

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.

Eloise Parrab
A/Policy and Advocacy Manager
Tenants' Union of NSW
Level 5, 257 Clarence St
Sydney, NSW 2000
Ph: 02 8117 3700
Email: eloise.parrab@tenantsunion.org.au
Website: tenants.org.au

The Tenants' Union of NSW' office is located on the unceded land of the Gadigal of the Eora Nation.

Contents

About the Tenants' Union of NSW	1
Contents	2
About this submission	3
List of Recommendations	6
1. Does the vision that "Everyone has access to a decent home and support if they need it" provide an appropriate system-wide purpose and direction for all providers to work towards over the next 10 years?	10
2. Are these the right priorities to achieve the vision?	12
3. What does great engagement with tenants and communities look like?	16
4. Have we missed any challenges or possible reforms around customer-driven service?	18
5. What changes do you think we should make to improve social housing access and tenancy management?	29
6. How do we make sure the homes we build in the next few years are the right ones to meet the urgent need, and the needs of our customers in the long term?	33
7. What changes should we make to ensure strong and sustainable estate communities?	38
8. What actions would make the biggest impact in creating a housing and homelessness system that works?	40
9. What actions would make the biggest impact to increase self-determination for Aboriginal people and families across the NSW housing and homelessness system?	48
10. What are the risks and opportunities in developing an agreed set of system-wide measures to track progress against the priorities and objectives?	52

About this submission

The Tenants' Union of NSW welcomes the opportunity to contribute to the development of Homes for NSW Plan, and provide comment on the Discussion Paper. We hope to see the plan set out a shared vision, one that imagines and clearly sets a path towards better outcomes for people seeking social housing and homelessness assistance in NSW.

Our submission is informed by ours and the Tenants Advice and Advocacy Services practical experience assisting more than 10,000 renters living in public, community and affordable housing each year and the reported experiences of those renters and those who we engage with outside legal advice. We thank all those who have contributed in a variety of ways in informing our views. It is also informed by observation and study of opportunities from around the world to better deliver on the potential of a system that works.

Everyone deserves a home. Housing is the basis from which we ensure our communities' well-being. This is not simply about the material, physical and structural protections housing provides, but also a sense of home and belonging within a wider community. People require not just basic shelter but a good home to live a safe, healthy and dignified life. It is well accepted that improving housing outcomes leads to improvements in health and well being.

Homes NSW has been given a big task in lifting the standard of public, community and affordable housing provision and we sincerely hope it succeeds. The Plan needs to address the current failures in relation to availability, security, affordability, liveability, amenity, accessibility, and diversity of housing in the sector. These failures increase both the risk of homelessness for vulnerable renting households, and the barriers to people developing a pathway out of homelessness.

We recognise that there is deep skepticism from people living within public and community housing that this plan will change much about their experience. They have been taught to be skeptical by previous re-branding, previous 10 years strategies, that have often only come with more bureaucracy, less accountability and ultimately no meaningful change in their experience.

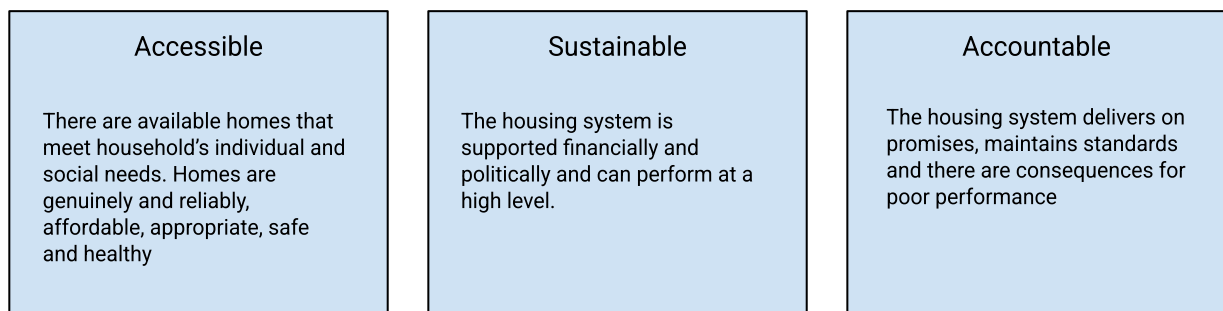
Trust will ultimately be regained by being clear on what promises are being made and then keeping those promises. We strongly encourage the leadership of Homes NSW to make clear to current and future Ministers the consequences of misleading the community are significant. The vision and strategy drafted in the discussion paper and any improvements made to it rely on developing relationships. We believe the paper acknowledges some of this, but without ongoing commitment it will not deliver.

There are changes that can be made to practice that do not come at a cost, but it is important for the NSW Government - not just Homes NSW, but the Executive Council and NSW Treasury - to acknowledge that the government will need to put its hand in the deep pockets it manages on behalf of the community of NSW to fund what is necessary. Their failure to do so will result in limited effectiveness, and another confirmation that the NSW

Government is not committed to the project.

While this paper appropriately focuses on the experience of people seeking to use Homes NSW services, we also recognise that the staff of Homes NSW require sufficient resources and support in providing these services. We touch on aspects of this in the paper, but it is worth stating that the failure to staff, train and resource the housing department has impacts on workers and renters alike. We believe some of the poor processes and behaviour we note in this paper is a consequence of the failure to fund.

Reflecting on the job at hand, we recognise three pillars for action which inform our thinking throughout our responses to the paper. We want to ensure that the housing system that Homes NSW oversees is accessible, sustainable and accountable.



The Plan must enable the delivery of positive outcomes for all people living in social housing, with key measures of success being the provision of safe, stable and affordable homes both as soon as possible to meet the current need and ongoing.

We put forward a number of reforms that span ambitious, transformative items that will take the full 10 years to implement, and more discrete interventions that can be enacted within the first year. These include consideration of interventions to support renters to avoid eviction and sustain tenancies as one of the most effective ways in which we can reduce the risk of homelessness. Reviewing rent setting is vital and must involve evaluating new methods for measuring affordability. Providing consistency across the whole sector in policy and practice is necessary to truly bring meaning to the no wrong door approach.

Quality data is essential to a transparent and accountable housing system. The success of the Plan should be informed by robust data analysis and future regulation should be underpinned by open and accessible data that demonstrates positive customer outcomes are being achieved and where there are areas of concern. Data should be used and reported in a way that reflects the diversity of the social housing sector.

Finally, we acknowledge that due to time constraints not all recommendations or issues raised are explored as fulsomely as we might like. Indeed, there will be issues which we have not covered but still consider important. Both for the Department and any curious readers, we are happy to expand on points that may need further discussion.

List of Recommendations

1. Change the vision for the next 10 years to - "Everyone has access to a good home which is safe, stable and affordable and any support they need."
2. Amend the priority area to a person-driven service.
3. Recognise that proper resourcing and funding is essential to achieve the priority of a person-driven service
4. Review all existing practice and procedures and make necessary changes to ensure all work follows the guiding principles of trauma informed practice
5. Adequate funding and resourcing to achieve a target of 10% social housing properties of all housing stock by 2036.
6. Develop a measure of housing need that can better account for need within the community including people already geographically displaced by unaffordable housing. This should be the guide for planning and developing a long-term program to increase the supply of new social homes.
7. Ensure providers, public and private, are accountable to both their individual residents and the system as a whole.
8. Ensure the Community Housing Registrar is required and supported to visibly hold providers accountable, beginning with conducting a review of the office.
9. Clearly recognise community housing providers, particularly in social housing, as delivering services on behalf of government to enable administrative review of decisions including access to information.
10. Ensure social housing providers demonstrate a systematic approach to residents' involvement and empowerment including providing support and training for renters in social housing to participate in conversations and decision-making processes that affect their housing and community
11. Ensure and resource, especially in relation to community housing providers, a clear role for tenant representative organisations in governance.
12. As service providers to the poorest and most vulnerable people in the community, social housing providers should prioritise financial inclusion and offer a comprehensive suite of debt-relief options to tenants. NCAT listing should not be used as the default strategy for managing arrears or speeding-up debt-recovery processes.
13. Introduce clear policy and practice regarding sustaining tenancies which uses the Tribunal as a last resort.
14. Ensure definitions and numeration of 'evictions' in reporting includes the full eviction process beginning from issuance of a notice of termination.

15. Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings
16. Review of rent setting policy and practise for all non-market housing properties and consideration of the residual affordability methods to ensure that housing facilitated by Homes NSW is genuinely affordable
17. Review the framework of nominally Affordable Housing
18. Ensure intake and rent setting policies to ensure that providers are housing a range of incomes across very low, low and moderate income cohorts, and rents are affordable compared to the household income and housing
19. Ensure all housing provided or managed by government or registered community housing providers use an income-based rent model with a secondary limit to 80% of market rent.
20. Ensure all housing provided or managed by registered community housing providers comply with Community or Affordable Housing Guidelines
21. Reclassify market-based rents (including discounted-from-market) as market housing and avoid terminology such as 'affordable' where affordability outcomes are not genuinely delivered through the program.
22. Work to enable residents to be able to choose their provider, including transfers able to be initiated at least at a building level.
23. Pause on transfers of housing stock, including through estate renewals, until consistency in policies and practice across the sector and community housing demonstrates a clear improvement in experience.
24. Homes NSW to work with CHPs to develop a system for mutual exchange of social housing dwellings across providers
25. Abolish fixed term tenancies and eligibility reviews for existing tenants across social housing providers
26. Review eligibility processes for social housing to ensure a sustainable and valued system.
27. Review application processes for social housing to ensure a sustainable and valued system that is person-driven
28. Review the processes in place for communicating with people on the waiting list including when seeking confirmation of continuing eligibility
29. Provide funding and resourcing assistance with application process
30. Implement work practices at the local office level to change the culture and reduce pressure on staff to allow time to work with tenants in a meaningful and effective way

31. Develop consistent tenancy management practice and policies across all providers and a no-disadvantage test to the application of CHP policies
32. Review tenant initiated transfers and remove barriers to moving to a tenancy managed by a different social housing provider
33. Improved accountability on the new investment into repairs and maintenance of existing housing stock through setting targets and timeframes and making this data publicly available
34. Investigate greater support options, including consideration of expanding eligibility for public, community and affordable housing
35. NSW Government to set target of 10% of all home to be social housing by 2036 and provide adequate resources and funding to achieve this target
36. Establish clear and ambitious targets and guidelines regarding the percentage of LHD Gold Standard dwellings in all new social housing developments.
37. Work towards incrementally increasing to 100% LHD Gold Standard in new social housing developments over a reasonable timeframe.
38. Set targets for retrofitting public housing and Aboriginal housing properties to bring them up to minimum energy efficiency standards
39. Ensure new social housing stock demonstrates best practice design in relation to safety, amenity, energy efficiency, and accessibility delivering well above minimum standards required in Building Code of Australia (BCA) or Australian standards.
40. Investigate growth in co-operative housing organisations, including ensuring opportunities for new housing particularly where a public developer model is implemented
41. Investigate funding of long term, fixed rate development finance to community and cooperative housing organisations
42. Develop principles of engagement for future and current renewal projects which include an explicit policy of aging in place
43. Ensure agencies commit to and implement a set of clear principles in line with those set out in A Compact for Renewal, when undertaking urban renewal in public and community housing to guide involvement and engagement with residents of public and community housing affected by the renewal.
44. As a minimum, tenant organisations at a regional or provider level, as well as the State level tenant organisation, should have access to financial and non-financial support for representation activities independent of the social housing provider
45. Work over the cycle of this agreement to the design and implementation of an alternative funding model that separates the funding required to meet the day-to-day

operational costs, and the source of funds for growth.

46. Ensure NSW Treasury is recognising the value of the asset held by NSW Government on a 'triple bottom line' basis.

47. More comprehensive data be made available and publicly accessible regarding public and community housing properties and tenancy management practice in relation to the following: existing property data; tenant provided income; repairs responses; court or tribunal activity; bonds; exits; number of tenancies re-entering social housing after exit; development of new stock

48. Better resourcing of homelessness services across the state to allow for localised responses to homelessness. This will require investigation to expand services in areas where there is need and must take into consideration areas heavily impacted by climate related events

49. Ensure support detailed by the Health and HOusing in areas impacted by climate and other disaster are implemented.

50. Review Part 7, and other relevant parts, of the Residential Tenancies Act

51. Ensure breaches of the Residential Tenancies Act 2010 or residential tenancy agreements are subject to regulatory oversight by NSW Fair Trading and the NSW Rental Commissioner.

