



Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services

City Futures Research Centre submission to: The Productivity Commission

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July 2017

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1. Introduction

This submission is the UNSW City Futures Research Centre response to the Productivity Commission's [draft report on competition and choice in human services](#) as published in June 2017. Since our interests relate to social and affordable housing for lower income Australians, the submission focuses primarily on Chapters 5 and 6 of the Commission's draft report. Opinions and arguments presented in the submission are based on the authors' extensive experience in and research related to the housing field in both Australia and comparable international systems.

We begin by offering some general comments on the scope and focus of the report, and on some of its underlying assumptions. This is followed by more detailed discussion of the draft report's key recommendations and commentary related to housing.

2. General comments

2.1 Empowerment and equity

We support the Commission's overarching aims of 'plac[ing] users at the centre of the system' (p146) and enhancing the contestability of social housing provision (pp172-175). However, we have misgivings about some of the ways that the draft report envisages these objectives being achieved, and about the implication of certain sections of the text that system reform can be driven primarily by 'releasing consumer power' on the part of vulnerable and other low income tenants.

One important concern is the way the report designates social housing purely as a specialist form of accommodation for tenants with special housing needs or those discriminated against in the private market. This is in our view an extremely weak and limiting vision for the future of social housing. It will be stigmatising and segregating for tenants who remain and will likely further undermine system viability. While we concur that social housing plays a different role in different countries, there is evidence that larger, multi-provider and less residualised systems than in Australia are financially viable and sustainable. Hence we would not accept the Commission's assertion that 'social housing is broken'; rather the local approach to government investment in social housing has been subject to significant real decline and thus has rendered the present system unviable (through policy failure).

In some jurisdictions this principle is already enshrined in law with respect to housing owned and/or regulated by state governments. The NSW Housing Act 2001, for example, obliged social landlords to 'maximise the opportunities for tenants of public and community housing programs to participate in the management of their housing and in the development of public and community housing policies' (State of New South Wales [NSW], 2014). Nevertheless, while governments and providers continue to claim adherence to this approach, public and community housing management practice remains largely bureaucratic and paternalistic in style (Pawson & Gilmour 2013). Representing the most recent statement of 'official thinking' on the operation of social housing, the [National Regulatory System for Community Housing](#), developed 2010-2012, placed little emphasis on tenant empowerment, whether in a 'citizenship' or 'consumerist' paradigm

Like the Productivity Commission, therefore, we believe that the operation of social housing could and should be reformed to enhance tenant choice and voice. Importantly, however, we question the implication of the Commission's proposals that enhanced housing provision for low income Australians can be brought about largely by 'releasing consumer power'.

As noted above, we see the Commission's proposals as over-reliant on the influence of tenants as 'rational consumers' with scope to wield decisive influence through positive service preferences and the power of exit. The Commission recognises that enabling public or community housing tenants to 'vote with their feet' by moving into the private rental market will call for the uprating of CRA to mitigate the affordability impacts. Nevertheless, this is only a necessary and not a sufficient condition to facilitate a more consumer-led market. It has to be recognised that, even if they did not involve risks in terms of affordability or the loss of tenure security, moves of this kind are practically impeded by the social, psychological and transaction costs also inevitably incurred. The current authors' scepticism on the scope for achieving welfare gains for the low income renter population through 'better functioning markets' is also reflected in our specific comments on the structure and performance of the private rental market and the applicability of 'choice-based lettings' later in this submission.

More broadly, while the draft report appropriately states that ‘Equity is a key driver of the reform path’ (p197), only horizontal equity between low income tenants is considered. Equity, both horizontal and vertical between tenants and home buyers/owners is not addressed. This is major limitation of the scope of the report both in terms of achieving a fairer housing system and the means to pay for it. Through an appropriately comprehensive analysis, for example, the Grattan Institute has powerfully highlighted both the huge scale of housing subsidies and concessions and their profoundly inequitable distribution across the tenures (Grattan Institute 2013).

2.2 Administrative restructuring and tenure neutrality

We are also highly sceptical about the Commission’s unqualified faith in the administrative separation of social housing service provision into organisationally distinct entities. This comment applies not only to the client/contractor split, fundamental to traditional service outsourcing models, but also to the tenancy services/asset management division also strongly favoured in the draft report. Far from representing radical new thinking these are of course established orthodoxies of official policymaker thinking and have underpinned many reforms to Australian social housing systems over the past twenty years or more. Given that such reforms have often proven ineffective and/or unacceptable in practice¹, we question the Commission’s zeal for their more far-reaching implementation. More importantly, we do not believe such an approach is an essential requirement for enhancing housing service choice and voice for low income tenants.

