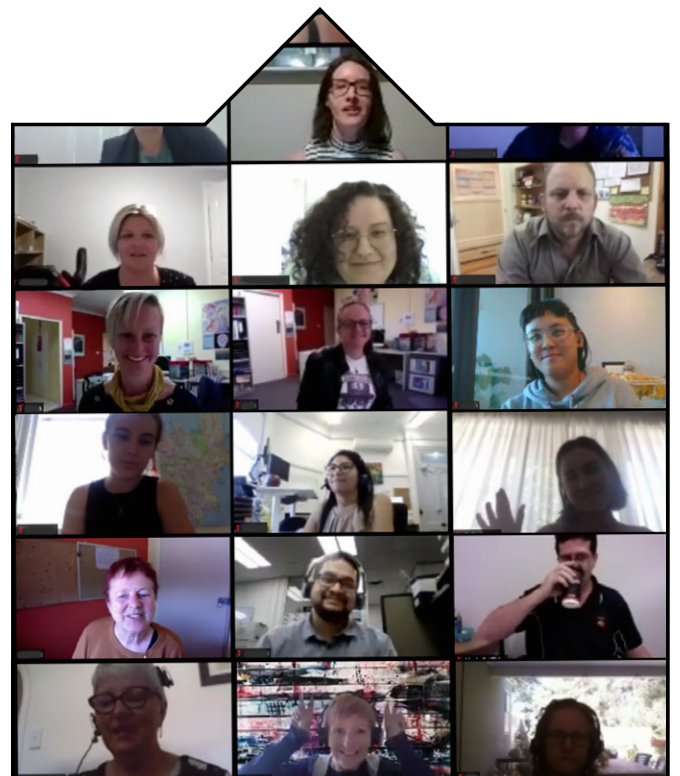
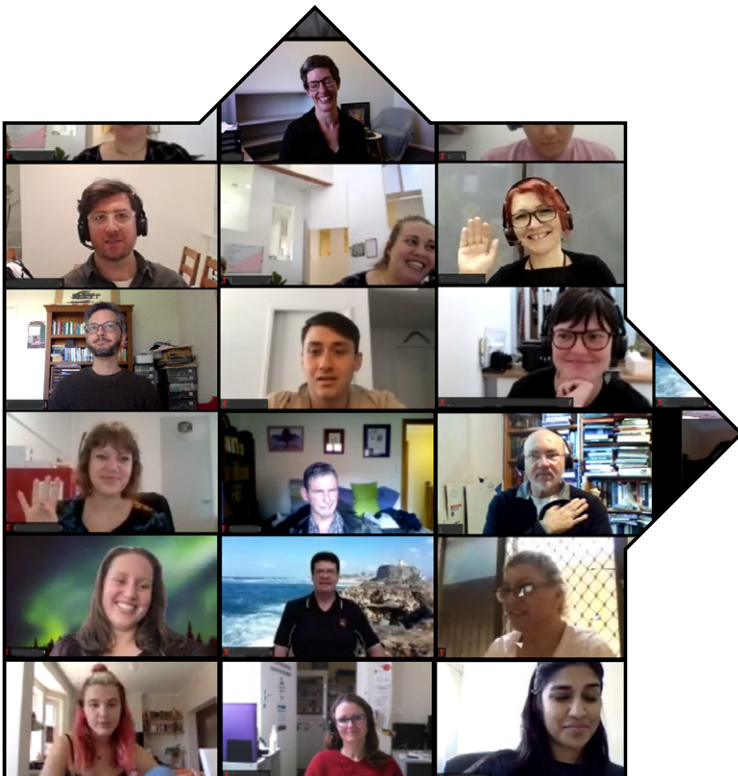




ANNUAL REPORT 2019-2020



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Tenants' Union of NSW Annual Report 2019-2020. Published November 2020. Printed on recycled paper.

Cover photo: Online meeting of the Tenants' Advice and Advocacy Services Network, November 2020.

Certain icons used in this report are sourced from freepik.com

Support our work with a donation – givenow.com.au/tenantsunionofnsw

ACKNOWLEDGEMENT OF COUNTRY

The Tenants' Union acknowledges that Aboriginal and Torres Straits Islanders were the first sovereign nations of the Australian continent and its adjacent islands, and that these lands were possessed under the laws and customs of those nations. The lands were never ceded and always remain Aboriginal and Torres Strait Islander lands.

We acknowledge that the land, sea, sky and waterways are of spiritual, social, cultural and economic importance to Aboriginal and Torres Strait Islander peoples and support their right to culture, language, land and various notions of self-determination.

We acknowledge that as a result of government policies and practices, Aboriginal and Torres Strait Islander peoples have been dispossessed from their lands without compensation. We acknowledge that our office is on the traditional lands of the Gadigal people of the Eora Nation. We pay our respects to Elders past, present and emerging. We acknowledge the contributions made by Aboriginal and Torres Strait Islander peoples to the cause of tenants' rights in NSW.

Aboriginal and Torres Strait Islander peoples are over-represented in NSW renter households. We acknowledge the present and historical disadvantage experienced by Aboriginal and Torres Strait Islander peoples and the role of government policies, past and present and racism throughout Australia in creating this disadvantage and the impact of this disadvantage on tenancy and housing issues.

We acknowledge that a lack of support for non-tenancy issues such as intergenerational trauma, mental health issues, financial hardship, substance dependence, family violence, and disabilities can often lead to an escalation of tenancy issues and result in tenants receiving termination notices and/or suffering other negative outcomes such as accruing large rent arrears.

We recognise, respect and value Aboriginal and Torres Strait Islander peoples and their communities. We work in partnership with them and their advocates to deliver appropriate advice and advocacy for all Aboriginal and Torres Strait Islander tenants.

We acknowledge the need for constitutional reforms to empower Aboriginal and Torres Strait Islanders to take their rightful place in their own country. We call for the establishment of a First Nations Voice enshrined in the Constitution.

Reconciliation Action

In 2019-2020 the Tenants' Union:

- developed our Aboriginal Rental Policy
- developed and promoted guidelines for employment of Aboriginal and Torres Strait Islanders in tenant advocacy services
- began a partnership with Ngalaya, the peak body representing over 800 First Nations lawyers and law students across NSW
- began work on our second *Innovate Reconciliation Action Plan*



Tenants' Union and other Community Legal Centre stalls, Yabun 2020.

