



**Aged & Community
Services • Australia**



ACSA Submission

**REGULATION AND GROWTH OF THE
NOT-FOR-PROFIT HOUSING SECTOR**

JUNE 2010

Aged and Community Services Australia (ACSA) welcomes the opportunity to comment on the proposed national regulation of the not for profit housing sector. Our members might be best known for the provision of care services but what is less well understood is that they have been active players in the provision of affordable housing for older people for decades. As such they should be considered as important stakeholders in these deliberations. The Discussion Paper states that there are 930 community housing providers in Australia and “they include housing associations, cooperatives, tenancy managers and not for profit organisations such as welfare organisations that provide housing as an adjunct to other services.” It would seem that aged care providers are not included in this figure so the Discussion Paper does not discuss the role the aged care sector plays in providing affordable housing, nor the type of regulation it has or how any new form of national regulation of housing providers might dovetail with the existing national aged care scheme.

ACSA appreciates that a bigger role is planned for social housing providers. In fact the Commonwealth envisages a large scale not for profit sector that has 35% of social housing by 2014. A focus on organisational development and support plus regulation is essential to assist this growth. However, this focus on one set of providers is narrow sighted, bad public policy and not in the interests of Governments or tenants.

Our submission will argue that aged care providers have a legitimate and important role in providing affordable housing for older people and that any new regulatory system for housing providers should not duplicate or unnecessarily increase the regulatory burden on aged care providers.

Demographics and Demand

The ageing of the population is a well known phenomena and its policy implications have been analysed in relation to many areas such as retirement incomes and aged care. In its most recent report the Housing Supply Council commissioned specific work to look at the impact of ageing on the demand and supply of housing. They concluded that the ageing of the population will have significant impacts on the housing sector as the proportion of older households is projected to grow from 19% to 28% of all households over the next 20 years. This represents an increase from 1.6 million households to 3.2 million households. This group is growing faster than younger household groups.

While they noted that owner occupation will remain the preferred type of tenure the projections underlying demand indicate that there will be pressures on both public and private rental markets to meet the need of older renters. Over the same 20 year period demand from older renters is projected to rise from 146,200 to 321,400 for private rental and 86,500 to 189,800 for public rental – an overall increase of 120%.

The strongest growth in income support payments over the next 40 years will be to the aged. Baby boomers are not as rich as many imagine and they are better spenders than savers. Demand for rental will particularly increase from single person households, many being older women who are on low incomes due to divorce and low superannuation as a result of generally lower wages and time out of the workforce for family responsibilities.

The task of providing the housing stock required to reduce the gap between supply and demand is daunting and of great concern to Government. Therefore Government policy should be providing an environment and regulatory framework that facilitates the participation of a range of players in housing provision and should not place unnecessary barriers in their paths.

What older people want

The research and consultations undertaken with older people about where they want to age is not surprising and is often overlooked by planners and policy makers. People want to age:

- In their neighbourhoods as part of their communities, close to family, friends and the community links they have developed over decades;
- Close to amenities such as transport, medical services, shops and other community facilities;
- In safe and secure accommodation that supports their independence and allows them to remain in their chosen home for as long as possible; and
- In affordable accommodation even if their income is modest.

For some Australians this may mean a retirement village but for the vast majority it does not. Older people want a range of options to choose from. Research conducted by ECH and Flinders University found that current market trends in the provision of housing for older people often fit poorly with their needs and aspirations.

The Aged Care Sector

The Aged Care sector is a large, diverse \$10 billion industry that provides a broad range of accommodation, care and support services to older people, younger people with disabilities and their carers. It is highly regulated and funded via Government subsidies and user charges.

On a given day there will be about:

- 160,000 people receiving nursing and personal care in residential facilities;
- 150,000 people living in retirement villages in independent living units with access to varying levels of support;
- 48,000 older people receiving a package of care in their own homes in the community; and
- 800,000 people receiving some basic support with activities of daily living in the community.

ACSA has approximately 1,100 members and our members provide about 60% of the residential care and retirement villages/independent living units plus about 80% of the community care. They range from small stand alone facilities in rural areas to large businesses with turnover of hundreds of millions of dollars and substantial balance sheets. In all the large states we have members with over 1,500 independent living units in their portfolios.

ACSA represents the not for profit church and charitable sector so many of our members have a mission to provide care and support to people on low incomes. Often a surplus generated from clients with means is used to provide services to those who can not afford to pay. Most of our members have been operating for decades and therefore also have services and land holdings in the more affluent areas of our major cities. Many of these assets have the potential to be redeveloped. With appropriate Government support social housing could be part of the mix.

Older people have a preference to live in the community for as long as possible. The accepted wisdom is that in the future there will be a greater concentration of services at the high end of residential care primarily catering for people with complex medical needs and dementia. Low level residential care will grow at a much reduced rate. Instead people with support needs will be opting to stay in the community with support coming in. This means that we will need a range of different housing options with the appropriate physical environment, care and social supports. Ideally this accommodation will be built to universal design standards.

ACSA does not believe that our sector should provide all this accommodation, and not all of the social housing for older people. There is a role for Community Housing Providers, partnerships between aged care and community housing providers, private developers and others. However we do believe that we are well placed to be a major provider of social housing in our own right.

Some progressive developers, including some ACSA members, are beginning to look at different ways to meet the accommodation and care needs of older people. While most people want to remain in their family home it appears that they are willing to move if the options meet their needs. This provides an additional benefit to the housing market by releasing larger family homes for sale.

