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Senate Standing Committee on Economics
Parliament House
Canberra ACT 2600
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9 August 2024

Dear Secretariat,

RE: Submission to Inquiry into the National Housing and Homelessness Plan Bill 2024 (No. 2)

The ACT Council of Social Service (ACTCOSS) advocates for social justice in the ACT and is the peak body representing not-for-profit community organisations. We work collaboratively with organisations and individuals to create a collective voice, advocating for positive social change, justice, and self-determination for Aboriginal and Torres Strait Islander peoples. Our vision is for an inclusive Canberra where no one lives in poverty.

ACTCOSS welcomes the opportunity to provide a submission to this Inquiry. Our submission is provided below and we would welcome the opportunity of providing further information or explanation in writing or in person.

Summary

Government housing policy needs to transcend issues management, performative politics, and the convenient untruth that the responsibility for solving complex, intractable problems can be safely left to market forces. Housing is too important for that.

Access to safe, adequate housing is central to the health and wellbeing of individuals and families. Secure and affordable housing is the basis for social connectedness and a contributor to the social determinants of health and wellbeing.¹

ACTCOSS strongly urges the Federal Parliament to pass the *National Housing and Homelessness Plan Bill 2024 (No. 2)*, as we support its underlying intent, and believe that its implementation would produce, within the requisite human rights framework, the mission-oriented strategy urgently needed to address the crisis in housing affordability and rising homelessness.

The rationale for supporting the Bill is set out below.

¹ [Housing and homelessness](#) from Chapter 4 Australia's welfare 2023: data insights, Australian Institute of Health & Welfare, 2024

A framework for coordination

There is currently no lead Australian government agency to coordinate housing-related policy and programs undertaken by different government agencies, nor is there an overarching long-term plan or governance mechanism to guide coordination across different levels of government. As a consequence, responsibility for housing policy making is fragmented, and policy development has been patchy and unresponsive to the escalating housing and homelessness crisis.

We believe the Bill will support a more coordinated approach. It sets out a framework for developing, implementing and maintaining the National Housing and Homelessness Plan collaboratively, with expert advice and assistance from Housing Australia and the National Housing Supply and Affordability Council. The Bill nominates Housing Australia as the dedicated lead housing agency coordinating the development and implementation of policies and plans across government. It will also establish a much-needed National Housing Consumer Council and a National Housing and Homelessness Advocate to independently monitor and review the Plan. In addition, the framework set out in the Bill will require the Housing Minister to report against, revise and renew the Plan.

ACTCOSS believes that legislating these requirements will help ensure the Plan has solid foundations and a clear framework for coordinating housing and homelessness policy and engaging with relevant stakeholders. We recognise Australia's federated system of government poses challenges for housing policy governance, but this also underscores the importance of a strategic and coordinated approach. If implemented, the Bill would contribute to stronger intergovernmental cooperation, by requiring the Commonwealth to formulate a long-term plan for housing and homelessness policy, and to be accountable for progressively realising that plan through sustained engagement in policy development with the states and territories. It would also establish a framework to support the involvement of key stakeholders in the design and delivery of major programs.

Ultimately, the Government of the day would remain responsible for setting direction and developing the Plan, but the proposed legislation would provide the framework in which the Plan would be designed and governed. Importantly, it would mandate the development and renewal of a Plan, the absence of which has contributed to Australia's current housing and homelessness emergency.

Strengthening accountability

Accountability is crucial in national approaches to policy reform, but to date this has been absent in relation to housing and homelessness policy. Without a national strategy or plan driving clearly articulated policy objectives, previous National Housing and Homelessness Agreements have been the mainstay of Federal-State efforts to address housing and homelessness. These are predominantly funding documents with inadequate reporting requirements and few incentives to achieve positive outcomes, and as such have lacked clear accountability structures. As the Productivity Commission noted in a recent review:

The National Housing and Homelessness Agreement—intended to improve access to affordable, safe and sustainable housing—is ineffective. It does not foster collaboration between governments or hold governments to account. It is a funding contract, not a blueprint for reform.²

Similarly, at a Federal level, the lack of a national plan has contributed to a lack of clear direction and accountability in federal government housing policy. The current Federal Government’s commitment to developing a National Housing and Homelessness Plan was welcomed as a return to national housing policy leadership but, having yet to make the promised National Plan, the Federal Government is struggling with housing policy. Over the past two years, housing policy development has floundered and remained fragmented, with the Government yet to articulate its overall objectives in tackling unmet housing need and homelessness. The lack of an overarching plan and corresponding institutional architecture has created a challenging environment to hold parties to account and, at an implementation level, to make informed decisions on what should be continued, scaled up or down, or stopped.

The proposed legislation would help overcome this inertia by creating obligations for the Commonwealth to plan and be accountable to the Parliament on its progress. This would be achieved through provisions mandating the Minister report to Parliament, that the Plan be reviewed and fully refreshed on a 10-year cycle, and by establishing governance arrangements to report on systemic issues and progress.

