

Are there any areas that the Review Panel have not covered in their discussion paper that you would like to see addressed?

This question invites a critique of the way the information is presented in the Consultation Papers (hereafter referred to as ‘the Review’) as the community housing (CH) sector is privileged over public housing (PH) to suggest that the former’s performance is superior to the latter. On the contrary, whilst there has been a decline in DHHS’s responsiveness and service delivery in recent times and notably since the launch of Homes Victoria, the Housing Association model in particular offers tenants fewer protections than public housing whilst often rent-gouging above its 30% of income benchmark.

The material gives the impression that the Review’s authors have consulted with community housing executives and peak body representatives but have not canvassed the views and experiences of a broad cross-section of CH and PH tenants. Any rental housing platform, be it public, private or community, is only as good as its capacity and willingness to resolve tenancy disputes with its tenants, and to maintain properties to an acceptable standard.

The Review also hasn’t taken advantage of RMIT’s analysis of the Big Housing Build (BHB).¹ Consequently, the Review may possess an overly-optimistic notion of the extent of new housing stock intended for people in homelessness and long-term disadvantage.

RMIT’s analysis of the ‘Fast-Start housing on DHHS-owned land’ component of the BHB indicates that the demolition of 446 public housing dwellings will yield “a total net gain of 54 social housing dwellings across 6 sites (a 10% uplift)”. With a total outlay of \$532m, each dwelling would cost \$9.85million. The redeveloped properties will be managed by CH providers - these management arrangements could jeopardise the public ownership of the property titles in the long term.

The Fast-Start purchase program enables state-sponsored repurposing of failed or stalled private developments. Yet the same outcome could have been achieved with inclusionary zoning and the \$948 million bailout could have been better spent on genuine public housing.

The final component of the BHB will use vacant government land to create 5200 community and private homes at a cost of \$2.14bn. RMIT’s modelling found that 7,100 public housing dwellings could be created for the same funding. This is backed up by a comprehensive 2018 AHURI study which found that across five different financial modelling scenarios, investment in public housing proved to be the most efficient means of delivering genuinely affordable housing.²

RMIT modelling also found that via a direct capital grant model the total BHB expenditure of \$ 5.3bn could deliver 20 thousand public housing dwellings, thereby retaining the assets in public hands and

¹ Porter, L. & Kelly, D. 2020. *Does the Big Housing Build address the housing crisis in Victoria?* Centre for Urban Research, School of Global, Urban and Social Studies, RMIT University.

² On p. 5 of the Big Housing Build the authors refer to “A 2018 Australian Housing and Urban Research Institute study” without a direct citation: Lawson, J., Pawson, H., Troy, L., van den Nouwelant, R. and Hamilton, C. (2018) *Social housing as infrastructure: an investment pathway*, AHURI Final Report No. 306, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/306>, doi:10.18408/ahuri-5314301.

easing the social and health costs caused by such high rates of homelessness and related disadvantage. In contrast, the BHB projects 12 thousand new homes of which the RMIT analysis finds that at best, 8 thousand will be social housing with the balance as 'affordable' and private housing.

Auditor General

Further to the question of other issues that respondents would like to see addressed, the Review has noted VAGO's scrutiny of DHHS's pervasive and persistent shortfalls in stock management. However, the Auditor-General's assertion in the 2012 report '*Access to Public Housing*' of a 40% deficit in the PH budget is less conclusive.³

Consultation Paper 1 states "*The Victorian Auditor-General's Office noted that rents have often been insufficient to cover operating costs, such as maintenance*" (p.15). Myself and other public tenant colleagues investigated this issue in 2012 following the release of VAGO's '*Access to Public Housing*'. The Auditor-General's findings were based on a secret review of public housing accounts commissioned by then Housing Minister Wendy Lovell. The review did not concur with our perusal of the accounts over several years which showed a yearly surplus of around \$80-100 million once maintenance, rates and other costs were debited from annual rental income. We believe this surplus is transferred to Treasury as general revenue.

Minister Lovell's review has never been publicly released. Hence, questions remain about how the Auditor-General arrived at the above determination, particularly as '*Access to Public Housing*' is light on actual figures which may substantiate his findings.

