



## SHELTER TAS SUBMISSION TO THE CONSULTATION ON THE DRAFT HOUSING TASMANIA BILL 2022



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Shelter Tas welcomes and supports people of diverse genders and sexual orientations.

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1 July 2022

By email to: [ctcommunications@communities.tas.gov.au](mailto:ctcommunications@communities.tas.gov.au)

### **Shelter Tas submission to the consultation on the draft Housing Tasmania Bill 2022**

Our submission draws on extensive consultation with our members, who include all the funded Specialist Homelessness Services and registered Community Housing Providers in the state. Our national colleagues and independent experts have also provided us with professional advice.

Shelter Tas would like to receive detailed feedback on whether and how our recommendations will be implemented. We would especially welcome more information on areas where we have requested greater clarity.

### **The importance of the draft Bill**

The draft Housing Tasmania Bill 2022 will establish a new statutory authority, currently named Housing Tasmania, which will be an entity in the Public Non-Financial Corporate Sector.

This is a significant change for the Tasmanian housing and homelessness sector as the new agency will become the funding body for the majority of our members, including the specialist homelessness services and community housing providers.

Shelter Tas appreciates that the new Housing Tasmania is intended to deliver a broad range of housing assistance for Tasmanians, including affordable, social and home ownership options.

The draft Bill is largely consistent with the *Homes Act 1935*, with the continuation of similar powers and functions. While this is a pragmatic and expedient approach, there is a risk of missing the opportunity to prepare forward looking legislation, to reflect best contemporary practice and ensure the best possible housing outcomes for all Tasmanians, particularly those most in need.

A new name for the organisation, such as *Homes Tasmania*, could reflect this new approach.

Shelter Tas also notes that the important change from a government department to a statutory authority needs careful and thorough consideration. Legislation that is similar on its face may be subject to different interpretations, and unintended consequences. Priorities may drift over time. It is important that the legislation and accompanying documents, such as an Explanatory Memorandum and Reading Speeches, clearly and comprehensively capture the full range of current services, as well as allowing for improvements. The ethos governing this new statutory authority needs to prioritise the wellbeing and secure housing of the people it is designed to assist, along with the transacting and managing of physical assets. The core objectives of reducing housing stress and homelessness need to be clear and explicit in the legislation governing the new authority, and in its work.

Our submission will focus on ways to strengthen and improve the draft Bill; in particular, how it can enable the new Housing Tasmania to build on the strengths of the housing and homelessness sector in Tasmania, in both government and non-government sectors. Overall, we suggest that alongside the focus on building, land development and new schemes to assist home purchase, the Bill needs equivalent balanced attention to the detail around social housing, housing assistance, community and tenant wellbeing and specialist homelessness services. We would like to see the ethos of the Bill reflect a Housing First approach, as this is recognised to be world's best practice.

Our detailed response below addresses various matters from the draft Bill and some suggestions for inclusion in the Ministerial Statement of Expectations.

## Objectives of the Act

1. Reducing housing stress and homelessness are fundamental to the work of Housing Tasmania. We recommend the Objectives of the Act include:
  - A decrease in the proportion of low income Tasmanian households experiencing housing stress**
  - A decrease in the proportion of Tasmanians experiencing homelessness.**
2. At S3 (h) (page 9 in the draft Bill) we recommend including specialist homelessness services by name. The clause could read:
  - To assist in ensuring the existence of a viable and diversified social housing and community support sector **including specialist homelessness services.**
3. Shelter Tas recommends including the achievement of housing equity for members of Tasmanian Aboriginal Communities in the objectives of the Act.
4. Shelter Tas recommends including the safety and wellbeing of women and children escaping family violence in the objectives of the Act.

## Glossary

5. We recommend including definitions of:
  - Social housing**
  - Social housing providers**
  - Community housing providers**
  - Specialist homelessness services**
  - Housing stress**
  - Homelessness**
  - Vulnerability**
  - Housing support services** –expand the definition to include emergency, crisis and transitional accommodation and specialist homelessness services
  - Housing First approach** – including a prevention, early intervention, and harm-minimisation approach, along with the recognition that in many cases people who are eligible for housing assistance will need additional supports that will be most effective when they are safely established in homes.

## Governance

6. The skills appropriate to provide Board level guidance and governance on housing and homelessness services need to be specifically described (Section 14). The current reference to ‘skills and experience in community development or welfare’ (Section 14 (2) (c)) is too general, and could be consistent with a Board lacking any real expertise and experience in homelessness services, housing support or tenancy management for vulnerable and very low-income tenants (Section 14 (1)).
7. The number of Board members in the draft Bill (4-6 including the Chair) is insufficient given the broad remit of the new Housing Tasmania. The Board could include skills such as finance, legal, construction, residential development, energy efficient homes and organisational

management as well as the necessary experience in homelessness services, not-for-profit housing, and tenancy management and support for vulnerable and very low-income households. A Board of four members including the Chair could not cover these areas. We suggest an appropriately skilled Board would need at least 6 members, excluding the Chair. For comparison, see the range of skills listed in section 37A (2) of the *Forest Practices Act 1985*.

