

Form B

Commonwealth of Australia

Competition and Consumer Act 2010 — subsections 88 (1A) and (1)

AGREEMENTS AFFECTING COMPETITION OR INCORPORATING RELATED CARTEL PROVISIONS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection(s) 88 (1A)/88 (1) of the *Competition and Consumer Act 2010* for an authorisation:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act).
- to give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of that Act (other than a provision which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act).
- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

(Strike out whichever is not applicable)

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of Applicant:
(Refer to direction 2)

South Australian Housing Trust trading as the SA Housing Authority (ABN 17 545 435 789) (SA Housing Authority) and Urban Renewal Authority trading as Renewal SA (ABN 86 832 349 553) (Renewal SA) including any successors of SA Housing Authority or Renewal SA (whether by change of name or restructure or otherwise) charged with carrying out the responsibilities for affordable housing currently undertaken by SA Housing Authority and Renewal SA.

- (b) Short description of business carried on by applicant:
(Refer to direction 3)

The SA Housing Authority is a statutory corporation established under the *South Australian Housing Trust Act 1995* (SA) and is responsible for assisting people to secure and maintain affordable and appropriate housing.

Renewal SA is a statutory corporation established under the *Urban Renewal Act Housing and Urban Development (Administrative Arrangements) Act 1995* (SA) and is charged with leading urban renewal activities on behalf of the Government of South Australia. Renewal SA promotes and facilitates an increase in the supply of affordable housing in South Australia, helps to renew existing social housing stock, and contributes significantly to achieving outcomes sought for urban development through the Government's *30-Year Plan for Greater Adelaide*.

- (c) Address in Australia for service of documents on the applicant:

Attention: Peter Campbell
HWL Ebsworth Lawyers
Level 21 Westpac House
91 King William Street
ADELAIDE SA 5000

2. Contract, arrangement or understanding

- (a) Description of the contract, arrangement or understanding, whether proposed or actual, for which authorisation is sought:
(Refer to direction 4)

Please refer to Schedule 1.

- (b) Description of those provisions of the contract, arrangement or understanding described at 2 (a) that are, or would or might be, cartel provisions, or that do, or would or might, have the effect of substantially lessening competition:
(Refer to direction 4)

Please refer to Schedule 1.

- (c) Description of the goods or services to which the contract, arrangement or understanding (whether proposed or actual) relate:

The development, marketing, rental and sale of affordable housing. Please refer to Schedule 1 for further details.

- (d) The term for which authorisation of the contract, arrangement or understanding (whether proposed or actual) is being sought and grounds supporting this period of authorisation:

The authorisation is being sought for a period of 10 years.

3. Parties to the proposed arrangement

- (a) Names, addresses and descriptions of business carried on by other parties or proposed parties to the contract or proposed contract, arrangement or understanding:

Please refer to Schedule 1.

- (b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:

(Refer to direction 5)

Please refer to Schedule 1.

4. Public benefit claims

- (a) Arguments in support of authorisation:

(Refer to direction 6)

Please refer to Schedule 1.

- (b) Facts and evidence relied upon in support of these claims:

Please refer to Schedule 1.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (c) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

(Refer to direction 7)

Residential real estate market (including sales and rental) for Greater Adelaide Region.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the authorisation, in particular the likely effect of the contract, arrangement or understanding, on the prices of the goods or services described at 2 (c) and the prices of goods or services in other affected markets:

(Refer to direction 8)

Please refer to Schedule 1.

- (b) Facts and evidence relevant to these detriments:

Please refer to Schedule 1.

7. Contract, arrangements or understandings in similar terms

This application for authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements

or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.

- (a) Is this application to be so expressed?

Yes.

- (b) If so, the following information is to be furnished:

- (i) description of any variations between the contract, arrangement or understanding for which authorisation is sought and those contracts, arrangements or understandings that are stated to be in similar terms:

(Refer to direction 9)

Please refer to Schedule 1.

