ACT Shelter

Working together for housing justice

Senate Finance and Public Administration Legislation Committee Inquiry into the Commonwealth Land (Affordable Housing) Bill 2026

ACT Shelter submission

18 September 2026

Introduction

ACT Shelter strongly supports the Commonwealth Land (Affordable Housing) Bill 2026 and urges the Committee to recommend that the Bill be passed.

ACT Shelter is the ACT's peak body for housing justice. For more than 50 years, we have advocated for the systemic changes needed to ensure that housing policy and public resources are directed toward delivering secure, affordable housing for those who need it most, with a particular focus on people on low, no or moderate incomes. From this perspective, we strongly support the Bill's central proposition: that when publicly land is released for development, a proportion of the value created should be secured for community benefit through the delivery of social and affordable housing.

The scale and persistence of Australia's housing crisis demands that governments use every available policy lever to increase the supply of social and affordable housing, with a particular focus on social housing. Social housing has steadily declined as a proportion of Australia's housing stock – from around 6 per cent of dwellings in 1991 to just 4.0 per cent in 2025.[1] In the ACT, the decline has been even more pronounced, with public housing falling from 7.6 per cent of all dwellings in 2011 to 5.48 per cent in 2025, while the number of public homes per capita has nearly halved since 1993.[2] At the same time, rapidly rising rents, low vacancy rates and cost of living pressures have intensified housing stress, particularly for households on the lowest incomes.

Increasing overall housing supply is essential, but supply through the private market alone cannot address this structural shortfall. Government intervention is vital to secure the forms of housing that the market will not deliver, particularly social housing for people on the lowest incomes, including those experiencing or at risk of homelessness.

The strategic use of public land is therefore an important and necessary part of the housing policy response. Public land is a finite public asset, and its disposal presents an opportunity

[1] National Housing Supply and Affordability Council (2025), *State of the housing system 2025*; AIHW (Australian Institute of Health and Welfare) (2026), *Housing assistance in Australia*, AIHW, Australian Government, accessed 16 September 2026; Australian Bureau of Statistics (ABS) (2025), *Total Value of Dwellings June Quarter 2025*, ABS.

[2] AIHW (2026) *Housing assistance in Australia*; ABS (2025), *Total Value of Dwellings June Quarter 2025*; ABS (2025, December). *National, state and territory population*.

www.actshelter.net.au
Email: admin@actshelter.net.au

OFFICE: 159 Maribyrnong Ave, Kaleen ACT
MAIL: PO Box 7245, Kaleen PO, ACT 2617

to retain a share of its value for a lasting community benefit. The Bill would establish a durable mechanism for achieving this by ensuring that the Commonwealth's land holdings contribute to addressing the shortage of social and affordable housing.

The Bill provides a practical means of giving effect to the Commonwealth Government's existing housing policy commitments under the National Housing Accord.[3] It also establishes an important national precedent: that the disposal of public land should not be considered solely in terms of maximising immediate financial returns, but should be used strategically to deliver long-term public value.

While ACT Shelter strongly supports the Bill, we believe it can be further strengthened through several amendments and implementation measures set out in this submission. This includes ensuring affordability requirements are sufficiently deep and enduring; maintaining the 30 per cent requirement for affordable housing as a floor rather than a ceiling, and with a defined proportion of that requirement directed specifically to public and social housing; ensuring housing obligations are established before land enters the market so that the costs are reflected in land value, rather than being negotiated away after disposal; and ensuring the framework operates effectively within the distinctive Commonwealth–ACT land arrangements applying to National Land.

ACT Shelter supports and endorses the submission made by National Shelter and acknowledges its longstanding policy leadership in advocating for the use of public land to deliver social and affordable housing. Our submission builds on that national policy work and highlights priorities of particular relevance to the ACT, including the need for a stronger public and social housing component and clear, effective application of the scheme to Commonwealth land in the ACT.

