

**COMMUNITY HOUSING PROVIDERS (ADOPTION OF NATIONAL LAW) BILL  
2012**

PROOF  
13 JUNE 2012

**Bill introduced on motion by Ms Pru Goward, read a first time and printed.**

**Second Reading**

**Ms PRU GOWARD** (Goulburn—Minister for Family and Community Services, and Minister for Women) [4.05 p.m.]: I move:

That this bill be now read a second time.

The main purpose of this bill is to provide uniform template legislation—the Community Housing Providers National Law—for a national system of registration, monitoring and regulation of community housing providers. The National Law is set out as appendix 1 in the bill. The adoption bill applies the National Law in New South Wales. Other provisions in the adoption bill substantially correspond to and replace the community housing provisions of the Housing Act 2001. The national regulatory system for community housing providers is an important reform for the community housing sector across Australia. It provides a national regulatory framework that will give confidence to community housing providers, their clients and investors and it will ensure the viability, good governance and continued growth of the sector now and into the future.

New South Wales has led the development of the national regulatory system for community housing providers at the request of the Commonwealth and other States and Territories. There are sound reasons for this. The reputation of the New South Wales regulatory system across Australia is excellent and the proposed national regulatory system builds on the key elements of the New South Wales approach. Jurisdictions around our country are committed to the creation of a national system for the regulation of community housing providers. The Commonwealth and other State and Territory governments have prepared an inter-government agreement which sets out the framework for the establishment and maintenance of the ongoing arrangements for the national regulatory system. The inter-government agreement also commits jurisdictions to introducing into their Parliaments legislation that applies the National Law or mirrors legislation that corresponds to the national law.

The community housing sector is increasingly an important player in the provision of social and affordable housing, typically by not-for-profit organisations. The growing role of community housing providers is a significant reform and consistent with this Government's commitment to partnerships with non-government organisations in the delivery of social services to improve lives. Community housing providers are often local, client focused, nimble and flexible. The non-government organisation sector more generally has a great capacity to provide services and care that governments simply cannot match. Governments across Australia, including New South Wales, have committed to pursuing reforms aimed at expanding the provision of social and affordable housing through the community housing sector to meet increasing demand. It has been estimated that in the 10 years up to 2009-10

mainstream community housing stock has gone from approximately 7 per cent to 14 per cent of all social housing stock. The Australian Institute of Welfare has reported that in June 2010 there were 950 mainstream community housing providers managing almost 60,000 social housing properties.

It is estimated that the total value of mainstream community housing assets nationally is \$18 billion.

In New South Wales, as at the end of June 2011, the community housing sector managed more than 26,000 properties, or 17 per cent of all social housing. There are currently 233 registered community housing providers in New South Wales, of varying size and capacity. The 21 largest providers manage between 200 and 4,000 properties, some across a broad geographical area. Properly managed and led, this sector has the means to expand the social housing supply no longer readily available to cash-strapped State governments. The adoption bill is being introduced into this Parliament first, as New South Wales has been chosen as the host State for the national law. Once applied or adopted by the other States and Territories, the national law will provide a consistent standard of regulation for all registered community housing providers across Australia. Providers will be required to meet the outcomes of the National Regulatory Code. The proposed National Regulatory System provides many potential benefits in assisting the further development of the community housing sector both in New South Wales and across Australia.

The new system will facilitate investment in the sector through the promotion of confidence in the governance of community housing providers, assurance as to the financial viability of providers, and improvements in the cost of borrowing through scale through the development of a "national market" for lending. The growth in the sector will also provide assurance to the many tenants who rely on the community housing sector for the provision of stable and affordable housing. The National Regulatory System provides specific benefits for multi-jurisdictional providers—those already operating across jurisdictions and those aspiring to—which include regional and rural providers that operate close to State and Territory borders. The system will minimise the regulatory burden for multi-jurisdictional providers through a common approach to regulation across boundaries and with the approach to regulation managed by a single lead registrar. It should also provide them with opportunities to achieve scale and greater access to private capital on more favourable terms.

The benefits of the National Regulatory System are also clear to stakeholders, particularly the finance industry. To ensure that the views of stakeholders were understood and taken into consideration, an extensive national consultation process was undertaken on the proposed National Regulatory System between December 2011 and January 2012. A Regulation Impact Statement was also prepared for use in the consultation process. This public consultation process involved two national consultation forums, 15 State and Territory consultation forums and a nationally advertised call for written submissions. A broad range of stakeholders were involved including a range of community housing providers, tenant representatives, other peak bodies, support organisations, Indigenous community housing

providers and institutional and community banks who lend to community housing providers. Stakeholders, including the finance industry, overwhelmingly support the national regulatory framework, having agreed that its net benefit outweighs its costs.