- (ii) Where the parties to the similar term contract(s) are known — names, addresses and descriptions of business carried on by those other parties:

Not applicable.

- (iii) Where the parties to the similar term contract(s) are not known — description of the class of business carried on by those possible parties:

Please refer to Schedule 1.

8. Joint Ventures

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

No.

- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

Not applicable.

- (c) If so, by whom or on whose behalf are those other applications being made?

Not applicable.

9. Further information

- (a) Name and address of person authorised by the applicant to provide additional information in relation to this application:

Peter Campbell
HWL Ebsworth Lawyers
Level 21 Westpac House
91 King William Street
ADELAIDE SA 5000.

Dated.....

Signed by/on behalf of the applicant

.....
(Signature)

.....
(Full Name)

.....
(Position in Organisation)

DIRECTIONS

1. Use Form A if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision and which is also, or might also be, an exclusionary provision. Use Form B if the contract, arrangement or understanding includes a provision which is, or might be, a cartel provision or a provision which would have the purpose, or would or might have the effect, of substantially lessening competition. It may be necessary to use both forms for the same contract, arrangement or understanding.

In lodging this form, applicants must include all information, including supporting evidence, that they wish the Commission to take into account in assessing the application for authorisation.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
4. Provide details of the contract, arrangement or understanding (whether proposed or actual) in respect of which the authorisation is sought. Provide details of those provisions of the contract, arrangement or understanding that are, or would or might be, cartel provisions. Provide details of those provisions of the contract, arrangement or understanding that do, or would or might, substantially lessen competition.

In providing these details:

- (a) to the extent that any of the details have been reduced to writing, provide a true copy of the writing; and
 - (b) to the extent that any of the details have not been reduced to writing, provide a full and correct description of the particulars that have not been reduced to writing.
5. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
 6. Provide details of those public benefits claimed to result or to be likely to result from the proposed contract, arrangement or understanding including quantification of those benefits where possible.
 7. Provide details of the market(s) likely to be effected by the contract, arrangement or understanding, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the authorisation.
 8. Provide details of the detriments to the public which may result from the proposed contract, arrangement or understanding including quantification of those detriments where possible.

9. Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangements or understanding referred to in item 2.

SCHEDULE 1

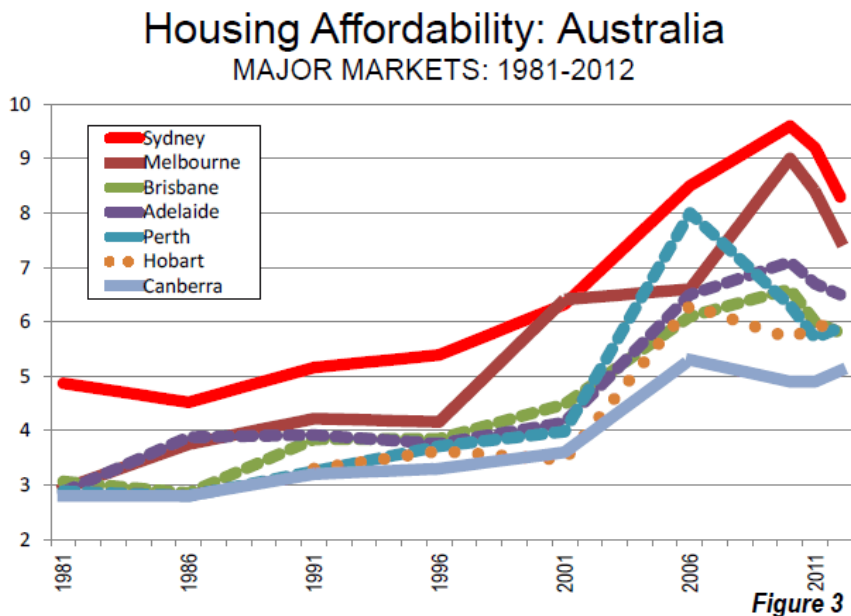
The Problem of Housing Affordability

Australia is one of the least affordable housing markets in the world.¹

Based on a “median multiple” (median house price divided by gross annual median household income), the Annual Demographia International Housing Affordability Survey identifies all Australian markets as seriously or severely unaffordable.

