

Could regulating community housing make a difference to affordable housing?

REGULATION OF COMMUNITY HOUSING COULD INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING AND ENABLE NEW FINANCING AND BUSINESS OPPORTUNITIES IN THE SECTOR.

KEY POINTS

- Both providers and administrators agree that regulatory reform is needed in Australian community housing, as the current arrangements inhibit effective performance. Providers emphasise that new regulatory frameworks would need to have explicit links to goals for the sector's development, rather than focusing on 'micro-management' of housing providers.
- A regulatory framework will not meet all preconditions for private investment or other partnerships but it could meet private investors' need for assurance/a risk management framework without requiring governmental financial guarantees.
- Key functions of regulation that would pave the way for private investment include protecting against community housing organisation failure, bringing down the cost of finance, creating a market for community housing, enabling better risk management and providing assurance about management capacity and processes.
- Since the introduction of the 1988-89 Housing Act in the UK, which established a new policy and regulatory environment, approximately £20 billion has been lent into the social housing sector. The social housing regulatory framework in the UK was a key reason for this outcome.

Based on research by Claire Barbato, Robyn Clough, Adam Farrar and Peter Phibbs. The research, undertaken at AHURI's Sydney Research Centre, collected data from interviews and workshops with a range of individuals and groups with an interest in the sector to examine the features of a regulatory framework for community housing that were most likely to support the expansion of affordable housing.

CONTEXT

The current social housing system in Australia faces severe constraints on its ability to deliver a growing supply of social housing or to respond to needs and opportunities in local markets. Within the sector, there is considerable interest in ways to attract private investment that would assist with the development of new products such as affordable housing for people on low and moderate incomes. Evidence from recent AHURI research (McNelis, 2002) suggests that private sector investment in community housing is very unlikely without higher levels of government support and subsidy than is currently the case. Overseas experience, however, demonstrates that private investors might be more likely to invest in community housing if an effective regulatory framework was in place.

Regulation refers to the implementation of a set of rules or processes aimed at achieving specific social or economic outcomes, usually with the aim of protecting the rights of particular industries or consumers. The focus of this AHURI project was on assessing administrative mechanisms such as legislation, codes of conduct, standards, registration, licensing and accreditation that could be used to regulate organisations that provide social housing.

In 2001-02 the National Community Housing Forum (NCHF) managed a research project (undertaken by Robyn Kennedy and Company) on behalf of a number of housing jurisdictions to identify the main elements of a regulatory framework for community housing in Australia. The current research builds on the findings from this earlier investigation by evaluating international experiences of community housing regulation and identifying the specific regulatory features that are most likely to facilitate the support and expansion of the sector.

FINDINGS

THE INTERNATIONAL EXPERIENCE

Since the introduction of the 1988-89 Housing Act in the United Kingdom, which established a new policy and regulatory environment, approximately £20 billion has been lent into the social housing sector. This was accompanied by the emergence of 101 large housing associations drawing on these new funds, within a sector of over 1500 organisations.

The nature of the regulatory arrangements in the UK was a major reason for these outcomes. In particular, the UK chose not to provide government guarantees to attract private funds (as was the case in Canada). Rather, the supervisory regime itself ensured that there were no financial crises; since 1988-89, no financial arrangement has collapsed.

The UK regulatory regime is also directly credited with reducing the cost of funds lent to the social housing sector.

PERCEPTIONS OF THE OPPORTUNITIES IN AUSTRALIA

The research shows that there is strong interest by financiers, developers, local government and churches in what are seen as significant opportunities to create new social and affordable housing markets and products. At the same time there is a strong awareness of the social drivers creating these opportunities – particularly the need for affordable housing and sustainable communities.

The research suggests a key benefit of regulation of the sector would be to enable it to engage with these external parties to get the resources it needs to provide more housing for low and moderate income earners. Potential funding organisations want to minimise their risk exposure, and regulation could, among other things, ensure no community housing organisation fails, provide assurance about management capacity, provide greater information to potential investors and introduce greater transparency in management practices.

