

Aboriginal Housing Office response to discussion paper on the Review of the National Regulatory System for Community Housing (NRSCH)

March 2019

1. Introduction

The Aboriginal Housing Office (AHO) is the only Statutory Authority in Australia for Aboriginal Housing. Underpinned by the *Aboriginal Housing Act 1998* (NSW). The objects of the Act are as follows:

- a) to ensure that Aboriginal people and Torres Strait Islanders have access to affordable and quality housing,*
- (b) to ensure that such housing is appropriate having regard to the social and cultural requirements, living patterns and preferences of the Aboriginal people or Torres Strait Islanders to whom the housing is to be provided,*
- (c) to enhance the role of Aboriginal people and Torres Strait Islanders in determining, developing and delivering policies and programs relating to Aboriginal housing,*
- (d) to ensure that priority is given, in providing housing assistance for Aboriginal people and Torres Strait Islanders, to those individuals who are most in need,*
- (d1) to ensure that the available supply of housing under this Act is shared equitably among Aboriginal people and Torres Strait Islanders who are most in need,*
- (e) to increase the range of housing choices for Aboriginal people and Torres Strait Islanders so as to reflect the diversity of individual and community needs,*
- (f) to ensure that registered Aboriginal housing organisations are accountable, effective and skilled in the delivery of Aboriginal housing programs and services,*
- (g) to ensure that the Aboriginal Housing Office's housing programs and services are administered efficiently and in co-ordination with other programs and services that are provided to assist Aboriginal people and Torres Strait Islanders,*
- (h) to encourage the sustainable employment of Aboriginal people and Torres Strait Islanders in the delivery of Aboriginal housing assistance.*

The Act prescribes that the AHO can only deal with registered Aboriginal community housing providers and it is to determine the form and pathway of that registration. The Act also requires that the AHO keep a register of registered Aboriginal community housing providers.

The intent of the AHO is to ensure that Aboriginal community housing providers are an essential component of the NSW social housing system. In 2018 the AHO was prescribed in the *Community Housing providers (Adoption of National Law Act 2012)(NSW)* Act as a Housing Agency (*Regulations*) enabling specific Aboriginal housing policy to be set. This recognition also allowed the AHO to enter into a fee for service arrangement with the NSW Registrar of Community Housing to facilitate the registration for Aboriginal community housing providers through the National Regulatory system for Community Housing until 2022.

The following submission seeks to provide an overview of some of the challenges associated with new entrants to an established regulatory system and some of the opportunities to deliver better housing outcomes in company with Aboriginal organisations.

1. Regulation of Community Housing

The AHO supports that regulation is required for the community housing sector to deliver better outcomes for tenants, to protect government assets and to foster investment and partnerships with the private sector, however it is critical that regulation:

- give focus to both tenant and providers needs.
- adopt a holistic lens and acknowledge the value of Aboriginal service delivery models that support and value families as well as traditional landlord functions.
- consider the need for self-determination and cultural competency across the community housing sector.
- Utilises improved tenant satisfaction as a measure of success.

Findings from the 2019 AHO Listen and Yarn engagement activities conducted as a foundation to the development of *Strong Family, Strong Communities* the 10 year plan for Aboriginal social housing, indicate that the rights and protections of tenants remain an issue. The AHO would like to see the current regulatory system give further consideration to individual consumer's rights and protections. There is scope to give tenant representative organisations more prominence within the regulatory governance framework and as a safeguard to ensure a diverse sector.

If the client is at the centre of everything we do and the provision of social housing is about more than rent collection, there needs to be a focus on service delivery models that support people and families in addition to traditional landlord functions. As a part of the Listen and Yarn engagements, both tenants and providers identified that safe, secure and stable housing is the foundation for success and that there is an opportunity to strengthen service integration and pathways through housing service delivery. As set out in the National Housing and Homelessness Agreement (NHHA) further emphasis should be placed on the community housing sector as a key component of an integrated social housing system, building capability of housing providers as service providers capable of facilitating pathways to other primary services.

There is a need to build the cultural competency of the community housing sector to deliver services to Aboriginal tenants and families, particularly given the proportion of this cohort residing in social and affordable housing. Currently there is no requirement for providers to be culturally competent under NRSCH or the NSW Local Scheme (NSWLS).