Controversy also swirls around the **Deed of Assumption**, a long-standing liability structured to recover debt from the Department's catastrophic home loans of the 1990s but worn by PH accounts. For further details please refer to my publicly-available submission to the Inquiry into Homelessness in Victoria.⁴

What are the key problems with service delivery by housing providers and how do these impact tenant experiences?

As a former community worker and an engaged public tenant, the negative experiences of CH tenants, in both Housing Associations and smaller outfits, have come to my attention over many years. Even those who love their CH landlord have had to do battle with them at VCAT. In my former work role, CH tenants would often tell me that their requests or complaints would prompt the following response from their housing worker "if you don't like it, you can always leave". In comparison, generally, housing officers employed by DHHS/DFFH/Homes Victoria are required to carry out their role in accordance with Departmental policies and the Residential Tenancies Act (RTA).

As the submission from the 'Community Legal Centres Joint Response' notes, "*There is a paucity of publicly available data about the activities of social housing landlords, particularly as they relate to renter outcomes*" (p.1). Their granular analysis of the data is impressive, particularly around evictions. As the CLCs have provided compelling case studies of disaffected CH tenants, I have omitted the personal examples I've encountered over the years.

³ Victorian Auditor General's Office 2012, *Access to Public Housing*.

⁴ Byrne, K. 2019 The writer's submission to the Inquiry into Homelessness in Victoria, p.6:
https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_Homelessness_in_Victoria/Submissions/S409_-_Kerrie_Byrne_Redacted.pdf

On the theme of accountability and transparency, over many years the allocation and eligibility policies of CH providers has been opaque - when an application from a prospective tenant is rejected, the reasons for this decision may not be transparent. In contrast, the policies and procedures of DHHS/DFFH/Homes Victoria are publicly available and uniform across the state, along with a consistent state-wide management structure, standards and practices.

Some CH regulations and policies cause financial hardship and stress for tenants:

- those surviving on the pittance of Jobseeker still have to part with 100% of their Commonwealth Rental Allowance on top of 30% of rent;
- some CH providers impose the 'bedroom tax' whereby once a resident moves out and a bedroom becomes empty, the lease-holder is still charged the same rent unless they agree to exit to a smaller property;
- likewise, when a tenant's income decreases, their rent is not necessarily adjusted downwards by some CH providers.

Uniform regulations could be the beginning of a slippery slope leading to similarly financially-punishing scenarios placed on PH tenants particularly as CH providers will be managing the redeveloped PHRP and BHB estates.

It must be beyond contestation that public housing tenant rights, as set out in Departmental policies and the Victorian Charter of Human Rights (along with the Residential Tenancies Act) will not be weakened for any reason and certainly not for the purpose of homogeneity with community housing regulations.

The need for a Public and/or Social Housing ombudsman

The decline in an acceptable level of customer service and maintenance standards noted by public tenants across Victoria (through anecdotal in-person discussions and on social media) has led tenants and some Members of Parliament to call for a Public Housing Ombudsman or Commissioner. The Andrews Government needs to understand that the present state of affairs is not sustainable. It's clear that service deterioration will only be rectified when a third party 'watchdog' assumes a regulatory role over the PH system, whether PH remains under the stewardship of Homes Victoria or reverts back to DFFH.

We need a de-politicised Inquiry to investigate the best way forward – the proposed regulatory body must have the authority to direct DFFH/Homes Victoria.

In addition, the internal complaints system for public tenants must be revived and strengthened as a matter of urgency. The current 'all of DHHS/DFFH' complaints facility is woefully inadequate and often leads to a tenant's grievance being flipped to the subject of the complaint for resolution!

The current system also lacks accountability checks – it appears no-one is employed to monitor whether complaints are dealt with to the tenant's satisfaction. This can be the case with local Housing Offices whilst it's particularly problematic to escalate an issue concerning the Maintenance Call Centre – MCC managers are never available and formal complaints seem to vanish into thin air!

CH tenants also require an independent regulatory body to monitor tenancy issues and resolve disputes. As the Housing Registrar appears unable to adequately uphold the rights of CH tenants in dispute with their providers, it would make sense to appoint an Ombudsman or Commissioner to oversee both housing platforms, public and community.