52. Ensure Aboriginal housing lifted to a determined percentage of all housing in the non-market system.

53. Review training requirements across public and community housing providers and support sector-wide strategies.

54. Identify outcomes and gaps in training and employment strategies across public and community housing providers, doing so in partnership with Aboriginal people.

55. Engage directly with Aboriginal Controlled Community Organisations to develop strategies, ensuring a range of communities and organisations are involved.

56. Establish clear targets and metrics across the short, medium and long term to track progress against the priorities and objectives.

57. Provide transparent evaluation mechanisms for monitoring and measuring outcomes, and share available relevant data regarding outcomes.

58. Develop and publish shared language which is meaningful to people living in Homes NSW.

59. Investigate the utilisation of panels of people living and accessing Homes NSW services to engage in both creating benchmarks and monitoring progress.

1. Does the vision that “Everyone has access to a decent home and support if they need it” provide an appropriate system-wide purpose and direction for all providers to work towards over the next 10 years?

The Tenants’ Union of NSW recommends a plan built around an ambitious long-term system wide vision for our housing system, which recognises that market-based housing is incapable of delivering on this vision and the existence of homelessness is a failure of the housing system. and proof of the limits of market-based housing. We need to implement a system within which all people have access to safe, stable and affordable homes and communities.

Safe, stable and affordable housing is a human right and this needs to be reflected in the vision. Poor housing affects all parts of a person's life. The right to housing Australia is a signatory to is the right to ‘adequate’ housing which can suffer from a range of interpretation, and may have lead the drafters of the Discussion paper to seek a more ambitious word to reflect the intention. Like adequate, the usage of the word decent can vary depending on context. Like adequate, some may read decent to mean merely sufficient to avoid harm, while others may interpret the words as more aspirational given the context.

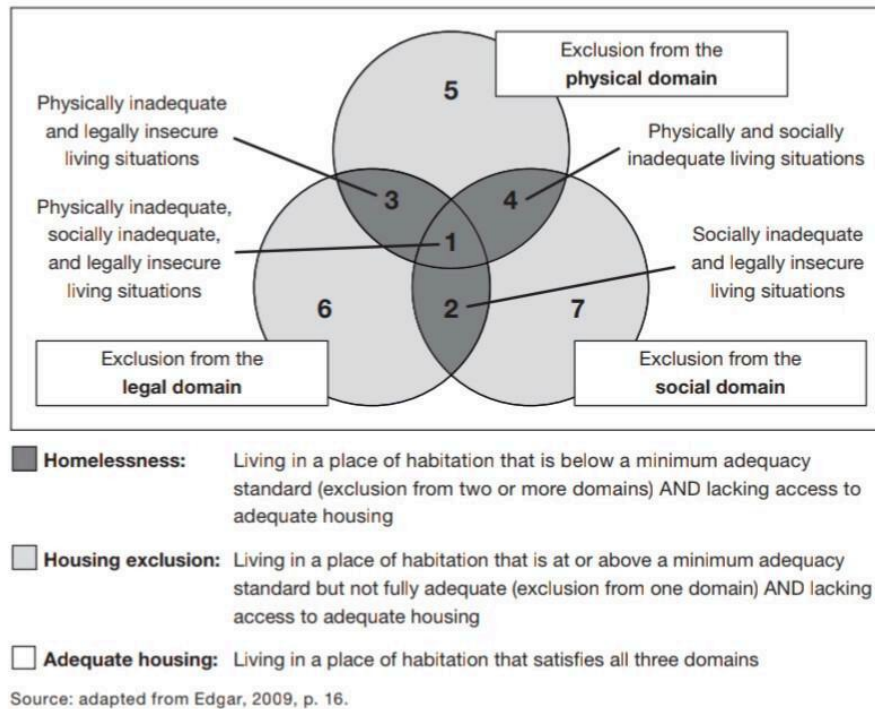
People require more than a home which provides shelter, safety and access to basic services and utilities. To allow people to feel connected and stable they need a home which allows them to connect to their community, employment, social and education activities. A home encompasses more than the dwelling, and includes the community.

We need a system wide commitment to the public benefit of a healthy social housing sector. Therefore, to make clear that the aspiration is for a good home we recommend adjusting this language.

Amore et al (2011) offer a model of understanding homelessness and housing exclusion which usefully utilises concepts of physical, legal and social domains of housing to analyse and improve the common ETHOS definition.¹ Homes NSW should ensure all housing under its purview rises above housing exclusion categories. This is a practical measure by which we can measure progress of the vision.

¹ Amore, K., Baker, M. and Howden-Chapman, P. (2011) 'The ETHOS Definition and Classification of Homelessness: An Analysis', *European Journal of Homelessness*, 5(2).

Figure 2 Model for defining a population as homeless, housing excluded, or adequately housed, according to physical, legal, and social domains, and access to adequate housing



The role of social housing should be of providing and supporting permanent, affordable housing to all households for whom the market system does not deliver.

The Tenants' Union of NSW supports the Housing First model which prescribes that safe and permanent housing should be paramount and should be independent of other support services, to prevent unfair risks to tenancies.² There can be unfair risks that arise when a person's housing is contingent on engagement with specific support services, including the landlord provider themselves. The Housing First model fits well within the vision of the Homes for NSW Plan as it recognises that support is available if it's needed and not a requirement. However, we also note that true implementation of Housing First requires a recognition that trauma-informed housing provision will

Homes NSW should ensure they seek to fulfil this vision with recognition that they set a benchmark for the rest of the housing system to model, and the impact upon it. Non-market and market housing are not separable systems. Greater performance in the non-market sector delivered by greater oversight and accountability from Homes NSW will

²AHURI, What is the Housing First Model and How Does it Help Those Experiencing Homelessness? (25 May 2018) Australian Housing and Urban Research Institute <<https://www.ahuri.edu.au/policy/ahuri-briefs/what-is-the-housing-first-model>>.

create a healthier market sector through competition and options for renters. Equally, the standard of items like repairs, and of ensuring dignified and respectful treatment of people living in homes sets the standard for landlords particularly at the bottom end of the market and can give a permission structure for landlords to ignore rules. This creates two responsibilities for Homes NSW - to deliver on the vision, and to advocate for improvements to the market housing system to ease pressure on non-market.

Recommendation

1. Change the vision for the next 10 years to - “Everyone has access to a good home which is safe, stable and affordable and any support they need.”

2. Are these the right priorities to achieve the vision?

The Tenants’ Union believes these are the right priorities to achieve the vision but notes that without proper resourcing and funding it will not be possible to deliver on the three priorities. Frank and fearless advice needs to be consistently and effectively supplied to other parts of government.

2.1 Customer driven services

We strongly support a shift to person-centred services. This is at the heart of delivering on the vision and is an exciting and welcome shift. Using the phrase “driven” rather than centred indicates an active relationship with greater decision-making and leadership from the people who use Homes NSW facilitated services and we are happy to support this.

We do not believe the use of the phrase “customer” in this setting is not appropriate, or consistent with the range of activities covered under the Homes NSW plan.

Firstly, we understand the intent of the word customer to indicate that a person paying for services should have the right to have those services delivered. Importantly, not all people supported by Homes NSW are or should be paying for those services. However they still have a right to a good home and support to achieve it.

Customer also indicates a relationship, primarily from the position of the service provider. A service provider has customers. A person only becomes a customer when they enter into that relationship with a particular entity, but a person is in need of good housing at all times.

A customer does have choice in their provider, and we offer strategies later in this paper to provide greater choice to the people engaging with Homes NSW. However, we also believe that all people should be able to choose and engage in self-determination of their needs and choosing options as part of fulfilling their need.

We recommend that the use of ‘person’ rather than ‘customer’ to indicate the active person-centred approach is more useful.

In relation to the substance, there will be a lot of work required to get engagement from people on this priority as many renters have had previously poor experiences when interacting with the social housing sector. Many of the processes built into the system appear, and many in reality are, intended to be process or provider-centred. Many of the processes of the social housing sector have been so far removed from person-driven approach that it may be hard for some people to believe this priority can be a reality.

The system has to date failed to ensure everyone has access to safe, stable, affordable housing with very limited availability of non-market rental housing options

There needs to be a better experience for everyone from those applying to access assistance, people getting crisis -short term assistance and those that are social housing tenants.

It's going to require a real commitment to involve applicants and tenants in the decision making processes in all aspects of their engagement with the social housing sector. This will begin with ensuring that decisions are not made

Homes NSW should not seek to present solutions and ask for feedback, as has been the but instead create a dialogue about problems - both identified by Homes NSW and identified by people engaging with Homes NSW and explore solutions together.

It will also require an overhaul of all existing practice and procedures to work in a trauma informed way. The five guiding principles of trauma informed practice are safety, (physical and emotional), trustworthiness, choice, collaboration, and empowerment. A good example of the failure to act in a trauma informed way is the overuse of the Tribunal by social housing providers and the eviction of people into homelessness.

Recommendation

2. Amend the priority area to a person-driven service.
3. Recognise that proper resourcing and funding is essential to achieve the priority of a person-driven service.
4. Review all existing practice and procedures and make necessary changes to ensure all work follows the guiding principles of trauma-informed practice, including regarding rent arrears management and evictions.

2.2 More and better homes

The Tenants Union encourages the NSW Government to be bold in the targets they set. We support a target of social housing properties to account for 10% of all housing stock by 2036. But this cannot be the end goal and instead should be viewed as a target which

can be built on and expanded.

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 as if we continue to wait then it will become harder to meet the increasing need.

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.³

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 housingstress 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 homelessness or those unable to access or afford private rental housing rather than relying on the wait-list, and its eligibility requirements.⁴

Recommendation

5. Adequate funding and resourcing to achieve a target of 10% social housing properties of all housing stock by 2036.
6. Develop a measure of housing need that can better account for need within the community including people already geographically displaced by unaffordable housing. This should be the guide for planning and developing a long-term program to increase the supply of new social homes.

2.3 A system that works

Homelessness reform requires ensuring that people are not evicted from crisis - short term housing into homelessness when there is no long term housing available. In 2023/24 Specialist Homeless Services through their work assisted 37 % of their clients into social

³ AHURI What is the difference between social housing and affordable housing - and why do they matter? (Feb 2023)

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

⁴ 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

or private rental housing.⁵ That still leaves a large number of people without stable housing, and highlights that there are insufficient options for housing people who are experiencing homelessness. The longer a person experiences homelessness the more complex the issues they are dealing with become and the harder it is for them to overcome these issues. The system to work must address homelessness and needs major reform as what we have been doing to address homelessness is not working. It will require coordinated networks for integrated responses.

For the system to work the vision, priorities and actions must include decision making from people who are affected by the system. Genuine participation must extend beyond engagement activities or at single providers but be embedded across the whole of non-market housing, including feeding directly into decision-making at executive level.

The system must demonstrate accountability to residents, as well as to the broader community.

Homes NSW should develop champions for all parts of the housing system - defend and grow the system of public housing rather than engage in approaches that inevitably pit public and community housing against each other. This includes resisting funding arrangements that preference one form of housing over another and moving to a provider-neutral approach. This can be assisted by reform

In particular, greater decision making from Aboriginal people and communities for what they identify is needed in their community and greater support for community-led outcomes should be built in..

Recommendation

7. Ensure providers, public and private, are accountable to both their individual residents and the system as a whole.
8. Ensure the Community Housing Registrar is required and supported to visibly hold providers accountable, beginning with conducting a review of the office.
9. Clearly recognise community housing providers, particularly in social housing, as delivering services on behalf of government to enable administrative review of decisions including access to information.

⁵ Australian Institute of Health and Welfare. (2024). Specialist homelessness services annual report 2023-34

<https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-annual-report/contents/state-and-territory-summary-data-and-fact-sheets>

3. What does great engagement with tenants and communities look like?

Great engagement requires residents of social housing to have the opportunity to be engaged with and participate in decision making about their housing and their local communities, including regarding policy that affects their tenancies, and broader governance issues relating to their provider and their management of their tenancies and housing stock.

Available evidence suggests that building robust forms of participation into governance structures leads to improved service standards and tenant satisfaction, but also contributes to the financial sustainability of housing providers.⁶

The English and Scottish regulatory regimes for community housing associations provide a good example of how the value of tenant participation can be more explicitly recognized and concretely put into practice.

In NSW opportunities for tenant participation in governance in community housing providers have been systematically reduced as they have grown larger and emphasised professional skills on boards and company membership structures.

A case in point is the current program of tenancy transfers to community housing providers in NSW. This required enactment of legislative changes which specifically excluded tenant involvement or choice in decisions affecting management of their housing. Very few if any Tier 1 NSW Community Housing Providers have any form of tenant participation (let alone representation) on their boards, or structured opportunities for tenants to independently discuss and provide input to decision-making.

