

# Submission to the Senate Economic References Committee Inquiry into Affordable Housing

**March 2014**

## Introduction

The Tenants' Union of NSW (TUNSW) is the State's peak non-government organisation for residential tenants. We represent the interests of all renters in New South Wales, whether in the private market, social housing, residential parks, boarding houses or marginal rental accommodation. We are a specialist community legal centre, with our own legal practice in residential tenancies law, and the primary resource agency for the State-wide network of local Tenants Advice and Advocacy Services (TAASs).

We welcome the opportunity to make this submission to the Select Committee. We make this submission on our own behalf, and on behalf of the TAASs.

This submission has two purposes. First, it reviews the current state and recent history of the housing market, with particular attention to the huge inflation in house prices over the past two decades; the causes of inflation in policy settings that encourage speculation; and the further effect of speculative inflation in the loss of affordable rental housing. At this point we consider briefly what can be done by governments to address affordability problems, and legal problems, in the wider rental sector.

Second, within the context of these wider problems of housing market policy, we consider the current state and recent history of the social housing system, with particular attention to the insufficient supply of social housing. This is the basic problem of the social housing system today, and from it flows so many of the system's other problems. The only real solution to the shortfall is for governments to fund increased supply. Governments cannot administer or ration their way out of the shortfall; experience shows that attempts to do so can do little good, and may do considerable harm to individual persons and the system itself.

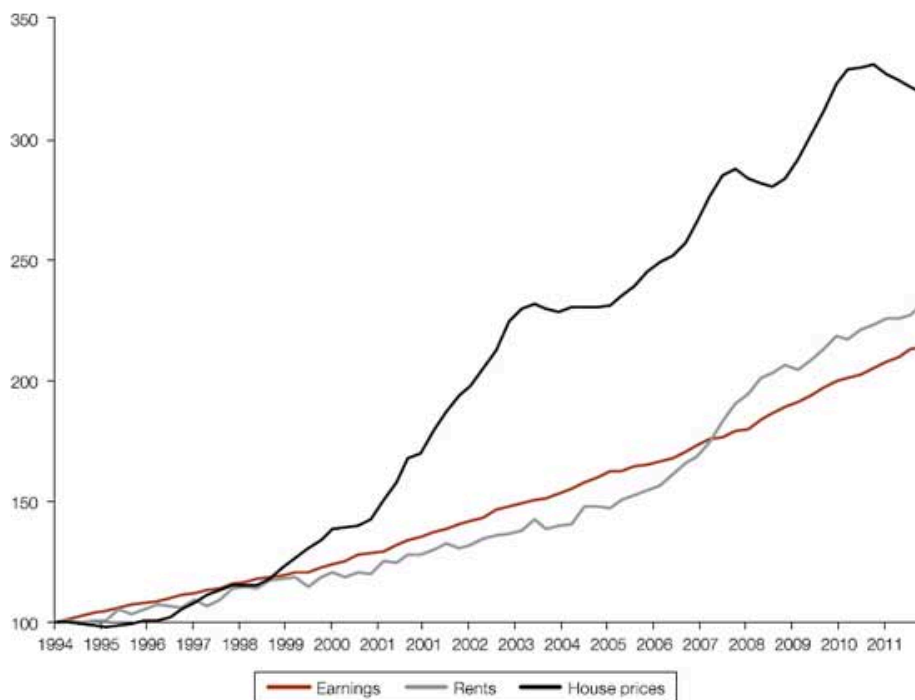
# 1. House price inflation and the lack of affordable rental housing.

This a brief review of the recent history and current state of the wider housing system.

## House price inflation and speculation

Over the past two decades there has been a huge inflation in house prices. This inflation has been out of proportion to increases both in incomes and in rents (Figure 1).

**Figure 1. House price inflation.**

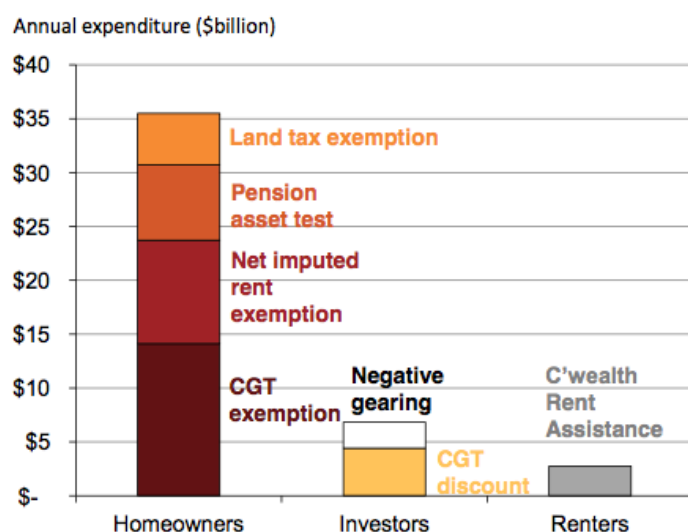


Source: NHSC (2012).

The inflation is, therefore, at least largely a speculative inflation. It is based on expectations of further price increases, which are encouraged by the strongly preferential treatment of housing in Australia's tax and transfer systems (Figure 2).

The strongest preferential treatment is for owner-occupied housing, which is exempt from capital gains tax, income tax (on imputed rent), State land tax, and the means test for the Age Pension, and which has also attracted, from time to time, First Home Buyer Grants.

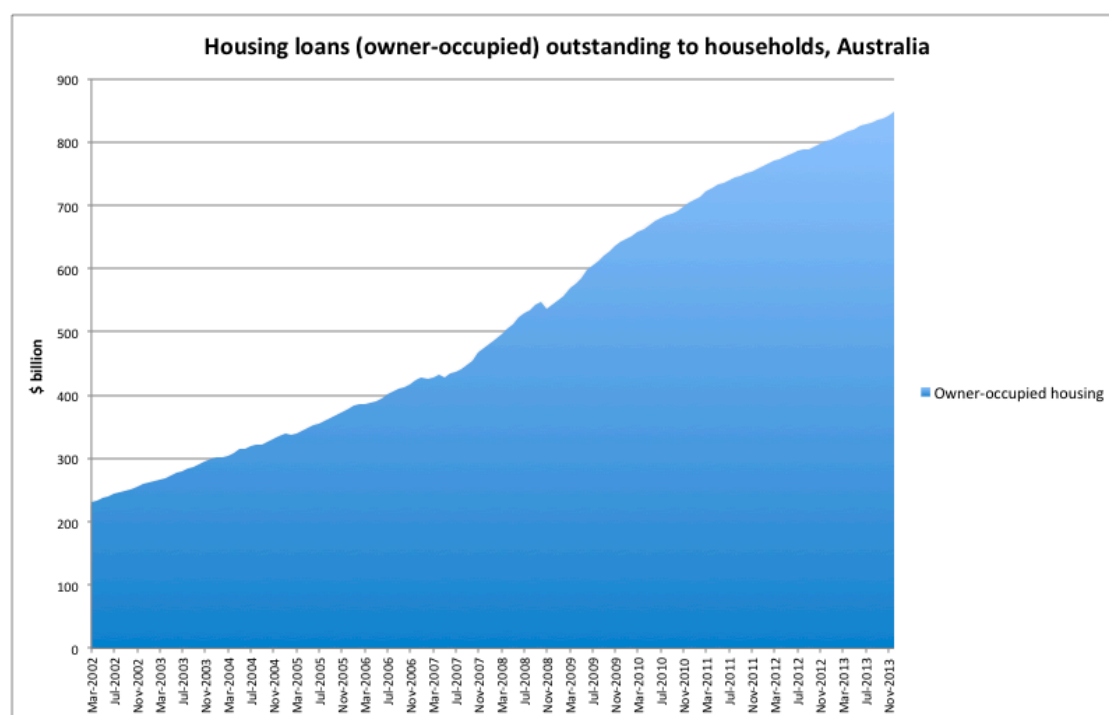
**Figure 2. Preferential treatment of housing (transfers and ‘tax expenditures’), by tenure of recipient**



Source: Grattan Institute (2013).

This preferential treatment has the general effect of encouraging persons with money to spare to spend it – or rather, leverage it and spend it (Figure 3) – on their own housing.

