

# NSW Land and Housing Corporation

## Policy on Community Housing Provider-led Redevelopment of Social and Affordable Housing on LAHC-owned Land

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# 1 Introduction

## 1.1 Purpose of this Policy

This Policy will guide the New South Wales Land and Housing Corporation (LAHC) in responding to Community Housing Provider (CHP)-led direct approach proposals to redevelop social and affordable housing on LAHC-owned land. This policy allows for direct approach proposals from any registered Tier 1 or Tier 2 CHP, including Tier 1 or Tier 2 Aboriginal Community Housing Providers that lease LAHC-owned properties and are seeking to redevelop the government owned property at their cost in exchange for a new lease.

The Policy is known as the *LAHC Policy for Community Housing Provider-led Redevelopment of Social and Affordable Housing on LAHC-owned Land*. The Policy sets out the rationale, benefits, guiding principles and governance arrangements for responding to direct approach proposals from registered CHPs to redevelop properties that they lease from LAHC. Proposals that include sites adjacent to leased properties may also be considered under this Policy.

This Policy allows for proposals to be submitted that:

- Deliver at a minimum, the same number of social dwellings (and may also include additional social or non-social dwellings); except where there is a strong rationale for the delivery of less than the replacement number of social dwellings; and
- Have a project value below \$25 million.

If a CHP-led proposal is successful under this Policy, any land and dwellings redeveloped by CHPs will continue to be owned by LAHC and will be subject to a negotiated long term lease. This policy does not contemplate any shared equity or joint ownership arrangements.

The Policy ensures that LAHC's response and assessment of direct approach proposals is efficient, consistent, transparent and fair, aligns with NSW Government policies, and ultimately provides value for money for the State. The Policy is intended to allow LAHC to extract more value from existing land and properties, grow the social housing sector and work more collaboratively with CHP partners to deliver housing to those that need it.

This Policy provides a streamlined approach to CHP-led redevelopment of social and affordable housing where leasing arrangements are already in place. The Policy is aligned to the same probity principles of other redevelopments on LAHC land, but is designed so that redevelopment proposals can be considered more efficiently and at a reduced cost for both government and the community housing sector.

Specifically the Policy aims to:

- Enable the renewal of social housing properties on LAHC-owned land that are currently managed by registered CHPs.
- Enable renewal of ageing properties or properties that no longer meet community needs and increase the overall supply of fit-for-purpose social housing in NSW.

- Provide clarity on the types of CHP-led redevelopment proposals that can be considered for direct negotiation.
- Ensure a fair and transparent process for CHPs.
- Leverage the borrowing capacity and Development capability of registered CHPs in redeveloping ageing social housing properties.
- Minimise bid costs for registered CHPs that are associated with more traditional tender processes so that money is directed to increasing the supply of social housing.
- Support earlier renewal and the financial sustainability of social housing. This includes enabling redevelopments with some affordable or market rental housing to sustainably subsidise additional social housing.
- Minimise financial risk to government with a robust two stage assessment process that is integrated with LAHC's investment decision making processes.

## 1.2 Policy and Operating Context

LAHC (together with the Aboriginal Housing Office) owns the NSW Government's social housing portfolio. LAHC is part of the Department of Planning, Industry and Environment (DPIE) under the portfolio and direction of the Minister for Water, Property and Housing. Under a service level agreement, which reflects aspects of sections 3 and 6 of the *Housing Act 2001*, the Department of Communities & Justice (DCJ) together with LAHC manage the tenancies of LAHC's social housing portfolio. Under leases, CHPs manage tenancies for LAHC-owned social housing properties.

LAHC seeks to ensure that the NSW Government's social housing portfolio is positioned to meet the current and future needs of social housing eligible clients.

*The Future Directions in Social Housing in NSW (Future Directions)* strategy is the NSW Government's vision for the social housing system to 2025. It includes a focus on greater involvement of private and non-government partners in financing, owning and managing a significantly expanded stock of high quality, social and affordable housing assets.

LAHC is committed to working in partnership with registered CHPs to increase and renew the supply of social housing in NSW. *Future Directions* includes a strategy for registered CHPs to manage a significant proportion of LAHC's portfolio. The Social Housing Management Transfer program delivered in 2018/19 and 2019/20 has helped support this strategy, with nine whole of location management transfers.

LAHC's strategic objectives include growing, renewing and maintaining its social housing portfolio. LAHC renews its portfolio by delivering new supply through various delivery models, using LAHC's own funding and through partnerships with the private and not-for-profit sectors to deliver new homes on LAHC sites. LAHC is also exploring new brokering and innovative financing arrangements to facilitate renewal and growth of social housing.

Registered CHPs leasing LAHC properties have expressed interest in redeveloping LAHC properties that they lease and/or that are adjacent to leased properties. This policy provides guidance on the process for managing and responding to direct approaches by CHPs for redeveloping social and affordable housing on LAHC-owned land.

