



Registrar of
Community Housing

NSW Registrar of Community Housing

Annual Statement of Performance

Reporting Period July 2020 – June 2021

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This report details our work in regulating community housing providers in New South Wales (NSW) under the National Regulatory System for Community Housing (NRSCH) and the NSW Local Scheme.

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Registrar's Message

I am pleased to present the NSW Registrar of Community Housing's Annual Statement of Performance for 2020-21.

This report presents insights into the performance of my Office in our efforts at ensuring a well-governed, well-managed and viable community housing sector in line with the objects of the Community Housing Providers (Adoption of National Law) Act 2012 (Act).

The COVID-19 pandemic continues to impact community housing providers (CHPs) and their tenants, with a number of CHPs granted extensions to regulatory engagement in the reporting year to focus their efforts and resources on ensuring the safety of staff and tenants. I appreciate the efforts of CHPs in maintaining business continuity while navigating these challenges.

The community housing sector continues to attract new entrants and new types of entrants seeking registration. Much of this is driven by the increasing supply of affordable housing that is required to be managed by registered CHPs under clause 17 of the State Environmental Planning Policy (Affordable Rental Housing) 2009. I am pleased to see the "for-profit" provider component of community housing is very small but growing steadily.

The year also brought a record number of registrations of "special purpose vehicles" as a result of complex financial reasons and innovative funding mechanisms. These vehicles and their increasing significance will be closely monitored.

We continue to see an increase in the number of Aboriginal community housing providers seeking registration. This process is underpinned by the Aboriginal Housing Office's Registration Policy which requires Aboriginal providers to register under the Act by December 2022. The registration of Aboriginal housing providers remains an ongoing priority.

The Registrar continues to improve internal capability to meet the growing number of providers in NSW. In 2021, we commenced a trial for the agile assessment of compliance reporting. This process involves a number of compliance officers working on different parts of a provider's compliance assessment. While this approach is still in its pilot phase, early results look promising, and we anticipate that this collaborative way of working is likely to continue.

Red-tape reduction continues to be a focus of our regulatory engagement with registered CHPs. For our smallest providers, we have continued to adapt our engagement practices to reflect the size and scope of their operations, and where appropriate, use information from other regulators to reduce their reporting burden. This approach has been well received.

The Registrar continues to undertake registration and compliance work for the Registrars of the Northern Territory and Tasmania under delegated authority.

I would like to acknowledge the continued and valued input from our registered providers.

I am buoyed by the increasing understanding of the need for greater consultation and information sharing with each of the three NSW Housing Agencies. This bodes well for all stakeholders in the sector.

As always, I welcome feedback on this report.

Chris Valacos
NSW Registrar of Community Housing

Overview

The Registrar and Legislation

The Registrar's position is a statutory appointment under section 10 of the Community Housing Providers (Adoption of National Law) Act 2012 (NSW), referred to as the National Law. The Registrar reports directly to the Minister for Families, Communities and Disability Services and regulates registered CHPs.

Visit our website for further information about the Office and the Registrar's functions here [Registrar of Community Housing - The Registrar \(nsw.gov.au\)](https://www.nsw.gov.au/registrars)

The Registrar administers the NRSCH, which commenced in NSW in January 2014. The Registrar also administers the NSW Local Scheme, which was enacted to monitor and regulate entities that provide community housing but are unable to be registered under the Community Housing Providers National Law (NSW).

The Registrar undertakes operational regulatory activities on behalf of the Northern Territory and Tasmania. These activities are undertaken under delegated authority from the Registrars of both jurisdictions.

The Regulatory System in NSW

The National Regulatory Code (NRC), a Schedule to the National Law, sets out the performance outcomes that registered CHPs must demonstrate compliance against. The Tier of registration of a CHP is a factor in determining the depth of regulatory engagement and oversight, in line with the level of risk associated with the scale and scope of its community housing activities.

The objective of the regulatory system is to ensure that community housing is developed as a viable and diversified component of the NSW social housing sector. The NRC requires CHPs to be well-governed, financially viable and to perform in compliance with standards to deliver quality housing services.

