

## 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.

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

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## About this submission

The Tenants' Union of NSW welcomes the opportunity to contribute to the development of NSW Homelessness Strategy for the next 10 years.

The NSW housing system, and in particular the private rental market, has failed to ensure everyone has access to safe, secure, affordable housing. This failure increases both the risk of homelessness for vulnerable renting households, and the barriers to people developing a pathway out of homelessness. This submission focuses on the insufficient protections and supports provided for people who rent their homes.

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.

The experience of residential renting is built on the threat of homelessness as behavioural control. Across private, public and community housing people renting their homes are constantly reminded that they are always potentially one infraction and a matter of weeks away from homelessness. When considered as part of a homelessness strategy, it is apparent that this use of the threat of homelessness works against the aim of preventing homelessness. A person facing a financial or health crisis is made homeless despite clear risk of homelessness. A new approach needs to be developed that recognises in real, practical ways that an eviction-based renting system works against a homelessness strategy aimed at preventing homelessness.

If priority is placed on the Strategy's guiding principle that prevention is prioritised then there will be better outcomes for renters and less pressure placed on homelessness services. A combination of improving security for renters from eviction, and increasing support and finances available to renters, would significantly reduce the need for Housing First interventions.

Homelessness reform also 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 or private rental housing.<sup>1</sup> 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.

We have focused our response on reforms that relate primarily to the Strategy focus area of homelessness is rare. This involves a focus on making sure policies and practices

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<sup>1</sup> 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>

reduce the likelihood people will experience homelessness. The reforms we outline require leveraging all areas of government to address systemic factors and gaps between processes which contribute to homelessness.

## List of Recommendations

1. That the NSW Government should consider and develop an appropriate hardship framework for renters who experience unexpected financial hardship impacting their ability to pay their rent
2. That the NSW Government develop requirements for private and social housing landlords, real estate agents and the NSW Civil and Administrative Tribunal require use of the hardship framework before moving to eviction.
3. 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.
4. Introduce clear policy and practice regarding sustaining tenancies which uses the Tribunal as a last resort.
5. Ensure definitions and numeration of 'evictions' in reporting includes the full eviction process beginning with service of a notice of termination.
6. Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings.
7. Adequate funding and resourcing to achieve a target of 10% social housing properties of all housing stock by 2036.
8. 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.
9. Investigate greater support options, including consideration of expanding eligibility for public, community and affordable housing.
10. Adopt wider model of homelessness which takes into account intersection of physical, legal and social domains and access to adequate housing
11. NSW Government to ensure that all housing under its purview avoids all three housing exclusion categories
12. That the NSW Government adequately resources free, independent legal advice and advocacy services for renters.
13. That assessment of adequacy of resourcing takes into account the additional funding required for effective and appropriate provision of information, advice and advocacy supports for Aboriginal and Torres Strait Islander renters, renters from culturally and linguistically diverse communities, and renters with a disability.
14. That the NSW Government adequately resource the Tenants' Union of NSW to ensure renters have a voice and peak body able to represent their interests in discussion of housing and homelessness policy.
15. Make clear the process pathway for addressing breach before a notice of termination can be served.

16. Review Part 7, and other relevant parts, of the Residential Tenancies Act that target anti-social behaviour in social housing tenancies.

17. Define eviction as the use of process - from service of a notice of termination

18. The NSW Government implement requirement for data to be submitted for all private rentals about the commencement and end of tenancies, including:

Tenancy commencement - postcode location, commencement date of tenancy, starting rent & bond lodged

Tenancy end - Postcode location, date tenancy ended, amount of bond released to tenant, who initiated termination of agreement, why agreement was terminated, rent at end of agreement

19. 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.

20. Implement the recommendations contained in the Homelessness NSW report on temporary accommodation

21. 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.

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

## Strategy focus area - Homelessness is rare

### a) Priority action - Hardship framework for renters

Currently the Residential Tenancies Act makes no mention of financial hardship as grounds for a tenant to request a rent reduction. Consideration should be given to a range of strategies to prevent unnecessary evictions that heighten the risk and cost of homelessness. This can include both supports to sustain tenancies, and the introduction of a requirement for landlords to enter into rent reduction negotiations where a renter can demonstrate they are experiencing financial hardship as a result of a change in circumstances. These action will help renters to maintain their tenancies and prevent homelessness.<sup>2</sup> We refer to our 2022 report, *Evictions, hardship and the housing crisis* for further consideration and briefly expand below.