## 1.3 NSW Government Procurement Policy Framework 2019

The *NSW Government Procurement Policy Framework* (2019)<sup>1</sup> has five objectives:

- Value for money – the overarching consideration for government procurement.
- Fair and open competition.
- Easy to do business.
- Innovation.
- Economic development, social outcomes and sustainability.

The *Procurement Policy Framework* recognises that government agencies can have unique procurement requirements that require non-traditional methods or complex market arrangements, such as direct negotiation.

The *Procurement Policy Framework* recognises that time and money can be saved when procurement is made simpler, easier and more efficient. It also requires all procurement to be fair, ethical, transparent and probity rich. However, probity should not be used as a 'road-block' or to ignore innovative procurement arrangements.<sup>2</sup>

The *Procurement Policy Framework* emphasises that direct negotiations should only be used when it is clear it will deliver the best value for money.<sup>3</sup>

This *Policy for CHP-led Redevelopment of Social and Affordable Housing on LAHC-owned Land* guides decisions to enter into direct negotiation with CHPs with a current lease to manage social housing properties on LAHC-owned land.

## 1.4 Taking a Risk-Based Approach to Direct Negotiations

This Policy has been developed to align with the *Direct Negotiations: Guide for Managing Risks* (2018) published by the NSW Independent Commission Against Corruption (ICAC)<sup>4</sup>. The ICAC Guidelines note that direct negotiations can arise from a range of contexts, including through partnership arrangements with non-government providers under mechanisms that differ from traditional procurement.

The Guidelines note the need to pay greater attention to measures that mitigate the risk of corruption and to ensure appropriate levels of integrity when engaging in direct negotiations.

The following probity principles need to be used in decisions related to direct negotiations:

- Fairness.
- Impartiality.
- Accountability.

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<sup>1</sup> [buy.nsw.gov.au/policy-library/policies/procurement-policy-framework](https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework) accessed 23 March 2020.

<sup>2</sup> [buy.nsw.gov.au/buy/source/select-suppliers/probity-and-fairness](https://buy.nsw.gov.au/buy/source/select-suppliers/probity-and-fairness)

<sup>3</sup> [buy.nsw.gov.au/policy-and-reform/goods-and-services-procurement-policies/complex-market-engagement-methods](https://buy.nsw.gov.au/policy-and-reform/goods-and-services-procurement-policies/complex-market-engagement-methods).

<sup>4</sup> [icac.nsw.gov.au/ArticleDocuments/232/Direct%20Negotiations%20-%20guidelines%20for%20managing%20risks%20in%20direct%20negotiations%203Aug18.pdf.aspx](https://icac.nsw.gov.au/ArticleDocuments/232/Direct%20Negotiations%20-%20guidelines%20for%20managing%20risks%20in%20direct%20negotiations%203Aug18.pdf.aspx).

- Transparency.
- Value for Money.

These principles have been addressed in relevant sections of this policy.

ICAC's *Supplier Due Diligence: Guide for Public Sector Agencies* (June 2020) encourages agencies to take a risk-based approach to due diligence. The Guide has informed the approach to managing risk to both the NSW Government and LAHC in assessing and managing proposals from CHPs. Specifically, the policy scope, guiding principles, two stage assessment process and governance arrangements set the parameters for risk-based due diligence. Additional due diligence activities will apply in the negotiating and additional stages that follow this policy.

ICAC was consulted in the process of developing this Policy.

## 2 Rationale for considering direct approach proposals from CHPs

### 2.1 Supporting Government Policy

The NSW social housing system requires innovative, efficient and effective measures to both:

- Meet the increasing demand for additional social housing supply.
- Renew and grow social housing supply, which is a key objective of *Future Directions* and the *LAHC Portfolio Strategy 2020*<sup>5</sup>.

LAHC invests in strengthening partnerships with private and non-government entities to facilitate renewal and growth of social housing.

Greater involvement of CHPs in financing, owning and managing a significantly expanded stock of social and affordable housing assets is part of the vision of *Future Directions* for 2025.

To effectively meet needs, and be more financially sustainable, in light of LAHC's finite resources, the social housing system requires a range of innovative approaches to facilitate end of life replacement for ageing social housing properties or renewal of properties that no longer meet community needs.

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<sup>5</sup> The LAHC Portfolio Strategy (2020) sets out the vision and priorities to grow and change the LAHC portfolio over the next 20 years.

## 2.2 Unique Position of CHPs to Lead Redevelopment of LAHC land

Registered CHPs currently managing LAHC-owned properties are uniquely positioned to redevelop social and affordable housing on LAHC-owned land. This is because the CHP:

- Has a current lease over the land and/or adjoining land that is not expiring within the next 12 months.
- Already funds the management and maintenance costs of the general social housing properties they lease from rental revenues.
- Currently manages the tenancies and will be fully responsible for strategic relocation of their tenants living in the homes to be redeveloped.
- May have access to low cost borrowing through the National Housing Finance and Investment Corporation (NHFIC) and other lenders and a number of tax concessions including GST and land tax.
- May have capacity to develop additional affordable and, at times, private rental dwellings that can cross-subsidise the supply of additional social housing.
- May have lower costs due to GST and payroll tax savings and a higher revenue stream due to access to Commonwealth Rent Assistance (which is not available to State managed properties)
- Is able to fund their operations through their rental income and do not rely on any ongoing subsidy from the NSW Government.