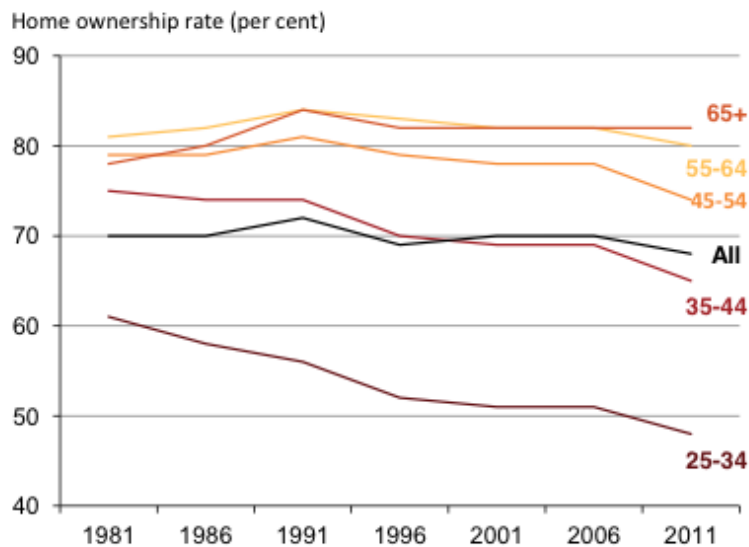
**Figure 3. Owner-occupied housing debt.**



Source: ABS, Housing Finance.

The preferential treatment has not, however, led to an expansion of owner-occupation; on the contrary, rates of owner-occupation have declined over recent decades, especially for younger households (the overall rate has been kept up by older owner-occupiers living longer into old age) (Figure 4).

**Figure 4. Declining owner-occupation rates, by age.**



Source: Grattan Institute (2013).

In fact, the inflation in house prices has largely been driven by persons buying as landlords. Housing owned by landlords is not exempt from capital gains tax, land tax and the Age Pension means test, but it trades in the same market as owner-occupied housing, so its price is similarly distorted. Furthermore, in other respects tax settings are generous to landlords, particularly those who buy with borrowed funds in pursuit of speculative gains.

First, the Australian tax system's treatment of negatively geared assets allows landlords to deduct interest and other costs incurred in owning a property to be deducted not just from income from the property, from but from all of their income (such as wages), thus reducing their tax liability on that income.

Secondly, under provisions introduced in 2000, capital gains realised on the sale of an asset are taxed at half the rate of other forms of income (such as wages, or rents).

Together, these tax settings subsidise landlords' costs of speculation, and amplify speculative gains, with greater advantage given to landlords with higher incomes and higher levels of gearing. These settings have encouraged many persons to become speculative landlords (Figures 5 and 6).

Figure 5. Speculator landlords, numbers.



Source: ATO Taxation Statistics.

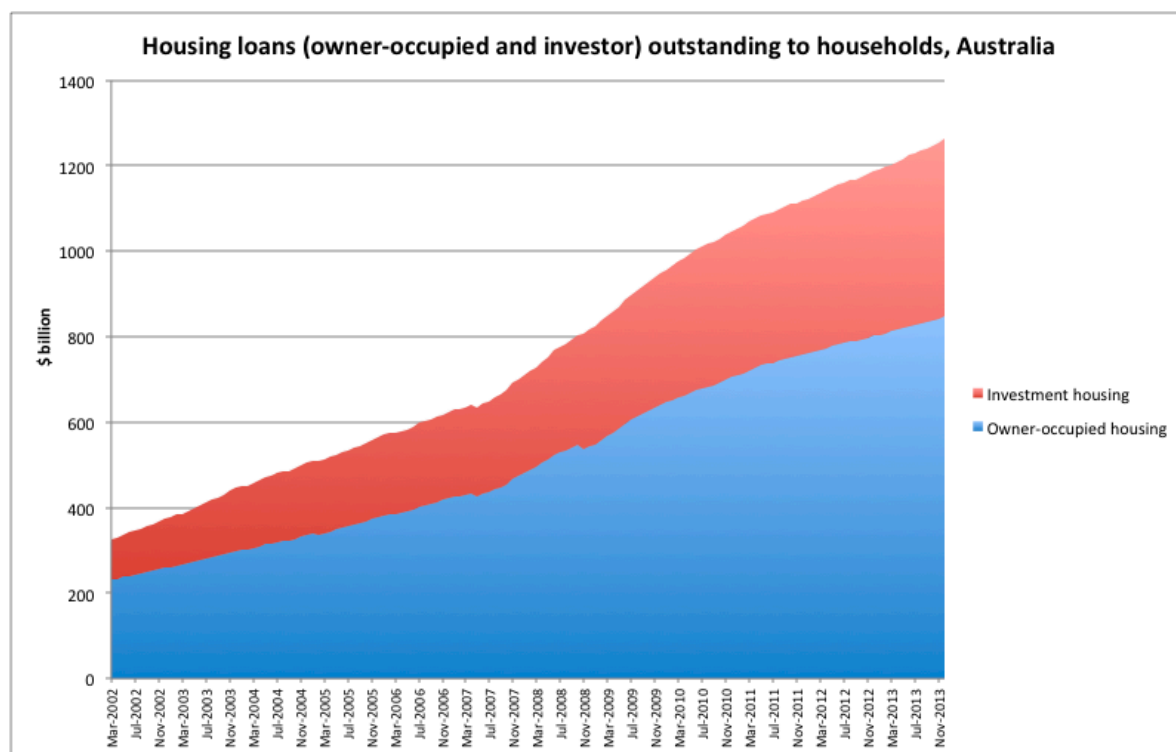
Figure 6. Landlords' income and interest deductions.



Source: ATO Taxation Statistics, Personal Tax

And in becoming speculator landlords, they have borrowed a huge amount of money (Figure 7) – thus inflating house prices.

**Figure 7. Owner-occupiers' and landlords' housing debt.**



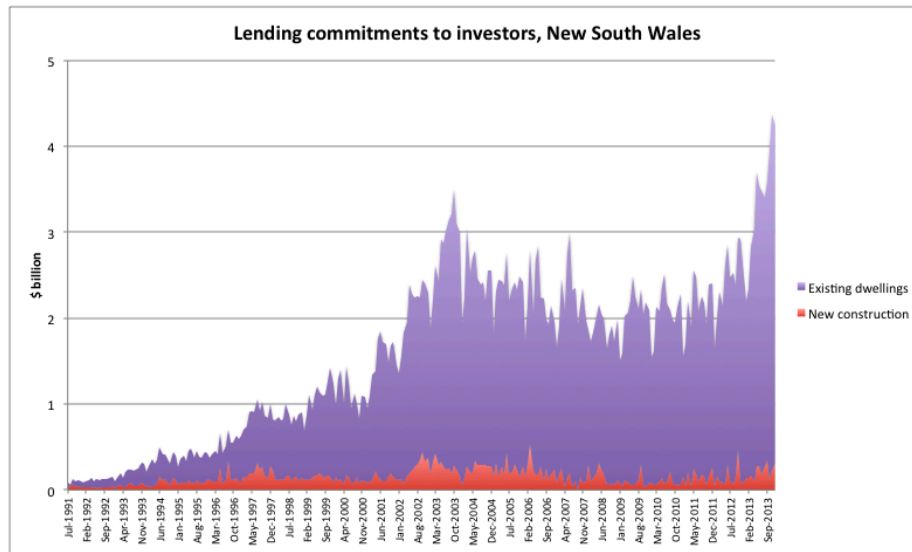
Source: ABS, Housing Finance

## Speculation and rental affordability problems

Although house prices have inflated out of proportion with rents, speculation has significantly affected the rental market, both in terms of the stock of properties and the persons in the market.

Overall, the stock of properties has become more expensive to rent. First, we should be clear: negative gearing does not induce individual landlords to reduce rents – rather, it induces them to increase their leverage. And collectively, speculator landlords have added very little supply, in net terms, to the rental sector – overwhelmingly they purchase established dwellings (which are either already in the rental sector or, if purchased from the owner-occupied sector, also adds the number of renters).

**Figure 8. Lending to landlords, established dwellings versus new construction.**



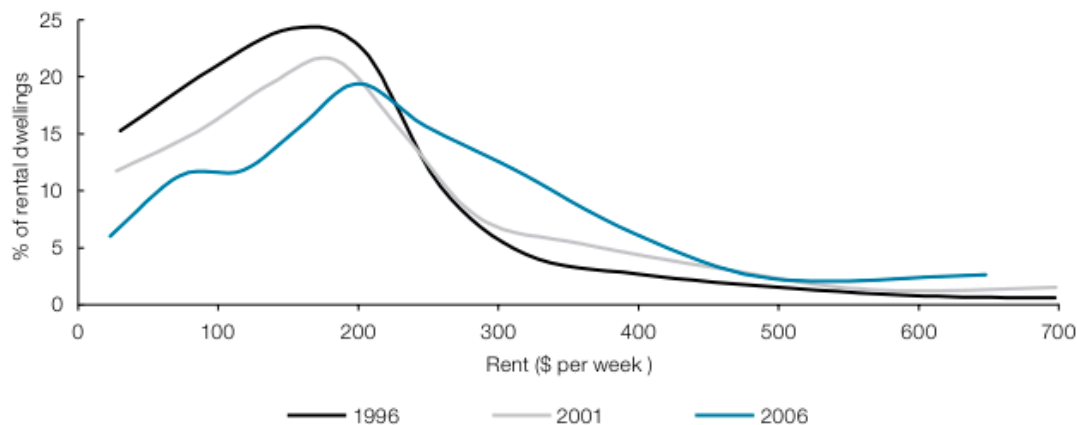
Source: ABS, Lending Finance. Note this depicts the flow of commitments (contrast Figures 5 and 9, which depict the stock of loans outstanding).

