March 2016

NDIS Specialist Disability Accommodation Framework

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Submission by the Community Housing Industry Association and the Community Housing Federation of Victoria in conjunction with:

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Executive Summary

Community housing peak bodies welcome the opportunity to provide this submission to the NDIA on the Specialist Disability Accommodation Pricing and Payments Framework (Framework).

To date, approaches to funding of housing for people with disabilities have been fragmented and ad-hoc. The type of accommodation constructed has been dominated by the group housing model, which is expensive to construct, maintain and manage and limits the independence and choice of residents. There has not been any significant investment in this form of accommodation outside of up-front grant funding to cover the total construction cost. The existing supply does not adequately meet demand.

The Framework envisages a starkly different future based on the establishment of an efficient market which is responsive to the needs and preferences of NDIS participants. A small proportion of NDIS participants (believed to be around 26,000) will be entitled to individualised funding based on a set of Benchmark Prices which are reviewed every five years. This price is intended to cover the efficient cost of providing accommodation over its full lifecycle. Housing providers would only be paid to the extent that housing is occupied by eligible NDIS participants. Providers will be expected to raise their own finance for construction of specialist disability accommodation which will be paid for by the cash-flow funding under the Framework.

Fostering this market will require new approaches from both the NDIA and housing providers to finance, design, construction and risk management. To that end, we believe that the Framework needs to recognise a more active role for the NDIA in developing that market and supporting non-profit housing providers (and their financiers) who are likely to be the first movers in this space. This should be achieved via targeted, supply-side subsidies that are paid directly to providers in return for making housing available to eligible NDIS participants. Providers and financiers will require certainty that the Benchmark Price will be adequate and predictable so as to encourage private investment. While the broad methodology for calculating the Benchmark Price has been articulated in the Framework, the sector is keen to see the draft prices in order to determine if new housing supply is feasible for their businesses.

The NDIA has indicated a desire to see housing which promotes the independence, choice and control of NDIS participants. Without the NDIA showing leadership, there is a significant risk of market failure, leading to undersupply or poor quality outcomes. We believe that there are significant lessons which can be taken from past housing funding programs to ensure that this does not occur.

We would welcome the opportunity to discuss this submission further with representatives of the NDIA.

About the Community Housing Industry Association and the community housing sector

The Community Housing Industry Association (CHIA) is a member based national industry body for all community housing organisations. This submission has been prepared with the Community Housing Federation of Victoria (CHFV) and in consultation with state and territory based industry bodies. Together, we represent the nationwide community housing sector.

Nationally, the community housing sector owns or manages over 72,000 dwellings.[1] Community housing organisations comprise a wide range of non-profit organisations which own or manage social and affordable housing. Providers may have a broad focus on social and affordable housing generally, while others have a specific focus on particular geographical areas or target groups. Most community housing providers are registered under a regulatory framework overseen by an independent statutory appointee to ensure quality services and prudential oversight to protect investment.

Australia's community housing providers already play a key role in providing housing to people with a disability. Some community housing providers have either a sole or a particular focus on housing for people with disabilities. The sector is involved in a range of housing models, including supported accommodation and properties modified to meet the needs of people with mobility impairment. The sector has for many decades formed successful partnerships with disability support providers and communities in order to get people with disabilities into affordable housing and to keep tenancies on track.

The wider housing policy context for the Framework

The release of the Framework follows a period of considerable policy uncertainty surrounding the application of the "user cost of capital" – a notional allocation of about 2-3% of the total NDIS funding envelope (variously described as $550 to $700 million) identified in the Productivity Commission report that recommended the NDIS.

We appreciate that the NDIA has developed the Framework to align with principles set out in Schedule J: Supports for specialist disability housing in the COAG agreements on the rollout of the NDIS. [2]

We believe that a framework with a focus on constructing specialised housing to meet the housing needs of a minority of NDIS participants to the exclusion of all other participants can be strengthened by a broader approach which recognises:

- that people living with disability, regardless of the type of disability, are required to compete for housing in a broader housing market defined by significant affordable housing pressure;

[1] Productivity Commission, *Report on Government Services 2016 Volume G: Housing and Homelessness*, Table G.1. Figure excludes indigenous community housing.
[2] See for example *Bilateral Agreement between the Commonwealth and New South Wales for the transition to an NDIS, Schedule J, Supports for specialist disability housing*

- a greater return on the user cost of capital may be possible with a broader application;
- the NDIS's goal of social inclusion lends itself to mixed and intentional communities;
- that the unmet housing needs of other NDIS participants, and how their lifetime care costs could be lowered via appropriate housing; and
- the opportunity for the NDIA to work in partnership with mainstream housing bodies to increase the options available to NDIS participants.