However, this should not assume a ‘one size fits all’ approach to regulating the two housing platforms. The office of a Social Housing Ombudsman or Commissioner would require the flexibility and expertise to monitor and make judgements on both CH and PH, having two distinct regulatory frameworks (which will overlap on tenancy matters covered by the RTA).

Resources to run the operations of such a regulatory body could be found by cancelling the Deed of Assumption (see above) and also by reclaiming the net profits from rental income which appear to be directed to General Revenue.⁵ Should this regulatory body be given oversight over both PH and CH, then CH providers would be obliged to pay an annual fee, the amount to be determined by the size of the organisation.

The State Government could also look for savings elsewhere. If its extravagant annual funding for the lacklustre motor Grand Prix at Albert Park was cancelled, there’s around \$60 million right there to cover the annual operating budget of a Social Housing Commissioner dedicated to improving standards and resolving disputes in both PH and CH.⁶

Building standards also require the oversight of an independent regulator:

The housing stock constructed through the Victorian public housing system previously adhered to decent standards but the quality has deteriorated in recent times as reflected in the reports of a Ballarat tenant via social media. Two units replaced single stand-alone properties, leaving families with tiny backyards; smoke alarms, hot water systems and water tanks all malfunctioned; flimsy dividing walls between the properties have led to significant sound and insulation issues. Even the toilet seats are faulty! Four-bedroom units have only one bathroom which seems excessively cost-conscious and presents a challenging scenario for large families. Many Victorian tenants have also stated that the Braemar gas heaters are unworkable and should be replaced.

A related issue is the failure of DHHS/DFFH/Homes Victoria to refurbish estates in a timely manner whereas previously upgrades occurred on a cycle of around 10-12 years. These major works comprise carpentry, painting, plumbing, flooring and any other repairs or replacements not covered by the Maintenance Call Centre such as new ovens or heaters. As noted in the response to the first question, the Victorian Auditor-General’s Office (VAGO) has reported on the failure of DHHS to upgrade its deteriorating assets in a timely manner in both 2012 and 2017.⁷

How could housing providers be encouraged to give greater attention to their tenants’ preferences and experience of social housing?

If the Review is serious about energizing tenant input into their housing operations, then the formation of tenant groups for CH organisations should be promoted. Housing academics writing for AHURI often claim one of the benefits of community housing is that, as its name suggests, it’s more linked in with local networks than public housing and provides the social glue to bring people together. This is a mythical assertion but if CH providers were serious about community engagement

⁵ DHHS Annual Report 2019-20 p. 287

<https://www.dhhs.vic.gov.au/publications/annual-report-department-health-and-human-services>

The writer acknowledges that 2019-20 produced a deficit but this is unusual and one of the reasons given, “accelerated depreciation resulting from the PHRP demolitions” invites scrutiny given the high market value of inner-city land assets. Perhaps the cost of private rental accommodation for relocated PHRP tenants is a factor.

⁶ Annual cost to Victorian Government of hosting the Australian Grand Prix motor race:

<https://www.racefans.net/2018/03/05/australian-grand-prix-cost-government-56-million-last-year/>

⁷ Victorian Auditor General’s Office 2017, *Managing Victoria’s public housing & 2012, Access to Public Housing.*

and incorporating tenant input and concerns into their policies and operations they would facilitate or at least endorse the formation of tenant groups across their properties.

While tenant groups have languished in the PH sector, partly due to heavy-handed management from DHHS, the Cain-Kirner government in the 1990s initiated a highly successful program whereby local tenant groups were funded to employ trained workers who dealt with tenancy matters and reached out to the tenant community through various projects and activities. Local tenants comprised the management committee and were responsible for employing the staff, with guidelines from the Office of Housing. The tenant group formed the heartbeat of public housing estates and neighbourhoods; the program was effective, efficient and reviewed annually. Collective activism that enhanced PH conditions and tenant welfare was not frowned upon.

Unfortunately, fully-funded tenant groups were de-funded by the Kennett Government, effectively ripping the heart out of tenant communities and estates. The Bracks Government funded minimal tenant groups with an emphasis on micro-management from DHHS who also funded a de-facto form of tenancy advice and support run by NGOs such as the Brotherhood of St Laurence. The latter service exists today as the Tenancy Plus service and usually operates out of regionally-based crisis housing agencies.⁸ Whilst in high demand, it appears to be under-resourced as most tenants are unaware of its existence.