Speculation has, on the other hand, changed the stock in the rental market. In particular, the amount of low-cost rental stock has declined, both relatively and, at the lowest end of the market, absolutely.

This is because landlords in pursuit of speculative gains tend to purchase existing stock with high prospects of capital gain, and high values – and hence high rents. When low-prospect, low-value, low-rent stock comes up for sale, speculator landlords tend to pass over it, and it drops out of the rental market – and such stock as remains becomes scarcer, and less cheap to rent.

Figure 9, from the National Housing Supply Council (NHSC), depicts the changing shape of the Australian rental market over the Census years 1996, 2001 and 2006. Note the bulge of properties let in 1996 at less than \$200 per week flattening out and pushing up the scale of rents in subsequent years.

**Figure 9. The changing shape of the Australian rental market.**



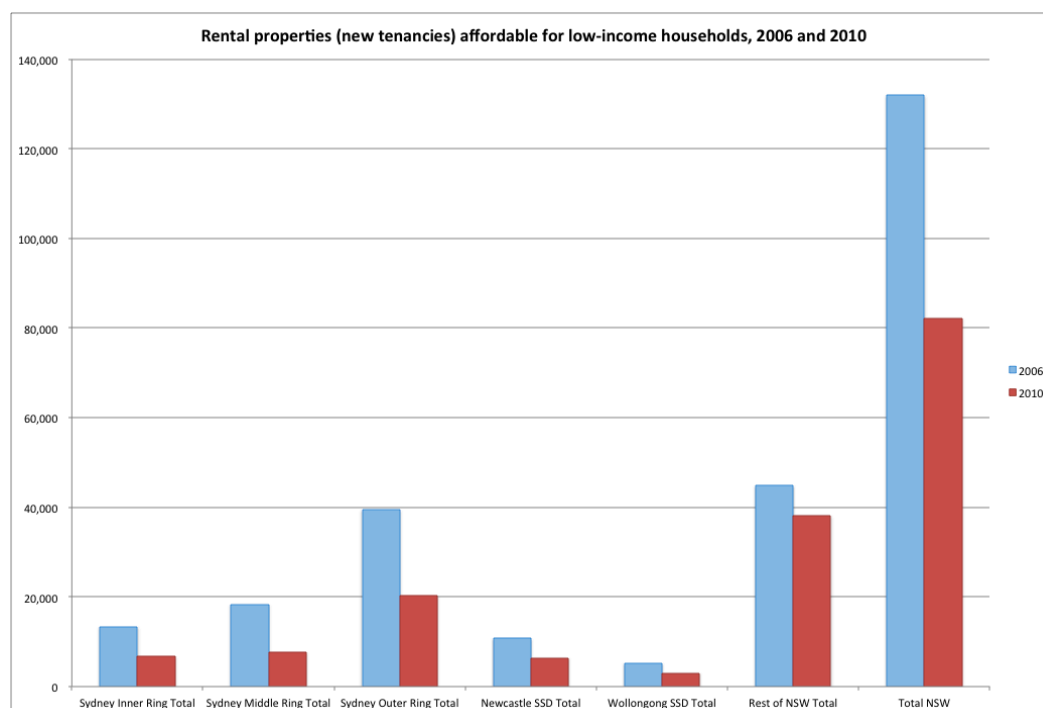
**Note:** rents are denominated in 2006 dollars.

Source: NHSC (2010)



Figure 10 depicts differently a similar trend in the New South Wales rental market. It shows, for 2006 and 2010, the number of properties where new tenancies were entered into at rents that were affordable for low-income households.<sup>1</sup> Across New South Wales, there were almost 50 000 fewer tenancies affordable for low-income households entered into in 2010 than four years previously.

**Figure 10. The loss of affordable rental properties in New South Wales.**

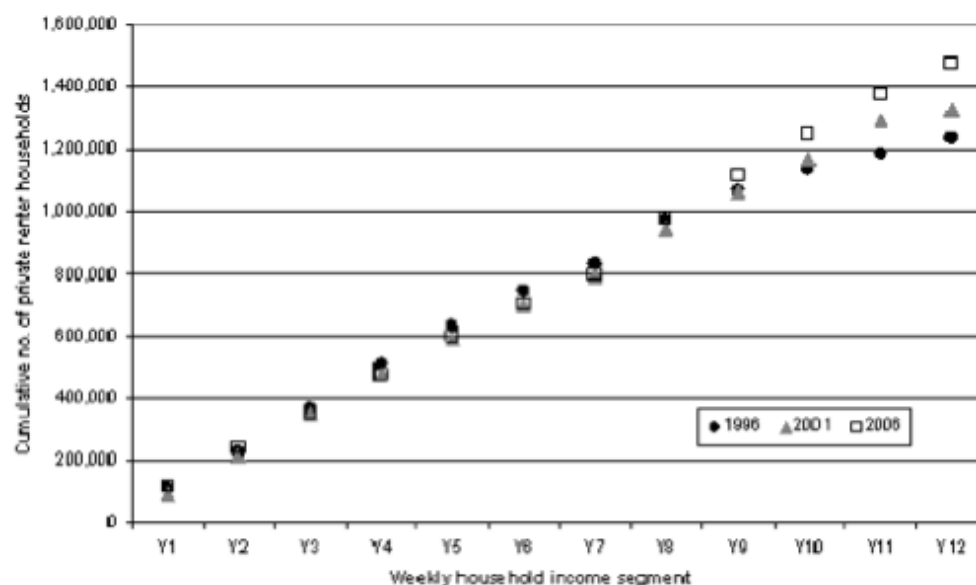


Source: Housing NSW (2013a).

The demographics of the market have changed too. As noted above, the proportion of households renting has increased; this increase has come from higher-income households (at least in part because they have been priced out of owner-occupation) (Figure 11).

<sup>1</sup> That is, rents that were less than 30 per cent of 80 per cent of median income (approximating the 40<sup>th</sup> percentile) for households of a size appropriate to the property.

**Figure 11. The changing shape of Australian private rental households, by income.**



Source: Wulff et al (2011).

Many of these higher income tenants compete with low-income tenants for the low cost stock that remains in the rental market – a competition they win, by offering higher rents or just appearing to be less risk.

The NHSC has discussed and quantified this problem in terms of the actual ‘availability’ to low-income households of the dwellings that are affordable for them. The NHSC found that across Australia in 2012:

- 1 256 000 dwellings were let at rents affordable for the 857 000 private renter households at or below the 40<sup>th</sup> percentile by income – an apparent surplus of 398 000. This was, however, less than two years previously, when there was an apparent surplus of 670 000 affordable dwellings.
- However, of the 1 256 000 affordable dwellings, 937 000 were occupied by higher income households, turning the apparent surplus into a shortage of 539 000. This was worse than the shortage of 473 000 two years previously.

Figure 12 summarises the results.

**Figure 12. The availability of affordable rental.**

	Affordable rental dwellings		Affordable and available rental dwellings	
	2009-10	2007-08	2009-10	2007-08
<b>Australia</b>	398 000	670 000	-539 000	-473 000

Source: NHSC (2012).

As a result, many low-income households in the private rental market are doing badly. Most are in housing stress (that is, they are spending more than 30 per cent of their income on housing); a large minority are in housing crisis (spending more than 50 per cent of their income on housing) (Figure 13).

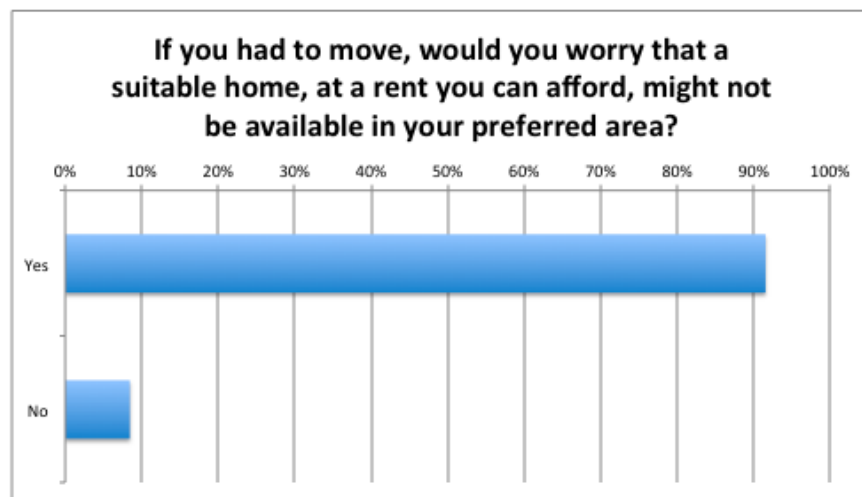
**Figure 13. Low-income private renters in housing stress and housing crisis.**

	<b>Rent 30% or more of income (housing stress)</b>		<b>Rent 50% or more of income (housing crisis)</b>	
	<b>2009-10</b>	<b>2007-08</b>	<b>2009-10</b>	<b>2007-08</b>
<b>New South Wales</b>	62%	65%	28%	22%
<b>Australia</b>	60%	57%	25%	20%

Source: NHSC (2012).

