Wednesday 8 July 2026

Pablo Marques
A/NSW Registrar of Community Housing – Homes NSW
1-17 Elsie St, Burwood, 2134 New South Wales
Via email: ninavah.shlaimon@homes.nsw.gov.au

Subject: Consultation – Proposed amendments to the Community Housing Providers (Adoption of National Law) Regulation 2023 and draft Affordable Housing Managers Regulatory Framework

Dear Mr. Marques,

Thank you for the opportunity provided by the NSW Registrar of Community Housing (Registrar) for Shelter NSW to comment on the affordable housing reforms contained in the proposed amendments to the *Community Housing Providers* (CHP) *(Adoption of National Law) Regulation 2023* (The Regulation), and the draft Affordable Housing Managers Regulatory Framework (The AHM Framework).

Shelter NSW has been operating since 1975 as the State's peak housing policy and advocacy body. We provide systemic advocacy and advice on policy and legislation for the whole NSW housing system. Our vision is to create a sustainable housing system that provides a secure home for all. We are especially concerned for low-income households who struggle to afford good-quality and well-located housing and advocate for housing justice.

1. Concerns about the new category of for-profit affordable housing managers

Shelter NSW reiterates its concerns about the creation of a new category of 'affordable housing managers' (AHM). AHM will be primarily profit motivated, but manage housing intended to deliver secure, stable, affordable housing for lower income households. This will require clear and fit-for-purpose regulation supported by proactive monitoring and enforcement.
From our perspective, the increase in affordable housing delivered through planning regulations and incentives was an opportunity to grow and strengthen the viability of the not-

for-profit, community housing sector – including through further cross subsidisation of social housing from rents collected at a small discount to market.

We reiterate our concerns regarding:

- Market-based rent-setting models leading to 'affordable housing' being unaffordable for very low- and low-income households in many metropolitan and regional housing markets.
- The increase in complexity and fragmentation of the affordable housing sector.
- The potential for unfair allocation, nepotism and corruption stemming from the creation of a new, for-profit, category of AHM, that allows registration of individuals self-managing small numbers of 'affordable housing' properties.

At this stage, Shelter NSW considers the Regulation and AHM Framework to be a ***missed opportunity*** to create a centralised application platform where all affordable housing dwellings are publicly advertised and allocated in a fair and transparent manner. We reproduce our letter to the Registrar from July 2025 outlining these concerns, as well as recommendations to improve and strengthen the regulations and associated regulatory measures, in Appendix 1, and request that these concerns are placed on record by the Registrar.

Having noted these wider concerns and recommendations, the rest of this submission focuses on what is in scope for this consultation on the Regulation and AHM Framework.

2. AHM Eligibility

Proposed eligibility criteria for AHM registration are too broad and should be tightened to reduce the potential for mismanagement and inappropriate allocation of affordable housing properties. The exclusion of registered CHPs and entities who hold community housing assets is appropriate and supported, as these providers are best regulated through the National Regulatory System for Community Housing (NRSCH).

Shelter NSW is concerned about the potential for corruption, nepotism (e.g. allocation of affordable housing properties to friends or family members eligible under the Guidelines and/or 'kick back' requests to make up the difference with market rent), and lack of professionalism by allowing individuals self-managing their own affordable housing properties to register as AHM. We have previously proposed to address this through the creation of a publicly managed and centralised affordable housing access and allocation system.

The broad eligibility criteria risk allowing registration of amateur, loose operators, endangering the reputation of the community housing sector and of ‘affordable housing’ as a housing product more broadly.

We note that Appendix A of the AHM does allow for real estate agency corporations’ licences, ACNC registrations, NDIS accreditations, and any other licences, registrations or accreditations held to be provided as evidence of eligibility.

Shelter NSW recommends that at least one of those directly relevant licences be compulsory for an entity or individual to register as an AHM. Linking compliance with the AHM Framework to other licences will increase compliance incentives and the options available to the Registrar to ensure compliance. It would also leverage existing avenues for professional accountability, reinforcing minimum competency expectations, and with the potential to create additional consequences for serious misconduct.