WHO WE ARE

The Tenants' Union of NSW is a community legal centre specialising in NSW residential tenancies law. We are accredited by Community Legal Centres Australia.

We work to promote the interests of Aboriginal tenants; boarders, lodgers and other marginal renters; private rental tenants; public and community

housing tenants; and land lease community residents.

We are the main resourcing body for Tenants' Advice and Advocacy Services (TAASs) across New South Wales.

We are an independent, secular not-for-profit membership-based co-operative under the *Co-operatives (Adoption of National Law) Act 2012* (NSW).



Tenants' Union staff with Tenant Advocates from TAASs across NSW, at the TAAS Network Conference. October 2019, Tweed Heads. Photo by Ashmita Rao.

OUR VISION

“A society in which people in New South Wales can access safe, secure and affordable rental housing.”

To achieve our vision:

- We inform tenants, Tenant Advocates, and community workers.
- We educate Tenant Advocates, community agencies and government departments.
- We advise and assist tenants, Tenant Advocates and community workers.
- We advocate for change in law and policy so tenants have more stable, liveable, and affordable homes.



Tenants' Union office poster display. November 2019.

CHAIRPERSON'S MESSAGE

The past year has been an extraordinary one for the Tenants' Union, by any measure. Unprecedented bushfires and then flooding across NSW drove many displaced tenants to tenancy services for support. Several months of natural disasters then gave way to the COVID-19 pandemic which not only drove a record number of tenants to our online resources looking for information and advice but it forced the Tenants' Union's own staff to start working remotely. During these external challenges, this year the Tenants' Union was also forced to look for a new office space and recruit a new CEO. It has been an incredible year of change, but the staff at the Tenants' Union have taken it in their stride and risen to every challenge. The Board has been in awe of your resilience and unending motivation to help the tenants of NSW get access safe, secure and affordable rental housing.

I would like to take moment to recognise our change of leadership this year. Julie Foreman left the Tenants' Union just before Easter this year. Julie is a strong advocate, but also was a caring and compassionate manager of her team. She was always willing to fight the hard fights, taking issues directly to the top power brokers in NSW, but also just as comfortable meeting with individual tenants, no matter how vulnerable. The Tenants' Union has benefited tremendously under her leadership and we want to thank her for that.

On behalf of the Board I also want to thank Leo Patterson Ross who we were so pleased to hire as our new CEO. Leo stepped into this role in the middle of the pandemic, after all of the staff had already started working remotely. He also spear-headed some incredible policy wins for tenants (across Australia) during the uncertainty of rental arrears and evictions when it became clear that many would lose their jobs because of the enforced COVID-19 restrictions. Thank you Leo for hitting the ground running in your new role and supporting your staff to do their best work in very challenging conditions.

Thank you also to our wonderful Strategic Technology Officer Anushke for making



sure the staff were all set up to work from home. And well done to Patrycja, Grant, Cass and all presenters who have done excellent work in transitioning from face to face training to webinars.

When the COVID-19 restrictions were put in place in March 2020 it quickly became clear that there was an enormous need for quality information about tenancy rights. In one month there were over 1 million pageviews of the Tenants' Union COVID-19 Q&A web page (about half of the normal annual traffic for the whole Tenants' Union website!). This is a strong indication of how quickly the Tenants' Union can respond to unforeseen issues that have an impact on tenants in NSW and how well-respected the information we provide is.

I also want to welcome three new Board members this year: Jane Kenny, Brendon McKeon and Scott Hawkins. Along with the staff, the Board had to quickly move to a virtual environment for meeting, including interviewing CEO candidates remotely. Thank you to everyone's continued flexibility and commitment during these uncertain times.

Julia Davis
Tenants' Union Chairperson

No home left behind! The Tenants' Union will always work towards a society in which any person in NSW can make their home in safe, secure and genuinely affordable rental housing. This work is never more important than during disasters.

We work with colleagues across government and the community to improve the experience of renting in NSW and Australia. We also play a vital role in holding governments and the property industry to account for their impact on that experience. We tell the stories and speak to the real world experience of people who rent their home. We do all this through a strategic mix of legal action, education, policy solutions and advocacy to make a difference in the lives of people who rent.

Each year we make a real difference to individual renters too. In 2019-20 we provided over 4,000 instances of individual advice and assistance, and supported tenant advocates in 541 cases of their own.

Our litigators assisted in 152 cases across the year. These cases ran from the NSW Civil and Administrative Tribunal all the way to the NSW Supreme Court of Appeal. We challenged unfair evictions, we stood up to discriminatory practices in residential land lease communities, and we made sure rents and site fees were being properly calculated and not increased unfairly.

Our plain legal information continues to increase knowledge and provide renters with the tools they need to resolve or avoid disputes. Our website was a particularly important point of call during the early days of COVID-19. On a single day in late March, 114,000 users accessed our website viewing 324,000 pages between them.

Our policy and advocacy efforts lead the conversation of what it means to rent in NSW, especially during this pandemic. As our offices closed, our minds opened to the real jeopardy renters across the state and country were about to face. We acted, in the same way we always do. We work through analysis, through



communication and through education. We look to collaborations and co-operation. We welcome anyone with a genuine interest in sharing our mission to do so. We cannot stand idle while renters suffer, but we also cannot stand alone.

Thank you to the Tenants' Union staff, Board, volunteers, donors, funders, supporters, partners and clients. None of this would be possible without their commitment, enthusiasm and contribution.

I want to acknowledge my predecessor Julie Foreman who lead the team for 8 years including the majority of this year! I am very privileged to have been able to step in to Julie's shoes. The handover, during a pandemic, would not have gone as smoothly if so much of the fundamentals of this strong, vibrant organisation hadn't been in such good hands before.

As I settle in and the world settles down, I look forward to continuing to foster the efforts of the staff here at the Tenants' Union who are all so keen, so committed and so expert in their own ways. I also know we can use our great team's passion to launch from where we are to ensure we extend and enhance our ability to write the story of renting in NSW.

We look forward to working with renters and their allies for another year!

Leo Patterson Ross
Tenants' Union Chief Executive Officer

RESPONDING TO COVID-19

In response to the COVID-19 crisis, we:

- Immediately published, and then regularly updated, a *Renters' Guide to COVID-19*. This online Guide provides legal information for renters on common questions arising from the impact of the COVID-19 crisis and the resulting government rental and health legislation.