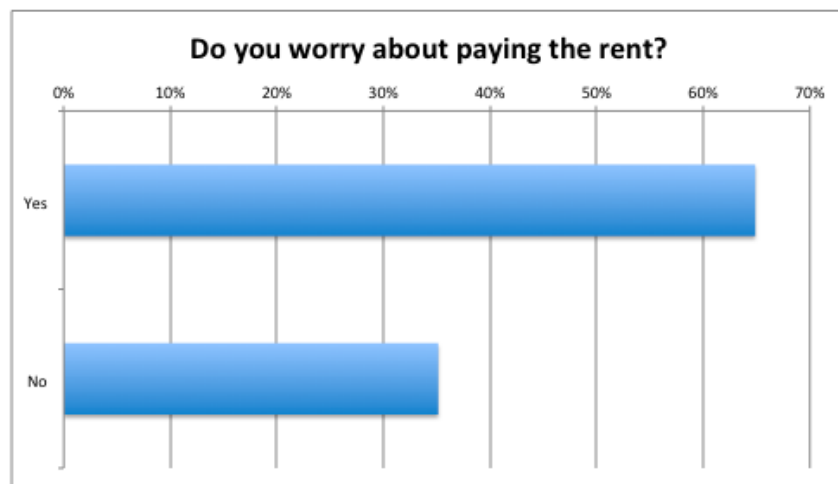
And as a further result, private rental is a stressed and worried tenure. This is demonstrated in the results of the TUNSW's 'Housing Affordability Survey', in which 580 tenants (low-income and otherwise) participated in January-February this year. Amongst other things, we asked tenants about some common occurrences in renting: being able to find suitable alternative housing in the event of having to move; paying the rent; and the decision whether to assert one's tenancy rights in the event of a problem. Of renters in the private market, 92 per cent worried that they might not find an affordable alternative home; 65 per cent worried about paying the rent; and 79 per cent had put up with a problem rather than assert their rights.

**Figure 14. Worried about finding an affordable home, if you had to move.**



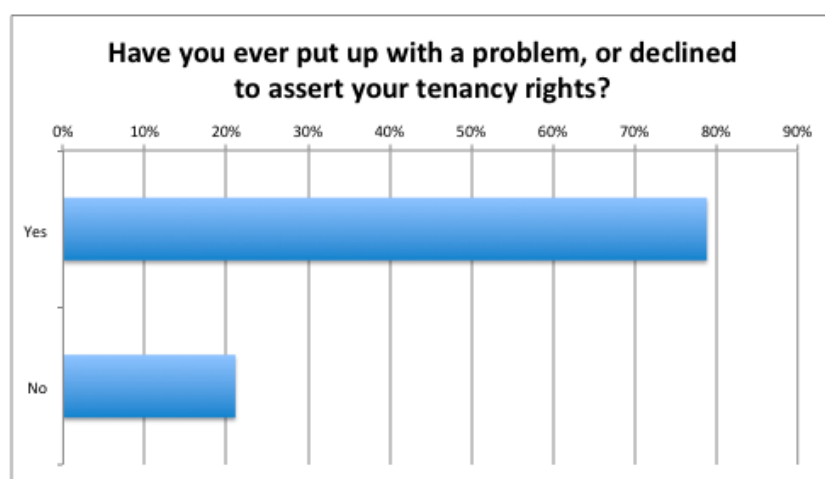
Source: TUNSW (2014).

**Figure 15. Worried about paying the rent.**



Source: TUNSW (2014).

**Figure 16. Declined to assert tenancy rights.**



Source: TUNSW (2014).

The problems of house price inflation and the lack of affordable rental housing are not just problems for the individual persons who suffer from and worry about them. To presage the discussion of social housing, below, house price inflation makes it difficult for social housing providers to expand their stock to even keep up with population growth, much less any increase in demand from persons suffering worsening affordability problems.

Ultimately, the solution to these problems lies in restraining speculation in housing. This means resetting the tax settings that give preferential treatment to owner-occupied housing, and that encourage people to lever up and speculate as landlords.

Most of those settings are in the hands of the Federal Government. The generous treatment of negative gearing could be reformed so that losses incurred from owning an asset may set only against income from that asset class, not deducted from other sources of income; alternatively, income from a (non-business) asset could be subject to a tax discount, reducing (but not eliminating) the deductibility of losses against other sources of income and the preferential treatment of speculative gains (this is the recommendation of the Henry Review). Alternatively again, reforms specific to

housing investment could be implemented: for example, allowing deductibility against other sources of income only in the case of newly constructed housing.

Capital gains tax could be reformed to remove the 50 per cent discount; or, alternatively, by the Henry Review's recommendation for a lesser discount for all incomes from assets. It could also be reformed to apply to owner-occupied housing above a high value threshold.

Land tax can be reformed to restrain speculation, particularly by applying it to owner-occupied housing (again, as recommended by the Henry Review). In modelling the land tax recommendations of the Henry Review, Wood, et al (2013) found that a broad-based revenue-neutral land tax (that is, applying to owner-occupied housing, and replacing stamp duties) would achieve average land value reductions of 8-12 per cent, with the largest reductions in higher value locations close to the CBD (in Wood's model, Melbourne CBD), and improve the affordability of housing for owner-occupiers and renters.

Consideration should also be given to implementing a reformed land tax more intensively, to not only replace stamp duties but also to alleviate taxation incomes from work and enterprise.

#### **Recommendation.**

That Australian governments commit to the necessity of restraining speculation in housing, particularly by:

- Reforming the tax treatment of negative gearing, to reduce the deductibility of losses (either by limiting losses to income from the same asset class, or by a discount applied to all non-business asset incomes);
- Reforming capital gains tax, to remove or reduce the discount applied to capital gains, and to apply capital gains tax to high-value owner-occupied property.
- Reforming land tax, to broaden the base to include owner-occupied housing, and remove other taxes.

Apart from reforms to address housing speculation and affordability, State Governments could improve the legal conditions of rental housing, through reforms to residential tenancies law. The following areas of reform are the most important to making rental housing a more just – and less worried – tenure.

- **Fairer process for where landlords seek termination.** The termination provisions of residential tenancies legislation are unfair in two main ways. First, all jurisdictions landlords are allowed to give termination notices without grounds<sup>2</sup>. These notices give cover to terminations that are retaliatory, discriminatory, harsh or unfair; this is unjust to the tenants who receive them, and the prospect of a no-grounds notice discourages tenants generally from asserting their legal rights. Secondly, where a landlord seeks a termination order following a no-grounds notice, the NSW Civil and Administrative Tribunal has no discretion to decline the order (except where the tenant can prove it is retaliatory). This makes no-grounds notices a trump card for landlords.

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<sup>2</sup> In Tasmania, this ability is limited to notices of termination at the end of the fixed term of a tenancy.

Residential tenancies legislation should be reformed to provide a list of reasonable grounds for termination by landlords. The Act should also be reformed to give the Tribunal discretion to decline a termination order, if it considers it appropriate in the circumstances of the case.

- **Fairer process for determining excessive rent increases.** Residential tenancies legislation provides for the resolution of disputes about excessive rent increases, but places all of the onus of proof on the tenant, whereas the landlord typically has access to the relevant information. A fairer process would share the onus of proof: where the rent increase is less than the increase in the CPI, the tenant would have the onus of proving that it is excessive; where it is more than the increase in the CPI, the landlord would have to prove that it is not excessive.
- **Greater freedom of choice.** Because of additional terms inserted in tenancy agreement, tenants often are prohibited from doing ordinary everyday things, such as keeping a pet, or decorating their home, or even adding a new member to their household. As reasonable adults, tenants should be able to choose for themselves whether to do these things and still comply with their obligations not to damage the property or cause a nuisance. Residential tenancies legislation should be reformed to provide that tenancy agreements must not unreasonably restrict the keeping of pets, minor redecoration and alterations, and the number of household members.
- **Occupancy agreements for all marginal renters.** Numerous small categories of renters – many boarders and lodgers, share house residents, and persons accommodated by educational institutions, refuges and crisis accommodation – are excluded from residential tenancies legislation. They should be covered by legislation that provides for rights, obligations and dispute resolution appropriate specifically to their category, or legislated ‘occupancy principles’ (on the model of the ACT’s Residential Tenancies Act 1997 and the NSW Boarding Houses Act 2012) that apply to all renters otherwise excluded from residential tenancies legislation.