Recommendation 1 Require a real estate licence, ACNC registration, NDIS accreditation, or another relevant licence, registration or accreditation for AHM registration

Shelter NSW strongly supports the proposed powers (1.e.) for the Registrar to refuse registration if it believes it is being sought for fraudulent purposes, or other instances where registration would be, on balance, contrary to the public interest. We also strongly support the proposed grounds for registration refusal of ‘adverse negative impact on the reputation of the community housing sector’ and where the ‘portfolio of affordable housing stock subject to assessment is more appropriately managed by a registered CHP’. We would support, however, more detailed criteria related to those two grounds to be made publicly available. Lack of clear, publicly available information related to those grounds has potential to undermine public confidence as to whether the regulatory activity of the Registrar is sufficient to realise these objectives.

2.1 Registration renewal

Automatic renewal of registrations should be linked to satisfactory AHM performance. Shelter NSW recommends the explicit inclusion in 1. f. of the AHM Framework that the Registrar will only automatically renew registration of AHM that have not been subject to 'serious and repeated complaints about advertising, allocation, and/or management of affordable housing properties', or other words to that effect. This is not to say that any complaint from tenant or other relevant individuals or organisations should result in non-renewal of AHM registration, but to ensure that renewal of registrations of AHM subject to complaints is appropriately investigated and considered by the Registrar.

Recommendation 2 Explicitly include in the AHM Framework that AHM subject to complaints under investigation will not have their registration automatically renewed by the Registrar

3. Compliance

Shelter NSW strongly supports the creation and use of broad, wide-ranging powers so that the Registrar can ensure AHM compliance clearly, strongly, and pro-actively. While the proposed compliance processes and standards in the draft Regulation and AHM Framework are broadly appropriate, some of them could be tightened to increase flexibility in how the Registrar monitors and ensures compliance and reduce risk of reputational damage to the community housing sector and likelihood of 'rogue' AHM operating undetected.

We note that while the Registrar appropriately identifies the reputational risk of the new category of for-profit AHM to the broader community housing sector, and proposes standards and processes to reduce this risk, it could have been avoided entirely had NSW Government decided to restrict management of rental affordable housing to registered CHPs.

Shelter NSW supports the factors proposed by the Registrar to determine the frequency of regulatory engagement with an AHM, particularly the operational practices of the AHM and previous Registrar recommendations, and the level of public interest related to the AHM. We would support the ***explicit inclusion of the volume and nature of complaints related to an AHM*** as well. The Registrar should also consider clarifying how the 'total amount of properties in the AHM's affordable housing portfolio' will modulate the frequency of regulatory engagement. Obviously, there are greater consequences to AHM with a significant number of properties having inadequate processes and standards in place, but it is also more likely that AHM with ***small number of properties*** will act in a less professionalised manner. Shelter NSW would welcome more clarity in the AHM Framework, 5. b., as to how the portfolio size factor will be considered by the Registrar in determining regulatory engagement frequency.

Regarding ***periodic compliance assessments***, Shelter NSW recommends that the Registrar amend the proposal that AHM are assessed 'not more than once every year' to 'not more than once every six months'. This will allow greater flexibility in how the Registrar assesses AHM compliance and reduce opportunities for AHM to obfuscate any shortcomings or non-compliance, while still allowing a low compliance burden for AHM managing properties appropriately and sensitively. The proposed requirement that AHM are subject to compliance assessments 'no less than once every three years' is a time period that is too long from our perspective, particularly given the significant potential negative impacts of tenants arising from non-compliance. Shelter NSW recommends that AHM are subject to compliance assessments 'no less than once every two years' instead. We also note the ***proposed notification period of 24 weeks for periodic compliance assessments. This is an unusually and unnecessary long notification period*** which we are concerned about. Indeed, such a long notification period might allow AHM to retrospectively obfuscate non-compliance or other affordable housing management issues and is unnecessary for AHM doing the right thing. A ***much shorter notification period*** allowing AHM to be aware of an upcoming assessment so that they can prepare necessary documentation and other information to be provided to the Registrar, such as ***four to six weeks***, would be more appropriate.

Regarding ***random sampling*** of properties – which Shelter NSW strongly supports – we recommend that the Registrar determine a target, as a percentage of all AHM's portfolios (e.g. 15% p.a.), that is high enough to ensure meaningful monitoring and enforcement of compliance.

Regarding ***transparency and information sharing***, Shelter NSW strongly supports the proposals of the Registrar to consider regulator and media reports, notifiable incidents, and complaints and appeals in its determinations, and to publish final determinations on its website.

