Dear Minister,

Responses from landlord with 3 investment properties.

EMAIL ADDRESS MUST BE WITHHELD FROM THE PUBLISHED SUBMISSION.

The first point of note is that the properties that are being leased are privately owned.
While some regulation is required to keep the market stable and fair, these are private homes that are being made available. The alternative is that those who cannot afford their own properties have to be housed by the government.

Ending a fixed term lease
Given that the property is private property, we believe it is reasonable that landlords are able to have tenants leave the property given due notice, and without a reason. Fairness, not law, should involve a reason, and that should best be tested by the tribunal.

Not ending a lease during the fixed term is entirely reasonable and must not be changed except for reasons of failure to adhere to the tenancy agreement which is the contract under which the lease was set. If the tenants fail to keep their side of the agreement, they have no rights to remain in the property until the end of the fixed term.

Ending a lease during a periodic tenancy, with 90 days notice, is entirely reasonable. If neither party has committed to the other for a longer period, then ending the lease at the end of the notice period is entirely appropriate. No reason need be given. The lease will simply not be renewed.

So, No, the landlord should not have to give a reason to terminate the lease in fixed term leases.
(respond with which specific state's model is preferred)

Question 1: The reasons for terminating an agreement in the fixed term leases can be many. Some can be stated in the lease agreement, but latitude must always exist to terminate a lease for reasons not stated in a generic contract.
The desired model is the Queensland model. The landlord must be able to act with their own property as they deem fit.

Each lease period operates independently. There is no inherent obligation on the landlord to provide a reason in subsequent periods just because new fixed terms have been agreed. These concepts are not linked.

Question 2: The new proposed reasons to terminate a lease are acceptable, and must, as they do, include the landlord moving in.

Question 3: The current notice periods are sufficient.

Question 4: If a landlord ends a lease, for any reason, there should be no evidence required because it is privately owned property and what you do with your property is your business, literally.
The landlord is not obliged to explain how they wish to manage their asset.

Question 5: There should also be no constraint on letting the property again immediately, provided it is habitable and meets the standards required for occupation.

The tone of these changes is problematic. They are inherently accusatory and adversarial, not recognising that this is private property that is being made available for others to use.
Most landlords are not dishonourable. The place to manage those who are is the tribunal.

Keeping Pets
The landlord must have the right to reject an application for pets but permission should not be unreasonably withheld.
The landlord and property manager must have the ability to judge what is appropriate for the property.
Just because a tenant presents with a menagerie does not oblige the landlord to accept if that is not appropriate for the property.

A standard form, with standard sets of information about the proposed/requested pets is a good idea.
Information should include: age, gender, neutered status, temperament, size and weight, photograph/s, whether the animal has been involved in any incidents.

Question 6: The time period for the landlord to review the form should be 30 days from receipt. Many people take 2-3 week breaks, fewer people take one month breaks.

The automatic acceptance of an application at the end of the period is not reasonable. We understand why this might be considered, but a request put to a landlord must be deliberately and specifically responded to.
Failure to respond by 30 days from receipt should then be raised with the tribunal as the landlord failing to act per the tenancy agreement (in which this requirement would be stated). Legitimate reasons for not responding by the 30 days would include being uncontactable due to travel – this would have to be evidenced.

Question 7: The notion that the landlord cannot reject animals that are too large for a property, or not suitable e.g. farm animals in residential areas, does not stand scrutiny. The Queensland list of reasons to reject an application are sensible and should be adopted in NSW.

Conditions: Question 8: Yes. The circumstances of a property do not change without action, e.g. the absence of fencing. If the landlord does not wish to provide fencing, then the keeping of pets would be reasoably rejected.

Question 9: It is impossible to police a condition that a pet will be kept outside, so this should not appear in legislation.

<u>Renter personal information</u>
The information requirements of real estate agents must apply to proptechs as both are businesses operating on large amounts of personal information.
Most landlords in Australia have fewer than 10 properties, in fact, most have 1-2. Applying business-level requirements on individual landlords, i.e. operating in their own names not as companies, is impractical.
A requirement could be that tenant application information only be displayed to landlords via secure property manager portals, i.e. not be sent by email. This would be an advancement provided all the necessary information is present, and the platform is available on demand.

