

PUBLIC LAW

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 **Hall & Wilcox**
smarter law

A MESSAGE OF HOPE

When I was approached last year to be guest editor of this edition of *Public Law*, the anticipation of Christmas, a rejuvenating summer break and a fresh new year was fast approaching. In an instant, I found myself conflicted between festive season celebrations and feeling great sadness over the images of our fire ravaged nation, struggling communities and exhausted fire fighters. Large swathes of our country have gone and over one billion native animals have perished.

Soon after, news of the coronavirus swept through the world.

At the time of writing, torrential rainfall left a trail of destruction causing flash-flooding, landslides and power outages.

It has been a challenging start to 2020. The huge impact of these events on our economy and the livelihoods of our community is yet to be determined – it does not bode well.

However, during the turmoil, I was heartened to observe the strength and generosity of humanity under adversity. Through charity, compassion and resilience, our local and international community have rallied together to support those affected and raise much needed funds to help with the aftermath of the fires and beyond.

I have pondered the lessons learned from this ferocious summer, now etched in Australia's rich history. There seems to be a lot of anger, criticism and blame. However, these sentiments will not bring back what has been lost. Perhaps, instead, we should focus less on politicising issues, and concentrate more on what we as individuals can do, in a positive way, to help our community, our families, and better ourselves.

In 2020, we celebrate a new decade and the start of the lunar year of the Rat. Those born in the year of the rat are said to be clever, quick witted, resourceful, practical, ambitious and highly adaptable. Let's use those themes to march through this new year, and this decade, with a focus on innovation, ideas and real solutions.

I have resolved to consider my actions as I go through the motions of life. What is that small thing that we can each do to make a positive difference to our own lives, our community, neighbourhood and our workplace?

It is my hope that after reading this newsletter today, you will take away with you one or two key messages for 2020 and beyond. Let this be the year that we take genuine steps to contribute to our family and community, and enrich ourselves with knowledge, resilience, good habits and positivity. It is never too late to start, the next hour is a new beginning.



Kitty Vo

Partner – Property & Projects

Guest Editor of the Public Law newsletter



SUPPORTING THE BUSHFIRE RECOVERY

BUY FROM THE BUSH

‘Buy From The Bush’ is a grass-roots campaign to promote the purchase of local gifts, art, jewellery and fashion from rural communities across Australia.

Founder Grace Brennan says the inspiration for the campaign came from her own experience of the stress bush businesses have been experiencing. ‘In a drought like this, the survival of small rural communities is at stake. This campaign aims to ensure that businesses can keep their doors open and bush makers can access new markets.’

Since the start of the campaign, featured businesses have been doubling and tripling their annual sales in a matter of days. Grace says supporters are enjoying exploring the beautiful things on offer in the bush.

Featured businesses have reported benefits for the rest of their communities. As one featured business owner told Grace, ‘yesterday I made more online sales than I do in a year. This morning I can spend money at the post office, buy breakfast at the café, and hire the local painter for my house.’

Grace says the campaign is about long term investment in local communities. ‘Ultimately I hope that introducing city consumers to some of the gems on offer in the bush encourages a change of mindset and gets people to invest in the bush more broadly, not just in times of crisis.’

For those who don’t like social media, Grace recommends travelling to the bush, once safe. ‘Now, more than ever, we encourage people to wander out to the bush, stay a while and experience it.’

A fellow social media campaign, Empty Esky, recommends destinations including Shoalhaven and Berry in New South Wales, and Beechworth and Bright in Victoria as places to travel.

Buy From The Bush and Empty Esky can be found on Facebook and Instagram.



PRO BONO UPDATE ON THE BUSHFIRES

Hall & Wilcox is taking part in a coordinated pro bono response to the bushfire emergency through Justice Connect, Disaster Legal Help Victoria, Legal Aid NSW, Victoria Legal Aid, the Law Institute of Victoria and the Law Society of NSW. We support the placement of our lawyers in rural communities to provide on-the-ground access to justice. For pro bono assistance contact Nathan Kennedy, Partner.

