



AHO Registration Policy 2018

Revised as at August 2022

The revised registration policy 2018 sets out the requirements for registration of Aboriginal Community Housing Providers and Aboriginal Community Housing Organisations with the AHO

Document approval

The AHO Registration Policy 2018 has been updated and endorsed by:

Famey Williams

Chief Executive

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Table of contents

1	Purpose of policy	4
	1.1 Purpose	4
	1.2 Background and policy links	4
2	Definitions	5
3	Scope and application	5
4	Legislation	6
5	Policy statement	6
	5.1 Specific requirements under this policy	7
	5.2 Continuity of Registration	8
	5.3 Eligibility for Registration	9
	5.3.1 Acceptance of Registration Requirements	10
	5.3.2 Outsourcing of Housing Management Services	10
	5.3.3 Registration of New Provider	11
	5.4 Eligibility for Assistance.....	12
	5.5 Review of Registration Status	12
	5.6 Cancellation of Registration	13
	5.7 List of Registered Providers	14
	5.8 Changes in Circumstances	14
	5.9 Protection of Personal Information	15
	5.10 Referrals to and from other Agencies.....	15
	5.11 Appeals - Aboriginal Housing Office	16
6	Roles and responsibilities	16
7	Monitoring, evaluation and review	17
8	Support and advice	17

1 Purpose of policy

1.1 Purpose

The purpose of the revised Registration Policy is to set out the requirements for:

- registration of Aboriginal Community Housing Providers (ACHPs) with the AHO
- registration of organisations as Aboriginal Community Housing Organisations (ACHOs) by the AHO.

This policy replaces the AHO Registration Policy 2018.

1.2 Background and policy links

Under the *Aboriginal Housing Act 1998 NSW* an Aboriginal housing organisation must be registered in order to receive funding or assistance from the AHO. The form and manner of application for registration is to be determined by the AHO.

The AHO Registration Policy 2012 required an ACHP to be registered with the AHO under one of the following registration pathways:

- the Provider Assessment and Registration System (PARS)
- the NSW Regulatory Code
- Social Housing Approval and Provider Evaluation (SHAPE)
- transitionally registered provider
- head-leasing provider

In 2015 the AHO introduced a new corporate plan which includes a goal of recognising the National Regulatory System for Community Housing (NRSCH) as the AHO's new registration pathway. Subsequently a new registration policy was required.

Under the AHO Registration Policy 2018, the registration system for ACHPs that require registration with the AHO was the NRSCH or, for Local Aboriginal Land Councils, the aligned NSW Local Scheme (NSWLS).

The AHO recognises that careful planning and communication are fundamental for the introduction of a new registration system. Therefore a 4 (four) year period was given to allow ACHPs time for preparation with the expectation that all providers would have applied for registration under the NRSCH or the NSWLS by December 2022.

Registration is a prerequisite for the provision of funding and assistance under the Aboriginal Housing Act 1998 and therefore this Registration Policy has links to all AHO frameworks, agreements and policies related to the provision of properties, funding or assistance.

In early 2022 the AHO Board approved of an alternative registration pathway for owning providers currently not managing AHO properties. Following discussions with NSWALC and the Aboriginal Community Housing Industry Association (ACHIA) and the Sector Reform Steering Committee in April 2022, the AHO Registration Policy 2018 has been revised and updated accordingly.

2 Definitions

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
ACHO	Aboriginal Community Housing Organisation, not eligible to manage AHO properties
ACHIA	Aboriginal Community Housing Industry Association
ACHP	Aboriginal Community Housing Provider, eligible to manage AHO properties
AHO	Aboriginal Housing Office
ALRA	Aboriginal Land Rights Act 1983
LALC	Local Aboriginal Land Council
NRSCH	National Regulatory System for Community Housing
NSWALC	NSW Aboriginal Land Council
NSWLS	NSW Local Scheme
PARS	Provider Assessment and Registration System
ROP	Rent Optimisation Plan
SHAPE	Social Housing Approval and Provider Evaluation

3 Scope and application

This Registration policy applies to ACHPs currently registered with the AHO under one of the registration pathways established under the Registration Policy 2012. These are:

1. Registered - Approved Providers
 - ACHPs registered under the National Regulatory System for Community Housing (formerly NSW Regulatory Code)

- ACHPs approved under the Provider Assessment and Registration System (PARS)
 - ACHPs approved under SHAPE
2. Registered - transitionally registered providers
 3. Registered - headleasing provider

This policy also applies to:

1. eligible organisations seeking to apply for registration with the AHO as a new entrant

4 Legislation

The *Aboriginal Housing Act 1998* empowers the AHO to provide assistance to Aboriginal housing organisations. Types of assistance include funding, housing management and construction, transfer or lease of property, grants, subsidies and business support. To be eligible for assistance, organisations must be registered under the Act. The AHO may determine the form and manner of application for registration.

