**Submission Template**

Improving the National Rental Affordability Scheme – Consultation Paper

Please upload completed submissions by **5pm AEST,** **21 December 2016** to [engage.dss.gov.au](http://www.engage.dss.gov.au)

**Instructions for completing the Submission Template**

* Download and save a copy of the template to your computer.
* You **do not** need to respond to all of the questions.
* Please keep your answers concise and relevant to the topic being addressed.

**Name (first name and surname):** Christabel Seneque

**Name of organisation:** Foundation Housing Ltd

**Stakeholder Category:** Approved Participant which retains the stock and holds as social housing investment; we also manage NRAS portfolios for other Approved Participants

**State/Territory:** **WA**

**Contact email address:** christabel@foundationhousing.org.au

Possible areas of improvement

Refer to section 4 of the Consultation Paper for further background information in relation to the questions below.

**General reforms to the NRAS process**

**Discussion Question 1)** What provisions in the NRAS Regulations could be changed/simplified in order to provide further clarity, reduce red tape, and improve the overall efficiency of the Scheme?

**Issues Raised in Consultation Paper**

Foundation Housing Ltd (FHL) supports the suggestions made in the discussion paper as follows:

* that the Department of Social Services (DSS) should allow NRAS tenants to transfer between NRAS dwellings without having to meet the initial income limit again; and
* that the DSS should incorporate definitions into the NRAS regulations regarding the difference between vacant and unavailable dwellings, and the way they will be treated.

**Remote Area Income Limits**

FHL proposes a review of the income eligibility limits in remote areas. In these areas the cost of living is higher and tenants may be compensated for this difference by higher wages, or remote allowances, which may put them above the national NRAS income limits.

The Housing Authority of Western Australia applies 25% loading to the income limits for community housing tenants in specified remote areas “to recognise the additional costs of living in the North West and remote parts of Western Australia” (Community Housing Income and Asset Limits Policy 2013, Housing Authority of Western Australia) and the DSS may want to consider a similar approach. This would allow Approved Participants to house tenants who are still of low and moderate incomes, given the higher costs associated with living in a remote area.

**Statement of Compliance Processing**

The DSS may want to consider alternative ways of assessing Statements of Compliance (SoC) in order to improve the overall efficiency of the Scheme. The current method of individually auditing every SoC appears time-consuming and resource-intensive, and means lengthy gaps between submission and payment of incentives. The level of information input into the NRAS portal allows DSS to access extensive data about the household composition, income, rent charged, vacancies and market rent of each dwelling which could potentially be utilised to alert the DSS to claims where non-compliance is a risk.

The current method of assessing SoCs can also result in inconsistencies. For example, in previous years we have experienced inconsistent treatment of tenancies where the amount on the lease agreement and TDA was inclusive of utilities. In these cases the rent and utilities components showed up as separate charges on the rent statement which was submitted as evidence of compliance, however the rent and utilities components combined matched the rental value on the TDA. Most of these dwellings were deemed to be compliant but a few were deemed to be non-compliant, which seemed to indicate differing interpretations of the evidence.

**Service Level Agreement**

FHL suggests the creation of Service Level Agreements between the DSS and Approved Participants, so that Approved Participants have clarity on what they can expect from the DSS in terms of level of communication, response timeframes, regularity and extent of status updates, and the process for making or escalating a complaint.

For example, FHL depends on NRAS incentive payments being processed in a timely manner and on being updated regarding expected timeframes for payment, so we can forecast cash flow for the organisation. Having clear guidelines on the estimated time taken to process SoCs, and at what stages of processing we can expect status updates, would give us clarity and enable us to plan.

The creation of a Service Level Agreement should result in greater clarity for Approved Participants and fewer queries to the DSS about the status of SoC processing and payment of incentives.

**Status of SoC Processing and Incentive Payments**

The DSS may want to consider expanding the information available in the NRAS portal to show greater detail on the status of SoC processing and the issuing of incentive payments. In combination with a Service Level Agreement this should help reduce the number of queries from Approved Participants after the end of the NRAS year.

**Strengthening documentary requirements**

**Discussion Question 2)** What documentation should approved participants be required to provide to the Department to support the information obtained in relation to:

• an allocation (such as market rent valuations); and

• lodgement of the annual Statement of Compliance (such as rents charged, household income and occupancy records)?

