



*Final Report*

# Public housing transfers: past, present and prospective

authored by

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# CONTENTS

<b>LIST OF TABLES</b> .....	<b>VI</b>
<b>LIST OF BOXES</b> .....	<b>VI</b>
<b>ACRONYMS</b> .....	<b>VII</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>1</b>
<b>1 INTRODUCTION</b> .....	<b>9</b>
1.1 Background and purpose .....	9
1.2 National social housing policy context.....	9
1.3 Broader policy context: ‘New Public Management’ .....	11
1.4 Research remit, terminology and questions .....	12
1.4.1 Defining ‘housing transfers’ .....	12
1.4.2 Defining social and affordable housing.....	13
1.4.3 Research questions and report structure .....	13
1.5 Research process and methodology .....	13
1.5.1 Policy and literature review .....	14
1.5.2 National SHA Survey .....	14
1.5.3 Case study work and expert interviews .....	14
1.6 Case study transfer programs.....	15
1.6.1 Title transfer or ‘management outsourcing’ .....	17
1.6.2 Management outsourcing variants .....	17
1.6.3 Successor landlords.....	18
<b>2 OVERVIEW OF HISTORIC TRANSFER ACTIVITY IN AUSTRALIA</b> .....	<b>19</b>
2.1 Tenanted transfers.....	19
2.2 Social Housing Initiative asset transfers.....	20
2.2.1 Pre-2010 vacant possession transfers .....	22
2.3 Concluding comments.....	22
<b>3 TRANSFER OBJECTIVES AND DRIVERS</b> .....	<b>23</b>
3.1 Operational efficiency and revenue maximisation .....	23
3.1.1 Maximising rental revenue by accessing Rent Assistance (RA) .....	23
3.1.2 Tax incentives and salary differentials.....	26
3.1.3 CHP economies of scale.....	27
3.1.4 Efficiency gains through whole-of-area transfers.....	27
3.2 Leveraging private investment finance .....	27
3.3 Tenant and community empowerment .....	29
3.3.1 Context .....	29
3.3.2 Community empowerment in Australian transfers .....	29
3.3.3 Community regeneration objectives in the Tasmania BHF and Logan transfers.....	30
3.4 Tenancy service improvement .....	30
3.4.1 Expectation of ‘superior’ CHP services .....	30
3.5 Summary of objectives and drivers .....	31

<b>4</b>	<b>TRANSFER MODELS AND PROCESSES.....</b>	<b>33</b>
4.1	Portfolio packaging and recipient CHP selection .....	33
4.1.1	Portfolio packaging .....	33
4.1.2	Recipient CHP selection .....	34
4.2	Transfer terms, negotiation and consultation.....	35
4.2.1	Contract duration .....	35
4.2.2	Property condition .....	35
4.2.3	Other financial responsibilities.....	37
4.2.4	Housing allocations.....	37
4.2.5	Tenant and stakeholder consultation.....	38
4.2.6	Residual state government involvement.....	39
4.3	Larger scale transfers: possible process reforms .....	39
4.3.1	Competition in recipient CHP selection .....	39
4.3.2	Landlord staffing considerations.....	39
4.3.3	Tenant consultation.....	40
<b>5</b>	<b>TENANTS' CHOICE IN HOUSING TRANSFERS.....</b>	<b>41</b>
5.1	The drivers, mechanisms and outcomes of transfer choice: the UK experience .	41
5.2	Tenant choice in Australian transfers .....	43
5.2.1	Overview.....	43
5.2.2	Transfer choice frameworks.....	44
5.2.3	Tenancy transfer carrots and sticks .....	44
5.2.4	Tenant misgivings .....	47
5.3	Larger scale transfers and tenant choice.....	48
5.3.1	Problems with the 'individual choice' model .....	48
5.3.2	Mandated transfers .....	49
5.3.3	Collective choice .....	49
<b>6</b>	<b>TRANSFER IMPACTS .....</b>	<b>51</b>
6.1	Growing community housing.....	51
6.2	Revenue capture and system efficiency .....	52
6.3	Leveraging for new supply .....	53
6.4	Housing allocations.....	55
6.5	Tenant and community empowerment .....	55
6.6	Enhanced tenancy and property management services .....	56
6.6.1	Tenancy service style and quality .....	56
6.6.2	Management and maintenance implementation.....	57
6.6.3	Community development activities.....	57
6.6.4	Overall satisfaction with transfer .....	57
<b>7</b>	<b>FISCAL AND ACCOUNTING CONSIDERATIONS .....</b>	<b>58</b>
7.1	Experience to date .....	58
7.2	Asset ownership transfer benefits .....	58
7.3	What are the current barriers? .....	60

7.3.1	Budgetary considerations.....	60
7.3.2	Accounting barriers.....	62
7.3.3	Tax considerations.....	63
7.3.4	Political barriers.....	63
7.4	Overcoming barriers.....	63
7.5	Concluding comments.....	65
<b>8</b>	<b>POLICY IMPLICATIONS .....</b>	<b>67</b>
8.1	What case for public housing transfers?.....	67
8.2	Process, legal and accounting reforms for consideration .....	68
8.2.1	Process reforms.....	68
8.2.2	Tenant choice and related matters.....	69
8.2.3	Accounting reforms.....	70
8.2.4	The case for a minimum acceptable property standard.....	71
8.3	The imperative for social housing finance reform .....	72
8.3.1	Backdrop .....	72
8.3.2	Financial sustainability and social mix.....	72
8.3.3	Finance reform agenda.....	73
	<b>REFERENCES .....</b>	<b>76</b>
	<b>APPENDICES.....</b>	<b>81</b>
	Appendix 1: Key stakeholder interview topic guide.....	81
	Appendix 2: Tenant focus group topic guide .....	83
	Appendix 3: Organisations participating in the research.....	85
	Appendix 4: Transfers progressing in 2013.....	87

## LIST OF TABLES

Table 1: Case study transfers—overview .....	16
Table 2: Tenanted public housing management and asset transfers 1995–2012, completed transactions <sup>1</sup> (dwellings) .....	20
Table 3: Social Housing Initiative, completed transfers as at September 2012 .....	21
Table 4: Social Housing Initiative dwelling construction and associated CHP targets, 2009.....	21
Table 5: Housing transfer drivers in the UK and Australia (highly generalised).....	31
Table 6: Factors influencing tenants' choice.....	43
Table 7: Community housing as a share of public and community housing by jurisdiction 2003–11 .....	52
Table 8: Estimated additional revenue from Rent Assistance in 2013 for 20 000 transfers.....	53

## LIST OF BOXES

Box 1: Steps to achieving tenant consent: AHV transfer case study.....	45
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## ACRONYMS

ACS	Asset Conversion Strategy (Victoria)
ACT	Australian Capital Territory
AHURI	Australian Housing and Urban Research Institute Limited
AHV	Aboriginal Housing Victoria
AIHW	Australian Institute of Health and Welfare
BHF	Better Housing Futures (Tasmania)
CHP	Community Housing Provider
COAG	Council of Australian Governments
CRG	Community Reference Group (Tasmania)
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
NAHA	National Affordable Housing Agreement
NBESP	Nation Building Economic Stimulus Plan
NFP	Not-for-profit
NRAS	National Rental Affordability Scheme
NSW	New South Wales
NT	Northern Territory
PTP	Property Transfer Program (NSW)
QLD	Queensland
RA	Rent Assistance
SA	South Australia
SHA	State Housing Agency
SHI	Social Housing Initiative
STP	Stock Transfer Program (NSW)
Tas	Tasmania
TUPE	Transfer of Undertakings, Protection of Employment (UK)
UK	United Kingdom
VIC	Victoria
WA	Western Australia

# EXECUTIVE SUMMARY

## Public housing transfers and social housing reform

With three jurisdictions (Queensland, South Australia and Tasmania) having recently announced plans for substantial transfer of public housing to not-for-profit (NFP) providers, the stage may be set for social housing reform on a scale unprecedented in Australia. These initiatives can draw on lessons from smaller transfers recently undertaken in other jurisdictions. However, while demonstrating that a more extensive transfer program could deliver a substantial public welfare and asset management pay-off, this research also shows that simply scaling-up existing transfer practice is untenable. As well as proposing some of the possible ways forward here, this report highlights key financial and accounting reforms needed to underpin such a program.

Within the wider context of outsourcing of public services to not-for-profit agencies more generally, two main factors have triggered the upsurge in public housing transfer activity already seen since 2007:

1. Prompted by the financial unsustainability of public housing under current policy settings, all governments have been exploring alternative ways of providing social and affordable housing.
2. The outgoing Australian Government had prioritised expanding the community housing sector, as embedded in the 2009 agreement with state/territory Housing Ministers for that sector to constitute 'up to 35 per cent' of all social housing by 2014. In part, this direction drew inspiration from the positive outcomes achieved in some European countries and North America through transitioning state housing into NFP management and ownership.

This is the Final Report of a study which is the first to document and analyse the largely experimental transfers of public housing to NFP community housing providers (CHPs) completed in Australia to date—their drivers, their processes, their outcomes. Based on this review, we identify the principal policy, operational and financial barriers to larger-scale transfers and propose conceptual foundations and operating parameters for transfer programs that might be implemented in coming years.

'Public housing transfer' in the Australian context refers to both 'management outsourcing', schemes in which tenancies are transferred from state/territory government housing agencies to CHPs, with the properties themselves remaining in government ownership; and also 'title transfers' in which dwelling ownership is also handed over by the relevant state/territory government to a community provider. Prospectively, long-term financial lease arrangements that transfer asset management control could also be included.

## The study

Through a survey of all states and territories the study first scoped the extent of previous (post-1995) and ongoing public housing transfers. This survey underpinned the selection of six case studies in three jurisdictions (New South Wales, Tasmania and Victoria) that formed the main focus of the research (see Table 1). Four of the six were management transfers, while two involved asset ownership (title) transfer of the homes concerned. Fieldwork involved in-depth interviews with an extensive range of local stakeholders, as well as focus group discussions with former public housing tenants who had transferred to CHP landlords. In addition, numerous meetings were held with state level stakeholders in the three above-named states, as well as policy-maker interviews in Queensland and South Australia. There was also a review of key learning from the UK experience of transferring the ownership and management of

tenanted council housing to NFP housing associations, a process that has resulted in a profound restructuring of social housing in that country over the past 25 years.

## How many public housing transfers?

Public housing transfers have been progressed by government departments responsible for public housing in Australia since the 1990s but have increased significantly since 2007.

- Across Australia, public housing transfers of one kind or another involved 21 279 dwellings between 1995 and 2012.
- About half of these transfers (10 451) involved small scale schemes in four of the eight jurisdictions; in three involving some title as well as management transfers. Until 2010, the vast majority of transfers had been management outsourcing initiatives in New South Wales (NSW). From 2010, transfers of a particular kind began under the Australian Government's Social Housing Initiative (SHI)—see below.
- About half of all transfers implemented by 2012 (10 828) resulted from the \$5.6 billion SHI, which was part of the Australian Government's 2009 Nation Building Economic Stimulus Package. These transfers involved properties built by state governments and subsequently allocated to CHPs, about 50 per cent under management outsourcing arrangements and 50 per cent as title transfers.
- Most transfers have involved either vacant properties or title handovers of homes under CHP management ever since their construction. Only in NSW has there been any substantial amount of 'transfer' activity involving homes with *public housing* tenants in situ, and therefore calling for engagement with existing residents around such proposed transactions.
- Transfers expected to be completed in Queensland, South Australia and Tasmania by the end of 2014 could add up to approximately 10 000 more dwellings to those already under CHP management, with the first two of these states also expecting to hand over management of some 50 000 more tenanted homes to CHPs by 2020.

## What have been the drivers for public housing transfers?

Beyond an overarching aspiration to diversify social housing through an expanded community housing sector, a number of distinct policy objectives have motivated public housing transfers in Australia.

- *Revenue maximisation.* Converting public housing leases into CHP tenancies enables tenants to apply for Rent Assistance (RA) payments which, through associated rent setting changes, can increase provider rent revenue. Accordingly, transfers could boost landlord income by an average of around \$52 per week per tenancy in 2012 depending on tenant RA eligibility and household composition.
- *Leverage for growth.* There has been an expectation that public housing stock transfers will enable leveraging of private finance to generate a new supply of social housing. This is in contrast to the UK where transfers have been seen primarily as a means of channelling investment into upgrading the existing housing stock.
- *Service improvement.* Transferring public housing to CHPs has been linked with aspirations for improved services for tenants and enhanced operational efficiency associated with larger CHP portfolios.

- *Tenant/community empowerment.* While transfers can facilitate enhanced tenant involvement in housing governance and management, this has been a relatively weak driver in the Australian context, in contrast with the UK.
- *Place management/community renewal.* The relatively substantial Queensland, South Australia and Tasmania initiatives being progressed or in the pipeline at the time of writing suggest that place-making, community building and 'estate' restructuring may become important drivers of public housing stock transfers in the future.

## **What have been the transfer models, processes and terms?**

While some *asset handovers* have been completed in two jurisdictions (NSW and Victoria), transfers to date have mainly been confined to *management outsourcing*. In part, this reflects state/territory treasury concerns about the balance sheet impact of non-commercial asset disposal (see below). Key findings in respect of tenancy transfer models and terms have included the following:

- Of all public housing transfers in Australia, including those by states that used SHI funds to construct and then transfer dwellings to CHPs, 72 per cent of all transfers (some 15 000) have been management transfers with 28 per cent (some 6000) being title transfers. (These figures do not include SHI-funded properties in states in which CHPs were funded to develop new housing themselves.)
- Almost universally, public housing transfers to date have involved handovers to existing CHPs (not to new entities set up specifically for the purpose of receiving transferred assets as predominated in the UK), although the Aboriginal Housing Victoria (AHV) case involved negotiated restructuring and significant capacity building in the successor landlord agency.
- Increasingly, successor landlords are being selected through competitive processes, a trend likely to stimulate further the emergence of multi-jurisdictional or national CHPs. Tender success appears to rest significantly on the extent to which aspirant successor landlords commit to leveraging associated cash flows and/or transferred assets to the development of additional social/affordable housing and/or property upgrading. In some jurisdictions, successor landlord commitment to place management and community renewal is also emerging as a key factor.
- Management outsourcing transfers have typically had three-year or five-year contract terms (subject to renewal) although this largely reflects practice in NSW where the majority of such transfers have taken place. Longer term lease arrangements are currently being envisaged (as in the Queensland Logan initiative—see Appendix 4). This may be advantageous in enabling more ambitious revenue leveraging commitments by successor landlords, as well as providing greater long-term financial stability. However, a number of public budget and accounting issues will need to be resolved before this can be achieved.
- In re-letting post-transfer vacancies, CHPs acquiring tenanted properties under management transfers have generally been expected to apply their existing allocations policies, which are already subject to formal regulation and/or state-specified contractual requirements. However, some transfer programs have incorporated very specific tenant selection obligations, which affect CHPs' revenue streams and financial sustainability. Here, the inadequate modelling of the rent revenue consequences of prescribed allocations targets has intensified tensions between CHP financial viability and leverage objectives, on the one hand, and government expectations of social outcomes of transfers, on the other.

- Property condition assessments made prior to transfer have sometimes proved deficient. Detailed and accurate information on property condition is crucial in defining the terms of the financial settlement for transfers and assessing successor landlord capacity to meet property standards and upkeep obligations.

## **How have tenants been involved in public housing transfers?**

Since it has been understood by most housing administrations that state governments lack the legal power to mandate a proposed change of landlord, tenant choice in some form has been an inherent component of tenanted transfer procedures under existing legislation. Findings about the operation of tenant choice in the case studies included the following:

- Public housing transfer proposals in Australia have tended to involve only a very limited amount of prior tenant or community consultation (unlike in the UK), although the Aboriginal Housing Victoria (AHV) transfer constituted a significant exception to this rule (see Chapter 5).
- Generally, any dialogue with residents subject to transfer has been constrained by the short timescale allowed for program implementation, and by the increasingly competitive approach to successor landlord selection in which residents are typically accorded no role.
- For residents of properties designated for possible handover, an individual choice approach has been applied, unlike the collective ballot model implemented in the UK. However, while a resident may 'individually choose' to remain a public housing tenant in the formal sense, they may find their property being managed by the designated new landlord 'under contract', raising issues about the efficacy of such choice.
- Tenant decisions on whether to sign up with a designated successor landlord are critically important to a transfer project's operational cost effectiveness under prevailing rules on Rent Assistance eligibility. While 'tenancy switch' take-up rates have been generally high—sometimes exceeding 90 per cent—this has not been universally true.
- In some tenanted transfers, signing up with the designated successor landlord has been encouraged through the offer of a possible property upgrade. However, given the imperative for efficient use of resources, such offers must be dependent on the existing condition and facilities of the individual property concerned.
- Despite the efforts of state housing agencies (SHAs) and their CHP partners to articulate the case for change, tenant focus group evidence suggests that, to many residents, the pro-transfer motivations of the main protagonists have remained opaque.
- Anxieties among tenants offered transfers to successor CHP landlords have included concerns about possible forced moves if they did not agree, and about sacrificing public tenancy rights. Some have also found confusing their direct liability for the higher RA-inclusive rents charged under the new regime.
- Overall, as seen by many research participants, the 'individual choice' housing transfer model has proven managerially inefficient as well as sub-optimal in terms of tenants' rights.

## **What have been the impacts of transfers?**

Assessment of transfer impacts is quite problematic due to the paucity of clearly stated and measureable objectives specified at the outset of most programs.

However, with reference to the policy objectives discussed above, some outcomes can be discerned, at least in general terms as summarised next.

- *Sector development.* Over the past decade, but especially since 2007, the ongoing decline of Australia's public housing has been offset by substantial growth in the number of CHP-managed (and sometimes owned) homes. Nationally, about two-thirds of post-2003 CHP sector growth has resulted from transfers of one kind or another. Even discounting the element associated with SHI investment, about one-third of this expansion is attributable to transfers. Only in Tasmania, however, can it be expected that transfers will have boosted community housing numbers to 35 per cent of all social housing by the 2014 target date.
- *Revenue maximisation.* Transfers completed in recent years have contributed to significant revenue capture for the social housing system via the RA entitlement of CHP tenants. Employing reasonable assumptions it can be estimated that, by 2013, this will have amounted to some \$50 million in that year. While transfers will undoubtedly have contributed to CHP scale economies, it is much more difficult to estimate their pay-off (if any) in terms of enhanced system-wide social housing efficiency.
- *Leverage for additional growth.* Prospective increases in affordable housing provision (additional to transferred dwellings) of 15 per cent and 20 per cent respectively have been forecast for transfer programs in Victoria and NSW. Leverage potential has been highly case specific (see Chapter 6) and, while these targets seem likely to be met, the typically lengthy delivery schedule for such commitments means that a considerable period must elapse before their success can be definitively assessed.
- *Service improvement.* While CHP transfer recipients expressed confidence in their ability to deliver tenancy services superior to public housing, direct quantitative evidence on this point is not to be found. Nevertheless, while falling short of unanimity, tenant research participant views generally supported the managerial assertion that community housing offers a more personalised, responsive style of provision. A more intensive follow up study would be required to determine whether this reflects service standards more ambitious than those of SHAs, better compliance with similar service standards, or a generally more consumerist organisational culture.
- *Tenant/community empowerment.* Except in the culturally specific AHV case, aspirations for transfers to empower tenants and communities have until recently remained as a lower order policy priority. However, while views were somewhat mixed, NSW tenant focus group participants generally felt they were being engaged in a more proactive way by their successor landlord.
- *Place management and community renewal.* It is too soon to assess whether public housing transfers have contributed to these objectives. While again less than unanimous, a clear majority of tenant focus group participants believed that, overall, the transfer of their tenancies had represented a change for the better. However, participants tended to remain generally sceptical that anything as superficial as a management transfer could remove the stigma of public housing, particularly in an estate context.

## **What are the fiscal and accounting constraints on title transfers?**

While most completed public housing transfers in Australia have involved 'management outsourcing', title transfer would provide greater scope for CHP entrepreneurialism and innovation. Title transfers could also facilitate enhanced asset

planning and management, informed by a longer term perspective than is normally possible for state/territory governments subject to annual funding decisions and short-term electoral cycles. Research participants, however, identified a number of financial and accountancy barriers to title transfers.

- *Budgetary impact.* Perhaps most significant is that, under current accounting standards, a transfer of housing assets has a *negative budgetary impact* in that the book value of the dwellings is recorded as a loss against the state government's recurrent expenditure budget for the year in which the transaction occurs. The scale of such putative losses reflects the usual expectation that there will be no payment by the acquiring CHP and also the method used to value public housing in the relevant jurisdiction. The substantial book value of public housing on state and territory accounts is arguably inflated by the use of inappropriate valuation methods.
- *Revenue constraints.* The highly constrained capacity of a successor landlord to pay a transfer price (even at modified valuations), unlike the UK, reflects the limitations of broader housing policy settings, in particular, income-related rent setting for tenants and the inadequacy of Rent Assistance to service debt to pay for the cost of re-financing.
- *Government credit ratings.* While it has also been argued that large-scale title transfers would prejudice government credit ratings, this concern appears tenuous (as explained in Chapter 7).

## **Progressing a scaled-up transfer program: accountability, managerial and public accounting issues**

Boosting the community housing share of all social housing to 35 per cent would necessarily involve substantial further public housing transfers.

Progressing transfers at the scale required to meet that target (or to achieve its underlying objectives of a more contestable and diversified social housing system) could be realistically undertaken only with significant departures from the models adopted for the 'pilot transactions' so far completed. Tenant choice, the employment of former government housing agency staff and the use of competition in the selection of successor landlords are all areas where, arguably, new approaches will be needed.

- *Individual tenant choice or collective decision-making?* The financial uncertainty and scope for managerial fragmentation arising from the individual *tenant choice* approach would be untenable on a larger scale. Most social landlord interviewees in this study instead favoured a 'mandated transfer' model where state governments would acquire a power (through legislative reform) to enforce a change of landlord for tenants of designated homes, as currently under consideration in Queensland. Others have advocated emulating the 'collective choice' model implemented for UK council housing transfers and involving a binding 'all or nothing' tenant ballot. As well as enhancing accountability, such an approach provides a useful discipline for the 'proposing parties' (state government and designated successor landlord). Given the inappropriateness of simple policy transfer, this would call for development of a model suitably adapted to local conditions.
- *Tenant involvement in transfer planning.* Especially if 'mandated transfer' is to become the norm, there is a need for good practice guidance on tenant consultation and involvement in shaping the process, and in subsequent social housing governance.

- *Managing staffing implications.* In transfers progressed to date in Australia, SHAs have retained responsibility for redeploying any former public housing staff not recruited voluntarily by recipient landlords. This is likely to be untenable in any larger scale transfer program. Indeed, 2012 federal legislation imposes ‘recruitment of former staff’ obligations on agencies taking on provision of public services via asset transfers and/or management outsourcing. However, in implementing such provisions there will be a need to overcome many practical challenges, including the transfer of pension entitlements and liabilities.
- *Successor landlord selection.* While selection of successor landlords through *open competition* among existing providers has recently become the norm in public housing transfers, it is questionable whether this would necessarily be appropriate for a larger scale program—either in terms of associated transaction costs, or the creation of an efficient system.

To optimise the benefits of further transfers, potential routes to overcoming financial and accounting barriers to title handovers or finance leases (as outlined in Chapter 7) will also need to be pursued by state governments, possibly with national leadership.

## **Implications for policy development**

The existing policy framework for transfers is inadequate. Taking as read the desirability of a more diverse social housing system, and recognising that this could be achieved only through large-scale public housing transfers, a number of reforms are required. In addition to those concerning successor landlord selection, tenant choice and public housing accountancy treatment—as mentioned above—these include the need for a comprehensive and easily intelligible minimum acceptable property standard for social housing and technical survey data to demonstrate the extent to which existing portfolios comply. This will also provide the information and framework needed for future decision-making by CHPs (or, in the case of management-only transfers, state governments) about large-scale asset reconfiguration and redevelopment.

Consideration of specific policy options for transfers, however, inevitably leads to the more fundamental challenge of achieving a sustainable social housing system for Australia. The far reaching review of social housing system architecture required to seriously address this objective would need to encompass:

- Clarification of the social policy objectives of social housing, including tenant profile and incomes, which is essential to underpin both social and financial sustainability in the NFP and public housing sectors.
- An expert review of social housing rent setting policy to determine the most effective way of protecting affordability for tenants while minimising work disincentives, and improving financial certainty for providers.
- Design of advice to states and territories to specify and cost out the works required to secure universal compliance with a social housing property standard in their jurisdiction (see above).
- Modelling to determine the level of future resourcing needed to maintain social housing at the designated standard.
- The level of private financing of new supply (and/or asset redevelopment) sustainable for an efficient CHP, together with the design of a public co-payment mechanism that would be required to support CHP investment in social housing supply and asset renewal.

In our view, restructuring public housing to significantly increase the part played by community housing providers in service delivery and asset management offers the best political and financial potential to generate the transformative change of the current social housing system that has been sought over two decades in Australia and, beyond that, to provide a foundation for attracting new public and private investment into the sector. This agenda warrants urgent attention to the development of a robust policy framework for transfers (and associated CHP growth) involving policy commitment from both levels of Australian governments working in close collaboration with the community housing sector, the tenant population, the research community and other stakeholders.

# 1 INTRODUCTION

## 1.1 Background and purpose

With plans for substantial transfers of public housing to not-for-profit (NFP) housing providers recently signalled in three jurisdictions, the stage may be set for social housing reform on a scale unprecedented in Australia (Queensland Government 2013; ABC News 2013; Government of Tasmania 2013; Government of South Australia 2013).

The prospect that state and territory governments might relinquish direct control of public housing has, in fact, been under discussion for some considerable time (Bisset 2000; Jacobs et al. 2004; Berry et al. 2004; Spiller & Lennon 2009). Advocated by many primarily as a route to a more diversified social housing sector, the momentum for housing transfers received substantial impetus from the Australian Government under the 2007–13 Labor administrations (Plibersek 2009; Butler 2013). Of critical importance here was the intergovernmental agreement in 2009 to boost community housing provision to ‘up to 35 per cent’ of all social housing (Housing Ministers Conference 2009).

Some inspiration for this direction has been drawn from countries such as the UK and the Netherlands where the past 30 years have seen public housing largely shifted from municipal control into the ownership of what have become—for the most part—financially robust NFP landlords. In the UK this process had, by 2008, encompassed some 1.4 million dwellings, thus eliminating ‘council housing’ from more than half of all local authorities (Pawson & Mullins 2010). In the Netherlands, 80 per cent of social housing was owned by NFPs by 1980 and 99 per cent by the turn of the century (Milligan 2003).