GOVERNMENT SUPPORT

The Victorian Government has set up [Bushfire Recovery Victoria](#), a new dedicated agency to work with affected communities to help deliver recovery services, and the NSW Government is coordinating its bushfire recovery efforts through [Service NSW](#).

One of the many initiatives of the Victorian Government is the ‘[Business & Sport for Bushfire Recovery](#)’ program. It will see more than 115 major organisations hold multi-day stays in bushfire affected areas in regional Victoria.

The NSW Government has launched a tourism recovery campaign, ‘[Now’s The Time To Love NSW](#)’. Destination NSW has called on all Australians to stay ‘local’, buy ‘local’ and post photos and videos of our favourite places with the hashtag #LoveNSW.

SOCIAL AND AFFORDABLE HOUSING

Q&A WITH THE HON. MELINDA PAVEY — NSW MINISTER FOR WATER, PROPERTY & HOUSING

We gathered together a panel of experts to tackle critical questions around social and affordable housing. Melinda Pavey was one of our panellists and here she shares her thoughts on what can be done. This excerpt is from the full Q&A, which you can find in the 'Thinking' section of the [Hall & Wilcox website](#).

The expected waiting time for social housing in NSW in many areas is up to 10 years. What are your plans to increase housing stock?

I deeply care about the issue of social housing in NSW and have seen in my electorate the life changing and positive long-term outcomes that a safe and secure home can have for individuals, families and communities. I have also seen the devastating impact on people when they do not have access to housing.

One of my priorities as Minister for Housing is to not only get keys into doors for as many people experiencing hardship in NSW as possible, but to also deliver new, integrated communities where people have access to the services and supports they need to thrive.

Under the NSW Government's policy *Future Directions for Social Housing in NSW*, the Land and Housing Corporation (LAHC), the agency responsible for the delivery and maintenance of social housing right across the state, will deliver up to 23,000 social housing dwellings, 500 affordable housing

dwellings and an additional 40,000 private dwellings. This is an ambitious program, and I am challenging LAHC to use innovative ways to deliver new, fit for purpose social homes that are integrated into communities.

What future role can community housing providers play in the social housing sector under your leadership?

Partnering with community housing providers (CHPs) who understand the needs of their communities is a new way of doing business that is allowing Government to deliver more social housing in integrated communities in areas where homes are needed most.

As part of this partnership Government has transferred the management of a proportion of social homes to CHPs, which has already presented benefits related to driving down costs to Government in areas such as maintenance, while also allowing community housing providers to access additional revenue from Commonwealth Rent Assistance.

In the future I think we will see CHPs playing an even bigger role.

A few years ago the NSW Government rolled out the Social Housing Management Transfer project, which effectively transferred social housing stock from Government to the social housing sector through a long-term, rent-free lease model. Do you envisage further Social Housing Management Transfers under your leadership?

Currently the Government has a target to transfer up to 35% of social housing to CHPs and will continue to consider transfers where there are clear benefits.

Do you have any updates for us about when the successful proponent for the build to rent model in Redfern will be announced to deliver more social, affordable and private housing?

The Redfern project is an exciting pilot, and we have been working closely with the consent authority for the project, the City of Sydney, and we look forward to making an announcement in the coming months.

What incentives would you like to see Government deliver to stimulate growth in social housing stock?

Moving forward we need to work more closely with the Federal Government to harness the opportunities they provide.

NHIFIC has been revolutionary in their forward thinking strategy to provide the enablers to future stock through concessional loans, grants and equity finance to help support critical housing-enabling infrastructure.

I feel making sure there are safe homes for those Australians in need of some support is not just a State Government issue, it is an all levels of government responsibility. I am talking regularly with my colleagues in Canberra and local Governments to achieve this.

