

# **Stakeholder requirements for enabling regulatory arrangements for community housing in Australia**

## **ADMINISTRATOR'S DATA REPORT**

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# INTRODUCTION

These data reports describe the responses from each of the seven stakeholder groups investigated in the project. The first five stakeholder groups are 'external' to community housing and their involvement has been seen as potentially important to the further development of the sector. They are financiers, developers, local government, churches and central agencies.

The remaining two groups are the providers and the administrators – the regulated and the regulators. Both of these two groups have a crucial interest in the outcomes to be achieved by regulatory arrangements. Unlike the external stakeholders, however, their interest is two dimensional. That is, it is an interest in both the new opportunities that might be opened up, and in how it will affect their current core business and achievement of social housing outcomes.

Information from the external stakeholders was gathered using semi-structured interviews. The broad questions, and their relationship to the project aims, are in the appendix to this data report. The informants were chosen because they had sufficient familiarity with the community housing sector to be 'information rich'.

Information from the internal stakeholders was gathered using workshops to identify issues and to get some responses to the external stakeholder views. In addition, four interviews with state based community housing peak bodies were conducted (prior to the workshops) for an assessment of:

- the strategic opportunities being limited by current regulatory arrangements; and
- the strategic opportunities that could be pursued through developments and trends in the local environment.

The informants' views have been presented in each of these data reports in six parts:

- The current context in which the informants are becoming engaged with the sector – or for internal stakeholders, pursuing regulatory reform and sector development.
- What might effective measures within the community housing sector enable or in other words the potential and emerging opportunities.
- The preconditions for realising or achieving these opportunities.
- The aspects of regulation that could help meet these preconditions.
- Principles for effective regulation.
- The informants' assessment of how much difference regulation or regulatory tools or elements might make.

In other words, stakeholders believe there is an opportunity for (and are interested in) achieving some outcomes, but they report a number of preconditions for realising these. This is of interest in itself, but in particular, they suggest ways that some of the preconditions might be met with appropriate regulation. (Table 3 in the main report starts to describe the relationships between the opportunities, preconditions and community housing regulation across the stakeholder groups).

This form of presentation has been adopted to provide an explanatory framework through which to understand the views of the informants. It is intended to help understand how the informants are currently engaged with the community housing system – the drivers and limitations on this involvement; what larger benefits might be enabled if there were some changes in the current system; and what role, if any, regulation might play in this. The overall findings of the research are presented in the findings section of main report.

## Administrators

In Australia, community housing is largely administered through state/territory housing authorities with funding for social housing jointly contributed by commonwealth and state governments through the Commonwealth State Housing Agreement (CSHA). SA is the only state with an established statutory body for community housing.

## The Informants

A total of eight representatives from Qld, NSW, ACT, Vic. and WA attended a one-day workshop. Participants were a mix of community housing administrators and housing authority policy makers with differing levels of engagement with regulatory reform for community housing. Some participants were from states that are currently exploring or developing new regulatory measures for community housing (Qld, NSW and Vic.). Some representatives were on the steering committee for the joint state project on regulation undertaken in 2001 (the Kennedy Report) and, therefore, had some familiarity with possible principles and characteristics for a regulatory framework. Yet others attended from states (ACT and WA) in which regulatory reform for community housing is not yet on the policy agenda.

In contrast to the external stakeholder interviews, the line of questioning for the workshop was less open-ended and was structured around a set of themes that enabled informants to:

- consider the current context from an administrator/policy perspective, what effective measures could be enabled and how this could be achieved; and
- respond to the pre-conditions and requirements identified in the stakeholder interviews, and current regulatory arrangements in the UK.

It is important to note that this workshop explicitly built on focus groups undertaken in the Kennedy research (2001), which considered what administrators might want from a regulatory framework. This workshop revisited that question. However, importantly, it sought responses to this issue within the context of other stakeholder requirements (see Data Reports) including what providers might want from a regulatory system (see the Provider Data Report), and international experience (Chapter 3 of the main report).

## The current context

### *Business environment*

As discussed in Chapter 1 of the main report, community housing in Australia is largely regulated through funding agreements and, with the exception of SA, there is no specific community housing legislation in place. However, some states are currently exploring legislative and/or regulatory systems for community housing.

