

5 March 2019

Our Ref: KLR LJL COM023-127905

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Dear Ian

**DEVELOPMENT APPLICATION NUMBER 2017/01291
COMPASS HOUSING SERVICES CO LIMITED
118-124 Brunner Rd Adamstown**

We act for Compass Housing Services Co Ltd (**Compass**), a Tier 1 registered community housing provider. Compass is the applicant in respect of Development Application 2017/01291

The JRPP has requested:

1. Legal advice on the status of Compass as a social housing provider as defined in the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and evidence of the legal arrangements for the ongoing operation and management of the development by Compass; and
2. Legal advice on the capacity of the applicant to rely on or use the provisions of clause 14(2)(a)(i) of the *Affordable Rental Housing SEPP 2009* relating to development applications by a social housing provider.

Question One

In relation to Question 1 the Affordable Rental Housing SEPP defines a "social housing provider" as including a "registered community housing provider". Compass is a registered community housing provider and we attach evidence of its certificate of registration and its most up to date compliance report. Accordingly, Compass is a social housing provider as defined in the relevant SEPP.

Compass is the applicant in respect of this development application and intends to purchase the dwellings from the landowner once the dwellings are complete. Compass will then use the dwellings for "affordable housing" purposes for a period of 25 years under a contract it has in place with Family and Community Services. Compass will be undertaking tenancy management and maintenance in respect of these dwellings for a minimum period of 25 years in accordance with its contract.

The Affordable Housing SEPP prescribes what amounts to affordable housing under clauses 6(1) and (2). These clauses are extracted below:

"6. Affordable Housing

Note: *The Act defines affordable housing as follows:*

Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

(1) *In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household:*

(a) *has a gross income that is less than 120 per cent of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or*

(b) *is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.*

(2) *In this Policy, residential development is taken to be for the purposes of affordable housing if the development is on land owned by the Land and Housing Corporation."*

Clause 6(1) of the Affordable Housing SEPP sets out objective criteria that must be met in order for a development to be classified as "affordable housing".

We confirm that the proposed development will be used for social and affordable housing under a FACS program for a period of 25 years. The definition of "Social Housing Tenant" under the applicable contract documents includes the following:

"Social Housing Tenant means a household which meets the social housing eligibility criteria outlined in the FACS Eligibility for Social Housing Policy and has the right to occupy a Dwelling under a Residential Tenancy Agreement and where the context requires, any such household which has been allocated a Dwelling in accordance with the Services Specification."

The reference to FACS is to Family and Community Services and the FACS Eligibility for Social Housing Policy is located on the Family and Community Services website. We note the income eligibility limits in this policy are set very low and would satisfy the definition of "affordable housing" in clause 6(1) of the Affordable Housing SEPP.

Question Two

Compass notes that Compass as a social housing provider is the applicant in relation to Development Application number 2017/01291.

Pursuant to clause 14(2)(a)(i) of the Affordable Housing SEPP a consent authority must not refuse consent to any development on the grounds of parking where the development application is made by a social housing provider for development on land in an accessible area where at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 car parking space is provided for each dwelling containing 3 or more bedrooms. Accordingly, consent to this Development Application should not be withheld on the grounds of parking.

Please let us know if you require any additional information on the above matters.

Yours faithfully

 for K. Rege

Hall & Wilcox

Encl 2



Certificate of Registration

Compass Housing Services Co Ltd

ABN: 82 002 862 213

is registered as a community housing provider under the
National Regulatory System for Community Housing

Registration Number: R4546140610

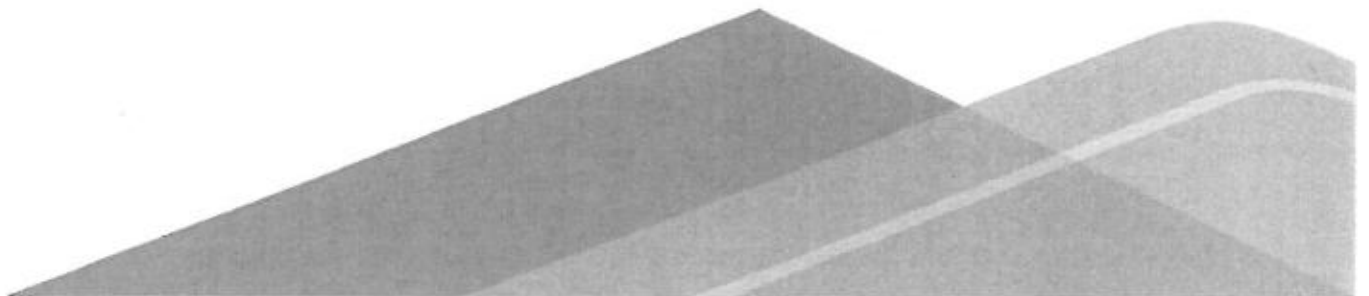
Category of Registration: Tier 1

**subject to compliance with the National Law,
National Regulatory Code and Conditions of Registration
or equivalent jurisdictional legislation**

A handwritten signature in black ink, appearing to read "Pamela Hawarden", written over a horizontal line.