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Regarding the ***audit functions*** of the Registrar outlined in section 6, Shelter NSW strongly supports the proactive investigation powers for the Registrar outlined in the Regulation and AHM Framework, including that the Registrar 'may also conduct their own enquiries to determine the compliance of an AHM, including contacting local councils, certifiers, owners, applicants and tenants to confirm compliance with the Act, Regulations, Guidelines and this Regulatory Framework.'

We also strongly support the establishment of a ***complaints function*** for the Registrar in section 7 – one of the main recommendations of Shelter NSW previous contribution to the development of the regulations.

Shelter NSW would welcome the explicit inclusion in the Regulatory Framework that the Registrar may also contact 'organisations ordinarily representing or providing support to affordable housing tenants, or who otherwise have expertise in affordable housing management, including specialised legal services (e.g. Tenants Advice and Advocacy Services), other assistance, support and advocacy services, and housing and homelessness peak bodies', or other words to that effect, in order to conduct its compliance and monitoring functions. We note the explicit mention in the AHM Framework – Section 7, that the Registrar will not 'investigate matters that belongs in the jurisdiction or (sic – of) another body, such as the Housing Appeals Committee, the NSW Civil and Administrative Tribunal, or the NSW Ombudsman. Shelter NSW recommends that this sentence be removed from the Framework entirely. Indeed, the range of matters that do belong in those jurisdictions is such that it would severely and unnecessarily limit the range and type of matters that the Registrar is able to investigate. We also note that given that HAC recommendations are non-binding, it is essential for the Registrar to be empowered to consider matters belonging to HAC so that compliance and enforcement can be ensured. Leaving NCAT and HAC matters to those jurisdictions is also equivalent to putting the onus on tenants to enforce legislative and regulatory measures, and the Registrar must have the capacity to proactively enforce matters that tenants might also decide to pursue through other avenues.

Regarding ***consequences for tenants of AHM de-registration,*** Shelter NSW would like to draw the attention of the Registrar to potential negative unintended consequences for affordable housing tenants potentially arising from AHM de-registration. From our understanding, there would be potential for de-registered (or about to be) AHMs, to seek termination of affordable housing tenancies through s 87H (either (1) (a) - tenant no longer eligible or (b) - scheme has ended).

Affordable housing tenants should not be negatively affected by AHM registrations ending, particularly where this is due to lack of compliance from the AHM. Shelter NSW recommends that the Registrar investigate and include safeguards and processes to ensure that tenants are provided with continued, secure, affordable housing and/or adequately compensated. The former could be achieved through a process led by the Registrar to hand over management of the property – previously managed by a now de-registered AHM – to a registered CHP (or Homes NSW), without requiring the end of the tenancy, while the latter could be covered by a compensation payment covering moving costs, loss of income, costs of finding and securing a new property, and other reasonable associated costs. The Registrar could fund these payments from AHM registration income and/or seek to recover costs from de-registered AHM at a later stage (i.e. without impacting the timeliness of payments to tenants and/or the amounts).

4. Data collection and enforcement action

Regarding section 8 of the AHM Framework regarding ***enforcement action***, Shelter NSW supports the proposed powers for the Registrar to issue contravention notices, notices of non-compliance, and deregistering AHM in certain circumstances. We also find the proposed penalty units for breaches of the regulations to be appropriate.

The changes to property data that are subject to mandatory notice to the Registrar are broadly appropriate, including entry, exit, rent increases, changes in household income above the guidelines, and changes to property management. Shelter NSW, however, recommends shortening the proposed period for vacancy of a property to become a mandatory notice to the Registrar from 60 to 30 days. Given levels of demand for affordable housing, vacancies longer than 30 days must be considered abnormal and communicated to the Registrar. This will also allow monitoring of AHM performance, as under the currently proposed framework, properties being vacant regularly for 30 to 60 days might not come to the attention of the Registrar. Though this will be monitored through information required to be provided (Appendix B - Property Data includes collection of information regarding the number of days the property has been tenanted over the financial year), we believe this change would increase monitoring accuracy.

We note that asking AHM to notify the Registrar about criminal behaviour or other actions creating reputational risk for the community housing sector is unlikely to be sufficient in practice and must be supported by adequate and proactive enforcement and compliance activity.

Similarly, the evidence requirements proposed in the Regulation and AHM Framework for AHM having processes in place to comply with their obligations is insufficient. We note that amateur, small scale AHM are likely to provide policies created by large language models (LLM) that might not be implemented and understood adequately by staff in practice.

