Removing ‘no grounds’ terminations

Q1. What is your preferred model for ending fixed term leases and why?

A landlord should only be able to terminate a tenancy for a valid reason. This should apply to both the ending of fixed term tenancies and periodic agreements. Under the current law a landlord/agent can terminate an agreement, without having to provide a reason which leaves the tenant uncertain as to why the tenancy is being terminated. Also, that landlords/agents rely on terminating a tenancy with no reason rather than in some cases having to prove an alleged breach or, to increase the rent without the tenant having the opportunity to dispute.

Central Coast Tenants’ Advice regularly receive calls from tenants worried that the tenancy has been terminated and they “have done nothing wrong”. Then to find out that the property has been relet at a higher rent or, the agent is giving them an unsatisfactory verbal reference for allegations of a breach which was not raised with the tenant.

At the end of the fixed term and in ending a periodic agreement the landlord should only be able to terminate the agreement for a valid reason.

New reasons for ending a tenancy

Q.2 Are there any other specific situations where a landlord should be able to end a lease?

The Consultation Paper suggests the following grounds be added as reasonable grounds for eviction, to replace ‘no grounds’.

- The property will soon be sold
- The property will be renovated or repaired
- The landlords wants to use the property differently
- The property will be demolished
- The landlord or member of their immediate family is going to move into the property.

The Property will soon be sold

This suggestion reason is very concerning. Currently the *Residential Tenancies Act 2010* under s.86 allows for the tenancy to be terminated where the landlord has entered into a contract for sale of the property with vacant possession.

Not all properties are sold with the intention of the owner moving in. Where a property is being sold to an investor, the tenant is often allowed to remain in the premises and continue with the tenancy. Where the new owner wants to move in, there will be provisions under the new laws that the owner can terminate due to requiring to move into the property.

The inclusion that there is an "intention to sell" allows the landlord to issue termination notice and then change their mind, thereby requiring the existing tenant to vacate and providing the landlord the opportunity to relet with new terms such as the rent payable.

There should be no requirement for an existing tenant to vacate due to an intention to sell. If termination of the existing tenant is required due to change in ownership of the property, it can be dealt with as an alternative proposed valid reason.

The property will be renovated or repaired or demolished

Major renovation or demolition is a valid reason.

Repairs to the property is not a valid reason.

Landlords should not be given the opportunity to fail to maintain or complete repairs to a tenanted property and then terminate due to repairs. A landlord is in breach of the agreement, where there are outstanding repairs. The tenant should not be at risk of homelessness where the landlord has failed in their responsibility to maintain the property during the tenancy.

Repairs can be completed whilst the tenant remains in the property.

If the language of repairs and renovation is included, it must be clarified that this is allowable only where the landlord genuinely intends to carry our significant repair and renovation of the residential premises and where the repairs are not required as a result of the landlords breach of the agreement.

Structural renovations may require the tenant to vacate, depending on the size of the renovation and evidence that the renovation requires vacant possession for longer than 6 weeks or more. For example, the renovating of the bathroom does not require the termination of a tenant. A tenant can relocate for a short period, if there is no other opportunity for the tenant to remain in the property during the renovations.

Demolition of the property is a valid reason.

Landlord wants to use the property differently (Change of use)

This is a valid reason. Where the residential property is withdrawn from the rental market due to change of use, for instance to become a business or commercial location. The

landlord should be required to show the change of use and not be able to relet the property as residential tenancy for a minimum period of time, such as six months.

Landlord or a member of their immediate family is moving into the property.

This is a valid reason however, there has to be clear guidelines as to who or what is immediate family and an intention to remain in the property for a minimum period of time, for instance, 12 months. There should also be a restriction on being able to relet the premises for a minimum (6) month period, if there is a change in circumstances.

CCTAAS is aware of tenants who have been told that their tenancy has been terminated as the landlord wants to move back in, only to find the property back on the rental market a couple of weeks later at a higher rental price.

Appropriate notice periods

> Q.3. What would be an appropriate notice period for the five proposed reasons (and for any other reasons you have suggested)? Why is it reasonable?

