

**COMMONWEALTH GRANTS COMMISSION (CGC) 2016 UPDATE**  
**NEW ISSUES – NATIONAL PARTNERSHIP AGREEMENT ON REMOTE**  
**INDIGENOUS HOUSING (NPARIH)**

**NSW TREASURY COMMENTS**

**OCTOBER 2015**

**Summary**

NSW Treasury considers the CGC should continue the treatments of payments for the National Partnership Agreement on Remote Indigenous Housing (NPARIH) and expenses for social housing determined in the 2015 Review.

The CGC's current assessments of social housing expenses and infrastructure already include recognition of disabilities related to providing remote Indigenous housing.

Given this recognition, and the difficulty in the context of the 2016 Update of adequately investigating possible contradictions in the legacy arguments related to past Commonwealth involvement in providing remote Indigenous housing, the reasons for the existence of any differential legacies and the time that would be needed to have adequately addressed any differential legacies, NSW Treasury considers changing the current treatments would be premature.

The future treatment of the NPARIH and expenses for remote Indigenous housing can be properly considered in the next review of the methods for calculating GST revenue sharing relativities, when the future of the NPARIH (which is currently being re-negotiated) should also be clearer.

**Introduction**

The CGC is seeking State comments on the treatment of the revenue and expenses related to the National Partnership Agreement on Remote Indigenous Housing (NPARIH).

In the 2010 Review, the Commission decided that NPARIH should not impact on the relativities because it understood that these payments funded improvements to assets not owned by State governments. It understood that these assets were mainly owned by Indigenous community housing organisations (ICHOs) but that responsibility for these houses would transfer to the States over time.

In New South Wales, NPARIH new supply properties are owned by the State and the majority is managed by ICHOs (termed Aboriginal Community Housing Providers (ACHPs) in NSW). NSW NPARIH refurbished properties are all owned and managed by ACHPs. The intent in NSW is to have all NPARIH properties managed by ACHPs under the Registered National Regulatory System for Community Housing (NRSCH).

In the 2015 Review, the Commission introduced a phased change in treatment – with impact on the relativities from 2013-14 – to reflect the gradual transfer of responsibility for remote Indigenous housing to State governments. NPARIH requires State authorities to become the major deliverer of housing for Indigenous people in remote areas of Australia by 2018. The CGC notes that at June 2015, about two third of community houses in remote Australia were under State management based on information received from Department of Prime Minister and Cabinet. New South Wales however, is working towards a model where all NPARIH properties will be managed by ACHPS by 2022.

As the CGC paper states, the Commission considered in the 2015 Review that the NPARIH should impact on State GST shares because payments are for services usually provided by States and needs are assessed. The CGC is now considering whether some expense disabilities relating to remote Indigenous housing which are being addressed by NPARIH should also be assessed by the Commission.

Specifically, the CGC is considering whether the impact of the Commonwealth, as a previous provider of remote Indigenous housing, on the interstate distribution of the legacy stock of housing being transferred to States is an expense disability which should be included in the Commission's assessments.

## **NPARIH funding in NSW**

NPARIH is a ten-year National Partnership (NP) which commenced in 2008-09. Over the lifetime of the NP, the Commonwealth was to provide \$396.8m to New South Wales, aimed at reducing severe overcrowding in remote Indigenous communities, increasing the supply of new houses and improving the condition of existing houses in remote Indigenous communities.

As part of this, New South Wales was required to report against milestones, which would trigger payments from the Commonwealth if the milestones were met by the agreed dates.

Funding has been used to deliver on objectives and outcomes that include:

- building and/or buying around 282 houses in remote and very remote New South Wales
- funding to tackle backlog maintenance on 1,920 dwellings across regional areas in New South Wales owned and managed by ACHP
- specific funding to address refurbishment of 936 dwellings owned by ACHPs in remote and very remote New South Wales
- purchasing properties in regional centres under the Employment Related Accommodation program to help Aboriginal people from remote areas to access employment and training opportunities in regional locations
- building of safe house complexes in five remote communities in New South Wales

- the Remote Aboriginal Home Ownership Pilot in 2013-2014 in Walgett, Bourke and Coonamble.
- a range of tenant support and education initiatives across remote and very remote NSW.<sup>1</sup>

At present, there is no Commonwealth-titled stock under NSW Aboriginal Housing Office (AHO) management. However, there may be instances which AHO are not aware of where properties may have previously been transferred to Local Aboriginal Land Councils (LALCs) and may have Commonwealth titles which are managed by providers registered under the *Aboriginal Housing Act (1998) (NSW)*.

The CGC is exploring whether a significant proportion of NPARIH funds in 2013-14 have been used to negotiate new tenancy and leasing arrangements (paragraph 19). In New South Wales, this is not the case due to the *Aboriginal Land Rights Act 1983 (NSW)* which provides land rights for Aboriginal persons in New South Wales through Aboriginal Land Councils. In 2013-14, all NPARIH funds were used in accordance with the 2012-2014 NSW Implementation Plan which was agreed with the Commonwealth. These funds have been expended on constructing and acquiring new housing supply and on Employment Related Accommodation (ERA) properties. Additional refurbishments were undertaken on remote properties and on Tenant Support Education Program (TSEP) initiatives.

## **NPARIH funding in NSW going forward**

The Commonwealth 2015-16 Budget announced that the Commonwealth will renegotiate this National Partnership to facilitate the delivery of new housing, housing-related infrastructure and refurbishments. It will also provide incentives to States for progress against agreed outcomes which establish more sustainable housing systems in remote Indigenous communities.

