

Submission to

**the review by KPMG of
the future of public and affordable
housing provision in Tasmania**

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1. Introduction

Anglicare Tasmania welcomes the opportunity to provide input into this review by KPMG of public and affordable housing provision in Tasmania. Anglicare has been at the forefront of the community sector's campaign to put the housing crisis on the State Government's agenda and we have developed considerable expertise in housing policy as a result of this work. Anglicare is also a significant provider of housing support services, including services for people in crisis and services supporting people living in the private rental market, so we have a very clear understanding of the experiences of people struggling to find appropriate and genuinely affordable housing in today's market.

In recent years Anglicare has produced several in-depth research reports and policy documents on housing and made a number of detailed submissions on housing and related issues to inquiries, requests for information and consultative processes. This included a submission to the recent Legislative Council Select Committee inquiry into housing affordability in Tasmania (Anglicare Tasmania 2007a). An Anglicare representative also gave verbal evidence to the recent Senate Select Committee inquiring into housing affordability in Australia.

This present submission draws on both Anglicare's service delivery experience and policy expertise. Anglicare's principal concern in this discussion is for low income earners, including those on income support payments, the 'working poor', people living in public housing, people on the public housing waiting list, and people who are either eligible for public housing but do not apply or who are not eligible for public housing but still facing considerable financial hardship due to high housing costs. Because our focus is on low income earners, the comments in this submission are confined to those parts of the housing market where low income earners live – the public housing system and the private rental market.

We also acknowledge that many low income earners are homeless and 'live' in the crisis housing system, with friends and relatives, on the streets, or in tertiary accommodation options such as caravan parks and rooming houses. Anglicare's recommendations about the homelessness service system were contained in a comprehensive submission on the Australian Government's Green Paper on homelessness (Anglicare Tasmania 2008). One of the points made in that submission was that if sufficient and genuinely affordable housing, particularly public housing, was available, many people currently trapped in the crisis system would be able to move on from homelessness.

Definitions:

For the purposes of this submission, **public housing** refers to housing that is funded and directly provided by government, **community housing** refers to housing that is funded by or has been established using funding from government but is provided through non-government organisations, and **social housing** is used as an umbrella term to describe both public and community housing.

The terms **affordable housing** (when used without qualification) or **intermediate housing** are used to describe those housing products that fit between social housing and the open market. This includes the properties to be provided through the National Rental Affordability Scheme, which will be leased at discounted market-linked rents, and the various shared equity products under development.

The phrase **genuinely affordable housing** is used to indicate that the word ‘affordable’ in this case is being used as an adjective to refer to the housing product, whatever it is, being priced at such a level that a household could live in it without being in housing stress.

Housing stress describes the situation of households paying more than 30% of their income on housing costs *when that household is in the bottom 40% of income distribution*. Anglicare qualifies the definition in this way for two reasons: firstly, this is the generally accepted definition in the academic and policy literature, and secondly, the ‘30/40 rule’, as it is colloquially known, emphasises not just the amount spent on housing but the amount left over for other costs, such as food, heating, clothing and transport. Seventy per cent of the income of a household further up the income distribution scale would be a greater quantum of money, meaning that even after spending 30% on housing, they would not necessarily be in financial hardship. Anglicare also emphasises that the 30/40 rule is an indicator, rather than an absolute measure or definition, of after-housing poverty.

2. Public housing

As documented in the Tasmanian community sector’s policy position on housing affordability, there is a wealth of research evidence underlying the benefits of public housing for low income earners: public housing is linked to improved quality of life, better health and well-being, reduced stress, increased feelings of safety, improved educational outcomes for children and greater capacity to sustain tenancies (Flanagan 2007a). For people on the public housing waiting list, public housing offers security and stability, affordability and the opportunity to settle in a community into the long-term (Flanagan 2007b).

Specifically, Tasmania’s public housing system offers Tasmanians in need of housing the following benefits:

- **affordability.** Rents are tied to tenants’ capacity to pay. According to modelling provided to community sector representatives on a working group considering Housing Tasmania’s rent-setting policies, for all but a small group of tenants, the existing rents in Tasmania’s public housing system mean that they are able to live above the Henderson Poverty Line.
- **security of tenure.** Tenants in public housing do not have to move unless they choose to do so. This gives them the certainty they need to engage with their communities, settle their children in at school, address issues that may have been impossible to address before, such as family violence, drug and alcohol addiction, criminal involvement or mental health issues, and perhaps move into training or employment. Research evidence confirms the importance of security of tenure with regard to tenants’ health and well-being, community participation and family stability (Lewis 2006).
- **a higher level of duty of care from their landlord.** A public housing authority is seen by the courts to have a higher level of duty of care to its tenants than would a comparable landlord in the non-government or private sector (Duncanson 2008). Given the level of disadvantage among public housing tenants and the complexity of need that many experience, this duty of care is an important protection against further hardship.
- **an accountable landlord.** Public housing is currently a core responsibility of government. If there is a failure in the system, the Minister for Human Services is directly accountable, both administratively and politically. This not only offers an important protection against

exploitation or abuse of tenants' rights, it also offers tenants an important guarantee that their voice, however imperfectly, will be heard by government.