We appreciate the principled stance underpinning the Commission’s ambition for equal treatment of private and not-for-profit landlords in terms of the financial and administrative frameworks set by government. However, this is problematic to the extent that the private landlord business model is typically different from the social landlord norm. This refers to the fact that for many of the former, their approach is predicated on capital gains that are not part of the social landlord calculus. Unlike its private landlord comparator, the social landlord business must pay its way in revenue terms. It is essential that the subsidy system is constructed with this in mind.

2.3 Housing governance, government capacity and national leadership

Australia has a weak, inconsistent and fragmented suite of policies concerned with housing provision. Long term national leadership on this issue has been erratic at best for the past 20 years and repeated attempts at meaningful reform have come to nought. Given this history and the complexity of issues facing policy makers in this area, any suite of reforms must be articulated within a new and holistic housing policy framework.

In this report, in particular, the increased reliance being placed on the private rental market as a site of affordable and adequate long term housing for lower income and vulnerable households should give rise to equivalent reform emphasis on **both** financial assistance for tenants **and** on supply and regulatory settings across the whole rental system. Effective reform in our view will require a strong government vision for bridging the divide between current social and private models of provision and

¹ One of the authors of this submission had responsibility for implementing a purchaser – provider model for social housing in NSW between 1993 and 1999. Emanating from the 1992 Mant Report on the Department of Housing, the model met with persistent resistance and push back from the public housing provider entity, central agencies and politicians, who variously viewed its operation as duplicative, costly, complex, unnecessary and inclined to engender conflictual relationships. It was eventually dissolved.

concerted government action additional to matters recommended in the draft report. Presently, several such matters, while referenced, are largely treated as ancillary or out of scope (see below).

The fragmented governance of housing and the heavy reliance at least implicitly placed on states and territories under the draft recommendations also raise issues about the future governance of housing. Crucially, what future role for the Commonwealth is envisaged? In our view, the significant impact of other ('non-housing') national policy settings on housing outcomes (especially fiscal, monetary and immigration policies), the challenges mounting in our housing system and their significance to Australia's economic, social and fiscal outlook make national leadership essential. More broadly, many key reform paths advocated in the draft report could be achieved only with effective Commonwealth Government national policy leadership. The final report needs to state this much more explicitly.

Regarding the broader capacity of governments to effect reform, we support the Commission's advocacy about government stewardship (chapter 2) and the emphasis placed on an enhanced role for human service agencies in systematic service planning, commissioning and monitoring and evaluation (chapter 7). Consistent with broader trends (Tiernan 2015), however, our own research shows that there has been a significant and damaging 'hollowing out' of housing-related policymaker capacity in governments across Australia over recent decades (Milligan et al. 2017; Milligan & Tiernan 2013). Moreover, particularly in certain states and territories such trends have been badly compounded just in the past few years. Therefore, significant government investment in housing expertise and capacity building will be required, and this will take some time to re-establish.

We would also argue that community stewardship should be seen as an important complement to government stewardship, especially to mitigate bureaucratic tendencies and undue political influence in the latter. Accordingly, the report could strengthen the case for community stewardship within the housing realm and propose ways forward.

Finally, we consider that the additional financial assistance for housing as proposed must be more fully quantified and transparently presented to enable a better assessment of the costs and benefits of reform to be made.