In summary, the existing regulatory context can be described as follows:

- Qld – A regulatory framework for community housing is currently being developed. It will be anchored in legislation, which is due to be introduced in 2003.
- NSW – Regulatory arrangements are being considered within the context of an Upper House inquiry into the role of community housing. At the same time, a Performance Management Framework (PMF) for community housing is being piloted.
- Vic. – The Office of Housing is developing a new regulatory framework.
- SA – Legislation for the administration of community housing was introduced in 1991.
- ACT and Tas. – No major regulatory work is currently underway. However both Tasmania and the ACT were joint sponsors of the Kennedy research.
- WA – An informant from WA reported that simplification of legal instruments has been included in their strategic framework. In turn, a reporting framework, which is attached to the legal instruments, was recently introduced. The reporting requirements of this framework are mandatory for CHOs.
- NT – No major regulatory work is underway.

Against this backdrop, informants made the following observations regarding the current context:

### *Existing regulatory arrangements:*

- Regulation based in contracts was described as an unwieldy and ‘messy’ method of regulating, which could be ‘cleaned up’ through different arrangements.
- Historically, some arrangements between State Housing Authorities (SHAs) and community organisations have been conducted or agreed upon in an ‘informal’ manner,

which is not acceptable in the current environment. For example, one informant noted a history of a lax reporting environment in which some housing co-operatives seldom met their reporting requirements and government failed to act on this. This situation was expressed within the context of achieving a balance between recognising a 'lifestyle choice' and establishing appropriate reporting requirements for this model of housing.

- Qld informants described a significant "non-legislative regulatory environment" with community housing more under-developed than some other programs.
- An informant from NSW reported that there is now "general agreement about where we need to go with our regulatory system". However, this was qualified by the observation that it has been a lengthy and difficult process to reach this point of relative consensus: "We've also struggled a long time with the sector for us to be able to stand back and for them to have some flexibility to be able to do things and to govern in their own ways".
- An informant from Tas. reported that affordable housing is now on the policy agenda. Following this, it was suggested it will be important to get regulation on the agenda also.
- In the ACT a taskforce has been established to consider affordable housing. In light of this, an ACT informant suggested that a greater focus on risk management may be necessary.
- In general, it was noted that the environment is a changing one and there is not an appropriate regulatory framework to manage the current conditions.

### *Current limitations*

There is a recognised need for greater social/affordable housing supply. Informants noted that this increased demand is being considered within the following context:

- The "pressure of a declining CSHA", which signals the need to attract new sources of investment.
- A pressure to decrease public housing in an environment that calls for an expanded supply of affordable/social housing:
  - It was noted that current public housing stock is a liability and alternative forms of management are under consideration in some jurisdictions.
  - An informant highlighted that the Commonwealth provided "two visible incentives that shifted the financial dynamics to move away from public housing – Rent Assistance and the GST".

### *What might effective measures enable?*

Key points:

- Growth and innovation (including diversification) to meet the short-fall in low cost housing
- A viable and cost-effective system that delivers a quality service
- A mix of organisations to maximise local responsiveness and viability
- Increased levels of accountability for service delivery and resource use
- Greater choice for clients and government

### *Growth and innovation*

There is common agreement that the crisis in affordable housing is real and growing. Alongside a vision for an expanded community housing sector to help meet the shortfall in low-cost rental housing, is the realisation that innovation within the sector would be key to achieving this goal. Specifically, within the context of diminishing CSHA funding, 'business diversification', the capacity to secure other forms of investment and attract new partners to affordable housing (developers and local government), were identified as key objectives.

Informants identified four potential avenues for community housing growth:

- transfer of public housing stock
- affordable housing management
- joint venture arrangements

- private sector financing (debt finance).

In summary, an informant said they would like to see community housing recognised as “a significant part of the housing system”.

### *A viable and cost-effective system*

One informant suggested that the existing public housing and community housing system “does not have a great history”. Following this it was argued that, “we need to reinvigorate systems that are cost-effective, able to attract other forms of investment and give confidence to government and other partners”. It was further expressed that a viable sector is key in an environment with increasing numbers of people with complex needs.