- **an integrated response.** Researchers and advocates both identify the need for social housing to be considered as part of a broader picture that incorporates infrastructure development, including of transport networks, community facilities and job opportunities in areas of new and existing public housing and other housing development, and the provision of support services. Government has a greater capacity than any other entity for delivering an integrated response since, regardless of its diminishing role as a direct service provider, it remains ultimately responsible for statewide and strategic planning around infrastructure development, employment creation initiatives and patterns of service delivery. Housing Tasmania's capacity to effectively manage its assets and respond to future needs is enhanced by its position within Government.

At the time of writing, no definite information is available about what future direction the government might take in relation to the provision of public housing. However, Anglicare's understanding, based on comments made by the Treasurer, Michael Aird, and the then Minister, Lara Giddings, during Estimates hearings in the middle of this year, is that two main options are on the table for discussion: conversion of all or part of Housing Tasmania into a state-owned company or government business enterprise and the development of some kind of housing association model, perhaps based on stock transfer. Our understanding is that KPMG has provided some economic modelling on these options to the Department of Health and Human Services, but this has not been made available to the community sector or to the wider community.

Anglicare has explored the implications of moving to a corporatised or housing association model in detail, including through an extensive review of the relevant research and policy literature. The results of our research have already been provided to KPMG (see Flanagan 2008a, 2008b). Based on the findings of our research, Anglicare has concluded that the best option for the future of Tasmania's public housing system, existing and future tenants and low income earners generally is for the Government to retain public housing as a core government service but with a different funding structure.

2.1. Corporatisation

There has been speculation for some time that the State Government has been considering the corporatisation of Housing Tasmania (see Neales 2007, Duncan 2008). The Legislative Council Select Committee inquiring into housing affordability recommended that Housing Tasmania be split into two divisions, with one, the division responsible for property management, to be established as a government business (LCSC 2008). The recommendation was notable in part because of the lack of a supporting rationale within the body of the report. Then, during the most recent round of Estimates hearings, the Treasurer indicated that the model he had "in mind" for housing delivery was a state-owned company "akin" to Metro Tasmania, Tasmania's public transport provider (Legislative Council 2008a: 37).

Most corporatisation of government business enterprises and statutory authorities took place in the mid 1990s in the wake of National Competition Policy reform, which required that government businesses be placed on a competitively neutral footing with the private sector. Under Tasmania's system of corporatisation, government businesses are either established as government business enterprises (GBEs) under the *Government Business Enterprises Act 1995* or as state-owned

companies (SOCs), subject to the Commonwealth *Corporations Act 2001*. Attached to the *Government Business Enterprises Act* are Treasurer's Instructions that among other things dictate the process for establishing a community service obligation. These Instructions do not apply to SOC's unless explicitly accounted for in their establishing legislation (as is the case with the new water and sewerage corporations, which are to be owned by local government). If a community service obligation exists for a SOC, it is managed through a 'community service activity agreement' between the Government and the SOC (DTF 2004).

2.1.1. The policy and legislative framework

Tasmanian GBEs and SOC's are required to operate as if they were private sector businesses – their government ownership should be incidental. Under the *Government Business Enterprises Act*, Tasmanian GBEs are required to operate efficiently as successful businesses in accordance with sound commercial practice, to achieve sustainable commercial rates of return, to perform any community service obligations efficiently and effectively, and to perform any other objectives specified in their establishing legislation (s.7). As entities subject to the *Corporations Act*, SOC's have a fiduciary obligation to maximise profits by whatever means appropriate, unless overridden by their shareholders (Quiggin 2001). (In the case of Metro Tasmania, for example, the Government has exempted Metro from having to pay a dividend to Treasury). Any community service obligations or activities that are carried out by GBEs and SOC's must be explicit, separately accounted for and transparent, and are carried out under contractual arrangements. Because the contracts must be extremely specific, the system does not work well for aspects of service delivery that are less quantifiable (Flanagan 2008a).

The social costs of adopting a commercial framework for a public housing provider were seen most infamously in New Zealand (see section 2.1.4 below), but are also evident in Australia, where public housing authorities are increasingly focussed on making more "efficient" use of their assets, often at the expense of tenants (see for example Housing ACT n.d.). This has involved the abolition of security of tenure in public housing and strategies to enforce 'downsizing' among tenants who remain eligible but are now living in homes that no longer meet their needs (according to the narrow interpretation of 'need' offered by the occupancy standard).

2.1.2. Community service obligations and activities

The Productivity Commission has recently criticised state governments for their failure to adequately compensate enterprises for carrying out community service obligations, arguing that this failure affected enterprises' financial performance and viability, compromised governance and integrity and could result in under-investment, over pricing and reductions in quality (Productivity Commission 2008). The Tasmanian Government's past performance in relation to community service obligations has certainly not suggested a willingness to ease the burden on the most disadvantaged. For example, although the electricity concession for concession card holders that is provided under a community service agreement between the Government and Aurora Energy has recently been increased (Aird 2007), between 1994 and 2007, it did not increase at all apart from one adjustment to compensate for the introduction of the GST while, during the same period, electricity prices rose by more than 50% (TasCOSS 2007).

