

# Regulation and Growth of the Not-For-Profit Housing Sector

Queensland Shelter Submission  
June 2010

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## Introduction

This document is Queensland Shelter's submission to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHSCIA) in response to the Regulation and Growth of the Not-For-Profit Housing Sector Discussion Paper. Queensland Shelter is a Peak NGO committed to working towards a fairer and more just housing system. We provide an independent voice on housing rights and provide a link between government and the community through consultation, research and policy advice. We are committed to improving housing access for all Queenslanders. Within this, our funding mandate and the social justice framework in which we work puts particular focus on the interests of low and moderate income housing consumers and others who struggle to meet their housing needs in Queensland.

Our members are both individuals and community organisations across the State. Queensland Shelter currently has a total of 17 active branches that are formed either around a geographical area, or represent specific housing needs.

In an effort to most appropriately represent the interests of our members and stakeholders, including service users, Queensland Shelter attended the FaHSCIA consultation session in Brisbane, and conferred with a broad range of stakeholders including our Affordable Housing Network, small, medium and large community housing providers, community finance providers and the Tenants Union of Queensland. We also drew on relevant research to inform our position.

Queensland Shelter has endeavoured to answer the Regulation and Growth of the Not-For-Profit Housing Sector Discussion Paper questions where relevant and also incorporated additional comments as where generated from our consultation.

The views expressed in this submission are those of Queensland Shelter as an association and do not necessarily represent the views of the each of the organisations consulted.

## The role of regulation in growing the not-for-profit housing sector

Queensland Shelter believes that good regulatory systems, without added layers of compliance, can serve the interest of both investors and service users. Our consultations revealed support for a single national system provided it avoids duplication.

Stakeholders who participated in our consultations highlighted that they are already subject to a number of regulatory and standards systems including:

- Company registration (ASIC);
- Incorporation of Association (Office of Fair Trading in Queensland);
- Registration with State Government as a community housing provider;
- National Community Housing Standards Accreditation.

Stakeholders stressed the importance of any new system either recognise these processes as proxies, or replace the process, as appropriate.

As the government transfers properties to the not-for-profit community housing sector as a mechanism for growth, development of a single national regulatory system has the potential to protect the future of these assets. Most importantly, regulations should provide tenants with the certainty that their rights will be respected by tenancy managers and the security of their housing be maintained by the community housing sector.

Our stakeholders believed regulations should maintain a focus of the financial and governance aspects of providers as the legal requirements can ensure the legitimacy of the organisations and hence protect the industry. It is appropriate that a form of national accreditation sit alongside a national regulatory system, as accreditation provides guidelines for a quality system in regards to services provided. The recently completed National Community Housing Standards Manual provides a suitable framework from which to develop the national system of accreditation. Some stakeholders expressed concern regarding the administration of accreditation in Queensland.

There was also discussion that about the role of funding agreements alongside regulation and accreditation. Our stakeholders expressed a variety of views about the level of specificity that should be included in regulation or the funding agreement. In the interests of protecting service users Q Shelter's position is to err on the side of well administered regulation.

**Should national regulation apply to all not-for-profit housing providers, or only those operating at a large scale, with developer/owner capacity?**

Queensland Shelter supports the principles of the model put forward in the CHFA submission proposing a three-tiered approach. There was support from stakeholders for a sliding scale approach to regulation dependent upon size of the organisation or risk against a range of variables. Some stakeholders highlighted that risk is not only related to scale or lack thereof.

**Smaller community housing organisations may not wish to merge with others, build houses or manage a larger volume. What then is the role of the federal government with regard to smaller organisations?**

Continued support for small to medium organisations should be sustained as organisations of this size play an important role in the housing sector. In certain circumstances smaller organisations are better placed to meet the needs of service users including in rural and remote areas and specialist organisations working with identified target groups. Additionally these organisations have the structure suited to obtaining local knowledge and maintaining important local networks.

Q Shelter believes that smaller organisations and their service users could benefit from a partnership agenda which in some cases could lead to functional mergers. Partnerships and networks can expand their reach and capacity and encourage sustainability. Additional financial support should be provided to small organisations with a local or specialised focus that do not have the opportunity to or are not suited to align themselves with other organisations.

**Should State Housing Authorities be regulated in the new national framework so that public housing does not fall out of step with national standards?**

There were strongly expressed opinions that services provided by State Housing Authorities should be subject to the same regulatory standards as non-government housing providers to ensure both tenants and the reputation of the sector are protected. Assessing the financial viability of State Housing Authorities would not be required. We recognise that the State provides housing services for the some of the most vulnerable service users and this would need to be reflected in the proposed regulations.