3. Specific comments

3.1 Market rents, CRA and high cost housing payments in social housing

- 3.1.1. CRA is an income supplement paid to eligible tenants to assist them to meet their rental housing costs. Primary eligibility for the payment is linked to eligibility for income support not to an assessment of housing needs or housing costs. Under the reform proposal, this approach would be maintained and also apply to the public housing tenants who would become eligible for CRA as recommended. This will increase the risk that vulnerable tenants who lose their core Centrelink benefits for any period of time will also be unable to maintain their social housing, potentially increasing homelessness and demand for emergency assistance.
- 3.1.2. A further increased risk from setting rents for future social housing tenants at market levels will be that where tenants experience difficulty meeting their rents (including losing their benefits) much larger arrears will accrue than under an income-based rent system. The new rent model would also be less flexible than the current social rent setting system. Many low income tenants of working age experience frequent changes in their circumstances which income-related rents are geared to. This risk, which could adversely affect both social housing providers and tenants, need to be addressed.
- 3.1.3. The Productivity Commission report concurs with successive past reviews (Harmer Report 2009, The Henry Report 2010, The McClure Report 2014) that maximum CRA payment levels have lost relative value as these limits have been indexed to CPI and not to rental prices which have tended to rise at higher rates. In this respect the proposal to increase CRA maximum payment levels and index them in future to changes in rent is overdue and should proceed regardless of any other changes. However, the Commission's proposals regarding the appropriate scale of an increase in CRA are based on unsuitable data. Since the ABS Cat 6401 series includes rents paid in social housing (predominantly rebated) it will significantly understate the true increase in private market rents over the past 10-20 years.
- 3.1.4. In any case, such an adjustment for past rent increases will not address the prevailing situation whereby low income tenants living in higher priced housing markets across the Federation pay more for similar standard housing². In 2016 there was a differential of around \$230 per week in capital city average market rents (Core Logic data 2016). For public housing the interstate differential in average weekly market rents was \$136 (SCRGSP 2017). This means, for instance, that under the proposed reforms NSW public tenants, such as aged pensioners and DSP recipients, would be \$136 per week worse off than their counterparts in Tasmania after paying their rent. Similarly in the private market, tenants in higher priced jurisdictions where the vast majority reside would continue to be relatively disadvantaged. This situation meets neither equity nor adequacy goals. In recognition of this issue, 'the Henry Review' recommended that maximum CRA payments be set with reference to rents at the 25th percentile of rents across capital cities.

² We are assuming that the Productivity Commission intends that differentials within cities and regions would be addressed by the high need housing payment for those tenants needing to live in higher cost markets **within** a jurisdiction.

- 3.1.5. CRA is a fast-growing expenditure area within government. The period 2010-2015 saw a 35% increase in CRA nominal expenditure and a 43% increase in recipient numbers (AIHW 2016). Yet, the number of households in the private rental market experiencing rental stress, including among CRA recipients, has not improved. One possible explanation for this is that recipients use their CRA partly as additional income support and, as a result, it is less effective in achieving its intended outcome. Past analyses have also suggested that the costs of relying on this form of housing assistance are higher than for providing social housing (and investing in public assets) if these are assessed over the long run (e.g. Econsult 1989). Other research shows that long term social landlords (especially third sector mission driven organisations) with the resources to flexibly respond to diverse tenant needs and aspirations (including by offering a variety of housing products and services and acting as place managers) can and do offer distinctive benefits to communities and residents (Milligan et al. 2015; 2009) . The draft report, however, does not include (or recommend) any cost-benefit analysis of the efficacy and comparative long term value of different forms and mixes of housing assistance.
- 3.1.6. The report does not propose how the Commonwealth would fund the extension of CRA to new and (over time) existing public tenants. Previous estimates suggest the latter move is likely to cost in the order of \$800m to \$1b (indexed) annually when fully implemented. Presently the Commonwealth provides a similar amount through the NAHA to support the social housing system. That funding, which has been in long term decline in real terms, has increasingly been deployed by states to meet the shortfall between total landlord costs (including asset depreciation) and rent revenues (Hall and Berry 2007). While more transparency in these arrangements is long overdue, we are concerned that under the Commission’s reform proposal the NAHA block grant could be discontinued by the Commonwealth unless a firm case is made to re-apply it to growing social housing supply (in line with pre-1996 policy). Alternatively, funding for the recommended housing assistance measures could be obtained through contingent reforms to housing tax expenditures, especially ‘negative gearing’, that are widely recognised as being inequitable and counterproductive.
- 3.1.7. The draft report does not provide sufficient clarity or definition around the proposed high-cost housing payment for its efficacy to be assessed. It is not clear for instance whether this is a payment for certain personal or specific household needs to ensure a tenancy is sustainable or a payment for higher regional housing costs or both. How can eligibility for such a payment be robustly and transparently determined? What is the recommended affordability outcome for such a payment? Will the payment be an entitlement or will it be rationed and budget driven? Will it be coupled with or uncoupled from Centrelink entitlements - see above? If the payment is sourced from rent revenues of public and community housing providers (the latter to be recovered via a dividend), wouldn’t this in effect mean that low income tenants paying market rents are subsidising other low income tenants? If the social housing stock remains static (the result of a reduction in capital funding, as discussed at 3.1.6 above), rents generated will not grow in line with demand for housing assistance. In these circumstances a high-cost housing payment funded from other tenants’ rent payment would become highly rationed, ultimately undermining the horizontal equity objective.