The Tenants' Union contends that this trend needs to be balanced by recognition of the unique knowledge and experience that only tenants can bring to governance and decision making.

Tenants across social housing should be given more opportunities to influence and be involved in:

- formulation of housing-related policies and strategic priorities
- making of decisions about how housing-related services are delivered, including the setting of service standards
- scrutiny of landlords' performance and the making of recommendations about how performance might be improved
- management of their homes, where applicable

⁶ Bliss N, Lambert B, Halfacre C, Bell T & Mullins D (2015) *An investment not a cost: the business benefits of tenant involvement*, Department for Communities and Local Government (UK)

- management of repair and maintenance services.

The current National Regulatory Code requires housing providers to 'engage' their communities but not to support or encourage an independent tenant voice. As research evidence shows, this is to the detriment of tenant outcomes and may diminish the financial strength of the sector and its attractiveness to investors. The small number of tenants who do participate at board level are usually selected on the basis of other skills. However, current experience as a tenant constitutes an area of knowledge and expertise that should be valued highly at board level. Social housing providers, in particular community housing providers, should be required to demonstrate that they provide support and training for those who wish to bring their experience as tenants to organisational decision making structures without compromising the independence or integrity of governance processes.

Understanding that elected tenant representation on boards is not constitutionally possible for most social housing providers there is a need to specify a role for tenant representative organisations within the governance framework.

Recommendation

10. Ensure social housing providers demonstrate a systematic approach to residents' involvement and empowerment including providing support and training for renters in social housing to participate in conversations and decision-making processes that affect their housing and community.
11. Ensure and resource, especially in relation to community housing providers, a clear role for tenant representative organisations in governance.

4. Have we missed any challenges or possible reforms around customer-driven service?

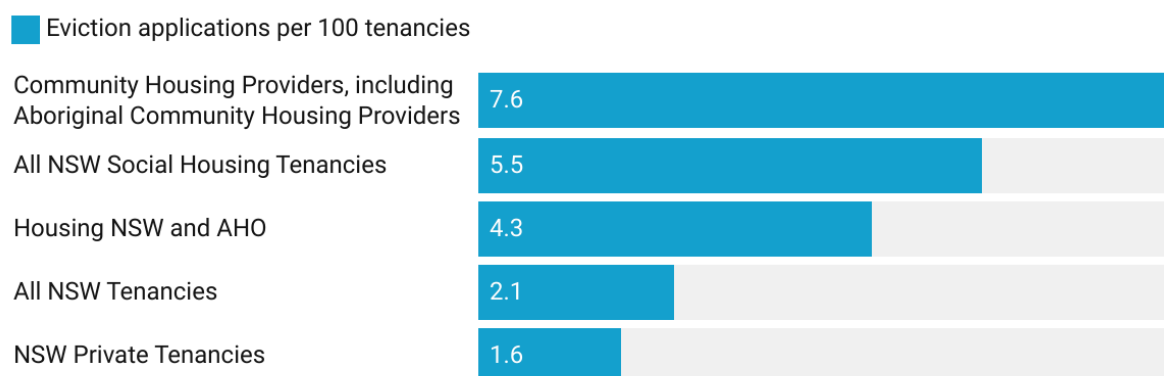
4.1 Overuse of Tribunal process

In relation to focusing on sustainable tenancies it's important to acknowledge, a tension arises when an organisation that is set up to alleviate homelessness is also the potential cause of homelessness. Too often we see eviction being used as a mechanism of control – this is not a foundation for an empowering relationship. The UK experience during COVID under the eviction moratorium shows that it is possible to find different ways of relating to tenants.

In NSW, social housing providers apply to the Tribunal to evict at a significantly higher rate compared to private landlords. Public housing tenants are taken to the Tribunal for termination matters twice as often as those in private rentals, while community housing tenants face eviction proceedings nearly 5 times more frequently. Around 80% of eviction applications by community housing providers are for non-payment of rent.

Community Housing Providers have previously explained this higher rate on the basis they are not necessarily seeking to evict renters in arrears but to engage them in negotiations to establish a repayment plan and formalise those discussions.

We are also concerned that the higher rate of eviction proceedings relates to the financial practices of the sector, with both KPIs aimed at running very low rent arrears (without addressing the cause of the arrears in the first place) and the attempt to fund development and loans from the rent book.



Eviction application data from the NSW Civil and Administrative Tribunal (NCAT) for the 2023 financial year.

Initiating eviction proceedings, seen as a way to formalise and 'rubber stamp' payment plan agreements by providers, is often experienced by the renter as a genuine threat to their housing. It can lead to anxiety, making some tenants unable or unwilling to engage with the Tribunal or address the application. Some might just choose to leave once an eviction notice is issued, which significantly impacts their housing situation into the

future.

More work is needed in developing consistent tenancy management best practices to work towards no evictions or as a starting point no evictions into homelessness. There should be a commitment to attempting alternative dispute resolution methods before applying to the Tribunal.

If use of the Tribunal is to continue for eviction matters then funding must be provided to Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings. This funding will ensure that social housing tenants receive advice and are supported through the Tribunal process. This will assist in reducing the number of completed exits.

Previous research undertaken by the Tenants' Union has demonstrated the significant impact when advocates are available to support renters including improved success at the conciliation stage, and prevention of eviction. Our findings indicated that where support was provided by an advocate at Tribunal in the period 2023/2024:

- **Conciliation Success:** Advocates resolved 50% of cases they supported at the conciliation stage, avoiding the need for a full hearing.
- **Eviction Prevention:** Advocates prevented eviction or homelessness in 55% of eviction cases, which made up 40% of their caseload. For Aboriginal or Torres Strait Islander clients, eviction was prevented in 65% of cases.
- **Duty Advocacy:** In 45% of cases, advocates provided duty advocacy without prior client interaction. Despite the complexity and higher conflict (e.g., 50% were eviction cases), advocates resolved 40% of these at conciliation.

Recommendation

12. As service providers to the poorest and most vulnerable people in the community, social housing providers should prioritise financial inclusion and offer a comprehensive suite of debt-relief options to tenants. NCAT listing should not be used as the default strategy for managing arrears or speeding-up debt-recovery processes.
13. Introduce clear policy and practice regarding sustaining tenancies which uses the Tribunal as a last resort.
14. Ensure definitions and numeration of 'evictions' in reporting includes the full eviction process beginning with service of a notice of termination.
15. Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings.

4.2 Rent setting

Missing from the Discussion Paper is recognition that many social housing tenants find it

challenging to afford essential living expenses after paying their rent. At times, they must make difficult choices, like skipping meals, forgoing medication or medical appointments, or missing out on basic necessities because they don't have enough money left after covering rent.

The current common measure of housing affordability used is the 30/40 rule, which defines 'housing stress' or unaffordability as where a household in the bottom two quintiles of income distribution pays more than 30% of their income in housing costs. We believe. While the 30/40 rule is relatively simple to understand, it is nonetheless inadequate in capturing the problem of affordability for some households, particularly for those on low and very low-incomes. As an example of its inadequacy, while renters of public housing would not be considered in housing stress according to the 30/40 rule because none pay more than 30% of their income on rent, more than two thirds are unable to meet basic living standards after housing costs and are living in poverty.⁷ A better approach to housing affordability is outlined by Stone, Burke and Ralston in their 2011 AHURI research on *The Residual Income Approach to Housing Affordability*. As they explain, affordability is a relationship between housing and people: "for some people, all housing is affordable, no matter how expensive; for others, no housing is affordable unless it is free".

The 30/40 rule is also commonly used by social housing providers when negotiating rent arrears repayments agreements. Our experience is that many social housing providers will only agree to repayment amounts that result in a household paying 30% of their income in rent. This fails to take into account that for many people the 25% of income was too high, that is why they are in rent arrears at all. Deepening the pressure on the household budget is a risky approach, that forces compromise in other areas of life including health.

A better model to adopt is the residual affordability method for assessing affordability. Residual income methods calculate for different households how much is left over for housing costs after relevant expenditure as measured by a budget standard⁸ is considered. Where a household does not have enough money left over to cover their basic expenses after paying for housing, the household is considered to have an affordability problem.

During COVID-19 NSW government ensured that the Coronavirus Supplement was not classified as assessable income under either the public housing or community housing rent policies. This meant that households in receipt of the Supplement had an effective

⁷ The 30/40 rule sets out that a household is in housing stress when it is in the bottom 40% of Australia's income distribution and is paying more than 30% of its income on housing costs. The estimation of 2/3 of social housing renters not being able to afford basic necessities is based on an assessment of housing affordability using the residual income. See Burke, T., Stone, M. and Ralston, L. (2011) *The residual income method: a new lens on housing affordability and market behaviour*, AHURI Final Report No. 176, ahuri.edu.au/research/final-reports/176, accessed 13 December 2024

⁸ For Australian households, the indicative budget standards generally referenced are those developed by the Social Policy Research Centre at the University of New South Wales. Peter Saunders, Megan Bedford (2017) [*New Minimum Income for Healthy Living Budget Standards for Low Paid and Unemployed Australians*](#), Social Policy Research Centre, UNSW 2017

rent of as low as 12.5% of household income, or as Pawson et al. put it, the Supplement was an effective 130% boost to income⁹. The result was a marked decrease in rent arrears and a generally higher capacity to meet the needs of the household, without a reduction in the housing provider's income which was reported at generally less than 3%¹⁰ despite the financial shocks of COVID-19.

More consistent consideration of residual affordability methods would better capture the extent and distribution of our housing affordability problem, as well as improve our understanding of the measures required to wholly address the problem.

We also note that in general affordable housing is not delivering genuinely affordable housing. See discussion at 4.3.

We recommend a review of rent setting policy and practice for public, community and affordable housing as 25%-30% of total income spent on rent is not affordable housing. All non-market housing should be set at a level which does not further impoverish the people it is attempting to support. Merely being comparatively less harsh than the private sector is not sufficient.

Such a review should be undertaken with a view to ensuring social and affordable housing is a genuinely affordable housing option, that leaves people enough money each week to live a decent life. If the 10 year vision includes acknowledgement of the importance of everyone's right to affordable housing then this is a necessary step towards achieving the vision.

We recommend that the rent setting model attempts to set rent at a level for the household, ensuring they can afford other essentials.

If a set percentage is still preferred, we recommend a reduction in the base rent to at least 20%, with the insertion of a cap on market rent of 80% calculated similarly to the Affordable Housing Guidelines.

If the income level of the household is so low that there is no amount that can be charged this should be raised by Homes NSW as a matter of urgency with the Department of Social Services and rates of assistance payments raised, or alternative funds provided.

We acknowledge that a reduction in rent setting without increase in income will have income implications for providers. This should be addressed by examining the expenditure, such as over-reliance on loans. Troy et al (2019) demonstrated that genuine

⁹ Pawson, H., Martin, C., Sisson, A., Thompson, S., Fitzpatrick, S. and Marsh, A. (2021) '*COVID-19: Rental housing and homelessness impacts – an initial analysis*'; ACOSS/UNSW Poverty and Inequality Partnership Report No. 7, Sydney

¹⁰ NHFIC (2020) *Australia's affordable and social housing sector: A resilient response to COVID-19* <https://www.nhfic.gov.au/media/1414/australias-socialand-affordable-housing-sector-28-october-2020.pdf>

operational costs are generally able to be covered by rental income alone, it is debt and interest that creates the genuine subsidy gap.¹¹ It is inappropriate to place the weight of development and financing activities on the shoulders of the lowest income households. The benefit of separating operational and development funds is explored further in section 4.4.

A person-driven approach to housing may reconsider use of the phrase rent in any event. While legally the status of any fee paid for occupation of a home will remain a rent, there may be benefit in renaming the fee to something which better reflects the usage of the money - a repairs and maintenance contribution. A change in language may assist both the household and the provider in acknowledging the relationship and responsibilities between the two.

Recommendation

16. Review of rent setting policy and practise for all non-market housing properties and consideration of the residual affordability methods to ensure that housing facilitated by Homes NSW is genuinely affordable.

4.3 Affordable housing

Affordable Housing does not necessarily deliver housing that is genuinely affordable for those households who most need it. As a general rule Affordable Housing sets rents as a discount of current market rent, somewhere between 15 – 25% below market rent. This does not necessarily ensure it is genuinely affordable for those households eligible to apply for such housing. This also creates a disincentive to support the very low and low income households that Affordable Housing claims to support, especially in more expensive areas.