Our Regulatory Approach

The Registrar assesses and monitors the performance of registered CHPs in a largely self-reporting scheme. Consequently, our regulatory approach is to provide registration and performance intelligence services for CHPs, their representative bodies, tenants, Housing Agencies, and the government.

To assist in the sustainability and viability of the community housing sector for the benefit of the people of NSW, the Registrar seeks to encourage businesses to pursue best practice in governance, tenant services, asset management, probity, business management, community engagement and financial viability.

Where necessary, the Registrar may focus on non-compliance and investigate and take enforcement action to protect tenants and the viability of the sector. Our approach is based on assessing the levels of behaviour and acting proactively to shift CHPs to best practice.

You can learn more about our regulatory approach here [Registrar of Community Housing - Our Regulatory Approach \(nsw.gov.au\)](https://www.nsw.gov.au/registrars)

The Aboriginal Housing Office

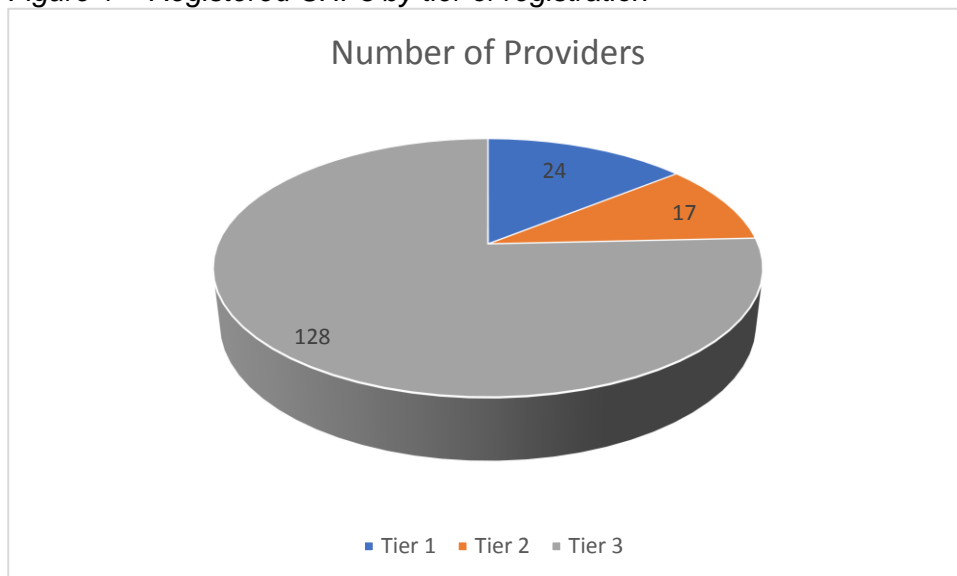
The Registrar supports the Aboriginal Housing Office (AHO) whilst it works through a strategic shift in the Aboriginal community housing sector with the goal of recognising the NRSCH as the AHO's primary registration pathway. The AHO policy settings recommend that Aboriginal CHPs should be registered or scheduled for registration under the NRSCH or NSW Local Scheme by December 2022.

To support this work the Registrar continues to operate under a Service Level Agreement (SLA) with the AHO. This ensures adequate funding for regulatory services to Aboriginal community housing providers that may seek registration or capacity building support from the Registrar. The SLA will be reviewed in June 2022.

The Sector We Regulate

As at 30 June 2021, there were 169 registered CHPs with NSW as their primary jurisdiction (24 Tier 1, 17 Tier 2, 128 Tier 3).

Figure 1 – Registered CHPs by tier of registration



You can access the Community Housing Provider Register, which contains details of all nationally registered CHPs, on the NRSCH website using the following link:

https://www.nrsch.gov.au/national_register

The NSW Local Scheme Provider Register contains details of all local scheme registered CHPs and can be accessed via the link below:

<https://www.rch.nsw.gov.au/nsw-local-scheme/nsw-local-scheme-provider-register>

The Registrar also produces periodic reports that provide insights into identified trends and patterns in the community housing sector.