#### **Recommendation.**

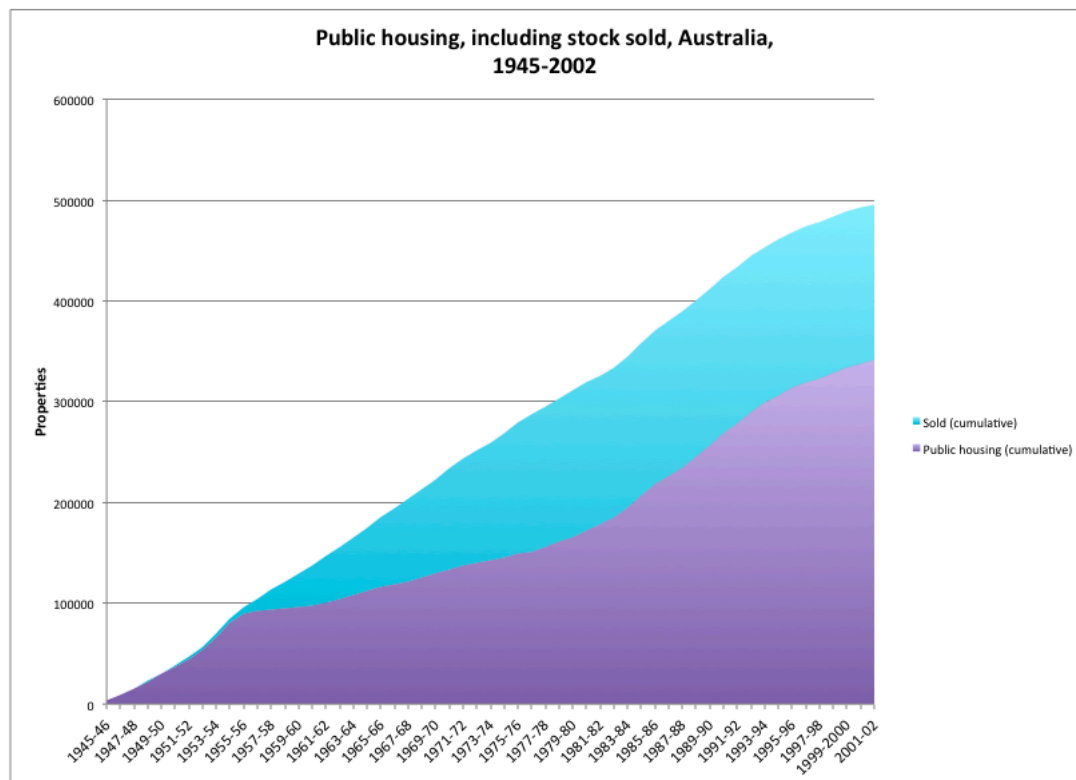
That Australian government reform residential tenancies legislation to provide:

- A fairer process where landlords seek termination, so that landlords may give termination notices on reasonable grounds only, and the Tribunal has a discretion to decline termination if appropriate in the circumstances of the case.
- A fairer process for determining excessive rent increases, so that landlords bear the onus of proof where an increase is above the CPI.
- Greater freedom of choice, so that tenancy agreements cannot unreasonably restrict tenants keeping pets, making minor alterations and adding members to their households.
- Specific provisions, or generally applicable ‘occupancy principles’, for all renters not otherwise covered by residential tenancies legislation.

## 2. Social housing's basic problem: the shortfall in supply

For half a century Australia had a growing social housing system (Figure 17). During public housing built and owned by State housing authorities comprised the social housing system almost entirely.

**Figure 17. The growth of public housing.**

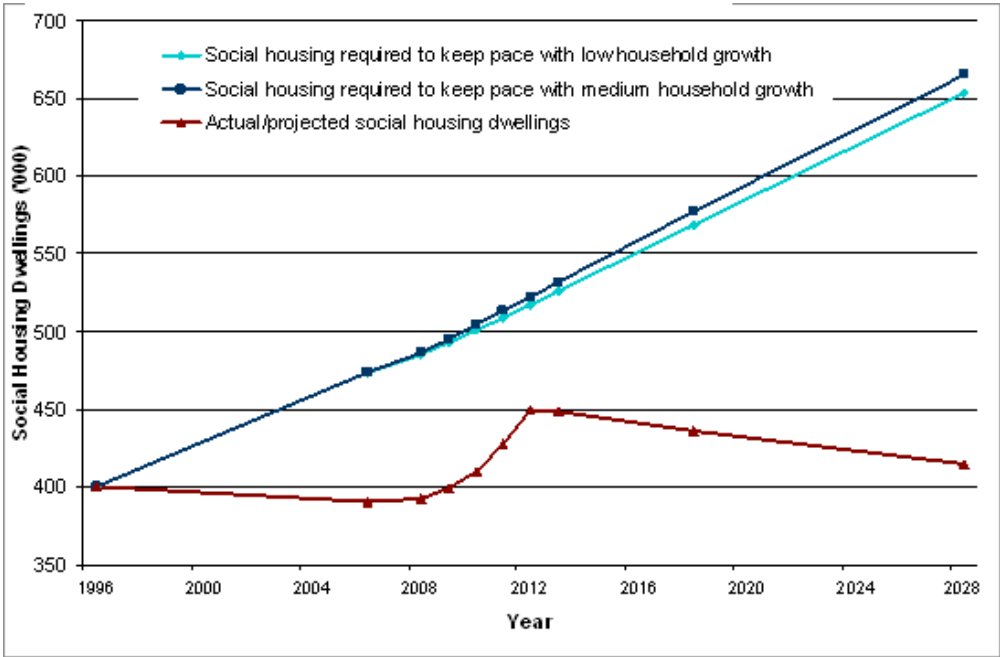


Source: Troy (2012).

It grew despite the fact that through the mid-1950s and 1990s, most construction by State housing authorities was sold, such that about 30 per cent of all the stock built as public housing in Australia has been sold. Even so, the rate of building was such that in the early 1970s, most allocations were to newly built dwellings (Jones, 1972).

Over the past two decades, the system has diversified to include significant proportions of community housing and Indigenous housing – but it has not grown. From the mid-1990s, growth stopped and for a decade and a half the stock remained about constant in absolute terms – which is to say, it declined relative to the growth in the number of households and in relation to the number of households facing rental stress.

Figure 18. The shortfall in social housing.

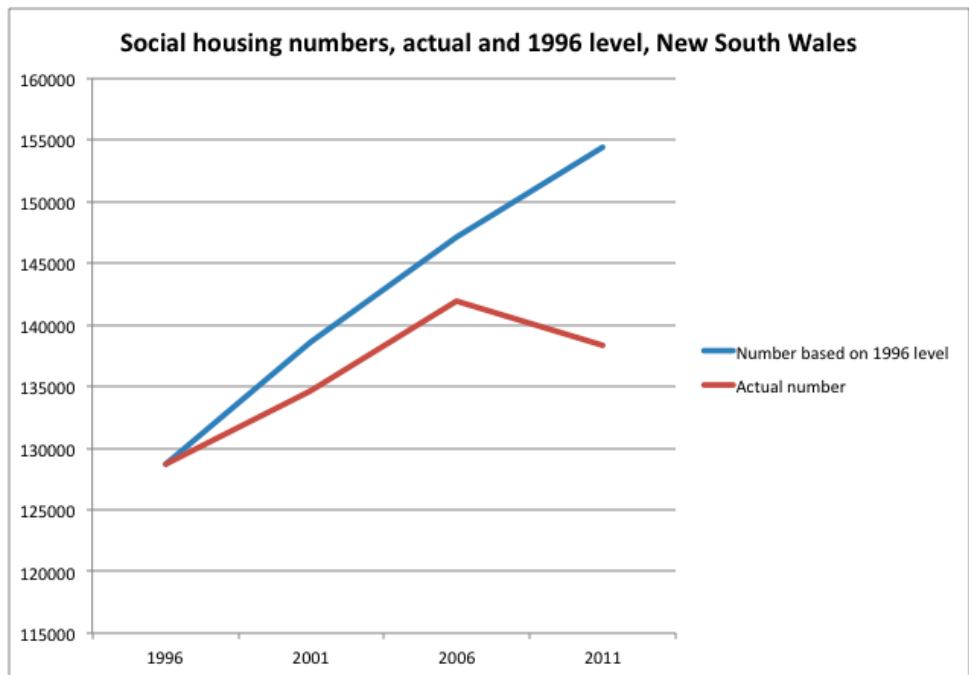


Source: COAG (2009)

To consider the further dimensions and implications of this shortfall, we refer specifically to the example of New South Wales.

