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REVIEW OF AUSTRALIAN CHARITIES AND NOT FOR PROFIT COMMISSION (ACNC) LEGISLATION

Thank you for the opportunity to respond to the Review of the Australian Charities and Not For Profit Commission (ACNC).

Who we are

The Community Housing Industry Association (CHIA) is the peak industry body for the community housing sector in Australia. CHIA is funded by its member organisations which, between them, own or manage over 60,000 affordable rental properties across every state and territory in Australia. CHIA is a registered charity as are many of our members.

Our members range from large providers with portfolios of 5,000 or more properties, through to small organisations with around 10 dwellings, as well as organisations that supply affordable housing as an adjunct to specialist services, such as mental health or disability support. Full membership of CHIA is restricted to not-for-profit providers of community housing. The principal source of income of community housing organisations is rental receipts from households on low to moderate incomes. Over 94% of community housing tenants are low income households and this sector delivers 19% of all social housing.

In the context of this Review it should be noted, however, that larger community housing providers also derive considerable income from property development, sale of dwellings into the general housing market and from market-linked rentals to households on higher incomes. For example, over the next three years, community housing providers in New South Wales will build around three quarters of a billion dollars' worth of residential property. These organisations are run by experienced skills-based boards. They use surpluses generated from these activities to cross-subsidise the provision of accommodation or services to lower income households. Donations from the public and government grants (as opposed to contracts for supply of services) would represent a very small component of sector income.

Examine the extent to which the objects of the ACNC Acts continue to be relevant, the effectiveness of the regulatory framework and the powers and functions of the Commissioner.

CHIA notes the achievements of the ACNC since its inception in lifting governance standards of registered charities and promoting the important economic and social contribution that the not for profit sector makes to life in Australia. In our view, the existing objects of the authorising legislation remain relevant and appropriate. We consider the ACNC's educative role is extremely valuable; its advice to the charitable sector and information to the wider public is the foundation of effective regulation. We would not support any dilution of this focus.

CHIA does not have a view of whether the functions and powers of the ACNC Commissioner are sufficient. We are not aware of any instances where the objectives of the Act or the specific regulatory provisions have been frustrated by the absence or weakness of any particular power in the legislation.

Consider whether any amendments to the ACNC Acts are required to enable the achievement of the objects and to equip the ACNC Commissioner to respond to both known and emerging issues.

We do not support the recommendation from the ACNC itself that the objects of the Act be amended to include two new objects, vis, to promote the effective use of the resources of not for profit entities and to enhance the accountability of not for profit entities to donors, beneficiaries and the public.

First and foremost, the Board of a not for profit organisation is responsible for ensuring that the organisation's resources are used effectively, in the same manner as the Board of a for profit organisation. Second, in the community housing sector the state-based regulators which operate under the National Regulatory Scheme for Community Housing, and its counterparts in Victoria and Western Australia, periodically review the effectiveness of both for profit and not for profit registered community housing organisations. Tenants, governments, and donors can confirm the registration status of individual community housing organisations through publicly accessible websites. State and territory governments generally restrict funding assistance to registered organisations. Third, the NRSCH publishes sector-wide data on the effectiveness of the registered sector as a whole. Sector-wide information about tenant and housing outcomes of community housing organisations is also published by the Productivity Commission in its annual Report on Government Services. We see no value in the ACNC shadowing the functions of a Board or duplicating the existing arrangements for regulating and reporting on community housing organisations.

We also suggest that the existing object of the legislation to 'maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector encompasses the concept of

accountability of not for profit entities to donors, beneficiaries and the wider public. We do not believe that a further object is required to enable the ACNC to achieve this objective.

CHIA does agree with the proposal from the ACNC to include a statutory definition of 'not for profit organisation' to clarify how assets will be handled in the event of an organisation winding up. CHIA would also welcome further work by the ACNC and the Australian Accounting Standards Board to improve the reporting framework for registered charities. We would of course expect that changes to the reporting framework will advance the existing objective of the Act to reduce unnecessary regulatory obligations on the Australian not for profit sector.

Please do not hesitate to contact me if you require further information on any of the matters raised in this submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peta Winzar', with a stylized flourish at the end.

Peta Winzar

Executive Director

28 February 2018