Submission to consultation

1. Underlying reasons for the "rental crisis"

Like so many of our political initiatives, the proposed regulation will not address the rental crisis, or fundamentally alleviate the situation of renters, because it addresses symptoms rather than causes. This is a classic example of "being seen to do something", rather than actually making politically difficult decisions which address underlying causes.

The underlying causes of our rental crisis are – as everyone knows – dramatically inflated housing prices, driven by eroded credit standards and monetary easing (a tripling of the RBA balance sheet in about 3 years). This has eventually, but unsurprisingly (to everyone who doesn't work at the RBA), flowed through into inflation. Meanwhile, both the natural birth rate net overseas migration has markedly increased since 2004, with the exception of the two COVID years, and more and more people want to live alone.

None of the proposed revisions to the rental laws do anything about these underlying causes. They seek to treat symptoms (high rental increases, and high tenant turnover, landlord / agent ability to treat tenants poorly). Therefore, they will not have a significant impact on the problem, and may even exacerbate it.

2. Restricting Landlord's rights to end leases

The effect of this (well intentioned) proposal will not magically ease the housing crisis, nor will it lower rents. The effect of it will increase risk to landlords, who will in turn mitigate that risk by being more selective in their choice of tenant, choosing the "lowest risk" tenants or foregoing long-term leases altogether for short-term leases (or holiday lets). Vulnerable renter groups, who are perceived as higher risk, will find it even harder to obtain a rental lease.

Some landlords will simply keep their houses empty. Keep in mind that in the Australian property market over the past 10 years, rental income has not been the driver for investment; the name of the game is capital gains. In their wisdom, the government favors this by allowing interest to be offset from taxable income, thus lowering the benefit of renting a property. Median house prices in Sydney are currently $1.46m (say), property price increases have averaged 7.2% p.a. over the past 10 years, and median rent is $700. This means rent is $36,400 p.a., while capital gains are 7.2% x 1.46m or $110,960 p.a.

It is a reasonable presumption that landlords will rarely (or never) require a good tenant to leave, unless there is a good reason (like the landlord needs to live in the house). So, why do we need to pass a law to "require" what is already very likely to be the case? If the intention is to use this legislation to suppress rental prices, it will fail, because it is not addressing the fundamental underlying reasons for rent increases (see next point).

3. Rent increases

As a tenant in Sydney in 2013, I was given a 10% rent increase after 1 year in the property, while interest rates were in fact falling (thus lowering mortgage costs). As you can imagine, I was not impressed. Now I am a landlord, the agent managing our property proposed we increase rents by 15% this year to "market rates. This turns about to be the average rent increase in 2022 (recalling our 2013 experience we did not, although our mortgage repayments have increased by 50% in the past 12 months).

Trying to regulate rents is like trying to regulate the price of any good where there is a fluid market: as soon as you deviate from the underlying market price, you create distortions with unintended and undesired consequences.

Having said that, there are very high transaction costs for tenants in moving, and this makes them "sticky" and susceptible to "above market" rent increases, or "bait and switch" type practices (moving into a "cheap" property and then being faced with a large rent increase after 1 year). Some sort of protection against this is reasonable – perhaps linking rent increases to average increases in financing costs (given the link between mortgages and rent). This would arguably enhance the use of interest rates as an instrument of monetary policy. However, ideally this would be a "default" clause in tenancy agreements (a suggestion, which becomes an industry "norm") rather than a legislated requirement.

The government's key consideration should be that the rental market remains *efficient*. Provided landlords can end leases, houses can be put on the market at any time and thus allow an efficient rental market to be maintained. Constraining prices (or leases, in an indirect attempt to constrain prices) will necessarily result in a distorted market, such as we see in some European countries, where a shadow market in sub-letting "protected rent" flats develops. No poor or vulnerable people are protected, of course – quite the opposite. They move to the shadow market, which is totally unregulated. The best way to protect the most vulnerable tenants is to ensure renting occurs "in daylight".

4. Data protection for tenants

These proposals were good – it seems sensible to require both landlords and agents to have some duty of care towards the data they collect from tenants. However, requiring that data be kept "safe" means imposing a vast range of IT infrastructure requirements on ordinary people, which will either not be respected, or will push all rental applications to paper (with associated efficiency costs, punishing applicants who do not have access to printers, photocopiers, etc). The idea that tenants could state what they want done with their data (when applying) seems sensible.

5. Use of algorithms for tenant recommendations

Landlords should be able to make use of these if they wish, although any landlord who does not ask what criteria the algorithm uses would be quite foolish. If the government is concerned about the implicit biases that algorithms will develop and use, they should understand that such biases will pale in comparison with the biases of the humans who are considering paper applications. As such, some tenants will prefer being judged by an algorithm, and some landlords (or agents) will prefer their own biases to those of the algorithm. The whole debate is a bit pointless. If the intention is to protect

discriminated groups, the best way to do this is simple: provide discriminated groups with higher budgets for rent (or preferred access to social housing), so they have a greater range of options, or can outbid other groups. Political hot potato, but the only real remedy to rental discrimination. Everything else is political theatre (or a "stunt" as Paul Keating used to call it). Trying to legislate people out of their own biases, or "correct" the endlessly shifting statistical correlations that machines will draw is a fool's errand.

6. Pets

If the house has a garden, the presumption should be, pets are allowed. Perhaps not for apartments. Again, it is ridiculous that we have to legislate for this, which just a symptom of a tight rental market (landlords can be too picky).

7. Bond transfer

No views on this – seems sensible to allow bonds to be transferred to avoid the short-term financial pain. Again, the main concern here should be that people do not have enough savings to cover two bonds simultaneously (a situation I have often faced). The bond-transfer scheme is therefore a palliative for a much more serious concern (proportion of Australians living with no cash reserves or ability to accumulate them).

8. About the submitter

I have rented almost constantly since 1996, in various countries – with a brief stint of living in my partner's (owned) flat for about 1.5 years in 2011-12. We recently bought a house in regional Australia which we rent out, while renting the place our family lives in – thus making us both landlords and tenants. Like virtually all Australians of my generation (X) and below, we can't afford the same housing our parents could, at the same age, and have rented for much longer. The contemptuous "smashed avo" nonsense we're told is starting to wear thin.