Better outcomes for tenants and applicants underpinned the vision for a viable and expanded sector.

### *A mix of organisations and local responsiveness*

It was observed that community housing “has the local aspect” that can respond to a changing market/environment, which a “centralised system lacks”. However, as one informant pointed out, sector growth – in some jurisdictions – has occurred through the substantial growth of individual organisations in order to “achieve economies of scale” as well as increase housing supply. This has resulted in the “local focus diminishing”. In light of this it was suggested that a *viable* system “is one that retains a mix of small and large [CHOs]”.

### *Increased levels of accountability*

In general informants would like to see enhanced levels of accountability in all areas for quality service delivery and best use of resources (assets and funds) – for example, governance (e.g. public reporting); conflict of interest issues; transparent decision-making processes.

### *Greater choice*

Two issues in this area are:

- A future in which community housing is seen as a choice for clients.
- Governments have a greater choice in terms of organisations that they might want to fund to deliver a service.

### *Preconditions for achieving these opportunities*

Key points:

- A greater evidence base to understand the system and emerging issues.
- Capital investment to meet growing need.
- Improved relationships between government and providers
- Improved dialogue and information exchange with local government
- Improved dialogue and information exchange with central agencies
- Confidence in the sector (by all stakeholders) to achieve growth
- Administrative tools that are appropriate for a growth context
- A regulatory framework that is appropriate for a growth context

Workshop informants considered the preconditions that would need to be in place to achieve the vision for community housing outlined above. They were also asked to respond to the preconditions identified by providers and external stakeholders, specifically considering the administrative implications of these requirements.

### *A greater evidence base*

One informant argued that there are “flaws in the service system” and we therefore need a greater evidence base to understand the issues underpinning these faults. While some informants noted that there are some important avenues for data collection in place (for example, customer satisfaction surveys), at an administrative level the relevancy of the data is rarely tested. As a result, it was suggested that the issue is less about the reliability of the data but of government investing the time and resources in assessing it in order to test its

relevancy and analyse it in order to assist sector development. “Greater transparency” through government monitoring their processes of collection and analysis is “an integral part of reaching the vision”.

### *Capital investment to meet growing need*

As discussed above, informants recognised the need to attract new sources of investment to meet housing need within the context of declining funds. In light of this, an informant observed that, “our understanding of housing has been changing over the last decade”. A colleague continued on this theme suggesting that, “it’s about trying to integrate a paradigm that does focus more on asset management, financing and investment”.

- *Funder or investor?* – In response to the UK experience an informant observed:

I think we are on reasonably safe ground. We are an investor. Some of the logic in developing the framework is around our investment and therefore I don’t think it’s a big leap to think of alternative investors. The reality though is that we – and I use the term we loosely – we are very naïve investors. We give people money and we have no idea ... whether in fact it’s viable or not. We do not have a history of doing the very basic thing ... we have to get our act together.

Within an Australian context, the shift in language from funder to investor is interesting and possibly signifies a change in rationale and approach - that is, regulating to enable the investment to work effectively as opposed to the principal objective of a funder, which is to ensure that the agreement is met.<sup>1</sup>

- *An intermediary vehicle* – It was reported that there have been early discussions in Vic. on the possibility of establishing a separate vehicle to broker lending and the question was raised as to whether such an intermediary body could also take on the role of financial regulation. As noted earlier, providers also raised the possibility of intermediaries as vehicles for delivering new products and entering into partnerships with external stakeholders.
- *Some reservations* – However, an informant expressed the view that a fundamental question is: “under what circumstances is private finance viable?” That is, is it viable for affordable housing or can it also be extended to community housing targeting complex needs tenants who may have a less reliable income stream? Another informant noted that the comments of private financiers (see the Financiers Data Report) mirrored their own experience in talking to financiers. The message from financiers was paraphrased by the informant as follows, “come back to us when you’re talking big volume and come back to us when there is some level of comfort that we can be given - then we’ll talk to you”. According to the informant, this response from the private finance sector “make[s] a case for improved regulation and almost a separate case for legislation”.

