

# SUBMISSION

**TO | Senate Community Affairs References  
Committee**

**TOPIC | The worsening rental crisis in Australia  
Inquiry**

**DATE | 3 August 2023**

# Submission to the Australian Parliament's Senate Standing Community Affairs References Committee Inquiry into the worsening rental crisis in Australia

## Key Recommendations

Uniting Communities thanks the Australian Parliament's Senate Standing Community Affairs References Committee for undertaking an inquiry into the worsening rental crisis in Australia. We know that far too many Australians do not have a safe place to call home and for most, securing an affordable rental property in the current market is all but impossible. Policy debates over housing accessibility and affordability are often limited to home ownership, despite the growing number of Australians relying on the rental market.

Uniting Communities, therefore, recommends that legislation and standards are updated to ensure that:

- Rent increases are limited to CPI to improve the affordability of rental properties and prevent excessive rental increases
- Remove no cause evictions (for the end of a fixed term agreement and during a periodic lease) to improve the security of rental properties and to allow renters to exert their rights without the fear of retaliatory evictions
- Implement minimum energy efficiency standards including standards for ceiling insulation to improve the safety of rental properties. Renters are living in unsafe housing that is too cold in winter and too warm in summer. It costs tenants considerably more to heat and cool energy inefficient homes, often with little results
- Requirement to have air conditioning and heating fixed appliances (that are energy efficient)
- Ban not just limit rent bidding, which includes prohibiting landlords and agents from accepting offers from prospective tenants that are higher than the advertised price for a rental property. Rent bidding contributes to the unaffordability of the rental market
- Ensure enforcement and compliance of the legislation by resourcing government departments to enforce residential tenancies legislation including penalties for noncompliance. The current system relies on tenants to go to the Tribunal if the landlord is not following the law. Not only is this option a costly and lengthy process for the tenant but it also puts tenants in a vulnerable position to repercussions from the landlord such as a rent increase, retaliatory eviction or poor review about them on a tenancy database
- Clear definitions of non-urgent and urgent repairs and timeframes for repairs. Some landlords can take months or even years to make repairs
- Ensure landlords cannot unreasonably refuse consent for a pet and the responsibility must sit with the landlord to apply to the Tribunal if they wish to refuse consent for a pet to ensure accountability and oversight
- Greater transparency of tenancy databases and recourse for renters to dispute inaccurate claims made about them on a tenancy database
- Provisions for victims of family and domestic violence including full return of the bond and the ability to enter into a new tenancy agreement with the landlord if they reside at the property but are not on the original agreement

- As the states, territories and federal government prepares the new National Housing and Homelessness Plan consideration can be made to include commitments to improving housing outcomes for renters. This is an important mechanism for preventing homelessness and ensuring access to safe and affordable housing in Australia.

This inquiry is an important step towards a much-needed collaboration between Federal Parliament and state governments on this issue. Although some reform has been consistent across states, there remains significant disparities. States could be learning from each other on best practice and opportunities for new reform.

When considering rental policy, it is important to highlight that housing is a home and has a direct impact on the wellbeing and safety of the tenants living in it. As a result, rental investments can not be treated the same way to other investments and consideration must be made to the rights of the renter and what is considered fair use to the home.

The struggle of tenants can be overshadowed by the narrative that improving renters rights disincentives landlords out of the rental market despite evidence from [the Australian Housing and Urban Research Institute](#) indicating otherwise. The research found no evidence that properties exited the private rental sector following the introduction of two tenancy law reforms in New South Wales and Victoria.

The South Australian government is currently in the process of a review into the *Residential Tenancies Act 1995*. The *Residential Tenancies (Protection of Prospective Tenants) Amendment Bill* was introduced and passed both houses with further amendments to the Act expected to be released this year.

Our submission focuses on issues experienced by tenants in South Australia. Many of the issues highlighted are consistent across other states.

## **About Uniting Communities**

We are an inclusive not-for-profit organisation working alongside more than 80,000 South Australians each year and have been creating positive change for South Australian communities for more than 120 years.

We advocate for systems change across diverse social justice issues to shape public and social policy that delivers better outcomes for marginalised communities.

