



25 March 2022

Productivity Commission
GPO Box 1428
Canberra City ACT 2601
attn: Romlie Mokak and Malcolm Roberts

via email: housing.agreement@pc.gov.au

Dear Commissioners,

Re: Review of the National Housing and Homelessness Agreement

The Tenants' Union of Tasmania welcomes the opportunity to respond to the review of the National Housing and Homelessness Agreement (the NHHA).¹ Our submission focuses on Tasmania as a case study in highlighting the failure of the NHHA to meet its purpose of improving access to affordable, safe and sustainable housing for Tasmanians as well as to recommend reforms.

The Tenants' Union of Tasmania is a not for profit community organisation providing information, advice and representation to all residential tenants living throughout Tasmania. We also offer community legal education and training and advocate for the improvement of residential tenants' rights.

An overview of the rental market in Tasmania

According to the Australian Bureau of Statistics, there are a growing number of households renting, rising from 27 per cent of the Australian population in 1997/98 to 32 per cent in 2017/18.² Whilst Tasmania has historically had a high rate of home ownership, there has been a similar upward trajectory in households renting, particularly over the last decade. In raw numbers, the number of households renting in Tasmania increased by 18 per cent from 45,600 in 2006 to 54,000 in 2016³ with the release of the 2021 Australian census later this year likely to demonstrate a further increase in households renting.

¹ We would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² Australian Bureau of Statistics, *Housing Occupancy and Costs, 2017-18* (2019).

³ Productivity Commission, *Report on Government Services 2019*, Tables 2A.25, 2A.27.



The most recent *Report on Government Services* notes that over the period 2012-2021 public housing stock has decreased by 37 per cent.⁴ While this has been offset by the growth of the community housing sector,⁵ resulting in a net increase of social housing stock, it has not been proportionate to the growth of the rental market overall.

- ***Skyrocketing rents***

At the same time as there are increasing numbers of households renting in Tasmania, the lack of affordable housing stock has resulted in skyrocketing rents, particularly in Tasmania's south. For example, over the last five years median rents increased by 45 per cent in Southern Tasmania, by 49 per cent in the North and by 27 per cent in the North West.⁶ As well, the data demonstrates that median rents in Southern Tasmania are 19 per cent higher than in Northern Tasmania, which are in turn 27 per cent higher than in North West Tasmania.⁷

According to the *Rental Affordability Index (RAI)*, a study published bi-annually by National Shelter and SGS Economics & Planning, Greater Hobart is Australia's least affordable metropolitan area relative to income. The RAI found that tenants in Greater Hobart spend around 31 per cent of their income on rent – placing the median tenant in rental stress.⁸ Outside Hobart, regional Tasmania was the most expensive region relative to income in the country.⁹

- ***Housing stress***

Since 2007, Anglicare Tasmania has published an annual snapshot of the Tasmanian private rental market to assess whether it is possible for people living on low incomes to afford to rent a home. As part of the research, all properties listed for rent are reviewed on one weekend each year and then assessed as to whether each property is affordable and appropriate for 14 types of households on low incomes. The most recent *Rental Affordability Snapshot Tasmania 2021* found that the average state-wide rental price of \$425 per week was unaffordable for anyone in sole receipt of Government income support¹⁰ leading the authors to conclude:¹¹

All stakeholders, and all sides of government, agree that affordable housing is one of the most important, and most intractable, issues currently facing Tasmania. To date the State Government has been unable to address the consistent trend seen in the Rental Affordability Snapshot over the past nine years. Without serious action on this topic, we will see more hardship in our community as families struggle to avoid homelessness, and more homelessness itself.

⁴ Between 2012-2021 public housing stock dropped from 11,203 to 7,031 tenancy units. As found in Productivity Commission, *Report on Government Services 2022*, Table 18A.3.

⁵ Between 2012-2021 community housing stock increased from 1630 to 7019 tenancy units. As found in Productivity Commission, *Report on Government Services 2022*, Table 18A.3.

⁶ Weighted median rent for Southern Tasmania has increased from \$311.00 to \$451.00 per week, in Northern Tasmania from \$254.00 to \$379.00 per week and in North-West Tasmania from \$233.00 to \$298.00 per week. As found at Rental Deposit Authority and Tenants' Union of Tasmania, *Tasmanian Rents* (December Quarter 2016-2021).

⁷ Ibid.

⁸ National Shelter and SGS Economics & Planning, *Rental Affordability Index* (December 2020) at 40.

⁹ National Shelter and SGS Economics & Planning, *Rental Affordability Index* (December 2020) at 44.

¹⁰ Anglicare Tasmania, *Rental Affordability Snapshot Tasmania 2021* (April 2021) at 5.

