

New South Wales Local Scheme

Charter



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1. Purpose of this Document

This Charter sets out the overarching vision, objectives, regulatory principles and philosophy of the New South Wales Local Scheme.



2. Background

The New South Wales Government has committed to a number of social housing reforms.

In October 2016, NSW Parliament enacted an amendment to the *Community Housing Providers (Adoption of National Law) Act 2012 (NSW)* to establish a local system of registration, monitoring and regulation of entities that provide community housing but are unable to be registered under the *Community Housing Providers National Law (NSW)*.

In August 2017, under section 25A of the Act, the NSW Minister for Family and Community Services directed the Registrar of Community Housing (the Registrar) to commence the NSW local registration system, commonly known as the NSW Local Scheme that:

- as far as reasonably practicable, is consistent with the National Regulatory System for Community Housing (NRSCH)
- does not include the 'wind-up' condition of registration under the National Law (NSW), whilst ensuring that any assets or assistance provided by the NSW Government is appropriately protected
- initially focuses on registering NSW Local Aboriginal Land Councils (LALCs).

3. Vision

A well governed, well managed and viable community housing sector that meets the housing needs of tenants and provides assurance for Government and investors.



4. Objectives

The key objectives of the NSW Local Scheme are to:

- provide a NSW local system of registration, monitoring and regulation of entities that provide community housing but are unable to be registered under the National Regulatory System for Community Housing (NRSCH)
- provide a regulatory environment to support the growth and development of the community housing sector
- pave the way for future housing product development
- protect Government investment in the community housing sector.

5. Regulatory Principles

The NSW Local Scheme will be implemented to ensure that the regulation of community housing providers is:

- **Proportionate** – reflecting the scale and scope of regulated activities.
- **Accountable** – able to justify regulatory assessments and be subject to scrutiny.
- **Consistent** – based on standardised information and methods.
- **Transparent** – clear and open processes and decisions.
- **Flexible** – avoiding unnecessary rules about how housing providers organise their business and demonstrate compliance with the NSW Local Scheme Regulatory Framework.
- **Targeted** – focused on the core purposes of improving tenant outcomes and protecting vulnerable tenants; protecting Government funding and equity; and ensuring investor and partner confidence.

6. Regulatory Philosophy and Principles

The NSW Local Scheme is designed to identify, monitor and respond to risks that have serious consequences for tenants, funders and investors, community housing assets and the reputation of the sector.

However, the risk profile of the sector is increasingly diverse and is not necessarily related to the past performance of providers or factors within their direct control.

Where community housing providers are involved in housing development activities and complex financing arrangements, the Registrar will need to focus on providers' medium and long term plans and financial projections, and to conduct a sensitivity analysis of critical assumptions. The Registrar cannot simply rely on a 'rear vision mirror' view of past performance.

In addition, the environment in which the sector is operating is becoming more complex. This complexity requires the Registrar to adapt to ensure the level of regulatory oversight keeps pace with business developments and more complex business models. This includes supervision of multi-functional providers whose business extends to diverse non-community housing functions and involves complex affiliated entity arrangements.

At the same time, there are a large number of small community housing providers involved primarily in tenancy management activities that have a different risk profile and therefore require different levels of regulatory oversight.

Within this operating environment, a nuanced regulatory approach is needed that balances the level of regulatory engagement for community housing providers with different risk profiles.

The greatest regulatory focus and scrutiny will be on:

- governance and financial viability outcomes – failure in these two areas has the most significant flow on impacts to other outcomes – and the most serious consequences for tenants, assets and sector reputation
- registered providers assessed to have the greatest risk due to the scale and scope of their activities and where the realisation of the risks would translate into significant impacts for tenants, assets and sector reputation.

7. Features of the New South Wales Local Scheme

The NSW Local Scheme is a voluntary registration system. Community housing providers will not be compelled to register, although Government (policy/funding) agencies may make registration a precondition for future funding or assistance and require organisations with existing funding or assets to register.

The NSW Local Scheme contains the following key elements.

A NSW Local Scheme Regulatory Framework

The NSW Local Scheme Regulatory Framework sets out the performance outcomes and requirements that must be met, and complied with, by registered community housing providers under the NSW Local Scheme. The performance outcomes are:

- Tenant and housing services – the community housing provider is fair, transparent and responsive in delivering housing assistance to tenants, residents and other clients.
- Housing assets – the community housing provider manages its community housing assets in a manner that ensures suitable properties are available at present and in the future.
- Community engagement – the community housing provider works in partnership with relevant organisations to promote community housing and to contribute to socially inclusive communities.
- Governance – the community housing provider is well governed to support the aims and intended outcomes of its business.

- Probity – the community housing provider maintains high standards of probity relating to the business of the provider.
- Management – the community housing provider manages its resources to achieve the intended outcomes of its business in a cost effective manner.
- Financial viability – the community housing provider is financially viable at all times.

A NSW Local Scheme Register

The NSW Local Scheme Register of community housing providers is a single, local register and contains details of all registered community housing providers as defined by the National Law (NSW).

The Registrar

The Registrar of Community Housing applies the National Law (NSW) and regulates providers within the State of NSW.

The role of the Registrar includes:

- assessing and registering community housing providers
- monitoring registered providers' compliance with the National Law (NSW)
- intervening when registered providers do not comply with the National Law (NSW) and taking appropriate enforcement action
- cancelling the registration of a non-compliant provider where necessary, and
- maintaining the NSW Local Scheme Provider Register.

Tiers of Registration

Community housing providers will be registered in one of three tiers of registration.

The Registrar will determine a provider's tier of registration by assessing the level of risk, by reference to the scale and scope of their community housing activities. The tier of registration in turn determines the performance requirements and the intensity of regulatory engagement applicable to each provider.

The tiers of registration are as follows:

- **Tier 1** – these providers face the highest level of performance requirements and regulatory engagement, reflecting that these providers are involved in activities that necessitate management of a higher level of risk.
- **Tier 2** – these providers face an intermediate level of performance requirements and regulatory engagement reflecting that these providers are involved in activities that necessitate management of a level of risk that is lower than Tier 1 but greater than Tier 3.
- **Tier 3** – these providers face a lower level of performance requirements and engagement reflecting that these providers are involved in activities that necessitate management of a lower level of risk.

Governance

The Registrar of Community Housing is responsible for the efficient conduct of the NSW Local Scheme and for achieving the objectives of the local scheme within the objects of the National Law (NSW). The Registrar reports on this performance to the NSW Minister for Family and Community Services and NSW Housing Agency as well as the public, providers and their representative bodies.

Providers registered in the NSW Local Scheme can expect to have assessments on their performance made available to the Minister and the NSW Housing Agency where necessary to support the objects of the National Law (NSW).

For More Information

For more information on the NSW Local Scheme, please access the NSW [RCH website](#).

The Registrar's office can also be contacted on 1800 330 940 or via email at: registrar@facs.nsw.gov.au



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