Our Guide was viewed 1.4 million times (March - June 2020).

1.4
MILLION

- Trained over 100 Tenant Advocates in COVID-19-related legal matters for renters
- Responded to over 200 emails, as well as numerous phone calls and social media enquires, from renters seeking advice on COVID-19-related matters
- Produced online resources specifically for Tenant Advocates – which were viewed hundreds of times

100

200

- Advocated successfully for the moratorium on evictions
- Consulted with NSW Fair Trading on COVID-19 Emergency Measures



- Made a submission to the UN report: *COVID-19 and the Right to Housing*



- Coordinated and took on the role of key author of the National Association of Tenant Organisations joint submission to the *Inquiry into National Government response to COVID-19*



- Pivoted rapidly and successfully to remote office operations

Tenancy info

Get advice

News and policy

About us

Renters' Guide to COVID-19

Eviction

Rent, rent reduction, and support

Rent negotiations

How do I end my tenancy?

Moving and the distancing rules

Do I need to provide access?

Tribunal proceedings

Tenant databases or 'blacklists'

Social housing

International students

Share houses and boarders

Templates and forms

Rent negotiations

Not many people have experience at negotiating a rent reduction. The information below can help to prepare for meeting with the landlord or agent. This can be if they do not agree with your initial proposal but do agree to discuss the rent amount further, and also if negotiations go further to NSW Fair Trading.

For info on rent reduction and support, including how to prepare your initial proposal before you start negotiations, see [COVID-19 Guide: Rent, rent reduction, and support](#).

- ✓ **What are 'good faith' negotiations?**
- ✓ **What is a 'fair and reasonable' offer?**
- ✓ **What information needs to be shared in negotiation?**
- ✓ **What can I expect in a negotiation?**
- ✓ **The role of the agent**
- ✓ **What if the landlord won't negotiate?**
- ✓ **Formal Rent Negotiation Process – facilitated by Fair Trading**

Having trouble paying rent because affected by COVID-19

Write to the landlord / agent about a rent reduction

No response or unsatisfactory response

Rent reduction agreement reached – get it in writing

Write to the landlord / agent and request that they engage in the NSW Fair Trading Formal Rent Negotiation Process*

No response within 7 days

Start the Formal Negotiation Process*

Do you want to end your tenancy?

Yes

No

What sort of tenancy agreement do you have?

Start the Formal Negotiation Process*

Fixed-term agreement

Periodic (ongoing) agreement

Apply to the Tribunal for early termination

Issue a termination notice to your landlord, giving 21 days notice

Attend Tribunal hearing to end tenancy without a break fee or reduced break fee

Start the NSW Fair Trading Formal Negotiation Process using the online application form

Wait for a response from NSW Fair Trading

Attend the Formal Rent Negotiation Process

Were the formal negotiations successful?

Yes

No

Rent reduction agreement reached – get it in writing

If you are unable to continue your tenancy, consider your options for exiting your tenancy early

Above: Snapshot of the Renters' Guide to COVID-19.

Left: Summary flowchart from the Renters' Guide to COVID-19

COVID-19 case study: Rachel

Failed negotiations and evicted from her home. Twice.

Rachel* was living with her son in southern Sydney prior to the COVID-19 health crisis. In April she reached out to her landlord to request a reduction in her rent because she'd been made redundant due to the pandemic.

Her landlord refused to offer any significant reduction, telling her they didn't believe her job loss was related to COVID-19, despite documentation provided from Rachel's employer. They also said a reduction wasn't possible due to the financial hardship they were facing, though they refused to provide any evidence of this during the negotiations.

Rachel then applied to NSW Fair Trading for formal assistance because she felt negotiations were going nowhere. Shortly afterwards she received a no grounds 'end of fixed term' termination in the mail.

"I was told by the real estate agent the reason for eviction was because the landlord's daughter is moving in, but I think it's because I went to Fair Trading for help with negotiations."

Following that, Rachel was served a second eviction notice

for rental arrears, and this despite an agreement – one that Rachel had not felt was reasonable – made through Fair Trading.

"I had to be out by the end of the month, and I just couldn't find any safe, affordable alternative housing. I wasn't sure where I'd go."

Unable to secure alternative affordable accommodation in Sydney, Rachel relocated – moving to Queensland to stay with family. She moved without her son – a young adult – who stayed with friends in NSW.

Rachel feels as though she left her son behind – just as he moves out of home she is not even in the same city.

And although Rachel moved to Queensland because of financial hardship, she estimates the cost involved in travelling and moving to be around \$6,000.

Rachel went into quarantine in Queensland, feeling anxious and extremely frustrated about the debts resulting from her loss of employment and the drawn out, failed negotiations in NSW.

** Names have been changed for privacy.*

This case study is also published in *Supporting Renters Through the Pandemic*, Tenants' Union of NSW Report, September 2020.

COVID-19 case study: Azidah

“Dear Tenants Union,

I just wanted to thank you for the advice and help that I have received off your website and from staff members.

I lost my theatre job because of Covid. I have been in my current home over 6 years and been a model tenant, with the landlord as my downstairs neighbour who I get along with for the most part (I’m learning it’s the estate agent that causes the most problems).

Only partially filling out the agent’s intrusive rent relief forms, using information from the Tenants’ Union, I managed to get a rent reduction from my landlord of \$100, bringing my one bedroom rental in Kingsford down from \$440 to \$340. I only got this for two months and the real estate agent told me that from now on it would have to be a deferral. He didn’t give me any details on how that would work.

However I knew that my area had a huge number of vacancies and that rents were dropping. Using your Rent Calculator tool for my post code, and vacancy reports, I wrote an email to the agent requesting a permanent rent decrease. I used wording and info I found on your website and included screen shots of the data. I also backed it up with a search on Domain which showed there are now 2 bedrooms for the same price as mine, and any one bedrooms had parking, laundry, pools, aircon, newly renovated etc. I have none of the those.

To my surprise the landlord has offered me a permanent rent reduction of \$370 per week, \$10 less than the suburb’s average. The real estate agent had not fully explained to my elderly landlord the situation in Kingsford, or how desperate I was, and my email using your tips and tools was clear enough to him that he understood that he was close to losing me as a tenant.

So thank you for the services you provide. I am luckily on Job Keeper for the moment and I now have enough money to pay most bills and food after rent.