CCTAAS receives calls daily from tenants who have been unable to find suitable accommodation after receiving a No Grounds (90 days) termination notice. The current rental market is particularly tight, and tenants regularly are fearful of becoming homeless when trying to source suitable and affordable accommodation.

It is important for renters to have enough time to secure a new home. Renters who are unable to do so may be forced to overstay their notice period, or face homelessness, leading to potential Tribunal proceedings and additional stress for everyone.

Appropriate notice periods may vary depending on the grounds provided. For any 'no fault' eviction, that is where the tenant is not in breach of the agreement, CCTAAS recommends not less than 120 days notice should be given. Some grounds may require more than the 120 days.

- Significant renovation requiring vacant possession of the premises – 120 days
- Change of use – 6 months
- Demolition – 6 months
- Landlord or immediate family moving in – 120 days
- Intention to sell, if considered a valid reason – 120 days (CCTAAS does not agree this is a valid reason)

There are already provisions in the Act should a landlord face 'hardship' and require the property vacant in a shorter timeframe.

There must be penalties and enforcement of penalties where a landlord is misleading in the issuing of the termination notice and then relets the property.

Evidence requirements

Q.4 What reasons should require evidence from the landlord? What should the evidence be?

If a tenant is being evicted, the landlord must be able to provide sufficient evidence to demonstrate the validity of the reason for termination. The landlord must be responsible for demonstrating validity, rather than the tenant being required to disprove it.

Written evidence must be provided to the tenant with the termination notice for all proposed new reasons. The evidence must be sufficient to demonstrate the validity of the reason for termination.

Change of Use –

- A witnessed Statutory Declaration of intention for use of premises for business purposes, including details of the particular business and stating that the premises will not be re-let as a residence before the end of 6 months after the date of the notice was given.
- A Council planning permit

Demolition –

- Building permit for demolition
- Contract with qualified builder stating the date the demolition will occur.

Major renovation –

- Written detailed quote or report from a licenced and qualified builder that clearly states that the structural renovation requires vacant possession of the premises and the timeframe for the renovation.

Landlord or immediate family moving in –

- A witnessed statutory declaration signed by the owner, stating either:
    - They intend to move into the rented premises, or
    - The name of the person who will be moving into the rental premises, their relationship to the owner, and declaring whether the person is a dependent, and
    - That the owner understands that they must not re-let the premises to any person (other than the person named to be moving in the rented premises in the statutory declaration) for use primarily as a residence before the end of 6 months after the date on which notice was given

Temporary bans on reletting of premises

Q.5 Should any reasons have a temporary ban on renting again after using them? If so, which ones and how long should the ban be?

Appropriate compliance protections are required to ensure landlords do not misuse newly introduced ‘reasonable grounds’ for eviction.

A tenant being evicted from their home can be an extremely stressful and expensive experience, especially in the midst of a rental crisis. It is important that if a tenant is going to be put through that experience, there is evidence that the eviction is necessary and genuine, and proper safeguards are in place from wrongful evictions.

This should include stopping the landlord from renting out the property for a set period when certain termination grounds are used.

The following reasons should have a temporary ban on re-letting applied as indicated.

- Change of use - 12 months
- Demolition and /or reconstruction/major renovation – 6 months
- Landlord or immediate family moving in – 12 months

- More compliance and enforcement (penalties for wrongly issuing terminations)

  To ensure the effectiveness of the reforms, it is important to have strong compliance and enforcement provisions. Temporary bans should be implemented however, they are not sufficient by themselves. Where a landlord has falsely relied on one of the above grounds to terminate a tenancy, there should be penalties. The penalties should be enforced. This requires more substantial resources from Fair Trading in order to enforce compliance on landlords and where necessary, agents.

  Both penalties and compensation should be considered, with a tiered approach adopted that distinguishes between cases where the landlord's circumstances have changed invalidating the initial reason for termination, and where a landlord has wilfully or misused a reason.

  Where the landlord has deliberately or wilfully misused a termination reason, the landlord should face a significant fine and be required to compensate the tenant for any reasonable moving costs.