At 2011, there were 16 000 fewer social housing properties in New South Wales than there would have been had its 1996 level, relative to households, been maintained (Figure 19).

Figure 19. The relative decline of social housing, 1996-2011, New South Wales.

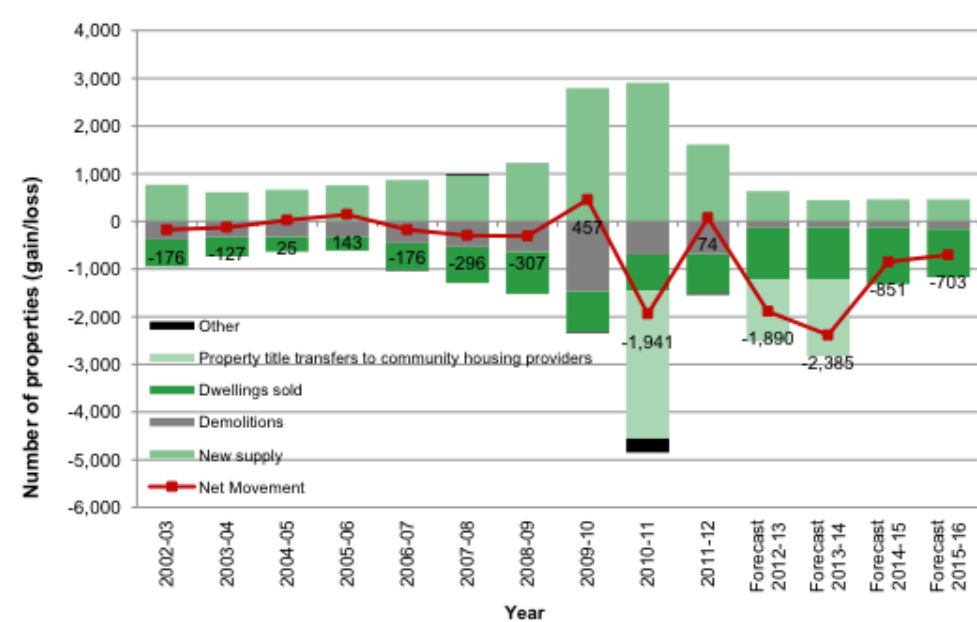


Source: ABS, Census, 1996-2011.



Over the last three years, the social housing stock owned by the NSW Land and Housing Corporation (LAHC) has declined absolutely, and LAHC forecasts that it will decline further in the years ahead (Figure 20).

Figure 20. Net movements in LAHC-owned social housing stock

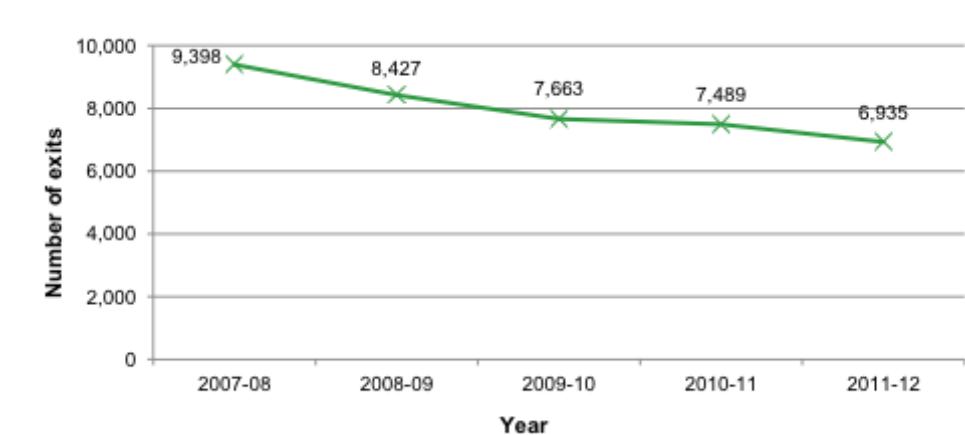


Source: Auditor-General (2013).

It is important to note that some of LAHC’s loss of stock is the result of a transfer of titles to community housing organisations. These properties are not lost to the social housing system as a whole, and it is anticipated that community housing organisations will leverage the purchase of an additional 1 200 properties over 10 years – so, an average of 120 additional dwellings per year. We also note, however, that over the past decade, LAHC has sold, on average, about 500 dwellings per year (Auditor-General (2013), p 22-23).

Furthermore, in recent years, the turn-over of the public housing stock has also slowed, resulting in fewer opportunities for new allocations of existing social housing. (Figure 21).

Figure 21. Exits from public housing.

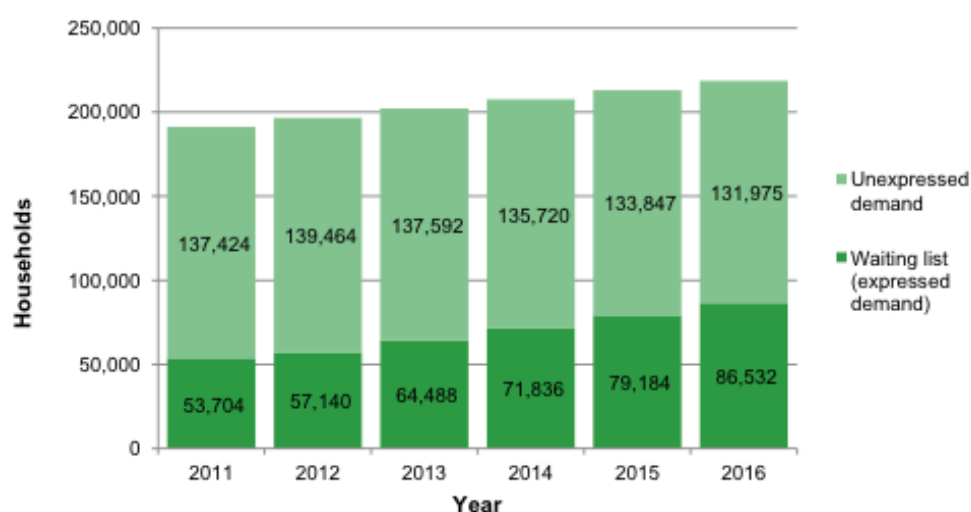


Source: Auditor-General (2013).

The current reduced state of the social housing system has effects for the persons who might seek assistance from it, and for the system itself.

The result for persons who need housing assistance is a social housing system that falls far short of meeting their total need. On Housing NSW's estimate, reported by the Auditor-General, the social housing system currently meets only 44 per cent of housing need (being the ratio of households in social housing tenancies to households who are eligible for, but not housed in, social housing) (Figure 23). In coming years, this rate will fall further, as unmet need rises.

**Figure 22. Unmet need for social housing.**



Source: Auditor-General (2013).

We submit that this is a reasonable estimate of the scale of the shortfall; if anything, it may be regarded as conservative. There are approximately 290 000 low-income households in private rental in New South Wales<sup>3</sup>; as shown at Figure 15, most of these households are in housing stress, and the minority who are currently renting affordably have no assurance of security, and rightly worry that they may not find an affordable alternative home if they had to move.

For persons in need of housing assistance, the time spent waiting for social housing represents another dimension of the shortfall. Of Housing NSW's Sydney allocation zones, almost half indicate a wait time for non-priority applicants in excess of 10 years for all property types. Indeed, for all property types across all Sydney allocation zones – with the exception of three and four bedroom properties in Wingecarribee (total 360 properties) – the indicated wait time is in excess of five years (Figure 23).

<sup>3</sup> TUNSW estimate, based on ABS, Housing Occupancy and Costs (2011-2012).

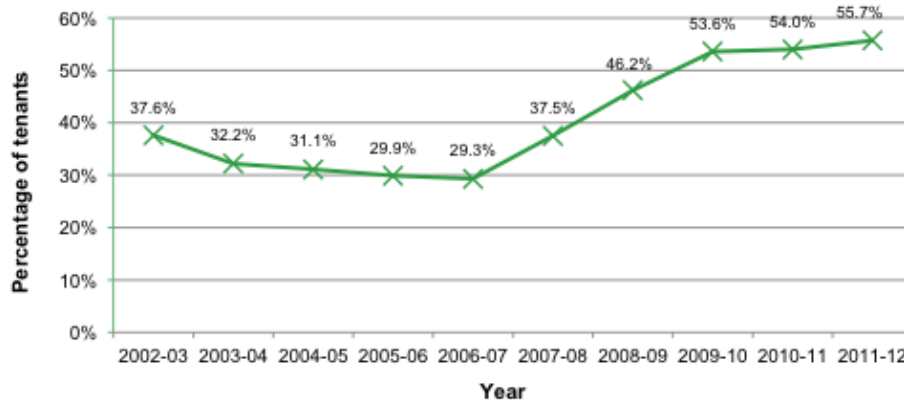
Figure 23. Applicants, allocations and wait-times for public housing, 2013.