¹¹ Anglicare Tasmania, *Rental Affordability Snapshot Tasmania 2021* (April 2021) at 17.

- ***Waitlist for social housing leading to overcrowding***

Skyrocketing rental prices and the concomitant increase in housing stress has in turn placed a significant strain on Tasmania's social housing system. Over the last decade the waitlist for social housing has increased by 88 per cent from 2310 applicants in 2012/13 to 4355 applicants in January 2022.¹² Over the same timeframe, the average wait time for priority applicants has blown out from 16 weeks to 71 weeks, a 343 per cent increase.¹³ Unsurprisingly, this has put further strain on social housing households with overcrowding in community housing having increased over the last five years from 1.6 per cent to 6.5 per cent.¹⁴

- ***Homelessness***

The lack of affordable rental properties in the private rental market and inadequate social housing has resulted in increased homelessness, with a 2019 report recording a 20 per cent increase in the rate of homelessness in Tasmania between 2001 – 2016, including a 54 per cent jump in Hobart.¹⁵ The report noted that Hobart is one of three Australian cities in which “the connection between declining rental affordability and growth in homelessness rates appears to be most striking...”.¹⁶ More recently, it was reported that 46 requests for homelessness assistance went unmet each day in Tasmania and the main reasons for seeking assistance being:¹⁷

- The housing crisis (48 per cent in Tasmania compared with 34 per cent nationally); and
- Housing affordability stress (41 per cent in Tasmania compared with 29 per cent nationally); and
- Inadequate or inappropriate dwelling conditions (40 per cent in Tasmania compared with 27 per cent nationally).

Reforms

- ***Strengthen tenancy legislation***

As we have outlined above, the objective of the NHHA to “contribute to improving access to affordable, safe and sustainable housing”¹⁸ is not currently being met in Tasmania with skyrocketing rents, rising housing stress, a lack of social housing and increasing homelessness. Whilst the NHHA notes that “tenancy reform that encourages security of

¹² Department of Health and Human Services, *Annual Report 2012/13* at 39; Department of Communities Tasmania, *Housing Dashboard January 2022* at 14.

¹³ Department of Health and Human Services, *Annual Report 2012/13* at 39; Department of Communities Tasmania, *Housing Dashboard January 2022* at 15.

¹⁴ Over the same five-year period overcrowding in public housing has dropped slightly from 5.4 per cent to 5.1 per cent. As found at Productivity Commission, *Report on Government Services 2022*, Tables 18A.25 and 18A.27.

¹⁵ S Parkinson, D Batterham, M Reynolds and G Wood (2019) *The changing geography of homelessness: a spatial analysis from 2001 to 2016*, Australian Housing and Urban Research Institute, Final Report No. 313.

¹⁶ S Parkinson, D Batterham, M Reynolds and G Wood (2019) *The changing geography of homelessness: a spatial analysis from 2001 to 2016*, Australian Housing and Urban Research Institute, Final Report No. 313 at 339.

¹⁷ Australian Government, *Specialist homelessness services 2020-21: Tasmania* (Australian Institute of Health and Welfare: 2019) at 1.

¹⁸ *National Housing and Homelessness Agreement* (2018) at para. 14.

tenure in the private rental market¹⁹ is a national housing priority policy area, other than an eviction moratorium during the COVID-19 pandemic, over the course of the most recent iteration of the NHHA there has been no amendment to Tasmania's *Residential Tenancy Act 1997* to encourage security of tenure.

According to a 2019 joint report commissioned by Choice, National Shelter and the National Association of Tenancy Organisations:²⁰

- 8 per cent of tenants think they will have to move in the next 12 months;
- 83 per cent are concerned about the stress caused by moving;
- 56 per cent expressed concern about the increased distance from their children's school or catchment area;
- 55 per cent have moved at least five times;
- 76 per cent of Tasmanian tenants are on fixed term leases of 12 months or less;
- 57 per cent expressed concerns about commute times when they last moved;
- 62 per cent experienced a loss of stability when they last moved;
- 63 per cent reported anxiety of the unknown when they last moved.

Evictions are a key depressant of tenant well-being.²¹ Moving house costs a tenant \$4,000 on average.²² Tenants, controlling for other factors, are more likely to report poor mental²³ and physical²⁴ health than non-tenants. Children subject to regular forced moves will have disrupted schooling, and are more likely to exhibit anti-social behaviour in later life.²⁵

Currently, residential tenants in the private rental market in Tasmania can be evicted at the end of their fixed-term lease agreement without further reason.²⁶ This is unusual relative to other comparable countries, including Germany, France, and Ireland.²⁷ Australia has among the weakest tenancy protections in the global north. In our view, if there is no change to the use of the property, tenants should be able to maintain their tenure unless there has been a proven breach of their residential tenancy agreement. In Australia, Victoria has recently moved towards this position.²⁸

Without better protections against no fault evictions such as end of lease, tenants cannot enforce their other ostensible rights without fear of reprisal.²⁹ 44 per cent of tenants are

¹⁹ *National Housing and Homelessness Agreement* (2018) at Schedule 2, para. A2.