*Regards,
Azidah”**

** Names have been changed for privacy.*

WE INFORM

We give accurate timely information on tenancy law to:

- Tenants, land lease community residents, and other renters
- Advocates in the 19 Tenants' Advice and Advocacy Services (TAASs) across NSW
- Other individuals working with tenants

tenants.org.au



Sessions: 1,868,364

Users: 1,348,581



Factsheets unique pageviews: 936,516

Most popular topics: Bond, Repairs and Maintenance, You want to leave, Landlord ends agreement, Access and Privacy.

Residential Tenancies Act Amendments 2020: 218,000 pageviews of news item on changes. 23 of 29 Factsheets updated.

Tenants Rights Manual

(Hosted by the State Library of New South Wales)



Unique page views: 93,968

Page views: 113,937

Media and Social media



Appearances in mainstream media: 212 in print, 39 on radio, 27 on television.



Facebook: 6,764 followers (30% increase)

Engaged users: An average of 3,067 users/month reacted, commented or shared our Facebook posts. (We peaked at 9,672 engaged users in June.)



Tenant News: 1,900 email subscribers



Renters' Guide to COVID-19



Unique page views: 695,441

Page views: 1,713,284



Rent Tracker



Unique users who accessed the tool: 15,547

Users who accessed Rent Tracker pages: 17,639



This Renting Life

(Tenants' Union blog)



Unique page views: 630,188

Page views: 1,551,305



The Noticeboard

(Information for Land Lease Communities)



Sessions: 5,158

Users: 3,831



Outasite Lite: 1,077 email subscribers

Outasite magazine: 5,000 printed

WE ADVISE AND ASSIST

We are a Community Legal Centre and give expert legal advice and assistance to:

- Tenants, land lease community residents, and other renters.
- Advocates in Tenants' Advice and Advocacy Services (TAASs) across NSW
- Other individuals working with tenants



2019-2020 legal advice & assistance at a glance:



Total advice and assistance: 1,630



Advices to Tenants' Advice and Advocacy Services: 304
(to over 90 Tenant Advocates in 19 TAASs across NSW)



Advices to Aboriginal TAASs: 237



Advice Line (tenants): 985



Advices to other organisations
(e.g. Community Legal Centres): 108



Outside of Advice Line assistance via social media
(tenants): 112 (July – December)



Outside of Advice Line assistance via email/phone
(tenants): 951 (January – June)



Information/referral by Tenants Union staff
outside of advice line hours: 2,891
(December – June, not disaggregated)

Case study: June

June* received a termination notice on nuisance grounds. The alleged nuisance concerned a domestic violence incident in which June was a victim. Despite being aware of the circumstances surrounding the incident, the landlord was intent on terminating the tenancy and applied to the NSW Civil and Administrative Tribunal (NCAT) for a termination order.

On advice from the Tenants' Union, the Aboriginal Tenants Advice & Advocacy Service (TAAS) assisted June to make a summons application to obtain the relevant police reports concerning the incident. Our service assisted with drafting the submission to the Tribunal.

The parties undertook conciliation at the Tribunal, and the Tribunal Member encouraged the landlord to consider the tenant's submission and evidence, including the police reports concerning the domestic violence incident.

The next day, the landlord withdrew the application for termination.

Case study: Arjun

Arjun* paid electricity charges in a tenancy where the premises were not separately metered. The electricity charges should have been paid by the landlord.

** Names have been changed for privacy.*

Arjun sought advice of his local Tenants Advice & Advocacy Service. He was advised to ask the landlord to reimburse the electricity charges. The landlord declined to pay the amount to Arjun, so he and his Advocate made an application to the Tribunal.

At the first hearing, the Tribunal member mentioned a relevant appeal case without naming it. The Advocate sought backup advice of the Tenants' Union. The Advocate was then able to do some research and find the relevant appeal case.

At hearing the Advocate distinguished Arjun's case from the appeal case and the Tribunal made an order that the landlord reimburse the tenant for the electricity charges.

The Advocate's research was also shared, via the Tenants' Union, with the TAAS Network across NSW.



Tenants' Union staff with Tenant Advocates at the TAAS Network Conference.

October 2019, Tweed Heads. Photo by Ashmita Rao.

WE EDUCATE

We are a Registered Training Organisation and provide training and support to:

- Advocates in the 19 Tenants' Advice and Advocacy Services (TAASs) across NSW
- Others working with tenants

In 2019-2020:

330

Tenant Advocates and volunteers trained

910

community workers, students and community members trained

79,660

79,660 page views of the TAAS Portal resource site for Tenant Advocates

10

Advocates enrolled in Certificate IV in Community Services

“One of the best trainings! I loved the story board and applying all the changes to one tenancy from start to end.”

“I loved the story telling. It helped to make the training interesting. I also like the relaxed atmosphere and to be able to ask questions.”

“Thanks guys. As always presented well in an easy to understand format!”

– Various training participants



**Grant Arbuthnot
(Tenants' Union
Principal Legal Officer)**
**presenting training on
the amendments to
the Residential
Tenancies Act.**
March 2020, Sydney.



**Tenants Advice and
Advocacy training
workshop.**
September 2019,
Sydney.



**Cass Wong
(Tenants' Union
Litigation Solicitor)**
**presenting training
on the amendments
to the Residential
Tenancies Act.**
March 2020,
Orange.

Fair Renting Laws

Through a challenging year that included bushfires and the start of a global pandemic, the Tenants' Union continued to work for stronger legal protections for renters, and advocate for fairer renting laws to ensure renters – and everyone – has access to a safe, secure, liveable home.

In some ways this year was business as usual. In August, the long overdue statutory review of the **Boarding Houses Act 2012** finally got underway. We provided a detailed submission to the published discussion paper, and through the first half of 2020 were engaged in close consultation towards reform we hope will see expanded coverage and stronger protections for those living in a diverse range of shared accommodation arrangements, including 'traditional' boarding house arrangements. We provided input into the statutory review of the **Civil and Administrative Tribunal Act 2013** recommending Tribunal can improve its practice in relation to fees and lodgement of applications, hearings, and publication of decisions as well as publication of broader data relating to applications, hearings and outcomes, though highlighting our general support for the existing model of the Tribunal. Along with other community organisations we called for a national strategy for low energy homes, and strong minimum standards on energy efficiency for rental homes specifically to ensure all rental homes are safe, healthy and affordable to run.