Registrar of Community Housing (NSW)

25 June 2014





NATIONAL REGULATORY SYSTEM COMMUNITY HOUSING

A joint initiative of Commonwealth, State and Territory Governments

17 May 2018

Kwesi Addo
Chairperson
Compass Housing Services Co Ltd
PO Box 967
Hamilton NSW 2303

Dear Mr Addo,

Re: 2017/18 Compliance Program

I write to inform you that the 2017/18 planned compliance assessment of Compass that my office performed has now been finalised. Two documents are attached for your information.

The first attachment provides the outcomes of the compliance assessment and highlights where recommendations for improvement are made. The second attachment contains the executive assessment, based on the findings of the compliance assessment. Please be aware that I will be sharing these findings with Family and Community Services (FACS).

I foresee no requirement to adjust the planned level of regulatory engagement with Compass, with the next scheduled compliance assessment to commence in February 2019. While this assessment will cover all performance outcomes under the NRSCH, I will monitor how Compass is managing growth and development with its Social Housing Management Transfers and Specialist Disability Accommodation project.

Should there be significant changes to either the scale or scope of your operations, or the occurrence of a notifiable event that is eligible under Section 15(2)(h) of the Community Housing Providers National Law, please notify Alva Ordinario, Senior Compliance Officer, by telephoning (02) 8741 2567. Should it be necessary an earlier compliance assessment may be scheduled.

Compass' full assessment is available upon request.

Please contact my office if you would like to discuss any of the issues in this letter or the attachments.

Yours sincerely,



Neil Quarmby
Registrar of Community Housing NSW



NATIONAL REGULATORY SYSTEM COMMUNITY HOUSING

A joint initiative of Commonwealth, State and Territory Governments

Attachment 1

Compliance Determination Report

This determination is based on an assessment of the evidence submitted by Compass Housing Services Co Ltd (Compass) and obtained through other authorised sources to determine compliance with the requirements of the National Law and the National Regulatory Code.

In accordance with my functions under section 10 (1)(d) of the National Law 'to monitor compliance by registered community housing providers with community housing legislation' I have concluded that Compass is Compliant with the Regulatory Code as required under section 15(2)(a) of the National Law. The outcomes for each of the performance areas, along with the overall determination are outlined in the table below:

COMPLIANCE OUTCOME – Overall Assessment	
Overall Determination	Compliant
COMPLIANCE OUTCOME – Individual Performance Outcome Assessments:	
1. Tenant and housing services	Compliant with recommendations
2. Housing assets	Compliant
3. Community engagement	Compliant
4. Governance	Compliant with recommendations
5. Probity	Compliant with recommendations
6. Management	Compliant
7. Financial Viability	Compliant

Accordingly, the following recommendations have been made in this compliance assessment to assist Compass Housing Services Co Ltd to maintain a level of compliance consistent with the requirements of the Regulatory Code.

RECOMMENDATIONS TO DEMONSTRATE COMPLIANCE	
1. Tenant and housing services	<p>Recommendation - Compass to review its complaints policy to properly define complaints separately to appeals and include a reference to the Registrar of Community housing as a potential external avenue for formal complaints.</p> <p>Recommendation: RCH recommends that Compass reviews their use of Sec 85 and consider more applicable provisions under the RTA which provide the tenant with greater natural justice and an</p>

RECOMMENDATIONS TO DEMONSTRATE COMPLIANCE	
	avenue of review, and require the landlord to provide reasons for the notice to terminate.
4. Governance	Recommendation: Compass housing to review its Appeals Committee Terms of Reference to ensure the external appeals function available for tenants wanting to have a decision reviewed is not being replicated by Compass internally. The reason for this is to provide greater accessibility and reduction of onerous layers of internal review which can be viewed as deterrents to accessing avenues of redress.
5. Probity	Recommendation: Compass to review their Conflict of Interest (Col) Policy to include strategies to respond to perceived conflict of interest, including immediate family members interests relative to Compass operations and, improve their Col Register to include the individual's role in Compass, type of Col and the decision made (avoid, restrict, remove, or accept the Col).

The following improvement opportunities have been identified in this compliance assessment as areas that would assist Compass in meeting its broader regulatory obligations under the National Law and other relevant legislation. Compass should consider these improvement opportunities by the next compliance assessment.