8. To ensure the Board has access to timely and expert advice, it will need the power to establish committees (see the *Stadiums Tasmania Act 2022* section 13 for comparison). For example, a formally constituted and recognised advisory committee, including the peak body for housing and homelessness and drawing on expertise from the housing and homelessness sector, would provide an essential pathway for independent advice to the Board. A pathway for the lived experience and tenants' voices to be heard could also help inform the Board.

### Functions

9. Shelter Tas recommends the functions include:
  - Promote the development of social and affordable housing
  - Conduct research and develop strategic housing and homelessness policy
  - Manage social housing, specialist homelessness services and home ownership assistance programs
  - Independent advocacy, community education and policy work currently delivered by Shelter Tas and the Tenants' Union of Tasmania
  - Sector and workforce development in both government and non-government services.
10. Social housing and homelessness services and support need to be specifically included as core functions of Housing Tasmania. It is not sufficient to assume they are covered within the general term 'housing'. For example, the current draft Bill S11 (1) (page 28) has "to conduct research and provide policy advice related to the provision of housing". This needs to include social housing and homelessness by name. The clause could read "...research and policy advice related to social housing, homelessness, and housing assistance, as well as the Tasmanian housing market."
11. The Department of Communities currently engages in specialist capacity building and workforce development for the housing and homelessness sector. These activities are essential to attract and retain a skilled professional workforce to deliver quality services to clients in all regions of the state. Capacity building and workforce development need to be included in the functions of the new Housing Tasmania. Examples are the regular Specialist Homelessness Services Forums and specialist workforce training, currently facilitated by Shelter Tasmania.
12. The important functions of advocacy, community education and policy work currently delivered by Shelter Tas and the Tenants' Union of Tasmania also need to be clearly listed in the scope of the new Housing Tasmania.

## **Tenants and eligible persons**

13. It is important to ensure that, as far as possible, all tenants who are housed under the new Housing Tasmania have the protections of the *Residential Tenancy Act 1997*. This is particularly important with respect to lease and sub-lease agreements under section 51, and to section 53 (3) (a) 'movable residential premises' and part 14 Movable Residential Premises (p130). Perhaps adequate coverage could be achieved by a general clause to the effect that the *Residential Tenancy Act 1997* 'will apply to tenants receiving assistance from Housing Tasmania unless otherwise stated'.
14. Shelter Tas recommends provision in the Act that all tenants' conditions are protected, and the current income-based rents for social housing tenants are maintained below 30%, and cannot be raised to a level that would place households into housing stress.
15. The discussion of eligible person at S6 (6) p 22 of the Draft Bill seems to place the onus on an individual to demonstrate that they are an eligible person. Placing the onus on the individual to prove their eligibility runs a significant risk of disadvantaging vulnerable people such as people experiencing homelessness (with no fixed address), people experiencing mental illness or cognitive disability, or people with low levels of literacy. This seems unwise and inappropriate as these cohorts are precisely the people who are likely to need and be entitled to housing assistance. Perhaps this provision should be omitted, or at least a qualification to the effect that the burden of proof does not apply when a person has been identified as living with relevant vulnerabilities such as mental illness or homelessness.

## **Other matters not currently reflected in the Bill to improve the delivery of new supply and better manage social and affordable housing:**

### **16. Safeguards to ensure that public funded assets remain used for public good**

Shelter Tas appreciates that the ability to sell assets adds important flexibility to the activities of the new Housing Tasmania. However, there need to be appropriate safeguards to ensure that public investment remains tied to good public outcomes. For example, provisions to ensure that where public money and subsidies have helped to develop properties, these properties are retained for local residential use.

The safeguarding of public expenditure and resources is also important with respect to S49 (2) (b) which refers to Housing Tasmania, with ministerial consent, being able to build residential premises and sell or let them to 'a person who is carrying on, or about to carry on, an industrial undertaking'. We suggest this needs a substantial and clear policy framework, including a public interest test, as well as assurance that activities under this provision will not displace the core business of providing residential accommodation, housing assistance and homelessness services to Tasmanians in need.

### **17. Shelter Tas would like further information on the following issues:**

Section 10 (3) page 26 of the draft Bill says "that it is desirable to promote and secure the development and sustainability of Tasmania's housing sector". This is extremely broad; we would like to understand what it means, and how it aligns with the core business of providing homes and support to people most in need.