We help those in need find the courage to move forward through enriching their lives and uniting the communities in which they live. By tackling the deep-seated challenges that affect people's lives, we are working to create systemic change and brighter futures for all South Australians. We have a bold and unceasing commitment to social justice, advocating for change and improvement in the lives of those who need it most.

As a large not-for-profit organisation, a significant portion of our clients are renters and experience firsthand the challenges experienced when renting in South Australia.

## **Additional comments**

### **a. The experience of renters and people seeking rental housing**

Due to a variety of different factors effecting the affordability of home ownership, for many, renting is no longer a steppingstone to home ownership but a destination. A wider demographic, including more families and older people are renting, with many facing the prospect of renting for the rest of their lives. Despite this, current legislation is not set up for long term housing but is designed for renters to jump from one house to the next, providing little stability and safety. In addition, the lack of protections for tenants relies on all landlords to act fairly and reasonable.

Due to a lack of supply of rental properties, prospective tenants are left with little options when looking for a property, leaving them desperate. As a result, some prospective tenants are forced to spend exorbitant amounts on rent and live in a property with substandard conditions. Massive line ups at rental property open inspections are a common occurrence making the competition so high that tenant's resort to offering more than the asking price. For prospective tenants that cannot afford to offer more than the asking price they are consequently locked out of the rental market.

Once in a property tenants have difficulties maintaining a long-term tenancy, due to the occurrence of short-term contracts and a lack of protections. As a result, they remain in the dark about whether they will continue to have a home, prohibiting them from settling in one place and truly feeling like they have a home. In addition, insecurity and financial stress is caused by large rent increases that can occur with little warning and no predictability.

With this insecurity comes a lack of rights. Some tenants can live in properties that are too cold in winter and too warm in summer due to poorly energy efficient properties and can struggle to get vital repairs and maintenance completed by the landlord. Tenants are careful to not be perceived as a 'difficult tenant' by making reports about substandard conditions and important repairs over fear of unfair evictions, rent increases and poor reviews made about them on a tenancy database.

### **d. Improvements to renters' rights, including rent stabilisation, length of leases and no grounds evictions**

There are a variety of reforms that effect the affordability, security and safety of rental properties.

#### **No grounds evictions/length of tenancy**

Currently there is little protections for tenants from unfair evictions. During a fixed term contract, the legislation does provide security for the length of the lease, however these contracts are usually for a short period such as 6 month or 12-month contracts. Landlords can still evict a tenant for no reason at the end of a fixed term contract and during a periodic lease (no grounds evictions). This creates a significant barrier for tenants to have security of tenure. Retaliatory evictions following a request for a repair or issue in the property has been reported by tenants. As a result, tenants can remain silent about vital issues with the property out of fear of an eviction, including issues that create unsafe and unhealthy housing.

In the current market, tenants who are evicted face the prospect of homelessness as they may not find another property they can afford. Evictions thus threaten the safety of the tenant and should only be allowed for legitimate reasons such as selling the property or family requiring property. It is vital that no grounds evictions are removed from the legislation. Without removing no grounds evictions, tenants will not be able to exert the full rights afforded to them.

Although the presence of short-term leases (6 monthly and 12 monthly) poses challenges for tenants to maintain their tenancy, there are difficulties to having longer fixed term leases. If longer fixed term leases were to be implemented, this may benefit some tenants however it creates difficulties if tenants are liable to break lease fees if their circumstances change, including a change in financial circumstances (e.g. a rent increase). Removing no grounds evictions could provide for longer term tenancies instead.

“I reported the air conditioner and the main toilet for repairs and the next day I was emailed that my lease wouldn’t be renewed.” - Renter

“If I so much as asked for a minor repair such as a flyscreen or broken lock, the lease wouldn't be renewed.” – Renter

### **Minimum energy efficiency standards**

Minimum energy efficiency standards should be required in rental properties including minimum standards for ceiling insulation. Despite the substantial increase in the cost of rental housing, the standards of homes have not improved. National research highlights that rental housing has insufficient energy efficiency that leads to homes that are too hot in summer and too warm in winter.<sup>1</sup> Over 80% of housing in Australia was below the World Health Organisations healthy minimum indoor temperatures on average across the entirety of winter.<sup>2</sup> Cold homes pose serious health risks including illnesses such as asthma and cardiovascular conditions.<sup>3</sup> It costs tenants considerably more to heat and cool energy inefficient homes, often with little result. Consequently, some tenants are choosing to turn off heating and cooling appliances as they cannot afford the bill.