Creating a false split between “Affordable Housing” and “Social Housing” when provided by the same organisation creates problems from a person-centred approach.

The 30% benchmark for affordability is poorly calibrated (see 4.2 for further discussion) for the majority of people. It is narrowly useful for moderate income households, but in general is too high for very low and low income households. Even within this benchmark, housing affordability stress occurs as they are paying more than 30% of their income in housing costs.¹² Comparing the rent to the market rent does not then automatically follow that the rent is affordable.

People are very sceptical of Affordable Housing and work will need to be undertaken to raise the reputation of what affordable means if the intention is to increase this type of housing. Part of this skepticism may be due to some properties advertised as Affordable

¹¹ Troy, L., van den Nouwelant, R. & Randolph, B. (2019) *Estimating need and costs of social and affordable housing delivery*, City Futures Research Centre, UNSW 2019

¹² AHURI What is the difference between social housing and affordable housing - and why do they matter? (Feb 2023)

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

Housing inflating the market rent so they can overcharge when they state the rent is 20% below market rent. These inflated prices degrade the social trust in Affordable Housing.

We conducted a snapshot of the available affordable housing properties in NSW on the 8th and 9th of January 2025. The full table is available in Appendix 1.

Of the 32 properties available across WelcomeMat and tagged affordable housing on realestate.com.au, 13 or 40% were priced at a rate that was not compliant with the NSW Affordable Housing Guidelines. Of those 13, eight explicitly referred to the Guidelines in the advertisement. Non-compliant rents averaged nearly \$4,000 over compliance, with a range from \$208 to \$16,685.

Recommendations

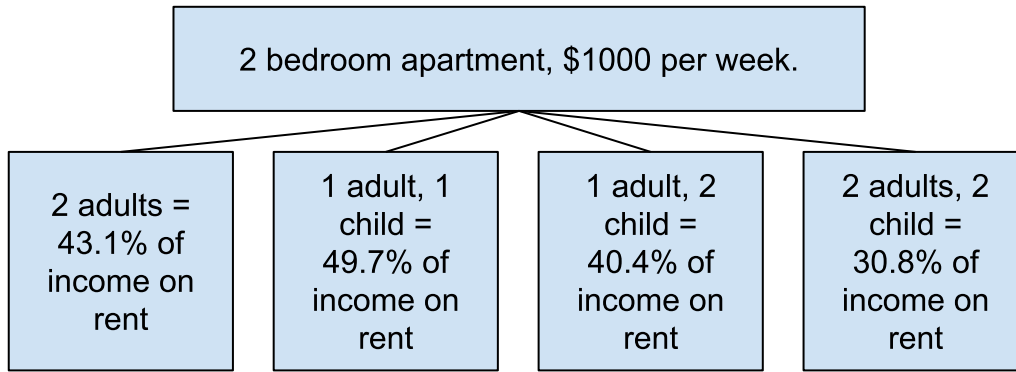
17. Review the framework of nominally Affordable Housing.

18. Ensure intake and rent setting policies to ensure that providers are housing a range of incomes across very low, low and moderate income cohorts, and rents are affordable compared to the household income and housing.

The Discussion paper defines Affordable Housing as non-market housing. In its current context, we can't agree that this is an appropriate categorisation. The provision of Affordable Housing is generally set at 20-25% reduction from market rent pricing. This means that much of Affordable Housing is provided, and increases in cost, with the market.

Access to most affordable housing is therefore limited to people for whom the property is affordable with this market-based rent. The Affordable Housing Guidelines have a non-binding requirement of ensuring the household is not paying over 30% of their income (notably, this rule is able to be set aside for moderate income housing - the only group for whom 30% is an appropriate measure of affordability). However, in market housing real estate agents assess all applicants for their ability to afford the rent and utilise a 30% rule as a proxy for capacity to pay.

To illustrate this point, we share the proportion of rent of a range of households for the 'Affordable' housing property charging \$1000 per week for a 2 bedroom apartment captured in our snapshot above.

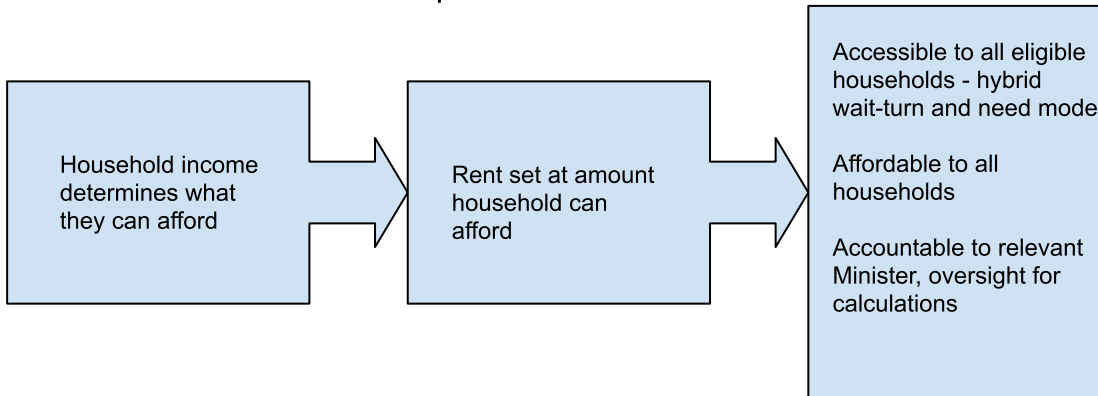


It would be trite to claim that housing is affordable simply because someone can afford it. This is true of every property in the private market. If the housing is not responsive to the needs of the person seeking to live in it, then there is no appreciable distinction between affordable housing practice and other market-housing and it is not working to deliver the stated vision or priorities of Homes NSW.

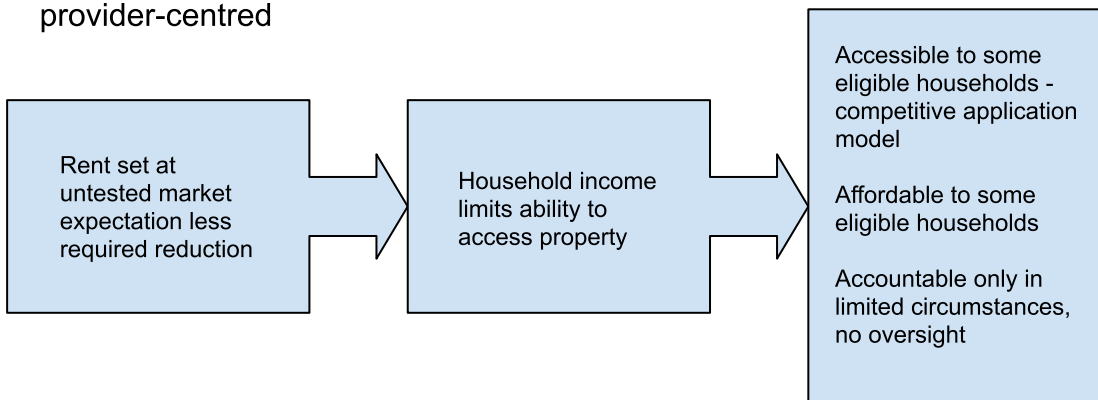
It is also apparent that there is no comprehensive structure assessing the compliance of rents, and that properties purporting to be affordable may have no relationship with Homes NSW. This is part of the resulting lack of trust in the Affordable Housing system. Homes NSW should have the tools and resources to ensure that properties purporting to be affordable housing are complying with policy settings. It may be necessary to rename the Affordable Housing programs and restrict the ability to claim compliance. Legislative change may be required to planning and other laws.

We offer this comparison between income-based rents and market-based rents which we suggest are clearly a provider-centred and driven approach.

Income-based rents model: person-centred



Market-based “Affordable” rents model: provider-centred



Rents should be set by an income-based method for all housing classified as non-market housing. The usage of market-based rents restricts access to housing for people who require it.

The funding source is not a relevant factor in determining the affordability outcomes of the housing.

We would like to note that income-based rents in affordable housing are already implemented in practice in NSW, at CityWest Housing. While it suffers from similar affordability concerns as we detailed in 4.2, it should be seen as proof for the possibility of both greater responsiveness to the full range of income cohorts and the ability to provide housing. The failure of other providers to follow CityWest in this approach highlights the need for direct intervention from government to deliver the desired outcome.

Recommendations

19. Ensure all housing provided or managed by government or registered community housing providers use an income-based rent model with a secondary limit to 80% of market rent.
20. Ensure all housing provided or managed by registered community housing providers comply with Community or Affordable Housing Guidelines.
21. Reclassify market-based rents (including discounted-from-market) as market housing and avoid terminology such as 'affordable' where affordability outcomes are not genuinely delivered through the program.

4.4 Choice of provider

Within the current system, people are not able to choose their provider. Providing residents at least at a building level to choose their registered community housing provider would be transformative in delivering a person-driven system.

Much of the rhetoric supporting a diversity of providers rather than a single public housing provider concerns claimed benefits of competition and choice, such as innovative practice. However it has been done without actually generating the dynamics of competition and choice that may lead to those benefits. Currently providers compete only for the favour of the government, with the intention of receiving grants, projects or other. This encourages some innovative practice but not with the intent of a person-delivered approach.

Where there has been better practice within social housing, we believe this is largely driven by individuals with a personal commitment to best practice - not that it is structurally facilitated. The distinction should not be confused.

We have spoken to many residents who are aware of the good practice by one provider, who may be showcased only to be disappointed by the reality of their own provider, with no capacity to instigate change.

The most significant reason people are not given a choice of provider appears to be that development and operational costs are bound together so that a provider carries the cost of development and would refuse to engage.

The solution is to develop a public development and ownership model with the ability for community housing providers to be chosen and replaced by the residents of the building. This allows Homes NSW to drive development of homes in the areas that are needed and using the developed method of need (section 2.2) and retain the development costs overtime.

Providers will be left with operational costs, which scale neatly with their rent roll. A failure to provide good service may put operations at risk.

In areas where a community housing provider is failing to provide services that are of an acceptable standard for the residents, they should retain the ability to elect retention of the public provider. This ensures a choice of at least two providers in all areas.

A further advantage of this approach is the greater capacity for smaller providers to demonstrate their advantages, such as truly local community connections, more personal service. It also offers a more viable pathway to develop co-operative housing models.

The standards of the National Registration remain to ensure quality is not compromised but providers will be incentivised to clearly demonstrate their commitment to best-practice rather than minimum standards.

Transition to this model will be a significant project, and we look forward to engaging further.

Social Housing Management Transfers (SHMT)

The Tenants' Union with the support of the Law and Justice Foundation conducted a project looking at the impact of Social Housing Management Transfers on tenants. Tenants that have been subject to SHMT have found different outcomes in relation to communication, customer service, the response to arrears, or even long-term housing security issues which are entirely dependent on the CHP that operates in their location.

Community housing providers consistently profess a conviction that they are good landlords who make a positive difference in tenants' lives. However, CHPs in NSW have diverse histories and cultures and apply a variety of policies and practices within the framework of compliance and contracts.¹³

"By transferring management to CHPs we are harnessing an untapped resource that can vastly improve the experience of people living in social housing managed by CHPs." Pru Goward, Minister for FACS October 2017

Critically missing from the SHMT process is the tenants ability to make a choice and without that there are no incentives for community housing providers to innovate in the interest of improving the experience of tenants.

Based on the Tenants' Union and the Tenants Advice and Advocacy Service network's experience working on behalf of social housing tenants, we know that better outcomes for tenants and applicants do not flow automatically from increases in the size and diversity of community housing landlords. Larger provider organisations may lose a degree of flexibility and engagement in the local community while rapid growth and change can lead to confusion, errors and skill deficits. Diversity in policy and practice amongst providers might also mean variation in the quality of services and the degree of tenant focus. Improved tenant outcomes thus need to be demonstrated in practice and tenants' experience should be the central focus of policy and practice development by providers,

¹³Tenants' Union of NSW, Change Management: Social Housing Management Transfer Program NSW 2018-19 (Report, 2020) <https://files.tenants.org.au/policy/2020-SHMT-report-final-web.pdf>

and of any evaluation of the program by government.

In the current SHMT program tenants are not able to express their preference for any resulting service improvement or innovative approach by choosing between or changing providers.

The Tenants' Union recommends a pause on SHMT's while other changes take place in the system which bring in consistency and the tenants right to choose their provider. Where we have a system where a tenant can be disadvantaged depending on the housing provider in their location and have no recourse, the system is flawed.

A better outcome for tenants would be instead to give community housing providers new land to build new homes on to increase their housing stock rather than transferring existing homes.