Combined, these parameters can place CHPs in a position to leverage land that they lease, using their borrowing capacity and development capability to deliver replacement and additional new social housing.

In addition, there are portfolio growth and value for money factors underpinning the rationale for considering and responding to direct approach proposals from registered CHPs to redevelop social and affordable housing on LAHC-owned land. These include:

- The social housing system will benefit if registered CHPs are able to consider a wider variety of options when planning for their portfolios. When CHPs are able to include a full range of options for properties they manage, it allows a broader range of options for consideration in growing social and affordable housing for vulnerable people.
- Growing social housing in partnership with registered CHPs supports NSW policy objectives related to social housing growth and CHP sector growth.
- Efficiencies in considering direct approach proposals can deliver greater value for money and effectively divert more resources into growing the social housing sector which in turn drives increased economic activity (particularly in regional NSW areas).
- A transparent policy framework will provide consistency and clarity, accountability and fairness.

CHPs are registered under the National Regulatory System for Community Housing (NRSCH) in one of three tiers of registration. Tier 1 and 2 registered CHPs operate at a larger scale of property and tenancy management. They are most often large scale



housing CHPs who have asset procurement and development functions (and the ability to grow social and affordable housing supply through construction, purchase or acquisition) and/or complex tenancy and property management functions that operate at scale.

The NRSCH is designed to identify, monitor and respond to risks that have serious consequences for tenants, funders and investors, community housing assets and the reputation of the sector.

The CHP sector has undergone a period of growth and continues to evolve as new opportunities arise. Some CHPs have become experienced developers and/or partners with developers, some have developed diversified business models to cross-subsidise social housing and some have real estate functions involving management of private rental properties. Many CHPs are already involved in LAHC redevelopment projects, either as part of a consortium with a private sector development partner or on their own.

## 2.3 Efficiencies

Around 54 percent of LAHC-owned properties are aged 41 years and over<sup>6</sup> and on average dwellings are relatively well suitably located but are aged. LAHC has a range of programs supporting renewal of these properties. However, CHP leased properties are excluded where possible from these programs to provide CHPs with certainty in relation to the term of their lease.

There can be efficiencies and better outcomes for government when CHPs have the capability and capacity to access funding and/or finance to invest in redeveloping properties that they currently lease. As these properties would generally not be considered for redevelopment by LAHC for the duration of the lease, the potential of the site to deliver additional social housing would be foregone during this time. Considering direct approach proposals can assist in more rapid growth in the supply of social and affordable housing than would otherwise occur.

When social housing capital programs have onerous tendering requirements, significant amounts of CHP funds are directed to developing tenders that could otherwise be directed towards growing the supply of social and affordable housing. Allowing for direct negotiations in circumstances where it is appropriate to do so could reduce costs for CHPs and more money invested in the social housing system.

## 2.4 Consultation

This policy was developed in consultation with relevant LAHC Divisions, the NSW Registrar, DPC and DCJ.

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<sup>6</sup> LAHC Portfolio Strategy 2020



## 3 Scope

### 3.1 In Scope

This Policy provides guidance on the process for lodging, managing and responding to direct approaches by CHPs for redeveloping social and affordable housing on LAHC-owned land.

This Policy covers any direct approach proposal from registered CHPs that currently lease LAHC-owned properties and meets the scope requirements detailed below.

Under this Policy, LAHC may choose to commence preliminary discussions with a CHP for a CHP-led redevelopment on LAHC owned land after which the CHP would need to make a direct approach.

Leased properties that will be considered for CHP-led redevelopment under this Policy can include any CHP-leased site, and adjacent sites where inclusion through direct negotiation would enhance value for money outcomes.

This Policy is restricted to proposals from Tier 1 and Tier 2 registered CHPs. This aligns with the evidence requirements for CHP registration which are tailored to reflect the scale and scope of the tier of registration and are proportionate to levels of risk managed by the CHP. The evidence and assessment processes for registration as a Tier 1 or Tier 2 provider indicate a level of competence in managing a housing development program.

As mentioned in Section 1.1, under this Policy, the land and all dwellings that are redeveloped by CHPs will continue to be owned by LAHC and, if the proposal is successful, will be subject to a negotiated long term lease for a period of up to 49 years.

LAHC's contribution to any CHP-led redevelopment will be limited to considering and determining a direct approach proposal and then negotiating a long term lease of the site. CHPs can bring other contributions or funding to their redevelopment proposals, including from other NSW or Commonwealth Government agencies, local councils, the private sector or not-for profit entities.

This Policy covers all considerations and processes up to the decision making stage in relation to a direct approach proposal. A decision to proceed/not proceed may be taken by LAHC or a CHP at any stage in the process covered by this policy, without recourse. Any decision to not proceed will be confirmed in writing, in the same way that decisions to proceed to a further stage are made in writing.