Hardship provisions exist for financial institutions such as credit providers, telecommunications companies and energy companies. They are governed by Codes of Practice that set out obligations and frameworks for those institutions to discuss and negotiate 'hardship arrangements' where a consumer can demonstrate they are experiencing financial hardship. These arrangements can include periods of reduced payments, and in some cases partial or total debt waivers. These measures are not only intended to provide relief for the benefit of the consumer in hardship, but also support the continued relationship between the institution and the consumer. If a consumer defaults on a loan, is under severe financial stress, and will likely never be able to pay back a debt, both the consumer and the financial institution suffer. If a consumer is given appropriate leeway and support to get back on their feet, they will likely remain a customer of that financial institution.

We understand there are significant differences between large financial institutions and individual landlords – particularly those with just one or two investment properties. Nevertheless, it is unfair that a person who owns a house and is paying off a mortgage is able to access a significantly stronger financial hardship framework through their credit provider than does a person renting their house. Banks, telecommunications companies and energy companies easily weather losses in the hundreds or thousands if a consumer is in financial hardship, especially where this means an ongoing, financially beneficial relationship with that consumer. Some landlords are less able to weather that type of loss. This should not mean however, that hardship frameworks are not made available to renters in financial hardship. Instead consideration should also be given regarding how to support landlords for whom compliance with a hardship framework would in turn lead to financial hardship.

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<sup>2</sup> Tenants' Union of NSW (2022) *Evictions, hardship and the housing crisis*. Accessed at <https://www.tenants.org.au/reports/hardship> 13th February 2025

## Recommendations

1. That the NSW Government should consider and develop an appropriate hardship framework for renters who experience unexpected financial hardship impacting their ability to pay their rent
2. That the NSW Government develop requirements for private and social housing landlords, real estate agents and the NSW Civil and Administrative Tribunal require use of the hardship framework before moving to eviction.

### **b) Priority action - Tribunal process should be genuine last resort for social housing landlords**

In relation to the Strategy's focus on sustaining 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 for social housing tenants– this is not a foundation for an empowering relationship which is person centred. The UK experience during COVID under the eviction moratorium shows that it is possible to find different ways of relating to tenants which don't involve using tribunals.

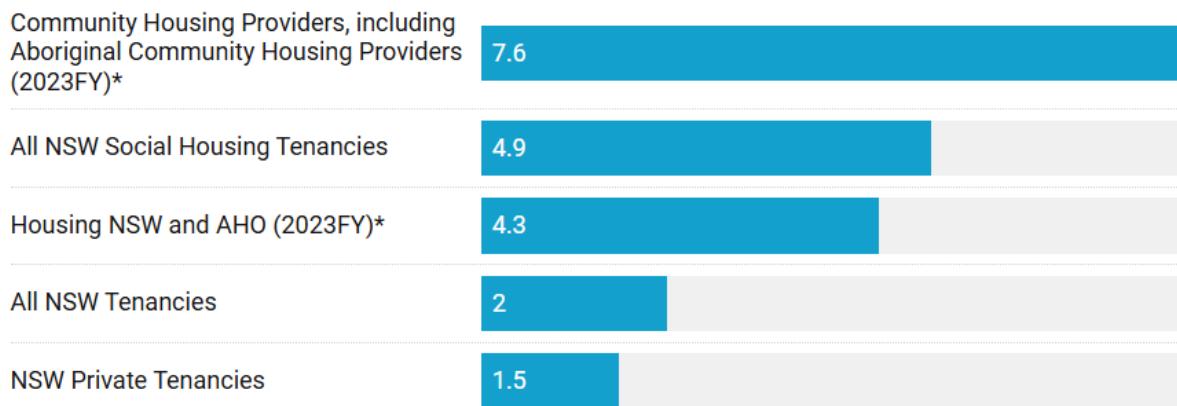
In NSW, social housing providers apply to the Tribunal to evict at a significantly higher rate compared to private landlords. Public housing tenants are taken to the Tribunal for termination matters twice as often as those in private rentals, while community housing tenants face eviction proceedings 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 applications per 100 tenancies



*Eviction application data from the NSW Civil and Administrative Tribunal (NCAT) for the 2024 financial year.*

*\*Data on eviction numbers by individual social housing providers is no longer available as of November 2023.*

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 and can lead to homelessness.