Recommendation

22. Work to enable residents to be able to choose their provider, including transfers able to be initiated at least at a building level.
23. Pause on transfers of housing stock, including through estate renewals, until consistency in policies and practice across the sector and community housing demonstrates a clear improvement in experience.

4.5 Mutual exchange

A change in the mutual exchange policy is another opportunity to further the priority for customer driven services. The opportunity for mutual housing exchanges between tenants, often in distant geographical locations, may not result in a large number of successful swaps but it is highly valued by tenants. This is reflected in the previous establishment in public housing of a register and systematic procedures to facilitate mutual exchanges. While a few have explicit policies and approval processes in place which are published on their websites, CHPs generally do not facilitate exchanges, especially outside their existing portfolio and a number of receiving providers have published statements effectively ruling it out.

The Tenants Union supports the establishment of a statewide mutual exchange program. This would increase the functionality of existing housing stock, improve tenant satisfaction and potentially generate substantial financial savings. This program has been successful in the UK where tenants can move and also move between different

landlords.¹⁴ The UK experience has shown that mutual exchange programs can relieve pressure on waiting lists and foster positive tenant experience.

Recommendation

24. Homes NSW to work with CHPs to develop a system for mutual exchange of social housing dwellings across providers.

¹⁴ Andrea Sharam, Debbie Faulkner (2024) Want to slash social housing waitlists? We should allow tenants to swap homes, The Conversation
<https://theconversation.com/want-to-slash-social-housing-waitlists-we-should-allow-tenants-to-swap-homes-240662>

5. What changes do you think we should make to improve social housing access and tenancy management?

5.1 Abolish fixed term tenancies and ongoing review of existing tenants for eligibility

An expansion of eligibility for social housing should be considered and the policy of fixed term tenancies and ongoing review of eligibility for existing tenants discontinued across all social housing providers. Many studies have shown that the security of tenure that would be achieved through provision of continuous tenure - previously NSW policy until 1 July 2005 - is the most important factor contributing to long term positive outcomes for social housing tenants.¹⁵ This would result in a higher number of waged tenants, higher rent income for social housing providers, and an effective cross subsidisation across the system. The removal of fixed term tenancies and ongoing review of eligibility for existing tenancy must apply across all sectors otherwise CHP tenants will be worse off. An appropriate guiding principle is once someone becomes eligible for social housing they are not required to meet eligibility criteria at any time during their tenancy. This would enable the vision of a stable home to be realised.

We strongly encourage a shift away from the language and any targets related to social and affordable housing as facilitating a “transition to housing independence”. The NSW social housing system has moved from being one that housed mostly working-class families to one that now supports only very-low income households, and households dependent on income support. This shift has not occurred because tenants ‘successfully exit’ into the private rental market from social housing, or that the private rental sector can appropriately provide affordable housing for working households. It has occurred in line with the introduction of increasingly narrow and restrictive means testing and other eligibility and ‘priority’ criteria, and the introduction of fixed term tenancy agreements and ongoing eligibility review for tenants after 2005.

There remains a significant demonstrated need for social and affordable housing for working households on very low, low and moderate incomes. Framing the provision of social and affordable housing on the basis it provides a ‘transition to housing independence’ misunderstands and ignores the evidence regarding unaddressed housing need (note current numbers on Housing Register waiting list, and demonstrated assessment of housing need, see e.g. Social Housing as Infrastructure), the reasons underlying this need, and the various actions required to address the problem.

¹⁵ Michael Darcy, Hazel Blunden (2014) Determining the Financial Barriers moving from Welfare to Work. Sydney: University of Western Sydney and Pacific Link Housing Ltd.
<https://www.pacificlink.org.au/sites/default/files/research1determiningfinancialbarrierstoworkfull.pdf>, accessed 10 December 2024

The current language and framing used implies the households in social housing are not capable, or have failed in some way (i.e. they lack independence). It is clear however that the current demand on social and affordable housing is not a matter of individual household failure but a failure of the housing system.

It is inappropriate to set targets in relation to 'transitions' to the private rental market when the private rental market currently has no capacity to provide appropriate alternative housing for these households.

Moreover, this language and framing only adds to the stigma attached to the social and affordable housing sector. Government and the Community Housing Industry have a responsibility to take a lead in challenging and addressing the stigma attached to social housing.

Further consideration should also be given to how to implement policies to support people through life transition/s and crises along the housing continuum, e.g. moving from affordable into social housing and vice versa. Identification of the barriers currently in place in relation to this is required. These may include:

- ineligibility for social housing when living in affordable housing,
- possible forced relocation because property is identified as 'affordable' or 'social' rather than allowing flexibility across a provider's portfolio to change the nature of tenancy but allow tenants to remain in the same property.

Recommendations

25. Abolish fixed term tenancies and eligibility reviews for existing tenants across social housing providers.

26. Review eligibility processes for social housing to ensure a sustainable and valued system.

5.2 Clearer application process and funding for support services to assist applicants navigate the process

A clearer and less complicated application process is essential as is resourcing for support to assist people complete the application process. We support an approach that ensures an application can be made and approved with minimum or basic evidence, but recommend it be made very clear to an applicant where evidence (and what evidence) is required to establish priority need or certain housing needs (certain features of housing, location, etc) when this will have a direct and significant impact on the timeliness or appropriateness of the offer that is made to them.

People should always be able to lodge the housing application with the evidence they have, then be sent a letter asking for specific evidence that is missing following on from initial lodgement (at a later date).

Consideration could be given to whether the applicant can be provided with some examples or visualisation of the kind of properties Homes' has assessed they will need and can expect to be offered. The applicant can be asked if these homes (types of home) meet their requirement/expectation and why/why not? This additional form of communication may help both parties understand if they are on the same page (shared expectations) in relation to the individual's housing needs and whether further information and/or evidence needs to be collected from the applicant. This may assist to resolve one of the challenges identified in the Discussion Paper where people are matched with properties that don't work for them and their support services.

People being taken off the waiting list are often the people that need most assistance and they are - people with limited literacy, people with a disability including mental health concerns and addiction issues. Missing or failing to respond to letters confirming you still need housing assistance results in people being taken off the waiting list. There needs to be a more thorough process undertaken before removing a person from a waiting list and a change in practice in the interactions with people on the waiting list. Alan Morris' interviews with individuals on the social housing waiting list vividly depict their waiting experience. Applicants conveyed their encounters with waiting, the accompanying processes, and interactions with the department as 'demoralising', 'traumatic', 'soul destroying', 'depressing', 'uncertain'. It had left them feeling 'hopeless', 'forgotten', 'deficient', and 'psychologically exhausted'.¹⁶ If a priority of the system is customer driven service then the experience of the 58,000 people on the waiting list needs to be considered and changes to procedures and policies implemented.

Recommendations

27. Review application processes for social housing to ensure a sustainable and valued system that is person-driven.
28. Review the processes in place for communicating with people on the waiting list including when seeking confirmation of continuing eligibility.
29. Provide funding and resourcing assistance with application process.

¹⁶ Alan Morris, Jan Idle, Joelle Moore and Catherine Robinson (2023) [Waithood: The Experiences of Applying for and Waiting for Social Housing](#), accessed 13 October 2023; Alan Morris (2023) ['It's soul-destroying': how people on a housing wait list of 175,000 describe their years of waiting](#), *The Conversation*, 8 August 2023, accessed 13 October 2023

5.3 Change work practices

Individual staff members at housing providers can make a significant difference to a tenants' experience, including making them feel heard and like they matter. When staff feel the pressures of undersupply this can result in setting up a dichotomy between deserving and undeserving tenants. This can be alleviated at a structural level, by increasing supply, and at a cultural level, by taking the pressures off staff so they can work with individual tenants. Additional funding for more staff and training for all staff on trauma informed practice are also critical.

Recommendations

30. Implement work practices at the local office level to change the culture and reduce pressure on staff to allow time to work with tenants in a meaningful and effective way.

5.4 Consistency in policies and practices

No wrong door approach needs to be reflected in consistency in tenancy management across providers. Tenants living in social housing in NSW have very different experiences in the service they receive depending on the provider. There is not a consistent approach and some tenants are disadvantaged through no fault of their own due to the no wrong door approach.

While a key claimed benefit of moving to a multi-provider social housing system is flexibility, in the context of whole-of-location transfers this means that tenants may be subject to different policy approaches depending on the geographical location of their dwelling with significant consequences for some. While CHPs are constrained by statewide policies on Eligibility, Access, Rent and Asset Management there are many other areas of tenancy management and service provision where policy and practices vary, amongst CHPs and between some CHPs and DCJ, including domestic violence, eligibility review, approved absences and rebated rent, and mutual exchange. A no-disadvantage test pertaining to the application of CHP policies that affect tenancies or applicants should be adopted and applied in tenant appeals to the Housing Appeals Committee.

This approach should also follow through to transfers within the social housing system. Tenant initiated transfer requests should be able to accommodate a request to move to a different provider this is particularly important if a tenant needs to move to a different location in NSW.

Recommendation

31. Develop consistent tenancy management practice and policies across all providers and a no-disadvantage test to the application of CHP policies.
32. Review tenant initiated transfers and remove barriers to moving to a tenancy managed by a different social housing provider.

5.5 Repairs and maintenance

Repairs and maintenance of current housing stock is an ongoing issue for tenants. We hear from social housing tenants and Tenant Advocate that the problems include:

- Poor quality stock due to chronic underfunding for repairs and maintenance of public housing stock.
- Lack of timeliness and inadequate standard of repair and maintenance- extended delays in completing required repairs.
- Poor communication with tenants about the repair and maintenance requests, including updates on approval for works, scope of works, progress of works, estimated timeframes for completion.
- Issues with communication and internal escalation processes.
- Failure to meet the NSW Government's Model Litigant Policy for Civil Litigation.
- Failure to meet their repair and maintenance obligations is straining resources from the public housing system, and the Tribunal and Tenant Advice and Advocacy Program.

To achieve the priority of a customer driven service then the experience of tenants in trying to resolve repairs and maintenance issues must be improved. The new maintenance procedures and processes must be closely monitored and specific targets and timeframes set. This data must be made publicly available so that there is accountability on the new investment into repairs and maintenance.

Recommendations

33. Improved accountability on the new investment into repairs and maintenance of existing housing stock through setting targets and timeframes and making this data publicly available.

5.6 Develop support for all NSW residents at risk of homelessness

Through consultations and engagement we are aware that a large number of people living in NSW who are ineligible for housing support but are nonetheless living in precarious situations. The state has a responsibility to those who live here and Homes NSW is well placed to develop support solutions. Consideration should be given to a wide range of options, including eligibility changes to access existing programs.

34. Investigate greater support options, including consideration of expanding eligibility for public, community and affordable housing.

6. How do we make sure the homes we build in the next few years are the right ones to meet the urgent need, and the needs of our customers in the long term?

6.1 Increase supply of social housing

Limited new affordable housing being delivered into the system, alongside rising demand, has driven up rental prices significantly. To tackle this, governments must prioritise expanding social housing. This not only eases pressure on the private rental market but also acts as a safety net for those struggling with housing costs. Importantly, provision of 'non-market' housing actually provides positive pressure on market housing by introducing real competition and higher standards. The private market in this context is challenged to do better, especially at the lower ends of the market. Regrettably, NSW's share of social housing stock has consistently decreased in recent decades.

Social housing should be recognised as a fundamental segment of the overall housing stock. To achieve this, we recommend the NSW government sets themselves a target of at least 10% of all housing to be social housing by 2036, and commits the resourcing and investment required to meet this target. This should not be seen as the end goal and should be considered a start with more work to be done

Recommendation

35. NSW Government to set target of 10% of all home to be social housing by 2036 and provide adequate resources and funding to achieve this target.

6.2 Aim for LHD Gold Standard

People living in community and public housing properties are often older, and many have a disability or are facing a range of challenging life circumstances. In NSW a third of renters in social housing according to 2016 data were older than 55, and more than 35% had a disability. This trend continues due to the prioritisation policy for new entrants. In NSW in 2018-19, 56.3% of new entrants in community and public housing were classified as households in greatest need. This would include significant amounts of people who are elderly and/or have a disability. The latest data available shows that in NSW, older tenants, including people aged 55-64 (23%) and people over the age of 65 (36%) are a significant tenant group.¹⁷ Across Australia the data shows that people with disability are also a

¹⁷ Australian Institute of Health and Welfare (2024) *Housing Assistance in Australia 2024*, Figure HOUSEHOLDS.3

significant tenant group. (37%).¹⁸

It is essential that social housing dwellings meet the needs of their occupants in relation to general amenity, ease of access and entry, and modification for special needs. The relatively significant high numbers of residents living in NSW public housing who do not consider their access and entry needs to be met (13%) is particularly concerning for safety reasons.¹⁹ In case of an emergency, it could be difficult for many people to exit their dwelling rapidly and safely.