### 3.2 Out of Scope

#### 3.2.1 Proposals that are Out of Scope

This Policy does not apply to direct approach proposals from CHPs in respect of land which they do not lease from LAHC, or who are not Tier 1 or Tier 2 registered CHPs.

This Policy also does not apply to direct approach proposals from CHPs related to redevelopment of community facilities or commercial properties that are LAHC-owned properties.

### 3.2.2 Negotiation/Contracting/Agreement Stage is Out of Scope

This Policy does not cover direct negotiation stage or the contracting/agreement stage that would follow on from a decision to approve negotiation of a proposal from a registered CHP to redevelop social and affordable housing on LAHC-owned land.

### 3.2.3 Proposals that involve multiple parties

Under this Policy, LAHC has discretion to consider proposals that require LAHC to enter into arrangements with a consortium including the eligible CHP and other parties for a redeveloped site.

## 4 Guiding Principles

### 4.1 NSW Government Assets – Protection and Contribution

#### 4.1.1 Protection of NSW Government Assets

For a proposal for a CHP-led redevelopment on LAHC-owned land to be considered there must be, at a minimum, no net reduction in the overall number of social housing dwellings, except where there is strong rationale for the delivery of less than the replacement number of social dwellings.

LAHC-owned land will not be transferred, vested, assigned or encumbered in part or in whole without LAHC's approval (in its absolute discretion and having regard to the terms of the lease.) As stated in Section 1.1, this policy does not contemplate any shared equity or joint ownership arrangements in CHP-led redevelopment proposals.

#### 4.1.2 Government Contribution

LAHC's contribution to any proposed redevelopment will be strictly limited to the grant of a long-term lease of the land, through a negotiated long term lease of up to 49 years.

For clarity, LAHC will not contribute to the costs of any tenant relocation activities or land preparation costs (including but not limited to land remediation works or demolition activities).

CHPs may include a contribution (whether as a grant or otherwise) from another government agency (Local, State or Commonwealth), the private sector or not-for profit sector in their proposal. This must be confirmed in writing, which needs to be at a minimum, an in principle agreement for a contribution and an outline of any conditions attached to the contribution.

### 4.2 Core Principles for CHP-led Redevelopment Proposals

CHP proposals that will be considered under this policy need to:

- Align to LAHC's strategic priorities at a portfolio and local level.
- Align with the NSW Government's social housing policy and priorities and DCJ's need forecasts for social housing in the area.

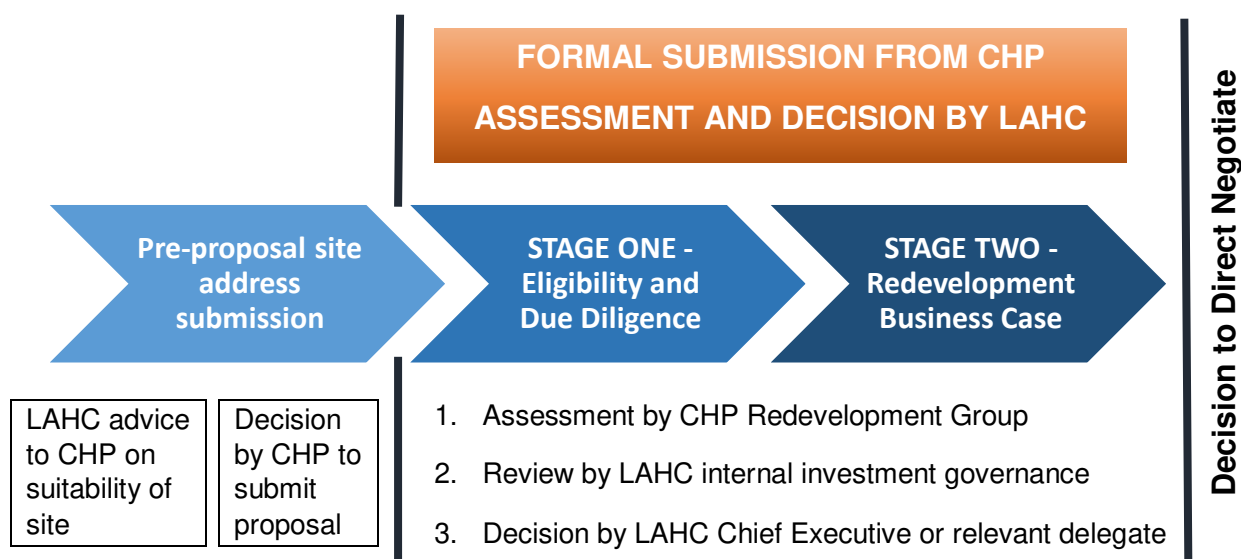
- Include, at a minimum, an equal number of replacement social housing dwellings on that part of the land that is the subject of the redevelopment except where there is a strong rationale to deliver less than the replacement number of social dwellings.
- Be a feasible and viable proposal for redevelopment and management over a long term, with realistic objectives and intended outcomes and supported by a detailed feasibility and cash flow analysis.
- Be funded at all stages by the CHP (including debt and equity sources, as relevant) and not require any financial contribution by LAHC towards either the development of the proposal, relocation activities, land preparation costs, the redevelopment of the site or the long term lease.
- Propose a lease term (not exceeding 49 years) and covering only the redeveloped properties and not the balance of the properties under management by the CHP.
- Represent value for money.
- Have a clear rationale for direct negotiation that complies with the rationale for direct negotiation outlined in this policy – the CHP has an existing lease over a LAHC owned property and is seeking to redevelop the government owned property at the proponent's cost.
- Not have unacceptable probity concerns or conflicts of interest (perceived or actual).