As these negotiations are ongoing, New South Wales is unable to provide comment at this stage on how funds will be spent for the remainder of the NP Agreement.

## **Treatment by the Commission**

The remainder of this submission provides NSW Treasury views on the appropriate treatment of the 'legacy' issues connected with the NPARIH from an equalization perspective.

The 'legacy' aspect of the Commonwealth's former role in providing remote Indigenous housing seems to have two dimensions:

- some jurisdictions have a higher proportion of remote Indigenous housing on Commonwealth leased land – in those jurisdictions, taking over the management of that housing involves greater than average costs for negotiating sub-leasing and/or lease transfers

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<sup>1</sup> <http://www.aho.nsw.gov.au/housing-providers/nparih> [Accessed 7 October 2015] and AHO advice on 16 October 2015.

- the Commonwealth’s funding of remote Indigenous housing varied across States in relation to the level of demand in different jurisdictions. As States take over responsibility and management of the remote Indigenous housing stock there is potentially a differential gap between the inherited stock and the stock a State would be assessed to need to provide the average level of service. States with an above average gap face higher costs to close it.

The CGC notes (paragraph 14) the Commission’s general position is that funding to address past underinvestment is of itself not a ground for isolating that funding from the GST distribution.

The equalisation process would allow that all States can appropriately address any underinvestment, excluding that caused by differences in State policy.

However, the CGC notes (paragraphs 15-16) the possibility that the differential gap is the result of Commonwealth policy. It is a disability which NPARIH funding is aimed at (as well as raising the average quality and quantity of remote indigenous housing stock), and which is not a disability in the current equalisation methodology (paragraph 16).

### **The legacy argument**

NSW Treasury notes an apparent contradiction in the two dimensions of the ‘legacy’ argument if both are argued to apply in the same jurisdiction.

- On the one hand, some jurisdictions are said to have a higher proportion of remote Indigenous housing on Commonwealth leased land. To the extent that this implies Commonwealth involvement in the provision of the housing has been higher in some States than others (rather than some particular aspect of the land tenure system in the jurisdiction), it suggests a higher proportion of housing in the past has been provided by the Commonwealth rather than the jurisdiction.
- On the other hand, it is suggested that the Commonwealth has underinvested, relative to demand, in remote Indigenous housing to a greater extent in some jurisdictions than in others.

On the face of it, it is difficult to see how higher Commonwealth provision compared to jurisdiction provision of remote Indigenous housing could coexist with relative Commonwealth underinvestment in the provision of remote Indigenous housing.

### **Reasons for the legacy**

This points to the difficulty of determining the precise reasons for legacy issues. NSW Treasury notes that interstate differences between inherited housing stock and assessed needs could be due to factors other than Commonwealth policy: such as jurisdiction policy on investment in and maintenance of State housing stock and State resource allocation decisions over time. While the Commonwealth was the predominant funder of NSW remote housing prior to the NPARIH,

the NSW Government has always had a commitment to the provision of affordable and appropriate state-wide housing.

Isolating the influence caused by individual factors would be very difficult: it would require a detailed investigation into both Commonwealth and State and Territory policies and actions on the provision of remote Indigenous housing over the life of the remote Indigenous housing stock currently in existence. It would need to consider whether any Commonwealth underinvestment in the past was more prevalent in some jurisdictions than others. It is not clear that statistics on overcrowding, for example, provide a simple answer: while overcrowding suggests supply of adequate housing is less than demand, it does not tell us the reasons why supply is less than demand.

### **Time taken and resources provided to address the legacy**

Another issue that would have to be considered is the time period over which 'legacy' issues should be allowed to influence any assessment of remote Indigenous housing needs.

- The NPARIH has been in existence since 2008-09, and for most of that period has been treated as not impacting on the GST distribution.
- During that period, the Commonwealth also has provided other remote housing funding to States under, for example, the housing components of the East Kimberley Development Package and the Stronger Futures for the Northern Territory program (the former treated as impacting on the GST distribution, and the latter, under terms of reference, treated as not impacting on the GST distribution).

Judgements would need to be made on the extent to which these Commonwealth payments and nine years of NPARIH already have addressed any legacy issues.

On a broader level, the Commission's assessments need to ensure neutral treatment of Commonwealth payments regardless of the outcome of current negotiations between the States and Commonwealth on the future of the NPARIH. As this NP Agreement is being re-negotiated, there may be differences between States in the timing of revenue being received and spent, or conditions attached to the funding agreement. The CGC's assessments in future should not penalise any State for having negotiated different outcomes to other States.

### **Current treatment preferred**

NSW Treasury considers CGC should continue the treatments of payments for the NPARIH and expenses for social housing determined in the 2015 Review.

As the CGC notes (paragraph 10), the CGC's current assessments already include recognition of disabilities related to the provision of remote Indigenous housing.

The housing assessment recognises that the Indigenous population has both a higher use and higher cost of provision of social housing than the non-Indigenous population; remote Indigenous populations are recognised as having an even higher use. The infrastructure assessment recognises that the stock of social housing in States where the Indigenous population is an above average proportion of the total population needs to be larger, and that the size of the housing itself needs to be larger.

Given this recognition of remote Indigenous housing needs in the current assessments, and the difficulty in the context of the 2016 Update of adequately investigating possible contradictions in the legacy arguments, the reasons for the existence of any differential legacies and the time that would be needed to have adequately addressed any differential legacies, NSW Treasury considers the determinations in the 2015 Review should be continued.

The future treatment of the NPARIH and expenses for remote Indigenous housing can be properly considered in the next review of the methods for calculating GST revenue sharing relativities, when the future of the NPARIH should also be clearer.