Urgent work is needed in developing across the social housing sector 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 additional 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 and prevent potential homelessness.

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.

## Recommendations

3. 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.
4. Introduce clear policy and practice regarding sustaining tenancies which uses the Tribunal as a last resort.
5. Ensure definitions and numeration of 'evictions' in reporting includes the full eviction process beginning with service of a notice of termination.
6. Fund Tenants' Advice and Advocacy Services to attend the Tribunal for all social housing eviction proceedings.

## c) Priority action - More social housing homes

The Tenants' Union encourages the NSW Government to urgently increase the supply of social housing properties. 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.<sup>3</sup> NSW has current unmet need of approximately 130,000 households, a figure supported by both leading estimates.<sup>4</sup>

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<sup>3</sup> AHURI (2023) 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>

<sup>4</sup> Lawson, J., Pawson, H., Troy, L., van den Nouwelant, R. and Hamilton, C. (2018) *Social housing as infrastructure: an investment pathway*, AHURI Final Report 306, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/306>, page 4.  
 National Housing Finance and Investment Corporation (2023) *State of the Nation's Housing 2022–23* Australian Government.  
<https://www.housingaustralia.gov.au/research-data-analytics/state-nations-housing-report-2022-23>,

The scarcity of social housing increases homelessness. Social housing is critical to making the housing system in NSW fairer and more affordable for everyone. Limited new affordable housing being delivered into the system, alongside rising demand, has driven up rental prices significantly in the private market. In addition the chronic undersupply of social housing and our reliance on the private rental market has pushed hundreds of thousands of people into an already overwhelmed and unaffordable rental market. Rising rents and increased competition mean they are paying a greater proportion of their income on rent, with little left to meet other essential needs.

Prioritising expanding social housing 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.

Looking solely at social housing waiting lists is an inadequate indicator of the true extent of unmet demand. Waiting lists do not account for those who are homeless, excluded due to visa status, or who have had their applications suspended. Crucially the lists also fail to account for low-income households in housing stress who are not on waiting lists.

Decisions on social housing investments must be based on an understanding of housing needs, that prioritises individuals facing, or at risk of, long-term homelessness or those unable to access or afford private rental housing rather than relying on the wait-list, and its eligibility requirements.<sup>5</sup>

## **Recommendations**

7. Adequate funding and resourcing to achieve a target of 10% social housing properties of all housing stock by 2036.
8. 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.

## **d) Priority action - Changes to eligibility of existing programs**

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 must develop support solutions. Precarious living situations can easily lead to people becoming homeless. Consideration should be given to a wide range of options, including eligibility changes to access existing programs.

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page 101.