Summary of recommendations

ACT Shelter urges the Committee to support passage of the Commonwealth Land (Affordable Housing) Bill 2026, subject to amendments and implementation measures to strengthen its housing outcomes. ACT Shelter recommends that the Bill and its implementation:

1. ***Require that at least half of the required affordable housing proportion be delivered as social housing*** *– equivalent to 15 per cent of total dwellings under the current 30 per cent requirement –with genuinely income-geared rents and allocation through the relevant jurisdiction's social housing system.*
2. ***Treat the 30 per cent default as a floor rather than a target or ceiling****, with higher proportions encouraged where site and market conditions permit.*
3. ***Limit exemptions from the housing requirement to clearly defined circumstances where residential development or the required housing outcome is demonstrably unsuitable or unviable,*** *and require robust and transparent justification and public reporting of any exemption or reduction below the 30 per cent benchmark.*

[3] (2023), *National Housing Accord – implementation schedule for the Commonwealth*.

4. ***Provide separate eligibility and rent-setting arrangements for the social housing component**, based on housing need and capacity to pay, rather than applying the Bill's 30 per cent income test to social housing.*
5. ***Require the applicable housing requirement to be determined and publicly specified before Commonwealth land is offered to market,** and incorporated into disposal documentation, land valuation and development feasibility from the outset.*
6. ***Clarify in the Commonwealth's property disposal framework that housing requirements are policy outcomes of the disposal** and must be considered alongside, rather than subordinated to, the objective of maximising disposal proceeds.*
7. ***Extend clauses 12(1)(b) and 13 to allow public housing authorities established or recognised under state or territory law, alongside registered not-for-profit community housing providers, to own and/or manage social housing delivered under the scheme.***
8. ***Establish perpetuity as the preferred default for housing obligations wherever legally possible**, with the longest practicable term and appropriate transitional protections where perpetual protection cannot be secured. The Bill should also make clear that housing obligations run with the land and bind successors in title, transferees, lessees and subsequent owners or managers for the duration of the recognised housing instrument.*
9. ***Ensure that the recognised housing instrument mechanism applies effectively to Commonwealth National Land in the ACT,** including through the relevant Commonwealth tenure and ACT land-title arrangements, and that any necessary legislative amendments are made to remove uncertainty.*

Public land disposal should deliver lasting public value

Commonwealth land is not an ordinary private asset. It is a finite public resource, held on behalf of the Australian community and, in many cases, accumulated, maintained and serviced through generations of public investment. When land is no longer required for its original Commonwealth purpose and is released for development, the Commonwealth has an opportunity to convert part of that public asset into a lasting public benefit.

The Bill provides an important mechanism for achieving this. Rather than treating disposal as a one-off transaction to maximise the immediate sale price, it recognises that public land can be used to secure enduring social and economic value through the delivery of social and affordable housing.

From this perspective, maximising disposal proceeds is a legitimate consideration in public asset management, but it should not be the sole measure of value. The value of public land extends beyond its immediate financial value, and can include cultural, environmental, social and community significance that cannot be captured by its market price. ACT Shelter supports National Shelter's observation that much Commonwealth land was cared for and occupied by Aboriginal and Torres Strait Islander peoples for tens of thousands of years before colonisation and subsequent government acquisition. Public land disposal should therefore be informed by this broader understanding of value and, where appropriate, seek to secure community and cultural benefits alongside financial returns.

Accordingly, where a housing requirement reduces the price a developer is willing to pay for land, that reduction should not be understood simply as a loss to government. It is, in part, the mechanism through which the public retains value from the asset. Further, while an immediate financial return may improve the Commonwealth's short-term financial position, it does not capture the longer-term value of securing affordable and secure housing, and ignores the compounding social and economic costs of the growing shortfall in affordable and secure housing. The relevant question is therefore whether the Commonwealth has maximised the public value generated by the disposal, rather than simply the financial return.