If the Review Board is serious about incorporating the tenant voice into the regulation framework, then it also needs to address the elephant in the room – DHHS/Homes Victoria and CH providers must respect tenant groups' right to free speech and not jump down their throats with threats of de-funding when groups advocate on behalf of their tenant communities.

CH tenants would also be well-served by a tenant-led umbrella organisation to represent their collective interests at meetings with provider and industry bodies and the three tiers of government. Whilst PH tenants are represented (loosely speaking) by the Victorian Public Tenants Association (VPTA), the interests of CH tenants have gone unheard for far too long. Since the advent of Housing Associations, the sector has been corporatized to the degree that tenant rights take a backseat to the providers' focus on running profitable (growth-driven) companies. There are many reasons why the VPTA should not be expanded to fill this role of a CH tenant peak body but put simply, CH is a distinctive entity whose tenants deserve to assert their needs and rights independently of public or private rental housing.

Estate meetings with providers and/or the housing bureaucracy are another vital way of fielding tenant input into decisions affecting their housing for both CH and PH tenants. These meetings can promote better estate management from the landlord and help to instil a sense of ownership amongst the tenants. In his first term as Housing Minister, under the Bracks Government, Richard Wynne introduced local and regional meetings – both enabled housing staff and tenants to discuss matters of common interest in a relatively informal setting.

A case in point: the writer attended meetings for tenants with the Office of Housing regional head, other staff and tenants from across the southern region around 2004. When the tenants of a newly redeveloped local PH estate were told by the South Melbourne Office of Housing that flyscreens would not be installed in their new units, I was able to lobby the Regional Director who ensured that flyscreens were installed as per standard PH building regulations.

⁸ A recent perusal of the DHHS webpage for the Tenancy Plus service shows they've actually dropped public tenants from the description of which groups the service assists – this must be a typo.

What role can regulation play in supporting investment and growth in the social housing sector?

The over-riding question should be centred on how a better-regulated sector would contribute to solving the housing crisis faced by Victorians in long-term disadvantage and severe housing stress – yet the question of investment and growth takes precedence over this pressing social need.

The primary objective of social housing (PH & CH) should be to accommodate the 24 thousand homeless Victorians and the 50 thousand households languishing on the VHR in permanent low-cost housing of a good standard. Academic analysis has shown PH to be the most effective mechanism of delivering housing for low-income earners. If the Victorian Government paid heed to the research (as outlined in the writer's response to Question 1) it could solve the housing crisis faced by disadvantaged Victorians in a relatively short timeframe.

The Review paints the CH system as being at a disadvantage in comparison to PH:

“The system is inequitable - providers of public and community housing are regulated differently - community housing providers must comply with multiple types of regulation (contracts, policies and laws)”, Summary of Consultation Paper 3, p.2.

“Public housing and community housing are regulated differently. Regulation, as well as the level of funding and other forms of government assistance that social housing providers receive (land transfers or leases at less than market value), impact their financial viability and capacity for growth.” Summary of Consultation Paper 3, p.1

The CH sector must be strongly regulated as it receives government funding for projects to house low-income and vulnerable Victorians. However, Housing Associations have historically not prioritized this cohort. Due to the model's growth imperative and the emphasis on the financial bottom line, Housing Associations have often cherry-picked applicants on higher incomes than people on Centrelink over the past 15 years.

In my former welfare work assisting people in disadvantage with Emergency Relief, homeless families in transitional housing (eg. the former CityGate apartments in St Kilda) would tell me they were waiting for an offer of public housing – it seemed they were never considered for a Housing Association tenancy.

Consultation Paper 2, (p. 5, Characteristics) points out *“Sector is heavily subsidised by government (via funding to providers and direct income support to tenants)”*. **However, the original stated intention in 2004 was that Housing Associations would only receive start-up capital of \$70 million and then raise capital from external sources in order to become self-funding.**⁹ If the model isn't self-sustaining, that is a further rationale to prioritise public housing over corporatized social housing which has failed to address the housing needs of the most vulnerable Victorians.

In terms of *“direct income support to tenants”*, there is no evidence of any subsidy paid by the Commonwealth to the States that filters down to public tenants. This is a mythical notion promoted by conservative forces. The Commonwealth's housing grants to the States aren't even monitored to check where they end up.

