

December 2025

Ministry: Treasury

Wellbeing themes: Prosperous, housed, secure

Proposal: Ensure renters bonds are receiving fair returns for greater support during ongoing housing crisis.

Budget impact: Net ~\$100million pa in increased revenue available

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The NSW Rental Bond Board currently holds \$2.29bn in trust for renters, and provides these funds to NSW Treasury. However, this money is not being used effectively, reducing NSW's ability to support renters.

The Residential Tenancies Act 2010 creates the Rental Bond Board and its accounts, and sets limitations on transfers in and out of the accounts. The Bond Board may release funds out of the main account for three clear reasons:

#### Section 185

(2) There is to be paid from the Rental Bond Account—

- (a) the amount of any rental bonds payable under this Act, and
- (b) money for the purpose of investment of the Account, and
- (c) any other money that is payable from the Account under this or any other Act

That is, to return bonds to renters, to invest money, and for any other legislated uses. Likewise, the Rental Bond Interest Account can only receive and expend money for particular purposes:

#### Section 186

(1) There is to be established a Rental Bond Interest Account into which is to be paid—

- (a) all income from any investment of the Rental Bond Account, and
- (b) the income from any investment of the Rental Bond Interest Account, and
- (c) any other money payable to the Rental Bond Interest Account under this or any other Act.

(2) There is to be paid from the Rental Bond Interest Account—

- (a) money for the purpose of investment of the Rental Bond Interest Account, and
- (b) the costs of, or expenses incurred in, administering this Act, and
- (c) half the costs of, or expenses incurred in, administering residential and social housing matters in the Consumer and Commercial Division of the Tribunal, and
- (d) grants or loans for the purposes set out in subsection (3), and
- (e) any other money that is payable from the Rental Bond Interest Account or the Rental Bond Account under this or any other Act.

In short the money that is sent to NSW Treasury is required to be for the purpose of investment, the returns of which fund the activities Parliament intended for the proceeds to be spent.

The impetus of sending funds to NSW Treasury was a post-GFC reduction in the returns on investment that the Rental Bond Board could reasonably achieve falling below a required replacement rate. While Treasury also had no magic bullet to significantly alter the prevailing investment environment there was some level of subsidy of the Rental Bond Board's activities

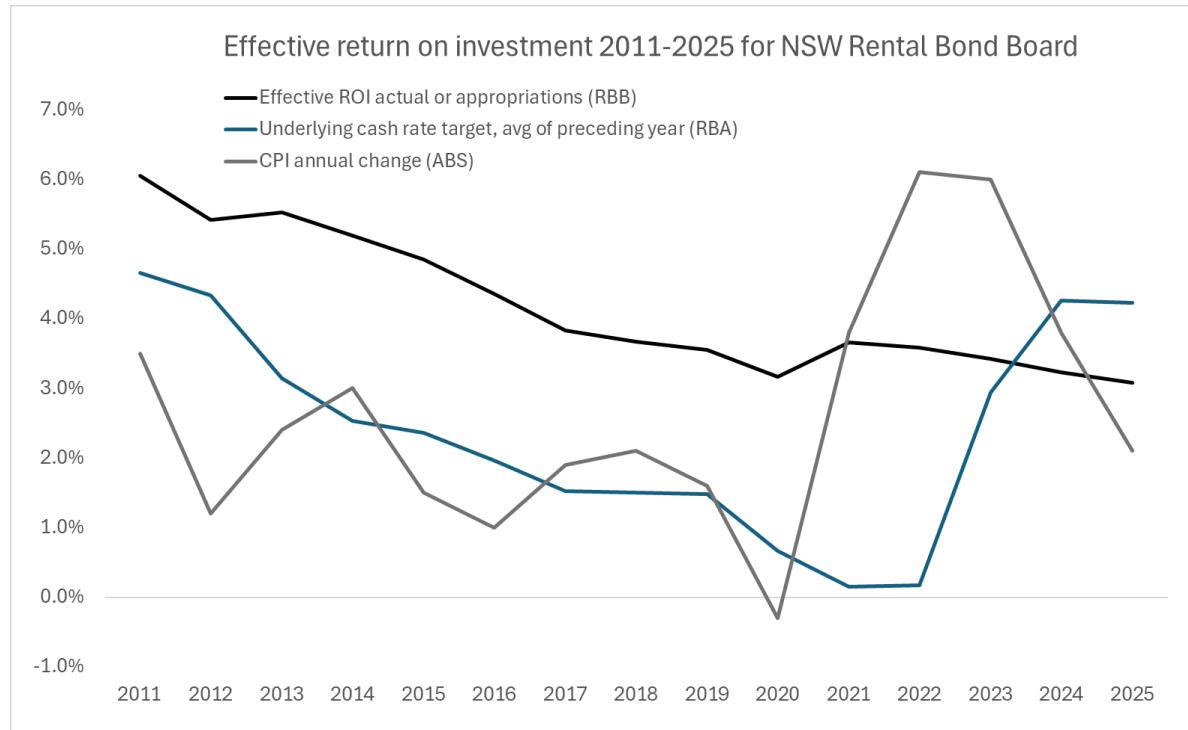
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required and funding via budget appropriations became the process. At the time and for a period this may have been a justifiable decision - albeit a difficult one to assess externally to Treasury.