A key challenge in implementing the Bill will be ensuring that housing outcomes are not subordinated to the imperative to maximise disposal proceeds. While the current Commonwealth Property Disposal Policy permits concessional and off-market sales, it provides limited direction on how revenue maximisation should be reconciled with broader public policy objectives, and the structure and conditions of the disposal of land suitable for housing must be approved by the Minister for Finance.[4] For government agencies, the objectives of maximising net proceeds and securing housing outcomes may come into tension without a clear policy framework and explicit guidance for balancing them. Without such a framework, there is a risk that the imperative to maximise financial returns will encourage agencies to seek exemptions or favour more commercially viable affordable housing over social housing. The Commonwealth should therefore make clear that housing requirements are policy outcomes of the disposal, not simply costs to be deducted from its financial return.

To support this, housing requirements should be determined before land is offered to market, clearly specified in the disposal documentation, and incorporated into land valuation and development feasibility from the outset. This provides certainty for government and the market, ensures the cost of meeting the housing obligation is reflected in the value of the land, and prevents the public benefit from becoming a matter for negotiation after disposal.

Ultimately, the Bill provides an important opportunity for the Commonwealth to demonstrate national leadership and establish a model for how public land can be used to secure lasting public benefit. Governments at every level hold land on behalf of the community, and at a time of acute and persistent housing need, such public land should be treated not simply as a source of one-off revenue, but as a public asset for delivering social and affordable housing and other lasting community benefits. ACT Shelter supports the Bill as an important step towards embedding this principle in Commonwealth land disposal and demonstrating how governments at every level can use public land to advance housing outcomes.

A defined proportion should be public and social housing

ACT Shelter supports the Bill's focus on affordable rental housing. However, we maintain this provision should be strengthened by designating a defined proportion of the required affordable housing as public and social housing.

Social and affordable housing serve different populations and rest on different economic logics. Social housing (public housing and community-run social housing) is generally provided at rents linked to income, and is provided to households on the lowest incomes,

[4] Commonwealth of Australia (2024), *A Guide to Commonwealth Property Disposals, June 2024*, Department of Finance, Canberra.

including many on income support, who cannot reasonably secure suitable housing in the private market. Affordable housing ostensibly sits between social housing and the open market, generally targeting more moderate-income earners. Critically, "affordable housing" has no single fixed meaning: depending on the jurisdiction, scheme or provider, it can be defined as a discount to market rent, as a proportion of household income, or by an eligible income band that can extend above median household income. Affordable housing is therefore not a fixed product but a flexible category shaped by policy design, market conditions and provider business models.

Because the two forms serve different cohorts and rely on different funding logics, treating them as one undifferentiated supply answer risks masking the acute and growing shortfall in social housing, where waitlists are longest and need most severe. Housing stress has broadened up the income spectrum, capturing moderate earners now priced out of ownership and, increasingly, struggling in private rental. That broadening is real, and affordable housing has a legitimate role in addressing it, but it does not diminish the urgency of reversing the decline in social housing.

A further issue is the widening gap between social housing income thresholds and affordable housing entry incomes. As social housing eligibility stays tightly capped while affordable eligibility criteria drift upward, there is a growing band of households who earn too much for social housing but not enough to enter affordable housing. Settings that conflate the two, or allow affordable supply to substitute for social supply, risk entrenching and worsening this gap and the shortfall for those with the greatest need.

As market rents and development costs rise, maintaining the financial viability of affordable housing creates pressure to increase income eligibility thresholds. Even where affordability is defined as the lower of 75 per cent of market rent or 30 per cent of household income – as is the case in the Bill – the practical response to rising costs can be to move the eligible income threshold upwards rather than deepen the subsidy. This risks widening the gap between social and affordable housing, producing housing that is technically affordable but increasingly inaccessible to households on the lowest incomes. The Commonwealth should not allow the use of public land to reproduce this dynamic.

For these reasons, ACT Shelter recommends that half of the 30 per cent affordable housing requirement – equivalent to 15 per cent of total dwellings – be delivered as social housing. Requiring a defined proportion of social housing may reduce the residual land value of a site because it provides less commercial return than market or affordable housing, but this should not be characterised simply as a loss to the Commonwealth. It is, in part, the means by which the value of a public asset is retained as a lasting public or social housing asset. Where the economics of a particular site cannot support the required outcome through land value alone, additional Commonwealth, state or territory funding, financing, planning or infrastructure contributions can be brought together to close the gap.