While Australia has yet to follow this path, small-scale transfer initiatives and experiments have been taking place in a number of states and territories since the 1990s. This research is the first to document and analyse these programs. Drawing on this material, it identifies lessons learned from existing experience and highlights issues needing to be addressed to develop a framework to facilitate public housing transfers on a larger scale than achieved historically.

Partly to set the Australian story within a broader context, the report refers at various points to the UK experience of council housing transfers. Given the substantially contrasting constitutional and legal frameworks of the two countries it is well-recognised that such comparisons should be made with caution. However, especially because there already exists in Australian social housing circles considerable awareness of the UK’s ‘housing stock transfer’ process, it is seen as important to analyse and differentiate between those aspects of the UK process with some relevance to Australia and those without.

## 1.2 National social housing policy context

Since its genesis in the immediate post-war period, social housing in Australia has been traditionally developed, owned and managed largely by state and territory government agencies, traditionally referred to as state housing agencies (SHAs).<sup>1</sup> From the 1980s, however, there have been progressive efforts to establish a sustainable NFP housing sector operating alongside ‘public housing’ (Bisset &

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<sup>1</sup> In this report, we refer to the agency administering public housing in each jurisdiction by the generic term, state housing agency. However, it is important to note that in several jurisdictions SHAs have been absorbed into larger departments and thus are no longer discrete entities with separate governance.

Milligan 2004; Milligan & Pawson 2010) using a combination of state/territory (hereafter state) government allocation of capital funding to 'community housing' and, at least in some jurisdictions, small-scale transfers of traditional, long-term public housing usually on vacancy (Darcy & Stringfellow 2000). Additionally, beyond mainstream social housing, in the past separate national policies for older people, people with disabilities and Indigenous people had lent support to housing provision by specialist NFPs serving those various population groups (McNelis 2004; Jones et al. 2008).

Signalling a major policy shift, in 2009 the Federal Housing Minister argued for a significant boost to the share of social housing provided by NFPs, suggesting a target share of 35 per cent (Plibersek 2009). Housing Ministers from all jurisdictions subsequently committed to a community housing growth target, under which *up to* 35 per cent of social housing would be owned and/or managed by CHPs by 2014, reflecting differing views beyond the Australian Government realm. In broad terms, the reform was explained as a strategy to bring 'a diverse range of housing providers into the social housing market to both increase housing choice for tenants, and to deliver more housing supply by enabling non-government providers to leverage off their property portfolios' (Housing Ministers Conference 2009, p.23).

The mechanisms and intended outcomes of the reform envisaged above were not defined precisely. Neither were they anchored in policy documents or legislation. It was, however, clear that achievement of the upper limit of the 2014 aspirational target called for public housing transfers on a substantial scale (Milligan & Pawson 2010). In re-affirming the Australian Government commitment to the 35 per cent target in 2013, a subsequent Federal Housing Minister acknowledged explicitly the link with transfers while also emphasising a preference for transactions involving ownership handover rather than limited to management outsourcing (Butler 2013).

A critical component of the context for discussions around management and asset transfers over the past 10–15 years has been the long running decline of public housing, including the ongoing contraction of capital and revenue funding to manage and maintain the stock. In the nine years to 2007–08, national funding for state housing programs through the Commonwealth State Housing Agreement fell by nearly a quarter in real terms (Productivity Commission 2009, p.16.6), continuing a longstanding disinvestment trend (Steering Committee for the Review of Commonwealth/State Service Provision 2000, p.1357). The resulting stress on the system has been exacerbated by:

- Contracting rental income streams resulting from the growing proportion of very low income tenants entering and residing in social housing, within the context of an income-related rent-setting framework and due to narrowing of the targeting of public housing allocations from 1997.
- Rising asset management and staff costs of public housing, with real expenditure up by 30 per cent for maintenance, and by 32 per cent for salaries, administration and related overheads between 2000–01 and 2005–06 (Hall & Berry 2007, p.6).

Partly associated with the increasingly tight targeting of public housing allocations (see above), the past 25 years has also seen a general trend towards a 'welfare housing' model. The resulting organisational pairing with other human services having clients in common (in all jurisdictions except Western Australia) has shifted the remit away from economic and urban development and planning/infrastructure issues towards a 'client care' model for people experiencing problems. It is also important to note that, while they have continued to exist as legal entities, integration of SHAs within human service departments in most jurisdictions has deprived them of boards

capable of independent decision-making. Decisions are made by Ministers and Departmental Heads whose portfolios cover a range of human services and, in some cases there is now no specialist housing policy capacity.

The general trend of disinvestment in social housing was interrupted by the 2008 Nation Building Economic Stimulus Plan (NBESP) which included the \$5.6 billion one-off Social Housing Initiative (SHI). While the greater part of this sum was to facilitate development of new social housing on a scale unprecedented since the 1980s, the package also included \$400 million for upgrading existing public housing stock—that is, some \$5000 for each of the 74 000 dwellings concerned (KPMG 2012; FaHCSIA 2013).

The SHI provided an unexpected opportunity for contributing to the new national target for NFP expansion (see above) with the Australian Government requiring that at least 75 per cent of the 19 300 dwellings being procured through the SHI be allocated to NFPs. Implementation of this directive has varied; some jurisdictions developed and retained ownership of the new dwellings while transferring management to NFPs, others passed on a proportion of the capital funding to NFPs to commission or organise their own housing development (usually with full ownership); while a third group envisaged title transfer of state-constructed homes (KPMG 2012). In some jurisdictions firm leverage targets were established in contracts with providers, but others did not impose this requirement (see Chapter 2).

However, while the SHI contributed to a rapid enhancement of the place of NFPs within the social housing system, its impact is diminishing. The return to a base funding environment allowing no capacity for public investment in additional supply has left future expansion of NFP provision reliant largely on transfers of already tenanted dwellings and any leverage that may result. Moreover, the one-off SHI boost to maintenance funding provided only temporary respite from a regime of extreme financial stringency in this respect. Thus, as recently emphasised in the NSW context (NSW Auditor General 2013), the existing public housing system remains on a downward trajectory where the need for far-reaching reform is therefore increasingly urgent. For example, despite the temporary SHI funding blip, ‘between 30 and 40 per cent’ of Housing NSW dwellings were officially recognised as sub-standard in 2010–11. Meanwhile, the financially unsustainable path of public housing most recently charted nationally by Hall and Berry in 2007 had progressed to the stage where, by 2012–13, the NSW state housing annual revenue funding deficit approached \$600 million (NSW Auditor General 2013, p.19).

### **1.3 Broader policy context: ‘New Public Management’**

The drive towards a greater role for non-government providers in social housing is consistent with reforms in other sectors of the welfare state, in Australia and internationally in recent decades. Across the developed world, the past 25 years have seen governments pursuing welfare state restructuring as a means of maintaining tight fiscal control and stimulating private sector activity and civic responsibility (Jacobs et al. 2004, p.250). According to this model, government’s role is that of planner, funder and regulator rather than direct provider of welfare services and social infrastructure. Increasingly, public services are outsourced to private and NFP providers. This new governance and service provision model—often described as ‘managerialism’ or ‘New Public Management’—responds to the market-orientated ideology of the Right on the one hand, and the citizen empowerment objectives of the Left on the other hand (Hood 1995).

In Australia, recent times have witnessed a marked expansion in the extent to which NFPs have been funded to deliver human services on behalf of government. Total

government funding to the NFP sector increased from \$10.1 billion in 1999–2000 to \$25.5 billion in 2006–07 (Productivity Commission 2010, p.300). In the main, this reflects increased financial support for services already provided by NFPs at the outset, and public funding for development of entirely new services by NFPs. However, another component has been the outsourcing of services previously provided by government (including transfers within the social housing system).

A key driver for the expansion in government-funded services delivered by NFPs is the perceived cost-effectiveness of such a model. NFPs are also often portrayed as providing more flexible service delivery, and argued as having greater capacity to offer clients a package of related services (Productivity Commission 2010, pp.300–5). Governments have often described their relationship with NFP service providers as ‘partnerships’. However, as reported by the Productivity Commission, NFPs themselves have questioned this representation of equal relationships between the parties and have voiced concerns about the associated tendering, contracting and reporting model which places a significant compliance burden on providers while arguably limiting their ability to innovate, respond to local needs and contribute to the policy-making process (Productivity Commission 2010, pp.305–10).

## **1.4 Research remit, terminology and questions**

### *1.4.1 Defining ‘housing transfers’*

The term ‘housing stock transfer’ or ‘housing transfer’ has been fairly widely used in Australia although its currency derives mainly from its citation in the UK where it is understood in a highly specific way. In referring to public housing transfers<sup>2</sup> in the Australian context, we refer to two general types of transactions involving housing originally developed and managed by state housing authorities for sub-market rent, namely:

- ‘Management outsourcing’ transfers where public housing management is contractually delegated to a CHP for continued use as social housing (regardless of whether a new lease has been signed by the tenant), or
- ‘Asset transfers’ (or ‘title transfers’) where the ownership of public housing assets (tenanted or vacant) is transferred to a CHP for use as social housing.

In principle, the term ‘housing transfer’ might also include the handover of vacant dwellings to a CHP for demolition and replacement with new social or affordable housing—for example, within the context of estate renewal projects. In practice, however, such instances are believed to be relatively few in number in Australia.

Excluded from our definition are SHA property disposals at market value and/or title transfers without an obligation for dwellings/sites to be used as social housing. Also generally excluded are dwellings, blocks or estates developed by SHAs for social or affordable housing use (and sometimes ownership) by CHPs from the outset—for example, as in historic community housing programs initiated at state and national levels. However, a partial exception is made in this research as regards SHI projects constructed by SHAs for CHPs (KPMG 2012). Since the homes concerned were CHP-managed (and occupied by CHP tenants) from the outset, their handing over is clearly distinct from the ‘tenanted public housing transfer’ model. Nevertheless, it was decided to include the NSW SHI ‘vesting’ program as a case study in this research on

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<sup>2</sup> The notion of ‘transfers’ is often used in the social housing context in reference to tenants’ relocation out of one social housing dwelling to another social housing dwelling. In this report, unless explicitly stated otherwise, we use the word ‘transfer’ to refer to changes in the ownership or management of a social housing dwelling. We deliberately avoid using the term ‘stock transfers’ which has been criticised by some tenants who felt it implies their treatment as ‘stock’.

the basis that, as a recent large-scale instance of housing asset disposal, it could yield lessons relevant to 'more conventional' housing title transfers.<sup>3</sup>

#### *1.4.2 Defining social and affordable housing*

Also relevant to mention as regards terminology is that in our use of the terms 'social housing' and 'affordable (rental) housing', we are adopting the convention that the former is rental housing targeted at 'very low and low income' households, while the latter is accommodation suitable for a mix of 'very low to moderate income' tenants. Definitions of social and affordable housing vary between jurisdictions. For example, as defined in NSW, 'very low income' refers to households with incomes less than 50 per cent of the median household income for relevant area; 'low income', to those with between 50 per cent and 80 per cent of the median, and 'moderate', to those in the 80–120 per cent range.

#### *1.4.3 Research questions and report structure*

The study addresses the following questions:

1. What forms of management and asset transfer have been tried by each state/territory over the last 10–15 years? (covered primarily in Chapters 2–4)
2. What objectives have management and asset transfers aimed to fulfil and to what extent have these been met?(covered in Chapters 3 and 6)
3. What key learnings have been derived from existing experience—for example, on accounting, taxation, staffing and resident involvement? (covered throughout the report, but especially in Chapters 7 and 8)
4. What forms and scale of transfer are currently envisaged across all states and territories? (covered in Appendix 4 (Queensland, South Australia, Tasmania))
5. How does the Australian experience compare with models and frameworks for title transfer in the UK? (covered throughout the report)
6. What should be the conceptual foundations and operational framework for larger-scale management and asset transfer? (covered in Chapter 8)
7. What policy, operational and financial barriers would need to be overcome to support larger-scale tenanted transfers in future? (covered in Chapters 7 and 8)

### **1.5 Research process and methodology**

Ethics approval for the conduct of the research was obtained (UNSWHREC no.12222 dated 24 May 2012).

A project reference group, comprising public officials, housing provider and consumer peaks, a state community housing registrar and a tenant, was consulted about research design and key issues at the commencement of the research.

Following completion of the draft report of the research, a one-day Stakeholder Workshop was held to verify the key findings of the research and to provide a sounding board for consideration of policy implications. Incorporating project reference group members and with senior representation from all the main constituency groups relevant to social housing (state and federal governments, community housing providers and regulators, tenants and tenant advocacy

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<sup>3</sup> It should also be noted that our research did not cover outsourcing of management of state-owned housing for crisis, transitional or short-term tenancies. While such transactions involved models considered as not directly relevant to the research, it is acknowledged that this has resulted in management transfers to parts of the community housing sector on a significant scale in some jurisdictions.

organisations),<sup>4</sup> this event proved highly valuable in validating the report's findings and strengthening its conclusions.

Graham Brooke, a KPMG partner, was engaged to provide specialist advice on the tax and accounting treatment of the transfer of public assets. This advice has informed the discussion in Chapter 7 of the report.

The core research methodology for the study consisted of three main elements, as elaborated below.

### *1.5.1 Policy and literature review*

A review of academic and grey literature was undertaken to gain a broader understanding of the Australian context for, and experience of, public housing management and asset transfers. While focusing on the Australian management and asset transfer experience, the review covered international (primarily UK) literature to compare drivers and implementation approaches. To supplement written information, key informant interviews were also conducted in each jurisdiction.

### *1.5.2 National SHA Survey*

A questionnaire survey was distributed to the relevant department in each Australian state and territory to provide a national overview of asset and management transfers undertaken since 1996 and those proposed during this period but not (yet) undertaken. For each completed transfer program (involving the management and/or asset transfer for a parcel of homes) respondents provided a set of factual data and any relevant documents—such as transfer proposal, monitoring report, evaluation. Completed questionnaires supported by documents were received from all eight jurisdictions between June and September 2012. To elaborate and explain questionnaire responses, some respondents were contacted for a follow-up telephone interview.

### *1.5.3 Case study work and expert interviews*

This involved in-depth investigation and analysis focused on six specific management and asset transfer programs in jurisdictions where sizeable transfers have been undertaken in the five years preceding the research.

Case study selection was informed by the SHA survey findings, and by consultation with informed stakeholders in those states and territories where significant programs had been enacted or were being planned—that is, NSW, Tasmania and Victoria. Here we sought to maximize diversity in terms of transfer types, objectives and contexts. More details about the selected case studies are set out in Section 1.6.

Undertaken in early 2013, case study fieldwork primarily involved 29 in-depth face-to-face or telephone interviews<sup>5</sup> with relevant senior officials in SHAs, recipient CHP(s) and with other local stakeholders including state treasury officials, community housing peak bodies and tenant advocacy groups. The themes addressed in the interviews can be discerned from the topic guide included as Appendix 1. To gain a tenant perspective on both transfer implementation and outcomes, tenanted transfer case studies included six focus groups involving a total of 31 residents who had experienced the transaction. The topic guide for these discussions is attached as Appendix 2. Evidence drawn from the discussions with tenants was particularly significant in informing Chapters 5 and 6.

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<sup>4</sup> Participants are listed in Appendix 3.

<sup>5</sup> Several interviews involved multiple participants.

Over and above the six case studies, our evidence base was supplemented through nine additional expert interviews. Respondents included former public officials with expertise in the area, senior housing officials, and a number of stakeholders party to the housing transfer programs which began to emerge in Queensland and South Australia during the course of the research. A full list of the organisations who participated in the research is given in Appendix 3. In keeping with ethics approval individual participants are not identified.

## **1.6 Case study transfer programs**

While they do not encompass every possible permutation, we believe that the chosen case study programs (see Table 1) embody many of the distinct transfer policy variants so far employed in Australia. This section therefore presents an analysis of these instances, both to contextualise the fieldwork findings set out in subsequent chapters and as a section of interest to readers in its own right. In particular, the discussion illuminates the distinctions between management outsourcing and title transfers, and considerations around the choice of successor landlords.

**Table 1: Case study transfers—overview**

<b>Case study</b>	<b>Transfer type</b>	<b>Primary objectives</b>	<b>Location</b>	<b>Commencement</b>	<b>Recipient CHP</b>	<b>Planned transfer portfolio</b>
NSW Social Housing Initiative*	Asset transfer	Leverage (to expand social/affordable housing provision)	State-wide	2009	Various registered Class 1 and Class 2 CHPs	6,829**
Vic Asset Conversion Strategy***	Asset transfer	Leverage (to expand social/affordable housing provision)	Melbourne and some regional areas	2008	Eight registered housing associations	575
NSW Property Transfer Program (Blue Mountains)	Management transfer	Community sector growth and efficiencies through whole-of-area transfer	Blue Mountains	2009	Wentworth Community Housing	425
NSW Property Transfer Program (SE Sydney)	Management transfer	Community sector growth	South-east Sydney	2009	St George Community Housing	580
Aboriginal Housing Victoria	Management transfer***	Promoting self-determination through a specialised Aboriginal service delivery organisation	State-wide	2007	Aboriginal Housing Victoria	1,300
Tasmania—Clarendon Vale and Rokeby	Management transfer	Place management	Hobart periphery	2013	MA Housing	500

\* Although this program mainly involved the SHI-funded homes developed on behalf of CHPs by the NSW Government, it also encompassed handover of title of 500 existing publicly-owned dwellings already under CHP management under the Housing NSW Asset Ownership Program—a previously developed initiative awaiting implementation when the SHI was announced.

\*\* This is based on (a) the documented figure of 6329 dwellings constructed by the NSW Government under the SHI (KPMG 2012, p.30), (b) the designation of 100 per cent of SHI homes for transfer, and (c) the inclusion of 500 homes transferred to CHPs under the Asset Ownership Program (see note above).

\*\*\* Part of a staged program working towards asset transfer.

### 1.6.1 *Title transfer or 'management outsourcing'*

Consistent with our stated remit, all the case study transactions or programs involved properties originally in state government ownership before being subject to 'management outsourcing' and/or title transfer to a CHP (see Table 1). Reflecting the pre-2010 predominance of the former (see Chapter 2) four of the six case studies related to instances where SHAs were delegating management without transferring ownership. Hence, given that SHAs lack the legal authority to mandate a change of landlord (see Chapter 5), this called for tenant choice mechanisms of some kind.

In the two 'title transfer' case studies—NSW SHI and Victoria Asset Conversion Strategy (ACS)—the transactions involved the ownership handover of tenanted properties, but without any direct implications for the residents concerned because they were already tenants of the successor landlord prior to the event and were therefore unaffected.<sup>6</sup> Hence, in these instances SHAs did not consider it necessary to notify the tenants of the transfer.

The distinction between title transfer and management outsourcing is less clear-cut than it first appears. For example, the Tasmania management transfer included *ownership handover* of 150 developable sites within the overall package. In other instances, the initial transaction may have been (understood as) only an initial stage of an ongoing process. In the Aboriginal Housing Victoria (AHV) transfer, for example, there was an expectation among stakeholders at the outset that initial management transfer would eventually lead to title transfer. Similarly, while mainly composed of newly built homes, the NSW SHI title transfer or 'vesting' program also encompassed the Housing NSW 2009 Asset Ownership Program under which some 500 existing SHA-owned properties already under CHP management (and occupied by CHP tenants) were included.

### 1.6.2 *Management outsourcing variants*

Among the 'management outsourcing' case studies, two distinct managerial approaches were employed. Under the first of these, as in the AHV, NSW Blue Mountains and NSW Sydney South East transfers, the precise scope of the transaction was determined by individual tenant choices. Having identified a portfolio of tenanted homes potentially subject to the project, SHAs invited the tenants to sign up with a designated new landlord. The factors influencing tenant choice here are further discussed in Chapter 5. At this point, however, it is relevant to note that under this model an original resident declining a landlord switch remained an SHA tenant, with their home continuing to be managed by the state government department concerned.

As exemplified in the Tasmania case study, the second approach to 'management outsourcing' transfers involved the chosen CHP being tasked with managing an entire tenanted stock portfolio from the outset. While tenants are being invited to make a formal switch to the CHP as their 'new landlord', their home is immediately subject to management by the appointed provider, irrespective of the occupier's choice here. Partly because the Tasmania transfer had yet to 'go live' at the time of our fieldwork, it was not easy to explore the implications of a situation where a resident retains their existing Tenancy Agreement with the SHA as their formal landlord, yet receives their landlord service on a sub-contracted basis from the SHA-appointed provider. Importantly, however, under these circumstances only those tenants opting for a

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<sup>6</sup> In the NSW SHI instance, management was outsourced to CHPs immediately upon dwelling completion, although title transfer (or 'vesting') was to follow only at a later time—see Chapter 2.

formal switch of landlord are eligible for Rent Assistance(RA) (see further discussion in Chapter 3).

### 1.6.3 *Successor landlords*

While an underlying aim of all transfers may be to ‘grow community housing’, that leaves open the type of ‘community housing vehicle’ to be employed here. In one case study—the Aboriginal Housing Victoria instance—the transfer vehicle or ‘successor landlord’ was a purpose-designed entity jointly developed by the Victorian Government and an Aboriginal advisory body (the Aboriginal Housing Board Victoria) over many years. Reflecting the wider picture across Australia, however, the other five case studies related to transfer transactions or programs where the successor landlord was an existing CHP (or one among a group of existing providers).

Developments in the Australian context so far contrast with the standard UK transfer model wherein local authorities typically established new ‘local housing company’ style organisations sometimes likened to the ‘management buyout’ model familiar in the private sector.<sup>7</sup> In part, the UK deployment of newly created successor landlords was motivated by a desire for administrative simplicity in that the former housing department could be largely floated off from the parent local authority en bloc. This was helpful in managing the staffing implications of transfers and complying with legal obligations applicable in the UK under the Transfer of Undertakings, Protection of Employment (TUPE) legislation. Related issues in the Australian context are discussed in Chapters 4 and 8.

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<sup>7</sup> Nevertheless, it is worth noting that among *smaller scale* (estate or neighbourhood level) transfers undertaken in England and Scotland in the period 1988–2010, it was comparatively common for existing (rather than newly created) housing associations to be designated as recipients. Only among larger transactions involving a council’s entire housing stock were successor landlords newly created by transferring authorities virtually universal (Pawson & Mullins 2010).

## **2 OVERVIEW OF HISTORIC TRANSFER ACTIVITY IN AUSTRALIA**

A central aim of the research was to document the forms of public housing management and asset transfer tried by each state in the recent past (see research question 1, Section 1.4.3). This chapter therefore presents an overview of management and asset transfers in Australia since 1995. This draws on our National SHA Survey as undertaken in mid-2012. We present, in turn, overviews of tenanted management and asset transfers, the untenanted SHI asset transfers and other vacant asset transfers.

Since most of the transfer activity taking place historically was relatively small-scale and often somewhat piecemeal in nature, the data presented in this chapter represents aggregate figures on different types of transfers across jurisdictions, with only few references to specific programs and their particular objectives and mechanisms.

### **2.1 Tenanted transfers**

Prior to activity associated with the SHI program (see Chapter 1) tenanted transfers of homes originally owned and (in most cases) managed by state governments had taken place in four of the eight jurisdictions since 1995 (see Table 2 below). While over 10 000 dwellings had been subject to such housing transfers by 2012, nationally, almost 80 per cent of these had occurred in a single jurisdiction—NSW. Most of the tenanted transfers involved the ‘management outsourcing’ of public housing to CHPs, rather than asset transfers with tenants in situ.

It is also understood that few if any of the dwellings subject to title transfers have involved former SHA properties used as mainstream public housing. In NSW, ‘title transfers’ as shown in Table 2 involved homes originally developed or purchased by the state government on behalf of CHPs and previously managed as community housing for specific groups (i.e. never occupied by public housing tenants). Likewise, it is understood that the 575 dwellings subject to title transfer in Victoria (see Table 2) had not been part of the general public housing pool, that is, occupied by SHA tenants.

Individual state and territory survey returns indicate highly contrasting processes as regards historic transfers. For example, both NSW and Victoria have transferred significant numbers of properties through ‘management outsourcing’ transactions (see Table 2 below), but with very different packaging and timelines. The NSW total is comprised of several distinct transfer programs rolled out from 1997 onwards and involving many recipient community housing providers. In Victoria, by contrast, all the dwellings subject to management outsourcing were associated with a single transaction—namely, the state-wide handover of Aboriginal tenanted housing funded under a special purpose program to Aboriginal Housing Victoria that commenced in 2007.

The figures in Table 2 below refer only to public housing stock transferred to CHP. While this was the preferred model for growth of the community housing sector in NSW, other jurisdictions had different strategies, for example, throughout the 2000s, Victoria funded CHPs to develop and manage their own housing. In consequence some CHPs in these states—unlike most in NSW—already had experience in housing development and the full range of tenancy and property management functions even prior to the Social Housing Initiative (Milligan et al. 2009).

**Table 2: Tenanted public housing management and asset transfers 1995–2012, completed transactions<sup>1</sup> (dwellings)**

	ACT	NT	NSW	Qld	Tas	Vic	WA	SA	National
Tenanted management outsourcing	240 <sup>2</sup>		7,861	153		1,431 <sup>3</sup>			9,476
Tenanted title transfers			400			575			975
Total transfers	240 <sup>2</sup>		8,261	153		2,006			10,451

<sup>1</sup> The data in this table exclude homes developed since 2008 under the Australian Government's SHI program (see Table 3 below). In keeping with the definitions given in Section 1.4.1, the figures on 'management outsourcing' concern transfers of former public housing stock for use as long-term community housing.

<sup>2</sup> The ACT figure refers to the 'Community Housing Program', 1998–2001, which involved management outsourcing for 209 public housing dwelling. Seventy-seven of these dwellings were returned to management by Housing ACT in 2007. Titles of the remaining 132 dwellings were transferred to a CHP in 2007 when they were redesignated for future use as affordable housing.

<sup>3</sup> Aboriginal Housing Victoria (AHV) transfer included 200 homes transferred with vacant possession as part of a transaction largely involving tenanted dwellings.

Source: Authors' survey

## 2.2 Social Housing Initiative asset transfers

Over and above the transfers included in Table 2 above, recent years have seen an additional specific cohort of homes handed over from state governments to CHPs under the SHI, as discussed in Chapter 1. We have differentiated these from the transfers enumerated in Table 2 partly on the basis that the homes concerned were—unlike those in Table 2—developed by states in the specific expectation that they would be transferred to CHPs at the outset. These transactions did not, therefore, involve homes previously owned and (in some cases) managed as 'mainstream' public housing. As shown in Table 3 below, across Australia some 11 000 SHI-funded dwellings constructed by state governments had been handed over to NFPs for either ownership and/or management by September 2012.