However, landlords do require to see the evidence of identity checking and financial means of the tenant to afford the rental, their payslips, independent references etc. It will not be acceptable to us as landlords if we were not to see the evidence of income as, in many instances, we have identified incorrect information supplied by applicants or gaps in information that property managers failed to note. It would not be acceptable to be told that the proposed tenant's identity had been verified by some third party, but not sight the identity documents oneself. The tenancy agreement is between the landlord and the tenant – the landlord has to know who they are renting to. The landlord has no basis on which to believe the attestation of any party other than their contractually engaged property manager about the sighting of the identity documents.

The obligation on landlords to not use or disclose tenant information for any purpose other than the operation of their property is entirely reasonable and should be enforceable.

It is also reasonable that if a landlord, who did hold personally identifiable information about a tenant, had their technology infrastructure hacked, and which infrastructure did actually contain tenant information, then they should be obliged by law to advise the tenant to enable the tenant to take appropriate steps. The landlord should be required to advise the tenant as soon as they become aware of the breach.

Question 10: No, the list of information indicated in the table is acceptable but more options must be permitted. For example, some tenants provide payslips but not employment contracts and the property manager has to contact the employer to verify that the tenant is still and will continue to be employed. An employment contact by itself is not sufficient – that was relevant at the time of taking the job, not necessarily at the point of the application.
Question 11: the restriction to two of each item is not reasonable. For example, on the topic of income: if the tenant indicates that there are several (more than two) sources of income or assets that will be used to fund the rent, then all of those must be evidenced.
Question 12: examples need to be seen of what could be intended before any confirmation can be given about standard forms. Bear in mind also that people don't fill standard forms in properly or consistently nor do they understand, for example, pre and post tax income especially when Centrelink benefits are involved.
Question 13: Limiting the information collected will not reduce discrimination as there are cues in many forms that those who choose to discriminate will use to discriminate. It is entirely reasonable to know the ages and genders of your

tenants. That knowledge does not inherently mean a landlord will discriminate against any age or gender. Race, religion, sexual orientation and similar have no place in a rental application.

Question 14: we do not support this amendment to the act. While a tenant is in the property and is accountable for ongoing performance, i.e. care of the property and payment of agreed costs, the evidence that substantiated their application is relevant and must be retained. This information could be used in a tribunal or other hearing if issues arose to substantiate why the application was accepted, particularly if the tenant no longer performs as required. Once the tenant leaves the property, and the property is restored to its on-entry state (fair wear and tear excluded), is it only then reasonable to delete the substantiating information used to secure the tenancy. So no, we do not support this amendment to the act.

There is merit to destroying the personal financial records of tenants who are no longer the subject of active tenancies with a landlord/property manager – by both the property manager and landlord. This is fine in principle, but if this information was provided by email, it is much more challenging to find and delete.

Question 15: tenants should be told that the information provided will be used to determine their suitability for a tenancy, ability to afford, cohabitants, etc.

Question 16: Legislating exactly HOW thousands of landlords should handle tenant data is impractical. Legislating THAT landlords and property managers must secure tenant information from unauthorised access both on the premises occupied by the landlord/property manager and in the technologies used by the parties to engage, is reasonable.
Question 17: See above. Once a tenancy has ended and all loose ends are tied up, the personal financial data can be deleted. Having a record of who (name, email address, contact information) you rented to in the past is not unreasonable. It's nigh impossible to delete all references to names etc.
Question 18: Landlords who operate through property managers should not be required to enable viewing of information held by them since the property manager is the duly appointed agent. The property manager, however, and proptechs are CUSTODIANS of content, not owners of it, and absolutely must enable visibility and correction. Providing visibility and correction of material related to CURRENT tenancies should be free to the tenant. Providing the same to historical tenancies may involve a cost IF AND ONLY IF the means to access and correct that information by the information holder ACTUALLY involves a cost.

<u>Automated decision making</u>
ADM that discriminates is illegal.

ADM that sorts based on financial ability to meet the obligation of the rental amount is useful as it would rank those who cannot afford the rental at the bottom of a list. However, the WHOLE output of the tool must be scrutinised by the property manager, i.e. the tool helps with decision making but does not take over decision making.