This investigation revealed five main preconditions for realising the potential opportunities offered by a regulatory regime. These include a clearer housing policy environment, government subsidies, access to current government assets for leverage, information on the management capacity within the community housing sector and government backing.

While regulation cannot determine the provision of subsidies, it can provide a framework for the policy settings, and protect government interests in assets. Most importantly, the supervisory regime can substitute for explicit financial backing.

WHAT DO ADMINISTRATORS AND PROVIDERS WANT?

Administrators and providers both see an urgent need to overcome the current fragmented, inefficient and inconsistent approach to community housing regulation, which places high compliance costs on providers. They also want reform to support greater professionalism, innovation and the capacity to take up opportunities while avoiding overburdening small community sector organisations.

KEY ELEMENTS OF A REGULATORY FRAMEWORK

The most important elements of a regulatory framework for community housing, drawn from across all informants, were:

- **Legislation** – which establishes the role and objectives for the community housing sector, provides a clear statement of the regulatory objectives and enabling powers, and establishes the regulatory agency and the provisions for its oversight.
- **Minimum standards** – including compliance with other legislation relevant to the regulatory framework such as health and safety and new standards such as rent setting policies or requirements for allocations.
- **Registration** – which, through regulatory tiering, ensures that the level of regulation is appropriate to the size and scope of the organisation.
- **Performance management frameworks** – which have the capacity to identify emerging problems and ensure effective intervention to prevent insolvency.
- **Specific risk management plans** – for more complex organisations or those with more demanding financing or management arrangements.
- **Standards and accreditation** – to provide assurance in areas best controlled through quality management, such as governance, human resource management, local community development and tenancy management.
- **Inspections** – to observe practices, particularly the delivery of services to consumers.
- **Intervention** – to provide the assurance that government will stand behind the solvency of organisations through the regulatory system – in lieu of financial guarantees. The primary criterion for an enabling regulatory system is that it is able to intervene effectively and early to support and, if necessary, restructure organisations.
- **Processes for communication** – to ensure that their respective reporting requirements and responses are complementary. The regulator's communications role also includes industry information on financial structures, global performance, and policy issues as they emerge.
- **Statutory charge** – which provides access to assets and equity while protecting the public interest.
- **Information and data** – developed through the regulatory arrangements to support policy and program development and market information.
- **Independent tenant appeals systems.**

METHODOLOGY

The research comprised four elements:

- evaluation of the regulation of community housing internationally through literature and key informants;
- field research with external stakeholders (these were financiers, developers, local government, churches and central agencies);
- two workshops – one with community housing providers and one with administrators of community housing; and
- a seminar at the end of the project to review the preliminary findings.

POLICY IMPLICATIONS

The research found that there is clear support for a community housing regulatory framework – not only by providers but also by other stakeholders who have an ongoing or potential interest in the sector. There is an opportunity for state housing authorities to progress the parameters of a regulatory framework. Development of a regulatory framework would necessarily assess the potential implications

for public housing, including the quantification of increases in social housing stock for low-income tenants that could result from increased private sector investment.

Coordination of relevant legislation or accreditation across all States and Territories is essential to provide the assurance to private investors that there is cross-jurisdictional support for a robust and sustainable community housing sector.

FURTHER INFORMATION

The project on which this report is based is entitled *Stakeholder requirements for enabling regulatory arrangements for community housing in Australia*.

To see a summary of the project and its associated research reports, search on www.ahuri.edu.au

The following papers are available:

- Positioning Paper;
- Final Report;
- For findings from specific stakeholder groups see the separate Data Reports.

Or contact AHURI National Office on +61 3 9660 2300.

Other relevant research:

McNelis (2002), A private retail investment for the community housing sector, available on the AHURI website.

For the previous report, Kennedy, R (2001), A Regulatory Framework for Community Housing in Australia, see the NCHF website at: <http://www.nCHF.org.au/research.htm#reg>.



Australian Housing and Urban Research Institute

www.ahuri.edu.au

HEAD OFFICE Level 1, 114 Flinders Street Melbourne Victoria 3000 TELEPHONE +61 3 9660 2300
FACSIMILE +61 3 9663 5488 EMAIL information@ahuri.edu.au WEB www.ahuri.edu.au

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