New social housing dwellings must be built to a high quality, accessible, liveable standard to support the health and wellbeing of older tenants and people with disability. Currently, most social housing providers have committed to a LHD Silver level rating for all new builds.²⁰ However, while a LHD Silver level rating should be thought of as an entry point accessibility standard, it will not meet the needs of most people ageing and with disability. It allows for elderly people and people with disability to visit a home reasonably easily, but not to live comfortably without further modifications.

In 2010, the National Dialogue on Universal Housing Design, including representative bodies for architects, real estate professionals, developers, disability advocates and local government, released a Strategic Plan recommending ambitious targets for all state and territory social housing providers. One target was for all new social housing dwellings to meet the LHD Gold Standard by 2019. Unfortunately, this was not implemented in all jurisdictions including NSW, and at present Australian jurisdictions are not building sufficient gold standard properties to ensure we will meet the needs of those living in social housing.

Targets and guidelines need to be set for the number of new social housing homes to meet LHD Gold Standards. These should be ambitious given the data outlined above which highlights the characteristics of tenants living in social housing. The aim should be ultimately to transition to 100% new social housing homes to meet LHD Gold standards in a reasonable timeframe.

Recommendations

¹⁸ Australian Institute of Health and Welfare (2024) *Housing Assistance in Australia 2024* <https://www.aihw.gov.au/reports/housing-assistance/housing-assistance-in-australia/contents/households-and-waiting-lists> , accessed 10 December 2024

¹⁹ Australian Institute of Health and Welfare. (2024). National Social Housing Survey 2023. <https://www.aihw.gov.au/reports/housing-assistance/national-social-housing-survey-2023/contents/did-amenities-meet-the-needs-of-tenants> accessed 10 December 2024

²⁰ Land and Housing Corporation (2020) LAHC Dwelling Requirements.

36. Establish clear and ambitious targets and guidelines regarding the percentage of LHD Gold Standard dwellings in all new social housing developments.
37. Work towards incrementally increasing to 100% LHD Gold Standard in new social housing developments over a reasonable timeframe.

6.3 Energy efficiency

All Australian governments have committed to achieving net-zero greenhouse gas emissions by 2050 and implementing a national plan for zero-energy and carbon-ready residential buildings, including existing ones.²¹ Improving home energy efficiency is also essential for ensuring a fair transition to zero emissions.

The poor energy efficiency of rental homes also has a notable adverse effect on the health of the people who live in them.²² Every year cold weather in Australia kills around 2,600 Australians, though some estimates put this number much higher.²³ Many of these deaths are avoidable, and relate to the poor standard of housing and people's inability to keep it comfortably warm. Low income renters struggle to keep their homes warm in winter. Their housing is likely to be lower quality, in need of repair and poorly insulated.²⁴ The Australian Housing Conditions Dataset (2019) indicates 1 in 5 Australian renters (20%) on very low income, and 1 in 7 (14%) on low income are not able to keep their homes warm in winter.

As the largest landlord in NSW, there is an opportunity to lead the way by ensuring all new social housing stock meet best practice energy efficiency standards.

It will also be vital to set targets to repair older housing stock and retrofit all properties to ensure they meet these standards. This form of targeted initiative would help ensure NSW meets commitments made towards the COAG Energy Council's Trajectory for Low-Energy Buildings²⁵. It would also be a cost effective use of funds, given the clear economic and health benefits for the tenants living in these homes, and the lower ongoing maintenance requirements for upgraded stock.

²¹ COAG Energy Council (2019), [Addendum to the Trajectory for Low Energy Buildings—Existing Buildings](#), accessed 10 December 2024

²² Wang C, Wang J, Norbäck D (2022) 'A Systematic Review of Associations between Energy Use, Fuel Poverty, Energy Efficiency Improvements and Health', [International Journal of Environmental Research and Public Health](#), 19(12), accessed 13 October 2023

²³ Gasparrini et al (2015), 'Mortality Risks Attributable to high and low ambient temperature', [The Lancet](#) i:9991, accessed 18 October 2023

²⁴ Liu, Martin, Easthope, '[Chilly House, Mouldy Rooms](#)', *The Conversation*, see also Shelter NSW, UNSW City Futures (2019) Shelter Brief no. 63, [Poor quality housing and low-income households](#), accessed 18 October 2023

²⁵ COAG Energy Council (2018) Trajectory for Low Energy Buildings, <http://www.energy.gov.au/energy-and-climate-change-ministerial-council/energy-ministers-publications/trajectory-low-energy-buildings> accessed 10 December 2024

Recommendations

38. Set targets for retrofitting public housing and Aboriginal housing properties to bring them up to minimum energy efficiency standards.
39. Ensure new social housing stock demonstrates best practice design in relation to safety, amenity, energy efficiency, and accessibility delivering well above minimum standards required in the Building Code of Australia (BCA) or Australian standards.

6.4 Community land trusts and co-operatives

There is a significant amount of evidence to support the suitability of these housing models as being capable of meeting the aims of providing stable and affordable housing and delivering amenity, tenure security, high quality urban design and social capital.

Co-operatives in particular enable greater tenant rights in practice, encourage a place in the community and provide more than just the physical housing form, including ensuring residents having an ongoing say in provider activities. The 2020 Institute for Culture and Society's submission to the NSW Housing Strategy Discussion Paper sets out a number of ways in which governments can play a vital part in encouraging stable and effective housing models such as Community Land Trusts and cooperatives, including through the diversification of available funding models.²⁶

Recommendation

40. Investigate growth in co-operative housing organisations, including ensuring opportunities for new housing particularly where a public developer model is implemented.
41. Investigate funding of long term, fixed rate development finance to community and cooperative housing organisations.

²⁶ Institute for Culture and Society, Western Sydney University (2020) *Submission to the Housing Strategy for NSW – Discussion Paper*, www.westernsydney.edu.au/__data/assets/pdf_file/0020/1731143/housing-strategy-for-nswsubmission-ics.pdf, accessed 24/08/20217

7. What changes should we make to ensure strong and sustainable estate communities?

The Tenants' Union is strongly of the view that large scale renewal of housing estates in NSW is not working. It is widely recognised that renewal of public housing areas can be highly disruptive, cause high levels of stress and trauma and lead to significant adverse health impacts for social housing tenants. These effects are compounded because tenants are often highly disadvantaged and disempowered. Moreover, the renewal process is imposed from above; tenants typically have little or no say in the process.

Ageing in Place, The Family and Community Services' NSW Ageing Strategy 2016-2020 identifies older people's ability to live in affordable, accessible, adaptable and stable housing as a priority of the NSW Government.²⁷ It identifies 'older people increasingly prefer to "age in place" and grow older in their own communities – close to friends, family and services'. The 2018 NSW Ageing Strategy Research Report also acknowledges the need for a wide range of housing options to cater for older people, with most older people rejecting the idea of moving into a retirement village or similar until they are 'old and frail'.²⁸ While the NSW Government does not have an explicit 'ageing-in-place' policy, a number of significant documents commissioned as part of the NSW Ageing Strategy 2016-2020, such as the above reports, refer to it. A basic principle underlying 'ageing-in-place' is that older people know what is best for their own lives and have the right to make decisions on their own behalf. An 'ageing-in-place' friendly policy provides the incentives for individuals to remain living in a community to which they have a strong attachment, either in their existing residence or alternate accommodation with service supports. Yet, over the life of the NSW Ageing Strategy 2016-2020, the NSW Government continued to evict older residents from the inner Sydney suburb of Millers Point. These evictions were in conflict with the principle of ageing-in-place.

The Tenants' Union of NSW believes it is important that any future strategy include an explicit policy on 'ageing-in-place' and establish benchmarks against which wider Government policies can be measured regarding consistency. A concrete example of this would be to ensure agencies commit to and implement a set of clear principles when undertaking urban renewal in social housing that align with 'ageing in place'. The redevelopment of old public housing estates poses real hardships for many older tenants. In order to ensure public housing tenants are fully consulted in future redevelopment projects and that no repetition of what transpired in Millers Point occurs, in 2017 Shelter NSW, Tenants' Union of NSW and City Futures Research Centre at the University of NSW consulted widely with public housing tenants and produced a report entitled A Compact

²⁷ Family and Community Services (now Department of Communities and Justice), NSW Ageing Strategy 2016 - 2020,

https://www.facs.nsw.gov.au/__data/assets/pdf_file/0005/382829/NSW_Ageing_Strategy_2016-2020.pdf, accessed 29 July 2020, pp. 26-28

²⁸ Family and Community Services (now Department of Communities and Justice), (2018) NSW Ageing Strategy Research Report,

https://www.facs.nsw.gov.au/__data/assets/pdf_file/0007/631888/NSW-Ageing-Strategy-6079-Research-Report,-January-2018.PDF, accessed 29 July 2019, p130

for Renewal: What tenants want from Renewal.²⁹ The principles underlying the Compact align closely with those of 'ageing in place', that is that residents should be given every opportunity to influence and shape the renewal and redevelopment process and be consulted on how best to avoid, minimise and avoid damaging or disruptive impacts. Residents should be given choice wherever possible and as much control as possible over their circumstances.

Recommendations

42. Develop principles of engagement for future and current renewal projects which include an explicit policy of aging-in-place.
43. Ensure agencies commit to and implement a set of clear principles in line with those set out in A Compact for Renewal, when undertaking urban renewal in public and community housing to guide involvement and engagement with residents of public and community housing affected by the renewal.

²⁹ Shelter NSW, Tenants' Union of NSW, City Futures Research Centre (UNSW), 2017, A Compact for Renewal, <https://www.tenants.org.au/resource/compact-renewal-what-tenants-wantrenewal>, accessed 29 July 2020

8. What actions would make the biggest impact in creating a housing and homelessness system that works?

8.1 Funding for independent sector wide tenant participation panels

The Tenants' Union supports establishing independent panels for public and community housing tenants to share information and feed into ongoing evaluation and review of the system. This would be in addition to the Tenant Participation Program that has now been moved back in house for public housing tenants. These forums or panels should be independent and whole sector focused. In order for tenants to make informed choices or to provide properly considered input into ongoing decisions concerning not just their own tenancy but social housing management questions more broadly, they must have independent sources of information and forums in which to evaluate them.

The abolition of Tenant Participation Resource Services program in late 2018 diminished this capacity for all social housing tenants in NSW but community housing tenants were doubly impacted as all resources to support tenant participation and representation was expected to come from social housing landlords. TPRS operated for more than twenty years through independent local and regional community organisations and aimed to increase social housing tenants' access to information, advice and opportunities to more actively participate in processes related to their housing.³⁰

Another one of issues faced by tenants who were transferred under SHMT is they lost access to resources and support provided to continuing public housing tenants aimed at enabling their participation in system reforms. CHIA itself has expressed the view that tenant participation is a key element of system infrastructure that should be funded by government and has called for an independent tenant representative organisation to be given a role in community housing regulation and for a more demanding requirement on tenant engagement.³¹

In-house tenant engagement programs operated by CHPs such as Tenant Advisory Groups (TAG) are unable to facilitate tenant involvement in policy or management issues beyond the bounds of individual CHP operations, and are clearly conflicted in relation to empowering tenants to express independent or critical views on CHP policy or management practice. The state-wide body representing community housing tenants, Community Housing Tenants Network, is also almost entirely dependent on CHIA for its minimal operating resources.

The Tenants' Union would be well placed to establish these forums/panels and feed the discussions and recommendations from the forums back to social housing providers. This would require appropriate funding provided to the Tenants' Union to run the project.

³⁰ Tenants' Union of NSW, Change Management: Social Housing Management Transfer Program NSW 2018-19 (Report, 2020) <https://files.tenants.org.au/policy/2020-SHMT-report-final-web.pdf>

³¹ CHIA (2019) Review of the National Regulatory System for Community Housing – Comments on the Discussion Paper
<http://communityhousing.org.au/wpcontent/uploads/2019/03/CHIA-NSW-Submission-to-the-NRSCH-Review-2019-Final-withAttachments-26.2.19.pdf>

Recommendation

44. As a minimum, tenant organisations at a regional or provider level, as well as the State level tenant organisation, should have access to financial and non-financial support for representation activities independent of the social housing provider.