3.2 The 'contribution to rent' model

- 3.2.1. The draft report points to underutilised capacity within the public housing system and the role of price signals through the Commission's favoured 'contribution to rent' model in incentivising downsizing moves by under-occupying tenants. With nearly a fifth of public housing (19%) under-occupied by two or more bedrooms (ABS 2015)³, we agree that this is a significant policy issue. However, price signals could be introduced via mechanisms other than a full market rent model, with all its drawbacks. Various international social rent setting systems use different means of combining indices of quality and affordability (e.g. referencing local area median rents in the US and a points system for quality in the Netherlands) (Pawson et al. 2011). In Australia the NRAS-linked 'affordable rent' setting model (typically based on a charge of 75% to 80% market rent) also has this attribute.
- 3.2.2. Even within the context of rent-geared-to-income systems it is possible to tackle such problems through administrative measures such as the NSW Government's Vacant Bedroom Charge. In our view sensibly, this applies only when an under-occupying tenant has rejected a reasonable offer of (appropriately-sized) alternative accommodation or has declined to register for such a move. However, the very modest number of cases where the VBC has been invoked in NSW is testament to supply constraint: namely the highly restricted availability of suitable small-size units within the NSW social housing stock. Resolving this valid concern will therefore require significant capital investment and neighbourhood activity over many years to realign existing portfolios.
- 3.2.3. In its advocacy of the 'contribution to rent' model, the draft report argues more broadly that this will be beneficial in providing tenants with 'an incentive to resist any opportunistic increases in rent by landlords'. As we read this, it is an essentially theoretical rather than practically relevant point. Social housing rents are currently set administratively with respect to tenant incomes and market equivalent rents; and while the Commission envisages a transition to market rents across the board, these would still need to be set in a mechanistic way. Therefore, the comment about incentivising tenants to resist rent increases must refer to private renters. However, in a fundamentally undersupplied market, we are sceptical about the scope for low income tenants to exercise market power to restrain landlord impulses here as the Commission implies they could do more effectively. Private renters have neither the legal means nor the market power to strongly resist rent increases. Australian residential tenancies laws allow tenants to challenge rent increases for being excessive to the general market level of rents, but the provisions are little used because in most jurisdictions tenants bear the onus of proving that the rent is excessive, and the required evidence is usually in the hands of landlords and agents, not tenants. Also tenants are specially disadvantaged in the market: because of the high costs – financial and emotional – of moving house, they cannot shop around for a better deal as readily as other consumers.

³ Note that, by comparison with the home ownership sector, social rental housing is very 'efficiently used'. Some 55% of owner occupied dwellings are under-utilised by two or more bedrooms. Does this need a source?

3.3 Renewing public housing estates and the need for supply side measures

3.3.1. While the Commission appears sanguine about the scope for renewal of public housing estates through densified mixed tenure redevelopment (draft report p167), it must also be noted that many such estates are located in weaker housing markets where land values will be insufficient to fully underwrite the cost of renewal – except at the cost of major net reductions in social rental stock (Pinnegar & Randolph 2012). In any event, such works will also mean significant disruption and cost for tenants, many of whom are elderly or disabled. The limitations of such reform need to more fully recognised.

3.3.2. Given the current state of major housing markets in Australia, especially the inelasticity of supply and severe long term shortages of low cost supply (see below), we consider any major expansion of demand-side measures, such as proposed here, must simultaneously be balanced with adequate supply side measures - in particular to maintain and expand subsidies for the supply of social housing and to adopt inclusionary planning policies for affordable housing in all housing submarkets in accord with local needs. Therefore, such complementary policy measures should also be included among the recommendations to help ensure there is a suitable balance of demand and supply side interventions (recognised as necessary in a landmark report by the PC's predecessor body (Industry Commission (1993)). The need for supply side action is underscored by data on:

- Future growth in low income households. Rowley (2016) has estimated that around 200,000 **newly forming households** are likely to face rental stress under current market conditions over the next decade.
- The long-standing shortfall in social and affordable rental housing supply. Some indicative measures include (1) Yates' estimate that to maintain past system capacity social housing dwellings would need to increase by 140,000 dwellings on 1996 levels (Yates 2016) and (2) an identified national shortfall of around 270,000 private dwellings available and affordable to low income private rental households in 2011 (Hulse et al. 2014)⁴.