Nation	Affordable (3.0 & Under)	Moderately Unaffordable (3.1-4.0)	Seriously Unaffordable (4.1-5.0)	Severely Unaffordable (5.1 & Over)	Total	Median Multiple
Australia	0	0	9	30	39	5.6
Canada	8	17	4	6	35	3.6
China (Hong Kong)	0	0	0	1	1	13.5
Ireland	1	4	0	0	5	3.2
New Zealand	0	0	3	5	8	5.3
United Kingdom	0	2	14	17	33	5.1
United States	100	87	13	16	216	3.1
TOTAL	109	110	43	75	337	

Affordability has declined significantly over the period from 1981 to 2012.² In 2013, Australian capital city home values rose by a further 9.8 per cent.³



¹ 9th Annual Demographia International Housing Affordability Survey

² 9th Annual Demographia International Housing Affordability Survey

³ RP Data-Rismark Home Value Index for Jan-Dec 2013

Demographia identifies the key reason for this shift in Australia is the market's inability to provide low-priced new housing.

In the coming years, Australia faces a housing shortage. The National Housing Supply Council estimates that 3.3 million new dwellings will be required by 2030⁴ but that, at current rates, only 2.98 million new dwellings will be built in that time.⁵ This imbalance between projected demand and projected supply suggests that housing prices are likely to rise and this, together with lags in supply inherent in the housing market, means that an increasing number of Australians will be unable to afford to enter, or participate in, that market.⁶

South Australia is not immune from this problem of housing affordability. Indeed, one of the seven “strategic priorities” identified by the Government of South Australia is to ensure that home rental and ownership costs are within the reach of all South Australians.⁷

The State Government’s Response

In 2002/03, only 7% of the homes sold, and one in three rental properties in metropolitan Adelaide, were affordable to low income households (based on a housing cost to income ratio of not more than 25%, which is the nationally agreed measure of housing stress). It is generally accepted that households paying greater than 30% of gross income in rental or mortgage costs are in housing stress.

The Government of South Australia’s “primary policy document”,⁸ known as “South Australia’s Strategic Plan”, established in 2004, recognises the problem of decreasing housing affordability.⁹ It sets a goal that “*everyone can afford to rent or buy a home*”,¹⁰ and seeks to halve the number of South Australians achieving housing stress within 10 years. The Plan was updated in 2007 and 2011, with these goals and targets being retained and updated.

In an effort to achieve these aims, in March 2005, the Government released a “Housing Plan for South Australia” which, amongst other things, introduced a target of having 15 per cent of all significant new housing developments meeting “affordable housing” criteria which were to be

⁴ National Housing Supply Council, State of Supply Report 2011, p xv.

⁵ National Housing Supply Council, State of Supply Report 2011, p xvi.

⁶ National Housing Supply Council, State of Supply Report 2011, p 115.

⁷ Seven Strategic Priorities.

⁸ Davison et al (November 2012) *Affordable housing urban renewal and planning: emerging practice in Queensland, South Australia and New South Wales*, p. 48.

⁹ Strategic Plan, p. 28.

¹⁰ Strategic Plan, p. 28.

defined annually in the Government Gazette under the *South Australian Housing Trust Regulations 1995*.¹¹ [This is achieved through regulation 4 of the *South Australian Housing Trust Regulations 2010 \(SA\)* which permits the Minister, by notice in the Gazette, to determine criteria to be applied for the purpose of determining whether a policy, strategy, program, application or other matters falls within the concept of “affordable housing”.](#) The current criteria [gazetted under this regulation](#) are attached as Annexure A. Changes were also made to the *Development Act 1993* (SA) (which governs the planning and development decision-making process) to help implement that target.¹²

The affordable housing inclusion policy (**Policy**) introduced by the Housing Plan for South Australia in 2005 is mandatory for all government sales and in all developments by Government agencies, and is otherwise subject to agreement.