### *Improved relationships*

‘Better relationships’ was a subject of discussion for both government and providers. There was general agreement that the relations between administrators and CHOs could be improved. For some, this was expressed as a history of a lack of confidence in the sector and vice versa. When presented with the provider call for greater autonomy and improved processes in a new regulatory framework, one response was, “we need to be sure that there is a balance between administrative problems and CHOs not wanting to be accountable”. On the other hand, as noted earlier, one informant remarked that it had taken government a long time to “stand back” and allow the sector to “govern in their own ways”. A relationship of mutual trust and co-operation was alluded to. For example, one informant reported that in some programs regular service visits had taken place to “discuss issues” and “com[e] up with improvements”. From this, the informant concluded that regulation – and specifically inspection - is “about the relationship between government and the provider”.

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<sup>1</sup> The Housing Corporation (England) refers to itself as a public investor.

### *Dialogue and information exchange with local government*

It was acknowledged that the information channels between administrators and other (potential) stakeholders were not well established. For example, one informant reported that this concern had been highlighted in the development of a state local government and affordable housing policy. A situation was described in which local government wanted to establish a relationship with state government but had no idea of how to go about it – to the extent that they did not know where the local area offices were. It was also recognised that this relationship is being actively improved in some jurisdictions. In NSW, for example, all affordable housing will be concentrated in the Affordable Housing Centre (which is about to be established). The centre will be the first port of call to assess proposals and filter them to the appropriate area.

### *Dialogue and information exchange with central agencies*

Reflecting on the key themes that emerged in the central agency interviews, informants described a relatively insular relationship between housing authorities and central agencies. Recent attempts to engage central agencies in social/affordable housing initiatives revealed that they do not have a lot of knowledge about social housing and the level of knowledge varies greatly across individual staff members – that is, it is “idiosyncratic”. It was also suggested that it was difficult to convince central agencies about the significance of social housing objectives. However, an informant from the ACT reported that there has been a shift in the territory’s Treasury views. Some in Treasury, it was explained, have had more exposure to community housing and “can take it on board”. Informants agreed that part of the issue is access to information about community housing and therefore greater dialogue and exchange is required.

One informant perceived a tension in the central agency reluctance to regulate whilst wanting control over assets and outcomes. In relation to this, it was noted that Treasury, unsurprisingly, are concerned about the effect on the balance sheet – that is, if government still owns the assets it looks better on the balance sheet. State liability was also acknowledged as a concern for Treasury. As one informant said, “the chief sensitivity will be about financing. ... If people are out there borrowing in the state’s name and Treasury doesn’t have control of the process, it’s clearly a concern”. In light of this, informants identified two ‘tasks’:

- Getting central agencies to think through the interrelations of social and economic objectives.
- Demonstrating the “big picture level” to Treasury – dollars *are* tied up in social housing (through the CSHA), therefore the concern is to demonstrate “how the service could be delivered more effectively”.

### *Confidence in the sector*

As noted above, informants observed that there needs to be greater confidence in the sector – by government and potential partners – if substantial growth is to be achieved. Importantly, one informant also raised the issue of CHOs needing confidence in other stakeholders in order to engage with them. They said:

if you are talking about relationships where developers, finance sector etc are involved in delivering a service, how do CHOs get the information to give them confidence in their potential partners. How are they regulated? What sort of guarantees do they give?

It was noted that this would not be an issue in a lending arrangement, but assurance would be required in a joint venture arrangement.

### *Administrative arrangements appropriate for a growth context*

As reported earlier in this section, informants from jurisdictions currently exploring new regulatory options identified existing administrative arrangements as inadequate in a growth context. It was acknowledged that the lack of consistency across programs could be onerous for providers, whilst contractual arrangements were described as disordered and not conducive to innovation. The development of the Performance Management Framework (PMF) in NSW revealed that the administrative body would need to restructure in order to



operate effectively. This would involve distinguishing between 'performance' and 'development' in its structure. That is:

- manage performance and help organisations that are in trouble
- manage development and innovation.

### *Regulatory framework appropriate for a growth context*

Following on from the point above, several informants agreed that a new regulatory framework was needed in a growth environment. Structured in the right way, a regulatory framework could help manage or create some of the preconditions identified above. The specific regulatory tools identified by informants will be considered in the next section. This section reports the informants' views on the purpose of a regulatory framework. In particular, it captures a shift in perspectives from the opening of the workshop – when participants were asked how regulation could help achieve their vision for community housing – and the later stages, when informants considered the same issue within the context of other stakeholder requirements and international experience.

