

# Amendments to the Housing Australia Investment Mandate Direction

## Victorian submission to public consultation

Social and affordable housing is one of the key building blocks for a strong community and strong economy. The Housing Australia Future Fund Facility (HAFFF) and the Housing Accord are welcome growth commitments, and Victoria looks forward to working with the Commonwealth to deliver new homes.

Victoria's \$5.3 billion Big Housing Build, the \$1 billion regional housing fund and recent significant planning reforms through the Victorian Housing Statement are contributing to the easing supply and affordability impacts in Victoria. Victoria is also looking forward to working with the Commonwealth and Housing Australia in the delivery of the Commonwealth's dwelling commitments under these schemes.

The Housing Australia Investment Mandate Direction is an important step in progressing the Governments' commitments under the Housing Accord and through the HAFF to improving access to safe, secure housing nationwide. The Investment Mandate Direction outlines the process by which Housing Australia may provide funding support to states and the Commonwealth in delivering its commitments under both the Housing Accord and the HAFFF. It is necessary for this Direction to be robust, clear and provide good guidance for all parties to ensure the intended outcomes for these important reforms to be realised in the community.

Victoria provides the following commentary and feedback on the exposure draft in the interests of continuing the conversation and collaboration around delivering housing outcomes in our State. Victoria sees the Direction as a step in an ongoing conversation and engagement between states, territories, and the Commonwealth about how we can ensure all Australians have access to safe, secure housing. This includes existing commitments such as the HAFFF, the Housing Accord and the Social Housing Accelerator Payment, and forthcoming engagements such as the National Housing and Homelessness Agreement renegotiation and collaboration around the National Housing and Homelessness Plan.

Victoria's feedback on the investment mandate broadly addresses four key themes:

1. Collectively, Commonwealth, state and territory government settings maximise ongoing growth in social and affordable housing, including through the increased involvement of the community housing sector and institutional investors.
2. The level of government subsidies is proportional to need and sufficient to deliver affordable, secure homes in areas where they are needed.
3. Advance Aboriginal and Torres Strait Islander self-determination to rectify inequity of housing outcomes.
4. Equitable distribution of funds to support the meeting of housing need across States, Territories and regions.

## Context of the Investment Mandate

The Investment Mandate proposes a range of conditions and requirements that apply to the delivery of the HAFFF and NHAF with guidelines on the operation of the grant procurement arrangements to be settled by Housing Australia. While Victoria supports this approach, the proposed Investment Mandate should make it clear that operational arrangements will be defined and settled by Housing Australia and include a range of principles or guidelines for the purposes of settling these operational arrangements.

An example of these principles are:

- Housing Australia will determine the procurement process for the delivery of the HAFFF and NHAF commitments.
- Housing Australia will ensure that the procurement arrangements for the HAFFF and NHAF program complement and not conflict, compete or impact on the quality and timeliness of State and Territory social and affordable housing programs.
- Housing Australia will consider funding arrangements with States and Territories subject to agreement with the States and Territories.
- The HAFFF will contribute to operational costs incurred by States and Territories that relate to projects funded by the HAFFF.
- The application of State and Territory equivalent social procurement and safety requirements are to apply to dwelling projects in those places.
- To specify cohort (e.g. Aboriginal, family violence, veterans) and location (regional and metropolitan) preferences.

## Housing Accord counting methodology and minimum dwelling commitment

- Victoria requests that the HAFFF dwelling targets:
  - Are allocated on a per capita basis across States and Territories with a public commitment on the number of new social and affordable dwellings build in each jurisdiction.
  - incorporate the minimum 1200 dwelling floor noting that this increases the per capita dwelling contribution some States and Territories.
  - reporting requirements provided in clause 28K are to be made public on an annual basis.

## Definition of affordable housing

- The definition of affordable housing has been previously agreed under the Housing Accord.
- The Accord determined that each state and territory should determine the relevant definition. In Victoria, 'affordable housing' is defined in the *Planning and Environment Act 1997* as 'Housing, including social housing, that is appropriate for the housing needs of very low-income households, low-income households, and moderate-income households'. The HAFFF definition should be consistent with the definition used for the Accord.
- Further, Victoria recommends including reference to organisations deemed by a State or Territory as eligible providers of an affordable housing program also being eligible under the Investment Mandate.
- The 10,000 affordable homes to be delivered under the Accord should include but not be limited to frontline workers such as police, nurses and cleaners. This is because limited to 'frontline workers' require defining this term. Different areas will require different workers (e.g. nurses and/or hospitality workers) therefore advise against strict definition or job list.
- Victoria supports an ongoing conversation about how best to deliver affordable housing nationwide under the terms of the Accord and through the HAFFF, however notes that this overarching definition and jurisdictional independence should remain primary considerations.

