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About the Tenants' Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 35,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Renters Organisations (NARO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

We are pleased to endorse the submissions of NCOSS and Community Legal Centres NSW, though add additional information in some areas of relevance.

Our submission addresses proposals across the portfolios of Fair Trading and Better Regulation, the Attorney-General, and the Housing and Homelessness.

For further information, contact Leo Patterson Ross, CEO, on ceo@tenantsunion.org.au

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Ministry:
Fair Trading and Better Regulation (Department of Customer Service)

Proposal: Further restore funding Tenants' Advice and Advocacy Program funding to meet community need, and deliver indexation in line with community sector.

The Tenants' Advice and Advocacy Program (TAAP) assists renters understand their rights and obligations so they can make better and more informed decisions and prevent the escalation of matters in the future. The program:

- prevents homelessness and other negative housing outcomes
- reduces unnecessary legal conflict and
- assists in the swift resolution of necessary legal disputes and improves the efficient and fair functioning of the NSW Civil and Administrative Tribunal'
- facilitates better functioning and fairer relationships between renters, landlords and agents
- provides government with intelligence regarding the operation of the rental sector

Since 2003 the Tenants' Advice and Advocacy Program has received only modest increases to its funding in real terms. Funding for the Tenants' Advice and Advocacy Program has been increased with indexation payments generally below the increase in wages and other costs, and occasional time-limited increases to assist with significant events such as the introduction of the *Residential Tenancies Act 2010* and the COVID-19 health crisis.

In both 2021-22 and in 2024-25 NSW Government increased ongoing funding to the program by \$1m pa in addition to indexation. These increases have largely recouped the gap between program cost growth and indexation funding. While gratefully received, these increases have not adequately accounted for the growth in the number of renters in New South Wales.

Between 2006 and 2021 the latest ABS Census data shows the number of people renting their homes has grown by 43 percent. The number of bonds held by the Rental Bond Board increased 52% from 2008 to 2024 and there has been high growth amongst priority groups, such as older renters, people with disabilities, and renters from culturally and linguistically diverse backgrounds.

This population growth combined with the increasing complexity of casework as housing crises place greater pressure on the rental sector has left Tenants' Advice and Advocacy Services (TAAS) stretched thin. Increasingly, renters are missing out on the services they need to live a dignified life.

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To restore the program's ability to meet the needs of the community costs \$9.16m per annum. The full briefing is available at <https://www.tenants.org.au/reports/briefing-paper-tenants-advice-and-advocacy-program-funding-needs>

This proposal could also be supplemented by the Minister of Housing and Homelessness given the focus on preventing homelessness through tenancy sustainability and eviction prevention. The Minister is represented on the Rental Bond Board and funding arrangements could be simplified through interdepartmental grants.

Indexation

We note that community services funded by the Rental Bond Board, including tenant advocacy, financial counselling and specialist housing support services, have repeatedly been given lower indexation than community services funded under Department of Communities and Justice. Going forward, indexation should be ensured in line with the sector generally.

Over the last two budget years, the Rental Bond Board community grants have received a cumulative indexation amount of 7.62% while other community services have received a 9.72% indexation increase, while the cost of wages and superannuation alone has increased 10.76%. Despite advocacy including from NCOS and the ASU, and commitments by government representatives this has not yet been rectified at time of submission. We believe the issue arises from a miscategorisation of the Department or the Grants delivered through the Department by NSW Treasury.

Across the Rental Bond Board community grants over these two years, this amounts to an effective loss of funding of more than \$500,000, a nearly 2% reduction of overall funding compared to indexation equivalent to that by the rest of the sector. The communities who rely on our support, and the specialist tenant and housing advocates and financial counsellors whom these grants resource ought not to be disadvantaged because of the Department through which they are funded.

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Ministry: Attorney-General (Department of Communities and Justice)

Proposal: Immediately make available necessary funds to ensure access to the NCAT online registry services

Since the introduction of the Online Registry System in September 2023, Tenants' Advice and Advocacy Services (TAAS) that are not part of a community legal centre have been excluded from registering as 'representative organisations'.

While advocates have worked closely with tenants to assist via the tenant logging in, this work-around is cumbersome, and does not allow access to fee waiver options or concessions. There is an urgent need to ensure all TAAS are able to access the online registry system via registration as a representative organisation, to allow advocates to represent a party (renter) they are supporting to lodge applications and evidence.

We consider this an access to justice issue, as some tenants face significant barriers to either using online processes or accessing limited face-to-face options. TAAS are funded by the government to assist renters navigating the Tribunal processes and are currently unable to perform this role. The Tribunal can not be considered to be facilitating its purpose of quick, easy access to justice whilst this issue remains unresolved.

Proposal: Budget to fund recommendations arising from the current Review into the Role of NCAT in tenancy disputes, including reducing access to subsidised fees for unnecessary eviction proceedings.