Accordingly, we argued in our submission to the Commonwealth Parliament Joint Standing Committee on the NDIS that an additional capital allocation – notionally 10% of the user cost of capital - should be allocated to a wider pool of NDIS participants to maximise return on investment and to ensure that housing for NDIS participants is integrated within mainstream housing programs.

We appreciate however that these wider policy-settings are beyond the scope of what the NDIA can consider in its consultation on the Framework. In this submission we therefore focus on how the Framework can be enhanced in a manner consistent with the COAG agreements on housing and the NDIS.

Understanding the current market for specialist disability accommodation

We would argue that the Framework needs first and foremost to be understood in the context of the current market for specialist disability accommodation. The particular characteristics at present are:

A fragmented approach to funding

Past funding approaches for specialist disability accommodation have been ad-hoc and opportunistic. Some funding has come though mainstream housing programs such as the Nation-Building program where community housing providers constructed a proportion of new units modified to provide housing for people with disabilities. Other funding has come through historical specialist disability programs such the Supported Accommodation Innovations Fund.

Dominant housing models

Existing specialist disability accommodation is either government owned or owned by non-government providers. Some of this is newly-constructed but other accommodation is in poor condition or no longer meeting modern standards.

The group housing model of 4-6 people sharing a single dwelling with facilities for 24 hour care has dominated this model. The dominance of this model has limitations for NDIS participants' choice and control, particularly over who they live, having self-contained areas with and who provides support. There has been some movement in exploring new design options of late to:

- Salt-and-pepper highly modified stock in a wider housing setting;
- Build “deconstructed” group homes which incorporate self-contained units; and
- Build small (4-5) clusters of independent units which facilitate sharing of support and enable people to have independence over their own home.

High construction, maintenance and management costs

Specialist disability accommodation tends to be expensive to construct, given that providers must comply with extensive capital development requirements mandating certain fire services, additional space to accommodate wheelchairs and specialised mobility aids and reinforcing of walls. Prices can also vary significantly depending on the particular outcomes. For example:

- A Commonwealth SAIF-funded initiative by Active Community Housing Limited in Whittlesea, Victoria provided five outcomes for five people with high support needs including neurological and intellectual disabilities. This comprised three one bedroom units, one two bedroom unit and a unit for staff (for sleepover and administration) and cost $1.25 million.[3]
- A project constructed by the Summer Foundation in the Hunter Region in NSW will provide ten modified units for people with acquired brain injuries of a range of configurations, integrated into a wider 110-unit apartment development. This will include three bedroom apartments that enable two people with disability to live with their partners and/or children and a staff hub, and is expected to cost $6.6 million.[4]

Where models are built around the sharing of support there may also be communal areas, meaning that vacancies must also be filled carefully having regard to the interests and needs of remaining residents.

These high construction costs also mean that if a property is no longer required, then selling it on the open market will yield a sale price significantly less than the construction cost. This is because:

- the market for purchasers requiring specialised accommodation and with the financial means to purchase it is small and fragmented; and
- additional design features of specialist disability accommodation have little or no value to the open market.

Low levels of private finance

Many community housing organisations have raised private finance for social and affordable housing, which has included housing for people with disabilities. In Victoria and NSW the

[3] Data provided by provider

[4] Summer Foundation Ltd. Housing for young people in nursing homes: A report from the Social Finance Think Tank (2015)

registered community housing sector holds $309 million and $137 million in interest bearing debt respectively.[5]

To date however we are not aware of any significant debt or equity finance of specialist disability accommodation. This is because net cash flows (comprising largely subsidised rentals) are low and construction costs are high. In addition, financiers are reluctant to take security over specialised or highly customised disability accommodation assets that are difficult to sell on the open market and where there are reputational concerns about foreclosing homes occupied by a vulnerable client group.