However, in subsequent years, this has no longer held true. Over each of the last 5 years NSW Treasury has returned funds only for the purpose of meeting largely pre-existing commitments with little expansion despite significant expansion of the Rental Bond Board's holdings - the value of the holdings rose significantly from \$1.7bn at 30 June 2022 to \$2.23bn - an increase of 8.1% per year over three years. This increase in funds indicates the increased need for assistance to the rental sector which has been grappling with a rapid rise, as well as the increased availability of funds with which to do so.

As a result, the Rental Bond Board is being forced to operate at a loss, in each of the previous 3 years expending at least \$10m more than the appropriations returned. We note these deficits is drawing down on proceeds from the liquidated investments that were created as a result of the transfer of funds to NSW Treasury, and would not be necessary if Treasury was appropriately investing to seek a return. In turn, this allows greater use of those funds.

In comparison to either the underlying cash rate target as a proxy for risk-free investment (which we should reasonably expect to be exceeded) or the general rate of inflation we can see over the period of 2012 to present that effective return on investment from the Rental Bond Board has decoupled from the prevailing investment environment.



A potential investment strategy with cash available to cover the regular transaction of funds in and out of the Rental Bond Board and investment in TCorp accounts with reference to length of holdings would generate significantly higher returns than is currently being provided. The proportions below are a potential, based on knowledge of the required cash-flow turnover for

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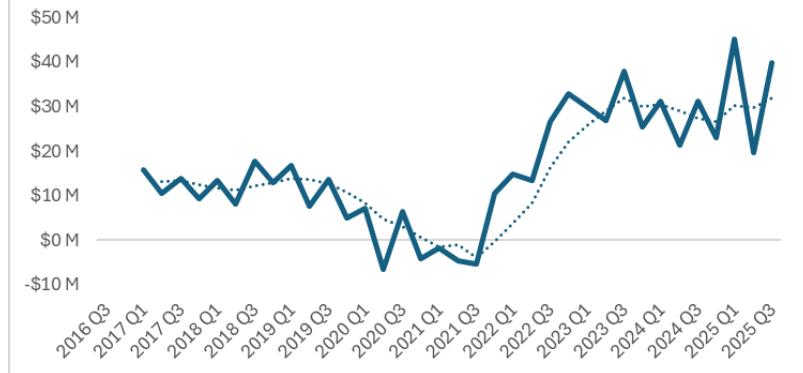
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the Rental Bond Board and length of holdings.

While 20% of bonds currently held by the Rental Bond Board are for 5 years or longer, less than 12% of bonds released in any given year were held for this duration, giving confidence to the ability to use a sizable proportion of investment for medium and long-term growth despite the increased risk. The cash flow from bond turn-over has, with the exception of disruptions as a result of COVID, been consistently positive as a result of the net increase in rents

(and therefore bonds) over the bonds they are replacing. This allows for a small. In our potential strategy, 5% represents a ratio of more than three times the potentially required cash flow over the last twelve quarters.