## Standards and project alignment

- While Victoria agrees with the environmental and housing standards that are proposed to apply to the dwellings funded by the HAFFF and Accord, it will be important that the dwellings are in appropriate areas and are of the right typology to meet the demand in specific areas and are of a standard of design and appearance that does not conflict with Victoria's requirements for social and affordable housing. In addition to national standards, state and territory minimum standards for sustainability, accessibility, design and social procurement should be satisfied to be eligible for loans and/or grants.
- To ensure HAFFF and Accord projects delivered in Victoria align with Victoria's other efforts to improve overall housing availability and affordability now and into the future, Victoria proposes that states and territories are consulted and able to provide input and commentary on projects funded under the HAFFF and Accord prior to their approval. Victoria is also of the view that state processes for procuring projects should be aligned with HAFFF and NHAFF processes to the fullest extent possible to ensure that they are not, or not seen to be, competing with each other and impacting the quality and timeliness of outcomes. Victoria also strongly encourages the involvement of States and Territories in the identification and engagement of eligible project proponents to enable efficient coordination of housing delivery.

## Schedule 1 – Housing Australia Future Fund Facility

*Victoria notes points raised relating to this schedule should also apply to Schedule 2 - Implementation of National Housing Accord where relevant.*

- Proposed clause 28D(d) refers to Housing Australia needing to be satisfied that the risk of a loan not being repaid does not exceed an acceptable level. Victoria suggests that Housing Australia reflect on its security requirements for existing and future lending held with the community housing sector and consider changes that reflect:
  - the intent/objective of the HAFFF and the proposed Investment Mandate;
  - process flexibility;
  - a broader view of the risks that impact community housing sector developments and how these depart from commercial housing developments including risk mitigants such as their registration and regulatory requirements, the reliability and source of rent payments, low vacancy rates and the impact of the provision of grant funding both through the HAFFF and provided by States and Territories; and
  - the implications of security requirements that crowd out the ability for the community housing sector to attract finance to support housing projects.
- Proposed clause 28D(e) includes a requirement for a loan or a grant to provide value for money, in terms of the amount of housing delivered as compared to the amount of government support provided. Victoria suggests that the Investment Mandate also take into account the social outcome from the grant or loan provided. This would act that the scheme does not disadvantage particular housing cohorts that have greater social and likely cost requirements. This may include:
  - cohorts that require larger or different home typologies including for the housing of families, which would be more expensive than smaller dwellings;
  - cohorts that have limited income to meet rent payments due to specific circumstances such as family violence or youth; and
  - affordable housing rent settings that do not provide a sufficient rent discount.