What role do you think local councils have in stimulating the creation of additional social housing? How can local councils be incentivised to utilise surplus land for this purpose?

Local councils are an important partner for the NSW Government in bringing forward the delivery of new social housing.



How do you think the introduction of the NHIFIC has transformed the sector and what do you see will be the NHIFIC's future role moving forward?

NHIFIC has been an important financing tool to help bring forward the delivery of key social housing projects.

NHIFIC funding serves as an important enabler to help CHPs deliver new housing and moving forward, we believe we need to be more strategic as to how we work with the Commonwealth to maximise its effectiveness.

Are the Apartment Design Guidelines well suited to social housing stock? Might we see a customised guideline for social and affordable housing in the future?

LAHC uses a range of policies and guidelines to inform the design of its social housing dwellings, including the Apartment Design Guide (ADG) and SEPP 65, the Seniors Living Policy Urban Design Guidelines and the Low-Rise Medium Density Housing Code.

The new homes being delivered by LAHC use internationally recognised architects and adhere to best-practice urban design, and many have won design awards over the years.

LAHC undertakes rigorous independent reviews of its projects to ensure its social housing stock is high quality, fit for purpose and supports improved social outcomes.

At this point in time we feel that a new customised design guide is not necessary as the existing design guides and practices are current to social, affordable and private markets and are sufficiently flexible to facilitate our developments of fit for purpose dwellings.



LAND AND HOUSING CORPORATION WILL DELIVER UP TO 23,000 SOCIAL HOUSING DWELLINGS, 500 AFFORDABLE HOUSING DWELLINGS AND AN ADDITIONAL 40,000 PRIVATE DWELLINGS.

COLLECTIVE WISDOM: LIFEHACKS 2020



The new year is often flavoured with resolutions and optimism, but those ambitious goals often become lost in our busy schedules. Here is a collection of practical lifehacks* that are simple and actionable this year:

1. Change your Outlook program settings so that the Outlook Calendar opens on startup, rather than your Inbox (go to File/Options/Advanced Settings). This small tweak provides an overview of your day and helps you mentally prepare for what's to come.
2. Avoid the shiny object syndrome. Jot down all your thoughts into your phone or a small notebook. Schedule a time to revisit them either at the end of the day, or over the weekend. This helps declutter your mind, while retaining those ideas and tidbits that may come in handy later.
3. Create a 'Don't Do' or 'To-Don't' list. This list can include bad habits or items you would like to let go of. Pick two items from the list and work on not doing them until habit kicks in, then move on to the next two. By identifying those activities that cause you stress, waste your time or make you feel trapped, you will be empowered to banish those negative impacts from your life.
4. If being frightened awake by your alarm stresses you in the morning, here is a handy hack for iPhone users. Go to the 'Clock' app and select the 'Bedtime' feature. Set yourself a bedtime and wake-up time, then select an alarm sound that works for you (e.g. try 'First Light'). The wake-up alarm in this app is more soothing and gets louder gradually until you are awake – like the sun slowly rising!

**The Oxford English Dictionary defines 'lifehacks' as a 'strategy or technique adopted in order to manage one's time and daily activities in a more efficient way'.*

5. Sometimes, it is simply more efficient to tap a few keys on the keyboard rather than fiddling around with a mouse. If you're working on a PC, give these keyboard shortcuts a go:

- Windows key: Tapping the Windows key will open and close the Windows Start Menu.
- Windows key+E: Opens File Explorer.
- Ctrl+Alt+Tab: Shows you all applications that are currently open. Use the arrow keys to cycle through each application. Press Enter to select.
- Windows key +L: Immediately locks your device and returns you to the sign-in screen.
- Alt+D: When browsing the Internet, this keyboard shortcut moves your cursor to your browser's address bar and highlights the text. You can then type in the desired web address or search term.
- Ctrl+Tab: To cycle through open Internet browser tabs.
- Ctrl+S: Saves changes to a file that you are working on. Particularly useful when using applications like Word or Excel.
- Ctrl+C: Copies the highlighted text or item.
- Ctrl+X: Cuts the highlighted text or item.
- Ctrl+V: Pastes the cut or copied content.