As outlined above, in general informants were clear in their vision for the future of community housing and the kinds of changes that would need to occur if the increasing housing need is to be met. A changed regulatory framework to improve levels of accountability, enhance service delivery and tenant outcomes and give confidence to government and external stakeholders was underscored. However, as informants responded to the experience of the UK and the possible application of the Housing Corporation's new approach to regulation (Section 3.2), and the elements that providers want from a new regulatory system (see the Providers Data Report), informants became more reserved and tentative in their objectives. As one informant said, "our immediate pressures are first of all around accountability – low-level accountability then developer contributions etc can be considered". In other words, the perceived 'immediate' administrative 'pressures' overshadowed potential opportunities for growth and innovation. Regulatory reform was expressed as a two-stage approach in which the "conceptual leap" from stage one to two was described as "big". The two-stage approach was demarcated as follows:

- better outcomes for clients
- capacity to broker financial deals.

From this we can say that stage one is concerned with improving administrative processes – streamlining, new reporting systems and so on - with the principal objective of improving service to *clients* (existing and future tenants) and protecting public funds/assets. Stage two would concern itself with innovation and growth – attracting new partners and new investment, *enabling* providers to be innovative, thereby delivering better outcomes for *applicants*.

Here informants in states with work currently underway, highlighted the enormous task of developing a new approach and responded with some trepidation to the high level of engagement between the UK regulator and the private finance sector. One informant said:

In the here and now - working out regulation - we have so many problems. It's [financial investment] not at the top of our mind. There are so many issues that are far more fundamental to setting up a regulatory framework ...". Following this, the "second stage" was described as "not irrelevant."

This view was tempered by a slightly different observation that 'stage one' of a regulatory system would need to be flexible enough to accommodate the issues (such as attracting private finance) coming up on the horizon. In the informant's words, "the awareness is there that we need to beef-up financial monitoring etc and the need for future capacity involving a shift to a more sophisticated approach". That is, we need to be able to deal with the immediate pressures *and* be able to move into the future – to have some "policy focus" and "understanding" about what a regulatory framework would have to look like to deal with private finance.

### *What aspects of regulation could help meet these preconditions?*

Key points:

- Regulation is one aspect of sector development

- The principal regulatory object is protecting housing outcomes
- Regulatory tools discussed by administrators were:
  - Legislation
  - Performance Management Framework (PMF) and the evidence base
  - Compliance framework (Qld)
  - Registration
  - Standards
  - INSPECTION
  - Accreditation
  - Tiering

### *Regulation is one aspect of sector development*

Regulation was described as simply one element of sector development. That is, it is only one part in achieving the kind of vision that informants described. In one informant's words, "regulation is a small circle within a larger circle". One informant stressed that it is important to be clear from the start about what aspects of the business you are regulating and whose interests you are trying to protect. For example, is the intention to regulate those organisations funded through government or the services that are being delivered? In the first instance, the focus is on the regulation of CHOs and the protection of public monies. In the second instance, the emphasis is on the protection and quality of outcomes for consumers: "what do we need to regulate to make the system better for clients?"

### *Protecting housing outcomes*

Qld informants noted a shift in their principal regulatory 'object' in the exploratory phases. Where the emphasis had initially been on regulating the business of CHOs, this shifted to an emphasis on tenant outcomes. Throughout the workshop Qld informants argued that tenant outcomes must be kept in the forefront of regulatory reform. This was expressed as, in part, regulating parts of the current business – for example, price-rent and allocations. It was also suggested in relation to possible changes in the business – for example, in order "to control what we would regard as unintended outcomes from private sector financing" and by extension, other potential stakeholders. In other words, it is important to protect the housing outcomes as well as the investment. One informant expressed the view that a benefit of regulation is, "it lays out the processes very transparently". However, the informant also suggested that there could be resistance from CHOs in the transition stage - especially if there are increased reporting requirements. If previously the organisations were simply "trusted", then increased reporting demands could be seen as unnecessary and intrusive.