3.3.3. In considering the future potential of the private rental market, we have argued elsewhere that attracting long term rental investors who seek cash flow based returns (such as super funds) would be highly desirable to help change the nature of the private rental product on offer and to better align with the needs of long term tenants (Milligan et al. 2015, Pawson and Milligan 2013). In particular such an institutional investment model could be expected to promote a move away from amateur landlordism (geared to speculative investment and property flipping) to one of professional management and greater tenant stability. In other

⁴ Relevant here is an observation on the draft report's assertion (p159) that housing stress is usually a short-term phenomenon rather than a longer-term condition. This comment may well be a reference to analysis based on the ABS Household, Income and Labour Dynamics in Australia (HILDA) survey. As a longitudinal dataset, HILDA relies on a panel of participating households who take part in successive 'waves' of data collection. Such a model naturally has to supplement the respondent panel to remedy cohort attrition from wave to wave. Because such attrition is likely to disproportionately involve those subject to enduring personal, economic and housing problems, households of this type will be underrepresented in the survey. For this reason caution should be applied to the claim that, for most of those involved, housing stress will be a short term condition. Account also has to be taken of recurring stress.

words it would help resolve the prevailing systemic tension between investment decisions and housing service provision.

- 3.3.4. We acknowledge that the recent Australian Government announcement of a possible bond market for affordable housing investment is an encouraging step in this regard. However, development of such a market will require an adequate and durable subsidy to underpin investor returns (Lawson et al. 2012; Milligan et al. 2013; AHWG 2016). Current or proposed levels of CRA will be insufficient to achieve this outcome but the significant additional cost of the Commission-proposed CRA reforms is likely to jeopardise other policy choices in the current or foreseeable budget context. Other reforms including the restructure of land tax liabilities are also needed to level the playing field for institutional investors looking to develop a presence in the 'build to rent' market (Martin, 2015). In our view, these are policy trade-offs the draft report has not adequately considered.

3.4 The interchangeability of social and private rental housing

- 3.4.1. The draft report makes much of giving social tenants greater means to move to the private rental market if they so choose. Currently, social tenants receiving Centrelink benefits have that option as they become eligible for CRA on exiting public housing. Similarly, if they move to or are transferred to community housing. The additional benefit proposed in the draft report that may assist such moves, therefore, would be more reasonably indexed maximum CRA payments and possible eligibility for the high-cost payment supplement. However, as discussed above, the draft report is very nonspecific about which tenant cohorts might receive this payment, its adequacy and its durability. Without this information, the veracity of the Commission's claims that tenant choice will improve cannot be properly assessed.
- 3.4.2. An intended consequence of the proposed reforms is increasing use of the private market to meet the needs of future low income and vulnerable households. While the Commission presents selective evidence of problems experienced by some tenants in social housing, it does not review the evidence related to low income tenants' experiences of their housing security, quality and management standards in the private rental market⁵. Nor does it acknowledge that the growing polarisation of urban housing markets is progressively restricting the availability of affordable private rental housing to more remote and less connected parts of our major cities (Pawson et al. 2015). Our recently-completed research on long-term private renters (Pawson et al. 2017; Morris et al. 2017) points to major concerns about the problematic lack of security of renting privately for low income households. It is also clear that in the lower value suburbs of Sydney, the incidence of poor housing conditions is much higher in private rental than social rental property (Pawson & Herath 2015).
- 3.4.3. To adequately address such concerns will require a new policy, institutional and regulatory framework that crosses tenure boundaries – i.e. applies to all providers and forms of rental housing that receive direct or indirect government assistance. There are some suggestions along these lines in the draft report (e.g. having tenure neutral tenancy support services and possible reforms to tenancy laws) but in our view such a policy model needs to be much

⁵ In this regard we support the suggestion to extend the national survey of tenant satisfaction to the private rental market.