At the end of March 2020, a range of changes to the **Residential Tenancies Act 2010** (RTAct) resulting from the statutory review process finally commenced. We were involved in consultation and providing feedback on the regulations and final amendments required in the lead up to commencement. We continued our strong push alongside Women's Legal Service NSW to improve domestic violence provisions within the Act, successfully making the case to expand the range of professionals who can assist tenants leaving situations of violence with necessary documentation to end their tenancy more easily.

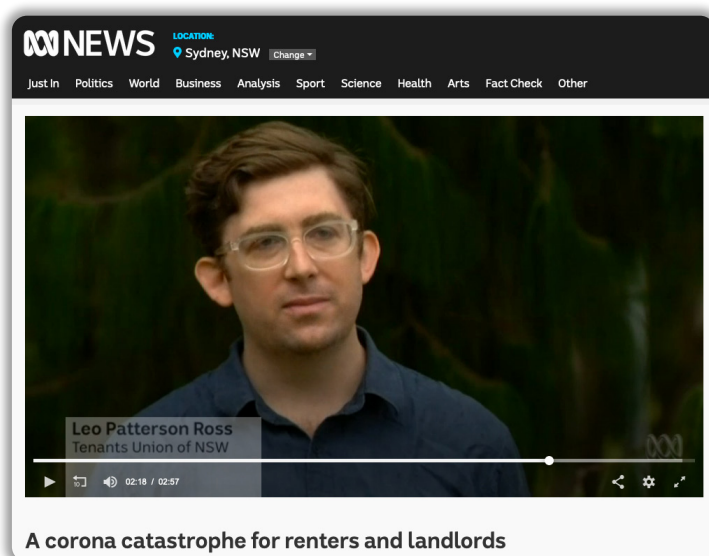
Responding to COVID-19

When the COVID-19 health crisis began we were one of the first community organisations to recognise that without adequate protections, evictions would very quickly compound the spread and impact of the health crisis across our communities. We took swift action, taking the lead to coordinate a community coalition of over 100 community organisations and housing researchers, who publicly called on commonwealth, state and territory governments to ensure no evictions through the pandemic, so that everyone could stay safe in their homes. Following the national cabinet decision for an **evictions moratorium** in March we briefed Minister Anderson and Minister Ward, and worked with NSW Fair Trading, the Department of Communities and Justice (DCJ) and other relevant government agencies to provide feedback on the moratorium measures, advocating for a stronger framework of protections and further relief for renting households. We were also part of consultations with DCJ, Health and other government agencies to inform their response preventing and/or supporting public and community housing tenants in the event of an outbreak of COVID-19 in a public or community housing estate.

Of course, the various problems renters have faced during COVID-19 are not new or necessarily distinct from the ongoing issues the Tenants' Union NSW has long been advocating for change on. Instead the COVID-19 health crisis highlighted and exacerbated existing inequalities and problems experienced by renters – most acutely, the problems of housing insecurity, a lack of autonomy in terms of decision making about important aspects of your housing, and the general lack of affordable rental housing. Addressing these underlying, continuing issues we continue to campaign and advocate for law reform to end 'no grounds' evictions, real investment in social housing, and an increase to income supports to better support renters who rely on these payments.

In addition this year, we also wrote submissions and met with key decision makers about:

- ***Inquiry into National Government response to COVID-19*** The Tenants' Union NSW coordinated and was key author on the National Association of Tenants' Organisations' joint submission to the Commonwealth Inquiry, providing an overview of the various jurisdictions frameworks for implementing the Evictions Moratorium announced by National Cabinet.
- ***United Nations report on COVID-19 and the right to housing*** We provided a briefing on the impacts of the pandemic for renters in Australia (focussing on NSW) to the UN Special Rapporteur for their project Protecting the right to housing in the context of the COVID-19 outbreak.
- ***Commonwealth Inquiry into Homelessness in Australia*** In this submission we highlighted the importance of a stronger tenancy laws, investment in public and community housing, and adequate resourcing of Tenants' Advice Services as an effective preventative measure to address homelessness.
- ***Submission: NSW Productivity Commission 'Kickstarting the productivity conversation'*** Our contribution to this conversation highlighted the experience of people who rent their home, recommending an expansion of land tax, a reconsideration of planning controls under the Affordable Housing SEPP, and law reform to remove no grounds evictions and consideration of a new regulatory framework for all housing providers.
- ***Submission: Federal Inquiry into Adequacy of Newstart*** We added our voice to the many others calling for a permanent increase to Newstart and other related payments.
- ***Submission: Statutory review of sections 154D & s154G of the Residential Tenancies Act (RTAct)*** We have long argued the antisocial behaviour provisions in the RTAct are an inappropriate, ineffective approach to creating safer social housing communities. Our submission highlighted significant problems with, and called for the repeal of, provisions dealing with mandatory terminations and orders for possession.



Leo Patterson Ross (Tenants' Union CEO) made 27 television appearances in 2019-2020.

Research



Change Management: Social Housing Management Transfers Program Best Practice Report – Tenant's Experience

This report highlighted tenants' experience of social housing management transfers, identifying practices and policies that have impacted positively or negatively on transferred tenants. Between October 2018 and September 2019 the management of more than 14,000 public housing tenancies was transferred from the management of the Department of Family and Community Services (FACS, now the Department of Communities and Justice – DCJ) to Community Housing Providers under contracts which last for twenty years. Our report was a key outcome of a 12-month project funded by the NSW Law and Justice

Foundation. It draws on interviews with tenants and community housing providers, Tribunal records, and the experience of local support workers, including tenant advocates.

A key finding from the report was that some of the fundamental promises made in social housing management transfers did not play out. In particular, there is no true competition between providers that result in a better experience for residents. The experience of renters throughout the management was something of a geographic lucky-dip, depending on the particular approach of the provider who took on that area.

We made a range of recommendations for both government and providers to improve the residents experience of any future transfers.

Supporting Economic Recovery in NSW

We partnered with NCOSS, Shelter NSW, CHIA NSW, and Homelessness NSW to commission research on the economic and social benefit of investment in social housing as a part of the NSW government's investment to sustain an economic recovery for communities across NSW.

“Investment in social and affordable housing supports the most vulnerable Australians, including those experiencing or facing homelessness and rising domestic violence, while aiding the economic recovery.”