Our most recent Performance Reports on the NSW Tier 1 and Tier 3 Sectors are available on our website here [Registrar of Community Housing - Previous Performance Reports \(nsw.gov.au\)](#)

Resources and Activities

Corporate Infrastructure and Reporting Structures

While the Registrar is directly accountable to the Minister for Families, Communities and Disability Services, the Registrar's Office operates with the support of two NSW agencies: the Department of Communities and Justice (DCJ) and the Aboriginal Housing Office (AHO).

The Registrar directs all aspects of the operations of the office but is supported by administrative services of DCJ and operates in accordance with its policies, procedures, guidelines, and agreements which are common to all of its business units and staff.

The Registrar also undertakes the registration and regulation of CHPs in the Northern Territory and Tasmania through formalised arrangements. The Registrar acts under delegation on behalf of the Registrars of these two jurisdictions.

All staff of the Registrar are public servants employed under the Government Sector Employment Act 2013 (NSW), are part of the establishment of the DCJ and seconded to the Registrar. Approximately 20% of positions in the Registrar's office are funded through the formalised agreements with the AHO, Tasmania and the Northern Territory.

Resourcing

The Registrar receives financial support to fund its operations from a number of sources, with the majority of these provided by the NSW Government. Other funding is received from both the Northern Territory and Tasmanian Governments.

Total funding received for the year was \$3,904,168.

What Activities are Resourced?

NSW

Our staff completed 94 compliance assessments for NSW registered CHPs as part our scheduled engagement.

Of the total assessments:

- 83 were standard compliance assessments
- 11 were targeted assessments (scheduled to improve identified gaps in provider performance).

This is an increase of seven assessments compared to the previous financial year.

19 registration assessments were completed for entities that sought CHP registration in NSW (one Tier 1, three Tier 2 and 15 Tier 3). These numbers include new entrants under both the NRSCH and the NSW Local Scheme.

Our staff opened 383 cases (complaints, registration enquiries or provider notifications) and closed 377 during the year. These numbers represent an increase from the last financial year where 296 cases were opened while 301 were closed.

The majority of cases were complaints (166) received regarding the compliance of registered CHPs with the National Law. In assessing these cases, my staff identified a trend amongst complainants not initially accessing the complaints resolution mechanisms of registered

CHPs. The Registrar will be nudging providers to improve communication and education of tenants regarding the complaint resolution mechanisms available to them.

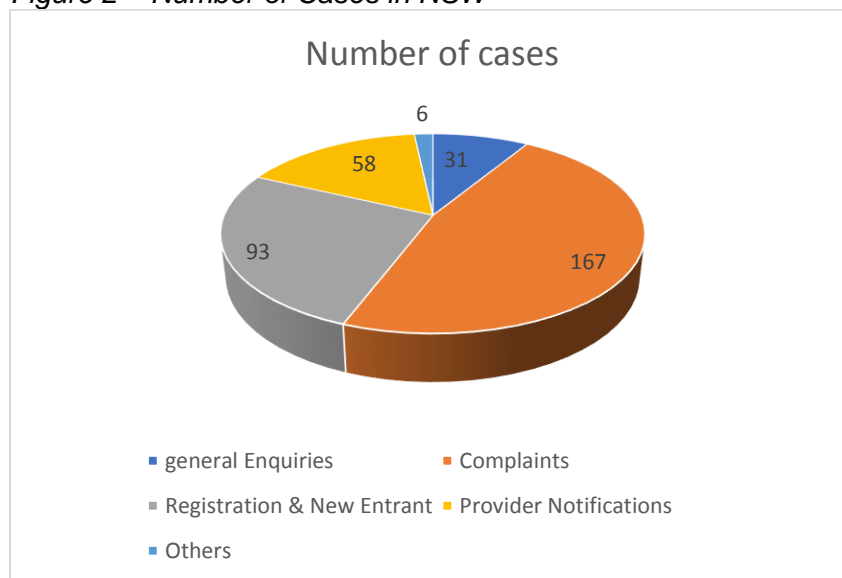
We continue to field a growing number of registration enquiries, including from Aboriginal housing providers seeking registration in line with the AHO's registration policy.

This year has seen a significant increase in Special Purpose entities (known as Special Purpose Vehicles or SPVs) seeking registration due to specific funding and program requirements as well as for-profit entities managing affordable housing.