8.2 Reconsideration of current funding model

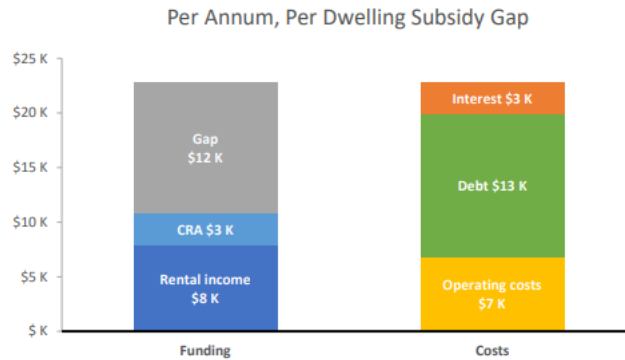
The inadequacy of the level of direct investment in social housing over many decades has driven significant changes in the housing system. A primary change is the ongoing project to rely more heavily on community housing providers by creating a system which favours private actors (and then stating the public actors are incapable).

One example of this is two decisions around the treatment of Commonwealth Rent Assistance (CRA). One was the shift to the 'maximisation' model adopted from 2008 under which community housing tenants are both required to seek CRA and hand 100% of the CRA payment to the provider.

We understand the rationale for this being that community housing tenants are eligible for Commonwealth Rent Assistance (CRA) whereas public housing tenants are not, enabling community housing providers to charge higher rents without reducing the tenant's net income. Where the provider has a sufficiently sized asset base, they are then understood to be able to use the expectation of ongoing higher rental income to leverage financing and further expand their (and the generally available) stock of social housing.

Troy et al. (2019)³² in estimating the cost of provision neatly demonstrates the issue with this model. The average actual operating costs are met or closely met by the rent paid by the tenant based on their non-CRA income. CRA, even non-maximised, is generally able to cover any operating costs gap. The issue is that providers have been expected to also account for development costs out of the funds provided by the lowest income households. Particularly where this is met through a loan rather than a direct grant, the gap can be far above CRA.

³² Troy, L., van den Nouwelant, R. & Randolph, B. (2019) *Estimating need and costs of social and affordable housing delivery*, City Futures Research Centre, UNSW 2019



Troy et al (2019) "Figure 4: Per annum, per dwelling subsidy gap for social housing operating subsidy model"

What this also doesn't adequately recognise is the role the individual renter in this scenario is forced to take on. Essentially the individual renter under this system is expected to apply for federal funds on behalf of the state's social housing system. In our experience, a renter can bear significant costs – and can on occasion even face the risk of losing their tenancy - if they don't comply or if there are inadvertent delays or differing calculations made by government agencies and housing providers. We have a case which has been ongoing for more than 10 years where the cycle of mismatching calculations between Centrelink and the housing provider plunge the tenant into arrears, before a new round of appeals corrects the calculation and removes the arrears – until the next review. It is an undue administrative burden to place upon the renters.

The discussion paper also states:

"Across the Homes NSW portfolio, rent is around 42% of market rent, which is not enough to cover operating costs including capital maintenance."

We note firstly that market rent is not a relevant indicator of costs or the sustainability of the sector. Market rent is only relevant to market housing, and in the Australian private sector is famously supported by a number of tax distortions which loosen the relationship between operating costs and capital expenditure, leading to many private providers also being able to claim that . It would be inaccurate to suggest that private landlords utilising 'negative gearing' are providing a subsidy to their tenants.

The subsidy provided by the government to a public housing tenant is only the gap payment between the cost of delivering the service, and the fee paid by the tenant. This subsidy varies widely year on year because it depends on the particular work performed by the provider. We acknowledge that there may be a gap between rents collected and work performed, though we also are concerned that across housing providers work is being performed that is not the operating costs associated with maintaining current tenancies and dwellings, but additional work that should not rely on the rents collected.

Neither should sitting tenants be funding the expansion of the portfolio. Expenses such as loans create higher than necessary costs for providers and distort the relationship between providers and the people living in the homes.

We are concerned that NSW Treasury does not recognise the value of publicly owned homes, and applies a too narrow test in assessing its value to the state, particularly in the concept of 'highest and best use'. It is apparent that the standards used are a barrier because they fail to take into account the range of benefits long-term stable housing has on residents and the community alike. Homes NSW should be supported in challenging this thinking.

We acknowledge the process to shift away from this CRA-based funding will not be a light undertaking.

Recommendation

45. Work over the cycle of this agreement to the design and implementation of an alternative funding model that separates the funding required to meet the day-to-day operational costs, and the source of funds for growth.
46. Ensure NSW Treasury is recognising the value of the asset held by NSW Government on a 'triple bottom line' basis.

8.3 Transparency

More data about social housing properties and tenancy management practice could usefully be made publicly available to allow for the independent monitoring of performance, and greater public transparency and accountability.

Finding current information on the condition of social housing stock in NSW, including repairs and maintenance backlogs for both LAHC and Aboriginal Housing Office properties, is often challenging. Additionally, obtaining up-to-date details about ongoing and planned social housing projects under Communities Plus and the Social and Affordable Housing Fund has proven to be quite problematic.

While it is somewhat easier to locate information regarding the expected outcomes of the Social and Affordable Housing Fund, it's not always clear when these outcomes will be achieved. Tracking information about Communities Plus projects is notably elusive.

We also have difficulty finding detailed practice and performance data about community housing providers. Community housing providers operate under government auspices and exist to fulfil a public purpose so we believe no good argument exists for their performance data to remain confidential.

We suggest publication of the following schedule of data :

Property data.

- Owned, managed, headleased, planned for completion in next 12 months,
- Social, affordable, market
- Accessibility rating

- Bedrooms and dwelling structure
- Assessed condition of dwelling, including need for retrofit/upgrade to meet impending minimum standard implementation (possibly for example, energy efficiency, accessibility)
- Owner type (e.g. state government, local government, private company, private individual)
- Locational need

Tenant provided income

- Rent revenue
- Rent collection rate
- *For community housing providers:* CRA calculated and received
- Water and other charges

Repairs responses

- Maintenance requests and classification of expected time frame
- Resolution rate within expected time frame

Court or Tribunal activity

- For applications made by provider and by tenants
- Orders sought
- Result (application successful, negotiated outcome, application unsuccessful)

Bonds (where claimed within reporting period)

- Claimed from tenant

Exits

- Tenant initiated
 - Reason (including unknown or not provided)
- Landlord initiated
 - Reason
 - Notice of termination served
 - Tribunal action initiated

Number of tenancies re-entering social housing after exit in last 12 months/last 5 years

- From the same provider
- From a different provider

Development of stock

- Number of social housing properties planned, in construction, and/or delivered
- Notification in advance of any redevelopment plans

Recommendation

47. More comprehensive data be made available and publicly accessible regarding public and community housing properties and tenancy management practice in relation to the following: existing property data; tenant provided income; repairs responses; court or tribunal activity; bonds; exits; number of tenancies re-entering social housing after exit; development of new stock.

8.4 Climate resilience and adaptation

As the frequency and severity of climate-related events increases, we need to not only understand the impacts of climate change for our housing systems but also how best we adapt and build resilience within them. Climate related natural disasters cause damage to and destroy homes, but also disrupt entire communities, displacing residents, straining resources, and exacerbating housing inequalities. Research published earlier this year on the health and housing consequences of climate-related disasters in the Australian context found renters were more likely to experience long term acute residential instability following a disaster, and people who had experienced disaster related home damage were more likely to experience a forced move.³³

Following the Lismore floods, the Tenants' Union along with a number of other community and support organisations commissioned research on the impact of housing vulnerability on climate disaster recovery.³⁴ The research, undertaken by Ryan van den Nouwelant & Alessia Cibir, found existing housing support services, including homelessness and tenancy supports, were subsumed by disaster relief support efforts. The context of very limited available rental stock even prior to the disaster meant post disaster more low-income renters were displaced, while others were being left with little choice but to accept living in homes requiring repairs, or otherwise unsafe. The insecurity they faced as renters, for example the risk of receiving a no-ground eviction, held them back from asking for their basic rights, including repairs.

Homelessness support services, not adequately resourced to deal with homelessness even prior to disasters, were called on to help even more people, while their volunteers and workers were also flood-impacted. People at risk of homelessness prior to the floods were found to now be facing additional years of ongoing uncertainty because of the lack of social housing available.

With risks of natural disasters increasing due to climate change, there is a strong need for a well-planned and better coordinated response to meeting people's housing needs post-disaster, and to build a more resilient system.

The report highlighted the following interventions, in both the medium term to facilitate

³³ Ang Li, Matthew Toll, Rebecca Bentley (2023) [Health and housing consequences of climate-related disasters: a matched case-control study using population-based longitudinal data in Australia](#). Lancet Planet Health. 2023 Jun;7(6), accessed 20 October 2023

³⁴ van den Nouwelant, R. & Cibir, A. (2022) "The impact of housing vulnerability on climate disaster recovery: The 2022 Northern Rivers Floods" City Futures Research Centre, UNSW 2022

the recovery process, but also the longer term to improve resilience against future climate disasters. In addition to improving planning and provision of immediate/emergency accommodation, creation of pathways into medium term housing and measures to mitigate against social displacement and dislocation from community connection, the authors also recommended the following:

- Support for tenants from the medium-term failings of the private rental market
- Long term resourcing (not rolling one-off funding grants) for community support services, which were the backbone of the disaster response following the disaster
- Development of a more sustainable ongoing social (public and community) housing sector.

Recommendation

48. Better resourcing of homelessness services across the state to allow for localised responses to homelessness. This will require investigation to expand services in areas where there is need and must take into consideration areas heavily impacted by climate related events.

49. Ensure support detailed by the Health and Housing Report in areas impacted by climate and other disasters are implemented.

8.5 Utilise tenancy reform to lift standards

Part 7 of the *Residential Tenancies Act 2010 (NSW)* is shared between the Ministers for Fair Trading and Better Regulation and the Minister for Housing and Homelessness.

The part is predominantly used to give social housing providers different tools to control behaviour, often in a punitive manner. However, these provisions also often give a level of oversight which are necessary to maintain a fair and reasonable practice, particularly around the removal of housing from a person.

Part 7 was excluded from the statutory review of the Residential Tenancies Act conducted in 2015 and leading to legislative reform in 2018. The Part was amended significantly in 2015 and 2018, both to the clear detriment of social housing renters, but without review of the whole part or with review required.

Further, in the *Residential Tenancies Amendment Act 2024 (NSW)* changes were made to the legislation that were more appropriately situated within Part 7. Namely, the inclusion of the new section 87H which allows for ending a tenancy by reason of eligibility for affordable housing. This clause was unnecessary because of the already existing eligibility eviction grounds at ss143-147 of the Act, but should be under the responsibility

of the Minister for Housing and Homelessness.

We believe the Part can be used to offer greater support to renters.

We also note an unlegislated policy of both Fair Trading NSW and the predecessors of Homes NSW is to treat social housing tenants as ineligible for support or compliance activity from Fair Trading NSW in relation to breaches of the Residential Tenancies Act 2010 or residential tenancy agreements. It is unclear the rationale for this policy, but gives the impression of seeking to avoid accountability. Homes NSW can ensure that NSW Fair Trading knows that all tenants under the Residential Tenancies Act can expect accountability for breaches of law or contract.

Recommendation

50. Review Part 7, and other relevant parts, of the Residential Tenancies Act.

51. Ensure breaches of the Residential Tenancies Act 2010 or residential tenancy agreements are subject to regulatory oversight by NSW Fair Trading and the NSW Rental Commissioner.

9. What actions would make the biggest impact to increase self-determination for Aboriginal people and families across the NSW housing and homelessness system?

Meaningful housing policies must put Aboriginal and Torres Strait Islander people at the centre. It requires a genuine and culturally competent co-design process so that when people are going to be affected by a decision, they have a real say in that decision first.

The Tenants' Union makes the following comments and suggestions of action that could be considered but we strongly urge the NSW Government to ensure Aboriginal people and Aboriginal run organisations are at the centre of developing actions on how to increase self-determination for Aboriginal people and families across the NSW housing and homelessness system.