In December 2009, the Council of Australian Governments (**COAG**) agreed to National Affordable Housing Agreement (**NAHA**), and three associated National Partnership Agreements. The NAHA commenced on 1 January 2009, based on a broad agenda encompassing housing and urban policy, and opportunities for all sectors of government to work together to improve housing affordability. It provided direction for a range of measures, including:

- social housing;
- assistance to private renters;
- home purchase assistance; and
- support and accommodation for the homeless and persons at risk of becoming homeless.

Signatories to the NAHA, including South Australia, committed to achieving outcomes and introducing reforms to increase the supply of affordable housing. The restriction of affordable property sales to a defined group of eligible buyers, whether directly by Government or indirectly in partnership with the private sector (eg via the proposed arrangements the subject of this application) are fundamental to achieving the policy outcomes embodied in the NAHA and South Australia's Strategic Plan.

¹¹ Davison et al (November 2012) *Affordable housing urban renewal and planning: emerging practice in Queensland, South Australia and New South Wales*, p. 48-9.

¹² Davison et al (November 2012) *Affordable housing urban renewal and planning: emerging practice in Queensland, South Australia and New South Wales*, p. 48-9.

SA Housing Authority and Renewal SA

~~In a further attempt to meet the Government's goal of affordable housing for all South Australians, a~~ statutory corporation called the Urban Renewal Authority was formed on 1 March 2012 under what was then regulation 4 of the *Housing and Urban Development (Administrative Arrangements) (Urban Renewal Authority) Regulations 2012* (SA) (~~URA Regulations~~). ~~That authority incorporated "the functions and resources of the former Land Management Corporation and certain land, buildings and housing stock assets, employees and functions from Defence SA and the South Australian Housing Trust."~~¹³—It began trading as “**Renewal SA**” (ABN 86 832 349 553) on 30 August 2012.¹⁴

Renewal SA has a broad range of functions, which are set out in section 7C of the *Urban Renewal Act 1995* (SA)~~regulation 6 of the URA Regulations~~. One of its key functions is to undertake activities which promote an increase in the supply of “affordable housing” in South Australia.

Similarly, the SA Housing Authority has, as one of its functions, the responsibility for ensuring people have access to affordable housing in South Australia and is also responsible for the enhancement of the long term financial viability of social and affordable housing.

On 1 July 2018, a machinery of government change was implemented in the Government of South Australia which transferred certain functions and responsibilities from Renewal SA to the SA Housing Authority. As a result, the Policy is, as of 1 July 2018, administered and enforced by the SA Housing Authority.

The SA Housing Authority and Renewal SA currently owns land and/or existing housing developments in the Greater Adelaide Region (**Project Sites**).

As part of ~~their~~s functions, the SA Housing Authority and Renewal SA may upgrades and/or (re-)develops (as appropriate, having regard to the Project Site) and sells Project Sites to developer-purchasers who will upgrade or construct the built-form structures on the land and sell built-form product to the public (**Projects**).

It is intended that, when completed, and consistent with the Policy (which applies to developments of 20 or more dwellings), at least 15 per cent of the dwellings

¹³ ~~Auditor General's report 2012-13 re Urban Renewal Authority, p. 2103.~~

¹⁴ Annual report 2012/2013.

constructed/redeveloped by the purchasers of land from [the SA Housing Authority or](#) Renewal SA under relevant Projects will meet the “affordable housing” criteria set by the Government of South Australia and defined from time to time in the Government Gazette under the *South Australian Housing Trust Regulations 2010 (SA)*.¹⁵

In 2015, activity under the affordable homes program represented about 2%¹⁶ of the total residential sales market in South Australia.

Over the last 10 years (including the current financial year), total sales from the 15% policy commitment, together with sales of existing and established affordable housing property listings, have amounted to 4,341.