During the year, we received 115 registration and new entrant enquiries.

The Registrar received 58 provider notifications during the year, an indication that registered providers continue to comply with the requirement to notify the Registrar of significant events impacting their organisations.

Figure 2 – Number of Cases in NSW



Tasmania

The Office completed two standard compliance assessments and one registration assessment for entities with Tasmania as their primary jurisdiction.

The office also closed eight cases in the year, with six of them being new entrant and registration enquiries and one complaint and one provider notification each.

Northern Territory

The Office completed three standard compliance assessments and one registration assessment for CHPs within the Northern Territory jurisdiction.

The office also fielded five registration and new entrant enquiries from entities seeking to register in the Northern Territory.

Performance

Our approach to ensuring efficient regulation is in line with the Productivity Commission's [Regulator Audit Framework](#) which provides guidance for auditing the performance of regulators in regard to the compliance costs they impose on business and other regulated entities. It compliments other frameworks that are used to assess the performance of regulators regarding their efficiency and effectiveness.

The Framework outlines that for regulators to be effective and efficient, they should report on their performance which:

- focuses on the principles and particular areas of regulator behaviour that have the greatest effect on the cost of compliance for businesses they regulate;
- selects good practice indicators that best reflect regulator behaviour that minimises compliance costs while still achieving the objectives of the regulation;
- provides metrics at the highest level possible to demonstrate the satisfaction of the principle or indicator, using data and information from existing sources where available;
- requires auditors to 'triangulate' information in forming a view of the satisfactory achievement of a principle and is included as a separate module in external audits that examine broader areas of performance of the regulator and regulation.

The Principles of Good Regulation

The principles of good regulation reflect how the Registrar meets the public value expectations of the objects of the law. The principles below underpin the National Regulatory Code and are reflected in national performance requirements. Aligned to the commitment of all community housing Registrars, we are committed to ensuring that our approach to regulation principles is:

- **Proportionate** – The level of regulatory engagement will reflect the scale and scope of risk to the CHP;
- **Accountable** – Decisions to engage with a CHP and the intended outcomes will be justified and subject to scrutiny;
- **Consistent** – Regulatory engagement will be based on a consistent approach across all participating jurisdictions;
- **Transparent** – There will be clear and open communication with CHPs about regulatory engagement;
- **Flexible** – Adopt the most appropriate engagement relevant to the desired outcome; and
- **Targeted** – Regulatory engagement will be focused on the core purposes of improving tenant outcomes and protecting tenants, protecting government funding and equity, and ensuring investor and partner confidence.

What Did We Achieve?

Proportionate

The Registrar continues to monitor the impact of the COVID-19 pandemic on the operations of registered providers in light of the lockdown situation over the last 18 months. Ongoing engagement has enabled a better understanding of business continuity arrangements being implemented by CHPs to ensure they are able to deliver service in line with their service charters.

Registration under the NSW Local Scheme continues to grow, with an additional five Aboriginal housing providers registered during the year. In doing so, the Registrar met the performance targets of the Service Level Agreement with the AHO.

The Registrar continues to contribute to legislative initiatives and planning policy settings that seek to increase and improve the supply of social and affordable housing in NSW.

Accountable

The Registrar continues to undertake registration and regulation of CHPs in the Northern Territory and Tasmania through formalised Service Level Agreements. The Office is also continuing its support of the AHO's registration policy by providing registration and regulation services for Aboriginal community housing providers.

Transparent

The Registrar has now embedded the publishing of individual provider executive assessments on the National Provider Register in line with our public reporting focus.

We continue to offer providers an opportunity to receive a copy of their full assessment (registration and/or compliance) in our efforts at providing more transparent and accountable information to the sector.

Flexible

During the year, the Registrar adjusted timelines for regulatory engagement enabling providers to focus on key business continuity priorities and ensure safety of their staff and tenants. This measure was taken in response to the impacts of the COVID-19 pandemic on their operations.

Our staff attended the NSW Community Housing Industry Association's (CHIA) Housing Conference to keep abreast of developments influencing the strategic intent of providers.

Consistent

The Office continues to seek opportunities for red-tape reduction by strengthening information-sharing protocols with the NSW Housing Agencies. We will also continue to develop our intelligence gathering capabilities to further strengthen the oversight function of the office.

