

Finance and Public Administration Legislation Committee

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8th September 2026

Inquiry into the Commonwealth Land (Affordable Housing) Bill 2026

Dear Committee,

The Tenants' Union of NSW welcomes the opportunity to contribute our feedback on the Commonwealth Land (Affordable Housing) Bill 2026.

The Tenants' Union is very supportive overall of the Bill especially at a time in Australia where there is a real shortage of affordable rental homes. It's important that Australia increases its supply of social and affordable housing and for this to take place then all policy levers must be in play. If there is to be the sale of public land where it's appropriate for residential homes 30% of the land should be directed towards affordable housing which ensures that public resources after they are sold will provide an ongoing benefit for society.

About the Tenants' Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 38,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Renters Organisations (NARO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

Our feedback

1. We note the requirement of 30% of dwellings constructed on disposed Commonwealth land as affordable housing. This should be seen as a base minimum rather than an accepted normative level. Broadly affordable housing that meets the needs of up to 60% of the population is not a niche product, and can feasibly make up the whole of developments, particularly where disposal is targeted through complementary programs and funding avenues such as the Housing Affordability Future Fund.
2. The rationale for a 30% target appears from second reading speech to have been chosen in order to generate social mix within residential developments. This is a theory around reducing disadvantage for residents. We do not find the evidence supports that this theory is effective or appropriate. We particularly recommend Associate Professor Kathy Arthurson's *Social Mix and the City* to the committee alongside the growing literature such as Morris et al. "*Is social mixing of tenures a solution for public housing estates?*" that calls into question both the rationale and the implementation of social mix.¹
3. In particular, we note that even on its own terms the theory of social mix assumes the 30% is made up of housing for very low income households. The definition of affordable housing in the bill allows for developments that are affordable to those households but also low and moderate income households - a category that potentially covers up to 60% of the population. It is unnecessary to limit developments, through implicit or explicit direction, at the threshold of the legislation.
4. The Government should be encouraged to explore 100% of the public land be used for this purpose, and only fall back to the minimum where a business case for a higher percentage was tested and found not viable. This can be captured through the development of affordable housing conditions attached to the disposal.
5. We note the Regulations may imply the possibility of creating options for a lower percentage and we encourage the Government to ensure these are extremely limited exceptions to ensure that we maximise the potential of this land to increase the supply of social and affordable housing dwellings.
6. We note the requirement that affordable housing be managed by a non-profit registered community housing provider. We support the intention that this requirement ensures the housing is managed with social purpose in mind, and note that in most states and territories providers are registered through the National Regulatory System for Community Housing which can provide an important regulatory oversight over the actions of providers, though requires improvements to

¹ Arthurson, K., 2012. *Social mix and the city: challenging the mixed communities consensus in housing and urban planning policies*. Collingwood: CSIRO Publishing.

Morris, A., Jamieson, M. and Patulny, R. (2012) 'Is social mixing of tenures a solution for public housing estates?', *Evidence Base: A Journal of Evidence Reviews in Key Policy Areas*, (2), pp. 1–21.

deliver on this function. However this requirement should be adjusted to include public housing providers in order to not restrict a state or territory entity from purchasing and managing the Commonwealth land.

7. Ensuring affordable housing is in perpetuity is essential to support good outcomes for the renters living in affordable housing dwellings and to ensure we maintain sufficient supply of affordable housing. If the legislation relies on local laws in each jurisdiction to decide whether dwellings are retained in perpetuity this may not be achievable as there is no consistency across states and territories which could result in scenarios where some renters in certain jurisdictions do not get the benefit of in perpetuity and therefore its not stable housing. If the legislation passes Parliament then it will be important to reach an agreement with states and territories to ensure that local laws will not impede dwellings built on this land being provided as affordable housing in perpetuity. If there are jurisdictions where this is not possible then we recommend including in the Bill transition provisions following the end of an Affordable Housing program which include a limit of CPI only rent increases in the first 3 years after properties are no longer part of the Affordable Housing system. In NSW with the end of the NRAS we have seen many renters facing excessive rent increases and receiving notices of termination due to the scheme ending.
8. Using an income-based rent model in the Bill will assist in ensuring the housing is genuinely affordable for those households eligible to apply. For example currently in NSW Affordable Housing providers are primarily using a rent setting model which sets the rent at 80% of the median market rent according to the NSW Rent and Sales Report. This is problematic as comparing the rent to the market rent does not then automatically follow that the rent is affordable. Within this rent setting model, housing affordability stress occurs as they are paying more than 30% of their income in housing costs.² Using income based rents will help to address disincentives to support the very low and low income households that Affordable Housing is intended to support particularly in suburbs with higher rents. We are very supportive of rent setting provisions within the Bill including income based rents but concerned that 30% is not affordable for very low and low income households.
9. The 30% benchmark for affordability is poorly understood and misused in calibrating affordability for the majority of people. Affordability of rent is better understood as ensuring a household has sufficient resources to meet their other basic needs after housing costs are paid. By this measure paying 30% of household income is narrowly useful for moderate income households, but in general is too high for very low and low income households. The Tenants' Union recommends an income based rent model that starts at 20% for very low income households with a sliding scale up to 30% for median income households while retaining the secondary limit of 75% of median market rent to ensure genuine delivery on affordability outcomes. This is a more effective way to ensure true affordability and provide relief for low and very-low income renters looking for a safe and stable home.

² AHURI What is the difference between social housing and affordable housing - and why do they matter? (Feb 2023)
<https://www.ahuri.edu.au/analysis/brief/what-difference-between-social-housing-and-affordable-housing-and-why-do-they-matter>

10. The Bill is currently silent on how allocations will be managed for affordable housing dwellings. Social housing allocations are centralised in NSW and all providers are required to follow guidelines. Affordable Housing providers (even where they are registered community housing providers) on the other hand do not have specific guidelines which they must follow when allocating homes. It is important to include in the legislation obligations for Affordable Housing providers to follow intake guidelines that will ensure that households from a range of incomes across very low, low and moderate are housed. This will require guidelines that include a combination of hybrid wait turn and need assessments. Within Clause 12(1) where the obligations for land purchasers are listed should include a reference to ensuring intake guidelines are followed.
11. Setting the rent before selecting the household results in a narrowing of eligible households, resulting both in people in greater need of assistance missing out because their income is considered too low, and longer vacancy periods due to the artificially limited pool of applicants.

Recommendations

- a) 30% of dwellings constructed on disposed Commonwealth land as affordable housing should be seen as a base minimum rather than an accepted normative level
- b) Any exceptions to the 30% minimum within the Regulations should be very limited to ensure that the ongoing benefit of this land to the community can be maximised
- c) Broaden the scope of who can manage these affordable housing dwellings to include public housing providers in order to not restrict a state or territory entity from purchasing and managing the Commonwealth land.
- d) Work with state and territory governments to ensure local legislation does not inhibit the ability for affordable housing to be retained in perpetuity.
- e) Include in the legislation a limit of CPI only rent increases in the first 3 years after properties are no longer part of the Affordable Housing system if perpetuity is not possible due to local land laws
- f) Income -based rent setting model with a sliding scale starting at 20% for very low income households up to 30% with a secondary limit of 75% of market rent.
- g) Include requirements to comply with intake guidelines which include a hybrid of wait turn and needs assessment and ensures the household is selected before the rent is set.

If you require any further information please contact Leo Patterson Ross on 8117 3700.

Yours sincerely



Leo Patterson Ross, CEO
Tenants' Union of NSW