Table 3 does not differentiate between tenanted and non-tenanted transfers. However, it can be assumed that all state government-constructed SHI dwellings destined for CHP management (and, in some cases, ownership) will have been occupied by CHP tenants from the outset. Hence, there will have been no tenant consultation issues raised by these transfers.

It should be emphasised that, for several reasons, the SHI transfers shown in Table 3 account for only a proportion of the whole of the SHI-funded social housing development program Australia—for reference, figures for the entire program are shown in Table 4 below.

**Table 3: Social Housing Initiative, completed transfers as at September 2012**

	ACT	NT	NSW	Qld	Tas	Vic	WA	SA	National
Management outsourcing only	74		2,920 <sup>1</sup>	2,579	249				5,822
Asset transfers			3,099				1,291	616	5,006
Total SHI transfers completed <sup>2</sup>	74		6,019	2,579	249		1,291	616	10,828

<sup>1</sup> Homes developed by Housing NSW with management outsourced to CHPs immediately upon completion and intended for future 'vesting' (or title transfer), but remaining in state government ownership at the time of the survey.

<sup>2</sup> These figures do not include dwellings funded under the stimulus package but procured or developed directly by CHPs (e.g. in Victoria and Queensland).

Source: Authors' survey

**Table 4: Social Housing Initiative dwelling construction and associated CHP targets, 2009**

	ACT	NT	NSW	Qld	Tas	Vic	WA	SA	National
CHP target no <sup>1</sup>	<120	30	6,300	<3,000	<400	<3,500	<1,500	<1,000	<15,500
CHP target %	<30	15	100	<75	<75	<75	<75	<75	<80
Total planned SHI	421	200	6,300	4,000	530	4,600	2,080	1,400	19,531

<sup>1</sup> Dwellings to be owned or managed by CHPs (including those developed by CHPs and by state governments (for subsequent transfer))

Source: CHFA (2009)

The main reasons that SHI transfers (Table 3) do not account for the entire SHI program (Table 4) are as follows:

- In some jurisdictions, CHPs were directly funded to develop SHI-funded dwellings on their own account (e.g. 1400 dwellings in Queensland and 2400 in Victoria) leading to full ownership and management of the housing developed with these funds.
- Bearing in mind the Australian Government's expectation that at least 75 per cent of SHI homes were to be *owned or managed* by CHPs, it can be assumed that some dwellings developed under the program will have been developed by state and territory governments and retained.
- Some transfers to the Indigenous community housing sector have also taken place.

Also, at the time of our survey a small proportion of SHI-funded homes destined for transfer had not yet been completed or handed over.

### *2.2.1 Pre-2010 vacant possession transfers*

In some jurisdictions, substantial numbers of vacant dwellings have been transferred into CHP ownership over the years. Examples include South Australia's long-running 'debenture' program involving the handover of some 4500 homes. And while most of these were developed by the state government for immediate handover to CHPs, they also included 1300 former public housing dwellings. Similarly, Western Australia initiated vacant property transfer programs involving some 1400 homes in 2007, while Victoria's 2008 Housing Affordability Fund program involved the transfer of 150 vacant dwellings. On the basis that future transfers are likely to concern mainly tenanted properties, these were not considered further in our study.

Cataloguing vacant possession transfers is made more complex by the variable treatment of homes developed by state governments on behalf of CHPs and, likewise, sites formerly occupied by public housing but handed over to CHPs (cleared or otherwise) for the development of community housing within the context of estate regeneration projects.

## **2.3 Concluding comments**

In relation to the size of the public housing portfolio, management and asset transfer until 2012 remained a relatively small-scale enterprise, although offset in some jurisdictions by capital funding direct to CHPs to enable property ownership and management. Other than in the instance of the Aboriginal Housing Victoria initiative (see Table 1), tenanted transfers have so far been almost entirely a NSW story. Albeit that these are of a different character, the transfers (and direct funding of community housing) rolled out under the SHI program have been—in most states—of a much greater magnitude.

The other key finding to emerge from this chapter is that only NSW and Victoria (in the special case of the AHV transfer) has experience of needing to engage with existing tenants around the proposed transfer of their tenancy or dwelling.

### 3 TRANSFER OBJECTIVES AND DRIVERS

Although so far completed only on a small and largely experimental basis, state government efforts to enact public housing transfers appear to have reflected a range of policy motivations. While all such programs have been underpinned by a wider drive to expand the community housing sector, a varying combination of distinct managerial, financial and citizenship imperatives also seem to have been significant.

The somewhat tentative wording above reflects the fact that the public housing transfer programs so far implemented in Australia have tended to be organised as largely administrative exercises in which there have been few publicly available statements about objectives and policy drivers. This is in contrast to the UK experience, where there has been a tradition of developing a ‘transfer prospectus’ outlining the case for change and defining specifically the benefits which could follow so-called ‘transfer promises’ (Pawson & Mullins 2010). The title transfer programs in NSW and Victoria (see Table 2) form an exception here in that these were associated with precisely defined ‘leverage targets’ (see below). In most other Australian instances, such ‘stated objectives’ have been articulated only in more general terms—for example, in outlining ‘benefits for tenants’ in some SHA-published factsheets. Thus, when citing below ‘explicit’ transfer motivations we are often referring to research interviewee statements (especially by senior SHA managers) usually made after the event, rather than to official aspirations publicly stated in advance of a transfer transaction or program being enacted.

The remainder of the chapter examines public housing transfer policy drivers relevant in Australia, as reflected in existing scholarly literature and policy documents, as well as in our case study evidence.<sup>8</sup> To the limited extent that this is possible, it also presents qualitative evidence on the extent to which case study transfers have achieved such goals. The chapter therefore mainly addresses research question 2 (see Section 1.4.3). It is structured around the following objectives as key themes: operational efficiency and revenue maximisation; leveraging private finance; citizenship enhancement and service improvement; place-management and community regeneration; and growing community sector capacity. The final section provides an overview of the objectives and impacts of selected transfer programs.

#### 3.1 Operational efficiency and revenue maximisation

##### 3.1.1 Maximising rental revenue by accessing Rent Assistance (RA)

Certain features of Australia’s social welfare and taxation regimes provide effective incentives for public housing transfers because of the advantages they provide to CHPs that are unavailable to SHAs. Hence, Housing Tasmania’s information leaflet for potentially transferring tenants informed readers that:

Public housing has been an important service but there are better ways to provide social housing now. Community housing organisations can provide better housing because they have more ways of funding their housing services.

Of prime importance here are the rules governing eligibility for Rent Assistance (RA) (sometimes known as Commonwealth Rent Assistance (CRA)). This is a non-taxable income supplement developed (in its current form) in the 1980s that is available to recipients of Centrelink payments or family payments who pay rent (above a threshold

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<sup>8</sup> Evidence presented throughout Chapters 3 to 6 is based on interviews and focus groups conducted for the case studies unless otherwise sourced.

amount) to a real estate agent, private landlord or community housing provider. It pays 75 per cent of rent above the threshold and below a maximum calculated by household type and size. Tenants paying rent to SHAs have been ineligible for RA since 1982 (with grandfathering arrangements for existing public tenants that expired in 1987), as these tenants were eligible for SHA internally-funded 'rebates' on their rent payments (Hulse 2002).

Conventionally, social housing tenants in Australia are charged market rents discounted according to their means. The actual rental charge is calculated as a percentage of household income—usually 25 per cent—capped at the 'market rent' for the property occupied. Taking advantage of RA-eligibility for their tenants, CHPs can set rents at (say) 25 per cent of a tenant's income net of RA plus 100 per cent of their deemed RA entitlement.<sup>9</sup> In terms of their disposable income, this leaves a CHP tenant in the same position as their public housing counterpart. In this way providers gain additional revenue<sup>10</sup>, while tenants are no worse off financially than they would be in public housing, their 'out-of-pocket' expenses remaining the same (KPMG 2009, p.8).

Importantly, however, RA rates were never set in relation to market rents. Moreover, since subsequent indexing has been linked to the general cost of living index payments have dwindled in value over time by comparison with rents, which have tended to rise at faster rates (Colic-Peisker et al. 2009). In 2013, the maximum weekly payment for a single parent with 1–2 children was \$72<sup>11</sup>, whereas the (2009–10) average weekly rents paid by public housing tenants and private renters were \$119 and \$305, respectively (ABS 2011). Hence, bearing in mind the later date of the RA figure, the capacity to collect RA might provide a rental revenue boost of some 50 per cent over and above the standard rent chargeable to a public housing tenant in this instance.

As illustrated above, the additional rental income potentially channelled into social housing through RA via tenancy transfer is significant in relation to existing public housing rent chargeable. However, accessing this funding via a 'management outsourcing' transfer requires each former SHA tenant to formally sign a new tenancy agreement with the recipient CHP. Hence, although an SHA may designate a parcel of occupied dwellings (e.g. a block or estate) for 'outsourced management' by a CHP, this alone is not sufficient to bestow RA-eligibility on the tenants concerned. This is because—at least as it has been understood by most SHAs—state governments lack the legal power to enforce a formal change of landlord. Only when residents 'in the frame' have chosen such a switch, individually and 'voluntarily', do they become CHP tenants and, thus, potentially RA-eligible. Crucial to the financial impact of transfer on social housing rental income, therefore, is the incidence of such choices among the tenants to whom the opportunity is made available. The factors which might influence such decisions are further explored in Chapter 5.

Assumptions on the CHP tenancy take-up rate are, thus, a crucially important component in any transfer 'business plan'. However, as revealed by our case studies,

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<sup>9</sup> Note that some CHPs charge discounted market rents, adjusted to fulfil affordability objectives. Given the need to avoid jeopardising their charitable tax status the effective cap on CHP rents is 74.9 per cent of market rent.

<sup>10</sup> Although, because—as part of the national income support system—RA is paid to the tenant not the landlord, CHPs are exposed to greater risk of rent arrears than SHAs. Similarly, community housing tenants are exposed to the risk of higher rent arrears than public tenants.

<sup>11</sup> For further detail see relevant FaHCSIA web pages: <http://www.fahcsia.gov.au/our-responsibilities/housing-support/benefits-payments/rent-assistance>

there have been significant variations in CHP tenancy take-up rates among transfer initiatives so far undertaken in Australia. In the Aboriginal Housing Victoria (AHV) instance, for example, some 90 per cent of eligible tenants chose to transfer to the new landlord over a two-year period from 2007. Likewise, under the more extensive NSW Property Transfer program (PTP), tenancy transfer target rates were generally achieved (see Section 5.3.4), although this was not universal. For instance, in one of our case studies, as confirmed by the recipient CHP, the take-up rate had reached only 50 per cent after three years—well short of the 75 per cent target originally set. This could have resulted in rental income failing to meet budget assumptions. Over time, normal tenancy turnover could be expected to gradually increase the proportion of CHP tenants residing in a ‘management outsourced’ estate (because successor tenants will all be CHP-selected tenants). However, given the typically low level of ‘churn’ in social housing, this would be a very drawn out process.

Nevertheless, public housing transfers can provide a greater injection of Australian Government resources into the social housing system through the associated RA gain.<sup>12</sup> From the state viewpoint, therefore, the current RA rules provide a key transfer incentive. By the same token, transfers expose the Australian Government to higher RA expenditure. The commitment to the ‘35 per cent target’ (see Chapter 1) has been interpreted by some industry stakeholders as reflecting the limits of Australian Government tolerance towards higher RA expenditure arising from transfers, while National Affordable Housing Agreement (NAHA) funding remains unaffected.

For some stakeholders, however, the lack of a more solid commitment is seen as a revenue risk for CHP recipients of past transfers and could remove a key financial incentive for further transfers.<sup>13</sup> At least theoretically, a future government might—for example—opt to implement the Henry Tax Review proposal to make public housing tenants eligible for RA on an equal basis with their community housing counterparts (The Treasury 2010; Johnston 2010), a proposal which has been ‘on the backburner’ since the social housing reform debates of the mid-1990s when it raised the spectre of offsetting cessation of capital funding through the then Commonwealth State Housing Agreement.

Another scenario posing far greater risk to CHPs may be the cancellation of the RA eligibility of community housing tenants (or, perhaps, any transferring to this status from public housing after a specified date—for example, the date of the relevant policy announcement). Indeed, some research participants were critical of management transfers motivated mainly as a RA-capture strategy, noting RA was designed as direct income-support rather than a supply-subsidy (or a social housing operating subsidy).

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<sup>12</sup> There are some similarities with the financial incentives that underlay 1990s asset transfers in Britain (Pawson & Mullins 2010). However, the maximum RA payment is significantly more limited than the effective subsidy available via Britain’s Housing Benefit framework and the resulting surplus of rental income per property, therefore enhances only modestly CHPs’ capacity to raise debt finance (Pawson & Gilmour 2010, p.257).

<sup>13</sup> A similar situation occurred in England and Wales where asset transfers exposed central government to additional social security expenditure, since stockholding local councils were required to contribute from their rental income to the cost of Housing Benefit payments to their tenants, whereas asset transfer recipient housing associations were not. In compensation, transferring municipalities were required to pay central government a one-off levy (20 per cent surcharge) for asset transfer receipts, after repayment of housing debt (Pawson & Mullins 2010). In the Australian context, however, this type of solution could not be easily replicated since, unlike UK local authorities, Australia’s state governments do not have to secure central government permission to authorise a transfer. Hence, Australian Government ministers lack the leverage of UK Secretaries of State which was critical in their ability to impose transfer conditions of the kind outlined here.

Notwithstanding the above arguments, the Australian Government could further incentivise transfers by committing to retain RA-entitlement discrimination in favour of CHP tenants and to desist from imposing any cap on such claimants. It could go further by adjusting RA-entitlement rules such that public housing tenants become RA-eligible when management of their homes is contracted to a community housing provider irrespective of whether the tenant actually signs their tenancy over to the new landlord concerned. However, while such a change would markedly reduce the uncertainty that currently characterises transfer business planning (see above) it could potentially weaken any incentive for state governments to secure tenant support or endorsement for transfer (see Sections 5.3–5.4).

Although RA capture may not have been a publicly-stated objective in any of the selected transfer programs studied, it can be understood as an implicit but crucial driver and enabler of most, if not all, of these programs.<sup>14</sup> Indeed, it was apparent as the research progressed during 2012–13 that a number of state governments were becoming increasingly aware of the need for rapid action to comply with the June 2014 deadline associated with the ‘35 per cent target’, since this was interpreted as assuring the continuation of existing RA eligibility rules at least up to this threshold.

### *3.1.2 Tax incentives and salary differentials*

Over and above their capacity to benefit from the RA-entitlement of their tenants, CHPs enjoy some other revenue-related advantages over public housing. Firstly, there are tax concessions. CHPs are an income tax exempt charity and usually have Public Benevolent Institution status with some also having Deductible Gift Recipient standing. This means that they can receive various tax benefits and concessions for costs associated with their housing supply and service roles, for example, in relation to the Goods and Services Tax.<sup>15</sup> In combination, these represent substantial savings to organisations that are not available to their public housing counterparts, although exact figures will vary from organisation to organisation.

Secondly, to the extent that there are salary differentials within the social housing sector, and reflecting the privileged tax status of CHPs, transfers from SHAs to CHPs could potentially generate management cost reductions (Jacobs et al. 2004, p.257). According to 2009 NSW figures, a CHP housing officer’s annual pay was typically \$40 000–\$46 000 while their SHA counterparts earned \$47 000–\$55 000 (NSW FHA 2009, p.9). Lower CHP salaries were partly compensated by Fringe Benefit Tax exemption available to providers with charitable tax status that gave their employees access to before-tax income instruments, known as salary sacrifice. However, informed stakeholders participating in our research believed that recent years had seen salary convergence between staff in public housing and larger CHPs such that typical differentials were no longer substantial and in some cases these CHPs were, by 2012, offering higher rates than applicable in the public sector.

It should, however, be noted that large-scale transfers would be likely to involve some transfer of existing public housing staff and that this would be politically infeasible without assurances about retention of existing terms and conditions and the

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<sup>14</sup> The Victorian Asset Conversion Strategy involved properties already managed by CHPs, and as such did not involve capture of RA at the title transfer stage. This was also true of the NSW ‘vesting’ of homes constructed under the 2009 Nation Building Economic Stimulus Plan. Nevertheless, the leverage expectations tied to these transfers were underpinned by the additional revenue provided by RA, as well as by the potential benefit of CHP asset ownership in providing loan security for borrowed capital.

<sup>15</sup> See <http://www.ato.gov.au/nonprofit/pathway.aspx?pc=001/004/006> accessed 21 August 2012.

availability of accrued entitlements.<sup>16</sup> An important recent development here was the 2012 Transfer of Business Provisions legislation passed by the Australian Parliament. *The Fair Work Amendment (Transfer of Business Provisions) Act 2012*<sup>17</sup> places responsibilities on a successor employer in the case of services formerly provided by a state government being outsourced from an external provider. Under the associated rules, where there is a transfer of Australian Government assets or services, the former public sector employees involved must be employed by the new provider on former terms and conditions. This protection lasts for five years.

Like RA capture, the ability to exploit other tax incentives was not a stated objective in any of the transfer programs studied.

### 3.1.3 *CHP economies of scale*

Studies conducted in the late 1990s (reviewed in Bisset 2000, pp.38–39) identified significant scope for economies of scale in the community housing sector as then structured, predominantly with very small-scale local organisations. It was considered that these savings could be achieved in administration costs (salaries, office, equipment and overheads) and standing costs (rates, insurance and maintenance).

Despite being confined to a relatively small proportion of public housing, some of the case study transfer programs have had sizeable impacts on recipient CHPs. In the instance of the NSW Blue Mountains transfer, for example, the recipient provider more than doubled in size, and resulting restructuring included the establishment of two new sub-offices and a new managerial tier. While recognising that the management of this process amounted to a ‘steep learning curve’, provider staff believed that this had enabled them to reach a ‘critical mass’.

Conversely, a number of tenants and other stakeholders participating in the research believed that the distinctive CHP management style and CHP growth aspirations amounted to a zero sum game of cost and benefits—as providers grew in size, so the ‘added value’ derived from their organisational culture would decline.

### 3.1.4 *Efficiency gains through whole-of-area transfers*

In some localities, particularly in regional areas where the size of the population arguably does not justify the operation of both the SHA and a local CHP, transfer of all public housing stock to the local CHP could potentially facilitate significant operational efficiency gains through the closure of local public housing offices. The NSW PTP, for example, involved several closures of government housing offices in whole-of-area transfer locations. However, this did not always amount to the elimination of duplication, since some transfers of this type also involved the opening of a new CHP office. From a system-wide perspective, therefore, whole-of-area transfers have not in every case delivered ‘efficiencies’ of this kind.

## 3.2 **Leveraging private investment finance**

As well as supplying them with a rental revenue stream, transfer programs involving ownership handovers (‘asset transfers’ or ‘title transfers’) provide CHPs with an asset base potentially deployable as security for private finance (Bisset 2000, p.22). To the extent that CHPs can raise such finance, they can facilitate investment in additional social or affordable housing, or refurbishment of existing stock, without the increased

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<sup>16</sup> In this respect asset transfers in Britain have been governed by the Transfer of Undertakings Protection of Employment (TUPE) regulations which have enshrined a requirement that staff of ‘outsourced’ public services must have their employment terms and conditions protected for a minimum period (Pawson & Mullins 2010).

<sup>17</sup> See: <http://www.fwc.gov.au/index.cfm?pagename=legislationfwatob> accessed 3 June 2013.

public debt on government balance sheets. Further, as discussed in the previous section, the rental revenue boost achieved through RA can expand—albeit modestly—the revenue stream available to service such debt. Large-scale title transfers have therefore been expected to ‘help move [the community housing sector] towards gaining the critical mass it needs to secure private finance at the best possible rates’ (Berry et al. 2004, p.86).

In a number of jurisdictions, CHPs and other stakeholders commissioned studies which examined issues of leveraging and financial sustainability for CHPs generally. In the NSW context, the leveraging potential and long-term financial sustainability of title transfers was investigated via a modelling exercise carried out by Sphere Analysis (2010) for NSW Shelter. In the context of plans for SHI transfers (see above), this showed that for a portfolio of 250 *new* properties transferred to CHPs, growth through leverage could be achieved at relatively modest rates of between 5–8 per cent over 10 years, and between 11–20 per cent over 20 years (Sphere Analysis 2010). Importantly, however, the report warned that structural maintenance costs over the 50-year life cycle of a building were not taken into account, and raised questions about providers’ financial sustainability:

It is not realistic to expect that the provider can grow or even maintain the portfolio in perpetuity. At some point the portfolio will have to stop growing and at some point dwellings will have to be sold to address long-term building replacement (Sphere Analysis 2010, p.11).

In Australia, the aspiration for leveraging private finance via asset transfers has been mainly driven by a desire to expand social housing rather than, as in the UK case,<sup>18</sup> by concerns about the need to finance the upgrading of the existing public housing portfolio (Pawson & Gilmour 2010). It should also be noted that the scope to use title transfers as a leveraging vehicle for financing new housing investment is influenced by the financial framework within which such transfers are progressed. Importantly, in Australia it has tended to be assumed that these will involve former public housing assets passing into CHP ownership at nil cost. Hence, the recipient CHP needs incur no debt as a consequence of the transaction. To the extent that a ‘transfer price’ is ever incorporated into the equation (as is typical in UK council housing transfers), the scope for leveraging new investment would be compromised.

Leverage was a key objective in both of our case studies relating to asset or title transfer—the Victorian Asset Conversion Strategy and the NSW SHI. In its 2008 title transfer of 575 (already CHP-managed) homes to community providers under its Asset Conversion Strategy (ACS), the Victorian Government incorporated a requirement for recipient landlords to achieve 15 per cent leverage on the value of these properties by mid-2010. That is, receiving landlords were expected to use the equity as security to borrow private finance equivalent to at least 15 per cent of the value of the transferred portfolio. The 15 per cent leverage was expected to raise \$23 million for additional properties and it was expected that ‘this level of borrowing translates into an extra 93 properties’ (VAG 2010, p.5)—an average of \$250 000 per property.

The NSW SHI Asset Ownership transfer program required CHPs to use acquired (‘vested’) stock to ‘leverage’ the development of additional social and affordable

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<sup>18</sup> In England, by 2008 asset transfers had leveraged £19.3 billion (some \$30 billion) for stock modernisation and repairs, and recipient associations have been generally successful in implementing property upgrade programs within budget and specified timescales, with only around 10 per cent of England’s social housing stock remaining below the Decent Homes standard in 2010 (Pawson & Mullins 2010, pp.201–5).

housing. This was to be achieved through accessing private finance secured against the asset value of the vested properties. However, loan repayments were to be financed through rent pooling—that is, using the rental income streams from both vested properties and existing properties already managed by the relevant provider. Leverage targets were specified in terms of the number of social and/or affordable rented homes a provider committed to constructing over 10 years, associated with a particular tranche of vested dwellings (see Section 1.4.2 for the distinction between social and affordable rental housing).

### **3.3 Tenant and community empowerment**

#### *3.3.1 Context*

Internationally, empowering tenants and communities has been an important objective of asset transfer programs (Pomeroy 2010; Kintrea 2006; Nygaard et al. 2007). In Australia, public housing has been considered particularly disempowering for tenants and communities given its longstanding stigmatisation in the media and in public discourses (Jacobs et al. 2010, 2011). CHPs have, historically, been argued as according greater importance to tenant participation than SHAs (Darcy 1999).

In general, the aspiration to enhance tenant participation has been far less prominent as a driver for management and asset transfers in Australia compared to other countries such as England and, especially, Scotland (Milligan & Pawson 2010, p.8).

#### *3.3.2 Community empowerment in Australian transfers*

An important exception to the general regime outlined above concerns the management transfer to Aboriginal Housing Victoria (AHV). Here, a citizenship-type agenda has been central, with transfer objectives including self-determination goals, preservation of cultural identity, meeting distinct cultural needs that can be overlooked in public housing or mainstream community housing, and creating a service hub or coordination point for Indigenous clients. In the words of the memorandum of understanding between the Victorian Director of Housing and the 1981-founded Aboriginal Housing Board of Victoria that guided the transfer:

It is recognised that greater self-determination will benefit Indigenous communities by promoting socio-economic independence and ensuring that culturally appropriate housing is provided in culturally appropriate ways. (MOU 2005, p.1)

Predating moves to transfer mainstream public housing to CHP management, the AHV initiative sought not only to improve outcomes for Aboriginal tenants, but also to create new employment opportunities for the community. In practice, however, it has been found difficult to achieve the original Indigenous employment target within the organisation. Given the specific drivers of the AHV transfer, there was also an expectation that these would be reflected in the shaping of the organisation's governance framework.

Given its 'place-based' model, the Tasmania Better Housing Futures (BHF) transfer program also has potential for community empowerment. Indeed, the state's Human Services Minister, Cassy O'Connor, cited this as one objective of the initiative. This would, the Minister argued, help bring about 'communities that have taken ownership of the look and feel of their [neighbourhoods]' (ABC News 2012).

Embodying this ethic, the BHF tender specification required the successor landlord to establish a community reference group (CRG) 'to assist with change management, promoting the project, influencing communications and contributing to the project's evaluation'. It also required the new landlord to facilitate 'tenant involvement in

governance/planning'. In response, the recipient provider (MA Housing, a subsidiary of Mission Australia) planned to establish a local CRG comprising both tenants and owners, together with Mission Australia Community and Employment Services, Housing Tasmania and local council representatives.

### *3.3.3 Community regeneration objectives in the Tasmania BHF and Logan transfers*

A different approach to tenant empowerment was observed in one of our case studies and foreshadowed in a pending transfer initiative in Queensland in the context of a community regeneration goal. Community regeneration typically involves intensive, time-limited, coordinated strategies to address spatially concentrated social disadvantage, often in large public housing estates. Community regeneration is achieved through coordinated provision of social services, and in some cases 'de-concentration of disadvantage' through dispersal of disadvantaged local residents and/or increasing the number of private dwellings in an area to reduce the proportion of public housing and change the area's social mix. Community participation has often been described as an integral element in community regeneration strategies (Pawson et al. 2012, pp.25–30).

In the current study, community regeneration was a primary objective of the Tasmanian BHF initiative. Part of the logic in selecting broad acre estates for the program was that, as concentrations of deprivation and rundown property, these areas call for both social and physical regeneration, foreshadowed by earlier 'master-planning' initiatives. At the same time, their status as geographically concentrated portfolios creates scope for the financially viable provision of a local office. Under the tender specifications, transfer recipient organisations will be taking on 'place-based tenancy and property management services'.