A second example is that of the Public Trustee, a GBE with a community service obligation to administer the estates, trusts and financial affairs of eligible represented persons (those considered

by the Guardianship and Administration Board incapable of managing their own financial affairs). For this service, the Public Trustee charges its clients, who include some of the most disadvantaged people in Tasmania – people reliant on pensions, with severe psychiatric or intellectual disabilities or dementia – 9.5% of their weekly income in fees. Fees for similar services in other jurisdictions equate to 0-3% of weekly income (Anglicare Tasmania 2007b). Because represented persons' incomes are so low (the maximum entitlement on the Disability Pension for a single adult, excluding Commonwealth Rent Assistance, is currently \$562.10 a fortnight or \$281.50 a week)¹, the fees have a significant impact on people's capacity to afford housing, food and heating, yet they have been described by the CEO of the Public Trustee as "not too much of a burden really" (Legislative Council 2007: 6). Despite the fact that abolition of the fees would cost the Government just \$155,000 per annum (Legislative Council 2007), community sector advocates have been repeatedly informed by various Ministers that this funding will not be forthcoming.

2.1.3. Asset management

In his comments supporting the restructuring of Housing Tasmania into a SOC along the lines of Metro, the Treasurer has stressed the benefits of a more commercial approach to asset management (House of Assembly 2008a: 75-6). Anglicare is concerned that a commercial emphasis on asset management carries the potential for the social obligations of a housing SOC to be overwhelmed. As Murphy (1997) points out, even if a corporatised entity is required to pay heed to social objectives, such as creating stable communities or providing security of tenure, these objectives become circumscribed and diluted by the need to first and foremost be commercially viable: "[a]n emphasis on profitable property management alters the service provision ethic of state housing" (Murphy 1997: 272). Anglicare is not suggesting that negotiating the tension between the need to make appropriate decisions about public housing properties and the need to respect the rights and feelings of the tenants living in them is anything other than a delicate balancing act. But we would argue that most of the time, Housing Tasmania gets the balance right. A corporatised structure, with an emphasis on a more commercial approach to asset management as intimated by the Treasurer, would skew this balance at the expense of people who are on extremely low incomes and facing multiple personal challenges.

2.1.4. Governance

Could the worst excesses of commercialism be ameliorated through strong government control over the new Housing Tasmania SOC? In New Zealand, the *Housing Restructuring Act 1992*, which established the corporatised Housing New Zealand corporation, explicitly required the corporation to meet the Crown's social objectives by operating profitably and efficiently and by exhibiting a sense of social responsibility and having regard to the interests of the community in which it operated (s.4.1). Under the Act, the social objectives of the Crown were communicated to the Corporation annually by the Ministers and then reiterated in the Corporation's statement of corporate intent (Alston 1998). Yet the New Zealand reforms still triggered widespread homelessness, reliance on emergency relief providers and overcrowding among public housing tenants and the residualisation of public housing stock in outlying, poorly-serviced areas, despite the overwhelming commercial success of the new housing entity (Hall & Berry 2004, Pawson et al 1996, NZMCH 2007).

¹ Information on current payment rates taken from Centrelink's website, <www.centrelink.gov.au>, on 17 September 2008.

In Tasmania, SOCs receive Ministerial direction through their strategic planning processes, but in day-to-day decision making, do not receive any Government input (Auditor-General 2007). Tasmania's Government clearly intends the strategic direction of GBEs and SOCs to be consistent with Government policy. A progress report on Treasury's implementation of financial management reform in 2004 noted that, "Treasury is working to ensure that the corporate governance framework aligns the objectives of Boards of Government businesses with those of the Shareholder Ministers" (DTF 2004: 44). A handbook on corporate governance in GBEs outlines how this might take place. According to the handbook, the role of a Portfolio Minister is to "provide the GBE with a Ministerial Charter, [and to] negotiate and to approve the Corporate Plan and the various performance targets it contains", while the Stakeholder Minister is to "assess and monitor ... financial performance and to ensure that the objectives of the GBE are consistent with the Government's overall policy framework and objectives". This latter role may involve "making certain directions, where necessary, approving the Corporate Plan, and setting expectations in the Ministerial Charter" (DTF 1998: 4).

But according to the literature on the governance of government-owned enterprises, good governance requires that the Government's input is minimal – intervention by Ministers into strategic direction, appointments or the content of corporate documents can hinder the Board's independence and capacity to carry out its legal obligations (McDonough 1998). The need for clarity around the respective roles and powers of Ministers and Boards was raised by the Auditor-General of New South Wales during a 1999 federal inquiry into the governance of government-owned companies, because there was currently confusion about who was in charge (JCPAA 1999). Inappropriate Board appointments, including to the position of chair, where the Minister has made a decision independently of due process, can have severe consequences if the person appointed does not have skills and experience that match the requirements of the Board or if the appointment creates destabilising tensions on the Board (Edwards 2006). The 1999 federal inquiry recommended that the shareholder responsibilities of Portfolio Ministers be removed due to the risk of a conflict of interest arising where the Portfolio Minister also had regulatory and policy responsibilities and purchased services from the enterprise. Particular concerns were raised regarding community service obligations where the Minister had an interest both in ensuring CSOs were delivered at the most efficient cost and in maximising the rate of return from the enterprise. The inquiry report also noted that ongoing involvement of the portfolio Minister as a shareholder Minister perpetuated the false public perception that the Government had the power to direct an enterprise on a day-to-day basis (JCPAA 1999).