6. To charge your mobile phone faster, switch your phone to airplane mode. Although it does not make a substantial difference, every minute counts when you are in a hurry!
7. Use frozen grapes to chill wine rather than ice.
8. Time-poor but need a healthy and delicious meal? Google search "sheet pan stir fry recipes" and be inspired by quick and easy stir fry recipes to cook in the oven.

NIK DRAGOJLOVIC'S AJVAR

(PRONOUNCED 'AY-VAR')



My dad was of Serbian ethnicity, born and raised in Bosnia. My mum was born on the island of Krk in Croatia. They met in 1957, fled across the border to Italy, and then to Australia.

My mum is an amazing cook. She has traditionally made a lot of meat-based dishes, so has struggled to adjust to my mostly plant-based diet. Ajvar is a vegetarian recipe that can accompany both meat and vegetable dishes. Ajvar reminds me of the traditional food my mum makes. She cooks by 'feel' rather than recipes. The few times I tried to transcribe a recipe from her failed spectacularly, so this recipe is an approximation to hers.

INGREDIENTS

4 red capsicums
2 eggplants
2-3 tablespoons olive oil
2 tablespoons lemon juice
2 garlic cloves, crushed
Add some chilli flakes or cayenne pepper if you like it hot

METHOD

Put the capsicums and eggplants on a baking paper-lined tray and cook at 200°C for 30-40 minutes until the vegetables are tender and the skins blackened. Transfer to a bowl, cover with plastic wrap and leave to cool. Peel both and discard the skins and the cores and seeds from the capsicum. Roughly chop and put in a food processor. Add the garlic cloves and some salt and pepper (and chilli or cayenne, if using) and process, gradually adding in the olive oil and lemon juice until the mixture is thick and creamy. This is perfect to serve with cevapcici.



During the bushfire crisis, Nik Dragojlovic, who is a Special Counsel in our Property & Projects team and part-time infantry officer in the Australian Army, was deployed to north-eastern Victoria.

Meg and her husband Travis.



MEET MEG LEE

This month, we introduce [Meg Lee](#), who recently joined us as a partner in our property and projects practice in Melbourne.

Best advice you've received?

Prioritise. You can't achieve everything at once and often things that seem urgent can actually wait. Don't stress, ask questions and prioritise.

Career highlight?

Apart from making it to partner, I'm most proud of working as a volunteer junior lawyer pro bono for an asylum seeker from Uganda who was a victim of sex slavery. The Department advised they didn't believe her story and I worked with the social worker to research and make post-interview submissions. She was granted asylum just before Christmas at the end of my Articles year.

What's your perfect Saturday morning?

Going for a run along the Yarra trails (then having an egg and bacon roll at my local coffee shop)!

What's your sporting team of choice?

Hawthorn. My Grandpa played for them just after WW1 so it's in my blood.

Favourite restaurant?

Botherambo in Richmond – amazing Asian fusion food and cocktails!

What would be the first thing you'd do if you won Lotto?

Pay off my mortgage, buy a house for my young cousin who has adopted his orphan niece and nephew, and take all my friends and family out to a great dinner!

SNAPSHOTS



MODERN SLAVERY: WHAT CAN YOU DO?

Slavery is not a relic of the past or something that happens ‘over there’ in other countries. Modern slavery exists, with 40 million people living in slavery around the world, according to barrister Fiona McLeod SC.

The horror of the exploitation to which people are subjected, as well as the sheer number of people who are exploited, can be overwhelming.

‘The question is, how can you change this?’ Fiona asked at Hall & Wilcox’s Women’s Business Charity breakfasts in Melbourne and Sydney last year, in partnership with Project Respect and Anti-Slavery Australia.