<sup>5</sup> 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

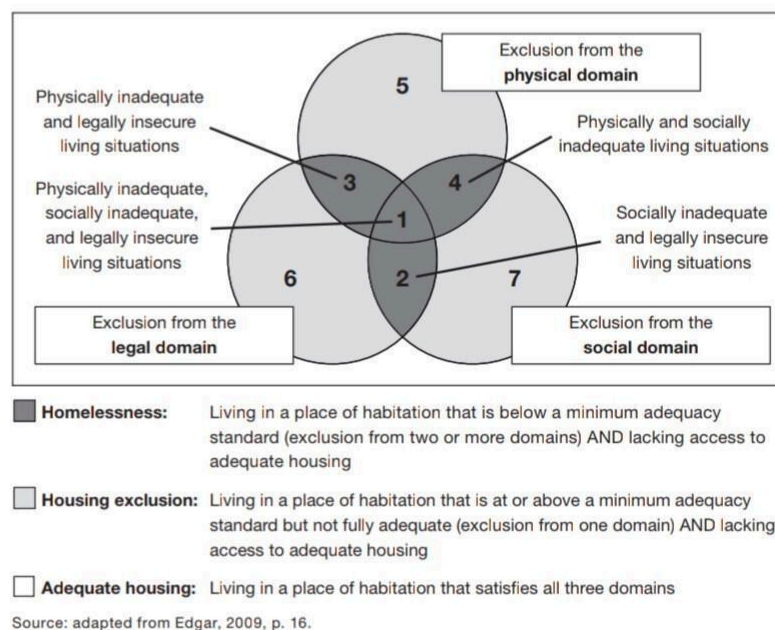
## Recommendation

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

### e) Priority action - Adopt a wider model for measuring true extent of homelessness and housing excluded

How we define homelessness and housing excluded must be reviewed as part of the development of the Strategy. It's important that we have an accurate measure that doesn't exclude or fail to recognise people that are living with housing exclusion or living in what may be described in other models as tertiary homelessness. 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.<sup>6</sup> The model proposes that "people living in places of habitation that are below a minimum adequacy standard should be considered homeless, provided they also meet the 'lack of access to adequate housing' criterion."<sup>7</sup>

**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 NSW Government should ensure all housing under its purview avoids all forms of

<sup>6</sup> Amore, K., Baker, M. and Howden-Chapman, P. (2011) 'The ETHOS Definition and Classification of Homelessness: An Analysis', *European Journal of Homelessness*, 5(2).

<sup>7</sup> *Ibid* page 33

housing exclusion. This will significantly reduce the risk of homelessness and avoid costlier responses such as temporary accommodation. This is a practical measure by which we can measure progress of the Strategy. A risk that has emerged in recent years is the utilisation of boarding houses and other homes with reduced space, particularly by community housing providers. By their nature, these dwellings may fall below minimum adequacy standards particularly in relation to inadequate physical and social living situations due to reduced personal space.

## **Recommendations**

10. Adopt wider model of homelessness which takes into account intersection of physical, legal and social domains and access to adequate housing
11. NSW Government to ensure that all housing under its purview avoids all three housing exclusion categories

## **f) Priority action - Ensure adequate funding for independent advocacy services for renters**

In NSW the Tenants Advice and Advocacy Program funds a network of 24 organisations across New South Wales. These services provide free information, advice and advocacy to tenants in their local areas. The network brings together the skills and expertise of highly skilled advocates who work to ensure that high quality professional advice and advocacy is available to all tenants in New South Wales.

In NSW the Tenancy Advice and Advocacy Program is in the unique position of having four specialist Aboriginal TAASs, plus an Aboriginal Resource Unit and Aboriginal Legal Officer who is based at the Tenants' Union NSW.

In our experience people come to Tenants' Advice and Advocacy Services when they are at risk of homelessness, seeking advice and assistance early to stop initial problems becoming large. NSW Tenants' Advice and Advocacy services play a significant role in preventing evictions and maintaining tenancies, which benefits both tenants and landlords.

Over the last fifteen years demand for tenancy advice and advocacy services has increased and the indications are that demand will continue to increase for the foreseeable future. Resourcing of services has not kept pace with the growth in the number of residential tenancies in NSW and the growth in the number of disadvantaged households in the rental market whose tenancies are especially precarious. The capacity of Tenants' Advice and Advocacy Services to provide assistance has been significantly constrained by the lack of adequate resourcing for the network. In 2021 the network received a very modest permanent increase to its funding, and has also received two one-off grants of additional funding during Covid-19 in response to the increased support needs of renters. The need for a more substantial permanent increase in funding of the network remains.

Ensuring there is adequate resourcing of Tenants' Advice and Advocacy Services should be considered a priority action of the NSW Homelessness Strategy. Funding should be increased to ensure services can better meet demand, with increases to funding tied to growth in the number of tenancies, and the number of disadvantaged tenants. Additional funding for services and supports targeted to particularly vulnerable groups and/or those with specific needs around accessibility is also required.

## **Recommendations**

12. That the NSW Government adequately resources free, independent legal advice and advocacy services for renters.
13. That assessment of adequacy of resourcing takes into account the additional funding required for effective and appropriate provision of information, advice and advocacy supports for Aboriginal and Torres Strait Islander renters, renters from culturally and linguistically diverse communities, and renters with a disability.
14. That the NSW Government adequately resource the Tenants' Union of NSW to ensure renters have a voice and peak body able to represent their interests in discussion of housing and homelessness policy.