In the CH sector, income support intended for tenants is diverted to the providers. One hundred percent of CH tenants' Commonwealth Rental Assistance (CRA) is paid directly to the CH providers in

⁹ Office of Housing Consultation document 2004 *‘Strategy for Growth in Housing for Low Income Victorians’*.

most cases. CRA is a linchpin of the Housing Associations' revenue streams, yet the CRA was originally intended to assist low-income tenants manage their private market rents. A light should be shone on the fairness (or otherwise) of CH rent-setting practices. One Housing Association now charges tenants an extra \$5 per week to cover upkeep of communal areas. Furthermore, when PH tenants are transferred to CH they become eligible for CRA, thereby incurring a significant cost to the Commonwealth.

Historical context

The launch of the Housing Association model in 2004 led to unprecedented funding for CH at the expense of PH. The Bracks/Brumby Governments chose to invest over one billion dollars in the creation of Housing Associations in preference to invigorating the PH system¹⁰ and in spite of the claim that the model was intended to be self-supporting via external capital.

For roughly the past 15 years PH stock in Victoria has remained at around 62-63 thousand units, whilst the most recent DHHS data sets show a further decline to 61, 635 thousand households in 2020.¹¹ Meanwhile homelessness soared to 24 thousand Victorians in the 2016 Census, an 11% increase since 2011.¹² and the PH waiting list sits at around 100 thousand people (applying as 50 thousand households). The logical conclusion is that Housing Associations haven't been accommodating the lion's share of people in the greatest need. Had the Victorian Labor Governments of the past two decades embarked on a massive build of genuine PH, homelessness could have been successfully managed, minimizing its related social costs and band-aid crisis housing expenditure.

Until the introduction of the common waiting list for both PH and CH, the Victorian Housing Register (VHR), Housing Associations weren't obliged to house applicants from the Priority segment of the PH waiting list (high needs or long-term homeless) as the 2010 Auditor-General's report into Social Housing revealed. The report notes "*The financial goals housing associations are required to meet provide an incentive to house higher-income tenants yet current rules about access do not protect against inequitable tenant selection*".¹³

The regulation that now requires these CH providers to take 75% of their allocations from the VHR should produce a noticeable decline in homelessness and waiting list numbers.

The revelation in Consultation Paper 3, p.10 should have been stated upfront in order that tenants and other stakeholders are aware of the destination the Review is travelling towards:

"Regulating public and community housing alike would mean separation of Homes Victoria's public housing operations from its broader housing policy, stewardship and commissioning roles. The public housing operation would be expected to adopt the same best practice governance and reporting arrangements that apply in the community housing sector."

¹⁰ Evidence of the one billion dollar funding to Housing Associations has 2 sources:

a) CHFV archived webpage "In May 2007, the Victorian Government committed \$300m for Housing Associations to deliver at least 1550 new homes by July 2011. This was built on previous funding of \$220m since 2002". For each project the funding ratio entailed a 75% contribution from government and 25% from the Housing Association.

b) DHS Annual Report 2010-2011 p. 161 which lists grants to 9 Housing Assocs, totalling \$347.6 million in 2010 and \$246 million in 2011.

¹¹ DHHS Housing assistance additional service delivery data 2019-20. Whether "households assisted" equates to actual Director-owned stock is a moot point!

¹² <https://homelessnessnsw.org.au/wp-content/uploads/2021/03/Homelessness-in-Australia-.pdf>

¹³ Victorian Auditor-General's office 2010 *Access to Social Housing*.

Concerning the question of separating PH operations from its broader policy and development partnership roles, at the Oswald Barnett Oration in April this year - attended by the Director and the Chief Development Officer of Homes Victoria - PH was only mentioned derisively and in passing. It was made clear that Homes Victoria will roll out the BHB, encompassing the demolition of public housing estates and a privatisation agenda¹⁴. In other words, the writer's impression is that the condition of public housing assets and the welfare of public tenants are not major operational concerns for Homes Victoria.

Hence, yes, it would be advisable for the PH system to be retained within DFFH as a distinct entity with its previous nomenclature as the Office of Housing and a more realistic operational budget. That would provide the opportunity for housing officers to be better trained and remunerated and for public housing stock to be refurbished and upgraded in a timely manner.