To date, new specialist disability accommodation has been constructed using government equity in the form of up-front cash grants from government agencies. These grants cover the full up-front costs of procuring land and constructing new accommodation.

What funding environment is required to support investment

The stated goal of the Framework (in para 9) is to:

> *…support a sustainable specialist disability accommodation market that fosters choice and control, encourages innovation, provides options for participants, continuity of supply and financial sustainability for governments, participants and providers…*

An ideal market for specialist disability accommodation should:

- produce enough outcomes to meet demand for the target group;
- provide a range of options for people, particularly exploring the gap between traditional supported accommodation and unmodified social housing;
- be of quality design and are well-located;
- be integrated into mainstream environments;
- be flexible to meet the needs of a range of NDIS participants with varying support needs.

To do that we need a funding framework that:

- is predictable so as to allow for long-term planning and financing;
- recognises the needs of particular communities and does not apply a "one-size fits all" approach to funding;
- rewards market players for responding to consumer needs and for expanding the range of options; and
- is consistent with the principles of the NDIS by allowing participants to exercise choice over their support arrangements and providers – either on their own or in common with those whom they pool support with.

[5] Housing Registrar (Victoria), Sector Performance Dashboard 2013-2014, Financial Data. NSW Registrar of Community Housing, Annual Statement of Performance 2014, page 47.

It will take time for a market for specialist disability accommodation to develop. A mature sector will have a access to and deeper understanding of:

- the number of NDIS participants who will be eligible under the Framework;
- the type of specialist disability accommodation that is required by eligible NDIS participants; and
- the desired locations of the specialist disability accommodation.

The Productivity Commission in its report stated that around 26,000 NDIS participants – or 6% of the total group – would require a capital contribution to their housing costs. [6] No data has been released since then to assist the provider market understand the level of demand. Some providers may be able to do so based on their own experience and referral networks but this is not an efficient or transparent way for a market to operate.

The other relevant consideration is that providers will be expected to raise their own finance for construction of specialist disability accommodation which will be paid for by the cash-flow funding under the Framework. This means that providers (and financiers) will need certainty as to the funding approach and consumer environment for an extended period to support the level of investment required.

The NDIS funding is intended to be set at a level sufficient to cover the efficient cost of providing accommodation over its full lifecycle (para 14). Providers are expected to obtain finance (debt and equity) in the private market to meet these lifecycle costs. This means that not just the amount of funding, but the way it is structured, must support private debt and equity finance. The NDIA has an opportunity to initiate a greater engagement in this area as a complementary strategy to the Framework.

In that context therefore community housing providers, and other non-profit organisations interested in housing for people with disabilities are likely to be the first movers in this space, and will have a tolerance for lower returns on investment and perhaps greater levels of risk as they will seek delivery of housing to this cohort as part of their core mission. The Framework should facilitate these first movers to the greatest extent possible, as without these providers it is unlikely that the accommodation needs of eligible NDIS participants will be met.

How should the Framework be changed to promote an effective market?

The Framework needs to be viewed in the context of an emerging provider market where NDIA should see its role as establishing a viable consumer and provider market. This much is recognised in the Framework (in paragraph 93 and 94) which states that the NDIA may take a flexible approach by making:

[6] Australian Government, Productivity Commission Inquiry Report, *Disability Care and Support*, Volume 2, page 759 and 767

> *…other payments in respect of housing or accommodation arrangements that are consistent with the NDIS Act…*
>
> *This includes any funding arrangements the Agency may need to facilitate the supply of specialist disability accommodation, where the market is not responding appropriately to the demand for places, and/or where innovative built forms or financing arrangements are needed*

Given the relative lack of maturity of the provider and consumer market, we are of the view that in the start up period (the first five years of the framework from 1 July 2016) the NDIA will need to adopt a leadership approach rather than setting a price and then waiting for the market to respond. This involves a mix of targeted supply-side subsidies, structured as availability payments which can provide certainty for the first movers in this market.

We recommend that the NDIA begin this process within the community housing sector. This allows government subsidies to flow via not-for profit organisations established specifically to work with those in need of housing assistance. Economically, it is important that the value of these subsides to be retained in the system, rather than lost as profit distributions.