Within this context, informants discussed the following tools to regulation as important elements of a regulatory framework.

### *Regulatory tools*

- *Legislation* – Legislation was seen by many informants as a key component of a new regulatory approach. One informant identified the central purpose of legislation as, "your capacity to act, basically, when things go wrong". There was general consensus that having the capacity to intervene was an integral part of a regulatory framework (discussed in more detail below). This view was qualified by one informant who observed that we should learn from the experience of the UK Housing Corporation whose first approach was to "regulate every thing [under] very complex legislation". The Corporation is now moving towards an enabling approach. Qld informants suggested it was important to have legal instruments that gave both certainty and flexibility. Within this context informants observed that a statutory charge rather than a mortgage was a more effective regulatory arrangement.
- *PMF* – a better evidence based and tools to generate information on tracking organisations and evaluation of outcomes and cost effectiveness was identified as an important precondition to sector growth. It was agreed that regulation could provide some information and guidance. In NSW, the PMF has been developed to, in part, take on this

function. Importantly, the PMF was described as focusing on *risk management* rather than non-compliance.

- *Compliance framework (Qld)* – The aims of the compliance framework are two-fold:
  - Establishing what is required of organisations – a clear set of requirements or *minimum* standards.
  - Reporting - in order to see if the standards are being met. Ways of dealing with non-compliance are also being considered with a hierarchy of mechanisms.
- *Registration* – Registration was identified by some informants as an important regulatory tool. Tiered registration is already in place in NSW. It was reported that it is anticipated that CHOs will be the principal managers of affordable housing (facilitated through the NSW Affordable Housing Centre) and they will be regulated through registration. Qld is also considering a tiered registration system, which will be linked into other regulatory/quality improvement tools.
- *Standards* – The National Community Housing Standards are formally used in accreditation systems in NSW and Qld and will be in Vic. in the near future. In other states the standards are informally used to shape organisations' policies, procedures and practices.
- *Inspection* – Informants considered the inspection process in England (Section 3.2) and its resonance with similar processes in Australia as well as its potential application.
- *Best Value Inspection (BVI)* – BVI was 'imported' from the UK and implemented in public housing in NSW. It has since been trialled, with minor modifications, with CHOs and was described as a useful process across the two sectors. The NSW process involves a team of inspectors - including peer inspectors - who carry out the inspection "in a very practical way". The inspection outcomes are then worked through with the CHO with the intention being that the organisation will identify where they need to make improvements or changes. What NSW now has to justify, an informant explained, is the relationship between inspection and accreditation. In light of this, they used a mixture of CHOs for inspection – some that have also been accredited and some that have not. It was reported that those who underwent both processes felt that they got different results from both. BVI is, at this stage, considered a service improvement tool and has not been formally linked into the regulatory framework. However this has not been ruled out. An informant from Qld suggested that there is a range of ways of checking that minimum requirements under the regulations are met. One of these is reporting via analysis of financial reports. Another is through visits to the organisation to undertake a service delivery review. The review mechanism was described as "quite different to an accreditation evaluation method" because accreditation is "about exceptionally good practice" and not meeting "minimum requirements".
- *Accreditation* – There was little reflection on accreditation, other than its identification as a quality improvement tool, which would enhance sector development and a regulatory framework. However, it is important to note that it is currently linked to registration in NSW and its potential relationship with regulatory tools in Qld is being considered.
- *Tiering* – There was general agreement that a tiered approach to regulation would be appropriate for the community housing sector. An informant from NSW reported that, "it has become clear that a one-size-fits-all approach will not work with the PMF". Qld informants also reported that they are tending towards a two-level approach. The 'lower-level' would be for smaller organisations with program specific activity, focusing on accountability and confidence. The 'gold-card level' would target organisations that work at a 'higher standard' (identified through evidence collected). This level would be about "growth, flexibility and innovation". As one informant explained, "a tiered approach captures those divergent purposes". One informant expressed concern regarding how to manage the organisations that are trying to make the transition from one level to another. However, as another informant pointed out, regulation could actually "enable that transition", through the identification of gaps. That is, by ensuring that reporting is useful and usefully fed back to organisations to help them determine where they are going and what they are trying to do.