Fiona said businesses could help drive cultural change by looking at their corporate footprint and ensuring there were no instances of modern slavery in their supply chains.

But we can also, as individuals, do something to help drive change. You can do a slavery footprint audit of your own household, using Slavery Footprint or a similar tool. Many everyday items that we buy, including clothes, food and electronic devices, may use modern slaves in their supply chains. By asking the question ‘How many slaves work for me?’, you have the power to help end modern slavery.

INTERNATIONAL PUBLIC LAW UPDATE



Our international desks, headed up by partners [Oliver Jankowsky](#) and [Dr Wolfgang Babeck](#), keep a close eye on developments in international law. One important current issue is the negotiations between Australia and the European Union for a free trade agreement (FTA), which began in June 2018.

Wolfgang, who also chairs the Law Council of Australia’s International Law Section, was invited by the Department of Foreign Affairs and Trade (DFAT) to attend a recent international public law conference that discussed the FTA, as well as International Centre for Settlement of Investment Disputes and World Trade Organization issues.

According to DFAT, the EU is Australia’s second largest trading partner and was Australia’s largest source of foreign investment in 2018. An FTA with the EU could help drive Australian exports, economic growth and job creation by opening up a market for Australian goods and services to half a billion people and a GDP of US\$18.7 trillion.

‘The FTA discussion is particularly interesting because an FTA may have an impact on other areas, for example Australia’s privacy obligations may be tightened up,’ Wolfgang said. ‘Other topical issues discussed at the conference include Geographical Indicators, climate change commitments and privacy law and data transfers.’

EVENTS

UPCOMING STATE GOVERNMENT SEMINAR SERIES



We are excited to host our New South Wales Government seminar series in March. Designed exclusively for the NSW public sector, the lunch-time seminars are presented by Hall & Wilcox partners and will cover the topics of contracting and procurement, and working with the Independent Commission Against Corruption (ICAC) to expose corrupt behaviours and assist in the implementation of measures to guard against corrupt practices.

We will also be running our Victorian Government seminar series in the coming months. From changes to public law through to IT contracts, the Victorian Government seminar series will cover a wide range of topics and aim to educate and inform attendees of current and emerging legal issues relevant to the public sector. The first event in the series is on negotiating IT contracts, with an emphasis on the eServices Register Contract. Stay tuned for more information about subsequent event dates.

MELBOURNE

Topic: Negotiating IT contracts

When: Thursday 5 March at 12:30pm

Where: Hall & Wilcox, Melbourne

Presenter: [Ben Hamilton](#), Partner, Corporate and Commercial

Topic: *Environment Protection Amendment Act 2018* (VIC)

Date: Thursday 23 April at 12:30pm

Where: Hall & Wilcox, Melbourne

Presenter: [Meg Lee](#), Partner, Property and Projects

NEWCASTLE

Topic: Contracting and procurement

Date: Tuesday 10 March at 12:30pm

Where: Hall & Wilcox, Newcastle

Presenters: [Katrina Reye](#), Partner, Property and Projects; and [Matthew Smith](#), Partner, Corporate and Commercial

SYDNEY

Topic: Working with ICAC

Date: Thursday 26 March at 12:30pm

Where: Hall & Wilcox, Sydney

Presenter: [Stan Kondilios](#), Partner, Property and Projects

GENDER EQUITABLE BRIEFING



We are holding a panel discussion with leading members of the legal profession to discuss initiatives and best practices to promote gender equitable briefing. Our panel is drawn from the Bench, the Bar, private practice and clients. The evening will provide an opportunity for those with briefing power to meet and network with female barristers.