A similar approach of addressing social and physical regeneration through a place-based initiative is likely to be taken in the Queensland Logan Renewal Initiative. An Expression of Interest document published by the SHA included a general statement noting that 'the characteristics of the social housing portfolio in Logan present opportunities for the redevelopment of existing public housing sites, with a particular focus on neighbourhood regeneration and renewal projects, which can revitalise areas within Logan where concentrations of under-utilised or out-dated social housing exist' (Department of Housing and Public Works 2012, p.12).

Given that the Tasmania and Queensland transfers were still in very early stages at the time of writing, it is not yet possible to comment on the extent to which their place-based management and renewal objectives have been met.

## **3.4 Tenancy service improvement**

### *3.4.1 Expectation of 'superior' CHP services*

Tenancy management through CHPs has been described in some Australian literature as inherently superior to SHA management (Darcy 1999, p.16; Bisset et al. 1994, p.19). In this view, CHPs are argued as offering more 'responsive' services than those typically offered by SHAs due to their 'anti-bureaucratic sentiments' and relatively small size. Another bearing on this consideration is that—unlike public housing—CHPs are now formally regulated, and thus subject to externally monitored service provision standards.

Evidence of generally higher tenant satisfaction ratings in community housing compared to public housing (AIHW 2011) appears to support claims of superior CHP services, although this may be partially explained by CHPs' ability to fund a more

management-intensive model, thanks to their facility to draw on RA income. Furthermore, as noted above, sceptics doubt that an improved service is inherent to community housing and can be sustained in the context of sector growth (Shelter NSW 2012, p.6).

In the NSW PTP service improvement was not a stated program objective, but was highlighted in formal communications with tenants as a key ‘customer benefit’:

Community housing organisations are able to work closely with local communities and services. This means that, in some areas, they bring a different approach to the way properties and tenancies are managed. They often respond more quickly to tenants’ needs and can be more flexible about how they apply policy and manage their staff and resources. (Housing NSW 2010, p.1)

### 3.5 Summary of objectives and drivers

The drive to outsource or transfer government-funded human services and related assets to NFP organisations has been a central feature of Australian public policy in recent decades, substantially motivated by policy-maker adherence to the New Public Management model. In the social housing sector, a number of additional factors have also been at play driving a similar process. CHPs are considered in a better position to access additional revenue through the eligibility of their tenants for Rent Assistance. While unstated, this expectation can be seen as a key driver for public housing transfers in the Australian context. However, lack of certainty about the future availability of this source of funding constitutes a significant risk.

Public housing transfers are underpinned by a general policy interest in the growth of CHPs and the community housing sector as a whole. The transfers studied were of a relatively small scale, and as such, while generating expansion, restructuring and evolution of recipient CHPs had a more modest proportional impact on the scale, structure and capacity of the sector as a whole.

Only two of the case studies (those involving title transfers) included a stated leverage objective underpinned by title transfer, suggesting that this has so far been a strong policy driver only with respect to transfers of this type.

As yet, an aspiration for public housing transfers to empower tenants and communities has been much less prominent as a policy driver in Australia by comparison with its (professed) importance in Britain. More broadly, as argued via Table 5 below, the key policy drivers for transfers have differed substantially between the two countries.

**Table 5: Housing transfer drivers in the UK and Australia (highly generalised)**

Driver	Importance	
	Australia	UK
Revenue maximisation	High	Low
Leveraging private finance for new supply	High*	Low
Operational efficiency	Moderate	Low
Tenancy service improvement	Moderate	Moderate
Leveraging private finance for stock upgrade	Low	High
Tenant/community empowerment	Low	High
Enhanced long-term asset management	Low	High

\* For title transfers

Source: Authors

The AHV case study represents a unique case in Australia where community empowerment and self-determination were the primary drivers and objectives of the transfer. In other cases—the Tasmanian BHF and Queensland Logan Renewal Initiative—community empowerment has been articulated not in the sense of tenant participation and self-determination, but in terms of place-based social and physical ‘regeneration’.

## 4 TRANSFER MODELS AND PROCESSES

Mainly addressing research questions 1, 2 and 5 (see Section 1.4.3), and drawing on our case study work, this chapter analyses transfers from the managerial perspective of state governments and NFP providers. First, it looks at the ways that ‘transfer portfolios’ have been selected and recipient organisations chosen. Second, it discusses the terms of transfers agreed between SHAs and successor landlords.

### 4.1 Portfolio packaging and recipient CHP selection

#### 4.1.1 Portfolio packaging

As used here, the term ‘portfolio packaging’ refers to the way that quantities of housing subject to transfer are selected. Various approaches were exemplified in the survey and among the case studies.

- Under the NSW Property Transfer Program (PTP), portfolios proposed for inclusion were chosen according to objectives such as rationalisation of service delivery (in rural and regional areas), as well as the completion of activity commenced under the previous Stock Transfer Program STP. In some instances, portfolios encompassed all homes managed from a particular office—so-called ‘whole-of-area’ transfers. While selected CHPs were expected to take on packages en bloc, they were allowed to nominate for sale transferred homes considered unviable.
- In the two *Victoria* case studies, portfolio selection was based on use/occupancy prior to the transfer. Dwellings included in the 2008 Asset Conversion Strategy package comprised dwellings already managed by CHPs as part of a number of prior programs to provide long-term housing to specific groups with the requirement to take on the whole package, although not all state-owned properties managed by the CHPs were offered as part of the transfer package. Homes subject to the AHV transfer had been previously designated for occupancy by Indigenous Australians, having been constructed with funds from the Aboriginal Rental Housing Program (1979–2009). This was therefore an administratively defined portfolio that also had cultural requisites.
- *Tasmania’s* Clarendon Vale/Rokeby transfer was the only case study transaction that could be portrayed specifically as part of a strategy of public housing diversification designed to achieve the ‘35 per cent target’. It formed an initial pilot involving a single package of 500 homes intended as informing a subsequent tranche composed of three additional area-based packages totalling around 3500 homes and encompassing all of Housing Tasmania’s broadacre estates (largely constructed in the 1970s, but subsequently subject to inadequate maintenance expenditure). In selecting these estates as the subject of its Better Housing Futures (BHF) transfer program, part of the logic was that, as concentrations of deprivation and rundown property, these areas called for place management measures—social revitalisation, as well as physical regeneration. To this extent, and within the context of Housing Tasmania’s entire housing stock, the selection strategy used here could be portrayed as a ‘worst first’ approach.
- As noted above, growing the borrowing/investment capacity of community housing has been a general motivation underlying transfer policy. If this was the overriding objective it could imply selection of the most desirable and unproblematic (and therefore valuable) stock. Something like this thinking seems to have been reflected in the 2009 NSW Asset Ownership Program, where providers could bid for 100-property tranches of SHA-owned homes already under their management, selecting those dwellings considered most attractive either in terms of their

existing utility or the redevelopment value of their sites. In a similar vein, as the NSW SHI title transfer involved only new dwellings it was initially assumed by officials and CHPs that life cycle maintenance expenditure could be deferred for some time.

#### *4.1.2 Recipient CHP selection*

Given the 'self-management' principle inherent in the AHV transfer, the successor landlord was predetermined from the start. Likewise, in Victoria's 2008 ACS, properties were offered to the eight then registered Victorian housing associations who managed the properties and in NSW's 2009 Asset Ownership Program, the recipient CHPs were determined in accordance with existing management arrangements.

In the other case study transfers and transfer programs SHAs needed to devise principles and rules to govern recipient CHP selection. The NSW PTP approach was a largely planned strategy where Housing NSW—in accordance with its Community Housing Resource Allocation Policy—selected potential transfer recipients as a geographical fit with property portfolios identified as suitable for management transfer (see above). Potential successor landlords needed to be registered under the state's newly created regulatory framework, and judged as having the capacity to take on management of a significant body of property. In 'high demand' areas—an administrative category that applies to all of metropolitan Sydney—recipient CHPs were required to be registered as Class 1 'Growth Providers' or associated with a Class 1 agency (e.g. through a group structure or partnership).

A more competitive model was employed by NSW for SHI transfers. Here, the basic eligibility requirements (as stated by the tender specification) were:

- Need to be registered as a Class 1 or Class 2 provider under the standard community housing regulatory framework (or capable of such registration).
- Need to demonstrate leveraging capacity in terms of sufficient balance sheet and cash flow.
- 'Robust governance'.

Applicant CHPs were invited to submit bids in terms of the scale of leverage they could achieve associated with receipt of a given number of properties (i.e. the amount of private finance they could raise to construct additional homes 'leveraged' against the value of the properties to be transferred and the associated revenue stream).

In assessing applications, Housing NSW placed equal priority on service delivery and leverage offers. Bids needed to be judged 'credible', not only in terms of the financial underpinning of such offers, but also as regards any proposal to take on stock remotely located in relation to the landlord's home base.

More competitive again, was the initial Tasmania approach in which a simple open tender process was employed. In this instance, as well as in the 2012–13 Queensland Logan transfer, open competition evoked several interstate bidders, stimulating the emergence of multi-jurisdictional players. Importantly, however, the process involved a 'non-prescriptive tender'—that is, where bidders were invited to volunteer ideas on what they might be able to bring to the table. Through the experience gained accordingly, it was envisaged that a more tightly defined specification could be developed for the follow on 'main stage' BHF transfer process.

Open tendering may be seen as advantageous in providing a degree of contestability at the outset and, partly for this reason, is likely to be favoured by housing/human service ministers and central agencies. However, where CHPs have already managed

the stock successfully, there is a strong argument from both tenant and business continuity viewpoints that they should be retained. Further, there is a risk that open competition may create an incoherent and inefficient pattern of post-transfer stockholding. If the objective is to create contestability in the post-transfer system it may be necessary to adopt a planned (or, at least, structured competition) approach to initial handovers.

## **4.2 Transfer terms, negotiation and consultation**

### *4.2.1 Contract duration*

While contract duration does not, of course, arise for title transfers, it is a potentially important consideration in management outsourcing transactions. In NSW, the standard approach has involved three-year rolling contracts. In practice, some of these will now have been rolled forward several times. In Victoria, the then standard lease was for five years.

Tasmania's Better Housing Futures (BHF) transfer model, by contrast, incorporates a contract term set at 10 years, though with a provision for a contract review and possible termination after two years. The review is intended to provide an opportunity for renegotiation of the agreement factoring in findings from a house condition survey to be undertaken by the new landlord. It is envisaged that survey findings might need to be accommodated partly through varying the proportion of homes for disposal/redevelopment over the term of the contract.

### *4.2.2 Property condition*

Standard terms for title transfers have included the assumption that there is no capital receipt to the state government concerned—an issue further discussed in Chapter 7. Instead of being required to pay any sum related to their acquisition of assets, title transfer recipient CHPs have, instead, been required to commit to financial 'leverage targets' for development of additional affordable housing, as discussed in Section 3.3.

The Victoria ACS and NSW SHI vesting program were similar in terms of the homes concerned being handed over in their existing condition with no funding to address backlog maintenance or future upgrades, respectively. This was especially challenging in respect of the ACS portfolio, since some of the 575 dwellings were older buildings requiring extensive maintenance (VAG 2010, p.viii). A particular example concerned rooming house accommodation included in the transfer, some of which was uninhabitable. This was allowed for only to the extent that the leverage target set by the Victorian Government was at a lower level than that designated for newly built homes developed by CHPs with a government grant—15 per cent rather than 25 per cent.<sup>19</sup> These issues are further discussed in Section 6.4.

In practice, the original lack of financial provision for necessary maintenance and upgrade works to the transferred portfolio was accommodated to some extent through unanticipated funds being made available to recipient providers in 2009 under the NBESP allocation for maintenance works to public housing. This enabled some of the backlog maintenance issues to be addressed. Without this windfall however, some of the transferred dwellings would have had to be sold, undermining the main goal of the program.

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<sup>19</sup> Under the Victorian Government's Strategy for Growth announced in the 2007 budget and which therefore ran concurrently with the ACS, CHPs developed their own stock, funded mainly by state grant. Providers were, however, expected to raise 25 per cent of the project funds through private finance and/or other means. The 15 per cent ACS leverage target was thus intended as a discount on this arrangement.

As discussed above, it could be assumed that newly built homes subject to title transfer would carry no immediate works liability of the kind relevant in the ACS instance. However, experience under the NSW SHI transfer showed that this is not necessarily entirely accurate. Perhaps mainly attributable to the inherent need for rapid decision-making in the construction process (given the status of the SHI program as 'stimulus investment'), recipient CHPs reported to us that some of the resulting homes were subject to significant defects calling for appreciable CHP expenditure at an early stage (e.g. to remedy issues such as lack of security, problematic drainage planning and inadequate heating) that could not be recouped from builders.

Since they do not involve ownership handover, management transfers raise additional questions about defining satisfactory property condition and the SHA/CHP division of responsibilities in achieving and maintaining this. In NSW, under routine practice under the pre-2009 Housing NSW Stock Transfer Program (STP) Housing NSW had taken responsibility for any necessary upgrading needed on homes designated for transfer.

While limiting liabilities and risks for recipient CHPs, the STP approach was discontinued under the later PTP to cut out what had been experienced as laborious property-by-property negotiation. Instead, dwellings were now handed over in their existing condition with a requirement placed on the successor landlord to (where necessary) upgrade the property to the defined Housing NSW standard within three years. Recognising the typical existence of significant backlog maintenance needs, recipient CHPs were now paid up to \$12 000 per dwelling, with the actual amount calculated according to portfolio mix. Rather than being based on detailed property condition assessments, the fixed, property type-specific allocations were based on an analysis of Housing NSW's asset data base which took into account average cost of backlog and two years' worth of predictive maintenance for different property types. This amount was similar to what Housing NSW had been spending under the former STP where properties were fully upgraded before transfer and was found (on average) to be 'adequate' by the two NSW PTP transfer recipient CHPs included in our study.

Perhaps in view of their 'contractual' status, responsibility for monitoring achievement of NSW transferred property upgrade targets has been retained by Housing NSW rather than seen as a 'regulatory' responsibility properly within the remit of the NSW Registrar of Community Housing.

The recognised existence of a significant maintenance backlog was an important motivating factor underlying the Tasmanian BHF program. In the BHF Clarendon Vale/Rokeby transfer the successor landlord was expected to undertake 'catch-up repairs' specified in terms of a unit spend of \$35 000 over the term of the contract (average: approx. \$3000 per house p.a. plus \$9000 one-off upgrade). The extent to which these assumptions prove both realistic and affordable is likely to be revealed in the context of the planned post-transfer stock condition survey (see above).

The distinct frameworks for determining the remit of successor landlord 'property upgrade' responsibilities in the NSW and Tasmanian management outsourcing case studies are discussed in Chapter 5.

As regards the division of responsibilities for ongoing asset management and maintenance, the standard 'management outsourcing' model (as exemplified by PTP and BHF) involves the recipient provider taking charge of all asset management activities other than 'structural repairs'. At least implicitly, this includes all planned cyclical maintenance as well as responsive repair activity.

### 4.2.3 *Other financial responsibilities*

Case study 'management transfers varied to some extent as regards post-transfer responsibility for budget items such as property insurance, rates and utility charges. For example, while NSW PTP transfer recipients were expected to meet these costs directly, Aboriginal Housing Victoria was required to contribute only indirectly via fixed charges levied by the SHA. A state government proposal to significantly increase such fees in 2012 to improve government cost recovery evoked AHV opposition as it was seen as having a severe adverse impact on provider finances and, consequently, their potential for growth. This underlines the difficulties and risks associated with having split responsibilities for property management under a head lease model. Under the Tasmanian BHF model, a successor landlord is expected to pay water and sewerage charges, Council rates, and property insurance premiums.

### 4.2.4 *Housing allocations*

As might be expected, housing allocation obligations have been a standard element of transfer terms and conditions.

In re-letting subsequent vacancies, CHPs acquiring tenanted properties under management transfers have generally been expected to apply their existing allocations policies, already subject to formal regulation and/or contractual requirements. Under the NSW PTP program, for example, all CHP recipients were already party to that state's Housing Pathways system, under which all participating providers—Housing NSW and CHPs—assess applicants according to government policy on tenant eligibility and priority for allocation using a common assessment tool (Housing NSW 2010). Both forms of provider retain some discretion to select from priority applicant lists according to local circumstances. Under the Tasmanian BHF transfer, the recipient provider was expected to allocate new tenancies to applicants registered on the public housing waiting list, with at least 30 per cent of lets to 'highest need' applicants.

More specific requirements were imposed in relation to initial lettings of newly built homes acquired by CHPs through the NSW SHI vesting program. Here, as well as committing to Housing NSW policies and guidelines on tenant eligibility, providers also had to work to targets attached to each vesting package. These generally stipulated lettings to: homeless/priority applicants (40%), Indigenous applicants (10%), public housing decants—that is, tenants being displaced by estate renewal schemes (30%) and 'general housing' (20%).

In the case of the Victorian ACS, the target was for 50 per cent of allocations to the transferred properties to be made from the public housing waiting list. This prompted concern among recipient CHPs about the effect on their revenue and capacity to service repayments on loans, particularly since they had taken on all the financial risks associated with title transfer. The target was later modified to 'up to 50 per cent' to take into account the need to achieve both financial sustainability and the social objectives of the transfer. With scaled up transfers, which inevitably will include transfers of large estates of former public housing, the issue of appropriate allocation policies will need to be revisited as we discuss further in Chapter 8.

Given the expectation that rents will be set at levels 'affordable' to the households concerned, the social and employment profiles of a tenant cohort are critical prospective influences on landlord costs and revenue (an issue to which we return in Section 8.3.2). Therefore, in specifying allocations targets for transferred properties, state governments should ideally model the consequential financial implications. Without this rigour, tensions between CHP financial viability and leverage targets, on the one hand, and government expectations of social outcomes of transfers, on the

other, are likely to intensify, as foreseen in the 2010 review of the Victorian ACS transfer (and CHP leveraged supply program) by that state's Auditor General.

The Director of Housing should base future financial co-contribution targets on rigorous analysis, including analysing the impact on future tenant profiles. (VAG 2010, p.17)

#### *4.2.5 Tenant and stakeholder consultation*

Although on a scale far smaller than that seen in the UK (Pawson & Mullins 2010; Smyth 2013), there have been some instances of tenant resistance to public housing transfers in Australia. Proposals for large-scale handovers in Victoria in 2000 were denounced by some stakeholders as amounting to damaging privatisation, with opponents citing a range of anxieties including a lack of provider accountability, and the weakening of tenants' rights (Jacobs et al. 2004).

Critical views have also been articulated by some leading tenant voices in the more recent transfer debate. According to one NSW view, tenancy transfer from public to community housing is of concern because it will erode rights by closing off access to the Ombudsman and to the Administrative Decisions Tribunal, and lead to loss of security of tenure (Smith 2013). From the Victorian perspective, it has been argued that transfers would harm the prospects of housing waiting list applicants because CHPs in that state 'are required to house [only] up to 50 per cent of public housing applicants from the waiting list' (Victorian Public Tenants Association 2011). From Queensland comes the broader assertion that transfer from SHA to CHP conflicts with the status of housing as 'a basic need and therefore a government responsibility' (Daily Mercury 2013).

In respect of specific transfer proposals, unlike local housing authorities in the UK, Australia's SHAs are under no requirement to secure consent from a higher tier of government. Neither—again in contrast with the UK—is tenant majority backing required. Nevertheless, as explained in Sections 3.2 and 5.3, tenants' individual 'voluntary' choices on whether to sign up to a successor landlord are critical to the financial case for transfer. This provides a practical incentive for effective explanation and justification of the proposed initiative through tenant consultation. This might also be influenced by the presence of any active opposition in the locality, although little if any organised resistance was reportedly a feature of any of our case study transfers.

Among the case studies, SHA tenant consultation was most significantly exemplified by the AHV instance. Unusually, this can be portrayed as a substantially 'bottom up' initiative, driven by the Aboriginal Housing Board of Victoria (AHBV) and first elaborated in the 2000 AHBV strategic plan. This led to a negotiated transfer process, developed collaboratively between AHBV and the Victoria State Government, leading eventually to transfer of tenancy management from 2007 and transfer of asset maintenance from 2012.

Among the other transfer case studies, Tasmania's BHF probably represents the most inclusive, consultative instance. As acknowledged by non-government interviewees, the process in which the post-2010 Tasmanian Government had made active efforts to engage with major local stakeholders had helped to provide reassurance that a transfer program would be designed to fulfil a 'positive agenda' and would not result in an unconditional 'asset grab'.

Consultation with Clarendon Vale/Rokeby tenants at an early stage of the process included public meetings and detailed briefing of community organisations. From a local non-government organisation perspective, this was a positive experience and demonstrated genuine willingness to understand local concerns and, potentially, to

factor these into the tender specification. Such involvement did not, however, extend to formal local representation on the tender selection panel.

Being effectively 'invisible' to the tenants concerned, both the Victoria ACS and the NSW SHI vesting program required neither resident consultation nor community consultation as the dwellings were predominantly not estate-based. And, while it was crucial for individual tenants to be informed of the proposed change in advance, the NSW PTP transfers were progressed under a highly managed approach where community stakeholder engagement was apparently not treated as a high priority.<sup>20</sup>

#### *4.2.6 Residual state government involvement*

Properties/tenancies subject to management transfer by definition remain in state government ownership and—subject to the duration of the relevant lease—may be reclaimed for SHA direct management (or to be looked after by another provider). Properties handed over to CHPs in NSW and Victoria title transfers were also subject to some enduring state government controls. In the former, SHI recipient providers were expected to obtain government consent for any works to a transferred property that could impact on its value and must have government approval for any asset disposal and provide plans for subsequent reinvestment of proceeds. In the latter, homes transferred under the 2009 ACS were covered by a Director's note of interest on the property prohibiting sale without government permission (which was to involve 'best intent' and 'no unreasonable withholding of consent').

### **4.3 Larger scale transfers: possible process reforms**

#### *4.3.1 Competition in recipient CHP selection*

Increasingly among recent transfer programs it has been seen as appropriate to adopt an open tendering approach for the selection of successor landlords (see Section 4.2). However, while this tends to be a state government Treasury default expectation it may be problematic, if for no other reason than that it generates substantial transaction costs for all parties. This would become a major burden in the context of a framework involving multiple locally-specific transfers across a state.

Moreover, while open competition may be seen as advantageous in providing a degree of contestability at the outset, there is a risk that such a strategy may create an incoherent and inefficient pattern of post-transfer stockholding. If the objective is to create contestability in the post-transfer system, it may be appropriate to adopt a planned or semi-planned approach to initial handovers, such as that used in the NSW PTP.

#### *4.3.2 Landlord staffing considerations*

Since transfers have, as yet, been undertaken only on a limited scale, it has been possible for SHAs to absorb the staff redeployment consequences without the need for compulsory redundancies or mandatory obligations placed on successor landlords to employ former SHA officers. In the relatively large transactions being progressed in Queensland and Tasmania, aspirant CHPs have been requested to give consideration to taking on former SHA staff although the proposed tender terms do not make this obligatory. In planning for its forthcoming transfers, Housing Tasmania created headroom by restricting recruitment in the run up period so that new staff were recruited only on fixed term contracts.

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<sup>20</sup> Although the NSW Community Housing Advisory Committee and the relevant peak bodies (NSWFHA, Shelter, Tenants Union) and the Australasian Housing Institute (the professional association of social housing workers) were well informed and involved.

Under a scaled-up transfer program a ‘voluntary approach’ as outlined above would be more problematic. Historically, UK precedents established on this issue have appeared of only general interest because of the absence of any equivalent to the Transfer of Undertakings, Protection of Employment (TUPE) regulations emanating from European Union directives. TUPE protects the rights of state employees engaged in services outsourced to external contractors. Recently, however, the Australian Government has introduced similar legislation through the Transfer of Business Provisions legislation. The *Fair Work Amendment (Transfer of Business Provisions) Act 2012* places responsibilities on a successor employer in the case of services formerly provided by a state government being contracted from an external provider.

Under the new rules, where there is a transfer of state assets or services, former employees involved must be employed by the new provider on former terms and conditions. This protection lasts for five years. Pension entitlements under a new employer and ability to remain in an existing scheme will also be critical considerations for state government housing staff faced with a choice on whether to transfer to a successor provider.

Another respect in which the UK transfer model was configured to minimise the practical challenges of integrating staff into a post-transfer regime has been the typical preference for a newly-created rather than already-existing successor landlord. By easing the transfer of council housing department staff and enabling the change to be portrayed as ‘different logo, same job (but with more resources)’ this also built confidence in the proposal within the organisation. While this would represent a departure from the established Australian method of incremental handovers to existing providers, it would be logical to consider this possibility in the planning of any larger scale program.

#### *4.3.3 Tenant consultation*

Considerations about tenant influence on housing transfers are not just a matter of procedures for sanctioning (or not) a specific proposal (see Section 5.4). They should also encompass tenant involvement in the shaping of a transfer proposal that could include tenant representation in the successor landlord selection process. In the UK, estate or neighbourhood-level transfers have often involved tenants in an initial ‘beauty contest’ of potential successor landlords. Since a similar approach was recently applied in the assessment of a potential renewal partner for a major NSW estate, it would be wrong to view this kind of approach as purely idealistic in the Australian context.

While measures of this sort might be difficult to mandate in law, transfer planning should ideally allow sufficient time and resources for tenant capacity building and consultation in the early stages of a proposal. Such an approach would emulate Victorian Government practice as seen in the AHV transfer where the relevant tenant population’s opinions on the proposed transfer were sought before the plan was adopted (Section 5.3.2).

On the other hand, as noted by one research participant, the 2012 withdrawal of tenant participation funding by the Queensland Government could be seen as particularly aberrant given the large-scale transfer proposals emerging shortly thereafter, and the strong case for stepped-up tenant engagement associated with their planning and implementation.