Participation of people directly affected

The Bill would establish a National Housing Consumer Council to advise on the Plan and give lived experience perspectives on its progress. ACTCOSS believes this would provide an invaluable means of ensuring people with lived experience of homelessness and housing precarity are involved in co-designing all aspects housing and homelessness policy. We recommend that Section 8 of the Bill is further strengthened by requiring that the voices and specific support requirements of young people and people experiencing domestic and family violence are engaged in the development and oversight of the National Housing and Homelessness Plan and are included as part of the National Housing Consumer Council.

Treaties must be honoured

That formal agreements – treaties – between states must be honoured (*pacta sunt servanda*) is a foundational principle of international law.³ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is one of eight so-called ‘core’ human rights instruments that Australia has ratified.⁴ The human rights recognised in the ICESCR describe conditions that are essential for individuals to realise their birthright as citizens and full participants in the social and economic life of their communities. As a party to that treaty, Australia has freely promised to implement its articles in good faith, including 11(1) which says in part:

² Productivity Commission, [In need of repair: The National Housing and Homelessness Agreement](#), Productivity Commission, 2022, p.2, accessed 9 August 2024.

³ See Article 26 of the [Vienna Convention on the law of treaties](#) (with annex), Concluded at Vienna on 23 May 1969, UN, 27 January 1980

⁴ Australia has not ratified the ninth – the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. See [The Core International Human Rights Instruments and their monitoring bodies](#), OHCHR, 2024

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including **adequate** food, clothing and **housing**, and to the continuous improvement of living conditions.⁵

In 2015 Australia endorsed the 2030 Agenda for Sustainable Development (SDGs),⁶ creating an expectation that it will use best endeavours to achieve the targets specified for the SDG goals, including 11.1:

By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.⁷

In its search for strategies to protect Australia's security and prosperity the Government frequently advocates respect for a global rules-based order, for example in this recent joint statement by the Foreign Ministers of Australia, India, Japan and the Secretary of State for the US, speaks of:

our commitment to upholding the free and open rules-based international order, with its strong support for the principle of freedom, **human rights**, rule of law, democratic values, sovereignty and territorial integrity, and peaceful settlement of disputes and prohibition on the threat or use of force in accordance with the UN Charter.⁸

Respect for human rights is a *sine qua non* of domestic and international peace as well as of sustainable development.

Thus, Australia has an obligation to protect the right to adequate housing as a signatory to the ICESCR, as a good international citizen and public endorser of the SDGs, and as a present and, desirably, future beneficiary of an international rules-based order.

Effective implementation of the right to adequate housing

In response to the 'crisis in global housing conditions', the UN Special Rapporteur prepared guidelines clarifying 'the key elements' required for 'effective implementation of the right to adequate housing as it has been elaborated under international human rights law'.⁹

The Guidelines warn States that they *cannot* discharge the duty to respect, protect and fulfil the right to adequate housing by treating it as '**merely a commitment to housing programmes, a matter of socioeconomic policy insulated from human rights values and imperatives without meaningful accountability or access to**

⁵[Covenant on Economic Social & Cultural Rights](#), UN OHCHR, adopted 16 December 1966, emphasis added.

⁶ [2030 Agenda for Sustainable Development](#) Department of Foreign Affairs & Trade, no date. Accessed 7 August 2024

⁷ Cited in [Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy](#), Martin C, et al, 2023, AHURI Final Report No. 401, Australian Housing and Urban Research Institute Limited, Melbourne, p17

⁸ [Quad Foreign Ministers' Meeting Joint Statement](#), Tokyo, Joint Statement, 29 July 2024, emphasis added.

⁹ [Guidelines for the implementation of the right to adequate housing](#) UN Special Rapporteur on adequate housing, OHCHR, 26 December 2019, para. 9

justice,¹⁰ nor by interpreting it ‘narrowly as a right to mere physical shelter or to housing conceived as a commodity’.¹¹

Figure 1 below shows the characteristics of the right to housing interpreted in a human rights and sustainability framework.

Figure 1. Characteristics of the right to adequate housing¹²



¹⁰ [Guidelines for the implementation of the right to adequate housing](#) UN Special Rapporteur on adequate housing, OHCHR, 26 December 2019, para. 14

¹¹ [Guidelines for the implementation of the right to adequate housing](#) UN Special Rapporteur on adequate housing, OHCHR, 26 December 2019, para. 15

¹² From [The right to housing: A mission-oriented and human rights approach](#) Mazzucato M & Farha L, Working Paper 2023/01, Council on Urban Initiatives, p13. Note that Leilani Farha served as the UN Special Rapporteur on the Right to Housing from 2014 to 2020.

The Sustainability component is starred because it has been recognised by the UN Special Rapporteur on the right to housing but has not been included in the international human rights law definition thereof. It is included in the targets for Sustainable Development Goal number 11.¹³ It is important to note that the right to freedom from discrimination means that the right to adequate housing, along with all other rights, should be enjoyed on the basis of equality.