There are significant lessons that can be learnt from the National Rental Affordability Scheme (NRAS), further rounds of which have now been discontinued owing to dissatisfaction by government with the number and type of outcomes produced.

- Firstly, any market takes time to develop. We believe that NRAS was starting to become more understood by the market before the scheme was discontinued. This was evidenced by an acceleration of the delivery of completed units in the period from 2013 to 2015.[7]
- Secondly, a flat subsidy (the NRAS incentive was not adjusted for housing type or location, or the level of rent subsidy involved) incentivised the construction of new housing supply in less sought-after location.
- Thirdly, long assessment times by government in awarding NRAS incentives made the market unpredictable and difficult for providers, many of whom lost sites or projects while waiting for approval for incentives.

The Benchmark Price should be payable directly to providers as a supply side subsidy

We are of the view that the Benchmark Price should be, at least for projects commenced in the initial 5 year period of the Framework, payable directly to housing providers as a supply-side subsidy.

The subsidy would still be allocated on an individual basis and with the consent of the individual. Where individual circumstances or preferences change, this payment would still be made available to the housing provider on the condition of “look through” – that is, the funded property is made available to NDIS participants eligible under the Framework.

[7] Australian Government, National Rental Affordability Scheme Quarterly Performance Report as at 30 September 2015, page 4.

The difficulties of structuring the payment as a demand-side subsidy are acknowledged in paragraph 82 of the Framework. We support the evidence of AHURI's Dr. Michael Fotheringham at the Commonwealth Parliament's Joint Standing Committee on the NDIS's 2015 Roundtable, when he said:

> *A supply-side subsidy could trigger development of new housing supply that is not only affordable but also adaptable and accessible, that reduces the cost of support for people with disability ongoing and mitigates the social inclusion and economic participation disadvantages experienced by people with disabilities…*
>
> *A well designed supply-side subsidy could facilitate new supply of housing designed to meet NDIS participants' needs and preferences. Supply needs to be dispersed and noncongregated. It needs to be adaptable or accessible. It needs to be located and designed to maximise health, employment, social inclusion and living affordability outcomes, and a proportion of the housing needs to be designed to enable sharing…*[8]

For the payment to be structured as a supply-side subsidy, we suggest that the NDIA will need to establish formal funding rounds under a flexible EOI process. This process needs to avoid the issues associated with NRAS, when a long and uncertain assessment process for applications resulted in significant delays and loss of suitable sites and projects.

The Benchmark Price needs to be structured as an availability payment

The Framework states (in para 12) that "participants will have the ability to move between accommodation providers and their funding will also move ". This is further reinforced (in paras 85) that "…[f]or payments to be made in respect of NDIS participants for specialist disability accommodation, the NDIS participant must be resident in a dwelling approved by the Agency for this purpose."

This principle effectively passes the risk of vacancies from the Scheme to housing providers. In the absence of market data such as the locations and property types required by eligible NDIS participants, this is a difficult risk for a community housing provider to take on. Even where a community housing provider has strong links with a local community or support network, it has no assurance that the intended target group for a particular housing development will continue to need that type of housing. This risk is compounded by the highly specialised nature of the housing to be constructed, the limited pool of eligible residents and the inability of the housing provider to recover construction costs if unwanted stock is sold on the open market. Properties are often tailored to meet the particular needs of consumers, and it is expected that the consumer market will be small. This is compounded by the Framework (para 78) which suggests that some models of specialist disability accommodation will be built around the sharing of support. This is for NDIS participants who require 1:1 support and it would not be economical to provide it in a context other than where this need is shared with NDIS participants with similar needs.

[8] Joint Standing Committee on the National Disability Insurance Scheme, Hansard (23 October 2015), page 3.

Accordingly, we are of the view that the Framework should specify, at least for properties constructed in its initial 5 year period, that providers funded in this period be paid regardless of whether a property is occupied or not, provided that the provider makes all reasonable efforts to fill vacancies.

Vacancy losses could also be mitigated by an agreement that other NDIS participants not eligible under the Framework but in need of housing assistance can be offered accommodation if there is an extended vacancy.