- Proposed clause 28F(h) of the Investment Mandate in effect includes Defence Housing Australia as being eligible for funding. Victoria sees provision of grants and loans in support of Defence Housing as an existing Commonwealth obligation that is unrelated to the HAFFF and the Accord. The link between provision of this housing type and the intention of the HAFF financing to support projects which increase the availability of social and affordable housing or address acute housing needs in areas which are most in need of assistance is not clear. Victoria requests the Commonwealth clarify its intention for the incorporation of Defence Housing in the Investment Mandate. Victoria remains supportive of projects which ensure provision of housing to support veterans experiencing or at risk of homelessness being provided through the HAFFF and Accord.
- Victoria recommends a minimum number of 10 per cent of dwellings to be made available for Aboriginal or Torres Strait Islander people. The majority of the housing forming housing for First Nations people to be owned and operated by Aboriginal Community Controlled Organisations (ACCOs), enabled by a focused application process to meet the needs of ACCO registered housing providers.
- Victoria recommends removing reference to special purpose vehicles and replacing with consortia arrangements involving one of the eligible project proponent types.
  - If the current definition is retained, special purpose vehicles should allow a range of residential and commercial outcomes noting that only affordable and social housing dwelling outcomes will be eligible for HAFFF or NHAF assistance and special purpose vehicles should be registered as a community housing organisation under the relevant state or territory law.
- Victoria requests that the Investment Mandate ensure “a registered community housing provider that is a constitutional corporation” includes community housing providers registered with State and/or Territory Governments (as well as National).
- Victoria seeks clarity from the Commonwealth on the proposed mechanism for states to provide Housing Australia financing to local governing bodies with successful projects.
- Victoria seeks clarity in the Investment Mandate on whether financing decision criteria will be weighted and whether there is a threshold for criteria to be met in order to be eligible for funding.
- Victoria proposes updating wording on improving gender equality in apprentices to the following: *the extent to which the project’s workforce (whether or not employed directly by the project proponent) will support greater participation of apprentices with a focus on the degree to which the workforce will support female and gender diverse apprentices and female and gender diverse trade apprentices in the building and construction industries.*
- The draft Investment Mandate restricts loans and grants being paid to entities “if [they have] applied for a loan or grant.” This may limit the flexibility of co-funding arrangements as it would prevent HAFFF from paying a CHA where the State has submitted a co-funding bid on its behalf. Victoria recommends that the IM not include any wording which prevents the bundling of multiple CHA projects for presentation to Housing Australia. Alternative wording could be “can only provide funding to an entity if it has applied for a loan or grant or an application for a loan or grant has been submitted on its behalf”.
  - Victoria further recommends that flexibility for grants be provided for affordable housing in instances where proponents have a low asset.
- The draft Investment Mandate requires Housing Australia to assess the “likely effect of the project on the supply and ongoing availability of...”. Victoria recommends the removal of the reference to “ongoing availability” as:
  - It is not aligned with the HAFFF providing a subsidy for 25 years. Providing a subsidy for a fixed period of time but expecting an ongoing benefit may be a challenging proposition for Respondents to manage.
  - It may create issues with good asset management, as Community Housing Organisations and public housing providers have prudent asset management practises which involve asset recycling where appropriate. Preferencing projects which have a perpetual housing outcome beyond the 25 year term may not create optimal outcomes.

- It may prevent institutional investment models where they are unwilling to hold assets beyond the subsidy term.
- It may be administratively burdensome and limit borrowing capacity if Housing Australia needs to have caveats on title in perpetuity in order to enforce this.
- Victoria suggests the Investment Mandate and related directions are subject to a sunset clause to ensure coherence between directions.
- Victoria notes the dwelling standards requirements under the Federal Safety Commissioner which may affect Community Housing Providers' ability to engage with the HAFFF. Victoria seeks clarity in the Investment Mandate about how these standards will be incorporated and managed including the option for the HAFFF to consider using similar requirements in force in the relevant State or Territory where a project is funded.

## **Schedule 2 – Implementation of National Housing Accord**

- It is unclear which aspects of the criteria for financing decisions oblige Housing Australia to consider whether its financing decisions are providing housing outcomes on an equitable basis across jurisdictions.
- Victoria requests the Investment Mandate clarify that projects can receive loans and/or grants from both HAFFF and NHAF.

## **Schedule 3 – Treasury Laws Amendment (Housing Measures No. 1) Act 2023 consequential matters**

- Victoria reiterates the previous recommendation the Commonwealth consider the separation of Housing Australia's loans and grants functions through appropriate governance arrangements, given loans and grants have different policy and risk considerations, and to ensure the priorities of one do not adversely influence the decision-making of the other.
- Victoria encourages the Commonwealth to confirm that the National Housing Supply and Affordability Council has resourcing and capacity to be the sole entity undertaking independent research into matters relevant to housing supply and affordability if these activities are removed from Housing Australia's responsibilities.
- Victoria supports community housing agency capacity building activities being included in HAFF and Accord project allocations. Victoria seeks to clarify if the capacity building funds are available to proponents of HAFF, NHAF and NHIF as the explanatory statement suggests NHIF only. Victoria also wishes to be engaged in any further work being undertaken by the Commonwealth on this topic, including determining what level of funding and capacity building initiatives will be considered suitable.
- Victoria recommends expanding the support to States and Territories to align with the Closing the Gap Housing Sector Capacity Building plan and approach, including a requirement to provide capacity building support to Aboriginal community-controlled organisations.
- Victoria recommends the scope (by exception) for registered Aboriginal community-controlled community housing providers be expanded. There is still support required for these providers despite their registration status i.e., newly registered Aboriginal community-controlled community housing organisations.