more strongly advocated and pursued⁶. Moreover, as we see it, the extent of additional financial assistance being proposed by the Productivity Commission offers a key opportunity to make the strengthening of residential tenancy legislation a contingent action (see report section 5.3). The critical issue here is not the option of longer leases⁷ but eliminating ‘no grounds’ evictions. Both the New South Wales and Victorian State Governments have recently completed reviews of their respective residential tenancies legislation and decided to retain ‘no grounds’ terminations, and their proposals regarding long fixed terms are unlikely to appeal to landlords or tenants and so are unlikely to be much taken up (Martin, 2017). Therefore, failure to ensure more comprehensive policy reforms that embrace supply side incentives and adequate regulatory arrangements related to security of tenure, management services and dwelling quality and maintenance will in our view significantly jeopardise the hoped-for enhanced outcomes for private tenants.

- 3.4.4. Another possibility, since they are currently well-regulated by comparison with private landlords, would be to facilitate extension of the remit of not-for-profit housing providers into a role of managing agents of privately owned housing occupied by low income tenants. For this reason we support the Commission’s suggestion for expanding the CHP ‘headleasing’ of privately owned dwellings. However, as the draft report also notes, this would have expenditure implications – particularly given the desirability of agreeing long-duration contracts with property owners.

3.5 Choice-based lettings

- 3.5.1. As argued by the draft report, the social housing lettings process seems a prime target for measures to enhance tenant choice (pp168-170). As with the ‘contribution to rent’ model, it can be argued that the associated ‘responsibilisation’ of social housing consumers may have beneficial aspects. However, as we have noted elsewhere (Pawson & Hulse 2011) generally positive evaluations of choice-based lettings (CBL) systems in UK and Dutch contexts do not necessarily imply that such an approach could be successfully implemented in Australia. Although potentially advantageous, such policy transfer is not always appropriate.
- 3.5.2. Scale of social housing is a core issue. While, as the Commission argues, the number of social housing tenancies allocated each year will be very substantial at the national scale, the sparse distribution of properties in regional and even many urban areas means that in many letting districts (the area within which an applicant will normally restrict their attention) the flow of properties becoming available for letting may be so small that the scope for choice at any given time would be extremely limited.
- 3.5.3. Moreover, the very restricted scale of social rental property in Australia makes it a much more residualised tenure than is true in countries like the UK and the Netherlands. Consequently, people can qualify for a tenancy offer only if they have complex and/or overridingly urgent needs. This has important implications for the feasibility of an approach to lettings that places lead responsibility on the social housing applicant rather than the social landlord. As they have been developed in the UK, for example, most CBL systems are geared

⁶ See also Hulse & Milligan (2014) on factors driving secure occupancy in rental housing

⁷ This option is only useful to vulnerable tenants if they continue to be able to pay the rent and have the necessary support to sustain a tenancy.

to online applicant participation. The staff-intensive work inherent in ‘enabling participation’ for more disadvantaged applicants (e.g. lacking effective literacy, let alone computer literacy) compounds the resource implications inherent in creating such quasi-market systems.

- 3.5.4. Attempting to address the above issues in the UK context, one of the current authors co-authored a good practice guide to enable the CBL participation by vulnerable groups (Lomax & Pawson 2011). This implied a need for a more management-intensive approach than what had been standard practice in the early implementation of CBL in the UK (2002-2006).
- 3.5.5. The broader point here is that, to have any real meaning for the client group concerned, the adoption of CBL in Australia would call for strong government commitment and very substantial funding. The Commission’s report acknowledges that set up costs would be considerable, and periodic. However, the UK expenditure per property figures cited in illustrating the potential scale of required expenditure are probably too low because they do not factor in the higher disadvantage threshold needed to qualify for social housing in Australia which has implications for the ongoing operational cost of providing necessary assistance to applicants. All of this raises questions about the Commission’s pitch that CBL would help to facilitate a more ‘efficient’ social housing system. More broadly, the feasibility of adopting CBL in the Australian context cannot be lightly assumed. Advocacy for such a move should be accompanied by an explicit recommendation for a feasibility study.