5 Policy statement

1. This policy recognises three pathways of registration with the AHO:
 - An ACHP registered with the AHO will be eligible to receive funding or assistance from the AHO. A registered ACHP may apply to manage AHO properties.
 - An organisation registered with the AHO as an ACHO will be eligible to receive funding or assistance from the AHO. An organisation registered as an ACHO is not eligible to manage AHO properties
 - An organisation registered with the AHO on a short-term transitional basis, at the discretion of the AHO CE where circumstances require it, will be eligible to receive funding or assistance from the AHO. Short term transitionally registered organisations will not be eligible to manage AHO properties
2. Registration with the AHO does not guarantee the organisation will automatically receive funding or assistance from the AHO.
3. Under this policy, to be registered with the AHO, the organisation must be an eligible organisation under the *Aboriginal Housing Act 1998*. ACHPs must be registered, under the NRSCH or the NSWLS or scheduled to be registered by the Registrar of Community Housing, defined as having submitted an ETF Form to the Registrar of Community Housing.

4. ACHPs currently registered with the AHO must achieve registration (or be scheduled to be registered) under the NRSCH or the NSWLS in accordance with this policy by December 2022 to maintain their registration with the AHO unless they enter into one of the three pathways stated in this policy.
5. ACHPs registered with the AHO will maintain their current registration status until the ACHP achieves registration under the NRSCH or the NSWLS, including being scheduled to be registered as defined by this policy. ACHPs must achieve registration in accordance with this policy (or be scheduled to be registered) by December 2022.
6. If they are not registered or seeking to be registered with the AHO as an ACHP, organisations including Local Aboriginal Land Councils (LALCs) and Aboriginal Corporations (ACs) that are currently not managing any AHO properties must meet the requirements laid out in this policy if they wish to be registered with the AHO as an ACHO.
7. Specific requirements for registration under this policy are outlined in Section 5.1 of this policy document.
8. Eligibility requirements for registration as an ACHO are outlined in Section 5.3 of this policy document.
9. The AHO reserves its authority under Section 26(2) of the Aboriginal Housing Act 1998 to determine the form and manner of an application for registration. Any decision by the AHO to vary the requirements for registration under this Policy will be undertaken on a case - by - case basis in consideration of potential risk to the organisation and its tenants resulting from an AHO registration decision.

5.1 Specific requirements under this policy

ACHPs seeking registration with the AHO must be scheduled for registration¹ under the NRSCH or the NSWLS by the NSW Office of the Registrar of Community Housing by December 2022.

¹ 'Scheduled for registration' means that the organisation has commenced registration processes with the NSW Registrar of Community Housing in either the NRSCH or NSWLS. As a minimum, prospective ACHPs are expected to have lodged their Eligibility & Tier Form (ETF) in accordance with the registration process for NRSCH or NSWLS (see NSW Registrar for Community Housing's website (<http://www.rch.nsw.gov.au/>)). Please note the prospective ACHP's stage of registration will be verified with the Registrar.

Failure to achieve registration under the NRSCH or the NSWLS will result in cancellation of registration with the AHO as soon as practicable and transfer of management of AHO properties to an ACHP registered in accordance with this policy. See Section 5.8.

To be registered with the AHO as an ACHO, owning organisations that are currently not managing any AHO properties, must be recognised by the AHO by meeting the eligibility criteria as outlined in Section 5.3

ACHPs and ACHOs no longer requiring registration with the AHO should notify the AHO by December 2022.

5.2 Continuity of Registration

An ACHP registered with the AHO will maintain its current registration status until such time as the ACHP completes the NRSCH/NSWLS registration process in accordance with this policy, or the ACHP does not achieve registration or declines to seek registration by December 2022.

To ensure ongoing compliance with AHO contract and policy requirements during this period, ACHPs will continue to be monitored through the AHO's Contract, Compliance and Performance Management Framework (the Framework) against benchmarks aligned to the NRSCH.

ACHPs will be required to report periodically to the AHO on their performance against predefined benchmarks, standards and targets. Monitoring under the Framework will ensure that ACHPs maintain processes that comply with standards, targets and funding requirements specified in AHO contracts, funding agreements or leases.

