

INFRASTRUCTURE EXPERTS ADVISE NSW GOVERNMENT ON THE SUCCESSFUL COMPLETION OF FIVE SOCIAL AND AFFORDABLE HOUSING FUND TRANSACTIONS

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Herbert Smith Freehills has advised NSW Treasury and the Department of Family and Community Services (FACS) on the successful completion of five transactions that will comprise the first stage of the \$1.1 billion Social and Affordable Housing Fund (SAHF).

The SAHF will support partnerships between the private and community sectors by providing long-term operational subsidies to bridge the funding gap between existing revenue streams and commercially viable projects. This has been done by establishing service agreements that provide access to 2,200 social and affordable dwellings.

Herbert Smith Freehills was appointed by the NSW Government in December 2015 and advised on the structure and establishment of the fund and all aspects of the procurement process, including the expression of interest and request for proposal stages and parallel negotiations with the multiple shortlisted parties.

The Herbert Smith Freehills cross-practice team included partners Nicholas Carney, Jane Hodder, Peter Butler, Robert Nicholson, David Templeman and Erin Wakelin. They were assisted by special counsel Ian Reid, senior associates Kimberley Lean and Amelia Fleming, and solicitors Alanna Lofthouse and Nick Middleton.

The services agreements involve the provision of tenancy and asset management services, as well as tailored support coordination services, with a key aim to provide pathways to greater independence for households, including, for some, transitioning from social, to affordable, to private housing. In addition, the NSW Government took a novel approach to the supply of the social and affordable housing stock, adopting an innovative, service-based solution focussing on people, rather than through an asset-based solution as governments have traditionally done.

“To reflect these objectives, there will be a progressive transition toward outcomes based contracting over the term of each contract,” Nicholas Carney said.

“We have worked closely with FACS and NSW Treasury to design contractual arrangements that allow FACS to modify and improve the outcomes based payment mechanism throughout the life of the contract.”