  Alternatively, if the landlord's circumstances have simply changed since the tenancy ended, the landlord should pay any moving costs associated with the evicted renting household.

- Renter must be able to move out at any time once termination notice served

  The *Residential Tenancies Act 2010,* s.110 allows for tenants who have received a No Grounds notice to end a periodic agreement to leave the tenancy with no notice period and to stop paying rent as soon as having vacated the premises.

  For tenants on fixed term agreements who receive an end of fixed term notice, they are expected to either pay out the remainder of the fixed term or to pay a break lease fee (whichever is the lesser amount) should they choose to vacate early.

Tenants on fixed term agreements, should be able to move out and stop paying rent before the termination date listed on the notice. This would help minimise the costs associated with moving and help to prevent situations in which a tenant must pay double rent to secure alternative accommodation.

It would also put a stop to the landlord/agent practice of issuing a Termination Notice at the same time, or not long after, the lease agreement has been signed. CCTAAS is aware of renters receiving Notices of Termination for end of the fixed term agreement, months before the end of the tenancy, leaving the tenant either paying a break lease fee if they find suitable accommodation early or risk being homeless at the end of the agreement with nowhere to relocate. By allowing tenants to move out with no penalty, once a notice has been issued, would stop this practice.

- ## Retaliatory evictions

  The potential for misuse of grounds for termination notice should be contemplated, with consideration given to retaliatory termination. The discretion for the Tribunal should be removed where retaliatory termination is found. CCTAAS is aware that the Tribunal regularly decides that the relationship between the landlord and tenant has broken down and that deciding on a vacant possession date is the suitable outcome for all parties. This discretion must be removed. The onus of proof must shift from the tenant to the landlord. The landlord should be required to show that the termination notice is not retaliatory. A preclusion period should be introduced for any other termination notice to be issued.

  CCTAAS has attended NCAT where the landlord has issued a termination notice, that was found to be retaliatory by the Tribunal Member and, the managed agent has handed the tenant a further no grounds notice as they are walking out the Tribunal venue.

- ## Removing ability to evict for sale of premises

  Sale of property alone is not a reasonable ground to evict a tenant. There is no reason to assume that if the property is sold it will no longer be available for rent.

  The current provision in the Act allowing for termination based on sale of premises (section 86) does take account of this, allowing termination only where the landlord has entered into a contract for sale of the residential premises and that contract requires the landlord give vacant possession of the premises. The intention of section 86 is to provide vacant possession in order that the new owner can move into the property or alternatively put the premises to some other purpose. Where the intention is that the property remains an investment property there is no good reason to evict a sitting tenant.

  If new reasons including landlord or immediate family are moving in, change of use, and demolition and structural renovation are introduced, there is no good reason to retain termination for sale of premises.

- ## Termination of long term tenancies (section 94)

  Under the current Act, a tenant who has been in possession of the same premises for more than 20 years can be terminated through the Tribunal with no requirement for a notice of Termination to be issued. The Tribunal must order vacant possession with a minimum of 90 days to vacate. However, for most tenants who have been in a long term tenancy (20 years or more), 90 days is not enough time to find alternative accommodation. The premises has been their home, and the packing up and storing or removing of their belongings can often be a difficult process.

  Attention must be paid regarding how to ensure tenants in long term tenancies can only be evicted where either a breach has occurred, some other existing ground is provided, or a newly introduced reason is given.

  This could be done by removing s.94(2) of the Act, which allows a landlord to terminate the agreement without service of a termination notice. This would ensure that discretion remains available for a Tribunal member to decline termination unless it is satisfied that it is appropriate to do so in the circumstances of the case taking account of a broad range of factors – such as the length of tenure, the age of the tenant. Tribunal would be continue to be required to ensure vacant possession can be ordered no earlier than 90 days after the order is made.

  CCTAAS is aware of Tribunal members allowing tenants in long term tenancies in excess of 180 days to vacate, having taken into account the notice period, (had a notice of no grounds termination been issued) and the time for an elderly tenant to pack up his home of more than 24 years and find alternative suitable accommodation.