Anglicare has been reassured by the Treasurer that the State Government would still retain control over a corporatised Housing Tasmania. But ensuring strong ongoing involvement by the Government in the affairs of the new SOC would be contrary to the principles of good governance in these kinds of entities. Anglicare's concern is that the tensions this would create would inevitably make such an arrangement unsustainable in the long term and the difficulty would be most likely resolved by winding back government control.

2.2. A housing association

Although the Treasurer has been clear that he would like Housing Tasmania converted into a SOC, the then Minister for Human Services, Lara Giddings, raised other options during Estimates hearings in the middle of this year. For example, Ms Giddings said that the Government would look “not just at State-owned companies but whether housing associations are a way forward” (House of Assembly 2008b: 78). She referred to “two options ... the Community Housing Limited model which we are already working on to some degree ... [and] a different model in the UK which is a community housing association model” (House of Assembly 2008b: 81). Community Housing Limited is a large community housing association which is based in Victoria but expanding into other places, including Tasmania (CHL 2007). The Secretary of the Department of Health and Human Services, David Roberts, provided some clarifying information about the UK model, including the statement that “[the housing associations] are run very much from local authorities” (House of Assembly 2008b: 81), which is probably a reference to the UK’s ALMO (or arms-length management organisation) model.² ALMOs manage over one third of all council (public) housing in the UK, and exist on a continuum, with some acting as agents of the council implementing council policy, some stressing their independence from council, and some falling in between these two extremes (Reid et al 2007).

Ms Giddings’ comments fit with a growing trend in Australia to abandon attempts to increase the capacity of the public housing system in favour of increasing social housing supply through the community housing sector. The particular community housing model that is chosen varies from state to state and the model for a given jurisdiction depends on the circumstances in and the characteristics of that jurisdiction. Tasmania, for example, would struggle to implement a major shift from public to community provision that was based on internal providers given the fragmented nature and lack of capacity of its existing community housing sector, and this may be why the Department has moved towards working with an interstate provider, Community Housing Limited, which has a great deal more capacity and expertise in the housing development area. However, because of the commonalities between the different models, Anglicare describes them collectively as ‘growth provider models’. They involve the provision of government capital, either through funding grants or through the transfer of title to public housing properties, which the recipient community housing organisation then uses to leverage private investment. With the combination of Government capital and private investment, the growth provider then purchases or constructs new social housing. The growth provider receives capital investment from government but no recurrent funding, although additional funding does flow into the system through Commonwealth Rent Assistance (CRA) in Australia and local housing allowance in the UK.³

² The ALMO option was one of three presented to local councils needing additional funding to meet government targets in relation to the quality of their stock; the other two options were stock transfer to community housing associations and public-private partnerships. ALMO arrangements were popular because they provided a way to obtain additional funding – through borrowing and then ongoing subsidies to meet repayments – while responding to concern from some parts of the community about the implications of losing public ownership and control over housing stock. Under an ALMO, ownership of the stock remains with the council, there is no change to tenants’ rights and conditions, and the council remains the legal landlord (Reid et al 2007).

³ Local housing allowance has replaced housing benefit. Although the new allowance was supposed to end problems with housing benefit, specifically where the amount of housing benefit paid did not cover the full amount of rent charged by the landlord, it has been criticised for failing to do this (Anderson 2008). Either way, the UK system provides far more generous assistance with housing costs than Commonwealth Rent Assistance, and thus, a far greater subsidy to housing associations.

2.2.1. Lack of recurrent funding

Although they have access to CRA, which in Australia is provided through a different level of government, growth providers receive no recurrent funding from the states. This means they have to cover the cost of maintenance, tenancy management, operational costs and the repayments on private loans out of their revenue, which mainly comes from the rents paid by tenants. The rent setting models in 'traditional' community housing do not generate sufficient revenue. In order to maximise revenue streams, growth providers must alter their policy settings. These changes may involve:

- leasing a proportion of properties to moderate income earners, who then pay higher rents that can be used to cross-subsidise the rents paid by low income tenants;
- restructuring and increasing rents to increase the amount of CRA for which tenants are eligible; and/or
- leasing a proportion of properties as 'affordable housing' rather than 'community housing'. This means that instead of income-linked rents (e.g. 25% of income), tenants are charged market-linked rents (e.g. 75% of market rent). Market-linked rents are in most cases much higher than income-linked rents.

Anglicare has a number of concerns with these options. In relation to the latter two, the concern is simple: increased rents, whether through a model that maximises the tenant's CRA entitlement or through linking rents to market rates rather than the tenant's income, impose additional hardship on the lowest income tenants, thereby squeezing these tenants out of the system or forcing them to live in poverty.⁴ The first option is not problematic in and of itself, but it becomes so if the absolute number of properties available is insufficient to accommodate those most in need within the confines imposed by the 'income mix'. In this case, the lowest income earners again miss out.