This position is broadly consistent with National Shelter's advocacy for a defined social housing component within affordable housing delivered through Commonwealth land, while setting an appropriately ambitious objective for the use of a scarce public asset. It would ensure a proportion of the housing secured through the Commonwealth is anchored to demonstrated community need, rather than allowing the more commercially attractive affordable component to crowd out investment in social housing.

The 30 per cent requirement should be a floor

ACT Shelter supports the Bill's proposed requirement that at least 30 per cent of dwellings developed on Commonwealth sites be affordable housing (with a defined proportion allocated to social housing). However, the 30 per cent figure should be regarded as a minimum floor rather than a target or ceiling.

There will be Commonwealth sites where a higher proportion is appropriate and achievable, particularly where land is well located, development conditions are favourable, or the Commonwealth can provide additional subsidy or planning support. The legislation should encourage Commonwealth entities to seek higher proportions where circumstances permit.

Conversely, any proposal to depart below the 30 per cent minimum should require a robust, transparent and publicly defensible justification. This would ensure the Bill establishes a firm baseline while allowing the Commonwealth to capture greater public value where circumstances permit.

In addition, consideration should be given to how the 30 per cent income test is applied to public and social housing. Defining housing affordability as housing costs consuming less than 30 per cent of income is a blunt metric that fails to capture the true financial reality of households, especially low-income families.[5] The same proportion of income can have very different consequences depending on household income. While higher-income households can spend more than half of their income on housing and still have ample funds left over for food, healthcare and savings, low-income households who spend 30 per cent of their income on housing are often left with a "residual income" that is far too small to cover basic life necessities.[6] This is why public housing systems commonly use lower income-based rent settings. In the ACT, for example, most public housing tenants pay rent equivalent to 25 per cent of household income (or less for “legacy tenants”). Social housing affordability should therefore be anchored to capacity to pay and housing need, with the Bill allowing for separate eligibility and rent-setting arrangements rather than assuming 30 per cent represents an affordable share of income for all households.

The housing requirement should be known before land reaches the market

A key strength in the design of the Bill is that the social and affordable housing requirements are embedded within the disposal process itself.

This is important both for transparency and for economic efficiency. Establishing the housing requirement *before* land reaches the market ensures that the public benefit is treated as an attribute of the land, rather than an additional cost to be negotiated after sale. This in turn provides certainty to government and the market, allows the requirement to be incorporated into land valuation and development feasibility from the outset, and reduces the risk that housing obligations are subsequently diluted or treated as financially unviable. This approach is preferable to a process in which the Government first seeks to maximise the unrestricted

---

[5] Crowe, A., and Rowley, S, (2024), *Measuring housing affordability: Scoping the real cost of housing*, AHURI Final Report No. 427, Australian Housing and Urban Research Institute Limited, Melbourne.

[6] Stone, M., Burke, T. and Ralston, L., (2011), *The Residual Income Approach to Housing Affordability: The Theory and the Practice*, AHURI Positioning Paper No. 139; Stone, M. E., (2006), What is housing affordability? The case for the residual income approach. *Housing Policy Debate*, *17*(1):151–184. https://doi.org/10.1080/10511482.2006.9521564

sale price, and subsequently attempts to negotiate affordable housing outcomes from the purchaser. It ensures the public benefit is secured through the disposal itself, rather than left to negotiation after the land has been sold.