In preparing proposals under this Policy, CHPs are responsible for liaising with DCJ to ensure their proposal is appropriately aligned to need forecasts for social housing in the area.

Submission of a proposal does not guarantee that the proposal will be approved as a direct negotiation under this Policy.

If a proposal could achieve better value for money through an open market tender, it will not be considered for direct negotiation. These issues will be considered in each stage of the process set out in Section 5.

## 5 Proposal Submission and Assessment



The proposal submission and assessment process has been designed to be efficient and avoid extensive resources being invested in proposal development by CHPs and proposal assessment by LAHC.

### 5.1 Pre-proposal Site Address Submission

A pre-proposal site address submission to LAHC (Policy and Innovation Division) is required from the CHP to enable feedback on whether the property/ies are suitable for CHP-led redevelopment and will support delivery against DCJ's need forecast for the area. LAHC's Policy and Innovation Division will consult relevant LAHC Divisions and staff (including the relevant Development Director) to assess the suitability of the site.

Some property/ies may already be identified in a LAHC pipeline or program (renewal or disposal). Such properties may still be considered suitable where direct negotiation of a CHP-led redevelopment would deliver greater value for money and earlier achievement of government priorities to grow social housing.

CHPs will need to include in this submission the site address, a brief summary of intended outcomes for the redevelopment, and a statement of how the redevelopment responds to the relevant DCJ need forecasts and the NSW Government's policies and priorities relevant to social and affordable housing supply.

LAHC's Policy and Innovation Division will consider the submission having regard to the matters outlined in this Policy, and notify the CHP whether or not the site is suitable to be considered for direct negotiation for CHP-led redevelopment.

Where a site is not considered suitable for reasons other than it is already included in a LAHC pipeline or program, the decision to exclude the site from direct negotiation for a CHP-led redevelopment will require the endorsement of the LAHC internal investment governance committee.

If the site is suitable to be considered for direct negotiation for a CHP-led redevelopment, a pre-proposal meeting with the Policy and Innovation and Portfolio Planning Office Divisions would then be required to discuss the proposal, and so that the CHP can seek advice on strategic priorities and current plans for the local government area (LGA), including existing or planned LAHC renewal projects.

A pre-proposal meeting is not a decision making forum, it is an opportunity for the CHP to access information to inform their decision on whether to proceed to a formal proposal and the content of the proposal.

All discussions in the pre-proposal stage will be commercial in confidence and non-binding and will be documented by LAHC.

## 5.2 Two Stage Submission and Assessment Process

A two stage submission process will be used under this Policy to ensure an efficient process and that resources are not used on ineligible proposals by both the CHP and LAHC.

Stage One considers eligibility and due diligence matters. This stage will only require a high level proposal to have been developed that meets the CHP eligibility and proposal eligibility criteria outlined below.

Proposals that are assessed as eligible and recommended to proceed to Stage Two will require a detailed business case to be submitted for Stage Two assessment.

The proposal submission requirements for each stage are proportionate to the scale and risk level of the decision.

Proposals are to be submitted by CHPs to LAHC's Policy and Innovation Division.

## 5.3 Stage One – Eligibility and Due Diligence

Prior to a fully developed proposal being considered, an assessment of eligibility – of the CHP and the high level proposal – will first be conducted.

### 5.3.1 Stage One Submission

The CHP submission for Stage One will require the following information to be provided:

- a) Site address, lease details and relevant information.
- b) Address the CHP eligibility criteria and proposal eligibility criteria.
- c) High level overview of the intended outcomes for the redevelopment (including dwelling numbers).
- d) How the proposal responds to the NSW Government's policies and priorities relevant to social and affordable housing supply and DCJ's need forecasts for the area.
- e) Current planning controls for the site.

LAHC will provide a template to guide CHPs regarding the scope of information they will need to provide in their submission.

### 5.3.2 Eligibility Criteria

To be eligible for a proposal to be considered, a CHP must meet the CHP eligibility criteria and the proposal must meet all of the proposal eligibility criteria.

For CHP eligibility criteria (c) and (d), the materiality of any compliance or contractual issues will be viewed proportionately to the scale of the proposal.

