


Part 1

NRSCH Overview

Annual Report 2020-2021



Published by the National Regulatory System for
Community Housing (NRSCH) National Office

Publication date: August 2021

This work is copyright. It may be produced in whole or in part for study or training purposes subject to inclusion of an acknowledgement of the source. It may not be reproduced for commercial sale.

Contents

About this document	4
Message from NRSCH Registrars.....	5
Section 1: Who we regulate	7
Section 2: Our activities	9



About this document

This Report details the work in administering the National Regulatory System for Community Housing (NRSCH).

The NRSCH is a regulatory system designed to contribute to a well governed and managed community housing sector. The National Regulatory Code (the Code) under the Community Housing Providers (Adoption of National Law) Act 2012 sets out the Performance Outcomes that must be demonstrated by all registered providers. The Code requires registered providers to be well-governed, financially viable and to perform in compliance with standards to deliver quality housing services.

The NRSCH comprises Registrars from all states and territories; except Victoria and Western Australia. Registrars are responsible for both promoting a culture of compliance and detecting and addressing non-compliance at the earliest opportunity in order to protect the integrity of the community housing sector. Whilst Victoria and Western Australia are not participating NRSCH jurisdictions all Registrars work closely together in order to maintain consistency and minimise regulatory burden for multi-jurisdictional providers.

This is the first part of a series of reports to be issued for the NRSCH reporting period 2020-2021. The Annual Overview will be released in four discrete parts progressively between August and November 2021. Below is the proposed schedule for the release of these documents:

Part 1 NRSCH Overview	August 2021
Part 2 Regulator Performance Report	September 2021
Part 3 Sector Performance – Non-financials	October 2021
Part 4 Sector Performance – Financial	November 2021

Please note the schedule for the release of documents may be subject to change as a result of disruptions to business operations during COVID restrictions.

Scope of this report

This report provides data and analysis for participating NRSCH jurisdictions only. The data contained in the report is provided by registered community housing providers as part of their scheduled assessment to demonstrate their compliance with the National Regulatory Code.

All non-financial data reported is data held as at 30 June 2020 unless otherwise specified or unless comparisons with previous years have been made. It should be noted that whilst all data in this report is the most recent information held by the NRSCH its currency may date back to June 2019.

In this report, **Part 1 – NRSCH Overview**, you will find an overview of the providers we regulate and our regulatory activities during 2020-2021.

Part 2 – Regulators Performance Report provides an annual update on the work of regulators including delivery of reform projects and regulatory activities.

Part 3 – Sector Performance – Non-Financials provides a picture of the community housing sector against non-financial performance measures.

Part 4 Sector Performance – Financials shows the viability of Community Housing Providers (CHPs) assessed against a suite of indicators used to assess financial performance.

To learn more about the status of the NRSCH in a particular state or territory, as well as local policies and news please visit

https://www.nrsch.gov.au/states_and_territories/jurisdiction-policy

For further information about the Regulatory Framework and how Registrars deliver their functions under the NRSCH please visit

<https://www.nrsch.gov.au/publications/nrsch-framework>.

Message from NRSCH Registrars

We are pleased to present the first of a planned series of statements for the reporting year 2020-2021.

It has now been over 12 months since the first wave of the COVID-19 pandemic and Registrars have observed the resilience and agility of the community housing sector to respond to the challenges and seize opportunities in the changing environment. Overall, providers reported relatively minor financial impacts on their business during the first wave and were successfully able to rapidly change their service delivery arrangements to comply with social distancing and lockdown measures.

Registrars hosted a forum with peak representatives in November 2020 and heard stories of collaboration, across the sector and government, in the development and delivery of strategies and procedures during the pandemic. Registrars will continue to work with industry leaders to capture the valuable lessons learnt during the pandemic and to build a suite of national resources for the future.

The NRSCH Review commenced in 2018 and for some time Registrars and the Sector have anticipated reform to the administration of the NRSCH. In April 2021 the NSW Department of Communities and Justice, as host jurisdiction for the NRSCH, released a review report which set out issues raised by stakeholders and potential future reform options. The document collated key issues but did not chart a

pathway forward for the progression of a reform agenda. Registrars will continue to work with jurisdictional policy representatives and the sector to deliver regulatory reform to encourage the growth and development of a dynamic sector.

Lastly, our thanks goes to our regulatory staff and the NRSCH National Office who moved efficaciously to remote working whilst maintaining high levels of professionalism, agility and resilience during the pandemic. Despite the challenges, staff worked effectively to complete assessments and to deliver new initiatives including the collection of property based asset information. This was a key priority arising from the NRSCH Data Review and will provide Registrars with visibility of the challenges and risks that may be faced by providers due to the physical location of their community housing properties. An evaluation of the implementation of the property data collection project will soon be undertaken to develop the lessons learnt and improve processes for regulatory staff and registered community housing providers.