²⁰ CHOICE, National Shelter and the National Association of Tenant Organisations, 'Disrupted: The consumer experience of renting in Australia' (2018).

²¹ Rachel Ong Viforj, Ranjodh Singh, Emma Baker, Rebecca Bentley, Jack Hewton, 'Precarious housing and wellbeing: a multi-dimensional investigation' (AHURI Final Report No. 373: February 2022) at 37.

²² Tenants' Union of NSW, 'Eviction, Hardship and the Housing Crisis' (February 2022).

²³ John Cairney and Michael Boyle, 'Home ownership, mortgages and psychological distress', *Housing Studies* (2004) 19(2) 161-174.

²⁴ Australian Housing and Urban Research Institute, 'Do housing conditions make a difference to our health?' (AHURI Research and Policy Bulletin: 2002, No. 6).

²⁵ Roger Webb, Carsten Pedersen, Pearl Mok, 'Adverse outcomes to early middle age linked with childhood residential mobility', *American Journal of Preventative Medicine* (2016) 51(3) 291-300.

²⁶ Section 42(1)(d) of the *Residential Tenancy Act 1997* (Tas).

²⁷ Rosie Walker and Samir Jeraj, *The Rent Trap* (2016, Pluto Press) at 8.

²⁸ Section 91ZZD of the *Residential Tenancies Act 1997* (Vic).

²⁹ Australia. Commission of Inquiry into Poverty & Sackville, Ronald. (1976). *Law and poverty in Australia*, at 80. As found at <http://nla.gov.au/nla.obj-1928657120> (accessed 25 March 2022).

concerned that a request for repairs could result in eviction.³⁰ Weak security of tenure undermines the operation of the entire protective regime.

Any attempt to strengthen security of tenure must also include rent stabilisation. As we have previously noted, median rents over the last five years increased by 45 per cent in Southern Tasmania, by 49 per cent in the North and by 27 per cent in the North West. Under the current legislative regime, these increases can more or less be passed directly onto tenants. These are unsustainable rent increases that have forced many Tasmanians into housing stress, onto social housing waiting lists and in some cases into homelessness. Even with greater protections against end of lease evictions, a tenant could be issued with a market-rate rent increase that could have the same effect of forcing them to move.

We strongly believe that the NHHA should be broadened to include both security of tenure and rent control measures as national housing priority policy areas.

Explicitly mandating that Australian Government funding through the NHHA is conditional on States and Territories amending their respective residential tenancy legislation to ensure that tenants are only evicted with a good reason and where rent controls are guaranteed will stabilise housing markets in many jurisdictions resulting in less risk of eviction into homelessness.

Recommendation: That the NHHA require States and Territories to strengthen security of tenure provisions and introduce rent control measures as a condition of Australian Government funding.

- **Better data collection**

We are also concerned that there is a lack of data being collected around evictions. There is no data that we are aware of collected by the Tasmanian or Commonwealth Governments that might provide how many tenants are being evicted, and for what reasons. Given that the objective of the NHHA is to “prevent and address homelessness”³¹ it would be useful to know why tenants are at risk of or have been made homeless. A model that could be expanded nationally is the New South Wales *Bond Claim Exit Survey* which collects data about how and why tenancies end.³² The NSW Department of Fair Trading who administer the survey “asks every principal tenant and landlord or nominated agent to complete a survey when a bond claim is finalised”³³ with the survey asking questions around how and why the tenancy ended.³⁴

Recommendation: That the NHHA stipulate that States and Territories collect and publish data around evictions.

³⁰ CHOICE, National Shelter and the National Association of Tenant Organisations, ‘Disrupted: The consumer experience of renting in Australia’ (2018).

³¹ *National Housing and Homelessness Agreement* (2018) at para. 14.

³² NSW Government, ‘End of tenancy survey’. As found at <https://www.fairtrading.nsw.gov.au/housing-and-property/pilot-bond-exit-survey> (accessed 24 March 2022).

³³ *Ibid.*

³⁴ NSW Government, ‘Bond claim exit survey’. As found at https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0018/910143/Pilot-bond-exit-survey-questions.pdf (accessed 24 March 2022).

If you have any queries, or would like to discuss our submission further, please do not hesitate to contact us.

Yours faithfully,

Benedict Bartl
Principal Solicitor
Tenants' Union of Tasmania