Targeted

The Office is continuing to embed a targeted regulatory engagement approach that reflects the specific risks of provider cohorts and the various housing and funding programs that support their businesses.

Our segmentation program ensures we can group providers into cohorts and better understand the performance of these providers. This approach continues to work well for our providers and the Office. Providers have expressed support for this program.

For a number of low-risk Tier 3 providers, our segmentation approach has enabled us to embed less-intrusive regulatory engagement that is aligned to the scale of their community housing operations.

Our staff leveraged their experience in the registration of entities under the NRSCH and NSW Local Scheme to contribute to the development of a New Entrant Resource Bank (NERB) to support entities seeking registration with templates and guidance materials. The NERB project was funded by the DCJ and implemented by the NSW CHIA.

Outcomes

Object of the National Law:

“... to provide for a national system of registration, monitoring and regulation of community housing providers... .. to make it easier for community housing providers to operate in more than one participating jurisdiction... A purpose of registration is to identify appropriate entities to which government funding for community housing might be provided under other legislation or policies of a jurisdiction...”

- The Registrar continues to adjust operational capability to respond to the rise in entities seeking registration, thereby enabling businesses to participate in new opportunities designed to improve tenant and asset experience.
- The Registrar undertakes operational work on behalf of other jurisdictions to ease the burden of providers doing business across borders. As at 30 June 2021, there were 16 multi-jurisdictional CHPs with NSW as their primary jurisdiction that are able to provide community housing services in other participating jurisdictions.

Objects of the NSW Act that introduces the National Law:

“... to apply as a law of this State a national law for the registration and regulation of community housing providers under a national system of registration.”

- The Registrar continues to report on the performance of the regulatory system and the sector in order to get the right balance in public value and regulatory capacity. This relates to regulatory oversight of the suitability and compliance of providers with legislation to assist the sector perform above compliance levels. Based on this, CHPs' performance is monitored regularly, and they continue to be assessed as suitable to maintain registration.

Objects of the National Law:

“...to encourage the development, viability and quality of community housing.” Objects of the NSW Act that introduces the National Law: “...to ensure that registered community housing is developed as a viable and diversified component of the New South Wales social housing sector”...to support the provision of registered community housing for people on very low, low or moderate income.”

- The Registrar continues to monitor and review sector viability and is contributing to strategies being developed by policy bodies to mitigate risks.

Objects of the National Law:

“...to promote confidence in the good governance of registered community housing providers so as to facilitate greater investment in that sector.” Objects of the NSW Act that introduces the National Law: “...to facilitate Government investment in the community housing sector and ensure the protection of that investment.”

- The Registrar regularly assesses the sector's financial performance, providing assurance that CHPs continue to provide sustainable and fit-for-purpose housing solutions now and into the future, resulting in improved public and private investor confidence.

Spotlights

New Housing SEPP in NSW

In the previous Annual Statement of Performance, the Registrar noted there were gaps in the registration of boarding houses and also a lack of regulatory oversight in relation to affordable housing. These issues were considered so serious that they had the potential to adversely affect both tenant outcomes and future investment in the community housing sector.

The Registrar engaged with the Department of Planning Industry and Environment (DPIE) and the DCJ to try and mitigate these concerns. DPIE proposed and has now implemented a new policy, called the Housing State Environmental Planning Policy (SEPP), which aims to facilitate the delivery of diverse housing types to meet the needs of NSW's growing population.

The Registrar provided input to the draft Housing SEPP and some of the feedback touched on the impact of the policy on the registration of Boarding Houses and the requirement for them to be managed by registered community housing providers in line with the Ministerial Guidelines for Affordable Housing.

The Registrar also provided input for consideration in relation to enabling participation by both for-profit and not-for-profit entities in increasing the supply of affordable housing in NSW under the proposed Housing SEPP.

The policy includes enhanced provisions for the regulation of boarding housing and affordable housing. The Registrar supports the intent behind the policy and is confident the Housing SEPP will improve the regulation of the community housing sector in the coming years.

Information about the Housing SEPP can be accessed via the link below.