ALLOCATION ZONE	ALL SOCIAL HOUSING RESIDENTIAL PROPERTIES (as at 30 June 2013)					APPLICANTS HOUSED IN 12 MONTH PERIOD (as at 30 June 2013)			APPLICANTS ON HOUSING REGISTER (as at 30 June 2013)			EXPECTED WAITING TIME FOR GENERAL APPLICANTS ON THE HOUSING REGISTER			
	BEDROOMS					Priority	General	TOTAL	Priority	General	TOTAL	BEDROOM ENTITLEMENT			
	Studio/1	2	3	4+	Total							1	2	3	4
Sydney District															
CS3 LEICHHARDT/MARRICKVILLE	1,713	2,153	1,005	329	5,200	164	31	195	343	1037	1380				
CS6 CANTERBURY	380	836	367	116	1,699	39	25	64	75	892	967				
CS7 INNER WEST	1,031	803	425	101	2,360	72	33	105	164	1193	1357				
CS10 RIVERWOOD	688	911	528	43	2,170	30	78	108	10	458	468				
Sydney Total	3,812	4,703	2,325	589	11,429	305	167	472	592	3,580	4,172				
South Eastern Sydney District															
CS1 SYDNEY	2,945	3,530	1,063	211	7,749	454	83	537	493	1405	1898				
CS2 EASTERN SUBURBS	2,493	2,735	1,464	154	6,846	286	72	358	255	1347	1602				
CS8 SUTHERLAND	868	732	665	110	2,375	73	45	118	82	673	755				
CS9 ST GEORGE	922	1,075	583	115	2,695	77	22	99	161	1889	2050				
South Eastern Sydney Total	7,228	8,072	3,775	590	19,665	890	222	1,112	991	5,314	6,305				
Northern Sydney District															
CS4 NORTHERN SUBURBS	1,856	1,382	817	128	4,183	157	39	196	190	1327	1517				
CS5 NORTHERN BEACHES	1,100	511	298	52	1,961	92	9	101	186	654	840				
Northern Sydney Total	2,956	1,893	1,115	180	6,144	249	48	297	376	1,981	2,357				
South Western Sydney															
GW9 BANKSTOWN	2,200	2,381	2,013	424	7,018	103	172	275	122	2959	3081				
GW10 FAIRFIELD	1,243	1,290	2,585	459	5,577	113	33	146	177	3988	4165				
GW11 LIVERPOOL	1,297	1,531	2,125	716	5,669	197	108	305	177	2685	2862				
GW12 CAMPBELLTOWN	505	811	4,563	870	6,749	127	162	289	87	1836	1923				
GW13 CAMDEN	117	61	177	65	420	8	6	14	3	144	147				
GW14 WOLLONDILLY	50	26	102	13	191	9	7	16	17	73	90				
GW15 WINGECARRIBEE	68	185	307	60	620	23	9	32	17	238	255				
South Western Sydney Total	5,480	6,285	11,872	2,607	26,244	580	497	1,077	600	11,923	12,523				
Western Sydney															
GW1 PARRAMATTA	1,485	2,086	1,273	279	5,123	193	112	305	189	2473	2662				
GW2 AUBURN/GRANVILLE	914	1,126	675	112	2,827	75	59	134	90	1393	1483				
GW3 BLACKTOWN	936	1,000	2,225	394	4,555	151	43	194	154	1697	1851				
GW4 MT DRUITT	594	439	3,219	1,202	5,454	131	94	225	63	1370	1433				
GW8 HOLROYD	535	1,518	647	84	2,784	66	31	97	72	643	715				
Western Sydney Total	4,464	6,169	8,039	2,071	20,743	616	339	955	568	7,576	8,144				
Legend for Expected Waiting Times Bands															
	Up to 2 years														
	2 to 5 years														
	5 to 10 years														
	10+ years														
	No properties														

Source: Housing NSW (2013b).

In terms of the social housing system itself, the reduced state of the system generates further compounding problems and an unsustainable spiral of decline. As the Auditor-General observes, the shortfall in the supply of social housing has led to an increase in the proportion of allocations made to the most needy households, particularly those eligible on a priority basis (Figure 24 – see also Figure 23, which shows that some zones have priority allocation rates much higher than the average).

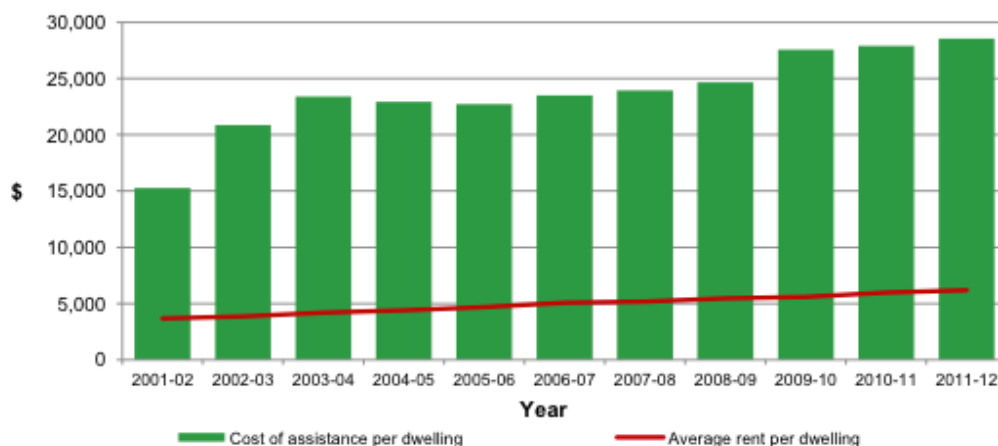
**Figure 24. Allocations of public housing to priority applicants.**



Source: Auditor-General (2013). We note that the decline in the rate of priority allocations from 2002-03 to 2006-07 occurred at a time when the income eligibility criteria were tightening, so allocations to the most needy were probably rising, even as 'priority' allocations were declining. Since 2007, the income eligibility criteria have risen approximately in line with average weekly earnings – but allocations have increasingly been on a priority basis.

The problem for the social housing system is that most of these households have very low incomes and therefore pay low rents. Social housing rental revenues have reduced, while costs have increased (even when leaving aside the increased cost of purchasing new dwellings) (Figure 26).

**Figure 25. Public housing costs versus rent revenues.**



Source: Auditor-General (2013).

To manage the gap between costs and revenues, LAHC has been reducing its spending on repairs and maintenance – we discuss this further below – and selling properties (Auditor-General, 2013: 22). This in turns reduces the stock of social housing, leads to further targeting of allocations, reduced revenues, higher costs, more sales, reduced stock, and so on. The Auditor-General states that 'this approach is not financially sustainable.' We agree.

In recent years, hopes for the social housing system's growth and greater sustainability have come to lie with community housing. We consider that community housing providers, by adding diversity to the social housing system, foster innovation and improvement in service delivery, and we support their growth.

But we also think it is important to be clear that community housing providers are no better placed than the State housing authorities to access finance for additional supply – except to the extent that governments impose upon themselves constraints as to the financing of State housing authorities.

State Governments could choose to grant State housing authorities additional funds, and if necessary borrow for that purpose. The Federal Government, as the issuer of the Australian currency, could choose to grant funds without borrowing.

Community housing providers do not have access to income or tax advantages that the LAHC does not – except to the extent that governments impose the differential treatment. Community housing organisations’ access to Commonwealth Rent Assistance is really an operating subsidy that the Federal Government has chosen to grant to those providers and not to the State housing authorities (and to deliver it via the scenic route of Centrelink payments and individual tenants’ bank accounts).

The Federal Government can make the financing of social housing as intricate (‘tax smart’ bonds, housing bonds, social benefit bonds, et al) or as straightforward (grants by issue of currency) as they choose. It could also make it more effective, by taking action to restrain speculation and house price inflation, as discussed above.

We recommend that all Australian governments commit to financing, in much enhanced and clearer terms, the growth and ongoing operations of the social housing system. We support the recommendation of National Shelter that Australian governments establish a social housing growth fund for the delivery of an additional 200 000 dwellings in social housing and affordable housing programs by 2021. The amount of the growth fund would be \$2.5 billion per year above existing funding arrangements, and allocated to States and Territories on a per capita basis. There should also be a reformed operating subsidy for existing social housing, allocated to States and Territories on a ‘per dwelling’ basis.