CHP ELIGIBILITY CRITERIA	
a)	Have a current lease over the land and/or adjoining land that is not expiring within the next 12 months.
b)	Be a registered CHP at Tier 1 or Tier 2 level under the NRSCH.
c)	Have no regulatory compliance issues.
d)	Have no unresolved contractual issues with a LAHC lease or other contractual agreement.
e)	<p>Have the capability and financial capacity required proportionate to the type, scale and nature of the proposed development.</p> <p>The CHP must be willing to give permission for LAHC to obtain a copy of its latest Financial Performance Report and Compliance Report from the Registrar to determine financial risk exposure.</p>
PROPOSAL ELIGIBILITY CRITERIA	
a)	Align to LAHC's strategic priorities at a portfolio and local level, the NSW Government's priorities relevant to social and affordable housing supply and DCJ's need forecasts for the area.
b)	The project has a value below \$25 million and will return at a minimum an equal number of social housing dwellings as are currently on the land the subject of the redevelopment, except where there is strong rationale for delivery of less than the replacement number of social dwellings, with dwelling configurations supported by DCJ's need forecasts for the area.
c)	No additional capital funding is requested from LAHC including for relocation activities, redevelopment costs or land preparation works.
d)	Any affordable or private rental component of the redevelopment proposal must support maximising the supply and sustainability of social housing.
e)	Expected compliance with State and Local Government development requirements (including relevant planning controls).



## 5.4 Stage Two – Redevelopment Business Case

### 5.4.1 CHP-led Redevelopment Business Case

The following elements need to be included in a CHP Business Case for a proposal to redevelop social and affordable housing on LAHC-owned land.

**Project outcomes**, giving consideration to:

- a) Concentration of social housing within the precinct or neighbourhood.
- b) Increasing the proportion of well-designed, fit for purpose and appropriately sized homes in the social housing portfolio and reducing the average age of social housing properties.
- c) Number of replacement and new supply social housing dwellings and distribution of social, affordable and private rental outcomes.
- d) Contribution to CHP portfolio outcomes.
- e) Alignment with LAHC's strategic priorities and plans for the LGA, including existing or planned LAHC renewal projects. CHPs can seek advice from LAHC's Policy and Innovation Division prior to submission of a formal proposal.
- f) Project risk analysis.

**Detailed project feasibility assessment**, giving consideration to:

- a) The intended outcomes of the proposed redevelopment.
- b) The capacity and limitations of the proposed redevelopment site.
- c) Overall project costs.
- d) Detailed cash flow over the lease term, including project funding structure (equity/Debt/grant etc) and expected revenues and costs.
- e) Access to finance and funding options.

**Project viability**, giving consideration to:

- a) Timeframe for commencement and completion.
- b) Project complexity.

**CHP capacity** (to develop and deliver), giving consideration to:

- a) Capability and capacity commensurate with project complexity.
- b) Partnership arrangements.
- c) CHP financial viability and financial risk exposure.



**Tenant considerations**, giving consideration to:

- a) Suitable relocation arrangements for tenants i.e. development of a Tenant Relocation Plan.<sup>7</sup>

**Commercial framework and risk allocation**, giving consideration to:

- a) LAHC's commercial framework and risk allocation and the requirement for the proposal to materially accept them.

#### 5.4.2 Business Case Assessment Criteria

The following criteria will be used to assess proposals submitted by CHPs under this Policy:

1. Alignment with the NSW Government's policies and priorities relevant to social and affordable housing supply.
2. Alignment to LAHC's strategic priorities at a portfolio and local level.
3. The CHP demonstrates capability and financial capacity required to successfully deliver the proposal.
4. Value for money, which will be assessed in terms of the:
  - Value to be added to the overall NSW social housing portfolio as a result of the intended outcomes of the proposal.
  - Extent that the proposal will deliver best value within the land use potential and the financial and economic context.
  - Extent to which the proposal supports earlier achievement of priorities and outcomes for *Future Directions* and the LAHC strategic priorities at the portfolio and LGA level.
  - Costs for LAHC – including avoided costs and opportunity costs for LAHC in leasing the land for up to 49 years.
  - Potential additional supply of social housing that would be forgone if the proposal was not considered.
  - Expected future value of the redeveloped site at the end of the lease term.
5. Project feasibility and viability.
6. Robustness of CHP's operating plan over the term of the lease.
7. Alignment of proposed commercial framework and risk allocation to LAHC's commercial framework and risk allocation.

<sup>7</sup> Managing agents are responsible for tenant relocations. Where relocations are challenging within a managing agent's portfolio they are encouraged to work collaboratively with other providers to meet tenant needs, this could include other CHPs, other Aboriginal CHPs or DCJ.

8. Risk to the NSW Government, LAHC and/or social housing supply.

## 5.5 Assessment and Decision-making

### 5.5.1 Assessment of proposals

The CHP Redevelopments Group (CHPRD), consisting of LAHC representatives and independent expert assessors (as required), will assess all direct approach proposals for CHP-led redevelopments. The CHPRD will assess proposals and make recommendations to LAHC's internal investment governance committee at both stages of the assessment process.

The CHPRD will assess each proposal on its merits against the assessment criteria outlined in this Policy.