3.6 Contestability of social housing provision

- 3.6.1. Making social housing provision ‘more contestable’ is an aspiration that has inspired policymakers for some time. However, the Commission’s interpretation is framed narrowly as concerning ‘the contestability of *tenancy management services*’ (p172 – our italics), not the contestability of social housing provision. This seems predicated on a presumption that the management and ownership of social housing are beneficially kept separate from one another (an issue we discuss in Section 3.7), and also the separately stated preference for clearly differentiated ‘purchaser’ and ‘provider’ roles in service provision. We are unconvinced of the case for either of these arguments.
- 3.6.2. The draft report couches ‘contestable tenancy management’ within the context of public housing transfers to non-government social landlords. However, to some readers the Commission’s vision of contestability may more directly evoke the Housing Management Compulsory Competitive Tendering (HMCCT) regime rolled out by the UK Government in the mid-1990s (Harries & Vincent-Jones 2001) and contemplated by various Australian state governments at that time. Under the HMCCT model council housing departments were split into client and contractor components, with housing management being parcelled up into packages for periodic ‘exposure to the market’. As in that case, it is implicit in the Commission’s recommendations that this should be universally applied to public housing across Australia. While the draft report cites many submissions as in support of ‘increased contestability of tenancy management’, it is highly doubtful that this kind of model was what these contributors had in mind.

- 3.6.3. Especially given the draft report's strong adherence to competitive tendering (p174), it appears implicit in the Commission's vision of 'contestability' that tenancy management contracts would need to be periodically re-tendered. This seems to suggest relatively short duration contracts – say 3-5 years. This is completely at variance with contemporary standard practice in public housing transfers in which 'leases' of 10-20 years have lately become the norm (Pawson et al. 2016). This has been seen as preferable to shorter-term contracts especially in terms of providing the basis for sourcing private finance for upgrading and new supply secured against a long term income stream (in the absence of title transfer – see below). If state housing authorities are to go further down the management outsourcing track we would argue strongly for the continued use of longer-term 'leases' and against periodic re-tendering. Rather, a provider organisation's entitlement to retain an awarded contract would be dependent on the provision of tenancy management services compliant with regulatory requirements.
- 3.6.4. The above suggestion links to the essential crucial role of regulation in a 'contestable' system. Any large scale expansion of management transfers would call for a strengthened role for regulation in protecting tenants' interests, in the process also providing some comfort for state housing authorities relinquishing control of operational management. In any event, if all potential providers of tenancy management services (including state housing authorities or components of state housing authorities) are to compete to win contracts they would have to do so on a level playing field in this respect. We therefore support the draft report's recommendation that public housing authorities would need to transition to the NRSCH (p195). This is also consistent with the logic of Commission's argument that no provider should be responsible for monitoring its own performance (p184).
- 3.6.5. The Commission argues that, in creating a contestable framework for social housing tenancy management, eligibility to tender should not be restricted to public housing entities and CHPs. For-profit entities should not be excluded. While there is a logic to this, it would be essential for such companies to be certified as meeting required competency standards. In other words, to be entitled to make such bids they would need to first secure NRSCH registration. Further, there would be a need for safeguards to prevent the possibility of anti-competitive behaviour – e.g. large contractors seeking to achieve market dominance through 'loss leading' tenders. One possible means of reducing such risks would be to ensure that service quality rates at least as highly as service volume in tender assessment.
- 3.6.6. Beyond regulatory drivers, there is also a growing body of literature (in housing and other fields) demonstrating that well-governed, commercially savvy and socially oriented not-for-profit entities ('hybrid organisations') can achieve social benefits that are unlikely to arise under a solely commercial regime. (Mullins et al. 2013). Advantages could include reinvestment of business surpluses in social outcomes, mission-driven innovations and partnerships, housing pathways for residents over their life course, place-based service integration, and long term community engagement and development.
- 3.6.7. More fundamentally we question the extent to which private providers can and will take on social goals. Poor outcomes from privatising human services have been manifest recently in the early childhood and VET sectors in Australia. Both in Australia and elsewhere, attempts

at different forms of privatisation of social housing – albeit limited – have evoked little evidence of success. In Queensland in the 1990s an experiment with private management collapsed quickly with managing agents unwilling to manage the interface with support service providers. In Germany, sale of municipal housing to private investors charged with maintaining existing social tenancies resulted in rising rents over time and consequential reduced access for low income households. This and wider dissatisfaction with the performance of the new landlords in turn has led to expensive resocialisation programs in several German cities (Lawson et al. 2016).