Shelter NSW notes the requirement proposed by the Registrar that 'The AHM has processes in place to manage its profit-making interests against its affordable housing obligations.' From our perspective, this is the core of the issue presented by the creation of a new category of for-profit affordable housing managers. Self-regulation of those operators is highly unlikely to be sufficient, and high levels of monitoring and regulatory compliance will be needed. 'Independent committees' and 'impartial executive management' (some of the suggested processes for AHM to comply with the requirement) are easy to establish on paper, but much harder to put in place in practice, particularly where opportunities for excessive profit maximisation and/or unscrupulous behaviour are present.

In conclusion to this submission, Shelter NSW reiterates its position that further reliance on for-profit provision of 'affordable housing' perpetuates the problem it is supposed to solve, i.e. over-reliance on market mechanisms and private organisations and individuals who are primarily profit motivated. While this is not the decision of the Registrar – but of NSW Government – we consider the new regulatory framework to be a missed opportunity to simplify access, provision and management of affordable housing, and to strengthen the community housing sector, which has a proven track record of affordable housing delivery and management, and experience in engaging and complying with regulation.

We sincerely hope that the concerns outlined in this submission, and our previous contribution to the development of the regulations, will not materialise.

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Shelter NSW remains at the disposal of the Registrar should they like to discuss any of the comments or recommendations raised in our submission further. Please contact Senior Policy Officer, Thomas Chailloux, on 0490 030 809 or thomas@shelternsw.org.au, or the Shelter NSW team via admin@shelternsw.org.au or (02) 9267 5733.

Sincerely,
Thomas Chailloux, Senior Policy Officer, on behalf of Shelter NSW

APPENDIX 1

Shelter NSW letter to the NSW Registrar of Community Housing

Thursday 31 July 2025

Chris Valacos
Registrar – NSW Registrar of Community Housing – Homes NSW
1-17 Elsie St, Burwood, 2134 New South Wales
Via email: ninavah.shlaimon@homes.nsw.gov.au

Subject: Drafting instructions – Regulations of Community Housing Providers (Adoption of National Law) Amendment Bill 2025

Dear Chris,

Thank you for the opportunity provided by the NSW Registrar of Community Housing (Registrar) for Shelter NSW to comment on the affordable housing reforms contained in the *Community Housing Providers (Adoption of National Law) Amendment Bill 2025* (The Bill), including the drafting instructions for the proposed regulations.

Shelter NSW has been operating since 1975 as the State's peak housing policy and advocacy body. We provide systemic advocacy and advice on policy and legislation for the whole NSW housing system. Our vision is to create a sustainable housing system that provides a secure home for all. We are especially concerned for low-income households who struggle to afford good-quality and well-located housing and advocate for housing justice.

This submission focuses on the need for a clear, adequate and transparent framework to ensure the various affordable housing products delivered through the planning system, direct government delivery, or other schemes (e.g. tax incentives such as the (now defunct) National Rental Affordability Scheme (NRAS)) meet their intended outcomes; delivering genuinely affordable housing to people living on very low, low and moderate incomes. We also provide commentary and recommendations to ensure affordable housing is adequately advertised, allocated, and managed.

1. Rent setting

Housing affordability issues in NSW are well established, particularly for households living on very low to moderate incomes. The supply and ongoing provision of rental affordable housing that is genuinely affordable to people living on lower incomes is key to supporting socio-economically diverse and inclusive communities where people on a range of incomes, including essential workers, can live near where they work and/or have strong community ties, and be able to afford other life essentials after housing costs.

From Shelter NSW perspective, the Affordable Housing Ministerial Guidelines ('the Guidelines') guidance on rent setting (focusing primarily on a market rent discount of 20% - with the rent often being set at 74.9% of market rent by housing providers to access Commonwealth tax concessions) has not been sufficiently effective at delivering housing that is genuinely affordable to people on very low, low and moderate incomes. Affordable housing rents tied to market rents move in line with the market, meaning that they become unaffordable for many people in high price point markets.

To ensure the supply and ongoing provision of genuinely affordable housing, Shelter NSW strongly supports the inclusion in the regulations of a prescribed income-based rent setting method, with a secondary market-based limit (e.g. using 'Rent and Sales' data). The rent setting model should prescribe that affordable housing is to be rented to a mix of very low-, low- and moderate-income households (as defined in the Guidelines) at a maximum of 30% of their gross income, with an absolute maximum of 80% of market rent.