## 5 TENANTS' CHOICE IN HOUSING TRANSFERS

Whether and how tenant views and preferences should influence the management of their homes and the identity of their landlord are crucial questions for social housing policymakers. This is especially pointed in the context of SHA-initiated proposals to transfer tenanted public housing to new landlords. How (or whether) tenant choice should influence such decisions is not only an ethical question, it is also a legal matter. Since it appears understood by most SHAs that they have traditionally lacked the legal power to mandate a proposed change of landlord, tenant choice in some form is an unavoidable component of housing transfer procedures under existing legislation.<sup>21</sup>

As noted in Chapter 3, of critical importance in the Australian administrative context are the implications of tenant 'transfer choices' for housing provider finances. An SHA may designate a dwelling for transfer to a CHP, but only if and when the tenant concerned 'voluntarily' signs over to the chosen new provider can additional revenue flow into the system by virtue of rental assistance to which the tenant is now potentially entitled. Accordingly, a crucial assumption incorporated within one transfer business plan was that 40 per cent of eligible tenants would switch to the designated new landlord at the outset, with 70 per cent moving across within two years. Moreover, as noted in Chapter 1, where significant numbers of tenants decline the offer of a landlord switch, this is likely to be problematic both in compromising any potentially realisable efficiency benefits, and in complicating the management of multi-unit blocks (see Section 6.3). It is for this reason that the ACS in Victoria, for example, was trialled on homes where the CHP was already the landlord for legal purposes.

In this chapter we evaluate how 'tenant choice' has been designed into public housing transfer programs in Australia. In terms of the originally specified research questions, the chapter is mainly addressing a key aspect of research question 3 (see Section 1.4.3). By drawing on the lessons from this research and from international experience, we discuss in Section 8.2 how this could be addressed in future transfers at scale.

The chapter is structured as follows. UK literature on tenants' choice in transfers is discussed first, providing the conceptual basis for analysis of our Australian case studies. The UK literature is used to chart, in general terms, the range of ideologies in favour and against increasing tenants' choice on transfers and the variety of mechanisms that could enhance or restrict such choices. We then discuss the Australian case studies which involved tenanted transfers—the AHV process in Victoria, the NSW PTP and the ongoing BHF program in Tasmania. We consider the range of options made available to tenants and the factors influencing their decisions whether to sign up to the new landlord. In the main, evidence is drawn from the NSW PTP experience, since this has formed the main vehicle through which tenant 'transfer choice' procedures have so far been tested.

### 5.1 The drivers, mechanisms and outcomes of transfer choice: the UK experience

In the UK, the scope for tenant choice in social housing has been at the centre of housing policy debate since the 1980s. To begin with, this centred mainly on the 'choice' made available to council tenants from 1980 on whether to take up a 'Right to Buy' their existing home. Latterly, however it has also encompassed other 'tenant

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<sup>21</sup> The phraseology 'most SHAs' refers to the Government of South Australia's belief that existing SA legislation would allow for mandated transfers in that jurisdiction(see Appendix 4).

empowerment' mechanisms such as in relation to property allocation (under 'choice-based lettings'), as well as housing transfers. Calls for greater choice have been flagged as countering the tradition of 'bureaucratic paternalism' which has compounded the stigmatisation of social housing (Pawson 2008, p.87). Despite the sector's essentially administratively governed (rather than market driven) nature, tenants and applicants have been cast as 'quasi consumers' with the freedom and responsibility to exercise choice as if operating within a conventional market.

Especially given the strong official adherence to the principle of tenant participation in housing management in the UK (Pawson et al. 2012), tenants' right to a major say in any proposed change of landlord has been universally accepted. Providing tenants with genuine choices in the realm of housing management has also been seen as a means of raising service delivery standards by creating a more competitive and consumer-driven environment for housing providers. It should, of course, be acknowledged here that the tenant participation ethic is much less firmly embedded in Australia than in the UK. Arguably, this in part reflects the lower incidence of large public housing estates in the former which may have militated against the development of the strong 'public housing tenant' identity and associated community activism as seen in the latter.

The mechanisms used to facilitate tenant input on 'change of landlord' proposals have varied over time. The specific Tenants' Choice scheme (*Housing Act 1988*) enabled dissatisfied council housing tenants to initiate a change of landlord through a collective vote. Successor landlords were required to lease back to the council those properties occupied by 'No' voters, as a means of accommodating both individual and collective choices. The scheme provoked controversy, partly because of the voting rules wherein abstention was counted as a vote for change, and because of the scope it aimed to provide for 'hostile takeovers' of council estates. In practice, the mechanisms developed to give effect to this latter objective were found virtually unworkable and consequently the scheme resulted in the transfer of only 1470 homes until its 1996 repeal (Pawson 2008, p.88). It is nevertheless mentioned here mainly because of its significance as a mechanism aiming (however imperfectly) to accommodate collective and individual tenant choices on change of landlord.

Under subsequent transfer programs rolled out across the UK, enactment of any proposed transaction was also conditional on tenant majority backing as demonstrated by a formal ballot (with abstentions discounted). While 'Yes' votes have predominated, roughly a quarter of pre-2010 ballots rejected transfer, thus suggesting that although providing a highly restricted choice, such votes were not merely tokenistic (Pawson & Mullins 2010, p.109).

Crucially, the ballot process described above provided transfer proponents—the council and its chosen successor landlord—with a discipline in terms of their 'offer' to tenants. The vote itself was framed by a 'transfer prospectus' making the case for change and setting out specified 'transfer promises' often developed in consultation with tenant representatives. Such commitments usually defined:

- The scope of a property upgrade program—the standards to be achieved within a given timeframe (usually five years).
- Undertakings on future rent levels.
- Tenant input into the governance of the successor landlord (usually including reserved seats on the board, as well as other consultative structures).
- Enhancements to existing landlord services considered important to tenants (e.g. more active management of anti-social behaviour).

Commitments on the construction of new (additional) affordable housing were also sometimes included.

Critics argued that the exercise of choice for one group of residents in this way has implications for other tenants to whom such a choice is not made available—especially future generations of (potential) tenants. Perhaps more significantly it was observed that transfer ballots constitute an extremely loaded choice, given that fresh investment is being made conditional on a change of status (from council tenant to housing association tenant). Thus, it was argued that although constituting a form of ‘choice’, landlord-initiated ballots are not empowering to tenants as proclaimed in policy (Murie 1995). Also relevant is the observation that, while transfer out of council management takes place only with tenant majority backing, housing association tenants have no right to a say in proposals—as frequently advanced in the UK context—for association mergers and takeovers (Pawson & Mullins 2010). Here, all that is required is the backing of the respective associations’ formal members, and regulatory approval that the change will (among other things) directly benefit tenants.

Based mainly on the UK literature, but using Australian terminology, Table 6 summarises some of the key factors or mechanisms that can increase or restrict tenants’ choice on public housing transfers.

**Table 6: Factors influencing tenants’ choice**

	<b>Maximal choice</b>	<b>Restricted choice</b>
Initiation of transfer	Tenant initiated; Two-way transfer options (SHA↔CHP).	Landlord initiated; One-way transfer option (SHA→CHP).
Design of transfer	Tenant input into terms of transfer/transfer promises	Tenants informed of transfer promises
Decision on transfer	Collective vote of tenants; Voluntary sign up by individuals; Option for reversion to SHA ownership/management if promises unfulfilled.	Mandated transfers; Ballots skewed by unequal resources available to SHA, including control over catchment area, ballot timing, and access to information about voters.
Treatment of tenants not wishing to transfer	Property remains under SHA ownership/management; Ownership transferred to CHP, but homes of ‘No voters’ leased back to SHA as tenancy manager.	Majority vote in favour of transfer is forced on individuals who voted against; Compulsory relocation of ‘No voters’ to other dwellings; Tenancy remains with SHA but landlord services potentially downgraded.

Source: Authors, based on Pawson and Mullins (2010, pp.108–12)

## 5.2 Tenant choice in Australian transfers

### 5.2.1 Overview

All case study transfer programs involving a potential change of landlord incorporated an element of tenant determination where, in contrast with the UK framework (see above), tenants were offered individual rather than collective choices. Within this, however, the specific choice frameworks varied somewhat between the case study programs. In this section we summarise the key principles of each approach, how it

played out in practice in terms of sign-up rates and its implications and emerging lessons for future transfer programs.

### *5.2.2 Transfer choice frameworks*

In the Aboriginal Housing Victoria (AHV) instance, tenants in the SHA-managed dwellings proposed for transfer were offered the option to decide whether or not they wished to transfer to AHV management or remain under mainstream public housing. A multi-step process for obtaining tenant consent was employed as outlined in Box 1 below. In a practice unique to this case, following information and consultation phases, tenant opinion was tested before individual consent was obtained. Over a two-year period, 1294 (90%) tenants opted for transfer to AHV.<sup>22</sup> For tenants choosing not to transfer, housing management services were 'mainstreamed' ('de-identified' as Aboriginal housing) and culturally-adapted policies no longer applied. This was the only apparent consequence of remaining as public housing tenants.

Under the NSW Property Transfer Program (PTP) and Tasmania BHF initiative, tenants were advised that their participation was voluntary—that is, subject to their individual choice. In New South Wales, this meant that a tenant could choose not to sign up with the new provider and that, in this event, their home would continue to be managed by Housing NSW. In the case of 'whole-of-area' transfers (where office network rationalisation was a scheme objective) this could mean that the tenant would cease to benefit from access to a local landlord base or could be required by the SHA to have their home managed by the successor landlord under contract. Some affected residents, however, mistakenly believed that resistance to tenancy transfer would lead to their compulsory 'out-of-area' transfer (see below).

In Tasmania, as explained in Chapter 3, all homes designated for transfer were subject to outsourced management from a specified date, irrespective of individual tenant choices. While tenants could retain their lease agreement with Housing Tasmania, their homes were required in any case to be managed by the contracted CHP from day one.

### *5.2.3 Tenancy transfer carrots and sticks*

What are the positive incentives for a public housing resident to 'voluntarily' choose to transfer their tenancy to a new and (for most of those concerned) unfamiliar agency? In the special circumstances of the AHV transaction, the high sign up rate achieved was undoubtedly partly due to an expectation among the Aboriginal tenants concerned that a better service would be provided under the management of an organisation run by their own community. In the words of tenants interviewed, they wanted 'to support their own'.

In the NSW PTP and Tasmania BHF transfers, tenants were likewise assured that under community housing they would benefit from the 'more responsive' or 'personalised' landlord service reputedly associated with CHPs<sup>23</sup> (see Section 3.5). In some PTP transfers it was possible to back such pledges by reference to CHP plans to establish a local office in an area where no public housing office previously existed—for example, as in the NSW Blue Mountains transfer and also in the Tasmania Clarendon Vale/Rokeby initiative. However, the researchers were not made

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<sup>22</sup> Of the tenants not transferring, a proportion did not meet a transfer requirement to enter into an agreement with the SHA to pay back existing rental arrears.

<sup>23</sup> Because staff of the CHP were unable to approach prospective tenants directly until they have signed a disclosure form, SHA frontline staff were first to approach many of the tenants. Some have been uncomfortable with the need to promote community housing management as superior to their own and may have presented a biased view.

aware of any defined pledges on 'improved customer service' against which successor landlords could be held accountable and transfer 'success' could be measured.

**Box 1: Steps to achieving tenant consent: AHV transfer case study**

1. A joint letter from the proposed successor landlord and the SHA was issued to all tenants of dwellings earmarked for transfer advising them of the proposal for tenancy transfer by individual tenant consent that would be subject to community consultation. This letter explained the terms of transfer and, in particular, provided details about rent changes (to enable the new landlord to charge higher rents that included RA payments).
2. Community consultation in or near all areas where housing for transfer was located. Meetings were attended by staff of the current and proposed landlord and Centrelink staff (to explain RA).
3. Letters to individual tenants asking each to indicate whether they would transfer their tenancy by ticking boxes on a form letter and returning that in a reply paid envelope. A short time period was allowed for this form to be returned. A target take up of 900 had been set; 800 indications of consent were received through this process. Formal approval of the tenancy transfer program followed this stage.
4. Letters to all tenants confirming that tenancy transfers would proceed and giving details of the roll out by region.
5. Sign up. All tenants were personally met or visited by staff of the current and future landlords on the same day to enable them to relinquish their existing lease and re-sign with the new landlord.
6. Continuing negotiation with tenants in arrears who wished to transfer.

In a similar vein, aspirant CHP landlords placed emphasis on raising tenant awareness of the 'added value' that a CHP could offer through social and economic programs over and above mainstream tenancy management services—activities of a kind not typical of public housing departments. As revealed through resident focus group discussion, services of this type were recognised as valuable by transferred tenants.

As was typically true in UK instances (Pawson & Mullins 2010), the prospect of a property upgrade was a significant positive incentive for tenancy transfer in a number of our case studies. This was particularly evident with respect to the NSW PTP program under which the recipient CHP was responsible for property maintenance backlog works only for homes occupied by tenants having formally switched to the new landlord. With the management and maintenance of other homes retained by Housing NSW, the properties concerned would remain subject to 'existing maintenance programs' applicable to mainstream public housing. If only by implication, opting against tenancy transfer meant forgoing the offer of any backlog works being undertaken in the near future.<sup>24</sup> At least in some instances, the message was more explicit: 'If you want your renovation you'd better sign up' as one tenant focus group participant recalled being informed.

The somewhat ill-defined nature of the 'property upgrade' transfer incentive, as described above, is also consistent with accounts from SHA and CHP research participants who emphasised their reluctance to over-stress this factor 'so as not to encourage unrealistic expectations'. This could refer to awareness that, given the inevitable variability of property condition within a specified portfolio, some homes

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<sup>24</sup> PTP successor landlords were expected to fulfill obligations within three years of the transfer, although some aimed to do so within much shorter timescales.

designated for transfer might already meet specified standards. Hence, an unqualified guarantee of post-transfer works might be an unjustified and inefficient use of resources. In practice, as revealed in resident focus groups, there was some tenant disgruntlement in instances where post-transfer inspections determined that homes required no 'upgrade works' because they were already compliant with required standards. Some saw this as a penalty for having maintained their home in good condition.

Under the Tasmania BHF model, by contrast, the recipient provider accepted responsibility for a (limited) upgrade of all transferred properties where required—irrespective of whether the occupier had formally changed their landlord. It was, however, noted by the CHP that, in the event that it secured additional funds or otherwise outperformed its business plan (e.g. in terms of signing up more tenants than projected), tenants having made the formal switch would be prioritised for 'increased levels of upgrades'. Here, therefore, a property upgrade as a 'transfer incentive' was somewhat less clear cut.

In another approach, the AHV took the view that, while it was their responsibility as the new landlord to bring houses up to standard,<sup>25</sup> this should not be used to induce transfers. As stated by a representative:

[AHV] didn't want it to be a carrot or gimmick, it was a responsibility.

As revealed through case study evidence, in some transfer programs tenant encouragement to 'voluntarily' sign up to a new landlord has involved sticks as well as carrots. Tenants subject to NSW PTP transfers were informed—verbally as well as in official literature—that, should they forgo signing up with the new landlord designated by Housing NSW, they could be required to relocate out of their home. As explained in the PTP Fact Sheet dated April 2010:

You cannot be forced to transfer to community housing. However, in some circumstances, Housing NSW may not be able to continue to manage your tenancy and property if you decide not to transfer to community housing. If this is the case, you may be asked to move to another public housing property.

This message seems to have been interpreted by some tenants as implying a forced move away from their home area:

The rumour that went around was that if we don't sign up we might be sent to some place like [remote outer metropolitan housing estate] so I just signed up [tenant involved in inner Sydney transfer].

In fact, it does not appear that 'out of area' moves were ever contemplated by Housing NSW. This is, at least, the strong implication of the following passage from the same leaflet:

In some cases, there may not be alternative public housing available in your area for you to transfer to. Housing NSW may then ask the community housing organisation to manage your tenancy and property on its behalf. If this is the case, you will remain a tenant of Housing NSW.

If 'compulsory moves' were to take place it would seem from the above that these might have been triggered by situations where the transfer of a single remaining tenant in a multi-unit block could simplify management arrangements. Whether or not it might have involved relocation away from a tenant's home area as well as out of

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<sup>25</sup> Fully funded by the SHA as former landlord.

their existing home, the forced move possibility seems to have been interpreted by some as a worrying warning.

The letter threatened people, the way it was written. It said that if you don't sign you will be moved to somewhere else.

The 'threatening' message was also conveyed in face-to-face communications. One tenant who initially declined to transfer, was later advised by [SHA] that since 70 per cent of units in his building had already transferred to the designated CHP, he too must sign up or else face the risk of a forced move:

I was really scared and worried that I have no choice and I must transfer to [CHP].

It is understood that forced moves of tenants resisting transfer have rarely if ever, in fact, been enacted. As noted by one SHA interviewee, management-initiated relocations incur significant financial cost for the landlord; furthermore, for some tenants dissatisfied with their current home the 'risk' of compulsory relocation might even be interpreted as a disincentive rather than an incentive to opt for transfer.

Nevertheless, in the PTP context, a proportion of residents felt that their consent to transfer had been obtained under duress. Looking back on the experience, some of those concerned saw the apparent absence of any subsequent Housing NSW compulsory re-locations of 'refusenik' residents as a breach of trust—if such action was never seriously intended, tenants thereby coerced into accepting transfer felt duped.

Many of the above-cited tenant comments about their highly constrained scope for choice highlight asymmetrical power relations and information, and the absence of provision for independent advice/redress for tenants to overcome this. However, it is not known how representative these views are of all tenants involved in the transfers.

#### *5.2.4 Tenant misgivings*

Although high, the rate of CHP tenancy sign-ups achieved in the AHV instance (see above) has not been entirely exceptional among transfer experiences to date. In regional NSW, PTP initiatives generally saw 95 per cent sign up rates achieved within three years, although in metropolitan contexts around 75 per cent was more usual.

Nevertheless, despite the possible penalty (see above), PTP sign up rates in some public housing multi-unit complexes have been problematically low; well under the Housing NSW 80 per cent threshold allowing transfer of responsibility for the common areas to the successor landlord. Despite the efforts of the relevant SHAs and their CHP partners to articulate the case for change, tenant focus group testimony suggests that, to many, the transfer motivations of the main protagonists seem to have remained opaque. One factor here might have been the rather problematic dynamic of tasking SHA staff with communicating the message that 'we are inferior'. Indeed, it was reported in one case study that there had been instances where 'off message' housing officers had advised tenants against the proposed landlord switch. For some of those remaining mystified about the underlying drivers for change there was a tendency towards scepticism and mistrust.

Beyond the above, and a general unease about change ('better the devil you know') specific concerns contributing to transfer reluctance as cited by research participants (tenants, advocates and administrators) included:

- Awareness and anxiety about the smaller-scale and more limited experience of CHPs compared to the SHAs.

- Worries about security of long-term tenancy and the need to sign a new lease agreement which starts as a fixed-term agreement albeit before rolling over to an open-ended lease<sup>26</sup>.
- Confusion about rent setting in CHPs and about the obligation to apply for RA. While it was explained to tenants that their out-of-pocket payment should remain unchanged because of their eligibility for RA as community housing tenants, some remained anxious and uncertain about the formally higher rents to be charged.
- Certain incentives to transfer (such as maintenance upgrades or a rent-free transition period) were viewed suspiciously by some tenants as a bait to a trap<sup>27</sup>.
- As explained by SHA and/or CHP staff, the policy motivations and objectives underpinning the proposed transfer were found by some to be vague and ambiguous (and therefore unconvincing) whereas the message that the transfer is a form of privatisation could be (and in certain cases was) strongly conveyed by activists in simple and understandable terms.
- Anxiety among those under-occupying larger properties that the transfer could increase the risk of their being required to move to a smaller property.
- Concerns (sometimes fuelled by activist campaigns) about sacrificing other tenancy rights.

There was also a sense among many individual tenants, who were not necessarily opposed to transfer, that it would be preferable to delay their consent until more information became available ('wait and see'). From another perspective, housing staff found that certain groups were more difficult to engage with, such as tenants with mental illness, older tenants and those with more limited English language skills.

## 5.3 Larger scale transfers and tenant choice

### 5.3.1 Problems with the 'individual choice' model

Aside from being (as understood) a legal necessity, the incorporation of tenant choice within housing transfer frameworks appears highly desirable from a citizenship perspective. However, as the above findings demonstrate, implementation in Australia has been somewhat problematic—even within the context of the relatively small-scale transfers enacted prior to 2013.

From the perspective of many research participants—including SHA and CHP administrators, tenants advocates and tenants themselves<sup>28</sup>—the 'individual choice' approach (especially as implemented in the NSW PTP) was managerially inefficient as well as sub-optimal in terms of tenant empowerment. Albeit that tenant participants in the research included only those who had chosen to transfer, not all of them believed the existing approach desirable:

I was always a bit puzzled about why it was ever needed to be done the way it was done. Why not just transfer management from [SHA] to [CHP]—end of

<sup>26</sup> It was also reported that the 2006 introduction of fixed term tenancies for new tenants of Housing NSW, justified by policy rhetoric that public housing is no longer meant to provide life-long homes, had heightened tenant anxieties about transfers. A material consideration here is that (at least in NSW) CHPs retain the power to implement 'no cause evictions' (i.e. where a tenancy may be terminated without the need to satisfy a court or tribunal that there has been a tenancy breach) from which public housing tenants are protected.

<sup>27</sup> As one tenant commented: '[SHA] is bigger. How come [SHA] cannot change our carpet and [CHP] can? That raised a big question mark. We were really scared about what's going on, maybe it's a trap—we'll move into [CHP] and maybe they'll kick us out some day'.

<sup>28</sup> Recognising that tenant participants in the research included only those who had (at least eventually) decided to sign up to the proposed new landlord.

story! To me it would have just made sense to not even include the tenant in the process. (tenant focus group participant, NSW).

As noted in Chapter 6, tenants of multi-unit developments, in particular, saw fundamental flaws in a system that could lead to blocks in mixed management. It is also clear from Section 5.3 that the threat of a compulsory house move for tenants opting to remain under state housing management has been problematic.

### 5.3.2 *Mandated transfers*

Among successor landlords participating in this study there was a consensus view that, within the context of larger scale transactions, retention of the 'individual choice model' was untenable. Since it could be more convenient from a managerial perspective, it is perhaps unsurprising that most SHA and CHP interviewees saw 'mandated transfers'—a state government having the power to enforce a change of landlord—as their preferred system. Given that, as it is understood by most SHAs, state governments currently lack such authority, this would call for legislative reforms. It is understood that the logic of this approach has now been recognised by the Queensland Government (see Appendix 4).

Under this logic, social housing is a 'community resource' and there is no case for privileging the preferences of existing tenants by giving them a pivotal say in whether a transfer should proceed.

It's not about existing tenants, but about the system needed to get the best outcomes for tenants in the future .... You have to be a bit hardnosed in the interests of getting a better system (senior SHA officer).

However, this solution to the tenant choice dilemma is essentially to deny choice.

### 5.3.3 *Collective choice*

An alternative way forward—albeit also calling for new legislation—would be to replace the individual choice model with a collective choice approach as used in the UK (see Section 5.2). Here, a proposed transfer proceeds only when backed by a tenant majority ballot and, in this event, the transfer is universal (rather than allowing opt outs for 'no voters'). Such an approach has been previously suggested for Australia, although with the rider that proposed transfers should proceed only with 75 per cent tenant support (Darcy & Stringfellow 2000). Analysis of the 344 transfer ballots held in England during the 1989–2007 period shows that while 76 per cent of proposals were approved on a simple majority basis, in only 34 per cent of cases would plans have proceeded if required to find favour with three-quarters of voters.

While any ballot threshold lower than 50 per cent would violate democratic principles, we do not believe it obvious that a higher figure would be justifiable. Also, while it might be contended as appropriate to require the support of an absolute majority of *all tenants* (rather than all voters), the counter-argument would be that if those unconvinced of the case for change do not feel sufficiently motivated to cast a vote against, their concerns may not be strongly held.

From a philosophical viewpoint, a ballot approach (whatever the chosen 'approval threshold') is consistent with a conception of social housing in which residents are vested with certain rights. This implies a governance model where a social landlord is substantially accountable to the existing tenant population (as well as to the broader community).

Clearly, a ballot approach contains inherent political risks—as illustrated by the UK instances of high profile transfer 'no votes' (e.g. in Birmingham 2002 and Edinburgh 2005—see Pawson & Mullins 2010). Here, substantial resources invested in transfer

planning and preparation were consequently wasted. However, a collective vote also has practical strengths. First, it shields government from politically damaging claims of high handedness, and ‘forced privatisation’. Second, it imposes a discipline on the state landlord to demonstrate the potentially beneficial outcomes of transfer from the resident viewpoint. Hence, the typical UK practice of determining, in consultation with tenants, highly specific ‘transfer promises’, to which successor landlords may be subsequently made accountable. Third, it confers legitimacy on any transfer so approved; given their practical irreversibility, this is of particular importance for title handovers.

It is, however, recognised that the applicability of a ballot model in the Australian context would call for careful consideration. First, as applied in the UK it is inherently connected with the constitutional framework under which local authorities have only limited autonomy from central government. Hence, the specific purpose of a ballot in this context is to secure Ministerial consent to a local authority-advocated transfer by demonstrating popular support for the proposal. Since Australia’s federal-state relationship is quite different, simple policy copying would be inappropriate. Here, a state government would be binding itself to desist from implementing a proposed transfer unless it could secure a given proportion of tenant votes. One possible way of adapting the ballot model to fit with Australia’s constitution could be for the relevant state government to require the relevant department to secure a given level of tenant support before approving a transfer, as applied in the AHV case study.

Second, the UK ballot model has been operated within the context of a transfer program where the aim to secure additional investment in upgrading existing housing stock has been overwhelmingly dominant. If primarily aimed at securing additional rent revenue for landlords, a transfer might attract tenant support only if it could be convincingly argued as thereby underpinning substantially improved (and/or widened) landlord services. If mainly pursued with the intention of leveraging investment for additional social/affordable housing, it is questionable how much support a proposed transfer could be expected to garner from existing tenants.

Third, vesting the current tenant population with a collective power of veto over a proposed transfer could possibly be seen as more appropriate in the UK context where the social renters’ security of tenure has been (at least until very recently) deeply ingrained culturally and embedded legally, than in Australia where these conditions do not hold so true.

Finally, the UK ballot model has related mainly to (irreversible) title transfers<sup>29</sup> and not to management outsourcing proposals on the short lease basis (e.g. three years) which has often been used in Australian transfers to date. That said, however, some management outsourcing transfers being progressed in 2013 are expected to involve lease terms of 10–20 years (see Appendix 4).

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<sup>29</sup> Although a partial exception here relates to the UK Government requirement that local authorities proposing to outsource housing management to arms length management organisations (ALMOs) demonstrate majority tenant support via a ballot (Pawson & Mullins 2010). Typically, the ALMOs set up during the 2002–07 period took on the stock management on a five or 10-year basis.