<https://www.planning.nsw.gov.au/Policy-and-Legislation/Housing/Housing-SEPP>

Greater Engagement with Housing Agencies

One of the medium term impacts of the RCH strategic plan 2019-2022 is to ensure that the "Registrar's insights are valued and sought", especially in the development and implementation of State Government policies that impact the community housing sector.

In the reporting year, the Registrar engaged with the Department of Planning, Industry and Environment (DPIE), providing regulatory input and feedback into the draft Housing SEPP. The Registrar's input regarding the impact of the planning policy on the regulation of Boarding Houses and affordable rental housing properties were considered in progressing the draft Housing SEPP.

The Registrar also engaged with the Department of Communities and Justice (DCJ) and was invited to provide input into proposed amendments to the Boarding House legislation.

The Registrar continues to engage with the Aboriginal Housing Office (AHO) under its 2018 Registration Policy that requires Aboriginal housing providers to be registered under the National Law or the NSW Local Scheme by December 2022.

The Registrar acknowledges the increasingly important role the National Housing Finance and Investment Corporation (NHFIC) plays in supplying the finance that promotes growth in the supply of community housing properties.

In the last 12 months the Registrar has continued to strengthen its relationship with NHFIC. NHFIC relies on the Registrar's regulatory opinion on CHPs that apply to NHFIC for financing. The Registrar also consulted with NHFIC on the impact that recent accounting changes had on the calculation of prudential ratios that NHFIC relies upon.

NRSCH Review

Registrars across participating jurisdictions have continued to progress work on the NRSCH Review. That Review was finalised in late 2021.

Registrars explored a number of potential reforms, some of which are shown below:

- Expansion of the NRSCH regulatory toolkit to keep abreast of the diverse risk of the community housing sector.
- Improve and align reporting requirements for CHPs between the NRSCH, other regulators and funding bodies.
- Increase resourcing of NRSCH regulators to improve capacity to engage with CHPs differentially on a risk-based approach.
- Implement data sharing mechanisms between the NRSCH and appropriate parties.

To implement these potential reforms, Registrars are pursuing recommendations to improve funding for the National Office and capacity across individual jurisdictions, engage with policy and sector representatives to assess impact of proposed planning reforms and scope opportunities to advance recommendations with the support of policy and funding agencies.

Update on Tier 3 Segmentation

In 2018, Registrars engaged an external consultant to consult with Tier 3 CHPs regarding their experience of regulatory engagement. Following this consultation, Registrars agreed to reform regulatory engagement with Tier 3 CHPs and adopt principles of segmentation and flexibility in both evidential requirements and compliance scheduling. The NSW jurisdiction was selected to run a pilot project as it accounts for more than 54% of all registered Tier 3 CHPs in the national system. It is noted that the NSW Registrar has been more ready to expand the Tier 3 category than other jurisdictions.

NSW has implemented the pilot segmentation program across three compliance engagement cycles, with participating CHPs providing positive feedback on the flexibility afforded for evidential requirements. A key phase of the pilot program involved regular site visits to participating CHPs that were impacted by restrictions occasioned by the COVID-19 pandemic. Analysts in the Registrar's office have included the use of remote meeting technology to temporarily bridge this gap. The RCH will look to engage with providers' onsite in 2022, as COVID-19 restrictions continue to ease.

Analysts in the Registrar's office worked with the National Office of the NRSCH in the development of a Business Process to support plans to embed this regulatory approach nationally. The business process document and an updated report has been presented to Registrars of participating jurisdictions for their consideration.

Tier 3 providers have been supportive of this program.

New Business and Registration

The Registrar's office continues to process a high volume of registration enquiries from entities seeking to register under the National Law and the NSW Local Scheme. One of the objects of Community Housing Legislation in NSW is "to ensure that registered community housing is developed as a viable and diversified component of the NSW social housing sector".

Registration of suitable entities provides an avenue to maintain regulatory oversight of community housing providers and allows for a diverse range of entities to opt-in under the NRSCH and NSW Local Scheme.

The Registrar’s Office received 115 registration and new entrant enquiries from various organisations including Aboriginal housing providers, property developers, real estate agents and special purpose vehicles set up to participate in specific state housing programs or at the request of funding/financing agencies.