## *Principles for effective regulation <sup>2</sup>*

Key points:

- A transparent system with consultation, clear processes and greater public reporting
- Regulator accountability through an appropriate skills set
- Consistency in compliance across program areas
- Measures that are proportionate to risks, benefits and costs
- Targeted processes and intervention in an outcomes based framework

### *Transparency*

- *A clear purpose?* – Two concurrent strands of thought were expressed through the workshop, which suggested a tension between informants' vision for community housing and how this could be achieved (in theory), and the actual policy objectives framing regulatory reform (in practice). In short, informants currently working on regulatory change appeared not to have an entirely clear purpose or policy framework of reference against which to determine what regulatory change would achieve.
- *Proper consultation* – Sector consultation was proposed as an important part of establishing new regulatory structures in jurisdictions undertaking regulatory work. However, the disparity in objectives identified by providers and ultimately identified by administrators (see above), suggests unresolved tensions in the consultation process (in some jurisdictions).
- *Clear processes* – It was clear in NSW that proposed changes to administrative structures (separating the functions of sector development and monitoring) were precisely trying to clarify regulatory roles, minimise potential conflicts of interest, and avoid misunderstanding between the regulated and the regulators.
- *Greater public reporting* – An argument was made for greater public reporting in order that other related sectors could judge how the sector is going, and potential partners could have access to relevant information. In turn, it was suggested that public recognition is also an outcome that you would want to achieve from regulation. However, it was suggested that what you would wish to see now and in the future are two different themes – that is, in the early stages of regulatory change it would be unfair to expect detailed information about organisations. In summary:
  - The minimum you would want to see now: level of registration, name and basic information about the organisation.
  - In the future: far more detailed information around performance, systems, policies and processes.

### *Regulator accountability*

Regulator accountability to relevant stakeholders was raised within the context of appropriately skilled regulators. Reflecting on the UK experience, an informant observed that the success of the Housing Corporation was based in investment in an appropriate skill set. They went on to suggest that “it is a lesson we need to take on board - to be a good regulator you need an adequate skill set”.

### *Consistency in compliance across program areas*

It was recognised that administrative arrangements for individual programs can cause problems for providers whose business may be across more than one program area and are potentially encumbered with duplicative compliance procedures. One informant suggested that there should be consistency across all human service areas.

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<sup>2</sup> The principles identified by UK Better Regulation Task Force (see Section Attachment 1 of the main report) were used as a point of reference for this discussion at the administrators workshop.

## *Proportionality*

*Risks and regulatory measures* – In general, there was agreement that the introduction of regulatory measures should be proportionate to the risk. This was a view expressed by both states currently involved in regulatory change and those for whom change is not yet on the agenda. Proportionality is reflected in the tiered approach favoured in jurisdictions currently working on regulation.

*Risks, benefits and costs* – An informant from a small state/territory said that while the current environment calls for improved risk management, it would be important to carefully weigh up the benefits, risks and costs before embarking on the introduction of a regulatory framework.

## *Targeting*

*Reviewing regulatory processes* – As discussed earlier, it was suggested that government should invest more in monitoring its own data collection processes to ensure its relevancy.

*Outcomes-based approach* – There was limited discussion on a targets-based approach as opposed to prescriptive process based approach. However, the PMF is an outcomes-based framework, which enables flexibility in the processes undertaken to achieve the designated outcomes.

*Intervention* – Reflecting on the UK powers of intervention there was general agreement that the capacity to intervene was an important part of a regulatory system. That is, regulation must be enforceable. However, the intervention powers were seen as one part of an effective regulatory framework, giving the regulator the ability to act if things go wrong. As one informant put it, “if statutory charges, powers of intervention etc formed a regime around which everything was moulded – that would be a concern to everyone”.