## 6 TRANSFER IMPACTS

As explained in Chapter 3, transfers so far undertaken in Australia have been motivated by a range of drivers, albeit that some of these have tended to be implicit rather than explicit. In calibrating transfer impacts we are constrained by the paucity of clearly specified and measureable objectives defined at the outset of most programs and—closely connected with this—by the almost complete absence of post-transfer monitoring and evaluation activity. As mentioned in Chapter 3, title transfer programs with attached ‘leverage targets’ have formed a partial exception to the general lack of specific goals. However, given the extended delivery timescales for such targets (e.g. the 10-year horizon in the NSW SHI transfer program) judgements on their success may be possible only some way into the future.

Within the above limitations, and largely drawing on case study evidence, this chapter reviews the consequences of the small-scale public housing transfers so far enacted in Australia. For consistency, the chapter is structured in a similar order to the discussion of drivers and objectives in Chapter 3. We begin, however, by looking at the contribution of transfers to the over-arching objective of growing community housing.

### 6.1 Growing community housing

Over the past decade, but especially since 2007, the ongoing decline of Australia’s public housing has been offset by substantial growth in homes managed or owned by CHPs. As shown in Table 7 below, in the eight years to 2011 the number of public housing dwellings decreased by some 12 000 to 331 000, whereas CHP-managed social housing dwellings increased by 31 000, more than doubling community housing provision, to some 58 000 (AIHW 2012, p.9).<sup>30</sup>

Community housing growth as enumerated here resulted partly from investment targeted on the sector in the form of direct financial assistance.<sup>31</sup> However, as shown in Tables 2 and 3 transfers undertaken in recent years have totalled well over 20 000. It is recognised that, because the ‘latest year’ figures in Table 7 relate to 2011, these will not fully encompass all SHI stock additions. It can, nevertheless, be concluded that transfers have accounted for around two-thirds of community sector expansion over the period, with about half of these involving homes taken on with former public housing tenants in situ.

Official statistics on community housing do not differentiate homes *managed* by CHPs while remaining in state government ownership from those *owned* by CHPs.

Also notable in Table 7 is that the extent of recent community sector expansion has varied substantially across jurisdictions. In New South Wales, tenanted ‘management outsourcing’ transfers were a major contributor to this development. In this state transfers completed by 2011 accounted for about 40 per cent of all CHP stock as at that time (see Tables 2 and 7). Only as a result of such transfers was the sector in New South Wales significantly larger (in absolute terms) in 2011 than the counterpart sectors in Victoria and Queensland. Of all the states, New South Wales has gone furthest in driving community sector expansion through transfers. Other jurisdictions

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<sup>30</sup> Excluding crisis and transitional housing.

<sup>31</sup> Over this period, growth via grants and subsidies has come mainly from the Australian Government’s Community Housing and National Rental Affordability Scheme (NRAS) programs in all states and territories, direct funding of CHPs under SHI in Queensland, WA and Victoria and under state initiatives, such as the Victorian Housing Association Strategy from 2005 and the NSW Planning for the Future: Community Housing from 2007.

have historically accorded greater priority to developing CHP capacity and expertise across a full range of functions including housing development rather than limited to housing management activities only.

**Table 7: Community housing as a share of public and community housing by jurisdiction 2003–11**

	Public housing dwellings		Community housing dwellings		Community housing as % of public & community housing	
	2003	2011	2003	2011	2003	2011
NSW	125,116	111,547	9,320	24,090	7%	18%
VIC	63,068	64,941	3,607	9,934	5%	13%
QLD	48,816	51,976	5,122	10,203	9%	16%
WA	30,737	33,840	3,358	6,952	10%	17%
SA	46,316	41,638	4,059	4,509	8%	10%
Tas	11,845	11,316	432	1,366	4%	11%
ACT	10,942	11,063	360	599	3%	5%
NT	5,720	5,050	97	248	2%	5%
Total	342,560	331,371	26,355	57,901	7%	15%

Notes: (a) Public housing figures exclude State Owned and Managed Indigenous Housing (SOMIH) (9820 dwellings in 2011) and community housing figures exclude Indigenous Community Housing (17 543 dwellings in 2011).

(b) Data on community housing dwellings refer to long-term mainstream community housing and therefore exclude: (i) state-owned homes under outsourced CHP management as crisis accommodation, transitional housing, supported accommodation and hostel/boarding type accommodation; and (ii) Indigenous community housing.

Source: AIHW (2003a, 2003b, 2012)

## 6.2 Revenue capture and system efficiency

As outlined in Section 3.2, the scope to increase rental revenue by shifting public housing tenancies into community housing has been recognised as an important transfer incentive. This benefit cannot be quantified precisely, but for the tenancies concerned it could boost system rental income by 50 per cent (base figures in Section 3.2, allowing for impact of inflation on 2009–10 values). On the basis of the listed assumptions, Table 8 below suggests that the additional rental income collectable at the national scale in 2013 would be approximately \$50 million.

In facilitating the expansion of chosen providers, it would be expected that transfers should have contributed to economies of scale in the community housing sector. However, given the paucity of data, it is difficult to speculate on the extent to which transfers might have contributed to enhanced system efficiency, more generally.

**Table 8: Estimated additional revenue from Rent Assistance in 2013 for 20 000 transfers**

Household type	Share of public tenants (%) <sup>1</sup>	Annual maximum RA \$ <sup>2</sup>	Estimated additional revenue \$m <sup>3</sup>
Single person	45.2	3,198	21.7
Couple	10.0	3,006	4.5
Family with 1, 2 children	30.2	3,746	17.0
Family with 3 or more children	11.2	4,237	7.1
Other households	3.4	Not estimated	Not estimated
Total	100		50.3

<sup>1</sup> Based on distribution of household / family types in public housing enumerated in the 2011 Census of Population and Housing.

<sup>2</sup> March 2013 maximum RA payment rate. See: [www.humanservices.gov.au/customer/enablers/centrelink/rent-assistance/payment-rates](http://www.humanservices.gov.au/customer/enablers/centrelink/rent-assistance/payment-rates).

<sup>3</sup> Estimate based on 75 per cent of households in category receiving maximum payment, remainder nil. Note that 75 per cent of all RA recipients were receiving the maximum payment in 2011 (Productivity Commission 2012, Table 16A.63). Estimate calculated for 20 000 households; assumes the occupancy of the 20 000 dwellings transferred matches the current profile of tenancies in public housing as a whole.

As noted above, under the NSW PTP model, management transfer was conditional on individual tenant consent. Homes occupied by tenants choosing to retain their existing landlord were retained in management by Housing NSW. However, ongoing responsibility for a scattered residue of homes occupied by remaining public housing tenants clearly compromises any 'efficiency gain' potentially achievable through transfer. Moreover, especially where multi-unit blocks are concerned, this outcome creates managerial complexities reported as problematic not only by housing staff, but also by tenants of such blocks:

When the building is not 100 per cent [SHA] and not 100 per cent [CHP], while you're in that limbo of neither, it is so confusing because as a tenant you can't ring [SHA] to say the common area lights are out. You have to ring [the CHP], for them to follow up with [the SHA] to get the lights fixed.

I got run around once from both ends, each one referred me back to the other—I mean, you've got to be kidding!

It doesn't work with two landlords. It should be one or the other.

I called [SHA] to fix it up, and they did nothing. I called the guy at [CHP] and he said he'll fix it up. But because it's not their responsibility, [SHA] told him not to do it. This is how hopeless [SHA] are.

As noted in Section 7.2, one of the benefits of housing asset transfers is the elimination of complexities around division of responsibilities inherent in management outsourcing transactions of the kind cited above.

### 6.3 Leveraging for new supply

Particularly since 2007, 'leveraging for new supply' has formed a key expectation underlying policy-maker advocacy of title transfer (Milligan & Pawson 2010). While ownership handover programs have, as yet, been few in number, some attempts have been made to put this into practice—as documented through our case studies focused on the Victoria ACS and the NSW SHI initiative (see Table 1).

In the Victorian instance, our research findings point to problems posed by the flat rate leverage requirement as imposed without detailed financial modelling to understand the viability of such a requirement. In his 2010 investigation, the Victorian Auditor General concluded that, at that time, 'the leveraging rationale for transferring the assets has not been realised, as only three of the eight recipient housing associations have used, or intend to use, the transferred properties as security for borrowings' (VAG 2010, p.viii). The state government was also criticised in relation to its leveraging target, on the grounds that there had been 'no ... modelling or analysis ... to establish the reasonableness of this debt target or the ability of the housing associations to meet it' (VAG 2010, p.15).

Some of the CHPs felt misrepresented by this assessment. Three of the eight housing associations did not agree to such a target. One CHP specifically informed the state department that it could not meet this target as their borrowing capacity depended primarily on revenue (or interest coverage ratio) rather than asset ownership per se (loan to valuation ratio). Since the CHP was already managing the properties, the title transfer did not affect their revenue position unless they changed the tenant profile.

Another recipient CHP, having explicitly re-confirmed its commitment to housing only those on the lowest incomes (effectively as part of the homelessness service system), did not consider that its Board had agreed to the state government's stated leverage target. Moreover, it believed that this had been acknowledged by the government at the outset. It also substantiated its position through an asset management plan incorporating detailed revenue and operating costs. This demonstrated the absence of leveraging capacity without a decision to alter its tenant selection policy. As understood by the CHP, the cost borne by the provider through continued adherence to its traditional allocations policy would offset the leverage requirement.

The other five housing associations delivered on their leverage targets although not within the original four-year time frame as they were preoccupied with developing and bringing on stream SHI dwellings. In all, 61 additional units were leveraged against a target of 58 for these five organisations.<sup>32</sup> A second problem associated with the way the leverage target was, in this case, implemented concerned the valuation of the transferred properties. This is further discussed in Chapter 7.

The NSW SHI leveraging framework was differently constructed. Here, CHPs tendering for a share of the 6000 state government-developed properties were invited to submit their own 'leverage offers'. These were specified in terms of the additional 'affordable rental' homes that a CHP would develop within a 10-year timeframe, associated with its projected additional borrowing (and repayment) capacity attributable to a given portfolio of homes. While detailed figures remain unpublished, it was reported in 2012 that consequential CHP leveraging gains were expected as totalling some 1200 dwellings over 10 years<sup>33</sup>—equating to 20 per cent of the planned number of vested properties (KPMG 2012). However, that figure probably represents the position as understood at the time that tenders were originally awarded, and this might have changed as a result of the partial renegotiation of contracts imposed by the incoming 2011 NSW government administration, and which remained to be fully completed even in mid-2013.

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<sup>32</sup> One difference with the NSW SHI title transfer leverage regime is that the further potential leverage from revenue surpluses over time on the additional stock is not measured here. Hence, these cases are not wholly comparable.

<sup>33</sup> It should also be borne in mind that some dwellings transferred under the NSW Asset Ownership Program (incorporated within SHI vesting—see footnote to Table 1) were expected to be replaced—for example, through enhanced site utilization. Hence, the net gain in stock numbers associated with the program may be somewhat lower than 1200.

The extent to which ‘leveraging offers’ prove deliverable in practice cannot, of course, be known for some considerable time. However, case study providers appeared confident in 2013 that their commitments were realistic. In one instance, the leverage development offer reportedly equated to a 31 per cent rather than 20 per cent dwelling increase.

All three NSW SHI case study providers anticipated a front-loaded leverage development/acquisition program that would have the advantage of bringing forward additional rental income set against the disadvantage of accentuating peak debt. ‘Leverage homes’ were to be constructed, in the main, for affordable (market-based) rather than social (income-based) rent, although this distinction may be less significant in regional areas where market rents are lower.

Although not part of our study, it is relevant here to note the different approach to SHI-backed leveraging as implemented in Victoria. There, CHPs receiving SHI funding were required to co-contribute 25 per cent (by value) through taking on debt partly secured against existing assets. ‘This approach unlocked leverage opportunities and growth from the beginning of the construction projects and allowed for additional dwellings to be built up front’ (KPMG 2012, p.38).<sup>34</sup> In other words, compared with the NSW approach this had the advantage of bringing forward leveraged additionality.

## **6.4 Housing allocations**

As discussed in Section 4.2.4, transfer recipient CHPs have generally been bound by housing allocation obligations.

In terms of tenant selection for initial letting, very specific allocations quotas were attached to NSW SHI transfers. While these appear to have been originally accepted with little debate, some proved problematic, not only in terms of the difficulty of initially identifying suitable applicants, but also as regards subsequent management issues. Apart from the requirement to house a stipulated proportion of Indigenous tenants, it is not clear that the mandated lettings profile was much different from pre-existing CHP practice. However, there is a lack of hard evidence on the new tenant profile associated with CHP lettings of transferred properties.

In terms of the Victorian ACS, the initial government requirement for 50 per cent of continuing allocations to be made from the public housing waiting list was not based on an assessment of its financial implications for successor landlords. In response to the latter’s expressed concerns on this point, this target was later modified to ‘up to 50 per cent’ (see Section 4.2.4). At the time of this research, however, recipient CHPs were said to be achieving an allocation rate of about 68 per cent to public housing eligible clients.

## **6.5 Tenant and community empowerment**

As assessed in Chapter 3, some transfer programs have echoed a standard aspiration in UK transfers by alluding to ‘tenant and community empowerment’ objectives. However, partly because such objectives have generally been specified only in rather general terms, it is difficult to evaluate the extent to which these have been delivered. Also, with one relevant case study transfer (Tasmania’s BHF) only partially implemented at the time of the research, it remained too early to judge its impacts in this respect.

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<sup>34</sup> However, in the case of at least one recipient CHP, this is not sustainable in the long-term and will involve some asset sell down in the future.

While less than unanimous on this point, NSW tenant focus group participants generally felt they were being engaged in a more proactive way by their successor landlord. Some commented that CHP staff were more accountable, accessible and flexible than SHA staff, and speculated that this reflected the smaller size of CHPs and their different organisational culture. Some tenant focus group participants, as well as CHP staff, noted with approval the local participation structures set up in certain instances. At a minimum, these had created tenant-landlord communication channels over and above those that had existed under public housing.

Unlike in the UK where formal requirements for tenant participation applied for transfers to newly created organisations (see Section 5.2), tenant input into organisational/housing governance has been somewhat constrained by the standard model that has operated in Australia, in which the successor landlord is an existing rather than newly-created CHP. However, such objectives were pursued in the restructure of the Aboriginal Housing Board of Victoria.

In establishing the board of the new organisation (AHV) in 2008, cultural connectivity was retained through several Board Directorships and through the Representative Committee of the Board which comprised members representing each of the eight AHV service regions. Nevertheless, AHV's CEO reported having needed to emphasise to the Aboriginal community that AHV must be run as a business that is financially viable and sustainable, if it is to grow services to them. However, a community member and tenant participating in our case study questioned whether control by Aboriginal people was being maintained as the organisation 'corporatised'.

## **6.6 Enhanced tenancy and property management services**

### *6.6.1 Tenancy service style and quality*

As noted in Chapter 3, in their advocacy of transfer, it has often been asserted that a major incentive for transfer from public housing to CHP management is that the latter will deliver a better or 'more responsive' service. Such claims may be justified in very general terms with reference to the national performance data showing a significantly higher 'tenant satisfaction' rate in community housing than in public housing (AIHW 2013). However, specific metrics that might confirm the contention of improved post-transfer tenancy services are unavailable at a local level.

As reflected by NSW tenant focus group participants, views about the standard of service offered by former and successor landlords were somewhat mixed although, on balance, participants tended to regard successor landlord staff as more approachable, responsive and customer-friendly than had been true under public housing:

With [CHP] they call you by your Christian name, you're not just a number. That's very big to me. Instead of talking to a machine you are actually talking to a person.

One tenant commented that even former SHA staff members who transferred into the CHP had become more responsive. Overall, there was a sense that there was a more 'tender touch' under CHP management than had been true under public housing control.

Some focus group participants, nevertheless, critically commented that statements about the improved post-transfer services tenants could expect were too vague and seemed mainly intended to mask the largely managerial objectives of the policy. The sincerity of such claims was questioned by residents concerned about the limited choice they were offered on the transfer (see Chapter 5). Staff in one CHP commented that their internal satisfaction surveys indicated that levels of satisfaction

among tenants who transferred from public housing under the PTP were generally lower than that of their longer-established tenants, but tended to improve over time.

Whether, as generally perceived, the 'greater responsiveness' of CHP staff reflected more ambitious service standards, better compliance with similar service standards to those of state housing authorities, or a generally more consumerist organisational culture was not clear.

### *6.6.2 Management and maintenance implementation*

To the extent that there had been any perceived shift in tenancy management policy implementation, a number of residents commented that the successor landlord implemented a somewhat firmer stance in responding to anti-social behaviour. This was appreciated.

Consistent with the overall sense of having benefited from a 'more responsive' landlord regime, tenants generally commented positively on day-to-day maintenance services. This was stressed, in particular, at AHV and among those subject to NSW PTP transfers. At the same time, as noted above, 'transferred' blocks continuing to house SHA tenants were problematic in terms of divided landlord responsibilities.

### *6.6.3 Community development activities*

While they may not have participated directly, a number of focus group respondents noted with approval the contribution of their new landlord to community activities. This referred to programs such as community gardening and social outings. Among one group, however, it was perceived that such provision was generally targeted at older people and that activities for youth might be an equal or higher priority.

### *6.6.4 Overall satisfaction with transfer*

Some matters that had aggravated tenants under public housing management were reported as having remained problematic following transfer. Issues such as lengthy maintenance timeframes, insufficient support to people with complex needs and stigma as social housing tenants often persisted despite the change of landlord.

However, while less than unanimous, a clear majority of tenant focus group participants believed that, overall, their transfer had represented a change for the better.

Although some remained uneasy about the non-government status of their new landlord and lacked confidence that their tenancies were as secure as those previously held, others saw such status as an inherent advantage:

My experience with government run departments is that there is a lot of apathy. I remember when Telstra used to be the only telephone service in Australia—that was just a joke, and when they corporatised, they changed from zero customer service to a big smiley face because of the competition. So my position was that if it is less government run, it will be better. And I think it has proven to be.

At the same time, however, tenants tended to remain generally sceptical that anything as superficial as a management transfer could remove the stigma of public housing, particularly in an estate context.

## **7 FISCAL AND ACCOUNTING CONSIDERATIONS**

In this chapter, first we examine fiscal and accounting factors that have influenced the form of public housing transfers to date. Second, we describe some key arguments for giving CHPs greater control over transferred dwellings, before discussing the main technical and political impediments to achieving this. Finally, we consider some possible ways to overcome technical barriers to those forms of transfers—involving CHP asset ownership or long-term leasing—that have the potential to optimise policy outcomes. The chapter addresses parts of research questions 3 and 7 (see Chapter 1).

Interpreting technical implications of government asset transfers called for specialised knowledge. Much of the information presented in the chapter has been drawn from interviews in several jurisdictions with current or former Treasury officials and senior housing officials. Specialist advice was provided by Australian and international experts in relevant fields. Responsibility for the interpretation of this information and advice of course lies with the authors. In presenting our assessment of these issues, our aim has been to shine a light on particular technical impediments to achieving transfer policy objectives. Further development of strategies to address these will require specialised investigation.

### **7.1 Experience to date**

A significant issue facing state governments and community housing providers alike has been the future ownership of social housing assets transferred to CHPs for management. As described earlier in the report, the terms of most social housing transfers to CHPs in Australia so far have been management transfers with operating leases for a limited period—typically three to five years—and then rolled over. In these cases, title to the properties concerned stays with the original owner, the SHA (or its corporate entity) which retains, in consequence, a long-term liability for asset upkeep.

Our research examined two transfer programs involving ownership handover from SHA to recipient CHPs; namely the SHI ‘vesting’ program in NSW and the ACS in Victoria. In both those cases, title transfer was designed primarily to enable the successor landlord to ‘leverage the asset’ to secure private finance for additional social and affordable housing. In these instances, the continuing public interest in the transferred properties has been protected by specific legal and contractual requirements on the recipient CHPs (see Section 4.2.6). This ‘protective right’ applies in addition to normal regulatory requirements for ensuring the management and upkeep of those assets.

Although the two title transfer case studies described in this report were conceived as potential precedents to larger scale title transfers, our research has identified a number of prevailing barriers to the extension of this model and, at the time of writing, planned transfers in Queensland, Tasmania and South Australia (Appendix 4) appear unlikely to involve title transfer, at least in the foreseeable future. Before discussing factors inhibiting them (and how, where desired, these may be overcome), it is important to consider why, under robust regulatory arrangements, having a policy of title transfers (or other longer term tenure arrangements) may be advantageous to CHPs and more broadly to the social housing system.

### **7.2 Asset ownership transfer benefits**

Interviews for this study and previous research suggest there is a strong public policy case for ownership transfers under robust regulatory arrangements and that transfers restricted to ‘management outsourcing’ transactions can generate only limited gains.

This understanding underpins the former Australian Government preference for title transfers as recently re-affirmed (Butler 2013). Potential financial, economic and social benefits of CHP ownership of transferred dwellings include the following:

- Greater scope for CHPs to grow their business and innovate by borrowing against their assets. Short-term leases and small balance sheets adversely affect the terms and conditions under which CHPs can secure private finance and increase their refinancing risks and costs. Successful international models of private financing of social and affordable housing through arm's length arrangements typically involve asset driven leverage and fiscal incentives operating in tandem (Lawson et al. 2010). In the Australian context, the imperative to maximise leverage of the existing asset is underscored by the lack of other sources of funding for additional social housing supply going forward.
- Better strategic asset management. It is desirable for CHPs to be able to make decisions about the portfolio of assets that they manage, not just maintenance of individual properties. This could, for example, involve reconfiguring assets to increase densities and provide more housing (and/or a more socially sustainable tenure mix); realigning housing mix to meet changing needs, such as for smaller dwellings; trading in assets to capture increased value; or disposing of poorly performing assets. In this respect, if CHPs lack effective asset control, there is likely to be no gain over the prevailing model under which asset management has been seen as a major shortcoming of government housing delivery due to a range of factors, including policy and funding constraints and SHA cultures and skills (Kenley et al. 2010). An associated 'better governance' argument is that, by insulating social housing asset management decisions from the vagaries of electoral cycles and politically-directed policy choices, title transfer is a reform with the potential to beneficially 'bring to bear commercial disciplines on the running of public services' (Pawson & Mullins 2010, p.82).
- State government financial liabilities for structural maintenance of the asset and asset replacement can be transferred to CHPs, which are in receipt of higher per dwelling rent revenues, resulting in long-term budget savings.
- Counterparty risks in relation to the division of asset management responsibilities between SHAs and CHPs can be eliminated along with associated interface costs. Having sole accountability for tenanted dwellings allocated to CHPs would also help to ensure that landlord responsibilities to tenants are not compromised by contractual complexities and related disputes that can arise from partitioning allocation of such responsibilities.<sup>35</sup>
- The financial control and operational flexibility of CHPs, which are governed as private corporations, is enhanced.
- Stigma associated with living in government-owned housing can be more effectively removed.

Also relevant to considerations of the capacity of CHPs as asset owners of former public housing is that many already have control of some component of their social and affordable housing portfolios, as a result of past policy approaches taken to asset ownership and/or their independent investment decisions. For instance, governments in several jurisdictions (notably Victoria, WA and Queensland) have provided capital and/or transferred redevelopment sites to CHPs to enable them to procure housing, or have entered into joint ventures or partnerships whereby government financing co-contributions are amortised over time, resulting in eventual ownership by the CHP.

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<sup>35</sup> There were several comments by CHPs and their tenants in our study on the extent to which decisions about addressing property maintenance and upgrading have had to be referred to the owner authority.

Since 2008, nearly 80 NFPs (including many larger CHPs) have been recipients of National Rental Affordability Scheme incentives under which they are investing in their own housing. Outside of the formal social housing sector, many NFPs operating in the aged care, disability and Indigenous sectors have housing assets that have been procured with government funding. In addition to the above, new properties that are being acquired using the asset and revenue streams generated via the transfer models described throughout this report will also be owned by CHPs. Instances of CHP ownership, therefore, are widespread and growing, and are subject to established governance and regulatory oversight.

We return to the policy case for asset transfers at the end of this chapter.

### **7.3 What are the current barriers?**

Our study identified a number of interconnected financial and accountancy barriers to public housing asset transfers and thus to achieving the potential policy benefits of such an arrangement. While some aspects of these are long standing, others appear to have taken on more significance in the recent context of fiscal austerity.

The major technical impediments can be grouped into three: adverse financial impacts on government budgets, accounting barriers and taxation considerations. Political barriers need also to be recognised, as discussed at the end of the section.

#### *7.3.1 Budgetary considerations*

##### **Budget effects**

A transfer of public assets involves a financial transaction that has the potential to affect the government's profit and loss position. Under current accounting standards, transfer of housing stock ownership will potentially be booked as a loss against the recurrent budget in the year of the transaction. Thus, despite the ongoing annual revenue savings which might accrue to a state government no longer needing to 'balance the books' of its 'loss making' SHA through an annual subsidy, the profit and loss account impact of the asset transfer in the relevant year may be seen as a fundamental barrier.

The quantum impact on government accounts will be dependent on two interrelated factors—the valuation of the assets in question and the transfer price (i.e. the CHP acquisition cost of the asset, if any). The approach to the valuation of public housing in Australia is broadly based on market evidence of equivalent asset values and liabilities but specific assessment methods vary by jurisdiction (Productivity Commission 2012, Table 16A.85). This differs from some international practice, such as that based in historic cost or use value (Gruis 2002).

In the UK, council housing transfer valuations have been based on a tenanted market value model which treats the portfolio 'as a business' in terms of its capacity to generate income over a given period, rather than as a potentially saleable capital asset. Hence, 'the basic idea behind the ... model is to value a bundle of social housing as a going concern in its existing use' (Bramley et al. 2004, pp.123–24). For transfer purposes, therefore, the valuation (or transfer price) is the Net Present Value of expected future income (rents and any anticipated capital receipts) less future expected expenditure (management, maintenance, debt servicing), usually estimated for a 30-year timescale (Pawson & Mullins 2010, pp.92–93). Importantly, therefore, the transfer price (see above) takes into account projected rent levels into the future as well as the liabilities being inherited by the new landlord in terms of costs associated with bringing the acquired properties up to an agreed minimum standard (and maintaining them in that condition).

There is a case for arguing that public housing valuation using simple market benchmarks is unrealistic because it is an encumbered asset that is required for delivering tenancy services to market-excluded households.

There could be a discussion about whether it is fair and reasonable if a public housing asset that always has and always will be used for this purpose should be valued this way [Treasury official].