When: Tuesday 18 February at 5:30pm

Where: Hall & Wilcox, Melbourne

Panellists: The Honourable President Justice Chris Maxwell AC, Victorian Court of Appeal;

Maria Palamara, Senior Legal Counsel of WorkSafe Victoria; and

Michelle Britbart QC, barrister

Moderator: [Anastasia Coutsouvelis](#), Partner, Statutory Insurance Victoria

SYDNEY OFFICE RE-LAUNCH

Our Sydney office recently moved from Castlereagh Street to Kent Street. We are pleased to have The Hon. Mark Speakman SC, Attorney General, officially open our new Sydney premises.

Wednesday 19 February, 5.30pm, Hall & Wilcox, Level 18, 347 Kent Street Sydney

CONTACT SARAH PORTER



If you would like to attend any of the events mentioned in this edition, please contact Sarah Porter, Acting National Events Manager, on 02 8267 3815 or events@hallandwilcox.com.au.

ISSUES AND CRISIS MANAGEMENT IN THE PUBLIC SECTOR: TOP FIVE TIPS



Just over a month in and already the year 2020 has seen government at all levels faced with some major crises. Bushfires, poor air quality, ongoing drought, the coronavirus outbreak, and the knock-on effects for industries and local communities have been significant. We asked Royce Comm's Matthew Mahon for his Top 5 tips for public sector execs when faced with an issue or a crisis.

1. Be prepared. Be prepared! Be prepared! Invest the time now to develop and maintain a crisis management plan, (and its protocols and tactical delivery). It is not hard to anticipate many of the possible scenarios likely to impact a department or agency. How would a major, macro issue however non-related to your portfolio, impact on your organisation? Develop a plan which will guide your organisation through its darkest days. What strategies will you adopt? Document messages, contact details, thrash out positions on levels of seriousness that will be applied to certain issues, without the emotional pressure that can be felt in the moment. Ensure you have an owner of the plan, who has its maintenance recognised as a KPI.

Ensure that strategic thinking time is not forgotten in the immediacy of dealing with the crisis day-to-day.

2. Test your plans. Re-test your team. Involve your own team and related agencies in future testing of crisis or issues management plans. Quality time spent in your scenario room will quickly reveal the readiness of an organisation and its people. Train your spokespeople, refresh these skills regularly and seek opportunities to build experience for them in managing

media. A practical re-read and edit of a plan (ie reviewing people and contextual analysis) can be worthwhile twice yearly.

3. When a crisis hits, get the right people in the room from the beginning.

Who are the important agencies or departments that will be relied upon to assist with the crisis and/or its recovery? Involving them from the outset in managing a crisis will be beneficial in the long term. (Ironically, anecdotal evidence would suggest that whole of government responses are more likely to be effective in times of crisis than in business as usual situations). Ensure the chain of command is clear though, and that everyone understands who the lead agency is. Ensure BAU activity is restored and resourced.

4. Identify an independent subject matter expert or authority that can be called upon in the event of a crisis.

As well as their knowledge and expertise inside the 'war room', they may add enormous value when briefing Ministers, media and others. Again, these relationships should be established in advance.

5. Continue to invest in strategy. Ensure that strategic thinking time is not forgotten in the immediacy of dealing with the crisis day-to-day. Inevitably, crisis management teams tend to focus on the issue of the minute, hour or day. Ensure key decision makers are taking time out to consider the overarching view of where the issue or crisis may go, and likely steps to recovery.

Matthew Mahon is Managing Director, Corporate at Royce Comm. Royce is a corporate advisory firm specialising in business and communications.

royce.com.au



ARE YOU READY?

ENVIRONMENT PROTECTION AMENDMENT ACT 2018 (VIC)

In what's set to be a major overhaul of Victoria's environment protection laws, the *Environment Protection Amendment Act 2018 (Vic) (Amending Act)* takes effect from 1 July 2020.