Failure to protect the right to adequate housing has led to crisis

The inadequacy of Australia's performance in protecting and fulfilling the right to adequate housing has led to a full-blown crisis. Anticipation of further failure is built into Treasury assumptions for the last Budget.¹⁴ Housing scarcity and rising unaffordability has implications for growth in inequality; opportunities for women and children to leave abusive relationships; health and child development related to housing stress and poor housing quality; birthrate, now below that needed for population replacement; and nationally productive investment, currently distorted by commodification of housing. Marginalised and disadvantaged groups, including Aboriginal and Torres Strait Islander Australians, are at much greater risk of homelessness and housing stress. Housing policy has yet to address housing-related carbon emissions, and the need for progress toward sustainable, liveable cities.

The Labor Government has promised a national housing plan,¹⁵ but in the absence of legislated imperatives such as those set out in the Bill, there is little prospect that such a plan, even if it could be produced within the term of the current Government, would contain the elements needed to succeed.

Mission-based policy needed

Housing and homelessness epitomise the type of complex, multi-dimensional problems that call for Professor Mariana Mazzucato's mission-oriented approach to public policy and economic development. That is, an approach that requires strong leadership from national government in articulating an ambitious, measurable goal, specifying the time within which it is to be achieved, and drawing together stakeholders and resources from across sectors and levels of government to formulate and execute a strategy to achieve that goal.¹⁶

The Bill for a national housing and homelessness plan outlines almost all the essential elements of a mission-oriented approach within a human rights framework.

¹³

¹⁴ [Australia's housing crisis in 10 graphs, from the federal budget](#) Hutchens G, ABC, 15 May 2024

¹⁵ [Shaping Australia's National Housing and Homelessness Plan](#) Minister for Housing, Treasury Portfolio, 7 August 2023,

¹⁶ See mission-oriented approach to housing in [The right to housing: A mission-oriented and human rights approach](#) Mazzucato M & Farha L, 2023, Working Paper 2023/01, Council on Urban Initiatives, and in [Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy](#), Martin C, et al, 2023, AHURI Final Report No. 401, Australian Housing and Urban Research Institute Limited, Melbourne

Need for AHRC's new human rights framework

The retiring President of Australian Human Rights Commission has pronounced the current system of human rights protection in Australia as inadequate¹⁷ – there is no Federal human rights act, and the Commission does not have the power to make findings of human rights violations or mandate appropriate remedies. Its proposed model for a human rights framework includes a Federal human rights act to protect internationally recognised human rights, including the right to adequate housing, which is encompassed in the right to an adequate standard of living.

Empowering the AHRC to make findings about human rights violations and mandate remedies forms an important part of this framework. This echoes Guideline 16 in the Guidelines of the Special Rapporteur on the Right to Adequate Housing, which addresses the need to ensure not only effective monitoring and accountability mechanisms, but access to legal remedies for violation of this right.¹⁸ This would include access, as appropriate, to 'courts, administrative tribunals, human rights institutions and informal or customary community-based justice systems'.¹⁹

Adoption of the AHRC's model human rights framework is a further step urgently needed to protect and fulfil human rights in Australia. It would also deliver what AHURI has recognised as an essential feature of the institutional architecture for a national housing strategy: a statutory basis enshrining the right to adequate housing.²⁰

Unless the right to adequate housing is enshrined in legislation, political expediency may lead governments to ignore recommendations of the advisory and monitoring bodies set up under the Bill's national strategy. The fate of this Government's Economic Inclusion Advisory Committee, set up to provide pre-Budget advice, inter alia, on the adequacy of income support payments²¹ is salutary. The Committee's recommendations to increase working age payments to 90% of the Age Pension and improve indexation, were rejected,²² as was the important recommendation of its predecessor to legislate metrics for economic exclusion and poverty as well as targets for policy to address them.²³ Without a statutory basis, rights to an adequate standard of living, and related rights such as the right to the highest possible standard of physical and mental health, are less likely to be realised.

¹⁷ Emeritus Professor Rosalind Croucher (2024) [Free + Equal: safeguarding the rights of all Australians](#) Address to the National Press Club, Canberra, 3 July 2024

¹⁸ [Guidelines for the implementation of the right to adequate housing](#) UN Special Rapporteur on adequate housing, OHCHR, 26 December 2019, paras. 80-83

¹⁹ [Guidelines for the implementation of the right to adequate housing](#) UN Special Rapporteur on adequate housing, OHCHR, 26 December 2019, para. 83(b).

²⁰ [Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy](#), Martin C, et al., 2023, AHURI Final Report No. 401, Australian Housing and Urban Research Institute Limited, Melbourne, p5

²¹ [Economic Inclusion Advisory Committee](#) Department of Social Services, accessed 8 August 2024

²² [Supporting the most vulnerable in our community](#) Minister Amanda Rushworth, Department of Social Services, 26 April 2024

²³ [Interim Economic Inclusion Advisory Committee 2023–24 Report to Government](#) Department of Social Services, 2023



By contrast, Finland has incorporated the right to housing in its constitution and is making progress in reduction of homelessness and housing stress.²⁴

ACTCOSS would welcome the opportunity to further discuss any matters raised in this submission.

Yours sincerely

A handwritten signature in blue ink that reads 'Devin Bowles'.

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²⁴ [Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy](#), Martin C, et al, 2023, AHURI Final Report No. 401, Australian Housing and Urban Research Institute Limited, Melbourne,p53