We are optimistic about the year ahead and look forward to new challenges and the continued growth of the community housing sector. As always, we welcome feedback and acknowledge the ongoing valued input of registered community housing providers. Feedback can be lodged by emailing the NRSCH National Office NRSCHNationalOffice@facss.nsw.gov.au



SECTION 1: WHO WE REGULATE

At the end of June 2021 NRSCH Registrars were responsible for the regulation of 304 providers. These providers managed over 100,000 tenancies with over 24,000 new tenancies¹ created in the financial year.

In order for providers to become and remain registered under the NRSCH, they must meet a number of standard conditions of registration, as well as any other requirements identified as applying to that provider on the National Register. The standard conditions of registration are set out in Section 15 of the National Law.

The provider must also comply with any relevant requirements under the state or territory community housing laws in the jurisdiction in which they operate in relation to their community housing assets. The NRSCH encourages the sector to take a proactive approach to managing the delivery of community housing in accordance with the National Law.

Regulation holds registered providers accountable for complying with the National Law. The governing bodies of registered providers are responsible for ensuring their own good governance, quality tenancy and asset management, and financial viability.

The Primary Registrar is responsible for both promoting a culture of compliance and detecting and addressing non-compliance at the earliest opportunity in order to protect the integrity of the community housing sector.

Figure 1: Trends in the registration of community housing provider

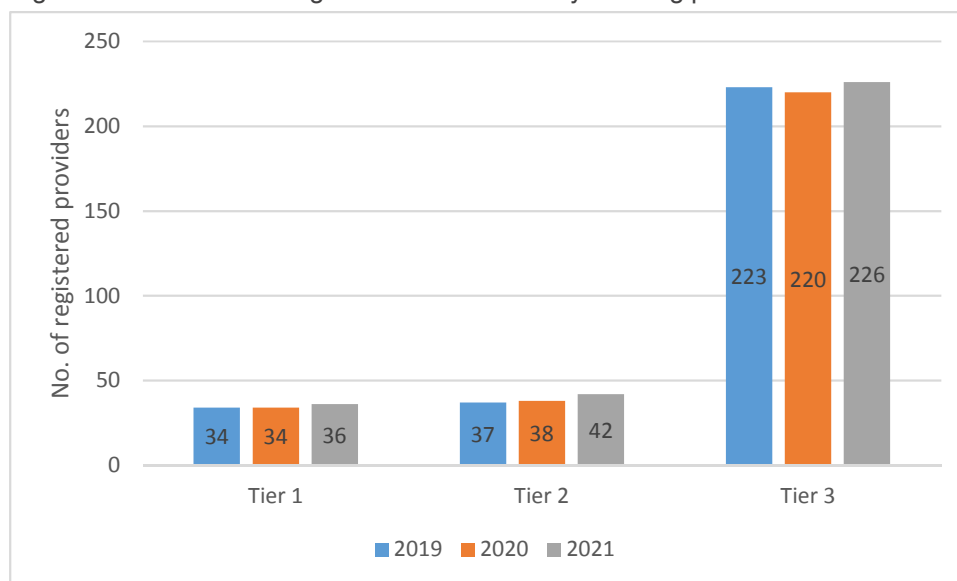


Table 1: Registered community housing providers by Tier and jurisdiction

	Tier 1	Tier 2	Tier 3	Total
ACT	1	3	10	14
NSW	24	17	128	169
NT	-	4	1	5
QLD	4	8	73	85
SA	5	9	14	28
TAS	2	1	-	3
TOTAL	36	42	226	304

¹ New tenancies are tenancies that were allocated during the year either to existing or new/upgraded tenancy units. It does not include tenancies that transferred from one dwelling to another dwelling, regardless of whether they have a new tenancy agreement in place

Tier 1 and Tier 2, although fewer in numbers continue to dominate nationally by the number of tenancies and assets managed.

Tier 3 registered CHPs operate at a smaller scale of property and tenancy management and have no ongoing development activities or have one-off or very small scale development activities. They account for over 74% of registered providers operating nationally.

Consistent trends in provider initiated cancellation of registration

Government initiatives in some states and territories are encouraging the more efficient management of smaller registered community housing providers. For example, in the past three reporting periods there has been a reducing number of Tier 3 providers in South Australia as a result of Tier 3 providers merging.