Question 19: our property managers do not use such tools but we are aware of them. Such tools can also entrench bias, which is not acceptable.
Question 20: tenancy applications are never black and white, and property manager/landlord decision making in this human process should be required. Those who use ADMs must demonstrate to the regulator's satisfaction that bias is absent and that no candidate is deleted from consideration.

<u>Portable rental bond scheme</u>
"The new scheme will allow a renter to transfer their bond from the old property to the new property, before the bond from the old property has been repaid. If the new bond costs more than the old bond, the renter would need to pay the difference before being able to use the scheme and <u>before</u> entering into the new tenancy agreement."

A portable bond is a terrible idea.

The obligation to the landlord whose property is being vacated must be fully satisfied before the bond can be released. The new landlord should be put in a position where their bond is free and clear, unencumbered. Why should the new landlord have uncertainty around the bona fides of the tenant by having to wait for a top up to occur.

If the tenant were not be able to enter into the new tenancy agreement, i.e. they could not EXECUTE/SIGN the new tenancy agreement, the landlord would be better advised to find another tenant.

If the tenant were able to SIGN the tenancy but NOT START IT, the new landlord would be in a position of having a contractual commitment from the tenant but no income until the previous bond is cleared/new bond is topped up. How is this fair or reasonable to the new landlord?

The concept of certificates showing who the bond is held for and that a new portion is added but then the original portion is being claimed and the tenant has to top up, is just thoroughly impractical.

The solution here is that a) the NSW government agency that holds the bond improve its ability to pay the bond out immediately when the previous obligations are met.

Tenants have obligations too. If they are seeking a new lease, they should be pre-funding a bond as a signal of preparedness for their new obligations.

Question 21: We do not support the concept of a portable bond. Why should the new landlord be placed in a situation of uncertainty and concern because of the tenant's failure to meet its obligations/commitments to the previous landlord? The topping up concept could be a signal to the new landlord that the tenant leaves costs in their wake – not encouraging at the start of the relationship.
Question 22: this sounds like a credit scheme managed by the new landlord. This concept places concerns on landlords that would be avoided by the simplicity of the tenant clearing their debts before taking on new obligations.
Question 23: this concept must not be released. Return bond monies to tenants swiftly when their obligations have been met. Use Real Time Money Transfer to return funds instantly, and enable the relevant agency to receive funds via PayID, i.e. instantly. That's a good solution, not this overly complicated, burdensome, concern-inducing concept.
Question 24: as a landlord who might be the recipient of a tenant with an incomplete bond, I would exclude tenants on the scheme. I have enough to consider without having to chase tenants about this as well.
Question 25: this concept is thoroughly flawed and must not be implemented.

<u>Excessive Rental</u>
When speaking about average rents or rent increases, whether at the general or location level, you are dealing with an average. Averages really don't mean much because the properties they relate to, even for the same number of rooms etc., are very different. Two four bedroom two bathroom houses in the same general area could legitimately and reasonably command different rents or increases, such that their comparison is meaningless.

Currently asked rent amounts are transparent and on the internet. The change being considered is for the government to store previous rental amounts or increases and to reflect that over time.
As a tenant being presented with an increase proposal, one could understand the concept of knowledge of increases proposed in surrounding areas or for similar properties, but how is that useful?
The general landlord does not gouge their tenants nor do they wish their investment to be loss making or be below market.

Question 26: concerns about the government collecting increase information is about the granularity and specificity of its collection and association with a particular property, and how readily an increase in an area would be attributable to an individual property. Aggregated information to a suburb may be OK, but making the individual business of an individual landlord visible to everyone is a breach of privacy of all parties and is not acceptable. Australia is not a socialist state where everyone pays the same. It is a free market where tenants and landlords are free to negotiate acceptable terms between them. If the tenant believes an increase is excessive, however they define it for themselves, they can discuss with the landlord/property manager, raise with the tribunal or vacate the premises.

