

15 August 2025

NSW Law Reform Commission  
Locked Bag 5000  
Parramatta NSW 2124

Via email: [ADAreview@dcj.nsw.gov.au](mailto:ADAreview@dcj.nsw.gov.au)

## **SUBMISSION: REVIEW OF NSW ANTI-DISCRIMINATION ACT 1977**

The Community Housing Industry Association NSW (CHIA NSW) welcomes the opportunity to provide a submission to the NSW Law Reform Commission.

CHIA NSW represents nearly 100 registered, not-for-profit community housing providers (CHPs) in NSW. Our members currently own or manage more than 54,000 homes across NSW for individuals and families who cannot afford to rent or purchase a home on the private market. This includes approximately 40,000 social and affordable rental homes managed on behalf of the NSW Government and other owners, including local councils and private landlords.

As purpose-driven organisations, CHPs are strongly committed to ensuring that their obligations as social landlords are met or exceeded. Backed by an independent and robust regulatory system, and driven by person-centred practices, the industry delivers high quality and specialised outcomes for the most vulnerable households within a highly resource-constrained social housing system.

CHIA NSW welcomes the review of the *Anti-Discrimination Act 1977 (NSW)* (the Act) to make it clearer, easy to understand and more accessible. The inclusion of a general special measures provision within the Act will support CHPs and other social landlords to accommodate the needs of vulnerable individuals and families who continue to be disproportionately impacted by the housing crisis.

Throughout the submission, use of the term ‘social housing providers’ collectively refers to registered CHPs, government housing agencies, and Aboriginal community housing organisations.

Further comments and recommendations outlining this position are provided below.

### **The need for targeted housing assistance**

The not-for-profit community housing industry is a key partner to the NSW Government in the delivery of person-centred and trauma-informed housing and wrap around supports to a broad range of vulnerable households. Amongst those in housing need, several groups are at greater risk of homelessness than others, and/or are more severely impacted by a lack of access to affordable and appropriate housing. These include:

- Aboriginal and Torres Strait Islander people
- Women and children experiencing domestic and family violence
- People with a disability

- Older people
- Young people

Further detail on these disadvantaged cohorts is included in Attachment 1.

The *NSW Homelessness Strategy 2025-2035* identifies the need for targeted, person-centred approaches to identify and address the risk factors for each of these cohorts<sup>1</sup> and achieve equitable access to housing.

Access to these services is typically managed through eligibility criteria linked to a number of protected characteristics under the Act, including age, race, and gender. In some cases, the provision of targeted accommodation services is a requirement of development consents (for example, seniors housing). Eligibility criteria may also be established through government policy (e.g. social housing), as a condition of government, or to align with the charitable aims of a registered CHP.

Currently, the Act includes exemptions for age based housing and accommodation for people with a disability. It also includes “special needs” exceptions to racial discrimination that could be relied on to support the provision of specialist housing for Aboriginal and Torres Strait Islander people.

Social housing providers seeking to take affirmative action in support of cohorts with other protected characteristics must apply for an exemption. For example, the Women's Housing Company, a NSW-based not-for-profit CHP, has received an exemption under the Act that allows it to prioritise the housing needs of women. This is consistent with the organisation’s explicit mission to provide housing for women and their children.

The current exceptions and exemptions framework is difficult for practitioners and the public to navigate. CHIA NSW therefore supports the introduction of a provision in the Act that permits social landlords to take special measures for groups who have experienced disadvantage with respect to accessing affordable housing.

A lack of appropriate specific exemptions under the Act will increase uncertainty across the housing system and perpetuate disadvantage experienced by vulnerable groups. Requiring operators to apply for exemptions, irrespective of the intended purpose, places undue administrative burden on charitable organisations already operating within a highly resource constrained system.

### **Operational considerations**

The Act currently allows organisations to apply for exemptions for operational matters, such as targeted jobs and recruitment programs, where there is an operational need and where it helps improve access to employment and services for groups of people with protected attributes.

For example, the Women's Housing Company has been granted an exemption under the Act to employ an all-female workforce. The exemption extends to the appointment of female Board Directors as well as staff. The all-female workforce is critical to the effectiveness of the

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<sup>1</sup> *NSW Homelessness Strategy 2025–2035, Appendix 3: Evidence Summary*, August 2025, NSW Government.

organisation's service provision, ensuring that residents and applicants, many of whom have experienced domestic or family violence, feel safe when engaging with staff.

It is appropriate to maintain such exemptions under the Act, to enable charitable organisations to structure themselves appropriately and conduct their business in a way that supports their purpose.

### **Assurances provided by the community housing regulatory framework**

Registered CHPs are subject to an independent and robust regulatory system under the National Regulatory System for Community Housing (NRSCH). This provides assurances that CHPs will manage their services and assets efficiently, fairly, impartially and with integrity.

In NSW, registered CHPs are overseen by the Registrar of Community Housing, who regularly assesses CHPs against a set of operational and performance standards. This includes for tenancy management, organisational governance and probity.