– Supporting Economic Recovery in NSW report

Working with other organisations

We work with tenants, tenant organisations, and land lease community resident organisations, including the **Residential Land Lease Communities Forum** and the **Parks Legal Working Group** (both of which we convene).

We also work with other housing and consumer action organisations, such as:

- Workshop on International Students and housing
- Constellation project
- Groundswell: Alliance of community organisations working with tenants on the impact of social housing renewal in Waterloo
- Sydney Alliance Housing Affordability Working Group
- Make Renting Fair working group
- Ageing on the Edge
- Shelter NSW
- No Evictions During a Health Crisis
- Council on the Ageing
- Energy & Water Consumer Advocacy
- Jesuit Refugee Service Housing project launch – asylum seekers
- NGO Housing & Homelessness Alliance
- NGO housing & homelessness policy group
- Facilitated ongoing working group (including external stakeholders) to develop advocacy and campaign strategy around amendments to the *Residential Tenancies Act 2010* following its statutory review
- Newtown Neighbourhood Centre Boarding Houses Roundtable
- CLCNSW Law Reform & Policy Committee
- Meeting with Gurran and associates regarding marginal renting
- Meeting with Rogers and associates regarding tech research opportunity
- Meeting with Rogers, NATO and Shelter regarding tech disruption

Strategic litigation highlights

Prescribed premises

The Landlord and Tenant (Amendment) Act 1948 is repealed. However, it is still largely operational, having been grandfathered in Part 7 of Schedule 2 of the *Residential Tenancies Act 2010*. At Catherine Hill Bay, mining families built houses on the land of their employer at the turn of 1900s and as a former “Company Town”, it obtains heritage status. The land is now owned by a developer who wants possession, in order to build more houses. The Tenants’ Union has clients who are elderly and wish to remain in their only home until their death, a protection found in the 1948 Act, and will resist attempts to end their tenancies.

Judicial discretion and no grounds termination

In matters involving federal jurisdiction, the parties will have to use Part 3A of the NSW Civil and Administrative Tribunal Act to move proceedings to the Local Court or abandon their claim. We argue that State law cannot dictate to a State Court how a matter is to be determined and where it is an impermissible restraint on judicial power, it must be read down. The Tenants’ Union has a client who is prepared to run this challenge and proceedings are anticipated when their termination notice lapses.

Land lease communities (LLCs)

Site fees by notice – An Appeal by a land lease community (LLC) operator (Gennacker) from a Tribunal decision that found the site fee increases were excessive and capped site fee increases payable by the homeowners to 2% was dismissed and the decision in favour of home owners was upheld.

Community rules – Age restriction rule at LLC Tweed Billabong and inconsistency with Anti-Discrimination legislation found by Tribunal – was heard on Appeal during June 2020 and the decision is reserved.

Electricity and access to information – An Appeal by LLC operator Hacienda was successful in part where Tribunal failed to comply with *Service & Execution of Process Act 1992 (Cth.)* and matter was remitted to Tribunal at first instance where home owners successfully obtained orders that operator provide their electricity retailer account to home owners.

Site fees by fixed method – We assisted 52 LLC home owners with their applications to Tribunal and submissions of the law. The Tribunal found that the methods used in site agreements was not a fixed method and fell foul of provisions of s66(2) *Residential Land Lease Communities Act*. The operator has appealed the decision that will have state wide application.

In 2019-2020 we:

- Successfully pivoted to working from home under COVID-19 health and safety precautions
 - COVID-19 specific adjustments made to policies for working from home and work health and safety.
 - Smooth remote onboarding of new staff
 - Training moved online
 - Pre-planned IT investments enabled effective use of online collaboration tools.
- Met all our performance indicators
- Successfully completed the Professional Indemnity Insurance cross check all community legal centres must undertake in November 2019
- All staff undertook professional development
- Embarked on a major upgrade of our telephone system
- Integrated *The Noticeboard* (our specialist site for land lease communities), and our blog (rebranded as *This Renting Life*) into our main site, *tenants.org.au* – resulting in improved user experience, Search Engine Optimisation, and cross-organisational synergy
- Our Board met seven times during 2019-2020 and held a review day in January 2020.

Our Board

- **Julia Davis** (Chair)
- **Scott Hawkins** (Deputy Chair)
- **Charmaine Jones**
- **Jane Kenny**
- **Aideen McGarrigle** (Secretary)
- **Brendon McKeon**
- **Maree O'Halloran** (Treasurer)
- **Dean Price**
- **Lisa Smaljov**
- **Nicole Grgas** (until November 2019)
- **Donna Brotherson** (until November 2019)

Our Staff

- **Grant Arbuthnot** (Principal Legal Officer)
- **Patrycja Arvidssen** (Learning and Development Coordinator)
- **Anne Coates** (Administration Officer)
- **Michael Darcy** (Social Housing Transfers Project Officer, until November 2019)
- **Elizabeth De Freitas** (Advocacy and Research Officer, until October 2019)
- **Lehana De Silva** (Legal Officer Aboriginal Support)
- **Julie Foreman** (Executive Officer until April 2020)
- **Anushke Guneratne** (Strategic Information Technology Officer)
- **Tina Huang** (Administration Assistant)
- **Jeremy Kerbel** (Resource Development Officer)
- **Julie Lee** (Residential Parks Officer)
- **John Mewburn** (Aboriginal Paralegal, until November 2019)
- **Jemima Mowbray** (Policy and Campaigns Officer)
- **Robert Mowbray** (Project Officer Older Persons)
- **Leo Patterson Ross** (Chief Executive Officer from April 2020, previously Senior Policy Officer)
- **Daen Phillips** (Aboriginal Paralegal)
- **Deb Phippen** (Policy and Campaigns Officer)
- **Joel Pringle** (Locum Policy Officer, until June 2020)
- **Paul Smyth** (Residential Parks Legal Officer)
- **Dylan Stanford** (Administration Assistant, on leave without pay since March, returning December 2020)
- **Paul van Reyk** (Senior Projects and Resources Officer)
- **Phoenix van Dyke** (Locum Legal Officer – Aboriginal Support, until November 2019)
- **Cass Wong** (Litigation Solicitor)



Above: Members of the Tenants' Union Board, staff, and membership, at the Annual General Meeting in 2019.



Left: Members of the Tenants' Union Board at the review day in January 2020.