2.2.2. Dependence on private investment

A growth provider model is utterly dependent on private investment. For investors, there are two main drivers (Docherty 2006). The first is risk: investors will not provide funding to a venture unless they have confidence that the growth provider has sophisticated and effective risk management systems in place and that the regulatory framework is robust, comprehensive and independent. The second driver is return, and there is a significant body of research demonstrating that providers will not be sustainable or attractive to investors into the long-term without ongoing subsidies and support from governments (see Bratt et al 1999, Bratt 2008, DCLG 2007, CHFA 2005, Milligan et al 2004, Lawson & Milligan 2007, Berry et al 2004, Nieboer & Gruis 2006).

The example of the UK is often cited as evidence that growth providers not only work, but can be hugely successful. The UK Government currently contributes 44% of the cost of new housing developments, with housing associations providing 43% from borrowing and 13% from their own reserves, and Government modelling suggests scope for additional borrowings and efficiency

⁴ Milligan et al (2004) provide a comparison of the rental revenues that can be generated by different rent-setting models, and of the impact on tenants. In their example, on the open market a single parent with one or two children would be receiving the maximum rate of CRA, but, in paying \$500 a fortnight in rent, would be spending 108% of their fortnightly income on housing costs. If the property was community housing, the tenant's contribution to the rent would be income-linked. If the provider treated CRA as assessable income, the tenant's contribution would equate to 25% of their income in rent while the housing provider received a rent of \$129. If the rent was set higher, to maximise the amount of CRA for which the tenant was eligible, the tenant would be paying 32% of their income in rent while the provider received \$260 in rent. A rent set at 74.9% of the market rate would earn the provider \$375 but cost the tenant 57% of their income.

savings exists (DCLG 2007). The housing association sector argued in 2007 that with changes in the investment framework, an additional 274,000 social housing properties could be generated through a £13.4 billion public subsidy used to secure £20.5 billion in borrowings, which reduced the Government contribution to 40% (NHF 2007). But despite the size of the numbers, the UK model is based on a very different subsidy system. Housing benefit (now called local housing allowance) accounts for 60% of rental revenue in the housing association sector (Cave 2008), and the capacity of providers in the UK to cover the costs of debt finance depends on the availability of this revenue stream (Lawson & Milligan 2007). The sustained commitment of the UK Government to both housing benefit/allowance and to its capital grants system are critical planks for investor confidence (Berry et al 2004). Housing associations also depend on activities such as market sales and low-cost home ownership to subsidise their loss-making activities of social housing provision and community investment (NHF 2007), with the capacity to provide the former critical for the continuation of the latter. Australian governments appear to have recognised the need for capital funding, either through transfer of property or through grant provision (Office for Community Housing 2006, DDHCS 2005), but the issue of recurrent subsidies is arguably more important. In the UK, revenue subsidies like housing benefit are worth 6.5 times more than the capital subsidies provided through grants (Rouse 2006).

Unfortunately, in the wake of the credit crisis in global financial markets, the stability of the UK housing association sector is under serious threat unless greater government investment is forthcoming. Five of the seven main investors in the sector, including the largest, have withdrawn, with the continued participation of the other two in doubt, and as house prices fall, the capacity to generate additional revenue from sales is being undermined (Hetherington 2008a). Recently Ujima, a large housing association providing social housing for black people, became the first housing association of any kind to collapse, amid accusations of financial mismanagement, an overly ambitious construction program and regulatory failure (Hetherington 2008b). According to the Council of Mortgage Lenders, the Ujima collapse and the associated concerns about the strength of the regulatory system will increase the price of loans to housing associations; the preferential treatment currently given to housing associations by the banking sector is worth around £300 million, according to the Council (Gardiner 2008).

The lesson to be learned is that the housing association model, with its dependence on competitive commercial activity and private investment, exposes tenants to the open market far more than would a government owned and operated system. As a result, it only works when the market, particularly the housing market, is favourable.

2.2.3. Dependence on Commonwealth Rent Assistance

The former Minister for Human Services, Lara Giddings, attributed the need for reform to the change in funding emphasis at a Commonwealth level from the provision of capital funding for public housing to the provision of cash subsidies to individuals through CRA (House of Assembly 2008b: 78, 110). Anglicare has concerns about implementing radical reforms to Tasmania's public housing system based on a policy decision that was taken for ideological reasons by a federal government no longer in office. This is particularly the case when the future of CRA is, at least according to some stakeholders, subject to discussion as part of the negotiations surrounding the development of the National Affordable Housing Agreement.

The need for policy stability in relation to the public subsidies provided by CRA and in relation to taxation settings has been identified as an important precondition for the development of growth provider models (NCHF 2005). Some proponents of maximising the CRA flowing into community housing argue that the Government will be paying the same amount regardless of whether the tenant is in community housing or in the private rental market, but the housing will be considerably more affordable for the tenant (Milligan et al 2004). However, eligibility for CRA was withdrawn from public housing tenants in 1982 on the basis that there was too great a disparity between the assistance provided to public housing tenants and that provided to tenants in the private rental market (Industry Commission 1993). If the community housing sector develops and expands in the way in which state governments hope, this argument could be applied to community housing as well, particularly as real expenditure on CRA is projected to increase by 170% by 2045 (Yates et al 2008). Burke also points out that in the early 1990s, it was suggested that the CSHA be replaced by the extension of eligibility for CRA to public housing tenants, but the idea was dropped because the CRA available would still not have allowed the public housing authorities to be economically viable, especially at a time of greater targeting and the resulting financial pressures on the system (Burke 2005).