Government Regulatory Reform

Regulation is an important and effective mechanism for achieving economic, environmental and social goals, but it places burdens on businesses. In 2007 the Federal Government asked the Productivity Commission to review these burdens arising from the stock of Australian Government regulation, over a five year period, and produce annual reviews. The Government was concerned that unnecessary burdens arise where regulation is unduly complex or redundant or duplicates the regulations of other jurisdictions or regulatory bodies. Such regulation can impose additional financial costs on businesses, change how they operate in undesirable ways and can reduce their flexibility to respond to challenges and opportunities. Generally the Government has responded to the Commission's recommendations favourably.

The federal Government has also entered into a National Compact with the not for profit sector. The Government and the sector have committed to work together in new and better ways based on partnership and respect. Following consultation with the sector 8 priority areas for work have been established – two relevant priorities here are:

- Number 5 – Reduce red tape and streamline reporting; and
- Number 6 – Simplify and improve consistency of financial arrangement including across state and federal jurisdictions.

A proposal to develop a new regulatory system for community housing providers, where a number could be aged care providers, that does not take account of their existing regulatory burdens seems to fly in the face of a Government desire to reduce red tape and simplify accountability.

Aged Care Regulation

Aged care is a highly, and we would say, overly regulated industry. We are not suggesting that community housing should have our regulatory scheme but we do believe that there should be no duplication and some recognition of the existing requirements on our members.

The housing provided by our members is not regulated under the Aged Care Act and it would not be appropriate for it to do so. The legislation governing this housing will vary depending exactly what is provided in terms of tenure and the fee structure. Generally the housing will fall under the state based Retirement Village Acts or the Residential Tenancies legislation. There is a general misconception that stock falling under Retirement Village legislation can not be affordable or social housing. In fact many ACSA members provide very low cost accommodation on a rental basis.

All organizations that receive Commonwealth funding for aged care must have Approved Provider Status. To gain this approval under the Aged Care Act, the applicant and its proposed key personnel, such as directors, board members and service managers must be assessed by the Department as suitable to provide aged care.

The primary requirements to become an approved provider are:

- that the applicant is an incorporated body (section 8-1(1)(b) of the Act);
- that the applicant is suitable to provide aged care (section 8-1(1)(c) of the Act);
- that none of the applicant's proposed key personnel is a disqualified individual (i.e. convicted of an indictable offence, insolvent or of unsound mind) (section 8-1(1)(d) and section 10A-1 of the Act).

The Department considers a range of issues when assessing suitability including an applicant's:

- ability to provide care;
- record of financial management;
- ability to meet relevant standards for aged care; and
- commitment to the rights of aged care recipients.

In addition to approved provider status the following regulation, under the Aged Care Act (1997) relates to aged care providers:

- An independent accreditation scheme for residential care that can lead to tough sanctions for breaches;
- A government run quality assurance process for community care providers;
- Prudential arrangements to safeguard resident's accommodation bonds; and
- A stringent Complaints Investigation Scheme which is about to be further refined.

Given the size of many of our members they are also legally bound to report to ASIC on governance and financial matters as a condition of their registration or incorporation.

ACSA believes that the vast amount of areas that the new national system would cover in relation to governance and fiduciary responsibilities are already adequately covered by aged care regulation and our members are "well governed, financially sound and able to operate at scale."

State Based Regulatory Systems

Our members report varied impressions and experiences of the current state based systems. They have been actively welcomed by SHAs in South Australia and Tasmania and have been

actively discouraged in Victoria where they are required to establish a new legal entity if they wish to apply for social housing funding.

The key messages from members are that they:

- Want to be able to compete on a level playing field with community housing providers, including against growth providers;
- Believe that there is a cultural barrier at the state level where there is a belief that only community housing providers can provide social housing;
- State Governments prefer to fund organisations where housing is the organisation's core business;

Financing & Leveraging

If leveraging in private sector finance (lending/bonds/investment) is a primary driver for regulation, then a national system of regulation is required. The lending and investing institutions operate nationally and internationally. To attract bulk and competitive lending and investment in the social and affordable housing sector, Australia needs to offer a big enough market to interest the banks and institutions in doing the leg work to be comfortable with the lending/investment propositions.

Regulation of itself does not make private sector finance come into a market. It is probably an essential prerequisite for wide-scale lending, rather than lending to just a handful of large key players who probably have the ability to attract funding without regulation. So it is part of growing the sector, not the entire solution.

Conclusion

Given the discussion above ACSA believes that:

- The Aged Care sector should be recognised by the Federal and State Governments as a legitimate player in the provision of housing for people on low and medium incomes;
- Aged Care providers should be able to compete on a level playing field for government funding and asset transfers;
- There should be a national regulatory environment for consistency and to support cross boundary providers. Option 3 with the best elements of the NSW system is our preference.
- Any new system should not overlap any existing regulation applying to aged care providers. ACSA believes that FAHCSIA should undertake a project in order to understand how aged care regulation could intersect with a new national system.
- Regulation needs to be layered and appropriate. Those organizations which have (or wish to) take government money, land, or housing stock should properly expect to have to adhere to more regulation in order to protect government investment in the sector. Those who have taken no government investment might properly ask why they should be regulated in the first place (other than by generic consumer affairs and tenure rules).