IMPROVEMENT OPPORTUNITIES	
1. Tenant and housing services	<p>Observation: Compass should review its website and policy links, as a large number of links do not work (links are broken) causing poor tenant accessibility to important information. A regular sample testing of website accessibility should be undertaken to ensure early identification and correction of these issues.</p> <p>Observation: Compass should implement other strategies in maximising client awareness of how to lodge a complaint or an appeal, in response to the tenant survey data (2017 Survey) showing relatively low rates of tenant understanding in these domains compared to other parts of its business and services.</p> <p>Observation- Compass housing's additional terms to a residential tenancy agreement contained within their operational policy document (requiring tenants to advise within 14 days) is not aligned to the requirements of the NSW Community Housing Rent Policy, specifically in relation to tenants responsibility to advise the provider of a change in household circumstances or income within 21 days. Compass cannot mandate a stricter timeframe than the one provided by the overarching NSW Community Housing Rent Policy document issued by NSW FACS.</p>
2. Housing assets	Observation: The Registrar suggests that Compass evaluates its end to end urgent repairs processes to

IMPROVEMENT OPPORTUNITIES	
	improve on its completion rate (88.7%), and to ensure it meets the NRSCH threshold (91%).
5. Probity	Observation: The Registrar notes that a disclosure of board directors remuneration was published in the 2016/17 Compass Annual Report with all but one of its director's remuneration listed. In the interest of transparency, Compass may wish to provide information of all their directors' remuneration.

Draft Compliance Determination

Procedural fairness requires the primary Registrar to give a person or body an opportunity to make a submission or written statement about any proposed adverse comment about them.

A draft of this determination was prepared and sent to Compass Housing Services Co Ltd for comment 3 May 2018. The provider did not respond for comment within the 14-day period.

Next Compliance Assessment

The next standard compliance assessment for Compass Housing Services Co Ltd is scheduled for February 2019.

Should there be significant changes to either the scale or scope of your operations or the occurrence of a notifiable event, please inform your primary Registrar via www.nrsch.gov.au. Should it be necessary an earlier compliance assessment may be scheduled.

Reviews and Appeals

A community housing provider has the right to seek a review of and/or appeal a decision by the primary Registrar.

Registrar



Attachment 2

Compass Housing Services Co Ltd Registrar's Executive Assessment planned compliance program 2017/18

Compass Housing Services Co Ltd (Compass) is a Tier 1 Community Housing Provider under the National Regulatory System for Community Housing (NRSCH) having achieved registration in June 2014. Compass has demonstrated good responsiveness and engagement to the Registrar's previous recommendations. Compass delivers a range of subsidised housing programs with the vast majority of its operations and portfolios located in NSW and QLD respectively. Including their recently added New Zealand operations (72), Compass managed a total of 4,514 assets, of which 65% were utilised in the delivery of long term social housing and 31% were directly owned by Compass. Compass has been awarded the Social Housing Management Transfer (SHMT) and the Social and Affordable Housing Fund (SAHF) contracts, adding a further 2,400 assets to Compass' portfolio to 2020. The Registrar will continue to monitor the impact of this significant portfolio growth on overall operational and financial viability.

The 2017/18 compliance program assessed Compass as overall compliant with the performance outcomes under the National Regulatory Code, with four recommendations made across three performance outcome areas as outlined in the attached draft report. A further five observations are aimed at influencing ongoing improvement to keep Compass well aligned to their peers across the Tier 1 cohort. The Registrar found no evidence of poor performance arising out of the recommendations, with most issues relating to specific focus areas of this year's compliance program. Compass Housing is assessed as financially viable based on its financial reports and forecast. The Registrar notes that Compass has demonstrated good practice in enabling its 496 tenants living in their recently acquired Specialist Disability Accommodation dwellings to have easy access to disability sector information directly from Compass' website homepage.

The RCH foresees no requirement to adjust the planned level of regulatory engagement with Compass, with the next scheduled compliance assessment to commence in February 2019, covering all performance outcomes under the NRSCH.

DISCLAIMER

Financial and non financial reporting submitted to the Registrar will be used for regulatory review of Community Housing Providers. In completing this review, the Registrar relies on the completeness and accuracy of information supplied by the provider and other parties. The information is used to inform our approach to regulation and to identify possible non-compliance with the legislative requirements and gazetted performance standards for further investigation.

The determination letter and financial and other reporting templates assist us in our statutory duty to regulate Community Housing Providers. The Registration Determination presents the conclusion that we have reached regarding the provider's compliance and recommendations to assist the provider in complying with the National Law and gazetted performance standards. The Registrar accepts no liability whatsoever for the accuracy or completeness of any information or assessment contained in the Registration Determination. No third party may rely on its contents, but must make its own investigations or enquiries.

The financial reporting template and the financial information contained therein is not intended to be utilised or relied upon by any persons other than the Registrar or to be used for any other purpose. Accordingly, the Registrar accepts no responsibility in any way whatsoever for the use of this template and the financial information contained herein by any persons for any other purpose. The Registrar does not seek any independent confirmation of the reliability, accuracy or completeness of this template and information contained therein. It should not be construed that the Registrar has carried out any form of audit or other verification of the financial and other information contained therein. Accordingly, whilst the template is provided in good faith, the Registrar accepts no responsibility for any errors in the template or the financial information contained therein nor the effect of any such errors.