2.3. Investment in the current system

Anglicare's preferred model for the future of Tasmania's public housing system has four elements:

- guaranteed recurrent funding of \$22 million per annum plus indexation to Housing Tasmania to cover the gap between the rent paid by tenants and the market rent receivable on each property;
- a one-off allocation of \$90 million to address Housing Tasmania's existing maintenance backlog;
- removal of the \$17 million per annum debt burden from Housing Tasmania, either through incorporation of the debt into general government debt or through the provision of \$17 million per annum from the Consolidated Fund that is then explicitly allocated to meet the cost of the debt repayments (both options would have the same accounting result); and
- the provision of capital grants as required to facilitate a significant increase in the supply of public housing.⁵

The last point, an increase in the supply of public housing, is critical. Once the public housing system is put onto a financially sustainable footing, the Government must overturn its decision to reduce the amount of public housing to just 10,000 properties – a decision made by Cabinet some years ago (Auditor-General 2005; Housing Tasmania 2003) and reiterated only recently by the then Minister, Lara Giddings, during Estimates hearings (House of Assembly 2008b: 79). Ten thousand properties will not be enough to accommodate all of those Tasmanians who need genuinely affordable housing, and restricting supply to that level only exacerbates the problems of stigmatisation, declining rental revenues and rising support costs that are created by targeting.

Investment in the current system is Anglicare's preferred model for two important reasons.

⁵ The costing for the recurrent funding was obtained using Productivity Commission figures. The average weekly subsidy per household provided in 2007 was \$46. There are 9,113 households paying less than market rent, making a total annual subsidy of \$21.8 million (SCRGSP 2008). The one-off allocation to address the maintenance backlog was based on the value of the current backlog provided to Estimates hearings this year (House of Assembly 2008b: 77).

2.3.1. It tackles the problem

The extensive research literature on this subject is clear about the source of the problems besetting the Australian public housing system. There are two critical factors: the decision to target public housing to those ‘in greatest need’ without recognising that this would involve a decline in rental revenue and an increase in support costs, and the decision to reduce the base funding available under the Commonwealth State Housing Agreement (see for example Hall & Berry 2007, Atkinson & Jacobs 2008). In Tasmania over the last decade, excluding the State Government’s short engagement with the Affordable Housing Strategy, both of these policy decisions have had the support of both levels of government. If targeting and a lack of funding are the problem, then changing the management structure of Housing Tasmania will achieve nothing. This is evident in the Northern Territory, where a corporatised structure (a government business division) has been adopted but has done little to improve the viability of the Northern Territory’s public housing system, which has the highest operating deficit per dwelling in the country (Flanagan 2008a, Hall & Berry 2007). Investment in the current system, however, would tackle the real problem by overcoming the lack of funding and, through an increase in supply, provide Housing Tasmania with the capacity to diversify the income base of its tenants without compromising the need to supply housing for those ‘in greatest need’. Not only would this strengthen Housing Tasmania’s internal revenue base, it would also contribute to a reduction in the stigma attached to public housing tenants and to the public housing system (Atkinson & Jacobs 2008).

2.3.2. It preserves what works

Investment in the current system preserves the elements of public housing that work for low income earners: affordability, security of tenure, a higher level of duty of care and accountability from their landlord and an integrated response to strategic housing issues and support services. A shift to a corporatised or housing association model carries with it a strong risk that rents will be increased and tenants be placed on fixed term leases as a way to manage demand. And outsourcing the role of landlord, either to a SOC, a community organisation or an ALMO-like body, diminishes the responsibility and accountability of government and undermines the potential for an integrated response to infrastructure development and support service provision. Yet this integrated response is the best way to tackle some of the problems that have plagued previous public housing developments, including the ‘infrastructure lag’.

Investment in the current system not only preserves the characteristics of public housing that make it the best system for low income tenants, but it also guarantees the system sustainability by ensuring Housing Tasmania has greater operational flexibility and sufficient day-to-day revenue to respond to tenants’ needs for support and tackle maintenance issues as they arise. By funding Housing Tasmania for the difference between tenants’ income-linked rents and a market rate of return, (rather than, for example, providing top-up grants on a break-even basis as with the Metro model), it also offers Housing Tasmania the potential to generate surpluses that can be reinvested in increasing supply, reconfiguring the property mix to better match the needs of incoming tenants and exploring the application of new forms of construction, such as modular homes or prefabrication, to the public housing system.