An ACHO registered with the AHO will maintain its registration status until the end date of their management agreement with an NRSCH/NSWLS registered ACHP or until 31 December 2025, whichever comes first, unless both Parties agree to make a change before that time. There will be a review process prior to 31 December 2025 to check suitability to continue as an ACHO beyond that date. Changes to registration status will be made in line with section 5.6 of this policy.

ACHOs will also be required to report to the AHO on their performance against predefined benchmarks, standards and targets specified in their Rent Optimisation Plan (ROP) signed with an NRSCH/NSWLS registered ACHP.

5.3 Eligibility for Registration

To be eligible to apply for registration with the AHO, an organisation, must be an eligible organisation under the *Aboriginal Housing Act 1998* and achieve registration under the registration systems outlined in this Policy.

An eligible organisation under the Aboriginal Housing Act 1998 is:

- a) an Aboriginal or Torres Strait Islander corporation;
- b) an Aboriginal Land Council;
- c) a body corporate which the AHO is satisfied is controlled either directly or indirectly by Aboriginal people or Torres Strait Islanders. In addition, the organisation:
 - must provide or propose to provide housing or housing related services for Aboriginal people or Torres Strait Islanders; and
 - must be suitable to be registered having regard to such matters as may be determined by the AHO.

An organisation which is under administration cannot apply for registration with the AHO.

An ACHP registered under the NRSCH or NSWLS or an ACHO meeting the requirements set by the AHO as an ACHO is not automatically registered with the AHO under the AHO Act 1998. The organisation must apply to the AHO for registration and demonstrate that it can:

- satisfy the eligibility requirements of the AHO Act 1998, and
- satisfy the requirements of the AHO Registration Policy by becoming registered under the NRSCH or NSWLS or
- satisfy the requirements for recognition as an ACHO

An organisation seeking to be recognised as an ACHO and be registered by the AHO must:

- enter into a management agreement with an NRSCH/NSWLS registered ACHP for the management of their housing portfolio(s)
- commit to optimise rent charged and collected to level as per an identified rent setting policy that is in line with the NSW Residential Tenancy Act (RTA) 2020 and/or optimised as identified in their Rent Optimisation Plan (ROP).
- agree to submit a copy of their ROP and provide a six monthly progress report to the AHO on their performance against predefined benchmarks, standards and targets as agreed in their ROP.

5.3.1 Acceptance of Registration Requirements

Before registering with the AHO, an organisation must also accept that registration involves the following requirements.

An ACHP registered with the AHO will:

- a) Take all necessary steps to maintain its registration status, including maintaining approval or registration in its current or future registration system.
- b) Agree to comply with the relevant monitoring and reporting requirements contained within the agreements, leases and contracts signed with the AHO
- c) Note that consent will be requested to access information about an ACHP's approval status or ongoing compliance under the registration system

Similarly, consent will also be sought to seek information relating to compliance with other statutory or regulatory bodies, such as the NSW Aboriginal Land Council, Office of Indigenous Corporations (ORIC), the Australian Securities and Investments Commission (ASIC) and NSW Fair Trading where this impacts on the registered ACHP being able to continue operating.

If an ACHP chooses not to consent to provide access to such information as outlined above, it may affect the allocation and type of assistance provided.

An ACHO registered with the AHO will:

- a) Take all necessary steps to maintain its recognition status, including complying with requirements as stipulated in the management agreement signed with an NRSCH/NSWLS registered ACHP
- b) Agree to comply with the relevant monitoring and reporting requirements contained within the management agreement signed with the managing provider
- c) Agree to rental optimisation arrangements that allow the managing ACHP to meet their NRSCH/NSWLS benchmarks and operate viably.

5.3.2 Outsourcing of Housing Management Services

To be eligible to be registered with the AHO, the ACHP must be managing properties and tenancies or imminently intend to do so. If the intention of the ACHP is to continue to fully outsource their housing management they would not be eligible to be registered by the AHO.

A registered ACHP may only outsource transactional activities. Transactional activities are those that happen routinely on a daily, weekly or monthly basis to enable housing management to operate smoothly. They include activities like rent collection and receipt of applications and enquiries. They generally do not require registered ACHP decisions for the action to occur. Examples of registered ACHP decisions include approval to go on the waiting list, deciding whether to take action at the NSW Civil and Administrative Tribunal and determining appeals.

An ACHP will be considered to have fully outsourced its tenancy and property management where it develops the policy and processes for property and tenancy management and hand these over to another ACHP or organisation to apply and manage. In this case, the ACHP would not be eligible to be registered with the AHO. Where an ACHP that is registered or seeking registration with the AHO does fully outsource its property and tenancy management responsibilities and not just the transactional activities, the ACHP will be advised and given six months to rectify the situation.