**In addition to these questions the following was highlighted in discussion with stakeholders:**

Participants in our processes found it hard to comment definitively in the absence of a clear proposal. Q Shelter understands that this is the first step in a long process and stakeholders will be better placed to comment when a clear proposal is forthcoming. Key issues for our participants included whether the regulation will apply to the funding or the services provided within organisations. With the development of new affordable housing products like NRAS there are additional players in the provision of affordable housing that are from the private sector. There was strong support from the stakeholders that the regulations should reflect the housing product and not the provider structure. This contributes to a level playing field.

## **Protecting the interests of tenants in community housing**

Growing the community housing sector should not come at the expense of the level of service provided to tenants. Maintaining and improving the current level of service and protection of tenants should be of primary concern when developing mechanisms for growth of the sector.

**Should the adoption of National Community Housing Standards by providers be mandatory in a nationally regulated system?**

The recently reviewed National Community Housing Standards provide a strong benchmark for assessing quality of services and should be mandatory in a nationally regulated system. As community housing organisations in Queensland have already engaged with the National Community Housing Standards incurring cost to establish and provide training, maintaining this system is advised. However there are elements of the standards that may sit better in a regulatory system particularly the finance and governance standards. Once again it is essential that duplication is minimised.

**As the not-for-profit housing sector grows, how do we retain the focus on local community connection and the coordination of tenant support services?**

Our stakeholders articulated a number of strategies to ensure the benefits of community connection are available to tenants. Smaller organisations in certain circumstances are better suited to addressing the needs of key groups and additionally have the structure suited to obtaining local knowledge and maintaining important local networks.

As an increasing number of larger community housing organisations begin to dominate the sector, when they move into new geographical locations, the Governments should ensure that where

appropriate, partnerships are formed with smaller local community housing providers and related service providers. This would have the added benefit of increasing the sustainability of small organisations while supporting tenants' ability to sustain their tenancies.

**In addition to these questions the following was highlighted in discussion with stakeholders:**

**Tenants level of protection: affordable housing and social housing**

Regulations should reflect the distinct differences between social housing and affordable housing. The extent of the regulatory strength would reflect the level of protection required by the tenants. Tenants of affordable housing require protection as the current private market does not provide adequate opportunities if they were to be evicted.

However, a relaxing of regulations for affordable housing providers or managers in comparison with regulatory levels required for social housing would reduce concerns harboured by financial intuitions and private investors. If Community housing organisations were subject to different levels of regulation for the two tenant groups, their affordable housing tenancy management services may become more attractive to private investors/developers who may have otherwise opted for private management. These comments need to be read in conjunction with the National Shelter and NATO report "A Better Lease on Life – Improving Australian Tenancy Law" which calls for enhanced protections for all renters available from <http://www.shelter.org.au/projects.htm>.

**Tenant complaint process**

Tenant advocates who participated in our process raised a number of issues about tenant protections. These included:

- Complaints and appeals processes for tenants of public housing, community housing and privately managed affordable housing; and
- Transparent means to provide feedback on current management issues and additionally be consulted on their requirements of future housing.

**Tenant consultation**

Tenant advocates stated that tenants should have the opportunity to comment and make recommendations prior to housing policy changes that may affect them. Good lines of communication should alert tenants to proposed changes and also changes soon to occur. The National Community Housing Standards tenant participation standard may provide this opportunity for some tenants of some community housing.

### **Tenant confidentiality respected**

In smaller towns, service providers must respect and protect tenants confidentiality as discussing details of tenant cases can result in information being passed through networks within the town resulting in denial of access to appropriate properties. The National Community Housing Standards test this, however not all providers are currently required to be accredited.

## **Commercial activities of the not-for-profit housing sector**

Reducing barriers to growth both from the perspective of community housing organisations but also from the view of private investors will enable significant growth and change in the community housing sector.

### **Is there a role for a national broker for large scale affordable housing investments?**

Development of a national brokering system with expertise to determine models, pictures, legal, financial and planning appropriate for the sector would be appreciated as knowledge is then available on an equitable basis. Stakeholders expressed particular interest in the national brokering system having the ability to devise trust models suitable for accessing affordable housing incentives.

Provision for more than one broker will ensure competition remains. The brokers should be independent (non-Government) and accessible (either based in each state, or with out-reach services).

Brokers should work in a framework that prioritises emerging growth providers as well as supporting established scale organisations.

### **What interest should States and Territories retain in transferred properties?**

Queensland Shelter supports the transfer of stock to community housing organisations however wishes to highlight that in Queensland community housing providers do not hold the title to the properties they currently manage. Lacking title is a significant barrier to growth, community housing organisations should hold the first mortgage over transferred stock to increase their ability to leverage, while the State's interest is protected by a second mortgage.