**New Tenants**

The DSS may want to consider an amendment to the NRAS regulations to allow time for Approved Participants to process the applications of prospective NRAS tenants. The NRAS regulations currently state that tenants become eligible if their gross household income “for the 12 months ending on the day before the start date” meets the relevant income limit for their household.

Once a prospective tenant provides evidence of their income for the previous 12 months the Approved Participant needs to process their application, determine eligibility, make a tenancy offer, and arrange for the applicant to view the property and sign a lease agreement. All of these processes take time and create a gap between the 12 months’ worth of income details provided and the tenancy start date.

FHL proposes an amendment to the NRAS regulations to allow a specified amount of time for processing tenancy applications (for example, 30 days) so that income details provided for the 12 months prior to these 30 days are acceptable evidence of tenant eligibility.

**Statements of Compliance**

FHL welcomes the DSS’s proposal to set out a standard of documentation that Approved Participants need to submit annually as evidence of compliance for an NRAS dwelling. This documentation could include:

* The tenancy agreement, submitted at the beginning of a tenancy. For periodic tenancies the DSS may want to consider amending the NRAS portal requirements so that Approved Participants do not have to resubmit the tenancy agreement annually if it has already been submitted and continues to apply;
* Any letters advising the tenant of a change to their rent;
* An income assessment worksheet submitted annually. This would be a template created by the DSS to standardise and provide guidance on the types of income evidence required;
* Evidence of tenant income details for the previous 12 months, submitted at the beginning of a tenancy and annually thereafter. The DSS may want to consider amending the NRAS portal settings to create an option to lodge annual income assessments where no other details have changed; and
* A rent statement showing the rent charged over the previous 12 months.

**Introducing discretion to correct errors**

**Discussion Question 3)** Are there circumstances under which the Department should consider allocating a dwelling even when the applicant has not met all of the conditions of reservation?

FHL supports the suggestion that the DSS could allocate a dwelling that has not met all of the conditions of reservation if this is due to an administrative error that can be – or has been – rectified by the Approved Participant. This would allow for greater flexibility in meeting the goals of the Scheme and increasing the supply of affordable rental dwellings.

**Discussion Question 4)** Under which circumstances should the Department consider issuing an incentive even when the approved participant has not met all of the conditions of allocation but issuing an incentive is still in the best interests of the Scheme?

**Vacancies in Areas of Decreased Demand**

The DSS may want to consider issuing proportional incentives where Approved Participants have experienced lengthy vacancies due to decreased demand for affordable housing in particular geographical areas.

For example, in former mining towns where the demand for housing dropped considerably after mine closures, Approved Participants may find that substantially lowering the rental amount is not enough to reduce cumulative vacancies to no more than 26 weeks in a year. Currently the process for substituting dwellings is complex, time-consuming and potentially costly. If the substituted dwelling is required to be within the same geographical area as the original dwelling, substitution would not resolve the issue.

The DSS may want to consider issuing a proportional incentive for Approved Participants where dwellings have been vacant for greater than 26 weeks if they can demonstrate they have made concerted and creative efforts to attract tenants and let the NRAS dwellings. This would allow the DSS to be responsive to dramatically decreased demand for affordable rental housing in particular locations and not further penalise Approved Participants who have made every effort possible to tenant the NRAS dwellings.

**Vacancies in Programs with a Social Benefit**

FHL is one of the partners in Foyer Oxford, a service which combines affordable housing, support, and access to diverse education and work opportunities for young people at risk of homelessness. The site comprises 98 NRAS dwellings offered to eligible tenants who also fit specific criteria in terms of age and motivation to engage in employment and training. Given this additional criteria, tenanting these dwellings can take longer.

For programs with social benefits such as these, the DSS may want to consider issuing proportional incentive payments, despite cumulative vacancy periods exceeding 26 weeks, if an Approved Participant can demonstrate wide-ranging, creative, sustained, and concerted efforts to let the dwellings.

**Vacancy Periods Spanning Two NRAS Years**

The DSS may want to consider issuing a proportional incentive for the second NRAS year of a lengthy vacancy if the vacancy period carries over from one NRAS year to the next.

For example, if an NRAS dwelling was continuously vacant for more than 26 weeks in one NRAS year and less than 13 weeks in the next, currently the Approved Participant would receive nil incentive for both NRAS years. If the dwelling was vacant for the same period of time in the middle of one NRAS year, however, the Approved Participant would only receive nil incentive for that year.