Investment in the current system may be costly, but Anglicare’s view is that it is not necessarily more costly than other models. Firstly, all the options will have to deal with issues such as the maintenance backlog and the need for recurrent funding. Secondly, the outlay sounds large but is comparatively small when compared to the benefits that a strong public housing system would have

in other areas of the State Budget, such as in health, education and the criminal justice system (see Anglicare Tasmania 2007a). Thirdly, Anglicare does not expect that all the funding above would come from the State Government. We would be expecting the State Government to come to an arrangement with the Federal Government under the National Affordable Housing Agreement which would see the Federal Government taking on some of the responsibility. However, given the strength of the Tasmanian economy, the State Government does have significant resources at its disposal. It has indicated a willingness to support large capital projects in relation to the replacement Royal Hobart Hospital and the redevelopment of the Tasmanian Museum and Art Gallery. It must genuinely prioritise housing issues and take responsibility for allocating resources, both capital and recurrent, into the provision of shelter for disadvantaged Tasmanians.

What the State Government must not do is yield to the temptation of recouping some of the costs of investing in the housing system from the people with the least capacity to pay: the tenants and potential tenants. Anglicare was also recently involved in a working group of community sector and Housing Tasmania representatives which looked at options for reforming Housing Tasmania's rent-setting model. One of the arguments put forward was that if the system is to improve, tenants should expect to have to make some additional financial contribution to those improvements through rent increases. Anglicare's position on this issue is that we will not support any reforms that result in greater hardship for tenants. It is unacceptable for the most disadvantaged in the community to be made responsible for years of Government neglect. Our understanding is that the rent-setting issue has now been referred to the Social Inclusion Unit for further work. However, the economic modelling that has been conducted by KPMG into the different options for reform must have made some assumptions about rents. Anglicare emphasises that it is simply not good enough to excuse rent increases by the politically expedient tactic of 'grandfathering' existing tenants. This will not prevent new tenants in identical economic circumstances from facing hardship and, as time goes on, will become difficult to sustain on equity grounds. As a result, rents for all tenants will ultimately go up. In Anglicare's view, a 'reform plus grandfathering' approach is simply a means of introducing rent increases by stealth.

3. Private rental

Although the private rental market was barely mentioned during the background presentation at the consultation forum on 12 September 2008, proportionally, most low income earners live in the private rental market, and increasingly, as the supply of public housing declines and home ownership becomes unattainable, they are living there in the long term. Yet the private rental market is designed to meet the needs of landlords and investors, rather than the needs of tenants (Burke 1999). If Australia is to accept that the private rental market will be home for large numbers of households into the future, then we must also accept the need to make private rental work for them. Even if it is assumed that these households could move into home ownership through a shared equity scheme, the reality is that the private rental market does not set people up for that option due to the insecurity, financial crisis, intermittent homelessness and ongoing social exclusion experienced by many private renters (see Flanagan 2007b, Hulse & Burke 2000).

If this review is considering the whole of the housing system, then the private rental market must be included in the terms of reference. And to ensure that the private rental market does provide genuine alternatives for low income earners then Tasmania needs to make profound reforms.

Firstly, we need to address unlawful and inappropriate conduct by landlords. Community sector agencies working with people living in the private rental market have observed numerous instances of activities by landlords and agents that constitute breaches of the *Residential Tenancy Act 1995*. These include a failure to provide condition reports, unlawful evictions, inspections or visits by the landlord without notice, unlawful retention of bonds by landlords and failure to perform repairs and maintenance within legislated timeframes. In part, this occurs because the shortage of affordable housing means tenants feel vulnerable and powerless, and are concerned that asserting their rights under the Act will jeopardise their chances of obtaining a positive reference. But it also occurs because of a lack of proactive enforcement of the Act by the Office of Consumer Affairs and Fair Trading, the limited penalties within the Act for unlawful conduct by landlords, and the limited dispute resolution mechanisms available to tenants, which means that for many disputes, the only recourse is to take the matter to court, even though the barriers faced by socially and economically disadvantaged people in obtaining legal assistance and accessing the court system are well-documented (Schetzer & Henderson 2003, TUT 2006).

Anglicare would like to see increased penalties included in the legislation and the development of more accessible forms of dispute resolution than currently exist. However, it is also the view of Anglicare, and of other organisations in the sector, that Consumer Affairs and Fair Trading have failed to be sufficiently proactive and assertive in stamping out abuses of the legislation. The Government must accept responsibility for the poor performance of its Office in this regard and take action to enforce change.

Secondly, we need to address the substandard condition of many low-rent properties.

Maintenance problems and infrastructure shortfalls are not confined to public housing stock. Many properties that are leased on the rental market are effectively substandard. While the *Substandard Housing Control Act 1973* is supposed to regulate the condition of rental housing, Anglicare is unaware of this legislation being used at all in recent times, despite many reports made by services in relation to this issue, and there is certainly confusion about whether concerns about substandard housing are the responsibility of Housing Tasmania (under the *Substandard Housing Control Act*), the Office of Consumer Affairs and Fair Trading (CAFT) as part of its responsibility for residential tenancy legislation, local government under the *Public Health Act 1997*, or Workplace Standards Tasmania as part of the regulation of building standards (Cameron 2002). Greater certainty is needed as to who is responsible for this area and this certainty needs to be accompanied by robust legislative provisions preventing the exploitation of the housing crisis by landlords through the leasing of dangerous, insecure or unhealthy premises.