The table below sets out relevant statistics for the sale of dwellings for the financial years 2007/08 to 2015/2016 inclusive together with the 2016/17 financial year (to 1 September 2016) under the affordable homes program operated by Renewal SA. Under the Policy, a commitment has been made to deliver 6,376 new affordable housing outcomes over the next 15 years.

Property Type	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17 (to 1 Sep 2016)	TOTAL
<i>New constructions</i>	19	57	191	145	114	116	93	195	273	26	1229
<i>Established dwellings</i>	294	184	312	304	424	408	398	399	352	37	3112
TOTAL	313	241	503	449	538	524	491	594	625	63	4341

Demand

The demand for affordable housing in South Australia is evident:

- In 2011, over 28% of low and moderate income households in SA were considered to be in housing stress (paying more than 30% of their income on rent or mortgage). This has increased since that time.
- In 2017 Greater Adelaide dwelling price to income ratio is 6.4.
- In 2017, the percent of gross income required to service an 80% LVR mortgage is 34.5%.

¹⁵ For current rate:

http://governmentgazette.sa.gov.au/sites/default/files/documentstore/2016/October/2016_067.pdf, p 4069.

¹⁶ South Australian Valuer General sales data for 2015 including all residential dwelling and urban land sales (excluding properties sold for nil consideration and not true value sales) totalling 30,757

- 2017 Median house price in Adelaide was \$460,000¹⁷

In the absence of [the Government of South Australia, through the SA Housing Authority and Renewal SA](#), taking steps to insert affordable housing components into new developments and upgrading of existing residential areas, it is unlikely private developers will voluntarily create sufficient levels of affordable housing. The development sites will otherwise be dedicated wholly to development of relatively high-cost housing without affordable housing components. In the absence of affordable housing being provided, people who would be eligible for affordable housing will be left renting or will be pushed out to the fringes of the metropolitan area.

Target

The proposed target groups for affordable housing include:

- First home buyers;
- Singles/ Young (including students);
- Key workers;
- Older; and
- Low income workers.

The term "key workers" is an industry term that generally refers to people in the "moderate" income category (ie, with an annual income of between 80 and 120 per cent of the gross annual median income). Such people generally comprise young professionals and single parents, who are often employed in the health care, social services (including teaching), and administrative support industries.

[The SA Housing Authority and Renewal SA](#) expects that 40 per cent of the affordable housing dwellings constructed on the Project Sites will be made available to key workers who meet the defined criteria.

The Arrangements

¹⁷ CoreLogic Australian Affordable Housing Report 2017-2018
Doc ID 579551123/v1

As part of the proposed Projects, [the SA Housing Authority and](#) Renewal SA intends to enter into arrangements with developers of Projects (**Developers**) for the sale, purchase and (re-) development of certain Project Sites, or parts thereof.

Except as already notified [by Renewal SA](#) to the Commission through Authorisation No. A91416, the arrangements the subject of this application are proposed, and are yet to be reduced to writing and agreed with Developers or otherwise formalised.

However, [the Government of South Australia](#) ~~Renewal SA~~ does have standard legal agreements to secure affordable housing, including two forms of Land Management Agreement under sections 57 and 57A of the *Development Act 1993* (SA) (**Land Management Agreement**) [that are entered into by the Minister for Planning and the relevant Developer](#). A Land Management Agreement under section 57 is entered into where the Developer is an existing owner of the relevant land. A Land Management Agreement is entered into under 57A where the Developer is at the stage of applying for a development authorisation in relation to the relevant land. [The SA Housing Authority and](#) Renewal SA proposes that, in the majority of circumstances, [the contract for the sale of land within these Projects will require Developers to enter into](#) these Land Management Agreements [which, together with the Land Management Agreements entered into by the Minister for Planning](#) will form the basis of its formal agreements with Developers. A copy of each agreement is attached as Annexure B, and their terms are able to be negotiated with Developers to meet the requirements of a particular Project.