### 5.5.2 Requests for additional information as part of assessment

The CHPRD may request clarifications or additional information as part of its assessment. If further information is required from the CHP, this will be forwarded in writing to the CHP with a timeframe for provision of the information.

As part of the assessment in Stage One and Two, information may be requested from the Registrar or DCJ with the consent of the CHP for the purposes of due diligence activities.

### 5.5.3 Decision on CHP Proposal

The LAHC internal governance investment committee endorses investment decisions and makes recommendations to the Chief Executive or relevant delegate for approval to allocate capital and resources to new projects and programs. This includes recommendations on proposals that may progress through direct negotiation, significant contractual commitments and strategic and cross-agency partnerships.

This governance committee reviews the recommendation from the CHPRD at each stage and provides a decision for endorsement or otherwise by the LAHC Chief Executive or relevant delegate.

The outcome of the assessment of the proposal will then be notified to the CHP in writing. If the CHP is unsuccessful at Stage One or Stage Two, it may request feedback from LAHC.

If a proposal is approved, a development agreement will be negotiated for the period covering the redevelopment, relating to the property that is intended to be redeveloped. The balance of the properties under the lease will remain under the original lease on the then current terms. Upon completion of the development, LAHC will grant a lease to the CHP for a period of up to 49 years.

## 5.6 Documentation of Actions, Decisions and Reasoning

Consideration of all direct approach proposals from registered CHPs will be documented and supported by evidence, addressing the following (where relevant):

- The rationale for the proposal, including the rationale for consideration of the proposal which will be documented and approved by the Chief Executive or relevant delegate

prior to entry into any discussions. In the event of a change to the structure or scope of a proposal, the rationale will be reviewed to test whether the changes impact the rationale, and whether direct negotiation remains appropriate.

- Demonstrated consideration of the guiding principles in this Policy.
- How the proposal delivers against the assessment criteria to a satisfactory standard.
- Appropriate considerations relating to conflict management and probity principles.
- Compliance with other relevant LAHC policies and frameworks.
- Other specific factors that the CHP considers to be relevant to the proposal.

## 5.7 Feedback on proposals

A CHP may seek feedback on their proposal following receipt of written confirmation on a decision in relation to their proposal. This includes at the following stages:

- Following the Stage One – Eligibility and due diligence assessment. Feedback can be provided to CHPs on proposals that are recommended to proceed to Stage Two – Proposal business case assessment or following a decision to not to proceed to Stage Two.
- Following the decision on the Stage Two – Proposal business case assessment which is made by the LAHC Chief Executive or relevant delegate.

Feedback in these circumstances will focus on the assessment of the extent to which the proposal was assessed as meeting each of the relevant criteria.

# 6 Governance

## 6.1 Roles and Responsibilities

Roles and responsibilities of the CHP proposing the redevelopment and of LAHC are summarised in the following table.

CHP Proposing Redevelopment	LAHC
<b>Pre-Proposal</b>	
Provide a pre-proposal site address submission to LAHC (Policy and Innovation Division) registering their interest in redeveloping the land.	Review the pre-proposal site address submission from the CHP and provide written advice on whether the property is potentially suitable for CHP-led redevelopment.
If the land is potentially suitable for a CHP-led redevelopment, request a pre-proposal	Arrange the pre-proposal meeting following the CHP request, at a time that is mutually agreeable.

meeting with their LAHC key contact in the Policy and Innovation Division	
Prepare a high level outline of their proposal for discussion at the pre-proposal meeting.	Discuss the high level proposal at the pre-proposal meeting with the CHP and follow up any agreed actions.
<b>Submission and Assessment</b>	
Liaise with their LAHC key contact in relation to submission of their proposal.	Conduct an assessment of the proposal using the eligibility and assessment criteria in this Policy.
	Request additional information for the assessment of the proposal, where it is critical to decision making and proportionate to the level of risk associated with the proposal (to government and LAHC).
Provide any additional information requested by LAHC to inform the assessment and decision making process.	Provide advice on the outcome of the assessment and the reasons for the decision to the CHP.
	Provide advice on the outcome of the decision to DCJ.

A LAHC register of all direct approaches from CHPs to redevelop LAHC-owned land will be maintained. This will include details of every direct approach from CHPs.

This register will be reviewed by LAHC's Policy and Innovation on a quarterly basis.

## 6.2 Probity

LAHC seeks to conduct its commercial dealings with integrity. The assessment of direct approach proposals from registered CHPs to redevelop social and affordable housing on LAHC-owned land must be fair, open and demonstrate the highest levels of probity consistent with the public interest.

The assessment of direct approach proposals will be conducted through the application of established probity principles that aim to assure all parties of the integrity of the decision making processes. These principles are outlined in this section.

LAHC may elect to engage a probity advisor to oversee and/or advise on the process for considering a CHP proposal.

### 6.2.1 Maintaining Impartiality

Fair and impartial treatment will be a feature of each stage of the process. The process will feature a clearly defined separation of duties and personnel between assessment and approval functions.