The new federal budget incorporated initiatives for improving energy efficiency of homes, but more can be done to specifically address energy efficiency and poor housing conditions in rental properties. The federal government could support state governments to implement minimum energy efficiency standards in rental properties by providing the financial support, for example through grant and funding opportunities for landlords, to help facilitate implementation of legislative measures.

Uniting Communities supports the [Healthy Homes for Renters Community Sector Blueprint](#) that outlines a framework for implementing minimum energy efficiency standards in rentals across Australia. The ACT government has recently implemented minimum energy efficiency standards for ceiling insulation in rental properties.

---

<sup>1</sup> <https://dataverse.ada.edu.au/dataset.xhtml?persistentId=doi:10.26193/IBL7PZ>

<sup>2</sup> Barlow et al. 'Cold homes in Australia: Questioning our assumptions about prevalence,' 2023, <<https://www.sciencedirect.com/science/article/pii/S2214629623001846>>.

<sup>3</sup> Ibid.

In Victoria, properties must be free of mould, dampness and have ventilation which meets the Building Code of Australia ventilation standards. The property must have an energy efficient heater in the main living area that is fixed, not portable. Additionally, landlords cannot refuse a reasonable request by renters to make minor modifications to the property to improve insulation or reduce energy and water usage.<sup>4</sup>

The Warm Up New Zealand: Healthy Homes program was established to create warmer, drier, healthier homes by improving the energy efficiency and energy security of homes. The energy efficiency and clean energy program is addressing respiratory illnesses and winter mortality rates.<sup>5</sup> The New Zealand Healthy Homes standards were introduced into *the Residential Tenancies Act in 2019* and include requirements for heating in the main room and appropriate floor and ceiling insulation.<sup>6</sup>

### **Air conditioning and heating**

There is currently no state in Australia that requires air-conditioning in rental properties to keep homes cool in summer. In addition, only Victoria and Tasmania require that a fixed heater be installed in the main living area. It is unrealistic to expect tenants to afford to heat and cool their homes with portable appliances. Not only do portable appliances cost more to operate than fixed appliances but when used in energy inefficient homes, the bill is considerably higher. It is important for rental properties to have minimum air-conditioning and heating requirements, including fixed appliances that are energy efficient.

### **Rent bidding**

Rent bidding is a common issue in South Australia. The introduction of *the Residential Tenancies (Protection of Prospective Tenants) Amendment Bill* in South Australia although welcome fails to address the root issue of rent bidding which is the ability for landlords to 'accept' higher offers from prospective tenants. Prospective tenants who can afford to offer more are given an unfair advantage over lower-income tenants. Rent bidding drives up the prices of rental properties and forces some tenants to pay more than 30% of their income on rent due to desperation.

"Knowing the intense competition for rentals, I offered \$40 above the asking price. I had a perfect rental history but was rejected. The agent said I was rejected because the offered rent was more than 30% of my income (it was 32%), which is considered unfavourable by the landlord. This system is designed to fail many of us: if you don't offer more, you are rejected. If you offer more and it is more than 30% of your income, you are rejected. What options do we have?" - Renter

"Our experience was that if you didn't offer above the asking price, they wouldn't consider you for the property." – Renter

---

<sup>4</sup> Renters Victoria, 'Minimum Standards,' 2022, <<https://rentersvic.org.au/advice/starting-your-tenancy/minimum-standards/>>.

<sup>5</sup> Energy Efficiency and Conversation Authority, 'Warm up New Zealand,' Climate Interactive, <<https://www.multisolving.org/wp-content/uploads/2022/05/Warm-Up-New-Zealand.pdf>>.