FINANCIAL STATEMENTS

Tenants' Union of NSW Co-operative limited | ABN 88 984 223 164

EXTRACT FROM FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2020

What follows is an extract from the Tenants' Union's financial statements. The full financial statements are available at tenants.org.au, and are also available from the Australian Charities Register, on the Australian Charities and Not-for-profits Commission website, acnc.gov.au

Tenants' Union of NSW Co-operative Limited
Statement of profit or loss and other comprehensive income
For the year ended 30 June 2020



	Note	2020 \$	2019 \$
Revenue	4	1,919,562	1,911,680
Interest revenue calculated using the effective interest method		1,443	5,439
Total revenue		<u>1,921,005</u>	<u>1,917,119</u>
Expenses			
Accounting fees		(55,508)	-
Computer expenses		(17,357)	(5,135)
Consultancy fees		(33,712)	(47,444)
Employee benefits expense		(1,468,604)	(1,617,024)
Depreciation and amortisation expense		(6,546)	(4,835)
Meeting expenses		(27,836)	(28,466)
Membership fees		(15,588)	(7,050)
Postage, printing and stationery		(23,989)	(20,152)
Rent		(95,085)	(94,848)
Telephone and internet		(14,152)	(10,998)
Travel and accommodation		(10,425)	(11,156)
Other expenses		(77,725)	(60,301)
Total expenses		<u>(1,846,527)</u>	<u>(1,907,409)</u>
Surplus before income tax expense		74,478	9,710
Income tax expense		-	-
Surplus after income tax expense for the year		74,478	9,710
Other comprehensive income for the year, net of tax		-	-
Total comprehensive income for the year		<u>74,478</u>	<u>9,710</u>

The above statement of profit or loss and other comprehensive income should be read in conjunction with the accompanying notes

FINANCIAL STATEMENTS

Tenants' Union of NSW Co-operative limited | ABN 88 984 223 164

Tenants' Union of NSW Co-operative Limited
Statement of financial position
As at 30 June 2020



	Note	2020 \$	2019 \$
Assets			
Current assets			
Cash and cash equivalents	6	1,293,300	1,141,531
Trade and other receivables	7	6,403	13,690
Other	8	20,354	30,426
Total current assets		<u>1,320,057</u>	<u>1,185,647</u>
Non-current assets			
Property, plant and equipment		1,873	8,419
Total non-current assets		<u>1,873</u>	<u>8,419</u>
Total assets		<u>1,321,930</u>	<u>1,194,066</u>
Liabilities			
Current liabilities			
Trade and other payables	9	119,002	98,013
Contract liabilities	10	391,137	411,264
Employee benefits	11	313,825	266,042
Provisions	12	56,384	2,800
Total current liabilities		<u>880,348</u>	<u>778,119</u>
Non-current liabilities			
Employee benefits	13	153,021	153,021
Provisions	14	-	48,843
Total non-current liabilities		<u>153,021</u>	<u>201,864</u>
Total liabilities		<u>1,033,369</u>	<u>979,983</u>
Net assets		<u>288,561</u>	<u>214,083</u>
Equity			
Retained surplus		<u>288,561</u>	<u>214,083</u>
Total equity		<u>288,561</u>	<u>214,083</u>

The above statement of financial position should be read in conjunction with the accompanying notes

Directors declaration

The Directors declare that the summary financial statements for the financial year ended 30 June 2020 as set out on pages 24 and 25 is an extract from the full financial report for the year ended 30 June 2020 and has been derived from and is consistent with the full financial report of the Co-operative.

This declaration is made in accordance with a resolution of the Board of Directors

A handwritten signature in blue ink, appearing to read 'Julia Davis', with a large, stylized initial 'J'.

Julia Davis

FINANCIAL STATEMENTS

Tenants' Union of NSW Co-operative limited | ABN 88 984 223 164

Independent Auditor's Report to the Members of the Tenants' Union of NSW



LBW & Partners

Chartered Accountants & Business Advisors
ABN 80 618 803 443

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Partners

Rupa Dharmasiri

Alan M Perrott

George P Rochios

Mark W Willock

Tenants' Union of NSW Co-operative Limited

ABN: 88 984 223 164

Independent Auditor's Report to the members of Tenants Union of NSW Co-operative Limited

Opinion

We have audited the accompanying financial report, being a special purpose financial report of Tenants' Union of NSW Co-operative Limited (the Co-operative), which comprises the statement of financial position as at 30 June 2020, the statement of profit or loss and other comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the directors' declaration.

In our opinion, the accompanying financial report of the Co-operative is in accordance with the Division 60 of the *Australian Charities and Not-for-profits Commission Act 2012* and the *Co-operatives (Adoption of National Law) Act 2012*, including:

- (i) giving a true and fair view of the Co-operative's financial position as at 30 June 2020 and of its financial performance for the year then ended; and
- (ii) complying with Australian Accounting Standards to the extent described in Note 2, and Division 60 of the *Australian Charities and Not-for-profits Commission Regulation 2013*.

Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Co-operative in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Emphasis of Matter - Basis of Accounting

We draw attention to Note 2 to the financial report, which describes the basis of accounting. The financial report has been prepared for the purpose of fulfilling the Co-operative's financial reporting responsibilities under the *Australian Charities and Not-for-profits Commission Act 2012* and the *Co-operatives (Adoption of National Law) Act 2012*. As a result, the financial report may not be suitable for another purpose. Our opinion is not modified in respect of this matter.

Comparatives Figures

Comparatives were audited by a firm of Certified Practising Accountants whose report dated 17 October 2019 expressed an unqualified audit opinion.



Tenants' Union of NSW Co-operative Limited

ABN: 88 984 223 164

Independent Auditor's Report to the members of Tenants Union of NSW Co-operative Limited

Responsibilities of Directors for the Financial Report

The directors are responsible for the preparation and fair presentation of the financial report that gives a true and fair view and have determined that the basis of preparation described in Note 2 to the financial report is appropriate to meet the requirements of *the Australian Charities and Not-for-profits Commission Act 2012* and the *Co-operatives (Adoption of National Law) Act 2012*. The director's responsibility also includes such internal control as the directors determine is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the directors are responsible for assessing the Co-operative's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the Co-operative or to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial report.

A further description of our responsibilities for the audit of the financial report is located at the Auditing and Assurance Standards Board website at: <http://www.auasb.gov.au/home.aspx>. This description forms part of our auditor's report.