## **g) Priority action - Review social housing policies and legislation to ensure they consistent with the principles of the Strategy**

The draft NSW Homelessness Strategy states a commitment to person centred principles in policy and practice and increasing skills of providers in trauma-informed care. In order to meet this commitment there needs to be a thorough review of social housing policies and legislation that currently are undermining their ability to deliver on this commitment.

For instance, the local allocation strategy adopted in Redfern in 2018 does not allow any person who has had a drug conviction in the past five years to be provided with housing in the Inner Sydney estates. This leaves many people either at risk of homelessness or placed in alternative housing separated from family, community and other supports. This in turn leaves the person vulnerable to their mental health and/or substance use conditions worsening.

A wider definition of eviction must be adopted into social housing policy that does not just account for cases where there has been enforcement of vacant possession orders from the NSW Civil and Administrative Tribunal (NCAT). There is an eviction process in NSW that begins from the moment a notice of termination is served on a tenant. The serving of the notice may in itself lead to a tenant believing they have no choice but to vacate their home. Or it may be when the tenant receives notice from NSW Civil and Administrative Tribunal (NCAT) that they feel they have no choice but to vacate their home. Fear of courts and tribunals can mean that tenants are worried they will get into trouble if they don't move out before a Tribunal hearing. Currently both of these scenarios that result in a tenant feeling they have no choice but to leave their home would not be included in social

housing landlords definition of tenancies that have ended as a result of an eviction.

The definition used by social housing providers for accounting for evictions must acknowledge that eviction is a process and it begins when a notice of termination has been served. There needs to be a process pathway established that requires implementing a range of other measures and supports to address breaches before an eviction process can be commenced. Preserving social housing tenancies must be the focus. Each step in the process pathway must be complied with before sign off on the eviction process.

Many evictions from social housing are unduly harsh, unjust, and can lead to homelessness. The NSW Government has stated in their No Exits from Government Services into Homelessness Framework 2020 a vision that no person exits from a government service into homelessness, and that people with complex needs and risk factors – including mental health, substance abuse, criminal history or currently unresolved criminal issues – should be accounted for and supported to avoid homelessness. However, in practice, NSW Government policy contradicts this principle. Many people are unjustly evicted from social housing into situations where they are at great risk of homelessness.

In October 2015, NSW Parliament passed the Residential Tenancies and Housing Legislation Amendments (Public Housing–Antisocial Behaviour) Act 2015. The resulting changes, including section 154D (mandatory terminations) and 154G (orders for possession), have been in operation since February 2016. Section 154D introduced mandatory eviction where a social housing landlord is evicting a tenant on the basis of illegal use of the property (section 91) or serious damage to property or injury to a neighbour or the landlord (section 90). Very limited exceptions to the mandatory eviction provision exist for especially vulnerable tenants, and tenants with children who face hardship if evicted. The introduction of this provision effectively removed much of the discretion of NCAT not to terminate a tenancy where to do so would result in an unjust outcome. Previously NCAT had been required to consider whether the breach was sufficient to justify termination, and had much wider discretion in all cases to consider hardship and other circumstances of the case before making an order for termination.

Eviction is a blunt and harsh measure where additional support would often be a more appropriate response. Many cases involving noise or nuisance, damage to a property, injury to the landlord or agent, or illegal use, are inextricably tied together with complex mental health conditions and substance use disorders, which are only exacerbated if the person is made homeless.

Evictions from social housing due to a breach not only puts a person at immediate heightened risk for homelessness, but can also impact that person's ability to access social housing long into the future – through making the tenant ineligible permanently, or making them wait for a period of time before being allowed back onto the waitlist. It is unclear what these people are expected to do in the meantime, particularly where a breach has been linked to substance use or mental health conditions.