#### **Recommendation**

That Australian governments commit, under the National Affordable Housing Agreement, to the establishment of:

- a social housing growth fund, in the amount \$2.5 billion per year above existing funding arrangements, for the delivery of an additional 200 000 dwellings in social housing and affordable housing programs by 2021, to be allocated to States and Territories on a per capita basis;
- a reformed operating subsidy for existing social housing, allocated to States and Territories on a ‘per dwelling’ basis.

#### **Non-solutions: trying to administer a way out of the shortfall**

We submit that the social housing sector cannot be made sustainable, or function to meet a greater proportion of need, without additional funding for additional supply. Attempts to make social housing sustainable within the funding presently made available – in other words, trying to administer a way out of the shortfall – will not work.

We refer again to the example of New South Wales, where Housing NSW has been trying to administer a way out of its shortfall for years. The tightening of eligibility

and the shift to priority allocations are administrative responses to the shortfall and, as discussed, these responses have contributed to the system's spiral of decline.

Below we will consider two administrative measures taken by Housing NSW with the intention of more efficiently using the declining stock of social housing to maximise opportunities for allocations to those most in need. These measures have failed disastrously, discouraging tenants from earning an income and reducing opportunities for allocations. Tenants, applicants and the social housing system have been made worse off by these policies.

#### *Higher rent rates for moderate income earners*

Housing NSW introduced its policy of higher rent rates for tenants on so-called 'moderate incomes' in 2005. The policy revised the Housing NSW's system of income-related rents, which provides rebates to eligible tenants so that the rent the tenant pays is about 25 per cent of the tenant's household income. Under the revised system, tenants whose household income is above the 'moderate income threshold' pay, on a sliding scale, 25-30 per cent of their household income. Tenants whose household income is above a second threshold (the '30 per cent threshold', at the top of the sliding scale) pay 30 per cent (Figure 26).

**Figure 26. Thresholds for moderate income rent rates, from 18 March 2013.**

Household	Moderate income threshold	30 per cent threshold	Ineligible for rental rebate
<b>First adult</b>	\$710 pw	\$888 pw	\$1 325 pw
<b>Additional adult</b>	+ \$190 pw	+ \$238 pw	+ \$350 pw
<b>First child</b>	+ \$140 pw	+ \$175 pw	+ \$265 pw
<b>Additional child</b>	+ \$95 pw	+ \$119 pw	+ \$175 pw

Source: Housing NSW, 'Tenancy Charges and Account Management Policy Supplement'.

It is important to note that the 25-30 per cent sliding rate applies not just to income in the moderate income range (nor does the 30 per cent rate apply only to income above the 30 per cent threshold). These rates are not marginal rates; they apply to that part of a tenant's household income below the range too.

This means that earning additional amounts of income in the moderate income range comes at a large cost in terms of additional rent due. If the 25-30 per cent sliding rate was expressed as a marginal rate, it would be, on average, 50 per cent over the moderate income range (45-55 per cent); in other words, on average 50 cents in every additional dollar earned by a tenant in the moderate income range would go to Housing NSW in rent. When it is considered that each additional dollar will also be subject to income tax and other costs associated with work (for example, childcare), a tenant could easily end up with little reward, or even a loss of income, from working. For example, a single person earning \$800 per week will be in the middle of the moderate income range and the 32.5 per cent income tax bracket, and therefore face an effective marginal tax rate of 82.5 per cent (from rent and income tax alone). Such a high effective marginal tax rate is a powerful work disincentive.

The moderate income thresholds are set higher than the income thresholds at which most Centrelink payments are reduced to zero, so the effective marginal tax rates generated by Centrelink payment reduction will not stack with those generated by the moderate income rent rates. However, while they do not stack, they do sit side-

by-side, so the effect is that public housing tenants face very high effective marginal tax rates for an extended range of incomes – longer than other persons. Many part-time jobs pay incomes in this range, and may present opportunities for earning additional amounts; however, public housing tenants would receive little reward from doing this work.

The intention of this policy was that public housing tenants with opportunities to do such work would move out of public housing and thereby enjoy a lower effective marginal tax rate. This is utterly unrealistic, as it does not take account of the higher cost of private rental and the relative security of public housing. More realistic is that a public housing tenant – reluctantly – will not take up those work opportunities. That this has been the result is indicated by the results of the policy of reviews as to eligibility, discussed below.

#### *Reviews as to continuing eligibility*

In 2005, when it introduced higher rents for tenants on moderate incomes, Housing NSW also introduced a policy of signing up new public housing tenants to fixed term agreements subject to review towards the end of their fixed terms. Each review considers the tenant's household income and their continuing eligibility to remain in public housing. Where a tenant's household income is above the relevant income threshold (the 30 per cent threshold under the moderate income rents policy – see Figure 28 – with additional adjustments made for people with disability), Housing NSW will proceed to terminate the tenancy.

In fact, very few public housing tenants are found to be ineligible at review: less than two per cent, according to figures provided by Housing NSW to the Auditor-General.<sup>4</sup>

This is not because the thresholds are set too high. On the contrary, the incomes at which tenants become ineligible are insufficient to afford the median rent for appropriately sized dwellings in New South Wales overall. Unaffordability is especially acute in inner and middle Sydney (Figure 27).

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<sup>4</sup> In 2008, the TUNSW was advised by Housing NSW that of tenants reviewed to date, just 0.8 per cent (that is, 28 individual tenants) were found ineligible.

**Figure 27. Unaffordability of private rental dwellings at thresholds for loss of eligibility for various households.**

	One bedroom dwelling			Two bedroom dwelling			Three bedroom dwelling		
	Single	Single (disab)	Couple	Single + child	Single + two children	Couple + child	Single + two children	Couple + two children	Couple + two adults (disab)
<b>Sydney</b>									
Inner									
Middle									
Outer									
<b>NSW</b>									

### Key

Median rent ≤ 30 per cent of threshold (affordable)	
Median rent > 30 per cent of threshold (housing stress)	
Median rent > 50 per cent of threshold (housing crisis)	

Source: TUNSW analysis based on Housing NSW, 'Tenancy Policy Supplement'; Housing NSW (2014).

This at least partly explains why so few tenants are found to be ineligible: faced with the prospect of losing their homes and renting unaffordably and insecurely in the private market, tenants who might otherwise have increased their income through work have not done so, and have stayed poor in order to stay housed.

We have spoken with public housing tenants who have declined – in all cases, reluctantly – opportunities of work because of this prospect. We have also spoken with public housing tenants who have had to contemplate other undesired courses of action – such as asking a child who has commenced paid work to move out – so that they will pass the review and remain housed.

We note that the operation of the policies for reviews as to continuing eligibility and higher rents for moderate-income tenants has coincided with the reduction of turnover in public housing tenancies (Figure 21, above). We submit that the policies have contributed to the reduction, and so operated to the disadvantage of applicants waiting for social housing too.

We recommend the immediate abolition of the moderate income rent rates and reviews as to continuing eligibility. This would cost Housing NSW little (it may even increase rent revenues) and would improve the rewards of work for public housing tenants – and, as tenants become more secure in employment, they may be more inclined to move out into the private market and create opportunities for new social housing allocations.

### Recommendation.

That State housing authorities not pursue policies for higher rent rates for moderate-income tenants, and reviews as to continuing eligibility.



## Summary of recommendations

- That Australian governments commit to the necessity of restraining speculation in housing, particularly by:
  - reforming the tax treatment of negative gearing, to reduce the deductability of losses (either by limiting losses to income from the same asset class, or by a discount applied to all non-business asset incomes);
  - reforming capital gains tax, to remove or reduce the discount applied to capital gains, and to apply capital gains tax to high-value owner-occupied property.
  - reforming land tax, to broaden the base to include owner-occupied housing, and remove other taxes.
- That Australian governments reform residential tenancies legislation to provide:
  - a fairer process where landlords seek termination, so that landlords may give termination notices on reasonable grounds only, and the Tribunal has a discretion to decline termination if appropriate in the circumstances of the case;
  - a fairer process for determining excessive rent increases, so that landlords bear the onus of proof where an increase is above the CPI;
  - greater freedom of choice, so that tenancy agreements cannot unreasonably restrict tenants keeping pets, making minor alterations and adding members to their households;
  - specific provisions, or generally applicable ‘occupancy principles’, for all renters not otherwise covered by residential tenancies legislation.
- That Australian governments commit, under the National Affordable Housing Agreement, to the establishment of:
  - a social housing growth fund, in the amount \$2.5 billion per year above existing funding arrangements, for the delivery of an additional 200 000 dwellings in social housing and affordable housing programs by 2021, to be allocated to States and Territories on a per capita basis;
  - a reformed operating subsidy for existing social housing, allocated to States and Territories on a ‘per dwelling’ basis.
- That social housing providers not pursue policies for higher rent rates for moderate-income tenants and reviews as to continuing eligibility.

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