2. Advertising and allocation

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While Shelter NSW is supportive of the delivery of affordable housing at no direct cost to government through the Housing SEPP Affordable Housing Infill Bonus, significant supply - and management, following the creation of the Affordable Housing Manager (AHM) status - of affordable housing by operators primarily motivated by profit (as opposed to Community Housing Providers (CHP)) requires close monitoring and compliance mechanisms and enforcement.

Section III of '11. Conditions of Registration' of the drafting instructions for the regulations implies that some affordable housing dwellings might not be publicly advertised. Due to the nature of operators likely to become AHM (for profit providers, single or small number of dwelling owners), and the fragmentation of affordable housing management – which the Registrar intends to address - Shelter NSW holds concerns about the potential for management of dwellings going against the legislation's intent (e.g. dwellings being left vacant for tax and/or resale purposes) and/or nepotism (e.g. dwellings being rented to friends, family, or other eligible parties without due process being followed for allocation). This is a significant risk for optimal outcomes (the right dwellings being rented to people who need it the most) and for the reputation of affordable housing dwellings as a housing product worthy of public support/social license and public subsidies.

Shelter NSW strongly recommends that all affordable housing dwellings be publicly advertised through a centralised application platform and allocated through prescribed guidelines using a combination of needs-based and 'next on the list' allocation ensuring allocation to a mix of very low-, low- and moderate-income households.

3. Eligibility to become an Affordable Housing Manager

Based on the concerns about nepotism, opaque allocation, and poor management (as is common amongst single dwelling, amateur landlords) outlined above, Shelter NSW recommends that individual affordable housing dwelling owners be explicitly excluded from becoming an AHM in the regulations, unless they hold a current valid real estate agent licence (as professional accreditation provides some level of confidence as to whether they are likely to manage affordable housing in a professional and compliant manner).

4. External appeal of AHM decisions and complaint mechanisms

All tenants and applicants accessing or attempting to access the affordable housing system should be treated fairly and professionally, regardless of the delivery pathway of the dwelling or its ownership, and be provided the same protections and rights, including complaints and external review pathways.

Shelter NSW recommends that the regulations provide for a complaint and an external review mechanism for AHM management and decisions, including around eligibility, for example through access to the Housing Appeals Committee, as is currently available to other tenants of non-market housing (i.e. social housing) **and** the ability for AHM tenants to fill a complaint to the Registrar directly and indirectly (i.e. through the use of legal assistance services such as Community Legal Centres and Tenants Advice and Advocacy Services).

5. Monitoring and compliance

As outlined in the Ministerial media release supporting the introduction of the Bill in NSW Parliament, the objective of the amendment is to streamline access and management of affordable housing and reduce poor compliance and mismanagement.

To achieve these objectives, it is important that the Registrar collect comprehensive and adequate, up to date information about affordable housing dwellings, including:

- The delivery pathway (AH infill bonus, TOD, direct State Government delivery (including through land leasing or sale), local affordable housing contribution scheme)
- Whether the dwelling is designated as affordable housing in perpetuity, for 15 years (AH bonus), or another arrangement
- The location of the dwelling (e.g. per suburb or SA2 areas)
- The name and contact of the AHM

Shelter NSW strongly supports for the Registrar to have the ability to de-register AHM for non-compliance. Compliance activity should include sharing of information between the Registrar and relevant consent authorities (agencies, including Fair Trading, local government, other relevant stakeholders such as the Rental Commissioner). We also recommend that there be mechanisms to include existing affordable housing dwellings into the public register, including information sharing with other government agencies and consent authorities such as local councils.

Reporting should include yearly public reporting (including data on advertised vacancies, applicants, tenant exits (including for continuing eligibility reasons), evictions and rents charged and property care - e.g. number of properties with significant outstanding maintenance and repair issues) and yearly random compliance checks on a significant proportion of properties listed on the Register (as to whether the property is occupied and leased in line with the Guidelines and the regulations), to the effect of all properties being inspected every 5 years (i.e. inspections of 20% of properties p.a.).

Shelter NSW thanks the NSW Registrar of Community Housing for the opportunity to provide feedback on this important issue.

Please contact Shelter NSW Senior Policy Officer, Thomas Chailloux, on 0490 030 809 or thomas@shelternsw.org.au should you wish to discuss our comments and recommendations further.