A new model for keeping pets

Timeframe for response to request

Q.6. Is 21 days the right amount of time for a landlord to consider a request to keep a pet? If not, should the landlord have more or less time?

Pet ownership in Australia is amongst the highest in the world and, keeping a pet has shown to have benefits for a persons wellbeing both mental and physical.

14 days is a reasonable time frame for a landlord to consider and respond to a renter's request to keep a pet.

Refusing a request

Q.7. What are the valid reasons why a landlord should be able to refuse a pet without going to the Tribunal? Why?

If the landlord wants to refuse a pet, it should be the landlord that has to apply to the Tribunal to prove why a tenant should not be allowed a pet in a rental property. Given that

it is the landlord who is seeking to restrict the actions of the tenant, and to limit the tenant's contractual rights to peace, comfort, and privacy the responsibility to apply to the Tribunal should be placed on them.

The Tribunal should be guided to consider the suitability of the specific pet for the residential property primarily by reference to existing animal welfare guidelines on companion animals, and/or existing law including council zoning laws or council ordinances.

Guidelines, if not in existence, should be developed in consultation with animal welfare groups and the broader community and provide clear guidance on the welfare needs of companion animals in relation to residential premises.

Any further regulations around responsible pet ownership, welfare standards and residential premises should be applied through relevant companion animal regulations rather than tenancy law. Regulation must apply to all pet owners regardless of their tenure.

Conditions and/or ongoing restrictions on pets in a property

Q.8 Should the Tribunal be able to allow a landlord to refuse the keeping of animals at ta specific rental property on an ongoing basis? Please explain.

Q.9 What other conditions could a landlord reasonably set for keeping a per in the property? What conditions should not be allowed?

All pet applications should be assessed on their merit and with considerations given to the type of pet and the property at the point in time that the request is made.

A landlord should not be allowed to put special conditions on the keeping of a pet in the property, including conditions such as 'no pets inside' or providing special compensation for any pet damage or changes to the property. A bond is already paid by the incoming tenant to cover any damage to the property. Having a pet should not require an additional bond or payment required for the tenant to occupy the property.

Tenants are required to formally request any alterations to the property and to pay for them, once approved, such as installing a dog door.

Tenants should not be subject to additional rules that others in the community are not required to follow. Other legislation such as the *Companion Animals Act 1998* already provides rules based on welfare concerns for keeping pets. Local government ordinances and rules that may set certain conditions on pet owners already apply to tenants once they move into the area, and these do not need to be specified again in a tenancy agreement. It is unnecessary to duplicate the regulations within tenancy law or the tenancy agreement as these already apply.

- Pet bonds

Landlords should not be able to request extra bond because a tenant has a pet. There is already a bond in place for any damage caused to the property, regardless of whether it is

caused by a human or an authorised animal. Requiring a tenant to pay a further bond because they have a pet is discriminatory and may lead to further financial disadvantage.

Renters' personal information

Q.10 Do you support limiting the information that applicants can be asked for in a tenancy application? Why/why not?
Q.11 Do you have any concerns with landlords or agents only being able to collect the information set out in the table above to assess a tenancy application? Please explain.

Q.12. Do you support the use of a standard tenancy application form that limits the information that can be collected?

Q.13 Do you think that limiting the information that may be collected from rental applicants will help reduce discrimination in the application process?

Tenants should have control of their personal information and the information provided during the application process should only be used for the purpose of assessing whether the prospective tenancy agreement can be sustained.

Limits on the information that can be collected must be put into law. The introduction of a Prescribed standard rental application form should be implemented. This would provide greater protection against a landlord or an agent from unlawfully discriminating against an applicant by ensuring they are not able to request information about a tenant that could be discriminatory, under the NSW Anti-Discrimination Act 1977.

There is no requirement for tenant to have to provide their social media details, or evidence of household insurance, for example.

Tenants should not have to provide details of previous Tribunal attendance or whether their bond was returned in full. There are many reasons for attending the Tribunal and providing that information is irrelevant to whether a tenant is a suitable applicant for a property.