There should be a floor under adjustments to the Benchmark Price

The Framework (para 18) states that the Benchmark Price will be adjusted every five years following a review of the elements of the pricing framework. We agree that adjustment to the Benchmark Price going forward for new projects will be necessary so that the price is reflective of the total cost of providing specialist disability accommodation.

However, the ability of the NDIA to adjust the Benchmark Price for existing projects creates a considerable risk for housing providers. Community housing providers typically build project viability over a long term (30-40 years). In this case of specialist disability accommodation funded under the Framework, this of particular importance given:

- private finance must be obtained for the up-front capital cost; and
- the difficulty of selling stock which becomes uneconomic if the Benchmark Price is adjusted downwards.

To that end, we consider that projects approved in the early stages of the Framework be accompanied by either:

- an agreed payment schedule for the period for a reasonable useful life of the buildings (as agreed between the provider and the NDIA); or
- a commitment by the NDIA that the Benchmark Price will not drop below the Benchmark Price set by the NDIA at the commencement of the project, as adjusted by an agreed index (for example, Rents component of the Housing Group Consumer Price Index, used to adjust the NRAS incentive annually).

Calculation of the Benchmark Price

We understand that the Benchmark Price is intended to be set in May. The Framework indicates that the NDIA will develop draft benchmark prices on which it will seek views of residents, providers and other stakeholders as necessary; and make any adjustments it deems necessary, before publishing its final benchmark prices (and any associated weights and factors) (para 19). We think that this consultation will be crucial to getting the Benchmark Price right. Community Housing providers are keen to understand what the prices might be in order to start considering how they might work in practice and to develop financial plans for new supply and engage in discussions with financiers. We would therefore urge the NDIA to allow sufficient time for community housing providers to analyse the proposed Benchmark Prices and provide meaningful input before such prices are set.

We encourage the NDIA to develop a significant variety of Benchmark Prices to account for significant variances in land costs across Australia and the needs of a diverse range of clients. This should lead to a matrix of prices which leads to a range of flexible approaches. Without a diversity of prices, there is a risk that the Benchmark Price might have the unintended consequence of incentivising construction in low land value areas which are by their nature remote, isolated or too far from transport, services or people's natural support networks.

We comment on each element on the Benchmark Price as follows:

Consumption costs

Building typologies should include not just freestanding buildings or clusters of specialist units but also accommodation that is salt-and-peppered into wider unit developments. There are additional lifecycle costs associated with construction or maintenance of common areas of these buildings that should be fully factored into the Benchmark Price.

The NDIA should encourage construction of such outcomes as it is most likely to yield outcomes which are:

- well-located, near shops, transport, employment and services, as land close to activity centres is usually designated under planning schemes as being suited to medium and high-density development;
- and socially integrated by being incorporated into a wider mainstream housing development.

In calculating the cost of construction of various forms of specialist disability accommodation, it is important to clarify the application of existing design guidelines for state-funded specialist disability accommodation. Where these are intended to apply this should be fully included in the costing. We would caution against however a "one size fits all" approach to design and would encourage flexibility for use of cost-effective designs.

Opportunity costs of capital

In our view this should be determined in consultation with financiers on the total cost of finance – including facility fees, compliance with covenants. Equity finance will be challenging to price for non-government providers who typically do not act on a return on equity basis.

Costs of ownership

This should also factor in the costs of intensive tenancy management. Models of person-centred care which involve housing providers produce good outcomes. These do however involve significant investment of time by housing managers in building relationships and applying early intervention strategies when tenancies are at risk.

Vacancy rates should be factored into costs of ownership at a rate which recognises that there may be a significant period of time (up to 3 months) to ensure that there is a suitable and eligible replacement resident for a particular vacancy. This should also allow for NDIS participants to test a particular accommodation setting to determine if it is suitable for their needs in the long term. This is particularly critical in light of the fact that we do not yet understand what role, if any, will be played by existing state-based waiting lists for supported accommodation.

Land price inflation

We question why this should be included in the Framework at a rate greater than CPI. It would seem that there is a view that housing providers should not benefit from a windfall gain in land values. There is no certainty that land values will continue to increase in the coming decades in a manner consistent with the spectacular (and many would argue unsustainable) increases in land values in recent times. Further, while land in major capital cities has experienced growth in value, this has not been consistent nationally and largely reflects the increasing desirability of inner city locations rather than a land shortage generally.