We recognise the disproportionate impact of antisocial behaviour policies for Aboriginal tenants of public housing. Almost a third of all ASB allegations made have been registered against Aboriginal tenants, while Aboriginal households make up only around 7.6% of public housing tenancies. In the experience of TAASs who have provided support for Aboriginal tenants challenging allegations, there is often an element of racial discrimination or targeting involved with the allegations made. Many of these cases in which assistance has been provided have involved women and children.

## Recommendations

15. Make clear the process pathway for addressing breach before a notice of termination can be served.
16. Review Part 7, and other relevant parts, of the Residential Tenancies Act that target anti-social behaviour in social housing tenancies.
17. Define eviction as the use of process - from service of a notice of termination

## h) Priority action - Better collection of data relating to private rental market

One of the biggest problems for policy debate in relation to the rental housing system is the lack of authoritative data upon which decision makers and analysts can draw to inform solutions and policy development. There is a critical need for improved data collection and accountability structures to monitor the impact of policy interventions.

In order to monitor the efficacy of reforms aimed to ensure homelessness is rare there needs to be better collection of data relating to the private rental market.

There is little data that measures important aspects of private rental, and very limited accurate and meaningful data allowing us to assess whether regulation relating to tenancy and renting is sufficient to ensure homelessness is rare. This is a serious omission that could be addressed by a requirement to provide more data relating to the private rental market.

The NSW Government provides data for recent rental bond lodgements and refunds as well as data on the total rental bond holdings. They also implemented a voluntary End of Tenancy survey in August 2021, following on from a pilot study the previous year. The survey tracks more closely who in NSW is ending tenancies, and why they are ending. It also collects information about the rent at the end of the tenancy, allowing us to calculate how much rents are generally increasing during tenancies. However Fair Trading notes the representativeness of the survey may still be limited, due to the sample being self-selected and drawn from the pool of respondents who use Rental Bonds Online to both lodge and claim rental bond.<sup>8</sup> Those who did not use the Rental Bonds Online system are not given the option to do the survey. At present there appears a relatively low rate of

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<sup>8</sup> Fair Trading (2020) *Results of pilot survey - why tenancies ended*, published on website at [fairtrading.nsw.gov.au/housing-and-property/pilot-bond-exit-survey](https://fairtrading.nsw.gov.au/housing-and-property/pilot-bond-exit-survey), accessed 25 January 2022



response from real estate agents and landlords. The NSW End of Tenancy survey nonetheless provides us with the most comprehensive information into how and why tenancies end in Australia. This data is crucial to help develop appropriate actions to prioritise and also to measure if the current actions are working to help people sustain their housing.

The value of this data would be significantly improved if made mandatory and became a built-in feature of their process for submitting a claim for refund of a rental bond.

We note that reform to the Residential Tenancies Act 2010 require data on the grounds and evidence used by landlords is required to commence by 1<sup>st</sup> July 2025 and this data capturing requirement can be supplemented with additional information.<sup>9</sup>

## **Recommendation**

### **18. The NSW Government implement requirement for data to be submitted for all private rentals about the commencement and end of tenancies, including:**

Tenancy commencement - postcode location, commencement date of tenancy, starting rent & bond lodged

Tenancy end - Postcode location, date tenancy ended, amount of bond released to tenant, who initiated termination of agreement, why agreement was terminated, rent at end of agreement

## **i) Priority action - Open, transparent sharing of data about public and community housing**

Like data about private rental there is very little published information or data about public and community housing properties and tenancy management practice in NSW. We have also had considerable difficulty in finding up to date information about planned and current social housing developments being delivered through Communities Plus and the Social and Affordable Housing Fund. In general information about expected outcomes from the Social and Affordable Housing Fund is easier to locate, though it is not always clear what the timeframes are for delivery. Information about Communities Plus projects is much harder to track.

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

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<sup>9</sup> Residential Tenancies Amendment Act 2024  
<https://legislation.nsw.gov.au/view/pdf/asmade/act-2024-75>

We propose the following schedule of data about public and community housing properties and tenancy management practice could usefully be made publicly available.

**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**

19. 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.