In Australia any large-scale ownership transfer of public housing assets booked at market-related values will potentially have a major adverse impact on a state government's profit and loss account, depending on transfer price. To date the transfer pricing applying to those public housing transfers to CHPs that have occurred has been nil, in consideration of current maintenance liabilities and government requirements both for the continuing use of the dwellings as subsidised social housing and to leverage additional investment in the sector. In these small-scale instances, budgetary impacts were managed. In the ACS case (575 properties valued at \$155 million (VAG 2010)), the asset values were treated as a capital grant to recipient CHPs, resulting in a manageable one-off decrease in what was a healthy budget surplus at the time (2008).

Similarly in NSW, SHI asset transfers to the value of \$945 million were treated as a grant to community organisations in 2011–12 and there appears to have been a concomitant reduction in the balance sheet of the NSW Land and Housing Corporation (NSW Land and Housing Corporation 2012, pp.109, 137). Perhaps significantly, these assets were only acquired shortly before transfer and they were never managed by government; hence operating revenues and expenses were not included in budget forward estimates.

Again, Australian transfer practice has differed substantially from that seen in UK council housing transfers. Here, asset handovers have been treated as fully commercial transactions, with the acquiring housing association expected to pay the calculated transfer price (see above) to the disposing local authority which can then, in turn, apply the capital receipt to repayment of historic housing debt. 'Acquiring landlord' payments have been largely funded through private finance secured against the value of the transferred portfolio and to be repaid through projected rental (and other) income receivable by the successor landlord over the term of the loan.

Crucially, however, in the UK rent setting is cost-related and fixed according to dwelling characteristics rather than scaled to tenant income. Rather than being charged a lower rent (as in Australia), lower income tenants receive a social security income subsidy (housing benefit) to enable them to meet their fixed rent charge. These features of the UK administrative context help to facilitate transfer financial planning because a successor landlord's projected rental income is likely to be both higher (in relative terms) and more predictable (because it is insulated from future changes in tenant profile) than would be true in the Australian context.

Going forward in the Australian context, larger scale ownership transfers of public housing are seen as problematic because profit and loss accounts would be adversely impacted to a greater extent (although future liabilities would also be reduced) and the fiscal position of all state governments has deteriorated post-GFC. Additionally a number of state governments have made political commitments to maintaining or returning to surplus budgets. There may, however, be ways that the scale of any adverse impact could be reduced through actions affecting either valuations or the financial consideration for the transfer, as discussed in Section 7.4. Whether one-off or progressive absorption of the impacts or larger scale transfers would be preferable is also under discussion (Treasury official).

## Credit rating

While it has been suggested that large-scale public housing asset transfers at nil consideration could adversely affect a state's credit rating, several interviewees in this study downplayed the significance of this concern. One view was that as the credit rating is essentially determined by the government's net debt and its ability to service this, giving away public housing assets, carrying low debts (or nil in some jurisdictions), should have little negative impact. Another reason cited for the belief that this issue was manageable was the belief that credit agencies were well aware of the impaired nature of the public housing asset both in terms of the portfolio of tenanted properties not being 'tradeable' as well as carrying significant 'unfunded' repairs liabilities. Ratings agencies are also familiar with international models that involve asset-based leverage for improvements to and expansion of social housing via transfer of assets to regulated independent providers. Of course, extensive discussions with credit rating agencies would be a necessary precursor to any firm proposal.

### 7.3.2 Accounting barriers

Accounting standards apply to the reporting treatment of government-owned assets that are in the control of another entity. The nature and duration of the operating conditions determine how such assets are required to be treated in the public accounts. The general distinction that is relevant to transfers without title is between a (short-term) operating lease and a (longer-term) finance lease. The key conditions for recognition of a lease as 'short-term'—possibly of up to 10 years duration, although this would require a ruling—are:

- A significantly shorter lease term than the major part of the economic life of the assets (assessing land and buildings separately).
- Assuming a market-based rent, considering whether the minimum lease payments would be less than substantially all of the fair value of the asset.
- Ownership at the end of the lease is retained by the government and there are no purchase options for CHPs (expert advice).

Essentially this form of lease cannot provide for CHP financial independence, leverage would be sub-optimal<sup>36</sup> and asset liabilities would remain with the government.

Longer term leases (ranging from say 50 to 99 years) of dwellings at peppercorn rents may give CHPs greater operational control and flexibility than current arrangements (depending on the terms of the contract) and could support higher levels of borrowings on better terms, secured against the revenue stream they would generate.<sup>37</sup> However, for accounting purposes it is doubtful that an adverse impact on a state government's profit and loss account could be avoided because this type of arrangement would be deemed a finance lease without recompense, which would have to be recognised in the government's books in a similar way to an outright title transfer as discussed above. Specifically, if the transfer was made at nil consideration there would be an operating loss equivalent to the officially assessed value of the assets transferred in the year of transfer.

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<sup>36</sup> Independent analysis undertaken for the NSW Government for the SHI vesting program determined that the greatest increase in supply would occur through asset ownership rather than leasing arrangements (author knowledge).

<sup>37</sup> However, lending conditions will not be as favourable as if title was transferred because realisation of assets and their tradability are critical factors in financier determinations of their willingness to lend.

This suggests that beyond title transfer, there are further impediments to achieving some of the policy objectives of transfers especially those concerning appropriate risk allocation and leverage.

### *7.3.3 Tax considerations*

Section 3.2.2 referred to the different tax regimes that apply to government agencies and charitable NFP agencies as suppliers and managers of social housing. To the extent that any tax-advantaged functions of CHPs are circumscribed by their limited span of control, those benefits will not accrue to the social housing system. In particular, if the role of CHPs is contained mainly to housing management functions, potential GST savings on additional supply and refurbishment outlays for social housing will not be achieved while they continue to be functions of government agencies.

The degree of separation between a CHP and government will also be a consideration in the determination of whether the former can be registered by the Australian Tax Office as a charity and, therefore, eligible for the tax benefits outlined earlier in the report. Evaluation of this issue was beyond the scope of this study but it could become relevant under some prospective arrangements, such as where special arm's length vehicles were devised to hold assets.

### *7.3.4 Political barriers*

Public housing transfers in Australia to date have proceeded without significant or sustained opposition under state governments of both main political dispositions, although some limited community and tenant resistance has been encountered (as discussed in Chapter 4). However, concerns were expressed by some study participants that larger scale transfers (especially title transfers) may be resisted due to their susceptibility to characterisation as a form of 'privatisation'. Indeed, a preference for management outsourcing rather than title transfer in one case study jurisdiction was, according to a senior Treasury official, attributable to associated 'political' concerns rather than to any accounting considerations, such as anxiety over any impact on credit rating.

In appraising large-scale transfers of UK council housing to housing associations against a set of 'privatisation' criteria, Mullins and Pawson (2010) concluded that while commercial principles applied to the regime of the new landlords, tenants had generally benefited from this regime and the worst aspects of privatisation—profit taking and asset stripping—were not evident. Moreover, the contractual and regulatory obligations placed on the new social owners offered accountability that was arguably more rigorous than previous administrative and political accountability.

Experience with public housing transfers to date suggests that to overcome privatisation fears and risks, the terms of any transfer of public housing should be fully transparent and subject to stakeholder and tenant scrutiny and negotiation prior to decisions being made, and that enduring safeguards must be put in place to ensure that the social goals of transfers continue to prevail over commercial pressures.

## **7.4 Overcoming barriers**

In this section, we briefly identify some specific suggestions that emerged during our study as offering possible means of overcoming technical barriers to asset transfers, before returning to the arguments for attempting to do so. In introducing these ideas, we stress we have not established their feasibility nor assessed any associated wider implications, such as for general government policy and practice. It should also be recognised that, as noted by one former Treasury official, some housing department

bureaucracies have been able to invoke the 'budget impact' as a convenient defence against the major reform associated with asset transfer.

As argued by several participants in this study, there would appear to be a strong case for re-valuation of the public housing asset on a more 'realistic' basis. Even if retaining a market value-related approach (rather than switching to the 'social housing business' method used in the UK), the formula should incorporate allowance for the existing and continuing use of the dwellings to provide a community service. This could be expected to reduce the present book value by a substantial amount. Of relevance to the discussion in this chapter, the greater the value reduction that resulted, the lesser any future budget impact of asset transfers would be. Also factored into the calculation would be the future liabilities associated with public housing assets if they remained in government ownership.

To the extent that it resulted in a reduced public housing asset valuation, adoption of a new methodology as suggested above would have an adverse impact on a state government's balance sheet in the year of implementation, although this could possibly be mitigated by drawing on revaluation reserves held to accommodate such eventualities. Assuming such 'technical losses' could be managed in this way, a subsequent asset transfer at nil consideration would incur a reduced negative in-year impact on a state's profit and loss account. Whether it would be legitimate for this type of loss to be offset through application of revaluation reserves is uncertain.

The other means of reducing the net budgetary impact of asset transfers would be if there were some offsetting compensation—that is, a transfer price paid by the acquiring landlord. However, while inherent within the financing of UK council housing transfers (see above), this is problematic in the Australian context because of the rent setting system in which:

- Charges are tied to tenant incomes rather than landlord costs distributed across the housing stock according to property characteristics.
- Other than through collection of tenant RA entitlements by CHPs, social landlords are expected to make up shortfalls between costs of social housing provision and rental income from their own resources (e.g. annual government subsidy for public housing, cross subsidy from higher income tenants for community housing).

Further, any payment for the transferred assets would be counterproductive—directly compromising aspirations to leverage funding for additional supply and asset upkeep.

Another way would be to take a planned, gradual and longer-term approach to managing the budget impacts of transfers. This would involve removing public housing revenues and liabilities from forward estimates in preparation for, but well ahead of, any planned (and announced) transfer programs. Having legislation and bipartisan political support for transfers would be important to successful implementation of such an extended strategy.

Rather than the budget impacts of sequential transfers having to be absorbed gradually over many years in each jurisdiction, an alternative way forward would be a national approach, whereby Australian Government cooperation was sought to enable the impacts on state level finances to be mitigated in some way. Such a national plan could create the springboard for a decisive reform in the accounting treatment of public housing. The case for arguing for this resolution would include its value in overcoming the embedded budgetary problem presented by the public housing service system as currently funded (Hall & Berry 2007) as well as achieving social policy goals.

A possibly more easily attainable approach involves investigating whether developments in international accounting standards may offer technical ways of overcoming the budget impact of longer term leases. In particular, our attention was drawn to an international accounting standard<sup>38</sup> (currently under discussion in Australia), which contemplates assets in control of another entity via a service concession<sup>39</sup> being recorded on the accounts of both parties. If adopted, this practice could potentially provide CHPs with effective control of the assets over a long period, without incurring a loss to government. A precedent for such double book keeping in the housing sector has been in place in NSW since 1995. In this case, the value of the physical assets of City West Housing, which is a wholly government-owned private company that owns and manages affordable housing, is included in the state government's budget papers (NSW Government 2012, Table 1.6) as well as in the company's financial statement (City West Housing 2012).

## 7.5 Concluding comments

As outlined above, state governments appear reluctant or unwilling to transfer social housing assets to CHPs presently, citing technical and political reasons. However, even if the technical barriers could be overcome (and this seems a way off), there would need to be sound policy reasons for doing so. While we believe a strong policy case can be made, the evidence gathered for this study shows that such a case has not been well-developed and effectively prosecuted for most transfer programs that have taken place to date, whether these have been management or ownership transfers. In particular, there has been a lack of clarity and specificity about how transfers should or could benefit the social housing system and its end users, tenants; performance standards and measures related to the efficiency and effectiveness of successor landlords have been largely absent;<sup>40</sup> and there has been almost no monitoring of outcomes of transfers to date.

While many CHPs have been willing to take up transfer opportunities, they face considerable uncertainty and risk around how the dwellings they have received will impact on their future business performance. Therefore, it seems reasonable to conclude at this point that, in order to be able to overcome specific barriers to asset transfers and to garner political support, the policy case still has to be made. As put to us in different ways by two officials:

Why would you do more unless you had powerful evidence of what has been done to date and the outcomes?

The real challenge is to find the policy reason for change so that technical objections will be downplayed and worked around.

At the same time it is also widely acknowledged within government that doing nothing is not an option. Public housing as currently funded and delivered in Australia is not sustainable. State governments face mounting unfunded liabilities in their existing stock and each new dwelling added to the public housing sector is loss-making. In

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<sup>38</sup> International Public Accounting Standard 32: Service Concession Arrangements: Grantor, at [https://www.ifac.org/sites/default/files/publications/files/B8%20IPSAS\\_32\\_0.pdf](https://www.ifac.org/sites/default/files/publications/files/B8%20IPSAS_32_0.pdf) accessed 26 August 2013.

<sup>39</sup> A service concession arrangement (sometimes also referred to as a public private partnership) is an arrangement whereby a government or other public sector body contracts with a private operator to develop (or upgrade), operate and maintain the grantor's infrastructure assets, such as roads, bridges, tunnels, airports, energy distribution networks, prisons or hospitals. The grantor controls or regulates what services the operator must provide using the assets, to whom, and at what price, and also controls any significant residual interest in the assets at the end of the term of the arrangement [expert advice].

<sup>40</sup> While community housing regulators take some interest in these issues their main focus is on financial risk, governance and probity matters.

several jurisdictions sell down of assets has already begun as one strategy for reducing debt and/or restructuring retained assets.

Additionally, public housing applicants and tenants have experienced the regressive impacts of more than a decade of efficiency-dominated reforms, including significant rent increases, narrowing rules of entry, the introduction of harsh management controls and diminished security of tenure for new entrants. Such reforms notwithstanding, supply is declining due to stock 'cannibalisation' through forced sales to prop up budgets, waiting lists are growing, deficits continue to mount and service quality is mediocre (as measured by tenant satisfaction levels). Without fundamental reform of the social housing system, these adverse trends will accelerate. Well-conceived and well-managed housing asset transfers to CHPs have the potential to contribute to a positive social housing policy reform agenda, as we discuss in the next chapter.

## 8 POLICY IMPLICATIONS

This research has raised a host of policy implications. Some of these are at the technical or managerial level. However, others highlight more fundamental policy challenges. In particular, reflecting the conclusions of numerous preceding government inquiries and research studies, the findings again implicate the fundamentally unsound and unsustainable financial framework within which the nation's social housing remains locked. This chapter is, therefore, mainly devoted to discussing these issues.

First, we briefly revisit the case for ongoing public housing transfers and comment on the extent to which this calls for additional empirical evidence. Next, on the assumption that an ongoing transfer program is considered desirable, we summarise key process, legal and accounting reform recommendations (some already discussed in earlier chapters) that we believe need consideration, especially within the context of the larger scale transfers likely to be seen in future. Finally, we discuss the need for wider policy and funding reforms as highlighted by the research. As well as being a reflection on the evidence laid out in the main body of the report, the chapter is also informed by discussions at our Stakeholder Workshop convened towards the end of the project (see Section 1.5 and Appendix 3).

### 8.1 What case for public housing transfers?

Especially in recent years the pro-transfer dynamic in Australia has been motivated largely by state government recognition of the 'revenue capture' potential of transitioning public housing tenancies into community housing such that tenants become RA-eligible (see Chapter 3). In consenting to the resulting additional expenditure, the Australian Government has effectively incentivised the process, although the extent of this tolerance may be limited by the '35 per cent target' (if not by new policy priorities that might be enunciated by the new Australian Government elected in 2013). What superior arguments might be advanced to justify encouraging or incentivising further transfers?

Here, we refer back to the 'transfer drivers' discussed earlier in the report, and also to recent UK experience of social housing reform. Recent policy-maker engagement with a transfer strategy was strongly inspired by Minister Plibersek's 2009 reform commitments, as articulated in her *'Room for more: boosting providers of social housing'* speech. This laid out a vision for a more contestable social housing system in which the presence of CHPs operating at scale would end the historic dominance of public housing.

Beyond this, for some transfer adherents, the governance and culture of community housing has inbuilt advantages over public housing, both in terms of efficient use of resources and effective service provision. In particular, insulation from politically-driven priorities and electoral cycles, together with the disciplines associated with operating subject to corporate governance and commercial risk arguably provide CHPs with a business framework that is more conducive to strategic asset planning and asset management decision-making that is motivated by rational long-term considerations about effective use of resources.

Similarly, being single purpose organisations rooted in communities and with a mission to provide consumer-focused services, CHPs are perceived as less encumbered by the paternalistic and hierarchical mindset problematically embedded in public housing. In this view, therefore, CHPs are potentially better positioned to provide more responsive and effective services to tenants and to operate in a more socially inclusive and resident-empowering style. The extent to which they can

operate in this way depends on the degree of financial and other independence that they enjoy (within the performance requirements of a regulatory framework).

Particularly in the Australian context, however, it must be acknowledged that quantitative evidence to underpin arguments of this kind is to date fairly limited. There are as yet no metrics (for either landlord sector) that could shed light on whether CHPs—as currently constituted—deliver tenancy and asset management services in a ‘more efficient’ way than public housing providers. Part of the problem here is that few, if any, CHPs may have so far achieved an optimum size—hence, the importance of reference to international evidence on successful ‘mature’ NFP housing provision in countries such as the UK, the Netherlands and the US.

As well as supporting the development of appropriate metrics, there is a need for Australian governments to specifically define and quantify outcome objectives for transfer proposals and to use formative and summative evaluation methodologies applied to individual transfers and transfer programs with the joint aims of measuring their achievements and improving future practice.

On the specific point about tenancy management service quality, it is true that community housing significantly outperforms public housing as demonstrated by resident satisfaction survey data. Nevertheless, while the 2012 National Social Housing Survey found that 74 per cent of community housing tenants were satisfied or very satisfied with landlord services, nine percentage points above the figure for public housing (AIHW 2013), this might in part reflect differences in housing stock profile and historic tenant selection policies. Moreover, while representing the majority view, preference for the community housing regime was less than universal among the transferred tenants who participated in this research (for details see Sections 1.5 and 6.7).

The extent to which CHPs contribute added value in terms of ‘non-shelter outcomes’ is another area calling for calibration. A first step here—as in England—might be to measure the inputs (i.e. expenditure) committed by CHPs to such activities (National Housing Federation 2008).

In considering the above arguments it should be noted that a distinct set of contentions specific to *title transfers* is laid out in Section 7.2. As reasoned in that section, it is only with title transfers that the necessary modernisation and restructuring of social housing assets is likely to be realised.

## **8.2 Process, legal and accounting reforms for consideration**

### *8.2.1 Process reforms*

Towards planning and progressing future public housing transfers, our research has highlighted the need to develop stronger operational processes. Since the following suggestions have already been discussed in some depth (see Chapter 4), they are outlined here only in summary.

#### **Successor landlord selection**

While successor landlord selection is increasingly being determined through competitive tendering processes (see Appendix 4), there is a risk that, as well as being expensive in terms of transaction costs borne by state governments and CHPs, this could be counter-productive in the longer term if it results in a haphazard pattern of stockholding that fails to maximize contestability. Moreover, there is a problematic tension between competitive tendering and partnership working.

One suggestion is that a form of tendering involving ‘prequalification’ may be more suitable. Determination of those CHPs that are qualified should not, however, be

based on regulator-designated 'tier status' (e.g. tier 1 organisations only) since this calibrates an organisation's risk status not its financial or managerial calibre.

As further outlined below, there could even be scope for tenant involvement in the successor landlord selection process.

Beyond this, it is important to recognise that tender transactions and assessments rarely represent the final and decisive act in a commissioning process—negotiation nearly always takes place with a preferred bidder and may result in an outcome significantly at variance from undertakings made in a bid. Therefore, presenting tendering and negotiation as polar opposites is misleading.

### **Staff transfer**

Following the introduction of national legislation concerning public service transfers, successor landlords may be required to absorb state government staff concerned with managing public housing subject to transfer, which will have implications for the viability of transfer proposals. As expressed by one workshop participant, 'prospects of [partial] freedom from the highly restrictive public housing policy environment and the opportunity to work in a more functional sector would likely motivate staff to transfer, given assurances on retention of existing entitlements'. Negotiated 'transfer settlement' options potentially worthy of consideration could include (a) making a successor CHP responsible for transferring staff salaries, with the SHA retaining responsibility for accrued benefits and/or (b) initial secondment of SHA staff to the successor landlord for a limited time period.

### **Staging the process**

There is a need for stronger planning and more realistic staging of transfer processes. This has several aspects. Of greatest importance is recognition of the time and resources required for effective tenant consultation in the early stages of a proposal. Implementing transfers as an entirely top down process only compounds the already well-established disenfranchisement and disempowerment of public housing tenants and fails to take advantage of transfer as a vehicle to stimulate tenant engagement. As an aspect of this, with the active buy-in of state and territory governments, good practice advice on tenant engagement in transfers needs to be drawn up with the participation of both social landlords (SHAs and CHPs) and tenant advocates. Similarly, to ensure successful negotiations with a successor landlord, a lead-in time significantly greater than that typically allowed in past transfers should be allowed by SHAs so that CHPs can exercise effective due diligence to assess the assets and liabilities being acquired. Support for this process also entails provision and appropriate sharing of information.

#### *8.2.2 Tenant choice and related matters*

Beyond the above-cited 'process reforms', Chapter 5 draws attention to the problematic incorporation of the 'individual choice' model within the tenancy transfer projects so far completed. While a 'mandatory transfer' model has tended to be seen as the preferred way forward among social housing providers, we believe there is a case for considering, instead, a 'collective choice' approach where the relevant state government and successor landlord work to secure majority support for a proposal by effective communication of a clearly specified case for change.

State governments might, of course, feel reluctant to burden themselves with a need to 'earn' tenant consent. However, it should be emphasised that this suggestion could be politically advantageous, since a tenant-backed proposal would shield government from potentially damaging claims of high handedness, and 'forced privatisation'. On the other hand, it could unduly politicise the process and may give rise to 'scare

campaigns' which are ill-informed. Ultimately, however, it is only through having an open and transparent process of communication and consultation involving the tenant population and the wider community that public backing for a program of large-scale transfers can be secured. More broadly, even if 'mandated transfers' were to become standard practice, there is a strong case for the promotion of substantive tenant involvement in the shaping of a transfer proposal—for example, in drawing up the post-transfer service specification, or even in selecting the successor landlord.

Whether through mandated transfers or collective tenant choice, most state governments appear to believe that new legislation will be required in order to move beyond the individual tenant choice approach. Linked with this—and irrespective of whether achieved through such legislation or through a commitment to honouring good practice guidelines—there is a case for instituting safeguards guaranteeing that transferring tenants do not experience any weakening of their tenancy rights as a result of transitioning to a new landlord. For example, in England there has been a standard expectation that 'stock transfer promises' include a successor landlord commitment to forgo use of the existing power available to housing associations—but not local authorities—to implement 'no cause evictions' (i.e. repossessions secured without the need for court confirmation of a tenancy breach).

At a wider level, across all Australian jurisdictions, governments could usefully commit that transferring tenants (and subsequent occupants of transferred housing) retain access to mechanisms for appeal against administrative decisions at least equivalent to those available in public housing.

### *8.2.3 Accounting reforms*

As regards the preferred legal form of transfers, Chapter 7 outlined the potential benefits of title transfers or, alternatively, longer term (finance) leases. While recognising a number of important financial and accounting barriers to such transactions, it also suggested various possible means by which these might be addressed. Specific ideas included:

- Revaluation of public housing assets on a 'more realistic' basis, fully recognising their condition and current use—with the 'book loss' on state/territory balance sheets being potentially accommodated through state revaluation reserves.
- Removing public housing revenues and liabilities from state government forward estimates in preparation for, but well ahead of, any planned (and announced) transfer programs.
- Investigating whether developments in international accounting standards may offer technical ways of overcoming the budget impact of long-term transfers—through inclusion of the asset on the balance sheets of both state government and successor landlords.

Attempting to secure state government approval for such 'heretical' ideas might of course be considered ambitious. However, as noted by one Treasury official participating in the research:

Treasuries have not been averse to operating deficits ... if there are sound public policy reasons.

This takes us back to having a principled and evidenced policy case for transfers (Section 8.1).

#### 8.2.4 *The case for a minimum acceptable property standard*

One final ‘technical reform’ that we consider will be required as a crucial component of the ‘policy architecture’ for any larger scale transfer program is the development of fit-for-purpose outcome-based property condition/quality standards for social housing.

As shown in Chapter 3, the goal of facilitating ‘leverage’ has become an increasingly important policy driver for transfers, with this being portrayed by some as a primary means of developing additional social/affordable housing. However, where transfers involve existing public housing, the scope for devoting any associated ‘leverage potential’ to the development of new housing needs to be weighed against the need for reinvestment in the transfer portfolio itself. This case was recognised by the Victorian Government in setting the desired new provision leverage target for its ACS transfer initiative.

Given its financially constrained circumstances, it could be expected that public housing will have experienced significant disinvestment in recent decades, with an accumulating stock of homes in substantial disrepair and/or lacking modern facilities. Albeit indicative in nature (tenant reported), survey evidence suggests that 25 per cent of all public housing stock was of an ‘unacceptable’ standard<sup>41</sup> in 2012, with state/territory figures ranging from 17 per cent for Queensland to 32 per cent for NSW (Productivity Commission 2013, Table 16A15).

In any larger scale transfer programs to be progressed in future, we believe that, provided there is an economic case for their retention, it would be appropriate for the upgrading of existing dwellings to secure first call on any ‘leverage gains’. (By implication this will require an additional supply strategy, as discussed in the next section.)

Gauging the implications of adopting such a principle would call for (a) the establishment of clear benchmark social housing condition and facilities standards, (b) the commissioning of stock condition surveys incorporating such standards, c) options appraisals on how to address identified non-compliance and (d) translation of survey results into costed ‘investment needs’ estimates. Together with the establishment of a target date for achieving universal compliance, the creation of such standards in the UK proved a powerful tool in channeling new investment into social housing in the period 2001–11. In England, for example, the proportion of stock non-compliant with the UK Government’s Decent Homes Standard was cut from 37 per cent to 6 per cent over this period (Pawson & Wilcox 2013, Figure 2.2.7).

It is recognised that forms of condition/quality standard for existing social housing are already defined by some if not all SHAs. However, earlier AHURI research suggests that such standards are problematic—at least from the CHP perspective. CHP research participants in the Kenley et al. (2010) study were reported as expressing ‘frustration’ on this issue, with respondents variously commenting that benchmarks defined in their state were out of date, inconsistent, or lacked common terminology and ‘evaluation metrics’.