If they fail to rectify the outsourcing arrangements within the six month period then the AHO will discuss the implications and options available. This will include discussion of ineligibility (if applying for registration), the withdrawal of the ACHP's AHO registration or other options which may be agreed upon on a case by case basis.

A registered ACHO will adhere to requirements as agreed and stipulated in their management agreement with a registered ACHP.

5.3.3 Registration of New Provider

A housing provider seeking registration with the AHO as an ACHP must be registered under the NRSCH or NSWLS and fulfil the eligibility requirements as outlined in Section 5.3. The provider must apply using the registration application form available on the AHO website.

An ACHO seeking to be registered by the AHO must fulfil the eligibility requirements as outlined in Section 5.3.

Any new entrant seeking to be registered as an ACHP will need to demonstrate its capacity to deliver Aboriginal community housing within its existing business model.

Becoming a registered ACHP or ACHO does not mean the AHO will automatically provide assistance to the organisation.

Length of Registration

For ACHPs that are registered or attain registration under the NRSCH or NSWLS, registration with the AHO will be ongoing subject to compliance with the National Regulatory Code and/or any other requirements under the NSWLS.

For organisations that are recognised as an ACHO, registration with the AHO is time limited and will be reviewed in December 2025 to check suitability to continue beyond that date.

5.4 Eligibility for Assistance

ACHPs, ACHOs and Short-Term Transitionally Registered organisations must be registered with the AHO to be eligible for any assistance in the form of management of AHO property and/or provision of funding support under AHO programs. It is important to note that although AHO registration establishes eligibility for assistance, it does not guarantee it.

The AHO may withdraw assistance for various reasons, including but not limited to:

- the registration status of the ACHP
- the recognition status of the ACHO
- unsatisfactory housing management services delivered by the ACHP
- the financial status of the ACHP/ ACHO
- breaches of AHO agreements, including funding agreements
- breaches of management agreements an ACHO has with an approved/registered provider, including failure to submit an ROP.

Refer to Section 5.7 for information on cancellation of registration.

5.5 Review of Registration Status

The AHO may review an ACHP, ACHO's or Short-Term Transitionally Registered organisation's AHO registration status at any time.

Circumstances which may prompt a review include but are not limited to the following:

- changes in circumstances
- a request for a review by the ACHP or ACHO
- non-compliance with requirements relating to AHO agreements, leases and contracts
- non-compliance with requirements relating to the relevant registration system

- non-compliance with statutory requirements relating to their functioning as a LALC, association, corporation or cooperative
- non-compliance with requirements relating to management agreements with an approved/registered ACHP
- non-compliance with commitments specified in an agreed ROP

The AHO will advise the organisation in writing of the outcome of the status review and whether any actions are required. Normally the AHO would grant the ACHP, ACHO or Short-Term Transitionally Registered organisation up to 30 days to complete any actions required as a result of the review.

5.6 Cancellation of Registration

The Registrar of Community Housing has the power to assess and register providers under the NRSCH; however the AHO will continue to be responsible for assessing and registering providers as Aboriginal Community Housing Providers under the *Aboriginal Housing Act 1998* and as an ACHO as per this policy.

The AHO may cancel the AHO registration of an ACHP or an ACHO due to non-compliance with the AHO registration policy or contractual requirements. This will be undertaken as soon as practicable for the ACHP or ACHO and AHO.

Generally, the AHO will undertake a review of the ACHP's or ACHO's registration status before making a decision to cancel its AHO registration. A risk based approach on a case by case basis will be employed taking into account the size, complexity and location of an ACHP or ACHO in order to determine the appropriate course of action. Normally the AHO would grant the ACHP or ACHO up to 30 days to complete any actions required as a result of the review.

Circumstances which may result in the cancellation of the AHO registration of an ACHP or ACHO include, but are not limited to, the following:

failure to apply for or achieve registration in accordance with this Policy

- if the ACHP has its registration cancelled by the NSW Registrar of Community Housing (RCH)
- if the AHO is satisfied that the ACHP concerned has contravened an AHO housing agreement, lease or contract that is binding on the ACHP
- if the AHO is satisfied that the ACHO concerned has contravened a management agreement with a registered ACHP
- non-compliance with statutory requirements relating to their functioning as a LALC, association, corporation, company or co-operative
- if the ACHP is wound-up

- if the ACHP or ACHO has elected to cancel its registration with the AHO

If an ACHO has a management agreement with an ACHP that has its registration cancelled by the RCH, the ACHO will have 3 months to sign a new management agreement with a registered ACHP to maintain recognition as an ACHO.