Resident rent contributions

We agree that a resident contribution of 25% of ordinary income plus 100% of CRA is a reasonable and conservative estimate of what residents are able to contribute. In low-market rent areas, the Benchmark Price should account for the fact that residents may not be able to claim the maximum entitlement to CRA.

Treatment of publicly owned land in setting the benchmark prices

The Benchmark Price is intended to cover the full lifecycle capital cost of the land and buildings. Historical contributions by state disability services agencies, including contributions of land (other than long term leases) or capital funds for specialist disability accommodation, will be ignored in setting the efficient price for such accommodation.[9]

In our submission to the Joint Standing Committee we argued that while this level of funding will be required for some existing supported accommodation (where the buildings are in poor condition or no longer meets modern standards), in a constrained funding environment a blanket approach that ignores historical contributions is difficult to justify. We appreciate however that this is beyond the scope of the Framework. We would however make the point that the distinction between land provided at nominal rent or donated by a state provider makes little sense from a public policy perspective.

[9] SDA Framework, para 38

Other comments

Quality standards (para 51)

The Framework notes that further national policy work is required to identify and implement quality assurance mechanisms and safeguards that will apply to supported accommodated related services in the NDIS.

This work should be undertaken as a matter of priority and in consultation with service providers. There is significant uncertainty on the extent to which accommodation for NDIS participants is required to comply with accommodation standards issued by state and territory disability services authorities. Until this is resolved, this is likely to have a chilling effect on construction of new supply.

We would also caution against a "one-size fits all" approach to accommodation standards, as this will only drive up the price of this accommodation and make it more distinct from mainstream housing from a design perspective. There is a clear desire on the part of NDIS participants for accommodation to be a home and not a workplace or an institution, and a flexible, risk-based approach to design should facilitate this.

Provider registration (Para 84)

The Framework states that the NDIA will implement a provider registration system for approved providers for approved dwellings.

There are already existing opt-in regulatory frameworks for community housing under the National Regulatory System for Community Housing or similar state-based schemes in Victoria and WA. These act as an assurance of service quality, sound asset management, transparent governance and prudential oversight to safeguard the significant public investment being made.

Based on these robust frameworks and a desire not to over-burden community housing with additional regulation, we would argue that all community housing providers registered under these schemes be automatically registered by the NDIA.

Priority (para 63)

The Framework states that "[y]oung people in residential aged care and NDIS participants deemed eligible from existing waiting lists for which support would be reasonable and necessary would be given priority for funding."

We ask that the NDIA clarify what this statement means in the context of the NDIS, which is intended to be a scheme of universal application under which funding is needs-based and not rationed.

Glossary

Affordable housing

Housing is generally considered to be affordable if members of a household are not in housing stress after they have paid for their housing. There are a number of measures of affordability. One of the most widely used is that a low-income or moderate-income household (usually defined as being in the lower two income quintiles) should not pay more than 30% of their gross income on housing. Social housing (defined below) is a subset of affordable housing, but this term can also include rental housing that is targeted at low-moderate income households with the rent set as a proportion (e.g. 75%) of market rent.

Community Housing

Rental housing that is provided by not-for-profit, non-government organisations. It is intended to be affordable and appropriate for low to moderate income earners, and/or for groups whose housing needs are not adequately met in other forms of housing.

Community housing providers

A non-profit, non-government organisation which includes community housing as one of its activities. Community housing providers may also undertake other activities such as homelessness support, disability support or aged care.

NDIS Participant

A person who participates in, and is a beneficiary of the NDIS.

User cost of capital

A notional allocation of 2-3% of the total NDIS funding envelope, to be applied to meet the housing needs of some NDIS participants.

Social housing

Affordable housing targeted for rent by low-income households, usually on a long-term basis (generally for the duration of housing need). Rent in social housing properties is usually calculated based on tenant or household income, and is commonly set at 25% or 30% of gross household income. Social housing is provided by a variety of organisations, including state governments (public housing), Aboriginal housing providers, and community housing providers.