Where necessary, the Registrar has powers to investigate and take enforcement action to protect tenants and the viability of the sector, including de-registration of non-compliant organisations.

In addition to the NRSCH regulatory framework, not-for-profit CHPs are charitable organisations which are subject to additional regulation and requirements by the Australian Charities and Not-for-profits Commission to ensure they are upholding their charitable obligations and purpose.

### **NSW Government policy governing access to non-market housing**

In addition to the regulatory framework, CHPs are also bound by NSW Government policies and contractual obligations with respect to eligibility and allocations of housing and services. This includes the *NSW Government Social Housing Eligibility and Allocations Policy* and the Housing Pathways system, which establishes a common framework for the allocation of social housing.

The established process involves providers offering a vacant social housing property to the next applicant on the waitlist, whose housing need matches the profile of the property. As demand for social housing has grown, and supply has reduced, allocations have increasingly been prioritised to people who are most vulnerable, including priority approved applicants.

In some locations, allocations may be subject to a Local Allocation Strategy, where a targeted allocations approach is required to meet government contractual requirements (for example, projects commissioned for a specific population group), to address specific community issues or needs, and/or ensure applicants are matched to the right property to support tenancy sustainment. All decisions relating to the allocation of social housing are documented and audited.

### **Recommended reforms to NSW Anti-Discrimination Act**

CHIA NSW strongly recommends the following reforms to the Act to support not-for-profit CHPs to continue to fulfill their charitable and contractual obligations:

- *Inclusion of a general special measures exception applying to social housing providers:* This measure would permit social housing providers, including not-for-profit registered CHPs and government agencies, to prioritise disadvantaged groups in the delivery of

housing services, where this is necessary to meet government policy, contractual obligations and/or a charitable mission. This measure should extend to any additional protected characteristics that may be recognised under the Act, such as women and children escaping domestic and family violence. The provision must avoid the need for social housing providers to apply for an exemption if their objectives are clearly aligned to achieving substantive equality.

- *Extend the general special measures provision to the operations of a social housing provider:* It is appropriate to extend exemptions under the Act to operational matters, such as recruitment and board appointments by social housing providers, where this supports the delivery of a legitimate aim, and is appropriate, necessary and proportionate to that aim.
- A streamlined process must be put in place to enable organisations to apply for exemptions, where these are not covered by the general exemption – for example, to cover unforeseen circumstances that may arise following the review of the Act.

CHIA NSW appreciates the opportunity to participate in the review. Please contact

if

you require any further information regarding this submission.

Kind regards,

**Head of Public Affairs**

## Appendix 1 - Priority cohorts and why targeted assistance is needed

System pressures and a lack of affordable housing means that assistance must be targeted to people in greatest need. Data from specialist homelessness services (SHS) shows persistent homelessness is concentrated in specific groups, including among under-25s, women and children affected by domestic and family violence, and First Nations people.<sup>2</sup>

Further details on recognised priority cohorts are provided below.

### *Aboriginal and Torres Strait Islander peoples*

NSW's 10-year Homelessness Strategy explicitly identifies First Nations peoples as a priority cohort and calls for tailored, place-based approaches and Aboriginal-led models. Aboriginal and Torres Strait Islander peoples continue to be disproportionately affected by housing insecurity and require culturally safe, targeted responses to improve social and economic outcomes.

### *Women and children experiencing domestic and family violence*

Domestic and family violence is the single biggest cause of people seeking support from specialist homelessness services in Australia<sup>3</sup>. In recognition of this, several NSW housing policies and initiatives prioritise women and children escaping domestic and family violence. This includes the *Community Housing Innovation Fund - Domestic and Family Violence* program, which provided \$105 million to CHPs to support the delivery of 385 homes targeted at women who are escaping domestic and family violence.

### *Children and young people*

Children and young people, including those leaving out-of-home care, need targeted supports to avoid falling into a persistent cycle of homelessness. In 2023-24, 49% of people assisted by SHS in NSW were under 24 years old, with 13,217 young people aged 15-24 and 1,204 aged 10-14 presenting alone to homelessness services.<sup>4</sup> The NSW Homelessness Strategy identifies children and young people as a priority cohort and promotes youth-specific service pathways to sustain tenancies and prevent homelessness.

### *Older people*

Older people face rising homelessness risk. Older women have been identified as the fastest growing group impacted by homelessness across Australia. A 2022 NSW Parliamentary inquiry on [Homelessness amongst older people aged over 55 in NSW](#) documented the need for targeted responses for older people and dedicated services and funding.

### *People with disability*

People with disability and/or complex medical needs are more likely to experience poorer housing outcomes, and require locational and support-specific allocations. The [NSW Homelessness Strategy](#) highlighted that people with disability comprise 18% of the population, yet represent 25% of people seeking assistance from SHS.

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<sup>2</sup> Australian Institute of Health and Welfare (2025), [Specialist Homelessness Services Annual Report 2023-24](#).

<sup>3</sup> Ibid.

<sup>4</sup> NSW Government, '[Reducing youth homelessness](#)', accessed 13 August 2025.