I particularly highlight the outcomes of the national workshop that was held with representatives from the institutional arms of the major Australian banks in November 2011. Consistent with other stakeholders, these representatives expressed strong support for the National Regulatory System and were unanimous in their support for the proposed National Regulatory System over the current status quo of separate regulatory systems in different jurisdictions. They noted that the national system matched the national approach to institutional banking and would remove uncertainty about robustness and consistency of regulatory controls across different State and Territories. The finance sector representatives also recognised that the National Regulatory System will enhance the confidence of institutional bankers to provide private finance for community housing, and potentially improve the cost of borrowing through scale, creating a potential "national market" for lenders and allow new entrants into the sector. It was also noted that the National Regulatory Code would provide consistent national standards for registered providers.

The finance industry recognised that it can potentially use these standards as an important component of its assessment of the creditworthiness of community housing providers. I will now outline the specifics of the adoption bill and the national law. The Community Housing Providers National Law 2012 provides for a national system of registration, monitoring and regulation of community housing providers. It provides for, among other elements a single national Register of Community Housing Providers, a National Regulatory Code, and the appointment, roles, functions and responsibilities of registrars including their enforcement powers. The National Regulatory System, through the national law and through the adoption bill in New South Wales, retains the important separation that is in place currently in New South Wales between policy and investment decisions, and the regulation of providers. The regulatory arrangements and other controls set out in the adoption bill provide the mechanisms for this Government to use to protect existing and any future investment in the community housing sector in New South Wales

The main difference between the current New South Wales regulatory system and the proposed national system is the introduction of extra powers in the national law that enhance the enforcement and invention powers of registrars in cases of non-compliance with the national law. These powers protect tenants and, in particular, governments' investments in a national community housing sector, and these powers form part of a suite of regulatory interventions that are proportionate to risk. These extra enforcement powers will provide further protections for Government in relation to its investment in community housing. Registrars will work cooperatively with community housing providers to resolve non-compliance issues, and with funders and policy setters in the event that the non-compliance cannot be resolved.

Specifically, under the national law, a primary registrar is able to issue formal binding

instructions to a registered housing provider to address any matter that is subject of a notice of non-compliance with the regulatory code, as one of a suite of possible regulatory interventions. The national law also provides that the primary registrar for a community housing provider can appoint a statutory manager to conduct such affairs and activities of the provider as relate to the community housing 'business' of a provider in order to bring a provider into compliance with the regulatory code. The appointment of the statutory manager would certainly be a last resort and can take place only under exceptional circumstances, such as when a notice of cancellation has been issued or the registrar is of the view that the provider has failed to comply with the legislation or binding instructions and failure to comply is serious and requires urgent action.

There are also minor changes to the regulatory code but, consistent with New South Wales, the code remains outcomes-based and the requirements on providers to demonstrate compliance with the code will be proportional to the provider's size and risk profile. This means, for example, that larger providers who are developing new housing at scale will be subject to a greater level of regulatory oversight than a small regionally based provider who does only property and tenancy management. Given the similarities between the proposed National Regulatory System and current New South Wales regulatory arrangements, I do not expect additional regulatory impact on New South Wales businesses or the community. Further, while the national system may see the emergence of new multi-jurisdictional providers, any impact on New South Wales appeal bodies such as the Administrative Decisions Tribunal or the Supreme Court is likely to be minimal.

Apart from applying the national law in New South Wales, the adoption bill contains other provisions that simply substantially replicate and replace the community housing provisions of the NSW Housing Act 2001, which seek to protect government investment in the sector in New South Wales. Minor amendments reflect the changed roles of the Department of Family and Community Services and the Department of Finance and Services as a result of the transfer of the Land and Housing Corporation to the Department of Finance and Services. The existing protections that are carried forward into the bill include, for example, the ability for the New South Wales Government to register an interest on title for any property it may transfer and the requirement for community housing providers to enter into a legal contract with Government, known as community housing agreements, in order to receive government investment.

In conclusion, the Government supports the community housing sector in its role of providing social and affordable housing to people in greatest need both in New South Wales and across Australia. I am pleased that the New South Wales Government has led the development of the National Regulatory System for community housing providers, demonstrating its credentials on the national stage and helping develop a national regulatory system that is appropriate to ensure the ongoing growth and viability of the community housing sector. I commend the bill to the House.

**Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.**