Rupaninga Dharmasiri
Partner

LBW & Partners
Chartered Accountants
Level 3, 845 Pacific Highway
CHATSWOOD NSW 2067

Dated this 23rd of October 2020

ACKNOWLEDGEMENTS

We acknowledge the crucial work of the Tenants' Advice and Advocacy Services who provide frontline advice and advocacy to tenants in NSW. Our work in law and policy reform and resource development is dependent on their experience and insight.

We acknowledge the funding provided by the NSW State Government, the Commonwealth Government, the Law & Justice Foundation, City of Sydney, and the continued support of Community Legal Centres NSW.

We value our members who continue to support our work and contribute their knowledge and experiences.

Finally, we acknowledge and thank the many individuals and partner organisations who have provided advice, support, expertise and labour over the past year.

Our Volunteers

Advice Line

Paul Hong
Merrilyn Kennedy
Peter Kim
Tina Huang

Publication distribution

Carol Barr
Vivian Clifton

Policy

Tasneem Winkler
Annalise Stanton
Daniela Hauri
Bronwyn Bate

Standing Advisory Groups

Aboriginal Advisory Committee

Zachary Armytage, **Community Legal Centres NSW**
Michelle Craig, **Aboriginal Resource Unit**
Michael Higgins, **Aboriginal Legal Service NSW/ACT**
Danielle Hobday, **Public Interest Advocacy Centre**
Brett Webb, **Northern NSW Aboriginal TAAS**
Emma Langton, Solicitor, **Aboriginal Services Branch, Legal Aid NSW**
Charmaine Weldon, **Sydney Womens Domestic Violence Court Advocacy Service**

Residential Land Lease Communities Forum

Graham Byrne	Mary Preston	Pam Meatheringham
Jill Edmonds	Franya Repolusk	Lynn Harvey
Amanda Elgazzar	Don Rose	Dorothy Hudson
Ian Finlayson	Barry Sanders	Judith Fogarty
Sandy Gilbert	Trevor Sullivan	Anne Holmes
John MacKenzie	Charles Dalglish	Greg Skinner
Margaret Nicoll	Emma McGuire	
Jock Plimmer	Mary Flowers	

Certificate IV in Community Services Assessors

Julie Lee, **Tenants' Union of NSW**
Julie Foreman, **Tenants' Union of NSW**
Patrycja Arvidssen, **Tenants' Union of NSW**
Chris Maybin, **South West NSW TAAS**
Eloise Parrab, **Inner West TAAS**
Brett Webb, **Northern Aboriginal TAAS**
Linda Grady, **New England and Western NSW TAAS**

Make Renting Fair working group

Digby Hughes, **Homelessness NSW**
Stafford Sanders, **Uniting**
Thomas Chailloux, **Shelter NSW**
Mark Riboldi, **CLCNSW**
Emily Hamilton, **CLCNSW**
Julia Murray, **Inner West TAAS**
Grace Crowley Shaw, **Eastern Area TAAS**
Chris Hartley, **Centre for Social Impact, UNSW**

Individuals

Mauro Di Nicola
David Dodge
David Evans
Penny Howard
Nicole Soryal
Mark Riboldi
Marny Hilson, **Community & Public Sector Union**
Dr Chris Martin, **City Futures, UNSW**
Katherine McKernan, **Homelessness NSW**
Professor Alan Morris, **Institute for Public Policy & Governance, University of Technology Sydney**
Ross Nicholas, **Costs Plus Pty Ltd**
Dr Emma Power, **Western Sydney University**
Dr Laurence Troy, **University of Sydney**
Margaret Reckless
Philippa Scarf, **Legal Information Access Centre**
Charlotte Steer, **Seniors Rights Service**
Michael Snape, **Legal Aid NSW**
Lee Watson, **Fair Trading**
Matthew Whitton, **Fair Trading**
Philip Wykeham, **Legal Aid NSW**
Karen Walsh, **Shelter NSW**
John Engeler, **Shelter NSW**
Margaret Barnes, **Tenants Queensland**
Rohan Harris, **Oakley Greenwood**
Mia Zahra, **Legal Aid NSW**
Meagan Lee, **Legal Aid NSW**
Lila Sullivan, **Legal Aid NSW**

Barristers

Nick Eastman, Martin Place Chambers
Lara Nurpuri, Martin Place Chambers
Andrew Tokley SC, 5 Wentworth Chambers
Mark Seymour, Martin Place Chambers
Paul Batley, Frederick Jordan Chambers
Trent Glover, 11 St James Hall Chambers
Pat Lane, Level 22 Chambers
Michelle Painter SC, Selborne Chambers
Greg James QC, 11th Floor Garfield Barwick Chambers

Organisations

Community and Public Sector Union
Community Housing Industry Association
Friends of Millers Point
Homelessness NSW
Justice Connect
Legal Information Access Centre
Law Access
Energy and Water Ombudsman, NSW
Metropolitan Local Aboriginal Lands Council
National Centre for Indigenous Excellence
NSW Council Of Social Services
Newtown Neighbourhood Centre
Older Women's Housing and Homelessness Group
The Catering Specialists
Shelter NSW
State Library of NSW
Sydney Alliance
Sydney of City Council
College of Law
National Association of Community Legal Centres
Tweed Residential Park Home Owners Association
Incorporated
Maritime Union of Australia

Pro Bono Support

We also acknowledge the pro bono legal support we have received throughout the year from **Gilbert and Tobin**, and the pro bono communications support we received during the COVID-19 crisis from **walkerlabs**.





TENANTS' UNION

OF NEW SOUTH WALES

Suite 201, 55 Holt St, Surry Hills, NSW 2010 (**until December 2020**)
Level 5, 191 Thomas St, Haymarket, NSW 2000 (**from January 2021**)

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☎ 61 +2 8117 3777

✉ contact@tenantsunion.org.au

🏠 tenants.org.au/tu

📘 [facebook.com/tunsw](https://www.facebook.com/tunsw)

🐦 twitter.com/@tunsw

Tenants' Union of NSW Annual Report 2019-2020. Published November 2020. Printed on recycled paper.

The artwork above, adapted from the Tenants' Union logo, was created by Aboriginal Artist Pauline Coxon. For more information, see tenants.org.au/tu/acknowledgement-country and paulinecoxon.com.

Support our work with a donation – givenow.com.au/tenantsunionofnsw