Cash flow from bond turnover each quarter (estimate), Rental Bond Board FY2017-FY2025



## Potential investment returns on RBB balance at 1 July 2024 of \$2.08bn

Account	Proportion	Potential performance for financial year ending 30 June 2025		Using ten year average to year ending 30 June 2025	
TCorp IM Short-term Income Fund	15%	\$16m	5.12% pa	<b>\$8.2m</b>	<b>2.62% pa</b>
TCorp IM Medium-term Growth Fund	50%	\$84.6m	8.13% pa	<b>\$43.6m</b>	<b>4.19% pa</b>
TCorp IM Long-term Growth Fund	30%	\$78m	12.5% pa	<b>\$45.4m</b>	<b>7.28% pa</b>
Cash holdings	5%	NB: cash may attract a marginal return, unaccounted for here			
Total	100%	\$178.5m	8.0% pa	<b>\$97.2m</b>	<b>4.4% pa</b>

Source: Department of Customer Service, NSW Treasury and author's own calculations

The returns based on the ten year averages for this strategy, would have delivered an additional \$97.2 in 2024-25 and on current trends will significantly exceed \$100m pa in future years. These returns must then be provided to the Rental Bond Board via the Department of Customer Service as increased revenue which allows for greater expenditure by the Department on the legislatively permitted expenditures by the Rental Bond Board.

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Ministry:

Fair Trading and Better Regulation (Department of Customer Service)

Proposal: Restore funding Tenants' Advice and Advocacy Program funding to meet community need, and expand service delivery offering.

Budget impact: Neutral - increased revenue covers increased cost.

Wellbeing themes: Prosperous, housed, secure

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

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

Using increased funds from both increased revenue from Rental Bond Board investments, and the retained earnings from the Property Services Statutory Interest Account and Rental Bond Board.

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

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

Between 2006 and 2021 the latest ABS Census data shows the number of people renting their homes has grown by 43 percent. The number of bonds held by the Rental Bond Board increased 53.7% from 2008 to 2025 and there has been high growth amongst priority groups, such as older renters, people with disabilities, and renters from culturally and linguistically diverse backgrounds.

This population growth combined with the increasing complexity of casework as housing crises place greater pressure on the rental sector has left Tenants' Advice and Advocacy

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Services (TAAS) stretched thin. Increasingly, renters are missing out on the services they need to live a dignified life.

To restore the program's baseline funding ability to meet the needs of the community costs \$9.92m per annum. The full briefing is available at <https://www.tenants.org.au/reports/briefing-paper-tenants-advice-and-advocacy-program-funding-needs>

The offerings of the program should also be expanded with dedicated additional funds. NSW Department of Customer Service is, like all NSW departments, part of the NSW Homelessness Strategy. A clear way for support for the strategy, particularly in relation to sustaining tenancies, to be implemented is examining ways to assist in prevention of eviction, through the availability of tenant advocates.

In financial year ending 2025, there were just under 20,000 eviction applications made to the NSW Civil and Administrative Tribunal each year, representing two thirds of the tenancy caseload at the Tribunal. Of these, while the majority are initiated within the private sector, social housing providers initiate four in every ten. Each of these applications represent a potential risk of homelessness even for higher income households, because of the flow-on impacts of an unfair eviction restricting future housing options.

Following the example of successful programs in New York City, NSW should consider ensuring any tenant attending the NSW Civil and Administrative Tribunal for eviction has access to a tenant advocate if they choose to. Tenant advocates are skilled in negotiation and referral, to prevent as well as in defending cases to ensure appropriate care is taken.

The Law and Justice Foundation highlighted the benefit of Tenant Advocates in the Tribunal through recent research, finding that:

*Tenants' advocates play a crucial role. Participants who received advocacy described feeling more confident, better informed, and less overwhelmed. Advocates were widely viewed as essential to fairness, especially for those facing experienced landlord agents.<sup>1</sup>*

An initial indication of the cost of provisioning such a program suggests expenditure of around an additional \$19m per year. This represents a cost of less than \$1000 per case, and the potential savings in other areas of government are already significant, however we expect that this number will fall if recommendations relating to the costs of applications and procedures of the NSW Civil and Administrative Tribunal are made then an ongoing version of such a program is more likely to require approximately \$8 million per annum in addition to the current funding.