In some circumstances, the agreement between [the SA Housing Authority or](#) Renewal SA and Developers to secure affordable housing may instead be [wholly](#) contained within a contract for the sale and purchase of land, a development agreement or some other form of contractual documentation between [the SA Housing Authority or](#) Renewal SA and the Developer.

Accordingly, to implement the Government's Housing Plan for South Australia and the Policy, and target outcomes to defined or eligible parties, the conduct the subject of this application can be described as the proposal that [the SA Housing Authority and/or](#) Renewal SA enters into arrangements with Developers whereby Developers may be asked to agree to some or all of the following conditions:

- to develop and offer for sale or rental as affordable housing properties or allotments not less than 15% of the total number of dwellings to be created in new or upgraded developments;
- not to sell affordable housing properties or allotments at a price greater than the maximum price;
- not sell to any person other than an eligible buyer unless reasonable steps to do so within a specified timeframe have been attempted;
- to incorporate a minimum proportion of affordable housing allotments for sale or properties for rental or sale in new or upgraded developments and Project Sites;
- to fix maximum rental prices in accordance with affordable housing caps;
- to fix maximum sales prices in accordance with affordable housing caps;
- to only rent to eligible tenants (eg "key worker" tenants and low-to-moderate income households) who satisfy criteria for access to affordable housing (to the exclusion of those who do not satisfy those criteria);
- to only sell to eligible buyers within specified timeframes (eg "key worker" purchasers, affordable rental providers and low-to-moderate income households) who satisfy criteria for access to affordable housing (to the exclusion of those who do not satisfy those criteria);
- to cap building costs as part of house and land packages offered in conjunction with [the SA Housing Authority or](#) Renewal SA;
- to only sell house and land packages offered in conjunction with [the SA Housing Authority or](#) Renewal SA to eligible owner occupier purchasers (to the exclusion of non-eligible owner-occupiers, and non-owner occupiers); and/or
- to only build houses to standards approved by [the SA Housing Authority or](#) Renewal SA as part of house and land packages offered in conjunction with [the SA Housing Authority or](#) Renewal SA and in other [SA Housing Authority or](#) Renewal SA developments at other Project Sites.

For specific Projects involving sale of [SA Housing Authority land or](#) Renewal SA land, ~~Renewal SA~~[those parties](#) may agree:

- to cap land prices as part of house and land packages offered in conjunction with Developers;
- to only sell house and land packages offered in conjunction with Developers to owner occupier purchasers (to the exclusion of non-eligible owner-occupiers, and non-owner occupiers);
- not to actively compete with Developers for the rental of properties for an agreed period (eg 3 months); and/or
- not to actively compete with Developers for the sale of properties for an agreed period (eg 3 months).

The criteria that are intended to be used to determine whether or not someone is able to access the “affordable housing” developed under any of the above arrangements will include quantitative and qualitative components so that the proposed arrangement benefits those key workers or other specified group(s) who may find themselves excluded from both the general housing market and social housing. The quantitative component involves an assessment of the eligible person’s income and assets against defined rates. Different rates may apply to singles, to couples, to those with children and to those aged over 55. If an eligible person’s income and assets exceed the relevant rate, then they will be ineligible to access the “affordable housing” developed under the above arrangement.

The qualitative component of the criteria will essentially involve an ongoing assessment of whether or not the eligible person is complying with their obligations under the arrangement.

Parties

The identity of Developers who may be party to the proposed arrangements with [the SA Housing Authority or](#) Renewal SA is presently unknown. A number of Developers are prepared to consider entering into arrangements for the incorporation of affordable housing components in developments.