9.1 Need for more housing

In New South Wales, there is a severe shortage of housing for Aboriginal and Torres Strait Islander People. For many, homeownership is not financially accessible and the private rental market is also largely prohibitive, particularly to young people, as a result of high cost, uncompetitive tenancy and work histories and discrimination.³⁵ This has resulted in a focus on accessing social housing, with its limited availability and lengthy waiting periods. Aboriginal and Torres Strait Islander People are six times more likely than non-Indigenous Australians to live in social housing.³⁶

The housing deficit for Aboriginal and Torres Strait Islander tenants equates to approximately 10,855 dwellings for social housing and 13,506 dwellings for affordable housing. These deficits are projected to increase by 62 per cent by 2031.³⁷ This acute unmet housing need within the social housing system is due to inadequate resources and a severe imbalance between housing demand and supply with respect to the number of dwellings, housing quality, amenities and size.³⁸ The limited availability of housing in New South Wales is correlated with high rates of homelessness. Aboriginal and Torres Strait Islander People represent approximately 3 percent of the overall population in New South

³⁵ Melanie J. Andersen et al, "There's a housing crisis going on in Sydney for Aboriginal people": focus group accounts of housing and perceived associations with health, (2016) BMC Public Health, <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4877811/>>.

³⁶ Melanie J. Andersen et al, Housing Conditions of Urban Households with Aboriginal Children in NSW Australia: Tenure Type Matters, (2018) BMC Public Health, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5540447/pdf/12889_2017_Article_4607.pdf>.

³⁷ Gavin Brown and Shane Hamilton., Self-determination and Smarter Housing Policy Can Improve the Health of Indigenous Australians, PwC Australia (2019), <<https://www.pwc.com.au/health/health-matters/improving-indigenous-health-and-wellbeing.html>>.

³⁸ Ong et al., (2017) 'Housing Supply Responsiveness in Australia: Distribution, Drivers and Institutional Settings' (Final Report 281, Australian Housing and Urban Research Institute, May 2017), <https://www.ahuri.edu.au/__data/assets/pdf_file/0012/13242/AHURI-Final-Report-281-Housing-supply-responsiveness-in-Australia-distribution-drivers-and-institutional-settings.pdf>.

Wales, but 20 per cent of the state's homeless population.³⁹

Recommendation

52. Ensure Aboriginal housing is lifted to a determined percentage of all housing in the non-market system.

9.2 Poor Cultural competency of non-Aboriginal social housing staff and providers

Supporting appropriate and sustainable housing for tenants requires efficient organisational structure, appropriate allocation of resources by housing providers, and strong links with other agencies and local service providers.⁴⁰ For Aboriginal and Torres Strait Islander tenants who experience higher rates of tenancy exits than non-Indigenous tenants, the provision of appropriate housing also requires a proper consideration of the unique experiences and needs of Aboriginal and Torres Strait Islander people, including social and cultural requirements, living patterns and preferences and an understanding of the continuing trauma of colonisation in its many forms. Social housing policies and service delivery practices need to demonstrate flexibility and cultural compassion including recognition and respect of the special status of Australian Aboriginal people and Torres Strait Islanders as First Nations People.⁴¹

Rigid policies that are not compatible with the cultural norms and lifestyles of Aboriginal and Torres Strait Islander People can result in inadvertent breaches of tenancies and lead to evictions, for example, cultural requirements to accommodate long-stay visitors and allocation policies that do not take account of the need for an extra bedroom for visiting kin.⁴² Comprehensive cultural competency training is needed across the public, community and private housing sectors to ensure that housing is suitable for the Aboriginal and Torres Strait Islander people to whom it is provided.

Recommendation

53. Review training requirements across public and community housing providers and support sector-wide strategies.

³⁹ United Nations General Assembly (July, 2019) Adequate Housing as a Component of the Right to an Adequate Standard of Living, and the Right to Non-Discrimination in This Context, Report of the Special Rapporteur, <<https://www.ohchr.org/en/issues/housing/pages/housingindex.aspx>>.

⁴⁰ Department of Family and Community Services, Foundations for Success – A Guide for Social Housing Providers Working with Aboriginal People in Communities (2015) <<https://www.aho.nsw.gov.au/download?file=547146>>.

⁴¹ Dr Nicola Bracketz, Jim Davidson and Alex Wilkinson, 'How can Aboriginal Housing in the NSW and Aboriginal Housing in NSW and the Aboriginal Housing Office Provide the Best Opportunity for Aboriginal People' (October 2017), Australian Housing and Urban Research Institute, <<https://www.aho.nsw.gov.au/download?file=547145>>.

⁴² Ibid.

9.3 Expand Aboriginal and Torres Strait Islander controlled tenant support services, housing officers and other Indigenous organisations to assist tenants.

Aboriginal and Torres Strait Islander Support Services such as the ATAASs, Indigenous housing officers and other Aboriginal specific services have the unique capacity to increase feelings of understanding between staff and clients and to engage clients in culturally appropriate ways which is conducive to reducing tenancy turnover.

The need for more trained Aboriginal staff in the housing sector has been identified in a number of studies. Milligan et al.'s study of urban social housing for Aboriginal and Torres Strait Islander people, identified that a key factor in improving the delivery of social housing to Aboriginal People is giving priority to employing Indigenous people in leadership roles and ensuring Indigenous clients have opportunities for access to Indigenous staff across the social housing system.⁴³

Recommendation

54. Identify outcomes and gaps in training and employment strategies across public and community housing providers, doing so in partnership with Aboriginal people.

9.4 Housing to be community owned and managed

Many Indigenous organisations in urban, rural and remote areas are successfully managing housing programs and services for their communities. These organisations allow for articulation of Indigenous interests and are able to employ effective, culturally appropriate communication strategies with tenants to improve housing outcomes. Research has found that such community managed organisations are more likely to be successful when housing programs are community driven and allow individual communities to define their own needs.⁴⁴

Investment in and funding for Indigenous housing organisations and networks is vital to ensure opportunities for their meaningful participation in policy making, resource

⁴³ Milligan et al, 'Urban Social Housing for Aboriginal People and Torres Strait Islanders: Respecting Culture and Adapting Services' (Final Report No. 172., Australian Housing and Urban Research Institute, August 2011)
,<https://www.ahuri.edu.au/__data/assets/pdf_file/0014/2075/AHURI_Final_Report_No172_Urban_social_housing_for_Aboriginal_people_and_Torres_Strait_Islanders_respecting_culture_and_adapting_services.pdf>

⁴⁴ Sam Morley, 'What Works in Effective Indigenous Community Managed Organisations, Australian Institute of Family Studies' (CFCA Paper No. 32, Child Family Community Australia, 2015)
<<https://aifs.gov.au/cfca/sites/default/files/publication-documents/cfca-paper32-indigenous-programs.pdf>?>

planning, service improvement and performance monitoring and evaluations.⁴⁵

Recommendations

55. Engage directly with Aboriginal Controlled Community Organisations to develop strategies, ensuring a range of communities and organisations are involved.

⁴⁵ Milligan et al, 'Urban Social Housing for Aboriginal People and Torres Strait Islanders: Respecting Culture and Adapting Services' (Final Report No. 172., Australian Housing and Urban Research Institute, August 2011),
<https://www.ahuri.edu.au/__data/assets/pdf_file/0014/2075/AHURI_Final_Report_No172_Urban_social_housing_for_Aboriginal_people_and_Torres_Strait_Islanders_respecting_culture_and_adapting_services.pdf>

10. What are the risks and opportunities in developing an agreed set of system-wide measures to track progress against the priorities and objectives?

The Tenants' Union supports greater transparency and accountability system wide. We welcome and support the development and implementation of a common set of outcome measures that would allow for benchmarking across the sector. Any risks are outweighed by the significant opportunities that are created when we have system wide measures which are shared publicly.

For informed policy making there is the need for the development of a framework to measure progress against the priorities and objectives. In the strategy there needs to be an explicit commitment to transparency and accountability in relation to outcomes measurement and benchmarking, with outcomes to be reported on and made publicly available.

Monitoring of current practice and outcomes may identify the need for changes in sector practice. For example in relation to evictions and the use of NCAT to better reflect social housing providers commitment to an 'eviction as a last resort' approach. The definition of eviction for the use of current benchmarks are not published, and neither are the outcomes. This makes it difficult to know what the current benchmark is, or how it was calculated. However, we understand that providers may consider (and report) 'evictions' to have occurred only where a final order for possession has been ordered by the Tribunal and acted on. We and tenants understand evictions very differently, instead relying on the definition of a landlord using legal or physical process to remove a person.

Tenants will often describe having experienced an 'eviction' at the point at which they received the notice of termination. In practice, many will simply leave once issued with a notice. With this in mind, providers should consider 'best practice' when managing arrears. We acknowledge providers will have had a process leading into formal action but we recommend that there should be an emphasis on seeking specific performance orders for rent arrears management without issuing a notice of termination or seeking vacant possession orders. This should be considered in relation to setting appropriate outcome metrics and benchmarking in relation to 'sustaining tenancies'.

In the strategy there needs to be an explicit commitment to transparency and accountability in relation to outcomes measurement and benchmarking, with outcomes to be reported on and made publicly available. See section 8.3 above for our recommendations in relation to tenancy management.

The primary risks we identify are that an incomplete set of stakeholders are involved in setting the measures and/or some stakeholders are given greater prevalence in finding agreement. We must particularly ensure that the people impacted by the measures are involved in setting the measures.

This comes with the opportunity to grow residents' capacity to engage in policy

discussions. We would be delighted to support such a project.

Recommendation

56. Establish clear targets and metrics across the short, medium and long term to track progress against the priorities and objectives.
57. Provide transparent evaluation mechanisms for monitoring and measuring outcomes, and share available relevant data regarding outcomes.
58. Develop and publish shared language which is meaningful to people living in Homes NSW.
59. Investigate the utilisation of panels of people living and accessing Homes NSW services to engage in both creating benchmarks and monitoring progress.

Appendix

Snapshot from WelcomeMat.com.au and within the 'affordable housing' filter on realestate.com.au on the 8th and 9th January 2025⁴⁶

Suburb	Bedrooms	Type	Advertised rent	AHG Compliant rent	Annual difference from AHG compliance	Program
Clovelly	2	Unit	\$1,000	\$680	\$16,685	AHG
Willoughby	1	Unit	\$560	\$420	\$7,300	AHG
Croydon	2	Unit	\$600	\$488	\$5,840	NRAS
Carlingford	3	Unit	\$749	\$640	\$5,683	AHG
miranda	1	Unit	\$520	\$464	\$2,920	Aware
Marrickville	1	Unit	\$544	\$496	\$2,503	AHG
Carlingford	2	Unit	\$584	\$544	\$2,086	AHG
North Kellyville	2	Unit	\$560	\$520	\$2,086	AHG
Penrith	2	Unit	\$455	\$420	\$1,825	NRAS
Marrickville	0	Unit	\$432	\$400	\$1,668	AHG
Mount Hutton	3	House	\$529	\$504	\$1,304	NRAS
epping	2	Unit	\$624	\$600	\$1,251	Aware
Sydney Olympic Park	2	Unit	\$640	\$636	\$208.56	AHG
Miranda	0	Unit	\$440	\$440	\$0	Aware
Sydney Olympic Park	2	Unit	\$635	\$636	-\$52.14	AHG
Camperdown	1	Unit	\$397	\$400	-\$156	AHG
Orange	1	Unit	\$279	\$288	-\$469	NRAS
Penrith	1	Unit	\$390	\$400	-\$521	NRAS
Penrith	1	Unit	\$390	\$400	-\$521	NRAS
Castle Hill	3	Unit	\$674	\$688	-\$730	AHG
Northmead	3	Unit	\$584	\$600	-\$834	Aware

⁴⁶ AHG Compliant rent means calculated per the Affordable Housing Guidelines. The median rent for the size and type of property from the most recently published Rent and Sales Report. Geography is postcode unless unavailable. Property type expanded to all types. Two studio apartments were excluded as no rent data could be utilised.

Programs: AHG = Affordable Housing Guidelines referred to as defining eligibility
 NRAS = property identified as an NRAS property
 Aware = Aware Super's Essential Worker program.

Castle Hill	2	Unit	\$569	\$588	-\$991	AHG
Goulburn	3	Town-house	\$396	\$420	-\$1,251	NRAS
Macquarie Fields	2	Town-house	\$367	\$392	-\$1,303	AHG
Wickham	1	Unit	\$397	\$424	-\$1,408	AHG
Castle hill	2	Unit	\$561	\$588	-\$1,408	NRAS
Castle hill	1	Unit	\$479	\$516	-\$1,929	NRAS
Rouse hill	1	Unit	\$413	\$464	-\$2,659	NRAS
Castle Hill	2	Unit	\$524	\$588	-\$3,337	NRAS
Charmhaven	2	Villa	\$250	\$336	-\$4,484	AHG
Peakhurst	3	Unit	\$512	\$600	-\$4,588	NRAS
Bondi Beach	1	Unit	\$495	\$624	-\$6,726	AHG