During the year seven providers applied to have their registration cancelled. This consisted of one Tier 2 and six Tier 3 providers across South Australia and New South Wales. This is consistent with the trend for Tier 3 providers to merge with other registered community housing providers to benefit from economies of scale. In 2019 -2020, eight Tier 3 providers applied to have their registration cancelled.

Cancellations of registration have been offset by the growth in the registration of new providers during the year.

Increased number of properties owned and/or managed by CHPs

During early 2020 the NRSCH commenced the collection of property based asset information for all registered providers. Previously, providers submitted aggregated property information as part of their scheduled compliance assessment.

Whilst the intent was to collect all property data by 30 June 2020 the impacts of COVID-19 on business operations effected the capacity of some providers to submit their data. As at 30 June 2021 over 100,000 property records had been entered for 229 providers. Because the reported number of properties owned and managed by community housing providers is currently made up of a combination of aggregate and property based asset information, further public reporting of total community housing assets has been suspended until property data collection is completed and validated.

It is expected that there will be a variation in previous reporting of the number of properties owned or managed by CHPs once the collection is complete reflecting greater accuracy in the information provided by CHP's and jurisdictional definitions of community housing assets.

Early numbers show that there has been a significant increase in the number of properties owned or managed by CHPs as a result of management transfers from public housing to the community housing sector and the Affordable Housing Bond Aggregator (AHBA) providing low cost, long term loans to registered community housing providers contributing to the acquisition of new stock.

Multi-jurisdictional providers

Nineteen registered community housing providers operate in more than one NRSCH jurisdiction. To make it easier for providers to operate in more than one jurisdiction and to reduce regulatory burden and red tape multi-jurisdictional providers only need to deal with one Registrar. Registrars from the jurisdictions that the registered provider is operating in appoint a Primary Registrar. The Primary Registrar is typically, but not always, the Registrar for the jurisdiction in which the provider has the majority of its community housing stock.

A detailed list of registered providers is available on the [National Provider Register](#).

SECTION 2: OUR ACTIVITIES

This section of the report relates to our registration and compliance related activities during 2020-2021

The **National Regulatory Code (NRC)** within the National Law sets out the performance outcomes that must be demonstrated by all registered providers. The Tier of registration is determined by an entity’s level of risk arising from the scale and scope of its community housing activities, which in turn determines the intensity of regulatory engagement and oversight.

The NRC requires CHPs to be well-governed, financially viable and to perform in compliance with standards to deliver quality housing services. Read more about the NRSCH and the regulatory system.

New registrations

Providers must meet a number of standard conditions of registration, as well as other requirements identified as applying to that provider on the National Register to become and remain registered under the NRSCH. The provider must also comply with any relevant requirements under the state or territory community housing laws in the jurisdiction in which they operate.

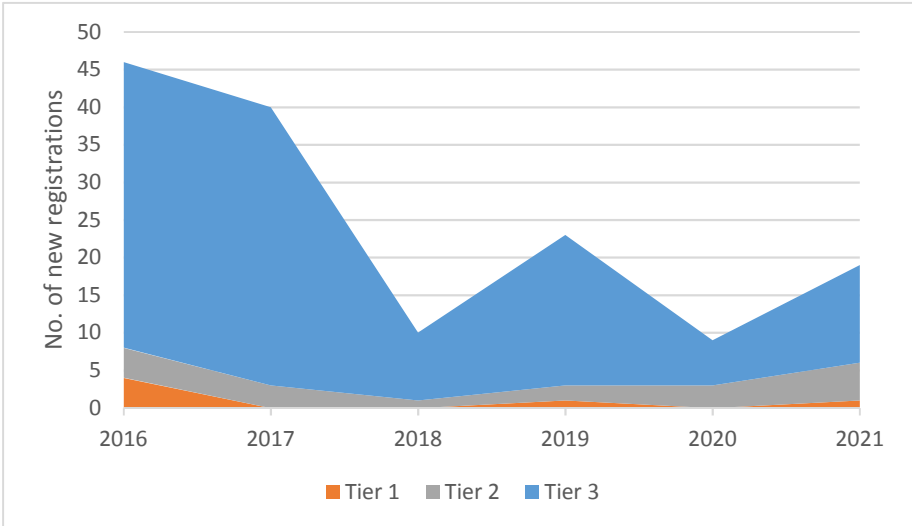
Table 2: New registrations by tier and jurisdiction 2020-2021

	Tier 1	Tier 2	Tier 3	Total
ACT				
NSW	1	3	10	14
NT		1		1
QLD			2	2
SA			1	1
TAS		1		1
TOTAL	1	5	13	19

During the reporting period the NRSCH registered 19 community housing providers. In addition, there were 20 providers seeking to gain registration and scheduled for assessment.