Tenants should not be asked whether they have been bankrupt. Whether a tenant can afford a property, based on income is all the financial information required for a tenant to be considered for an application.

The Consultation Paper provides examples of information suitable for a tenant to provide when applying for a property. In general, the suggested documents are suitable, however there are concerns for those tenants who may find it difficult to obtain some of these specific types of information in a timely manner in order to provide them to secure housing, eg/ temporary migrants, international students, Aboriginal and culturally and linguistically diverse communities.

It should be the tenant who decides which information they will provide with the rental application, from the suggested list.

There are also concerns about :

- Whether a bond has been refunded in full or partially at a previous tenancy is not a reliable indicator of a tenants' ability to meet the terms of the tenancy agreement
- The redaction of sensitive personal information on bank statements or other financial documents would provide greater assurance to applicants given the cyber security risk in relation to this type of information. BSB and Account numbers are not required to make an informed decision as to the ability of a tenant to pay the rent.
  CCTAAS is aware of agents commenting on the number of coffees a tenant purchased on a weekly basis, information gained through requesting a bank statement from a prospective applicant.
- Tenants should have access to references provided through online portals.

Use and disclosure of renters' personal information

Q.14 Do you support new laws that set out how landlords and agents can use and disclose renters' personal information? Why/why not?

Q.15 What should applicants be told about how their information will be used before they submit a tenancy application? Why?

Q.16 Do you support new laws to require anyone holding renter personal information to secure it? Why/why not?

Q.17 How long should landlords, agents or proptechs be able to keep renter personal information? Please explain.

Q.18. Do you support requiring landlords, agents or proptechs to:
give rental applicants' access their personal information
correct rental applicants' personal information?
Please explain your concerns (if any).

Stronger protections that provide specific guidance on how tenants' information can be shared are required. These protections should apply to not only real estate agents, but also private landlord and property and rental technology companies.

These protections should include:

- A regulatory framework that preserves tenants' digital rights –to privacy, non discrimination and digital security
- Ensure fee-free options, either directly or through third-party platforms be made available and promoted to prospective and existing tenants. Fee- free should not mean that the tenant must provide their details every time that they make an online payment. The tenant should be allowed to opt in to have their details stored, and still be able to make a fee-free payment.
- Ensure that tenant use of third party property management or rent payment apps are strictly opt -in.

- Investigate public alternatives to private tenant application processes that prioritise data minimisation and protect tenants' privacy and rights
- Investigate developing a publicly accessible database of rental information to better inform policy making and correct the informational imbalance between tenantsand landlords

- Use of personal information

Tenants give their personal information over to these parties for the specific purpose of assessing the tenants suitability for a rental property. This is the only way in which the data should be used, and there should be clear restriction against using information collected for marketing purposes, or for it to be shared with or sold to other parties.

- How much and how long personal information should be collected and held

No more data than is necessary to assess their application should be collected. The data should not be stored for longer than is needed to assess an application. Rules clarifying what information can be collected, and for how long this can be stored, developed with a 'data minimisation' approach would not only benefit tenants, but help reduce the risk profile of agents and landlord who currently may 'over collect' personal information because they are unsure of what their professional obligations require.

Tenants' information must be stored securely, and there should be appropriate time limits on how long information about a tenant can be kept. Time limits may appropriately vary for unsuccessful vs successful applicants (those who enter into a tenancy agreement). In both cases, data should not be held by a landlord, agent or PropTect company for any longer than it is reasonably necessary.

Tenants should have an option to opt in, to the landlord, agent or PropTech company keeping their information for longer than required, where a tenant wants to have existing information retained for future rental applications. Where the tenant has opted in, to have their information held, the tenant can request to have their information removed any time after the legislated timeframe has expired.

Automated decision making

Q.19 Are you aware of automated decision making having unfair outcomes for rental applicants? Please explain.

Q.20 What should we consider as we explore options to address the use of automated decision making to assess rental applications?