The AHO believes that the NRSCH should include Aboriginal cultural competency standards to improve service delivery and outcomes for Aboriginal clients. Aboriginal community housing providers (ACHPs) have a role to play to aid in the development of this competency. Recognising the development of the Community Housing Aboriginal People (CHAP) Standards and Self-Assessment Tool for Community Housing Providers (CHPs) developed by the Community Housing Industry Association (CHIA) has provided a strong foundation to build from, now is the time to consider regulating this essential skill. Peak bodies, like the Aboriginal Community Housing Industry Association (ACHIA) and the NSW Aboriginal Land Council (NSWALC) should play a lead role in overseeing the application of these standards as cultural stewards and practitioners in the NSW context.

2. Design of the NRSCH

The AHO would like to see the below issues factored into the design of the NRSCH:

- flexibility of the NRSCH to regulate ACHPs who face cohort specific challenges impacting benchmarks; and
- inclusion of Aboriginal Cultural Competency Standards for the community housing sector.

The AHO has been working with ACHPs, CHPs and the peak representative bodies to build the capacity of ACHPs to transition to the NRSCH. While some ACHPs have the capacity to transition to this scheme many are likely to be inhibited by:

- legacy issues around the property they own and/or manage (and condition);
- culturally informed practice that may require temporary modifications to the performance thresholds or requirements; and
- inheritance of former reserves and missions.

Currently the Local Scheme in NSW has provided flexibility in respect to legal obligations and evidence whilst maintaining a minimum set of standards and protecting government assets. The NRSCH Review offers an opportunity to build this flexibility into the NRSCH itself.

Consideration needs to be given to the management of former reserves and missions recognising the impact that this has on the financial viability and performance of housing providers. Many of these reserves are situated in discrete locations which attract higher service delivery costs and the quality of housing stock requires additional investment. Management of this stock is not likely to be profitable or sustainable without government investment.

As highlighted in section 1, the review offers an opportunity to address the issues of cultural competency in the regulatory system and to build additional cultural competency in the registrar's office and staff teams.

One of the concerns raised by ACHPs is the NRSCH's ability to recognise alternative models of governance which include cultural obligations. The AHO and ACHPs would like to see the NRSCH recognise and foster Aboriginal cultural competence amongst all providers as part of its core purpose and we strongly encourage the introduction of an Aboriginal Cultural Competency Standards in the revised NRSCH.

ACHPs in NSW also asked for mutual recognition between the different regulatory regimes in operation in the sector, for example those maintained by the Office of the Registrar of Indigenous Corporations (ORIC) or the NSW Aboriginal Land Council's Community Benefits Scheme.

Notwithstanding this and recognising that a Local Scheme provides the flexibility to respond to differing conditions, the current arrangement of Tiers and the addition of the Local Scheme does appear to denote a lesser level of experience or performance. Though this is somewhat due to the FACS requirements of the NSW Social and Affordable Housing Fund and the tender requirements for Communities Plus it has resulted in a false sense of public and funder confidence.

3. Operation of NRSCH

AHO supports independence of Registrar, however it is important to note that some of the operational requirements can represent a barrier for ACHPs. The requirement to register as a CHP can be challenging for many Aboriginal organisations and there exists a lack of clarity regarding which organisation provides the appropriate level of capacity building for new entrants. Additionally, compliance with the ongoing reporting requirements once registered can place a burden on already under resourced ACHPs requiring better information sharing protocols between housing agencies and the Office of the Registrar.

The NRSCH could have more of a role in capacity building and working in partnership with registered ACHPs and Aboriginal organisations with an interest in working toward registration including the provision of easily accessible tools and template and better practice guides for self-assessment.

4. Current and Future Challenges

It is critical that regulation adapts to reflect changes in policy, the market, and considers the impact of other regulatory frameworks where funders are seeking the provision of more than just housing services. To ensure that the NRSCH is well placed to meet current and future challenges it must be flexible and supportive of a diverse and changing sector, this requires:

- Better regulation of ACHPs, including consideration of performance and contextual factors; and
- Investment in both regulation and capacity building.

To effectively regulate ACHPs requires flexibility and recognition of the diversity that exists within the NSW context. Risk profiling needs to consider performance related factors including outcomes for tenants, standard of asset management and development activity, and financial, governance and management in addition to the provider's context. Further to this the current maintenance liability and burden of ageing assets must be considered resulting in assessment flexibility.

Contextual factors include:

- property portfolio (numbers and quality);
- tenancy turnover;
- the amount of public funding and private finance it is servicing or has committed by lenders;
- organisational complexity;
- the degree of local community dependence on the organisation; and
- the nature of its overall business.

The AHO is of the view that benchmarks and thresholds are just one part of a performance measurement system and provider performance must also be considered against its own stated aims and objectives.

It is key that the NRSCH focus on both building capacity and regulating the sector to provide choice and support culturally appropriate service delivery for Aboriginal people and families.