### Indexation

We note that following several years of disconnection between community services funded by the Rental Bond Board and those funded under Department of Communities and Justice or Health, there has been a commitment that this will no longer be an issue going forward. We thank the Minister and Treasurer for this commitment, and reiterate the importance of ensuring that indexation funding is provided in line with the equivalent cost of delivering the program year on year.

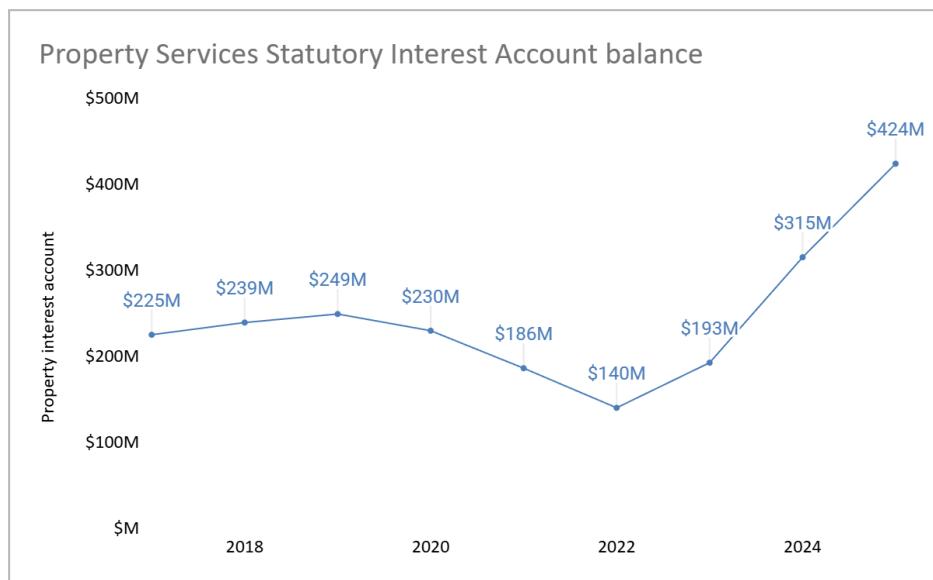
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<sup>1</sup> Butler, K, Davies, K, Kothe, E. (2025) *Study of Tenancy Dispute Experience and Preparedness at NCAT*, Law and Justice Foundation of NSW

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## Proposal: Releasing the Property Services Statutory Interest Account

The Property Services Statutory Interest Account holds the proceeds of a statutory rate of interest generated on trust accounts of licensed real estate agents. The funds held in trust accounts are predominantly rents and other amounts collected from tenants and not yet disbursed, and the holding deposits on property purchases. Like the Rental Bond Board, this fund has increased in a direct relationship to the state of the housing sector.



The Property Services Statutory Interest Account balance has increased by a net of \$230million in just two years. This follows a brief period of government drawing down on the account in years ending 2020-2022, likely to assist in responding to COVID-19 though prior to this, the Account had been growing steadily.

During an ongoing housing crisis, it is concerning that available funds are being concentrated at such a rapid rate rather than expended. As the fund rapidly approaches half a billion dollars, it is likely to become politically sensitive that the NSW Government is not expending these funds in line with the legislated purposes. If the Department of Customer Service faces a barrier in spending these funds these should be addressed as a priority with NSW Treasury. Otherwise, during 2026-27 conscientious effort to spend funds at least in the year they are received should be prioritised to prevent the account growing ever larger. No funds are currently expended from the Interest Account for its legislated purpose of "providing money for the establishment or administration of rental advisory services." that is, the Tenants' Advice and Advocacy Program. Funds should be released to the program as a matter of priority.

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

Wellbeing themes: Housed, secure

Proposal: Immediately make available necessary funds to ensure access to the NCAT online registry services for government-funded Tenants' Advice and Advocacy Services, and complete digitisation project.