Question 27: bed/bath/garage/pool type information + suburb level aggregation would be acceptable to collect and share. This could be collected from Realestate.com.au or domain.com.au or similar when an advertised property is actually let. This would best be done by answering the question: was the property let at the advertised price. This would not be possible for a lease extension.
Or, as you noted, property managers/landlords could update a government portal or so could a tenant. The issue is that either party could seek to game the system by tenants indicating incorrectly high amounts and landlords incorrectly low amounts, thus rendering the information useless. If both parties had to provide the same update to give credibility to the number, you end up in a situation where inevitably one will comply and the other will not, thereby still rendering the number unconfirmed and therefore useless.
Surveys would be reasonable but will suffer from poor completion quality, poor completion levels and game playing.

Other changes regarding affordability

A tenant on a 12 month lease should not be subject to rental increase within the period – that is the point of the 12 month commitment by both parties.

Tenants and landlords on periodic leases, by their nature, not committed to each other, should be subject to the ruling market rental at the time the lease terminates – this can be an increase or a decrease. If the tenant wishes for more security of tenure, then sign a longer lease, giving the landlord security as well.

It is unreasonable to expect a landlord, running a property as a business, to not recognise market conditions in the lead up to the end of a periodic lease and to be able to adjust rental in accordance with those conditions.

Landlords should not be able to increase rental within a fixed term lease or within the period of a periodic lease. At the end of either of those terms, ruling market conditions must be used to inform whether the rental changes.

Question 28: if a tenant switches from a periodic lease to a fixed term lease and where an increase had already been made under the periodic lease, it would be reasonable to start the new lease at that agreed rate and not have another increase for the next 12 months if that is the lease term. If the lease term is 24 months, a rental increase at the 12 month mark should be possible/written into the agreement, but of course it does not have to be exercised.

Question 29: under normal circumstances, it would be reasonable to constrain rental increases to once in 12 months, however 12 interest rate increases in 14 months are not normal circumstances. Recent events have massively increased interest costs, and costs generally have accelerated. There has to be some recognition that landlords, who are mostly families with one or two properties, cannot be expected to simply absorb these kinds of increases to their own detriment while tenants receive all the protections. We believe that landlords should be able to increase rentals more than once in 12 months IF there are extraordinary circumstances. These should be able to be put to a tribunal, with evidence/justification of the increased costs, and the tribunal be required to fairly and equitably review the information. If justified, the increase should be permitted.

Question 30: If the CPI generally refers to goods and services, including shelter, then increases well in excess of CPI should have to be justified. Rent is an agreed figure between willing parties under conditions prevailing at the time of the agreement. If a landlord increases rentals too much, the current tenant will leave and the landlord may or may not be able to let the property. If the property is vacant too long, the landlord will have to reduce expectations to meet the market. If the rental is too low, the landlord is devaluing his asset. Excessive government intervention affects the free market and adds tax by way of complexity – these must be avoided.

Carefully managed supply is the key to ensuring rental prices do not spike or stay high for extended periods. The other interventions above are trying to manage the state of affairs without recognising that supply and demand have to be balanced. Skewing protections too far in favour of tenants disincentivises landlords from remaining in the market as it becomes just too bothersome.

Other changes regarding rental laws

Question 31: yes, all embedded networks must be disclosed at the time of tenancy application. Failure to do so imposes restrictions of choice on the tenant even if well intentioned by the landlord/developer. This requirement must apply for all embedded networks e.g. gas, electricity, internet or anywhere where choice is excluded.

Question 32: The advertisement of the available property must include mention of all embedded networks. Tenants should not have their time wasted if this is a key determinant for them.

Question 33: the tenant should be provided with all the details on the advertisement – that there is an embedded network, of which type, with which provider, and at what rates. This enables an informed decision. The tenant may be OK with those details as they may be better than where they currently reside. One should not assume that embedded networks are necessarily bad or excessively priced. The tenant must be equipped as early as possible to make an informed decision based on their own interests and circumstances.

Question 34: tenants must be able to pay their rent for free to the landlord or property manager electronically via bank transfer/EFT/BPay or PayID. In person cash or cheque should not be excluded. Tenants or landlords who operate only in cash would be a rarity; and cheques do have costs to handle and process.

Strata

Question 36: tenants considering strata options should be provided with the FULL set of rules prior to application. And the strata must be required to document for public consumption their FULL list of rules to live in the scheme. If rules are

mentioned subsequently that were not part of the published content purported to be the full set, the tenant would not be required to comply. Both sides have obligations.