Registered Entities

In the reporting year, 19 new CHPs were registered under the two schemes in NSW. Of these, one was registered as a Tier 1 provider, three were registered as Tier 2 providers and 15 as Tier 3 providers.

The table below shows the diverse nature of entities that achieved registration during the year:

Entity Type	NRSCH	NSW Local Scheme
Special Purpose Vehicles	3	-
Local Aboriginal Land Councils	-	5
Aboriginal Housing Providers	3	-
Homelessness Service Providers	3	-
Affordable Housing Providers	2	-
Faith-based Entities	1	-
Disability Service	1	-
Mental Health Service	1	-
Total	14	5

New Registration – SPVs

The Registrar’s office fielded interests and enquiries from a growing number of entities seeking registration as Special Purpose Vehicles (SPVs) in NSW. These SPVs are being set up to deliver housing projects or meet funding and/or program requirements of housing agencies, funding bodies and investors. Existing CHPs are also looking to use SPVs to expand their development activities without necessarily increasing their risk profile.

Registrars in the participating jurisdictions of the NRSCH have considered the risks inherent in SPV arrangements and developed a draft Principles Paper to highlight, among other things, the governance, finance, reputational and systemic risks that could impact these arrangements and how regulatory oversight can be adapted to mitigate these risks.

Registrars have also consulted with the NHFIC on the draft principles and the impact of SPV arrangements on loan applications received by the funding body. NHFIC’s feedback aligns with the view of the Registrar on the need to appropriately identify and manage risks associated with SPV arrangements.

The Registrar anticipates that these entity arrangements will continue to be adopted as existing and new providers continue to explore opportunities to participate in growing the supply of social and affordable housing in NSW.

Aboriginal Housing Providers

The Registrar's office is working closely with Aboriginal entities and community housing providers seeking registration under the National Law and the NSW Local Scheme. Many of these organisations are existing providers which have been successfully selected by the Aboriginal Housing Office (AHO) as Growth Providers in its most recent tenders. Other organisations have no existing relationship with the AHO but are seeking registration to better position themselves to participate in funding and housing programs.

Registration under the National Law or the NSW Local Scheme is necessary because the AHO's new registration policy requires these organisations to be registered (or be scheduled to commence registration) under either scheme by December 2022.

In 2020-2021, eight Aboriginal housing providers were registered as part of this process. Of these, five were Local Aboriginal Land Councils (LALCs) registered under the NSW Local Scheme and three Aboriginal housing providers registered under the National Law.

The Registrar has a dedicated team of analysts overseeing the registration effort. The team continues to provide registration-readiness support to Aboriginal organisations seeking registration. Analysts are also working with the Sector Investment Team at the AHO to align registration activities and scheduling with the AHO's priorities.

Sector Visioning Workshop

The Registrar's office attended the Sector Visioning Workshop hosted jointly by the AHO, the Aboriginal Community Industry Association (ACHIA) and the NSW Aboriginal Land Council (NSWALC) as a keynote speaker.

The workshop was attended by organisations which were successful in the AHO's most recent Growth Tenders.

The Registrar highlighted the importance of Aboriginal organisations seeking registration to apply early and engage with the registration team to facilitate meaningful conversations about the registration process. The Registrar also clarified that registration and ongoing compliance monitoring are similar under both the National Law and the NSW Local Scheme

Our Future Focus

Our strategic plan outlines some of our key priorities for the next year.

- Internal focus on improving the effectiveness and efficiency of the Registrar's regulatory activities. Analysts have trialled an agile assessment approach in certain instances during the year. This approach allows assessments to be undertaken in a collaborative manner and to be completed in a shorter timeframe. While this method is still in the testing phase, early results look promising and the Registrar anticipates this collaborative approach will continue.
- Engagement with other regulators to streamline and further develop working protocols for red tape reduction and improved reporting.
- Regulatory stewardship is embedded in the design of a range of subsidised housing schemes and programs.
- Lead or contribute to several legislative reforms relating to community housing.
- The Registrar's Office is resourced in line with the expanded regulatory scheme, including law reform and enhancement of the NRSCH.