The Amending Act focuses (for the first time) on risk prevention and management rather than responding to pollution incidents after they occur. In this way the new regime is similar to the approach to occupational health and safety laws. The Amending Act also introduces a new focus on human health and introduces the following new key duties:

- 1 the General Environmental Duty (GED) which is the centre piece of the Amending Act and compels any person engaging in an activity that may give rise to risks to human health or to the environment from pollution or waste to minimise those risks so far as reasonably practicable;
- 2 a duty to report pollution incidents including a duty to notify the Environment Protection Authority (EPA) of 'notifiable incidents' and a duty to take action to respond to harm caused by pollution incidents;
- 3 a waste management duty, which introduces the new concept of 'priority waste' and imposes obligations on the handling, recovery and processing of such waste; and
- 4 a contaminated land duty, which compels a person or body in control of land classified as 'contaminated' to undertake certain actions including notifying the EPA of any contamination, taking reasonable steps to minimise the potential risks of contamination and notifying people likely to be affected by any land contamination.

There are significant penalties for breaches of these duties of up to \$660,880 or 5 years imprisonment for individuals and \$3,304,400 for corporations.

In order to comply with the legislation and meet their obligations under the Amending Act, individuals and organisations that own or control land or that are involved in activities that may give rise to human health or environmental risks will need to start preparing now. All organisations should review and update their internal policies and procedures to ensure they facilitate compliance with the duties outlined above.

Entities owning or in control of land that is or may be contaminated will need to consider their reporting and notification obligations as well as taking any steps necessary to identify the risks posed by the contamination and to manage those risks. Entities with land in other States such as NSW and QLD will be familiar with contaminated land reporting duties, but this has not previously been required in Victoria.

The substantive nature of the changes to Victoria's environment protection laws make it unlikely that conventional policies and practices will enable individuals and organisations to meet their obligations under the Amending Act and new approaches will need to be implemented.

Are you and your organisation ready for when the changes take effect on 1 July 2020?

Contacts



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[Meg Lee](#)
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THE NHFIC: MAXIMISING OPPORTUNITIES FROM THE AFFORDABLE HOUSING BOND AGGREGATOR

Contacts



[Katrina Reye](#)

Partner, Property and Projects



[Nick Slack](#)

Partner, Banking and Financial Services

In late 2019 Hall & Wilcox hosted a town hall event in Sydney to discuss key questions in the social and affordable housing sector including:

- What is the best model to deliver better social and affordable housing outcomes?
- From a built form perspective, what is the right level of integration between social, affordable and mainstream housing?
- What is the best model of sector funding?

An expert panel was assembled to lead the discussion – panel members were the Hon. Melinda Pavey - NSW Minister for Water Property & Housing, Brendan Crotty - Chair of the National Housing and Investment Corporation (NHIFIC), Cameron Jackson - Development Director, Frasers Property Australia, Nicholas Proud - CEO PowerHousing and Princess Ventura - Regional Director, Urbis.

The purpose of the town hall event was to put together a body of experts to consider the current structural problem of the undersupply of social and affordable housing, specifically in NSW and more generally in Australia. The expected waiting time for social housing in NSW in many areas is up to 10 years.

A report by the UNSW City Futures Research Centre and Community Housing Association found that Australia needs to build more than 1 million social and affordable homes by 2036 to arrest the current and projected shortfall.

A key part of the discussion was the role of the NHFIC in the sector and its significant positive impact to date. In the 18 or so months since its establishment, the NHFIC has issued \$830 million of loans. Its most recent bond issuance in November 2019 provides:

- financing for over 2000 properties across Victoria, NSW, Queensland, Western Australia, and South Australia, including supporting the supply of more than 360 new social and affordable dwellings; and
- a fixed rate of 2.07% for 10½ year interest-only loans to community housing providers (CHPs), which provide subsidised housing.

This is estimated to save those CHPs supported by NHFIC's bond around \$50m in interest payments over the next 10 years. It is easy to see why the emergence of the NHFIC has unquestionably supercharged the sector.