Proposed Provisions that may Contravene

Application for Authorisation is made because certain Developers and [the SA Housing Authority and](#) Renewal SA may be considered competitors. Renewal SA has a number of functions. While it does not actively seek to position itself as a landlord or vendor of property, it may adopt that role in respect of some developments in which it is involved. [This is also the case for the SA Housing Authority.](#)

Against that background, the aspects of the proposed arrangements described in "The Arrangements" section above include provisions which may be considered to be anti-competitive or cartel provisions, specifically:

- agreeing to fix maximum rental prices in accordance with affordable housing caps;
- agreeing to fix maximum sales prices in accordance with affordable housing caps;
- agreeing to rent or sell to eligible tenants or purchasers who satisfy criteria for access to affordable housing (to the exclusion of those who do not satisfy those criteria);
- agreeing to sell house and land packages offered by Developers in conjunction with Renewal SA to eligible owner occupier purchasers (to the exclusion of non-eligible owner occupiers, and non-owner occupiers);
- agreeing to cap building costs as part of house and land packages;
- Renewal SA [or the SA Housing Authority](#) agreeing not to compete with the rental and sale of property for a defined period agreed with Developers.

It is not considered that any of the arrangements will have the effect of substantially lessening competition.

Public Benefits

The authorisation sought by [the SA Housing Authority and](#) Renewal SA will allow [those parties](#), in conjunction with engaged Developers, to make affordable housing available for rent or purchase by a section of the public who would otherwise be excluded from the market. The public benefits of the authorisation will outweigh any detriment to the public (ie home buyers and renters generally) as a result of the price cap, restrictive criteria for eligible participants, and [the SA Housing Authority or](#) Renewal SA's agreement to abstain from entering the market for the period agreed with Developers.

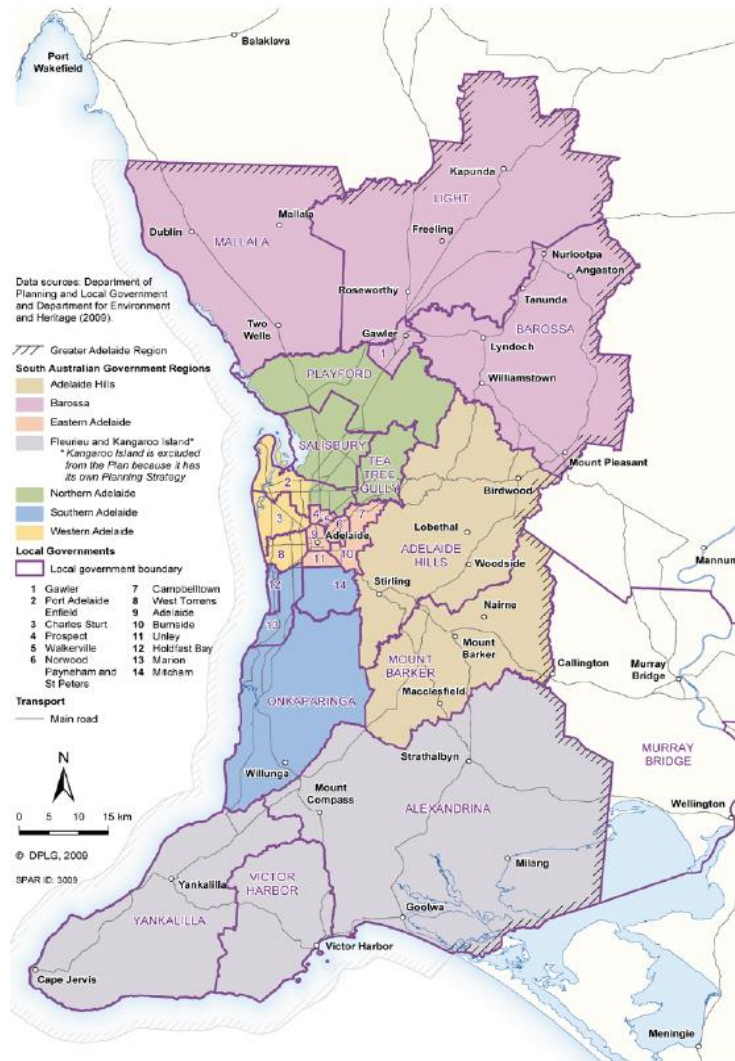
The public benefits of the proposed authorisation include:

- an increase in the supply of affordable housing;
- greater flexibility in the delivery of affordable housing;
- reduced financial commitment and risk for public funds (ie Renewal SA's) through the involvement of private developers;
- redevelopment of disused land and revitalisation of existing housing developments;
- promotion of social diversity;
- revitalisation of the surrounding communities; and
- attraction of workers with key skills to live in and around the metropolitan area.