## *How much difference would such regulatory elements make?*

In the immediate term, a new regulatory approach was seen as an important step in delivering better outcomes to tenants, streamlining administrative processes and establishing a more comprehensive evidence base to provide the information required to expand the community housing sector and raise its public profile. Informants from smaller states and territories indicated that it was important to get regulation on the policy agenda to at least explore the potential of new regulatory approaches in achieving community/affordable housing growth. In summary the key points were:

- Streamlined and transparent administrative processes – more manageable to implement and a reduced administrative burden for the regulated.
- A more comprehensive evidence base – a better understanding of the community housing sector, what it delivers and how it could be strengthened.
- Improved outcomes for consumers – for example, better regulating of rent and allocations.
- Enhanced protection of the asset base (public housing stock transfer).

In the longer-term, regulation was seen as key “in the environment we might be moving to”. Potentially, regulation could offer greater flexibility to providers whilst still providing assurance to government. For example, enhanced protection of the asset base under the control of providers, delimiting the lending activities of CHOs – so that they don’t ‘over-loan’ and put underlying assets at risk through the inability to service a debt. It could also offer assurance to new partners – developers, local government and churches. At the same time, regulation could be structured (through legislation) to ensure that housing outcomes are protected. As one informant observed, “we would not be regulating only to encourage the private market in, but – as the pressure is to head in that direction - we need to put some protections around the social investment in that environment”. In summary regulation would:

- offer assurance to potential partners
- offer assurance to private financiers
- ensure protection of housing outcomes in this environment; and
- ensure protection of public funds and assets; and
- enable flexibility and innovation; thereby

- increasing supply of low-rental housing.

However, informants were less confident or clear about how or if this 'second stage' could work and what a regulatory framework would look like that could achieve this.

# APPENDIX: PROJECT AIMS & CORRESPONDING RESEARCH ELEMENTS

Stakeholder requirements for enabling regulatory arrangements for community housing in Australia (60118)	
<i>Project Aims</i>	<i>Research elements (including interview questions)</i>
To identify the <b>outcomes</b> looked for from a community housing regulatory system by external stakeholders - private financiers, local government, developers, church partners and central agencies	<p><i>External stakeholder interviews</i></p> <ol style="list-style-type: none"> <li>1. What is your current involvement with community housing or what do you understand about the sector?</li> <li>2. What opportunities does the community housing sector present?</li> <li>3. What are the barriers to expanding these opportunities? (<i>prioritise importance</i>)</li> <li>4. How could these barriers be overcome? (<i>if ways of overcoming the barriers relate to regulation, discuss for more detail on the types of mechanisms that would be useful</i>)</li> <li>5. If the barriers you have identified could be overcome in the ways we have discussed what would it change in your dealings with the community housing sector? (<i>ie: how would it impact on the risk assessment?</i>)</li> <li>6. How would these types of changes affect the costs of expanding your opportunities within the community housing sector?</li> </ol> <p>(n.b. questions modified for central agencies)</p>
To identify the limitations of current arrangements and the enhanced <b>capacity</b> of community housing providers that might flow from improved regulatory arrangements	<p><i>Peak interviews</i></p> <ol style="list-style-type: none"> <li>1. What are the new developments in your jurisdiction in relation to regulatory arrangements? Or, what are the emerging trends?</li> <li>2. What are the strategic directions/opportunities for the sector in your state that might be affected by regulatory arrangements?</li> <li>3. What are the difficulties or limitations that have arisen from current regulatory arrangements?</li> <li>4. What are the difficulties or limitations that have been identified with respect to the new developments or emerging trends?</li> <li>5. What are the strategic opportunities that could be opened up for the sector from new developments or trends, as they are now or if they were modified? What are the policy implications?</li> <li>6. What are the strategic directions for the sector now?</li> </ol> <p><i>Literature review</i>  <i>Workshops</i>  <i>Analysis and final report</i></p>
To identify the <b>criteria</b> for regulatory arrangements that would optimise the flexibility and efficiency of providers as well as robust and transparent accountability	<p><i>Literature review</i>  <i>Workshops</i>  <i>Analysis and final report</i></p>
To identify the aspects of the operations of UK and other international community housing regulatory systems that provide similar benefits to those being sought by the above stakeholders and to assess their applicability to the Australian context	<p><i>International literature review</i>  <i>International interviews (mainly finance sector)</i>  <i>Analysis and final report</i></p>
To familiarise administrators and providers with the findings and test their applicability in the existing community housing systems - including Indigenous housing	<p><i>Joint findings seminars</i></p>

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