However, while the Chair of NHFIC, Brendan Crotty, pointed out that the NHFIC had the capacity to generate up to \$1 billion per year for social and affordable housing (and in so doing create significant inroads into the current undersupply of social and affordable housing) he did highlight a looming structural issue. While the ability to borrow at circa 2% allows CHPs to leverage their balance sheets, there is only so much room before they hit the 'equity ceiling'. There comes a point when responsible directors of a CHP will say we can't operate with those gearing ratios.

Currently, some thinking is being done in the sector about how to inject additional equity into CHPs to mitigate against this problem. But one of the principal issues to overcome is the structure common to most community housing providers – that is, they are almost always set up as not for profit entities and are generally companies limited by guarantee.

This type of company cannot distribute profits to shareholders and is required to re-invest profits in line with the company's



Australia needs **1 million** social and affordable homes by **2036**



NHIFC has issued **\$830 million** of loans



Up to **10 years** waiting time for social housing in areas of NSW



It is easy to see why the emergence of the NHIFC has unquestionably supercharged the sector.



purpose. This purpose relates to the advancing of social or public welfare and the alleviation of poverty through the provision of access to housing.

One potential solution to this problem could be to use a typical project funding structure. This would require the co-operation of the NHIFC, the State Government and the community housing sector. Essentially, Government would stimulate the sector by announcing a project supported by Government funding, such as the Social and Affordable Housing Fund (SAHF) or Hunter Residences.

A community housing provider, along with appropriate joint venture partners, would establish a project company to undertake the project. The project company would be registered as a community housing provider. The sole activity of the project company would be to carry out the project and would subcontract most aspects of the project to subcontractors for agreed fixed prices. The NHIFC, as financier, would carry out due diligence on the project and, if the due diligence proved satisfactory, would lend into the project company with the projected revenue from the Government for the service supporting the borrowings.

It is critical that the opportunity provided by the NHIFC to the social and affordable housing sector is maximised to address the shortage of housing in this area. If the NHIFC really does have the ability to generate \$1 billion per year to create additional social and affordable dwellings it is important this funding is structured in a way that CHPs have the ability to access this funding moving forward.

SPOTLIGHT ON COMPASS HOUSING



We have worked with Compass Housing Services for three years. Our purpose is to enable our clients, people and communities to thrive. This purpose is closely aligned to the work that Compass does and we are proud to assist Compass in its important work.



As one of Australia's largest and most successful non-government social housing providers, Compass has been providing social and affordable housing for more than 30 years.

Compass is a Tier 1 registered community housing provider under the National Regulatory System for Community Housing. Compass also provides specialist disability accommodation to persons with a disability and is a registered Specialist Disability Accommodation (SDA) provider with the NDIS for all states in Australia.

Compass has a portfolio of more than 6800 properties across New South Wales, Queensland and New Zealand. The 2019 Compass Housing Tenant Satisfaction Survey shows overall tenant satisfaction at 92%. Compass provides services to government and has been awarded a number of major government tenders in NSW including the Social and Affordable

Housing Fund-Stage 1, the Social Housing Management Transfer and the Hunter Residences Project in partnership with BlueCHP through Home4Life. We acted for Compass in respect of each of these major projects.

Compass' purpose as set out in its Constitution includes the following:

- To obtain secure, affordable and sensitively managed housing for poor, needy and underprivileged people.
- To relieve poverty, sickness, destitution, helplessness and distress of persons regardless of race, creed, colour or gender.

Compass' vision addresses the needs of people; primarily focusing on the provision of affordable and appropriate shelter, while aspiring to advance the physical, mental health and well-being of its tenants and their inclusion in the social and economic life of their communities.

Compass managers have been strongly involved in various international advocacy platforms to influence the United Nations and United Nations Habitat agency to strongly hold onto the human right of adequate housing and in turn to have influence on public policy domestically. This advocacy has led Compass managers to being appointed to leadership roles in various international advocacy groups including the General Assembly of Partners and the World Urban Campaign.

Contact

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Key contacts



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