

Our Ref: JEH:DLB:640478

29 November 2018

Chair
Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Email: [REDACTED]

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Dear Chair

Pemulwuy Project, Redfern

1. We act for the Aboriginal Housing Company Limited (**AHC**) in relation to the Pemulwuy Project, Redfern.
2. We refer to your request for confirmation as to whether AHC is a "social housing provider" pursuant to the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (**ARH SEPP**).
3. The ARH SEPP defines "social housing provider" as follows:

"social housing provider means any of the following:

- (a) *the Department of Human Services,*
- (b) *the Land and Housing Corporation,*
- (c) *a registered community housing provider,*
- (d) *the Aboriginal Housing Office,*
- (e) *a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,*
- (f) *a local government authority that provides affordable housing,*

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(g) a not-for-profit organisation that is a direct provider of rental housing to tenants."

(our emphasis)

Not-for-profit organisation

4. We confirm that AHC is a not-for-profit organisation that is a direct provider of rental housing to tenants and therefore falls within category (g) of the above definition.
5. AHC's status as a not-for-profit organisation is confirmed by its Memorandum of Association (**Memorandum**) which provides as follows:
 - (a) article 3 provides that the income and property of the AHC shall be applied solely towards promotion of its objects and is not to be distributed by way of profit to its members; and
 - (b) article 6 provides that upon the winding up or dissolution of the AHC, its assets are not to be distributed among the members of AHC but rather are to be given or transferred to an institution with similar objects to AHC.
6. We note that AHC's not-for-profit status has been accepted by Revenue NSW for the purpose of obtaining a stamp duty exemption.

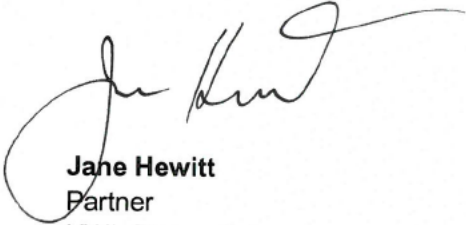
Provision of rental housing directly to tenants

7. We are instructed that AHC provides rental housing directly to tenants.
8. This is confirmed by article 2 of the Memorandum which provides the objects for which AHC is established including:
 - (a) to rent, let, licence, provide housing, accommodation, premises, land, property real and personal or services to persons of Aboriginal or Island descent and their dependants who, in the opinion of the members, are poor or in need of assistance and such property or services to be provided on terms and conditions as the members deem fit;
 - (b) to provide or assist in providing emergency and temporary accommodation for persons of Aboriginal and Islander descent and their dependants on such terms and conditions as the members deem fit;
 - (c) to establish half way house accommodation for persons of Aboriginal and Islander descent and their dependants and to assist such persons in this move and secure entry into independent life;
 - (d) to establish, develop or assist in establishing and developing Aboriginal and Islander housing projects; and
 - (e) to purchase, take on, lease or in exchange, hire and otherwise acquire any land, buildings, easement or properties real and personal and any rights or privileges which may be required for the purpose of being conveniently used in connection with any of the objectives of AHC.

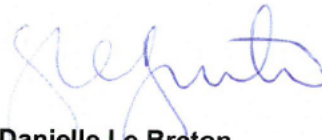
9. For these reasons it is our view that AHC is a not-for-profit organisation that is a direct provider of rental housing to tenants and is therefore a "social housing provider" pursuant to the ARH SEPP.

If you have any queries please contact Jane Hewitt or Danielle Le Breton.

Yours sincerely



Jane Hewitt
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Danielle Le Breton
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HWL Ebsworth Lawyers