The NSW government is currently fulfilling its election promise of a review of the NCAT and the experience in resolving tenancy disputes. The now Government noted in their election commitment that "Applications to NCAT can be a long and expensive process, and decisions made by the tribunal can be inconsistent. NSW Labor will conduct a review of the application process, case resolutions and hearing proceedings.

NCAT should be an accessible and transparent process to help renters and property owners resolve issues or disputes."

We have welcomed the review and engaged fully. To deliver on the opportunity to deliver, funding will need to be made available and the Department should have scope to do this. We do note we have made recommendations in this review and previously that offer cost savings to the Tribunal, by discouraging housing providers from misusing the subsidised application by seeking eviction unnecessarily. Currently this is costing potentially millions of dollars a year. The problem has not abated in the time we have been raising the issue and providers should bear the cost of misuse, not government not tenants.

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Proposal: Increase total funding for Tenants' Union of NSW as the specialist CLC assisting in rental law to \$1m per annum.

The Tenants' Union of NSW provides high quality legal services for people renting their home who may otherwise find it difficult to access justice to resolve these disputes. We are recognised as the specialist and a leading practice in this area. Our specialist litigation practice complements and informs the work of the Tenants' Advice and Advocacy Program, avoiding duplication of services by operating in higher courts or in public interest cases.

Our cases focus on priority groups identified by the National Access to Justice Partnership living in private rental, social housing, and marginal rental such as boarding houses and land lease communities.

In each of these areas, there are significant questions of law that have not been explored because of the time and resources required to do so. We are funded at less than 2 FTE employees through the NLAP/NAJP, with the NSW contribution being \$214,000. Nonetheless, we employ some of the very small number of litigation practitioners with the expertise to run these cases in the public interest.

The National Access to Justice Partnership calls for a particular focus on Cost of Living as a priority area, specifically naming Housing as an area to focus on. The NSW Government should support the increased funding to the CLC Sector and in doing so ensure sufficient funds are available to facilitate.

We seek an increase of \$500k in the 2025-26 year and ongoing to allow us to increase our team, initially with a focus on exploring the terms of the new and significant reforms under the Residential Tenancies Act, the upcoming reforms to the Boarding Houses Act, and the Residential Land Lease Communities Act.

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Minister: Housing and Homelessness (Homes NSW /
Department of Communities and Justice)

Proposal: Allocate additional \$5.1bn for public and community housing developed and additionally fully fund the Homes for NSW plan currently under development.

The Homes for NSW 10 year strategy currently under development presents an opportunity to repair the damage caused to our publicly funded housing system over many decades. The system requires ongoing and sustained investment, as well as ongoing and sustained champions in government and community.

The Tenants Union encourages the NSW Government to be bold in the targets they set for supply and note the investment in the 2023-24 budget was the largest nominal spend by a NSW government. This amount will take 35 years to build sufficient new homes to meet the current unmet need for public or community homes.

We support a target of social housing properties to account for 10% of all housing stock by 2036. This should be supported by contributions from all levels of government, though coordinated and measured through the state. We note this cannot be the end goal and instead should be viewed as a target which can be built on and expanded, however reaching this target shows a serious intent to resolve the housing need in NSW.

AHURI research has shown that just over 6% (close to 565,000) of Australian households are living in or have requested to live in a form of social housing. These figures do not include those households who are daunted by the application process or due to long waiting lists don't ever lodge an application. AHURI has projected growth in the demand for social housing by 2037 means over 1.1 million social housing homes will be needed.¹

The longer we wait to build at the necessary scale the harder it will be to meet the need. The NSW Government needs to start with urgency - if we continue to wait then it will become harder to meet the increasing need. On that basis, the NSW Government should continue its strong start with a further \$5.1bn in this year, and each year.

We note looking solely at social housing waiting lists is an inadequate indicator of the true extent of unmet demand. Waiting lists do not account for those who are homeless, excluded due to visa status, or who have had their applications suspended. Crucially the lists also fail to account for low-income households in housing stress who are not on waiting lists. Decisions on social housing investments must be based on an understanding of housing needs that prioritises individuals facing, or at risk of, long-term

¹ AHURI (2023) *What is the difference between social housing and affordable housing - and why do they matter?*

<https://www.ahuri.edu.au/analysis/brief/what-difference-between-social-housing-and-affordable-housing-and-why-do-they-matter> accessed 16th December 2025

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homelessness or those unable to access or afford private rental housing rather than relying on the wait-list and its eligibility requirements.² Measure of demand should not measure only people who have already been forced out of their communities, but instead seek to provide housing for a wide range of people in all locations.

² Australian Productivity Commission (2022) In need of repair: The National Housing and Homelessness Agreement, <https://www.pc.gov.au/inquiries/completed/housing-homelessness/report> accessed 20 October 2023