Thirdly, we need to fast-track stalled reforms. The establishment of the Residential Deposit Authority (RDA) or 'bond board' has been repeatedly delayed without adequate excuse. Despite the relevant amendments to legislation being passed in December 2005, and an original launch date of 1 January 2006, current advice is that the RDA will not be operational until the middle of 2009. (Anglicare last contacted CAFT in regard to this issue on 7 August 2008 – we were informed that an announcement would be made “in the next couple of weeks”, but no announcement has been forthcoming). A second stalled reform relates to the inappropriate use of residential tenancy databases (tenant 'blacklists') by landlords. Despite the recommendation of a joint Standing Committee of Attorneys-General and Ministerial Council on Consumer Affairs Working Party in 2006 that uniform national legislation on residential tenancy databases be developed and promulgated by the states and territories (MCCA/SCAG 2006), and agreement by the Ministerial

Council on Consumer Affairs that this would occur (MCCA 2006), no information regarding progress on this has been made available. Advice from CAFT is that Queensland is taking the lead role in this area, but Anglicare would urge the Minister for Consumer Protection to push for greater attention to be given to this issue.

Fourthly, we need legislative reform to address those areas where the Residential Tenancy Act is inadequate and provides insufficient protection to tenants. Representatives from a number of major community service organisations and peak bodies wrote to the Attorney-General on 4 February 2008 requesting an independent review of the *Residential Tenancy Act*, incorporating wide-ranging public consultation, so there is united sector support for reform, particularly in relation to condition in which properties may be let and re-let, unreasonable rent increases, the practices of rent-bidding, rent-banding and rental auctions, discrimination against low income earners and other disadvantaged groups, and access to redress under the legislation. The sector's recommendation was that this review be conducted by the highly-respected Tasmanian Law Reform Institute so as to be fully independent.

4. The consultation process

In closing, Anglicare would like to express concern about the nature of this consultation process to date. We recognise that KPMG are to some extent bound by the terms of reference laid out by their client, the Department of Health and Human Services, but the Department needs to be aware of the concerns about the process and respond to them proactively, including through modification of the terms of reference.

In particular, the consultation process must consider the following issues:

- **the need for genuine engagement with public housing tenants.** Consultation with public housing tenants must be held in public housing communities, and at appropriate times of day. Potential barriers to participation by public housing tenants must be recognised and responded to, such as the need for transport to the consultation venue and the need for childcare to be provided. Consultation sessions must be structured so that tenants feel comfortable raising their concerns, rather than overly formal in structure, which may be intimidating. Tenants must be provided with accurate information about what will happen to them under any reforms.
- **the need for the consultation process to extend to people who may become public housing tenants in the future.** This includes people currently on the waiting list and others who fall within the guidelines for public housing eligibility. As with the consultations with public housing tenants, care must be taken in the choice of venue, time of day and format of the consultation. Again, accurate information must be provided about the consequences of any reforms, including what will happen to rents and security of tenure. In relation to consultation with current and future tenants, Anglicare recommends that KPMG work with the Tasmanian Association of Community Houses, which has strong networks within disadvantaged communities, to develop appropriate consultation mechanisms.
- **the need for greater transparency.** At this point, the economic modelling completed by KPMG on behalf of the Department has not been released to the public and the sector was informed on 12 September that the options paper will be brief (perhaps 50 pages). During Estimates hearings, the Secretary of the Department of Health and Human Services indicated that work was underway on implementing the reforms and that this work would continue during

the consultation process,⁶ yet the Tasmanian community sector has been provided with no information at all on what this work involves or what the outcomes might be. This has contributed to strong feelings of cynicism and disillusionment among community organisations and tenant advocates, with many people feeling, rightly or wrongly, that the decision has already been made, that their views will not be taken into account and that to engage in the consultation process is pointless. If the Government hopes to convince people otherwise, it needs to proceed with a greater degree of openness than has been apparent to date.

- **the need for clarity about the scope and purpose of the review.** Although the review is ostensibly looking at the whole spectrum of housing options, at this point the only parts of the system on the table for serious reform are public housing and possibly affordable housing. Anglicare is particularly concerned that the private rental market has been ignored and would urge that the review take into account issues linked with this section of the housing system. In addition, although Anglicare recognises that the problem of housing must be tackled as a whole, we urge the need for responses to be prioritised according to where the need is greatest. A British researcher into housing policy has commented that the current focus on intermediate housing options “is merely a modern manifestation of the tendency for governments to react in similar ways to problems in the housing market: first they display a greater concern for the rather better off than for the least well off, and they cast about for new forms of tenure” (Malpass 2007: 8). We must be cautious of solutions that promise ‘innovation’ and ‘flexibility’ but that actually fail to deliver meaningful outcomes and permanent change, and we must remain conscious that those who need it most should be getting the most political and financial attention. Financial investment in public housing was the missing link in the State Government’s Affordable Housing Strategy (Gabriel & Jacobs 2006) and it is also the missing link in Federal Government’s housing response to date. We must not allow it to be dropped off the list yet again in this process.

⁶ Specifically, the Secretary said, “we are fully committed to a period of dialogue which I think is absolutely essential but we are not wanting that three-month period to stop us or delay us from progressing all of the issues that have been spoken about so we will carry on implementing these issues” (Legislative Council 2008b: 113).

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