At 57(1), sale of land or an asset to a person who owns (or their spouse owns) residential premises within Tasmania is prohibited, but such a sale would be permitted to a person who

owns residential premises elsewhere in Australia. This seems inconsistent with the focus on people most in need, and perhaps the restriction should apply to ownership of residential property anywhere. We would welcome clarification of the rationale for this provision.

At section 49 (2) (b) (p64), there is capacity for the new authority to build dwellings for a permanent workforce for “industrial undertaking.” Shelter Tas would like to know more about the intention of this capacity, and the safeguards around using public resources for such an undertaking.

## **Gaps**

Shelter Tas notes that there are significant areas of intersection with other legislation and government priorities such as:

### **18. The planning system**

Planning and inclusionary zoning are part of a modern best practice system for housing and development. Shelter Tas would like to see the new Housing Tasmania play its part in building diverse, vibrant and inclusive communities, and would like to see this ambition clearly articulated in the new legislation.

### **19. Short-stay accommodation**

This is an increasing source of pressure on Tasmania’s housing system, especially the availability and affordability of private rental for long-term residents. We would like to see the new housing authority have a clear policy framework to protect public assets from conversion to use by tourists and visitors, rather than being maintained for their original purpose of housing Tasmanians in need.

### **20. Residential Tenancy Act**

Shelter Tas would like to see a modernised Residential Tenancy Act support the functions of the new Housing Tasmania, and ensure that the tenants supported under the new Housing Tasmania have the protections under the Act.

### **21. Contribution to a carbon neutral/carbon negative Tasmania**

There is an important opportunity to align the activities of the new Housing Tas with Tasmania’s energy efficiency and climate change goals. We would like to see the legislation for the new Housing Tasmania reflect this priority.

### **22. Housing equity for members of Tasmanian Aboriginal communities across the state**, in line with existing Government commitments.

**We hope to see substantial and effective consultation across government areas and with relevant stakeholders to ensure the legislation establishing the new Housing Tasmania will align with these broader areas.**

## **Ministerial Statement of Expectations**

The Ministerial Statement of Expectations is a very important part of the governance and overall direction of the new entity. We would like to see the development of the Ministerial Statement of Expectations draw on the expertise of the housing and homelessness sector and Shelter Tas as the peak body for housing and homelessness services.

Our initial suggestions would include the following:

- The core priority for the new Housing Tasmania is to ensure all Tasmanians are safely and affordably housed

- Housing Tasmania is given the responsibility to reduce the numbers of Tasmanians experiencing housing stress and homelessness
- Recognition of social housing and specialist homelessness services as essential services
- Confirmation that the peak body for housing and homelessness services is an essential part of the sector's ability to provide excellent services to Tasmanians in need
- Aspirational target of 10% of Tasmanian dwellings to be social housing
- Maintain and improve access to specialist homelessness services for Tasmanians in need
- Commitment to deliver and maintain funding for the full range of supports people need to achieve and maintain housing security
- Housing equity for members of the Tasmanian Aboriginal Community as a priority
- Recognition of the particular housing and support needs of women and their children escaping family violence
- Safeguard and build on the quality of the sector's professional work in specialist homelessness services and social housing
- Maintaining and improving collaborative work with related areas of government including child and family services, local government and planning, and other community services
- Commitment to Housing First approach
- Clear and detailed KPIs for the social responsibilities of Housing Tasmania such as tenancy management, specialist homelessness services and housing assistance and the wellbeing of people and local urban and rural communities. For balance, these would need to be comparable with any KPIs for construction and development of homes, and home ownership schemes
- Consult the housing and homelessness peak body and sector on Board expertise to ensure the right skills provide direction on housing and support for vulnerable people
- Maintain a pathway for advice to the new organisation and its Board from the housing and homelessness peak, experts from the sector, tenants and clients

Shelter Tas would welcome an opportunity to discuss any of these issues further, and to work collaboratively towards the best possible legislation to deliver improved housing outcomes for all Tasmanians.

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### **About Shelter Tas**

Shelter Tas is Tasmania's peak body for housing and homelessness services. We are an independent not-for-profit peak organisation representing the interests of low to moderate income housing consumers, community housing providers and Specialist Homelessness Services across Tasmania. We provide an independent voice on housing rights and a link between the Tasmanian government and the community through consultation, research and policy advice. We work towards a fairer and more just housing system. Our vision is affordable, appropriate, safe and secure housing for all Tasmanians and an end to homelessness. Shelter Tas is a member of National Shelter, and also represents the Community Industry Housing Association (CHIA) in Tasmania.