- 3.6.8. We welcome the Commission’s recognition of the important role that effective regulation should play in a reformed and better-functioning social housing system. However, while – as noted in the report – the NRSCH formally came into effect from 2014, the system’s design dates from around 2010-2011. With its structure and practices largely frozen in time – the framework is now seriously dated. With the Commonwealth Government having already withdrawn all funding and ownership of the system even at its launch date, the NRSCH has been problematically sidelined ever since. As outlined in our recent report, a wide-ranging set of actions is urgently needed to revitalise the system (Milligan et al. 2017). Again, however, it is hard if not impossible to see these being taken forward without committed Commonwealth Government re-engagement. The Commission should spell this out.
- 3.6.9. Finally in this section, we note the draft report’s well-informed acknowledgement of the potential of housing co-operatives and mutuals to empower tenants and give them more say in how their housing services are delivered. Notably, the many NFP entities created to take on former council housing portfolios in the UK include some configured as mutual organisations. Here, ownership of ex-local authority housing has passed to the tenants, collectively, via a new landlord entity where tenants are the only shareholders (Pawson & Mullins 2010). Similarly Community Land Trusts in the US have a mandated role for tenants and residents in their governance (Crabtree et al. 2012).

3.7 Public housing title transfers

- 3.7.1. Also relevant to the preceding discussion about regulation is the draft report’s questionable argument against public housing title transfer (p176) that ownership handover insulates a recipient successor landlord from the consequences of poor performance. This seems to ignore the potential for effective regulatory oversight to (a) identify governance, managerial or financial failings, and (b) take effective remedial action – with the ultimate threat of provider de-registration, making them ineligible to continue to trade as a social landlord in receipt of government support (a forced merger might be the outcome here). While recognising the Commission’s preference for competitive rather than regulatory disciplines, we argue that social housing provision and management is a field in which there are limits to the proper applicability of marketisation. It is a field which can be, at best, a quasi-market (Bramley 1993; Dykes 2016).
- 3.7.2. Regarding title transfer, it is noted that the Commission rejects the argument that public housing title transfer is potentially preferable to management outsourcing on the grounds that it can help a provider access more cost-effective private finance. However, while it is fair to say that some CHP voices are agnostic on this point, such opinions are couched within

the context of a choice between title transfer and 'long leases' (see above). Moreover, it is worth noting that the Tasmanian Government's recent title transfer was explicitly justified in these terms (Pawson et al 2016).

- 3.7.3. In any case there are other arguments for public housing title transfer not acknowledged in the draft report. Firstly, the split responsibilities and consequential counterparty risks that are inherent in an outsourced management arrangement can be problematic and inimical to making best use of resources. In particular, such an arrangement blunts the incentive for a managing entity to adopt a strategic long term perspective in consideration of asset management investment decisions. This point has broader importance since it conflicts with the Commission's advocacy for the division of tenancy management and asset management functions in social housing.
- 3.7.4. Secondly, as noted in our recent report on the topic (Pawson et al 2016), one pro-title transfer argument is the exact obverse of the Commission's stance on reversibility. Especially after the debacle of the Logan City Community Homes failed transfer (ibid pp22-23, 63-64), and also bearing in mind that recently issued 'long lease' transfer contracts have incorporated very open terms on possible contract cancellation (ibid p36, 45), many CHPs and their financial backers argue that title transfer, albeit subject to subsequent regulation, is a highly preferable option.

3.8 Calibrating management performance, expenditure and value for money

- 3.8.1. We are gratified that the draft report adopts many of the data enhancement recommendations included in our recent AHURI report (Pawson et al. 2015)⁸. However, in this as in many other areas, we believe the Commission should more strongly emphasize the essential role of Commonwealth Government leadership. Especially where they are seen as administratively demanding (or 'risky' in the sense of exposing potentially embarrassing underperformance) it is completely unrealistic to imagine that the radical reforms that are needed will come about purely through voluntary agreement between the states and territories. It may well be that the forthcoming negotiations over the new National Housing and Homelessness Agreement will provide a vehicle to secure state and territory buy-in for required change here.

⁸ Although it should be noted that there is a need for a correction to the reference to our research on page 179. The sentence beginning 'One estimate by Pawson et al. (2015) suggests that about 19 per cent of expenditure by community housing providers is on tenancy support and community services...' should read '19 per cent of [housing] **management** expenditure' ...

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