Market Definition

The market to which the authorisation sought relates is the market for low cost housing (both rental and sale) in the greater metropolitan region of Adelaide (**Greater Regional Adelaide**).

It is characterised by high demand and increasingly tight supply which, in the absence of the significant redevelopment of Government-owned land within the region, is likely to deteriorate over time. This is particularly so where the population of the region is expected to grow, the supply of land available for development will increasingly be restricted to higher-density, urban in-fill projects, and the proportion of the population over the age of 65 years is likely to increase.



The people looking to enter this market are typically low to moderate income earners, graduates starting out, first home buyers, and other people who, by reason of employment industry, low education levels, health problems, or other forms of social disadvantage, are increasingly precluded from accessing market housing.

The current suppliers in this market consist of a broad range of private sector, government, and not-for-profit organisations. These include property developers and funding groups, such as:

- private developers;
- government agencies, including Renewal SA and the [SA Housing Authority](#) [South Australian Housing Trust](#); and

- not-for-profit organisations, such as Unity Housing, AnglicareSA and Junction Australia.

The available substitutes for low cost housing are all, in comparison, undesirable. For example, acquirers could:

- try to obtain higher cost housing by devoting a greater proportion of their incomes to rental or mortgage payments and thereby potentially decreasing the amount of funds they have available for other essential services such as utility bills, health care, and groceries;
- move into shared accommodation, which may promote over-crowding, a loss of privacy, and health problems; or
- move to cheaper accommodation, which tends to be located at the margins of the greater metropolitan region, which is generally further away from their place of employment education, health care and which may lead to an increase in commuting and living costs, a general lack of enjoyment and decrease in the level of social diversity within the metropolitan region. Some other forms of cheaper accommodation in well serviced areas tend to be smaller, offering less amenity and can often be compromised in terms of safety and enjoyment.

No Public Detriment

[The SA Housing Authority and](#) Renewal SA submits that there will be no material public detriment arising from the proposed conduct. The only theoretical detriment is the creation of artificial pricing for a small group of selected properties (consistent with affordable housing criteria) rather than allowing that pricing to be determined by market forces.

The conduct for which this authorisation is sought is specifically intended to remedy deficiencies in the housing market. [The SA Housing Authority and](#) Renewal SA submits that any detriment will be significantly outweighed by the anticipated benefits of the conduct.

There will be no negative impact on the housing market in Greater Regional Adelaide and no material or detrimental impact on any businesses outside the arrangements in question.

In this regard, it must be noted that the arrangements in question will affect only a very small proportion of dwellings built (which is obviously immaterial in the context of the overall real estate market in the Greater Adelaide Region).

It must also be noted that current market forces have not addressed and will not address the growing need for affordable housing due to inherent supply lags in the industry. Market forces have historically failed to respond to the affordable housing supply issues in inner city and middle ring metropolitan areas. There has been no demonstration that normal commercial factors will drive an increase in affordable housing stocks or create incentives for meaningful affordable housing components to be incorporated in broader developments. That experience is unlikely to change in the future, particularly where underlying land values are high. Accordingly, Government involvement is the only realistic way by which affordable housing will be provided.

As a result, initiatives such as those in the arrangements in question are required if affordable housing is to be made available.

Conclusion

It is submitted that, for the reasons outlined in this Application, the public benefit from the proposed contractual arrangements described in this Application far outweighs any potential public detriment, and authorisation should be granted.