## Strategy focus area - Homelessness is Brief

### a) Priority action - Increase to temporary accommodation and ensure it is always appropriate and safe

In an ideal world, temporary accommodation would not be required. With sufficient, accessible, appropriate social and affordable housing stock, a person experiencing homelessness as a result of a crisis or emergency could simply be provided with suitable accommodation, for as long as they need it. Unfortunately, demand for social and affordable housing far outstrips available housing, and so many people who may otherwise be in danger and/or sleeping rough, need temporary accommodation. Even though temporary accommodation is short-term and often accommodation of last resort, it should still have minimum standards that it must adhere to.

At present, accessing temporary accommodation is a very onerous process for many people to manage and for those living in regional areas of NSW there are additional barriers. Many towns do not have temporary accommodation providers or they are located outside of town which makes accessing services for their appointments and any other support difficult for those clients that do not have transport. In one regional town recently most clients in temporary accommodation at the time of a large basketball competition were exited from their accommodation to make way for visitors to the town. This led to an increase in the number of rough sleepers and a lot of pressure placed on the local specialist homelessness service.

There are very limited if any pet friendly options for people needing temporary accommodation which puts people in an impossible situation of choosing between sleeping rough with their pet or going into temporary accommodation and surrendering their animal.. For a person escaping domestic violence, for instance, if they are unable to bring their companion animal with them, some will choose to remain in the dangerous home or sleep rough rather than abandon their animal. There is also a shortage of options for temporary accommodation that are broken down by gender, and so women and non-binary people, who may be uncomfortable sharing accommodation with men, may have to choose between sleeping rough or staying in accommodation that makes them feel unsafe.

Other issues that we are aware of through our work are people living in temporary accommodation being pressured to apply for properties in the private market they cannot afford or not suitable for the number of people in their household.

The temporary accommodation that is provided is often in hotels and motels and in some cases they are not appropriate as they do not meet minimum standards of safe and secure. We are aware of a homeless Aboriginal woman being placed in temporary accommodation that was infected with bed bugs. After one night the client was covered in bed bugs from head to toe. When this was brought to the attention of an Aboriginal Specialist worker from Homes NSW the next morning the client was told they would need to return to the accommodation as there was nothing they could do and the accommodation for the week had already been paid. Photos of bed bugs and a Doctors

certificate were all provided as evidence of the problem. This client was left with no other option but returning to sleeping rough. There must be regular audits and reviews of the temporary accommodation options to ensure they are appropriate and meet minimum standards.

The removal of the 28 day cap on temporary accommodation and the requirement to keep a diary was welcome and much needed changes to the system in July 2023. However since the cap has been removed Tenant Advocates have noticed a tightening of the criteria on people sustaining their temporary accommodation and when complaints are made people are being removed from TA quicker than under the previous policy. People living in temporary accommodation are still being asked to provide information on what properties they have applied for and for many vulnerable clients in particular it is difficult to keep track of what they have applied for or provide evidence when many are using public computers in local libraries.

We refer you to the Homelessness NSW report " Safe, accessible and affordable? Examining the temporary accommodation system in NSW" for more detailed analysis of the required changes to temporary accommodation.<sup>10</sup>

## **Recommendation**

20. Implement the recommendations contained in the Homelessness NSW report on temporary accommodation

## **b) Priority action - Build climate resilience and adaptation into homelessness strategy**

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 to prevent homelessness. Climate related natural disasters cause damage to and destroy homes, but also disrupt entire communities, displacing residents, straining resources, exacerbating housing inequalities and increase homelessness. 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.<sup>11</sup>

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<sup>10</sup> Chris Hartley, Emma Barnes, ( 2023) "Safe, accessible and affordable? Examining the temporary accommodation system in NSW" <https://homelessnessnsw.org.au/wp-content/uploads/2023/12/Final-version-temporary-accommodation-report-HNSW-Dec23-2.pdf> , Homelessness NSW

<sup>11</sup> 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

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.<sup>12</sup> The research, undertaken by Ryan van den Nouwelant & Alessia Cibin, 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 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.

## **Recommendations**

21. **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.**
22. **Ensure support detailed by the Health and Housing Report in areas impacted by climate and other disasters are implemented.**

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<sup>12</sup> Van den Nouwelant, R. & Cibin, A. (2022) *"The impact of housing vulnerability on climate disaster recovery: The 2022 Northern Rivers Floods"* City Futures Research Centre, UNSW 2022