<sup>6</sup> Healthy Homes Standards, Tenancy Services, Ministry of Business, Innovation and Employment, 2022, <<https://www.tenancy.govt.nz/assets/Uploads/files/healthy-homes-standards-key-facts.pdf>>.

## **Lack of enforcement**

Legislation is only as effective as its enforcement. Rental housing is an essential service to 30% of the population but does not have effective regulation in place to ensure compliance. The current system relies on tenants to go to the Tribunal if the landlord is not following the law. Not only is this option a costly and lengthy process for the tenant but also puts tenants in a vulnerable position to repercussions from the landlord such as a rent increase, and a retaliatory eviction. In addition, tenants are reluctant to go to the Tribunal as this may result in a poor review about them on a tenancy database that could prevent them from attaining another rental property.

Government departments must be resourced to actively enforce legislation, including penalties for non-compliance.

## **Repairs and bond**

It is important that clear parameters are set in the legislation that does not leave the rights of tenants open to interpretation. This is currently an issue for repairs and the return of bonds. Urgent and non-urgent repairs are not defined in the Act and there are no timeframes for repairs in the Act. Some landlords are reportedly exceeding what would be considered a reasonable timeframe to respond to both urgent and non-urgent repairs. This includes months or even years beyond what is considered a reasonable timeframe. This presents a major issue for tenants who subsequently live in substandard and poor housing conditions.

Fair wear and tear are not properly defined in the legislation and as such some tenants are reporting losing their bond over unreasonable claims made by the landlord at the end of the tenancy that the property has not been left in a suitable condition.

Victorian legislation outlines the landlords' responsibility for responding to urgent repairs and tenants have rights if the landlord does not make non-urgent repairs within 14 days of the date of the written request. This includes the right to request a repairs inspection by Consumer Affairs if the landlord has not fulfilled their responsibility.<sup>7</sup> Similar approaches could be considered for other states.

"Issues such as the shower leaking were constantly ignored." - Renter

"House had major subsidence damage that continued throughout our tenancy. When it rained the gutters poured water into some rooms and through electrical fittings. Could see through some cracks in the walls to outside. Agent would not discuss any options, refused to break lease, did not seek repairs, and then did not renew lease because we were 'difficult tenants.'" - Renter

"I'm at my wits end. I live in a place that has leaks. Water damage in the roof and the ceiling in the front doorway. It's so bad it looks like it's going to cave in. My room is damp and cold and mouldy. I can't breathe and keep coughing. But the landlord won't do anything about it." – Renter

---

<sup>7</sup> Information for property managers - Repairs and maintenance, Consumer Affairs Victoria, <<https://www.consumer.vic.gov.au/licensing-and-registration/estate-agents/running-your-business/property-management/repairs-and-maintenance>>.

## **Pets**

Basic rights such as the right to have a pet is not afforded to renters in Australia. Currently in South Australia landlords can unreasonably refuse consent for a pet. Other states such as Victoria and the Northern Territory prohibit unreasonable refusal of a pet, if the landlord wants to refuse permission, they must apply to the Tribunal within a timeframe. We believe it is important that the onus is placed on the landlord to apply to the Tribunal to ensure accountability and oversight.

Prospective tenants who are pet owners receive discrimination at the application stage. The Queensland Government has tried to address this with the introduction of a ban on blanket 'no pets' caveats on rental property advertisements. Although this encourages landlords to accept pet owners, landlords and agents can still ask prospective tenants if they have a pet and therefore discrimination could still occur. This is particularly a barrier for women experiencing family and domestic violence, who may remain in an abusive relationship if they cannot take their pet with them. This forces prospective tenants into a vulnerable position having to choose between surrendering their pet or homelessness.

"I had both of my pets put to sleep as I was unable to find accommodation." - Renter

"Having a pet makes it incredibly difficult and we have been temporarily homeless previously for a month while we waited to be accepted for a property." - Renter

## **Tenants database/blacklist**

The tenant's database or sometimes referred to as a tenant's blacklist, is creating serious challenges for renters. Some tenants are being blacklisted on a tenants database without their knowledge with no ability to contest the matter if they have been unfairly or inaccurately listed. Being blacklisted prevents prospective tenants from attaining a rental property. Tenants are vulnerable to poor reviews made against them on a tenants database if they exert their rights by going to the Tribunal when the landlord is not following the law. Landlords, agents and database operators can also charge a fee to a person that requests a copy of their personal information about themselves that is listed on a residential tenancy database in South Australia.