### **Are pre-existing State Government asset protection measures a significant barrier to leveraging?**

Currently in Queensland, community housing organisations face significant restrictions about the use of surplus funds. Lack of flexibility to utilise these funds can stifle innovation and growth. For example, if a community housing organisation through efficient and innovative use of resources is able to make a profit, given flexibility this profit could then be invested into affordable housing, expanding their portfolios. Community housing organisations nationally would benefit from this option.

### **What would be the outcomes of competitive allocation of funding?**

Stakeholders expressed a variety of opinions on the merits of competitive allocation of funding. One view was that competitive allocation of funding provides a beneficial exercise for community housing providers through the application process to gain a greater understanding of the expected outcomes of the funding they are bidding for as they must thoroughly assess how they could achieve this.

However, smaller organisations have highlighted that their lack of capacity and funding puts them at a disadvantage. Smaller organisations that wish to remain independent would like to ensure that their current strength and capacity is maintained as they do not have resources comparative to larger organisations to invest in applications for funding that is appropriate to their organisation. Provisions to protect the interests of these smaller organisations and additionally to encourage suitable partnerships may remedy this situation.

### **In addition to these questions the following was highlighted in discussion with stakeholders:**

#### **Portfolio flexibility**

Some stakeholders have expressed interest in a system whereby assets could be pooled for multiple purposes. For example, if funding or stock transfers support twenty clients escaping domestic violence, rather than these clients being tied to set properties, they could be placed in suitable housing within the portfolio that may not be specified or tied to one purpose, so long as those requirements are met.

Flexibility within a portfolio could provide for tenants to ‘move through the system’ without necessarily having to move. This could be achieved through rent-to-buy, shared equity and purchase options of affordable housing should be incorporated into design considerations of a national regulatory system.

## Strengthening Indigenous community housing

Aboriginal and Torres Strait Islander peoples face the highest level of housing disadvantage in Australia. Queensland Shelter welcomes the inclusion of Indigenous Community Housing Organisations (ICHOs) in this discussion.

Indigenous housing is currently in a unique position to grow given the appropriate framework. Care should be taken to ensure regulatory systems fit the culture and style of Indigenous community housing organisations to assist in the development of safe, secure and affordable housing for this group. These comments should be read in conjunction with Q Shelter's March 2010 ICHOs report available from our website [www.qshelter.asn.au](http://www.qshelter.asn.au).

### **How would a national regulatory system provide for the specific needs of Indigenous housing organisations?**

Indigenous housing must be culturally appropriate to suit the diverse needs of a diverse culture. For example, within Indigenous housing stock a greater number of larger houses to accommodate for larger families and extended families are required.

Queensland Shelter would support the development of national regulations that would be suitable to all community housing organisations including Indigenous community housing providers. A new regulatory system must be flexible to be able to be applied to all providers inclusive of a variety of service delivery models.

### **How could Indigenous Community Housing Organisations access private finance more effectively?**

The Indigenous population is expanding at a rapid speed therefore now more than ever, growth of the housing sector is of significant importance. The degree of Government interest attached to certain ICHO properties may act as a barrier to obtaining finance and also their ability to grow.

At present, ICHOs are subject to significant uncertainty as they encouraged to transition to the State systems of social housing. FaHCSIA has confirmed that the Commonwealth's interest in ICHO properties acquired through ATSIC (not all properties owned by ICHOs) is enshrined in legislation which was enacted on the termination of ATSIC (the *ATSIC Amendment Act 2005*). As a result of this legislation, the Commonwealth's interest in the properties may only be extinguished through legislative amendment. Organisations that have not transitioned to the state system are without operations subsidies. These issues are a serious impediment for ICHOs seeking to access finance.

## **How can we provide greater opportunities for partnerships between Indigenous and non-Indigenous housing organisations?**

Partnerships are an extremely important aspect to assist in the delivery of housing to the Indigenous community. In consultation with community housing organisations it was highlighted that partnerships and peer mentoring result in benefits for both community housing organisations and Indigenous community housing providers. An extremely important ingredient in developing relationships with Indigenous community housing organisations is trust. Community housing organisations wishing to create links with Indigenous groups must be patient and willing to prove their integrity.

## **Conclusion**

Key themes that emerged from our consultations and reflected above are a product of the initial stages of this enquiry. We believe our stakeholders will continue to engage with this process as the framework is developed.

It is essential that any proposed regulatory framework promote both growth and high standards of service delivery.

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