To address the second sentence from the above quote, as the writer has outlined throughout this submission, it's not clear how the Review has demonstrated that the CH sector operates with superior governance and reporting arrangements in comparison to the PH system. Certainly, since the introduction of Housing Associations in 2004, the sector has responded to a range of more stringent compliance measures than previously. But nevertheless, their "best practice governance" doesn't seem to extend to tenant rights. There is also a need for transparent, equitable allocation policies and a fairer rent-setting regime, along with user-friendly rental statements as some CH tenants struggle to understand these.

As this submission along with those of other groups supportive of public housing have noted, it would not be acceptable to weaken the protections afforded to public tenants¹⁵. It must be beyond contestation that PH tenant rights, as set out in Departmental policies and the Victorian Charter of Human Rights (along with the Residential Tenancies Act) shouldn't be diluted for any reason and certainly not for the purpose of homogeneity with CH regulations. Rather, the regulations that affect CH tenants must be uplifted to afford them equity with the tenancy rights and human rights enjoyed by PH tenants.

Several Housing Association providers are earmarked to manage the former PH estates currently being redeveloped as CH through the Public Housing Renewal Program (PHRP) and the BHB. As Housing Associations become an increasingly dominant force in the low-income housing landscape, their combined market power suggests they will be able to exert considerable influence over matters such as rent-setting and the terms of tenancy agreements. This could lead to even higher CH rents than currently and a continuation of a relatively punitive interpretation of tenants' rights in comparison to PH. There is a further concern that their management role on the redeveloped PH estates could lead to a weakening of PH's policies on rent-setting and tenant rights.

The above are not alarmist speculations – the tone and flavour of the Review's assertions relating to regulations are paving the way for market-based reforms to the PH system. As the State Government seems intent on downsizing its PH responsibilities and assets, PH policies need to be

¹⁴ BHB analysis is referred to in the writer's response to Question 1. The PHRP sites appear to have been subsumed into the BHB and will create 10% more CH properties than the former PH estates on which PHRP construction is taking place, but with far fewer three-bedroom units.

Private development will take up at least 50% of these former estates: Porter, L. & Kelly, D, 2020, *Understanding the assumptions and impacts of the Victorian Public Housing Renewal Program*, Centre for Urban Research, School of Global, Urban and Social Studies, RMIT University, p.15.

¹⁵ A further source of comparison between the two platforms (CH & PH) is Hurren, C, 2020, *'Public and Community Housing: Comparing the rights and experiences of older tenants in Victoria'*, Housing for the Aged Action Group'.

protected from the influence of CH supply-side imperatives such as maximising income through exploitative rent-setting practices. Specifically, PH rents must remain fixed at 25% of income.

However, the bigger question should be: **why is public housing not being retained and extended via the BHB?** The Minister for Housing needs to explain why we are reducing the already parlous amount of housing stock and PH land assets - through private development on PH sites - given the extent of homelessness in Victoria and the waiting list blow-out. The PHRP has already demonstrated how these public-private partnerships consume the estates' open space, vital for cost-free recreation, and force tenants, including the elderly and the vulnerable, to relocate to remote areas where they are cut off from their social and support networks ¹⁶. For larger families the prospect of being returned to a three-bedroom unit is slim at best.

Further privatisation of public housing estates is not acceptable given it will reduce the amount of available stock for low-income Victorians in severe housing stress and precious public land assets will be irretrievably lost.

Any weakening of CH regulations to enable further quasi-commercial growth is not the recipe for a thriving community housing regime, for all the reasons provided in this submission. Rather, CH regulations in terms of eligibility, allocations, rent-setting, private-sector partnerships etc should be strengthened to accord CH tenants equitable rights with PH tenants. Stringent regulation of the CH sector is required for as long as it remains partially dependent on public funding and land assets and is accommodating people in need who've been shut out of the private rental market.

THE END

¹⁶ Having been part of a group that monitored the PHRP I can offer anecdotal evidence of the stressful impact on tenants from the targeted estates. A new Primary school on the Abbotsford st Nth Melb PHRP redevelopment will swallow up the bulk of the former estate's green open space.