Budget impact: Neutral - increased revenue covers increased cost.

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

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

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

The Law and Justice Foundation highlighted the benefit of Tenant Advocates in the Tribunal through recent research, finding that:

*Tenants' advocates play a crucial role. Participants who received advocacy described feeling more confident, better informed, and less overwhelmed. Advocates were widely viewed as essential to fairness, especially for those facing experienced landlord agents.<sup>2</sup>*

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

Budget impact: Neutral - increased revenue and reduced costs

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<sup>2</sup> Butler, K, Davies, K, Kothe, E. (2025) *Study of Tenancy Dispute Experience and Preparedness at NCAT*, Law and Justice Foundation of NSW

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

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

We have welcomed the review and engaged fully with it. To deliver on the opportunity of ensuring NCAT provides genuine access to justice through effective and fair dispute resolution, funding will need to be made available and the Department should have scope to implement improvements. We do note we have made recommendations in this review and previously that offer cost savings to the Tribunal, in particular by discouraging housing providers from misusing the subsidised application by seeking eviction unnecessarily. Currently this is costing potentially millions of dollars a year. The problem has not abated in the time we have been raising the issue and providers should bear the cost of misuse, not government nor tenants. We recommend an increase in fees collected where eviction is sought, which will encourage the use of non-eviction based orders where that is the genuine intent of the applicant.

Funding is available to NCAT through Treasury unlocking the investment potential of the NSW Rental Bond Board, and approving potential Department of Customer Service requests to better use the Property Services Statutory Interest Account. Both sources of funds are legislated to meet 50% of the costs of running the residential functions of NCAT. Amended fees and process structures will also reduce the burden.

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

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

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

In each of these areas, there are significant questions of law that have not been explored because of the time and resources required to do so. We are funded at less than a FTE employees through the commonwealth NAJP, with the NSW contribution being \$221,000. We employ some of the very small number of litigation practitioners with the expertise to run these cases in the public interest.

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

We seek an increase of \$600k in the 2026-27 year and ongoing to allow us to increase our team, initially with a focus on exploring the terms of the new and significant reforms under the Residential Tenancies Act, the upcoming reforms to the Boarding Houses Act, and the Residential Land Lease Communities Act.

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

Proposal: Continue to support increased public and community housing, and improved social housing system

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

The Tenants Union encourages the NSW Government to be bold in the targets they set for supply and notes the investment in the 2023-24 budget was the largest nominal spend by a NSW government in history. If we maintained that level of investment, it would take 35 years to build sufficient new homes to meet the current unmet need for public or community homes.

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

AHURI research has shown that just over 6% (close to 565,000) of Australian households are living in or have requested to live in a form of social housing. These figures do not include those households who are daunted by the application process or due to long waiting lists don't ever lodge an application. AHURI has projected growth in the demand for social housing by 2037 means over 1.1 million social housing homes will be needed.<sup>3</sup>

The longer we wait to build at the necessary scale the harder it will be to meet the need. The NSW Government needs to continue with the urgency represented in 2023-24. On that basis, the NSW Government should continue with a further \$5.1bn in this year, and each year.

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

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<sup>3</sup> AHURI (2023) *What is the difference between social housing and affordable housing - and why do they matter?*

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

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requirements.<sup>4</sup> Measures of demand should not measure only people who have already been forced out of their communities, but instead seek to provide housing for a wide range of people in all locations.

We are concerned that the ambitious Homes for NSW plan will not achieve its possible outcomes if funds are not provided to facilitate needed reforms. In particular, ensuring that income-based rents are set at a level that is genuinely affordable for the household may require a reduction in the percentage of rent and a matched increase in funding to ensure maintenance and property services needs are met. While this can be offset by lifting eligibility caps to provide a sustainable income base, a transition period is likely required.

Energy efficiency improvements begun under Social Housing Energy Performance Initiative (SHEPI) is welcome, but must be continued to assist all residents. The current program is expected to assist more than 20% of households by 2027 but ongoing efforts will be required.

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<sup>4</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