Tenants should be notified or given the ability to contest the blacklist. Tenants should be afforded recourse to understand the reasons for their inclusion as well as request for its removal if they believe they have been wrongly or unfairly listed.

## **Provisions for victims of family and domestic violence**

There are a number of important provisions that could be made for victims of family and domestic violence in a rental property that would increase safety. This includes ensuring the bond is returned to the victim in full, as often victims are leaving an abusive relationship with very few financial assets. In addition, victims who reside at the property but are not on the residential tenancy agreement, should be given the option to enter into a new tenancy agreement with the landlord. Sometimes the best option for the victim is to remain in their current home. In some circumstances the threat to personal safety requires a victim to change the locks on a property. Queensland is considered best practice as they allow rental property locks to be changed in these circumstances without permission provided the victim gives a copy of the key to the landlord and engages a qualified locksmith.



## **b. Rising rents and rental affordability (including actions that can be taken by governments to reduce rents or limit rent rises)**

Across Australia rental properties are becoming increasingly unaffordable with a significant increase since 2019. The only state to provide a limit on rent increases is the ACT which provides a 10% plus CPI limit on increases. Current provisions restrict the frequency of rent increase but do not address how high rent increases can be.

According to March 2023 research there are no affordable and appropriate rental properties for prospective renters on JobSeeker Payment, Disability Support Pension and Youth Allowance in South Australia.<sup>8</sup> Additionally, only 1 percent of rental properties are affordable and appropriate for a single person on a minimum wage and a single person on a minimum wage with two children.<sup>9</sup> Only 17% of rental properties are affordable and appropriate for a couple with two children on a minimum wage.<sup>10</sup> In part, this can be attributed to the lack of supply of rental properties in the state. However, it could also be attributed to the lack of regulation on rent increases.

Some rent increases are justified however, is it the excessive and unreasonable rent increases that needs to be regulated. New Australian Bureau of Statistics data, reveals that larger rent increases are becoming increasingly more common in Australia for both existing tenants and new tenants. Evidence suggests that some property owners are increasing rent amounts more than necessary. For new tenants, 2.5% of rent increases were over 10% in June 2019 compared to 68.2% in February 2023.<sup>3</sup> For existing tenants, only 1.7% of rent increases were over 10% in June 2019 compared to 24.9% in February 2023.<sup>4</sup> This data highlights a massive shift in the rate of rent increases in Australia.

Rent increases should be limited to the Consumer Price Index (CPI) to ensure rent is not being increased unreasonably. This reform is essential to improving the affordability and security of the rental market. As highlighted previously, the practice of rent bidding, where prospective tenants can offer more than the advertised price, also contributes to increased rental prices and needs to be addressed. It is not sufficient to only ban the soliciting of rent bidding or advertising at a price range.

### **National Housing and Homelessness plan**

As the states, territories and federal government prepares the new National Housing and Homelessness Plan consideration can be made to include commitments to improving housing outcomes for renters. This includes reforms to the residential tenancies acts as well as more effective mechanisms in place to ensure compliance with the legislation. This is an important mechanism for preventing homelessness and ensuring access to safe and affordable housing in Australia.

---

<sup>8</sup> Anglicare Australia, 'Rental Affordability Snapshot', Regional Reports/Fourteenth Edition, 2023, p.2, <<https://www.anglicare.asn.au/publications/2023-rental-affordability-snapshot/>>.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

## **Conclusion**

It is important to consider the rights of renters for improving housing outcomes in Australia. Renters make up a significant portion of the population and this is growing. For many they will be renting for the rest of their lives which is why it is important that the legislation is suitable for long term housing.

A lot of the issues experienced by renters are consistent across states and therefore require a consistent and appropriate response. For too long the needs of landlords have outweighed the rights of tenants. Now is the time to implement changes that will improve the affordability, safety and security of renting in Australia.