Allow public housing authorities to provide the social housing component alongside eligible community housing providers

ACT Shelter supports the Bill's recognition of registered community housing providers, but considers that public housing authorities should also be expressly eligible to own or manage the social housing component. Public housing is the backbone of the ACT's social housing system, particularly for those with the greatest housing need, and remains the largest component of Australia's social housing system.[7]

Clauses 12(1)(b) and 13 should therefore be expanded to include public housing authorities established or recognised under state or territory law. This would allow the most appropriate ownership and management model to be determined according to local circumstances, including where a site forms part of an existing public housing development, government housing program or broader place-based strategy. This would ensure the Bill maximises the capacity to deliver durable social housing outcomes, rather than unnecessarily prescribing a single institutional model.

Strengthen the permanence of housing obligations

The Bill provides a strong foundation for securing enduring housing outcomes. Clauses 11 and 17 require a recognised housing instrument to be executed and registered, or capable of immediate registration, before a disposal can be completed, while clause 12(1)(e) provides that the housing obligation continues for as long as the instrument provides, including in perpetuity where local land law permits. These provisions are important safeguards against the public benefit being lost through subsequent transfer or disposal of the land.

ACT Shelter suggests, however, that consideration be given to establishing a stronger presumption that housing obligations are secured in perpetuity wherever legally possible. Where perpetual protection is not available, the obligation should apply for the longest practicable period and include appropriate transitional protections. The Bill should also make explicit that the obligation runs with the land and binds successors in title, transferees, lessees and subsequent owners or managers for the duration of the recognised housing instrument. This should apply equally to the affordable and designated social housing components.

The ACT's leasehold system provides established mechanisms for attaching conditions and covenants to land, potentially supporting the Bill's objective of securing long-term housing outcomes; however, the legislation should ensure that its recognised housing instrument mechanism operates effectively in relation to National Land and can secure enduring obligations through the relevant Commonwealth and ACT tenure and land-title arrangements.

[7] Productivity Commission (2026), *Report on Government Services 2026, PART G, SECTION 18, Table 18A.3.*

The Bill should clearly accommodate National Land in the ACT

The ACT warrants specific consideration because Commonwealth land in the Territory is subject to a distinctive legal and land-tenure framework. The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) distinguishes between National Land, which remains under Commonwealth administration, and Territory Land, which is administered by the ACT Government. National Land is administered by the National Capital Authority or the Minister for Finance, depending on its purpose, under a Commonwealth legislative framework that includes the *National Land (Leased) Ordinance 2022*. The Ordinance is made under the *Seat of Government (Administration) Act 1910* (Cth), a Commonwealth reserved-law framework, rather than under the 1988 Act itself. It nevertheless incorporates the ACT *Land Titles Act 1925*, including its registration framework for interests in National Land.

This creates an important drafting issue for the Bill. Its recognised housing instrument mechanism relies on an instrument created under a "local land law", defined as a law of a state or territory. It is not clear on the face of the Bill how that mechanism is intended to operate where Commonwealth National Land is governed by Commonwealth legislation, even though interests in that land may be registered through the ACT land titles system. ACT Shelter does not suggest that the Bill necessarily excludes this National Land; rather, the interaction between the Bill, the Commonwealth National Land framework and the ACT land titles system should be made unequivocal.

The Bill should therefore expressly ensure that its recognised housing instrument mechanism applies to disposals of National Land in the ACT, and with housing obligations able to be secured through the relevant Commonwealth tenure and ACT registration arrangements. ACT Shelter recommends that the Committee seek confirmation from the Department of Finance and the Attorney-General's Department that the Bill achieves this in practice, and amend the legislation if necessary to remove any uncertainty. The ACT Government should also be consulted on implementation, particularly given the interaction between National Land, the National Capital Plan and the Territory's broader planning and housing objectives.

Conclusion

The Commonwealth Land (Affordable Housing) Bill 2026 provides an important opportunity to ensure that the disposal of public land delivers more than a one-off financial return. Public land is a finite community asset, and once sold, its public value cannot readily be recovered. The Commonwealth should therefore use its land holdings to secure housing outcomes that the market alone cannot deliver, particularly for people experiencing the greatest housing need. ACT Shelter supports the Bill as an important foundation for achieving this and urges that it be passed and strengthened through the amendments and implementation measures outlined in this submission.