New government initiatives and local policy settings in some states and territories are also encouraging new entrants. In New South Wales the Registrar has partnered with the Aboriginal Housing Office to increase the level of Aboriginal community housing providers. As a result of this initiative there has been a growth of Tier 3 providers in New South Wales. A trend that is anticipated to continue.

Figure 2: Trends in new registrations over a five year period



Assessing ongoing compliance of providers

Once registered, CHPs must submit evidence supporting their suitability to remain registered in the NRSCH to their Primary Registrar for assessment on a regular basis. This assessment seeks to ensure ongoing compliance with the [National Regulatory Code](#) and constitutes the minimum level of oversight that will be applied. The frequency of assessment currently depends on the providers Tier. Tier 1 and Tier 2 providers must complete a compliance assessment every year whilst Tier 3 providers must complete a compliance assessment every two years.

During the reporting period, 153 standard compliance assessments were completed nationally representing over 50% of all registered providers. This figure excludes the compliance assessments of 20 providers currently participating in the NSW Tier 3 Market Segmentation pilot. These providers have been excluded to achieve uniformity in reporting and due to the variance in the methodology associated with the assessment.

Table 3: Standard compliance assessments completed in 2020-2021

Standard compliance assessments	
Tier 1	29
Tier 2	34
Tier 3	90
TOTAL	153

Tier 3 Market Segmentation Pilot

In 2018 NRSCH Registrars commissioned a consultant to engage with Tier 3 providers to establish a clear understanding of issues associated with the administration of the NRSCH from a provider's perspective, and to seek input into what features of the compliance assessment and evidentiary requirements might be improved in the future.

In 2019 the NSW jurisdiction commenced the Tier 3 Market Segmentation pilot to explore ways of reducing regulatory burden and simplifying reporting requirements. The pilot included a phased compliance cycle with an alternative engagement focus for providers managing 10 or less properties. To comply with the National Code providers are still required to report on all Performance Outcomes however the form of evidence required may differ for these providers.

A final report on the Tier 3 Market Segmentation Pilot is currently being considered

Assessing each performance outcome

The evidence submitted by community housing providers is assessed against each Performance Outcome. The National Regulatory Code (NRC) sets out the performance requirements that registered CHPs must comply with in providing community housing under the National Law. The possible results of the assessment for any performance outcome are:

- **Compliant** – The provider has submitted sufficient evidence to demonstrate ongoing compliance with the performance outcome, or in the case of registration has demonstrated the capacity to comply.
 - **Compliant with recommendations** - The provider has submitted evidence to demonstrate a minimum level of compliance with a Performance Outcome but needs to take further action to reach complete compliance.
- The recommendations will generally fall into one or more of the following categories:
- Relatively minor and the issue can be resolved in a short period,
 - The deadlines for the provider reaching compliance are reasonable and likely to be met i.e. evidence of progress has been seen,
 - The overall impact on financial viability and services to residents is relatively insignificant,
 - Accepted by the provider and can be completed by the provider i.e. they have the resources, track record, expertise
- **Non-compliant** - The provider has not submitted sufficient evidence to demonstrate capacity to comply (registration) or to demonstrate on-going compliance with performance outcomes. Table 4 shows the outcome of the assessment of each performance outcome. An individual compliance assessment may result in a number of recommendations in one or more performance outcomes. Those with an outcome of compliant did not receive any recommendations.

Table 4: Outcome of assessment against Performance Outcome

	Compliant	Compliant with recommendations	Non-compliant	%Compliant
Performance Outcome 1 - Tenant and Housing Services	90	60	3	98%
Performance Outcome 2 - Housing Assets	115	35	3	98%
Performance Outcome 3 - Community Engagement	144	7	2	99%
Performance Outcome 4 – Governance	96	54	3	98%
Performance Outcome 5 - Probity	101	49	3	98%
Performance Outcome 6 – Management	112	39	2	99%
Performance Outcome 7 - Financial Viability	101	49	3	98%

Assessing overall compliance with the National Regulatory Code

Once an assessment has been completed a decision will be made about overall compliance with the National Regulatory Code (NRC). Providers who are found non-compliant with a Performance Outcome may not necessarily have a final overall judgement of non-compliant.

Of the 153 standard compliance assessments completed only three providers had a final overall judgement of non-compliant. One of these providers successfully applied to have their registration cancelled in January 2021.

The level of engagement with a provider who has a final judgement of non-compliant will reflect the scale and scope of risk to the community housing provider. If the matter is not serious or urgent, the Registrar will endeavour to work cooperatively to encourage the provider to remedy non-compliance before a Registrar takes enforcement action. This may be in the form of an investigation or targeted assessment.

