the difficulties in assessing progress under the NAHA, as noted above. However, it is not clear how data is to be improved and this is essential to improving accountability.

We propose an expert group be established to develop a new set of indicators and nationally consistent data definitions and standards. This would enable improved accountability and transparency in terms of how the money is spent on homelessness services; maintaining, operating and upgrading existing social housing; additions to social housing stock (net of demolitions); and any other relevant purposes. It is important to get data on outcomes rather than just activity. This data should be made publicly available wherever possible to inform public

debate, enable monitoring of government performance and housing trends and inform evidence based policy solutions. Noting that the machinery of government around the current housing agreement was dismantled in 2013, including the COAG Reform Council which was responsible for assessing performance, another independent body should be given this task and resourced adequately.

Funds for evaluation should be earmarked, noting the vulnerability of previous research funds to cuts.

Greater certainty about impact of identified priority cohorts on distribution of homelessness funding is needed

***Recommendation 13:** The Australian Government should provide greater certainty about the impact of priority cohorts on the distribution of homelessness funding and assurances of service funding continuity.*

The stipulation of priority homelessness cohorts in the Bill has caused some uncertainty about whether this will result in a shift in funding to different services. While the cohorts identified in the Bill are fairly broad (“people affected by domestic and family violence, children and young people, older people, people experiencing intermittent or continuous homelessness, Indigenous Australians, and people currently exiting institutions and care”) this uncertainty should be addressed by the Commonwealth.

A new national agreement on Aboriginal and Torres Strait Islander housing

***Recommendation 14:** The Australian Government must commit to negotiating a new national agreement on Aboriginal and Torres Strait Islander housing that is not limited to remote housing*

The current 10 year Remote Indigenous Housing National Partnership Agreement expires in 2018. A new national agreement on Aboriginal and Torres Strait Islander housing which is not limited to remote housing. For more detail, see ACOSS Budget Priorities Statement 2016-17.