FHL suggests that the DSS should issue incentives for the second NRAS year in these situations to avoid penalising the Approved Participant for two years.

**Overcharged Rent**

The DSS may want to consider issuing an incentive in cases where Approved Participants have issued refunds of unintentionally overcharged rent. The NRAS Act and Regulations do not state that rent refunds may not be issued, however the NRAS Explanatory Guide released earlier this year specifies that rent refunds are “not able to rectify any rent overcharged”.

This stance does not allow for situations where, for example, a market rent valuation is conducted within 13 weeks after the anniversary of the ‘actual first available for rent’ (AFAR) date for a dwelling and prompts an immediate decrease in rent. In this situation the Approved Participant would be considered non-compliant for the period of time from the AFAR anniversary date to the decrease in rent, even after issuing a refund for the overcharged rent.

FHL suggests that the DSS should issue incentives in these cases where the tenant was not disadvantaged and, taking into account the refund they received, overall were charged an affordable rent at least 20% below the market rent value for the dwelling throughout the year.

**Over-Income Tenants**

The DSS may want to consider issuing an incentive where a tenant is at least 25% over the NRAS entry income limit for their household in two consecutive years and has been issued notice to vacate the dwelling.

The Residential Tenancies Act (RTA) of Western Australia requires lessors to give a minimum of 60 days’ notice if a periodic tenancy is to be ended without giving any reason (i.e. if the tenant has not breached the lease agreement and the property is not being sold). Under the current interpretation of the NRAS regulations, an Approved Participant in this situation would not receive an incentive payment for the notice period required by the RTA while the ineligible tenant prepares to vacate.

FHL suggests that the DSS should issue incentives in these situations in order to avoid penalising Approved Participants for complying with state legislation and regulations designed to protect the rights of tenants.

**Improved transparency for investors**

**Discussion Question 5)** While there is no legal relationship between the Department and NRAS investors, how might the Department keep investors informed of the status of their dwelling and related incentive?

The DSS may want to consider having a contract manager responsible for dealing with investor queries and complaints, so that investors have one point of contact. The DSS would need to be advised of the contact details for any private investors with an interest in an NRAS dwelling and only deal with the authorised contact person in order to preserve confidentiality. The DSS would also need to have a clear process for investors to make and escalate complaints as necessary.

FHL suggests that the DSS should establish a Service Level Agreement specific to investors that outlines how and how often investors will be informed as to the status of their NRAS dwellings and incentive payments. This would help to improve investor confidence in the Scheme.

**Major non-compliance**

**Discussion Question 6)** Under what circumstances should the Secretary consider revoking an NRAS allocation?

FHL supports the suggestion made in the discussion paper that the DSS should revoke an NRAS allocation in instances of serious misconduct, fraud, and insolvency.

**Discussion Question 7)** Under what circumstances should the Secretary consider offering withdrawn/revoked allocations to other existing approved participants?

FHL suggests that the DSS should offer allocations that have been withdrawn or revoked to other Approved Participants, regardless of the reason they were withdrawn or revoked, in order to improve the supply of affordable rental dwellings as per the aims of the Scheme.

**Role of substituted dwellings**

**Discussion Question 8)** What are the issues the Department should consider when determining if one dwelling can be substituted for another?

FHL supports the DSS proposal to insert substitution rules in the NRAS regulations regarding criteria for substituting NRAS dwellings. FHL suggests that the DSS should consider substitutions based on geographical areas of greatest affordable housing need, as well as the type of housing that is most in demand in these locations. This would mean that the substitution criteria go beyond ‘like for like’ and the DSS should consider changing markets and needs of low to moderate income households.

For example, the rental market has changed considerably in mining towns in Western Australia over the past few years, with high vacancy rates as mines close and workers leave the area. If an existing NRAS dwelling in South Hedland were to be substituted with another dwelling, the DSS should consider whether there was still adequate demand for affordable rental dwellings in South Hedland or whether it would be more beneficial for the overall goals of the Scheme to substitute a dwelling in a different location where there are key workers in need of affordable housing.

**Other comments**

**General comments or feedback on other issues**

Thank you for inviting FHL to put in a submission on ways to improve the framework and administration of the National Rental Affordability Scheme.