Targeted assessments – encouraging providers to remedy non-compliance

In addition to standard compliance assessments, certain events or the outcome from the last assessment may trigger additional compliance assessments outside of the normal cycle. A targeted compliance assessment may be sought where a recommendation is required to be addressed sooner than the next standard assessment. A targeted assessment is a planned engagement with the provider. It is commonly a compliance check of one or more performance outcomes or performance requirements.

Targeted assessments are a reflection of heightened monitoring by regulators rather than a decline in performance in the sector.

Table 5: Sector trends – number of targeted assessments 2016- 2021

	2016	2017	2018	2019	2020	2021
Tier 1	-	2	6	4	-	1
Tier 2	1	2	3	9	1	3
Tier 3	8	12	20	40	21	8
TOTAL	9	16	29	53	22	12

Case 1 – Targeted assessment

Following a routine compliance assessment, the Registrar adjusted the level of regulatory engagement for a Tier 3 provider.

Whilst overall compliant with the NRC, the assessment identified gaps in systems that ensure ongoing effective governance and the management and implementation of community housing policies. The Registrar considered that the nature of the concerns required resolution earlier than the next standard compliance assessment. An assessment targeting Performance Outcome 4: Governance, 5: Probity and 6: Management of the NRC was scheduled for six months. This was to allow sufficient time for the provider to address the gaps identified in the current assessment.

This provider had a history of responsive engagement with the Registrar, for example, completing administrative changes in governance, appointment checks and notifications. Following the assessment of the targeted performance outcomes the Registrar identified better practice opportunities to enhance compliance with Performance Outcome 5: Probity.

The Registrar considered that there was no reason to further adjust its regulatory engagement with this provider. The next assessment will focus on the provider's tenancy and assessment management systems, ongoing financial viability and responses to better practice opportunities identified in the targeted assessment.

As in previous years Performance Outcome 5 (Probity) continued to be a particular focus for targeted assessments. Under Performance Outcome 5: Probity, providers are required to maintain high standards of integrity relating to their business. This includes notifying the primary Registrar of any incident related to its operations that may damage or has the potential to damage the reputation of the community housing sector. This has been a focus of recent compliance programs, particularly for Tier 3 providers.

The majority of providers address concerns in a timely manner and as a result any incident that damages or may damage the reputation of the community housing sector is dealt with in a prompt and effective manner.

Providers subject to regulatory enforcement due to non-compliance

Enforcement action may be taken where a provider demonstrates non-compliance with the National Law or NRC following a compliance assessment or investigation. Performance and assessment data is used to inform a risk-based assessment of all registered providers to determine compliance with the National Law and the NRC. This determines the nature of regulatory engagement and, where necessary, action. The preferred approach to non-compliance is for a Registrar to choose the most appropriate enforcement tool from within an escalating tool set. In some cases this may mean a sequence of escalating responses depending on the outcome sought and the level of egregious behaviour. Whilst an escalating response is preferred, a Registrar may move to any level of enforcement response permitted by the National Law, if the circumstances warrant it.

During 2020-2021 enforcement action was taken against two providers. This is consistent with 2019-2020.

Case 2 - Enforcement – Statutory Manager

The Registrar moved directly to the appointment of a Statutory Manager to protect the tenants of a registered community housing provider. At the time, the provider lacked a properly constituted governing body and had failed to comply with community housing legislation. The failure to comply was deemed serious and required urgent action.

A Statutory Manager continues to conduct the affairs and activities related to this provider. A governing board has been appointed and a new staffing structure is being finalised.

Case 3 – Enforcement - Notice of non-compliance

A Notice of non-compliance was issued to a registered community housing provider due to their failure to comply with all requirements of Performance Outcome 1 – Tenant and Housing Services. An assessment targeting Performance Outcomes 1 – Tenant and Housing Services, 2- Housing assets and 5- Probity of the NRC was scheduled for a future date.

By agreement another registered community housing provider took over the management of tenancy and maintenance decisions relating to the provider who was the subject of enforcement action. The governing board later agreed to the transfer of community housing assets to the managing provider. The Notice of non-compliance was subsequently revoked. Action to transfer the assets and dissolve the operations of the provider was taken and the provider was deregistered in August 2020.

Enforcement action is only taken when the risk of non-compliance is serious and urgent and all reasonable steps have been taken to mitigate damage to the interests of tenants, the providers, secured creditors and government housing agencies (if applicable).

For more information

For more information on the National Regulatory System for Community Housing, please visit:

www.nrsch.gov.au