For example, the relevant NSW document ‘Asset Performance for Existing Dwellings’ (Housing NSW 2009) is primarily a detailed manual for determining whether particular building components are of acceptable condition. This is clearly of substantial technical value. The document does not, however, specify in any comprehensive and easily intelligible way, the minimum acceptable facilities and physical condition of a

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<sup>41</sup> A house is assessed as being of an ‘acceptable standard’ if it has at least four working facilities (for washing people, for washing clothes/bedding, for storing/preparing food, and sewerage) and not more than two major structural problems.

dwelling (e.g. as regards the maximum tolerable age of equipment, in terms of safety considerations such as the presence of lead paint, or with respect to 'building performance' issues such as thermal efficiency and thermal comfort ratings).

## **8.3 The imperative for social housing finance reform**

### *8.3.1 Backdrop*

State government interest in transfers in recent years has been motivated mainly by the view that these could provide an escape route for public housing trapped in a downward spiral of disinvestment and asset sales imposed by a financially unsustainable funding model (Hall & Berry 2007; Jacobs et al. 2013). Achieving adequate funding for social housing in Australia has been a long-running challenge. In reviewing this issue two decades ago, the Industry Commission (1993) made the case for public and community housing provision as a social service and proposed specific reforms designed to enhance its sustainability. While attention has subsequently focused mainly on the financially unsound state of *public housing*, this is only an aspect of a wider problem affecting the *social housing* system as a whole.

The latest comprehensive analysis of associated issues was undertaken in the Australian Government's Review of Taxes and Transfers (the 'Henry Review') in 2010. A set of reforms involving Rent Assistance, the National Affordable Housing Agreement, housing-related tax expenditures and other housing market interventions was proposed (The Treasury 2010).

Crucially, Henry favoured the replacement of income-related rents by a system where the gap between market-based rents and affordable charges was bridged through the social security system, rather than from social landlords' own resources. Positioning the necessary subsidisation of social housing as a national social policy responsibility would help to create a sound financial basis for all providers—whether state governments or NFPs. Equally, it would provide a rational basis for decisions about the best form of provision to be informed by higher level policy priorities (e.g. the inherent qualities of CHPs versus public housing landlords—see Section 8.1) rather than by state government budgetary imperatives. However, despite attempts through the Council of Australian Governments (COAG) and other forums, the measures to reform social housing financing proposed by the Industry Commission, by Henry and others have remained largely unimplemented. Commonwealth leadership will clearly be required.

### *8.3.2 Financial sustainability and social mix*

While capturing additional revenue via RA is an understandable transfer motivation on the part of fiscally-constrained state governments, it remains to be demonstrated that devolving tenancies to somewhat better-funded landlords will resolve the embedded funding problems of Australian social housing as outlined above. Moreover, as noted in Chapter 3, without any explicit Australian Government commitment on the matter, it cannot be assumed that further 'RA capture' can be achieved.

Although CHPs have generally been in a stronger financial position than SHAs, previous research attributed this partly to indirect sources of subsidy, voluntary labour and not provisioning for asset depreciation (Hall & Berry 2009). Considered on a comparable basis to SHAs, that research showed that many CHPs faced operating deficits.<sup>42</sup> Industry experts concur with modelled projections (Sphere Analysis 2010) that the RA boost to CHP rental revenue (as against the public housing comparator) is

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<sup>42</sup> It should be noted that this analysis predated rent setting reforms that have increased the revenue take from RA for many CHPs.

in itself insufficient to make community housing fully financially sustainable in the longer term (at least, in the event that a fully needs-based allocations policy is part of the package—see below).

As in Tasmania (see Appendix 4) prospective transfers might be made more financially palatable by devices such as the incorporation of state-owned developable land at discounted prices. However, unless and until the fundamentally defective financial architecture of social housing is tackled, CHPs contemplating the submission of transfer bids would be well-advised to consider carefully their participation in a process that could amount to little more than the inadequately funded offloading of state government liabilities. Therefore, in the face of invitations to enter competitive transfer tenders, providers and their boards should probably be wary of the 'growth at any cost' mentality. From the government perspective, it will surely be recognised that if transfers progressed on unsound financial terms led to CHP insolvency or demonstrated service failure, this could result in serious reputational and political damage for the sector and state government alike.

... if the system isn't properly fixed the outcome will once again become a problem for government, so government should have a keen interest in ensuring transfer ... does lead to sustainable, beneficial outcomes [Stakeholder Workshop participant].

Interrelated with these considerations is the issue of a CHP's post-transfer allocations policy obligations and the consequences for tenant social mix. Under current subsidy levels, the 'layering' of 'very low income' applicants and others (e.g. those on 'moderate incomes') is crucial in underpinning business plan viability for leading community housing providers taking on long-term responsibility for their assets and embarking on private financing of growth (Milligan et al. 2013). Therefore, from a financial perspective, alone, it is hard to see how a potential successor landlord could—under current policy settings—contemplate a large-scale transfer incorporating across-the-board application of existing public housing allocation policies where all vacancies are designated for highest need applicants.

In any event, especially where public or community housing is configured in estates, it is questionable whether it is socially desirable to target all allocations to the most needy. Relevant here is the argument that the decline of public housing is partly attributable to stigmatisation and loss of wider community support compounded by such policies. Indeed, the NSW Audit Office has recently questioned whether such policies should be maintained even within public housing:

The application of some HNSW policies focuses on the urgent needs of priority clients, elevating the achievement of one legislative objective. This limits the achievement of others such as social mix and maintaining efficient housing administration. (NSW Auditor General 2013, p.4)

If such a statement were reflected in policy it might mean the adoption of a presumption against the rehousing of 100 per cent highest need applicants in *any* spatially concentrated social housing—whether under public or community provider management. Leaving this on one side, however, the main point is that the planning of large scale public housing transfers in Australia will necessitate interrelated debates on both the financing and allocation of social housing.

### *8.3.3 Finance reform agenda*

We believe the research evidence and other considerations discussed above accentuate the case for far-reaching social housing management and financing reforms of the scope cited above; to include, in particular:

- Clarification of the social policy objectives of social housing, including tenant profile and incomes, which is essential to underpin both social and financial sustainability in the NFP and public housing sectors.
- An expert review of social housing rent setting policy to determine the most effective way in future of both protecting affordability for tenants while minimising work disincentives, and driving the efficiency of, and improving financial certainty for, providers.
- Calibration of the minimum ‘per dwelling’ level of recurrent subsidy required to fund the actual differential between efficient costs of provision (as established by independent benchmarks) and forecast rent revenues (allowing for RA-entitlement, affordability objectives and the desired level of social mix—see above).
- Development of a minimum acceptable property standard for social housing (see Section 8.2), and an expectation that states and territories assess compliance of their existing social housing stock, undertake options appraisals for these assets and estimate the cost of remedying identified non-compliance.
- Determination of the level of future provisioning necessary to maintain social housing at the designated standard.
- Assessment of the level of private financing of new supply and/or asset renewal that would be sustainable for an efficient CHP provider (i.e. one that meets the cost benchmarks), with or without title transfer, and thereafter designing a ‘per dwelling’ public co-payment mechanism that will be required to support investment in the supply of social housing by CHPs.
- Determination of the preferred way of providing operating and supply subsidies—for example, via payments to tenants or landlords.

#### 8.4 Progressing housing transfers

As reflected by discussions at our stakeholder workshop and in previous research on this policy community (see Jacobs et al. 2013), there appears to be a growing and now widely held belief among informed policy-makers and industry representatives that large-scale transfers are both an essential and inevitable prospect for Australia’s public housing. In this view, the policy debate should be focusing on how, not whether, such processes can be enacted. As put by one stakeholder workshop participant:

There would need to be strong evidence that transfer is not the best approach in order to mount any realistic challenge to the current policy direction.

Equally, the findings of this research demonstrate that there are many challenges and obstacles that would need to be overcome to drive the process forward.

Crucially, however, in concluding this report we would endorse the view that transfer of both management services and assets to a diversified group of regulated social housing landlords offers the best potential to modernise public housing, to overcome its poor image, and to create a platform for attracting future political support and encouraging new investment. This judgement is underpinned not only by the broadly agreed need for reform of current arrangements in Australia but also by the positive outcomes that have resulted from transfers and associated third sector expansion elsewhere in Europe and North America. Importantly, future plans should allow for sufficient landlords operating at scale to drive efficiency, innovation and choice, as well as allowing for specialist providers.

Next steps should involve action in both political and policy development spheres as argued below.

Although they offer important lessons for the future, the relatively small-scale transfers progressed in Australia pre-2013 could be presented as experimental and 'technical' in nature. In terms of public and media visibility, it has been possible for the policy to 'fly below the radar'. In other words, its inherently 'political' nature has been suppressed. If the process is to be significantly scaled up, however, it is unlikely that this will remain tenable. Therefore, while it might already command support among informed sections of the policy community, the policy will need to win solid support from elected parliamentary members. It will need to be justified and defended in the public arena using political arguments and political language. Convincingly demonstrating the prospective tenant and community benefits and differentiating housing transfers from privatisation of the asset-stripping variety will be key elements of this communication challenge.

A realistic (and not oversold) portrayal of what transfers alone can achieve will also be vital; recognising that in some past pronouncements there has been an unrealistic loading of objectives onto this one policy mechanism. In particular, it must be recognised that the transfer of some or even all of the existing public housing assets to NFP entities can make only a small contribution to the additional housing supply required to meet forecast housing need (Australian Government 2010, p.89).

Alongside the development of a political narrative on the rationale for a much more diversified social housing sector, governments should collaborate in commissioning financial modelling to calibrate the minimum resource requirements to sustain an efficient and sustainable multi-provider system. This information is essential to the respective decision-making of governments proposing, and successor landlords accepting, large-scale transfers.

With the arrival of a new federal administration in September 2013, the time is surely right to reinvigorate this debate. Only through a concerted policy development process evoking commitment from both main levels of government, and including close collaboration with the community housing sector, the tenant population, the research community and other stakeholders, is significant progress a serious prospect.

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# APPENDICES

## Appendix 1: Key stakeholder interview topic guide

SHA senior manager	State Govt treasury rep	CHP Chief Exec	CHP CFO	Tenant rep	Questions
					<b>1. Background</b>
✓	✓	✓		✓	a. How did the transfer proposal arise? When was it first proposed / known to you?
✓		✓			b. How was the (geographical or other) remit of the transfer determined?
✓	✓	✓	✓	✓	c. What were/are the specific objectives of the transfer? In what document are these objectives specified?
✓		✓			d. To what extent were the transfer objectives negotiated between the parties? What was the outcome of the negotiations? For example, changed financial provisions.
✓		✓	✓		e. How is the success of the transfer (to be) measured or assessed in relation to the specific objectives? What are the indicators? How are these monitored/policed?
✓		✓			f. How did the SHA go about selecting the recipient CHP(s)? If this involved a competitive process, how was that undertaken?
					<b>2. Transfer terms</b>
✓	✓	✓	✓		a. What are the terms of the financial settlement between SHA and CHP(s)?—what initial or ongoing payments are involved and for what are these designated?
					b. How were recipient landlord liabilities determined? (e.g. stock condition survey, external surveyor input etc.)
					c. What non-financial controls or conditions, if any, apply to the transferred stock? e.g. allocation rules (e.g. seniors only) or quotas, permissions for alteration/disposal
✓		✓	✓		d. [For management outsourcing transfers] What was (will be) the division of responsibilities between SHA and CHP(s) in terms of (a) repairs and maintenance, and (b) property rates and insurance?
✓					e. To what extent do the terms of transfer replicate or differ from any earlier or subsequent transfers?
✓		✓			f. In what, if any, ways have the terms of the transfer been subsequently amended?
✓		✓		✓	g. What are the pros and cons of the division of responsibilities as currently operated?
✓					h. [For management outsourcing transfers] What were/will be the staffing implications of the transfer? How did/do SHA staff view the transfer proposal?

SHA senior manager	State Govt treasury rep	CHP Chief Exec	CHP CFO	Tenant rep	Questions
✓		✓		✓	i. Were there any specific (a) capacity building and/or (b) transition arrangements (e.g. rent arrears, tenant support agreements) associated with the transfer? If so, what were the details?
✓	✓	✓	✓		j. Were there any tax or accounting issues that arose for either party as a result of the transfer?
					<b>3. Tenant perspectives</b>
✓		✓		✓	a. What undertakings were made to tenants about transfer implications for tenancy rights, rents, dwelling transfers etc?
✓				✓	b. In what ways were tenants consulted about the proposed transfer—individually or collectively?
✓				✓	c. What choices or options (if any) were open to tenants?
✓		✓		✓	d. To what extent (if any) did the transfer proposal trigger critical responses or active opposition? How were such interventions addressed
					<b>4. Assessment</b>
✓	✓	✓	✓	✓	a. To what extent has the transfer fulfilled originally stated objectives?
✓		✓		✓	b. From the perspective of transferring tenants, what will have been the consequences of the transfer in terms of landlord services [In what ways does the CHP service differ from that formerly familiar in public housing?]
✓		✓		✓	c. [Completed outsourcing transfers only] What do you think has been the impact of the transfer for tenant satisfaction—(a) for former SHA tenants who became CHP tenants, and (b) for existing CHP tenants [potentially subject to associated service disruption]
✓		✓			d. What have been the staff and staff management consequences of the transfer for SHA and CHP?
✓		✓		✓	e. What unforeseen problems have needed to be addressed—for example, in terms of unexpected liabilities?
✓		✓		✓	f. In what ways would the model used in this transfer need to be modified in the context of a larger scale transaction?
✓	✓	✓	✓		g. What are the lessons learned in terms of the <i>transfer process</i> ?
✓	✓	✓	✓		h. What are the lessons learned in terms of the financial settlement?
✓	✓	✓	✓	✓	i. What are the lessons learned in terms of the division of responsibilities?
✓	✓	✓	✓	✓	j. What are the prospects for future stock transfers in this state? What form might future transfers take and what considerations would affect this?

## Appendix 2: Tenant focus group topic guide

### *Being offered a transfer*

1. Can you tell us how long you had lived in public housing before you transferred to [CHP]?
2. Can you tell us how you first became aware of the proposal to transfer your tenancy from public housing to community housing?
3. What reasons were you given for transfers being proposed? (group discussion)
4. What was your initial reaction to learning about this? (group discussion)
5. What did you do about it? (group discussion)
6. What happened next? (group discussion)

### *Negotiating your transfer*

7. What issues were most important to you in thinking about whether to transfer your tenancy? (group discussion)
8. Were the questions / concerns that you had answered satisfactorily. By whom 1) SHA employees 2) employees of [CHP] 3) other parties? (group discussion)
9. Did you feel you had a choice about whether to transfer or not?
10. What undertakings were made to you about your tenancy at the time you negotiated your transfer?
11. Were there any particular problems that you experienced at the time you transferred your tenancy? If there were problems, what were these and how were they addressed?
12. Were you offered any particular forms of assistance around the time of the transfer (e.g. personal advice, independent advice). By whom?
13. Do you have any suggestions for how the process of negotiating the transfer with tenants could have been done differently? (written advice/ information, personal communication, time frames etc.) (group discussion)

### *Tenant satisfaction*

14. Comparing your public and community housing tenancy, overall how satisfied would you say you are now with your tenancy with [CHP].
  - More satisfied than before.
  - Less satisfied than before.
  - About the same.
15. Has your house been upgraded since you transferred to [CHP]? Did this upgrade meet your expectations?
16. Thinking specifically about maintenance services that you receive now, how satisfied would you say you are with these from [CHP].
  - More satisfied than before.
  - Less satisfied than before.
  - About the same.
17. Is the style of management any different under the new landlord? If yes, in what ways?

18. In what ways do the services you receive differ now from those you received when in public housing?
19. Are there differences in policies affecting your tenancy between SHA and [CHP] that are of concern to you now? If so, what are these?
20. Are there any other differences between your experience of public and community housing that you wish to mention? (group discussion)
21. Have you got to know other tenants living in [CHP] community housing since you came to this organisation?
22. What activities (examples) are run by [CHP] for tenants that you know of? Do you participate in these? Were similar activities offered/organised under [SHA]? (group discussion)
23. Based on your experience, what would you advise other public housing tenants you know, if they were being asked whether they would transfer to community housing?
24. Overall, do you think more (larger-scale) transfers from public to community housing would be a good idea? (group discussion)

## **Appendix 3: Organisations participating in the research**

### *Fieldwork participants*

Aboriginal Housing Victoria  
Argyle Community Housing  
Bridge Community Housing  
Brisbane Housing Company  
Clarendon Vale Neighbourhood Centre  
Compass Housing  
Department of Housing & Public Works, Queensland  
Department of Health and Human Services, Tasmania  
Department of Human Services, Victoria  
Department of Treasury & Finance, Tasmania  
Department of Treasury & Finance, Victoria  
Housing Choices Australia  
Housing NSW, Department of Families and Communities—Community and Private Market Housing Directorate; Sydney Central Division; Western Sydney Division  
Housing SA, Department of Communities and Social Inclusion  
MA Housing (a subsidiary of Mission Australia)  
NSW Federation of Housing Associations  
NSW Land & Housing Corporation  
NSW Tenants Union  
Red Shield Housing  
Shelter NSW  
Shelter Tasmania  
St George Community Housing  
Wentworth Community Housing  
Yarra Community Housing

### *Stakeholder Workshop participants (including Project Reference Group members)*

Marion Bennett, Executive Director, Housing Policy and Homelessness, FACS, NSW—representing Housing and Homelessness Policy & Research Working Group  
Eddy Bourke, Policy Officer, Community Housing Federation of Australia  
Lucy Burgmann, CEO, NSW Federation of Housing Associations  
Anthony Hardy, Registrar of Community Housing Victoria  
Craig Johnston, Principal Policy Officer, Shelter NSW  
Leonie King, Executive Director Community and Private Market Housing, Housing NSW

Scott Langford, GM, Junction Housing, SA

John McInerney, Managing Director, Common Equity Housing Ltd, Chair, Community Housing Federation, Victoria

John McKenna, CEO, North Coast Community Housing Company

Julie Quaass, Executive Officer, PowerHousing Australia

Merrilyn Rowler, former president of Queensland Public Housing Tenants peak body  
FaHCSIA representative

Tony Waters, Formerly Queensland Department of Housing and Public Works\*

Peter White, Director, Housing Tasmania

\* Unable to attend event but participated via subsequently submitted comments

## **Appendix 4: Transfers progressing in 2013**

### *Tasmania Better Housing Futures program—Phase 2*

As shown in Table 1, the six case studies in this study included Tasmania's Clarendon Vale/Rokeby management transfer as completed in March 2013. Involving 500 homes in two outlying estates on the Hobart City periphery, this was only the first 'pilot' phase of a much larger Better Housing Futures program being progressed during 2013–14. Involving three tranches of 'broadacre estate' property totalling some 3500 dwellings, preparations for this second phase reached a critical point in April 2013 with the publication of a request for tenders from aspirant successor landlords. It is expected that the successful applicants will take over management by mid-2014, under a 10-year contract.

While the transaction is primarily a management transfer, housing development sites to the value of \$12.4 million will be provided to successful tenderers as part of the package. All rent revenue will be collected by the successor landlord irrespective of tenant decisions on whether to retain their existing lease with Housing Tasmania. However, while this is envisaged as being achieved only on an 'individual choice' basis, successor landlords will be expected to attain 40 per cent lease take-up within two years.

There will be an incentive to transfer to the extent that income-related rents will be capped at 75 per cent of market rents for those signing up with successor landlords, but capped at full market rates for those remaining as Housing Tasmania tenants. It is stipulated that new tenants accommodated after the transfer must be housed on fixed term tenancies, in line with current Housing Tasmania practice. For existing tenants subject to the transfer, however, existing terms of tenancy will be retained 'as a neutral incentive for encouraging the lease transfer process'.

Successor landlords must be not-for-profit entities with capacity to register as Tier 1 or Tier 2 providers and overseen by skills-based boards 'with Tasmanian representation being desirable'. The selected landlords will be expected to establish local Community Steering Committees to 'oversee the development of [a shared] vision and its implementation'. Providers will have to work with these committees in drawing up master plans that 'encapsulate the community vision and changes to housing over the medium and longer term to improve the social, environmental and economic impact on tenants'. The new providers will also be expected to 'develop and maintain strong partnerships within the local network of service providers and community leaders'.

The property maintenance and upgrade responsibilities of successor landlords are specified in similar terms to those relating to the initial Clarendon Vale/Rokeby transfer (see Section 4.3).

### *Queensland's transfer agenda*

Exploratory work on the possible benefits of large scale public housing transfers was undertaken by Queensland housing officials prior to the change of government following the 2012 state election. It had been already concluded that the status quo was financially problematic and that there were strong arguments for transfer to community housing. A particular case in point involved some remote regional areas where experience under the SHI housing program had demonstrated that there were NFPs with capacity to take on public housing management such that significant efficiencies could be realised. The role of transfers in helping to grow a cohort of larger CHPs was also recognised.

However, firm transfer proposals began to emerge only under the incoming administration during 2012 and early 2013. First came the announcement that some 5000 homes in Logan would be subject to a management transfer, to be tendered during 2013. Subsequently, following the publication of a wide ranging Audit report (Queensland Commission of Audit 2013), the Housing Minister indicated an intention to transfer 90 per cent of public housing to community providers by 2020. Under the strategy emerging at the time of writing (mid-2013), the Logan initiative will inform subsequent transfers to be rolled out across the state.

The prioritisation of Logan in this context followed on from earlier discussions involving the Queensland Government and Logan City Council around plans for urban renewal in the area. Partly linked with the historic concentration of public housing in the locality, Logan City has been subject to a relatively high incidence of unemployment and associated social problems. This has, in turn, impacted negatively on Logan's public image and capacity to attract high status enterprises. Hence there is a perceived need for more intensive place management and the de-concentration of some estates in the area.

As in Tasmania (see above), the choice of Logan represents a 'worst first' selection—the antithesis of transfer as CHP 'cherry picking' as it has sometimes been portrayed.

Also known as the Logan Renewal Initiative, the transfer will include the 'renew[al] and realign[ment of] the ageing public housing portfolio to meet current and future demand for housing in Logan City' (Queensland Government tender specification, 2012). However, while it is hoped that (directly or indirectly) the transfer will facilitate substantial house building activity, including through redevelopment—'densification'—of existing public housing estates, it is stipulated that this should result in no net reduction in public housing.

A two-stage tender process for the contract to manage the Logan public housing asset for a 20-year period was initiated in 2012 and is expected to result in a chosen successor landlord assuming this role during 2014. Completion of this transfer will boost CHP-managed homes to some 22 000—approximately 31 per cent of the State's total social housing (figures based on Queensland Commission of Audit stock data).

As regards a larger-scale transfer program set to follow on from the Logan initiative, the Queensland agenda has been substantially shaped by the Queensland Commission of Audit report which recommended that:

The Government progressively transition the ownership and management of existing and new public housing stock to the non-government sector, with the scope and timeframe for transition to be determined by the sector's performance and governance capability (Queensland Commission of Audit, 2013 pp.3–316).

This recommendation is largely underpinned by an assertion that CHPs can manage social housing more 'efficiently' than government. Thus, existing state government strategies include 'achieving efficiencies through increasing the proportion of social housing properties managed through non-government housing providers' (ibid pp.3–302). Similarly: '[t]he evolving service model [i.e. where a growing proportion of stock is CHP-managed] reflects the unique expertise and value for money that the non-government sector brings to social housing' (ibid pp.3–304).

As seen by the Commission, a future where ex-public housing is CHP-managed should also feature a role for the state which '... move[s] progressively to a greater focus on funding and policy matters' (ibid pp.3–308). At the same time, apparently recognising the financial challenge of accommodating the existing public housing

tenant cohort, it was suggested that evolving contractual arrangements with CHPs should 'incentivise the management of tenancies for complex clients'.

While the Queensland Government accepted the general thrust of the Commission's housing recommendations, it stressed a preference for management transfer rather than transfer of title. Nevertheless, this is not ruled out. Rather, proposals for transfer with title will be considered on the basis that the CHP can make a convincing case in terms of the added value that could be consequently delivered.

In ensuring the practicability of the Logan transfer (and the others anticipated thereafter) there is a recognition that legislative amendments are called for—specifically, amending the provisions of the Residential Tenancies Act covering State tenancy agreements. The aim will be to create a power enabling the continuation of a public housing tenancy through a successor landlord—essentially, mandating tenancy transfer and obviating the need to secure individual tenant consent.

The framework within which a larger transfer program will be rolled out had not been revealed at the time of writing.

### *South Australia*

In June 2013 the South Australian Government announced a public housing transfer program involving 5000 tenanted properties over five years (Government of South Australia 2013). The initial tranche, to be tendered later in 2013 for actual transfer to occur in early 2015, is to involve two packages of approximately 500 homes in metropolitan Adelaide. Program objectives include growing community housing and, in the process, contributing to the establishment of larger provider organisations. Enhanced place management and (as an immediate priority) improved property condition are also key goals. The aim of expanding all social housing is another driver, albeit to be achieved over a longer timescale.

Following prevailing practice in other jurisdictions, the program will be limited to management transfers, although title transfers on a case by case basis are not ruled out at a later stage. The initial transfers will be for a three-year term. During this period evaluation and tenant consultation will inform whether to extend to a 20-year term.

During the initial outsourcing term, the priority will be upgrading substandard properties. However, it is expected that this will be entirely self-funded by recipient providers from rent and CRA revenue. Allocation of responsibility for generating stock condition data to inform the upgrade program has yet to be determined.

In determining the framework for the follow-on transfers (to total 4000 homes) there will be consultation with the community housing sector; in particular, on how to strike the right balance between the objectives of upgrading existing homes and adding to social housing. In terms of the latter, a leverage ratio of around 10 per cent was initially envisaged—that is 500 additional homes over the term of the agreement (Government of South Australia 2013).

Tenants' existing tenancy rights will be protected, their out of pocket rent costs will be limited to no more than would have been the case had their tenancy remained in public housing. It is recognised that the program calls for a consultation strategy although this will be constrained by the necessity of disclosing which homes are to be transferred well before the identity of the successor landlord will be known (at the conclusion of the tender process). In contrast with the position in NSW, Queensland and Tasmania, the South Australian Government believes that existing state legislation empowers it to mandate tenancy transfers to a new social landlord, thus

potentially avoiding the complexity and uncertainty of individual (or collective) tenant choice.

## **AHURI Research Centres**

AHURI Research Centre—Curtin University

AHURI Research Centre—Monash University

AHURI Research Centre—RMIT University

AHURI Research Centre—Swinburne University of Technology

AHURI Research Centre— University of Adelaide

AHURI Research Centre—University of New South Wales

AHURI Research Centre—University of Queensland

AHURI Research Centre— University of Sydney

AHURI Research Centre—University of Tasmania

AHURI Research Centre—University of Western Australia

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