### 6.2.2 Maintaining Accountability and Transparency

Accountability and transparency are related concepts. The demonstration of both is crucial to the integrity of the process. Accountability requires that all participants be held accountable for their actions.

This Policy and any associated guidelines or processes will clearly identify responsibilities, provide feedback mechanisms and require that all activities and decision making be appropriately documented.

Transparency refers to the preparedness to open a project and its processes to scrutiny, debate and possible criticism. This also involves providing reasons for all decisions taken and the provision of appropriate information to relevant stakeholders. Relevant summary information regarding proposals will be published as outlined in Section 7.

### 6.2.3 Managing Conflicts of Interest

In support of the public interest, transparency and accountability, all actual or perceived conflicts of interest must be identified, managed and monitored.

All participants will be required to disclose any current or past relationships or connections that may unfairly influence or be seen to unfairly influence the integrity of the assessment process. Staff and any advisers from LAHC and the CHP that is proposing the redevelopment need to provide written declaration of any conflicts or confirm that no conflicts exist.

Conflict of Interest disclosures will be managed in line with the DPIE Conflict of Interest Policy.

### 6.2.4 Maintaining Confidentiality

In the assessment of direct approach proposals from CHPs there is need for high levels of accountability and transparency. However, there is also a need for some information to be kept confidential, at least for a specified period of time. This is important to provide participants with confidence in the integrity of the process. All proposals will be kept confidential prior to formal submission of a proposal.

Communication with the Registrar is exempted from confidentiality restrictions under this Policy.

### 6.2.5 Obtaining Value for Money

Obtaining optimal value for money is a fundamental principle of public sector work. This is achieved by fostering an environment in which CHPs can make attractive, innovative proposals with the confidence that they will be assessed on their merits and where government appropriately considers value.

Where a probity advisor is appointed, their role is to observe and comment on the probity aspects of the process. It is not the role of the probity advisor to determine whether the proposal meets the required value for money criterion.

## 7 Communication

### 7.1 CHP Awareness of this Policy

All relevant CHPs will be made aware that they can make a direct approach to LAHC with a CHP-led redevelopment proposal where it aligns with the principles and eligibility criteria outlined in this Policy.

### 7.2 Reporting and Public Disclosure

Relevant summary information regarding proposals for CHP-led redevelopment will be made publicly available following advice being sent to the relevant CHP of:

- A decision to proceed to direct negotiation with the CHP. This would be after the Stage Two assessment is finalised and where the recommendation to proceed to direct negotiation has been approved by the Chief Executive or the relevant delegate. Proposals that are rejected will not be published.
- The outcome of a finalised direct negotiation process.

Further information may be published as appropriate.

## 8 Regulatory Framework

### 8.1 Regulatory Framework

LAHC is a Public Trading Enterprise established in 2001 under the *Housing Act 2001* and operates under the portfolio and direction of the Minister for Water, Property and Housing.

As a Housing Agency, LAHC may give assistance to a registered CHP in the form of the provision of funding, land or other property, under s15 (2) of the *Community Housing Providers (Adoption of National law) Act 2012*.

As asset management allocation involves the use of government resources by CHPs, allocations will be conducted in accordance with the *Public Works and Procurement Act 1912*.

Decisions under this Policy will also be consistent with the NSW Government's *Procurement Policy Framework for NSW Government Agencies*, Treasurer's Directions, Private Public Partnership guidelines, in particular the objectives of:

- Achieving value for money.
- Delivering quality government goods and services.
- Aligning procurement with business needs.

## 9 Monitoring, Evaluation and Review

It is the responsibility of the LAHC Policy and Innovation Division to monitor and update this Policy when required. Future changes will be submitted to the LAHC Chief Executive for approval.

This Policy will be reviewed every two years or at other times if and when any significant new information, legislative, policy or organisational change warrants amendments to this document.

Reviews will be conducted in collaboration with other LAHC Divisions, DCJ and the Registrar.

## 10 Support and Advice

Advice and support about this policy can be obtained from LAHC's Policy and Innovation Division, which has carriage of this document.

If reviewing a printed version of this document, please refer to the LAHC Intranet to confirm that you are reviewing the most recent version.

Following any subsequent reviews and approved amendments, this Policy will be uploaded to the internet/and/or Intranet and all previous versions removed.



# Appendix 1 – Glossary

## Definitions

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
DCJ	Department of Communities and Justice
Development capability	CHP develops a mix of dwellings (social, affordable and private market rental) with income from affordable and private rental used to cross-subsidise social housing
DPIE	Department of Planning, Industry and Environment
Community Housing Providers	Providers of community housing, inclusive of both registered and unregistered community housing providers
LAHC	New South Wales Land and Housing Corporation
LGA	Local Government Area
NRSCH	National Regulatory System for Community Housing
Policy	means <i>LAHC Policy for Community Housing Provider-led Redevelopment of Social and Affordable Housing on LAHC-owned Land</i>
Registered CHP	Not-for-profit Community Housing Provider registered under the National Regulatory System for Community Housing, this includes Aboriginal Community Housing Providers
Registrar	Registrar of Community Housing