In each case, the AHO will notify the ACHP or ACHO in writing of the intention to cancel its AHO registration.

Cancellation of registration will result in a breach of a binding AHO agreement. Refer to the AHO Compliance Framework for further detail on the process for managing non-compliance with contractual conditions.

Cancellation of AHO registration may result in the transfer of management of AHO properties to an ACHP registered in accordance with this Policy and/or the withdrawal of any assistance provided by the AHO.

5.7 List of Registered Providers

The AHO will maintain a public Register of AHO registered ACHPs and ACHOs on its website. When a provider achieves registration, its details are published on the AHO website. Details published include the ACHP's/ACHO's:

- name
- address
- email address
- registration status
- the registration start date

5.8 Changes in Circumstances

An ACHP or ACHO will need to advise the AHO within 30 days whenever details about its organisation changes, such as:

- the name of the organisation
contact details of the organisation
significant staffing changes
- significant changes to the board or governing body
- the organisation is considering transferring or dealing in land in which the AHO has an interest

The AHO registered ACHP will also need to advise the AHO if it is managing other community housing stock and if there are any changes to those management arrangements, such as numbers of properties managed.

An AHO registered ACHO is also required to advise the AHO within 30 days if and when:

- there are changes to its management agreement with an NRSCH/NSWLS registered ACHP
- the ACHP with whom they have signed a management agreement has its registration status cancelled by the NSW RCH

5.9 Protection of Personal Information

The AHO will adhere to the principles of confidentiality, privacy and the correct use of information and abide by the *Privacy and Personal Information Protection Act 1998 (NSW)* and other relevant legislative provisions.

Information received for the purpose of AHO registration or compliance reviews:

- will only be used for the purpose of registration or compliance reviews
- will not be disclosed to a third party without the prior consent of the ACHP, ACHO or any other affected party.

In general, the AHO will only exchange information with a third party in the following circumstances:

- in the referral of cases of suspected non-compliance with their registration system;
- with regard to other statutory requirements relating to their operation as a legal entity (e.g. Aboriginal corporation, body corporate or LALC).

5.10 Referrals to and from other Agencies

With regard to referrals, where the AHO becomes aware of a matter which may indicate that a registered ACHP has committed, is committing, or is about to commit, a significant breach of the National Regulatory Code or NSWLS which may warrant further investigation by the NSW Registrar of Community Housing, the AHO will as soon as practicable, provide written notice of the matter to the NSW Registrar of Community Housing together with all available information and documentation. Matters may be referred as a result of:

- ongoing and significant complaints
breach of contracts or agreements
identification of performance concerns about performance relating to the National Regulatory Code or NSWLS requirements

- allegations of fraud or corruption or criminal conduct
- allegations of financial or other mismanagement such as governance failure

This is also applicable to ACHOs that have a management agreement with an NRSCH/NSWLS ACHP and registered with the AHO.

5.11 Appeals - Aboriginal Housing Office

Under the AHO Appeals Policy, an AHO registered organisation may appeal a decision made by the AHO pertaining to their AHO registration. The AHO will review appeals from providers on:

- decisions made by the AHO to register, cancel (revoke) registration or to not register a housing provider with the AHO
- decisions made by the AHO to withdraw funding or not renew funding
- decisions made by the AHO on the allocation of properties

When an AHO registered organisation disagrees with an AHO decision it can request for an appeal of that decision if it believes that:

- inadequate consideration was given to its individual circumstances; or
- the decision was made contrary to AHO's policy and/or guidelines; or
- the decision involved a poor interpretation of policy or guidelines; or
- the procedure used to reach the decision was not fair and correct

Refer to the AHO Administrative Appeals Policy for details on how to lodge an appeal.

ACHPs will need to appeal to the Registrar of Community Housing for decisions relating to their NRSCH registration, including decisions made by the Registrar to refuse an application for registration or cancel registration under the NRSCH or NSWLS.

6 Roles and responsibilities

The main roles and responsibilities for the implementation of this policy are as follows:

- AHO Board
- AHO Chief Executive
- AHO Directors
- AHO Regional Relationship Managers

7 Monitoring, evaluation and review

The AHO Registration Policy 2018 – Revised as at 2022 will be evaluated and reviewed from time to time. Changes to this Policy may be made following completion of any evaluation and/or any reviews of the policy and in consultation with stakeholders.

8 Support and advice

Please refer to the AHO website for factsheets relating to this Policy. If you are reviewing a printed version of this document, please refer to the AHO website to confirm that you are reviewing the most recent version of the policy.