CCTAAS agrees that new technology can help streamline the application process for both tenants and landlord or their agents. However certain protection must be in place to ensure equity and transparency as their use becomes more widespread.

- Tenants must be provided with the option to apply with a paper form and paper applications must be accepted and considered equally alongside online applications
- Any information that can be used to unlawfully discriminate against a tenant should not be allowed to be used by computer programs for decision making
- Full transparency regarding how a computer program will make recommendations or decision about tenants' applications should be required. Information about this should be made publicly available by those relying on the program.
- Before the automation is used the automation should be tested by any authority resourced to do so testing both the technology itself and the appropriateness of the technology.

There should be no further use of automated decision-making that allows for 'scores' that may influence decision-making until appropriate structures are put in place.

Portable bond scheme

Timeframe for a renter to make up difference in bonds

Q.21 How long should a renter have to top up the new bond if some or part of the bond has been claimed by the previous landlord?

Tenants should be given flexibility and appropriate time to pay the difference in bonds between properties. 14 days minimum to top up a new bond.

Responsibility for liability, support to sustain tenancy

Q.22 What should happen if the renter does not top up the second bond on time? Please explain why.

If a tenant is not able to pay the difference in bond within the time limit, the new landlord's bond should be guaranteed by government. Where the government guarantees the bond, they may then seek repayment of the difference in bond and offer appropriate support if the tenant is facing financial hardship Department of Communities and Justice already has a bond loan scheme with structures in place to facilitate repayment of the loan to the Bond Board. The loans through the Department of Communities and Justice are only available to low income households eligible for social housing.

Availability and use of the scheme

Q.23 Should the scheme be available to all renters, or should it only be available to some? Please explain why.

Q.24 Who should have a choice on whether to use the scheme?

Q.25. What other (if any) things should we consider as we design and implement the portable bond scheme? Please explain.

The scheme should be available to all tenants and should be optional for all tenants to use. Landlords should be informed, only that a bond is in place. This is an opportunity to overhaul the Rental Bond Board systems and to better deal with bond disputes between co-tenants and subtenants.

Excessive rent increases
Collection and publication of information on rent increases

Q.26 Do you have any concerns about the NSW Government collecting information on rent increases and making it publicly available for renters? If yes, please provide details.

Q.27 What do you think is the best way to collect the information?

The collection by the NSW Government of rent increases and making it publicly available would be of benefit to tenants and self self-managing landlords. Currently the information that is available regarding rents and rent increases in NSW is based on the rental bond data held by NSW Fair Trading. This provides information on properties recently leased to a new tenant according to location, property type and number of bedrooms.

There is currently no equivalent reliable information to provide visibility over rent movements within a tenancy for properties with an existing tenant.

The collection of this type of information would provide greater transparency and visibility across the private rental market.

The most effective way for the NSW Government to collect this information would be by requiring landlords or their agents to report rent increases. This could be achieved by requiring that the increase be registered (with an appropriate agency or using an online system) and confirmation of this provided to the tenant before the increase is considered valid. Reporting of an increase would occur after written notice has been served, and the required 60 days notice would still apply.

Rental affordability
Limit of one increase every 12 months

Q.28 Do you think the 'one increase per 12 months' limit should carry over if the renter is swapped to a different type of tenancy agreement (periodic or fixed term)? Please explain.

Q.29 Do you think fixed term agreements under two years should be limited to one increase within a 12 month period? Why or why not?

Housing is an essential service. Having a secure, safe, affordable home is vital to the wellbeing of society. Regulation of prices in the private rental housing market may be necessary to stabilise rents and to ensure access to affordable housing at a decent standard.

Rent has been increasing sharply for many tenants in NSW. The limited protections currently available are not adequate for tenants who face an excessive increase during a tenancy.

The *Residential Tenancies Act 2010* places a limit of one rent increase in every 12 months for tenants on a periodic lease. CCTAAS is aware some landlords are changing lease types for tenants in order to by pass the existing rent increase protections and increase rents more than once in a 12 month period.

CCTAAS is aware of landlord/agents who routinely offer a short fixed term agreement, between 3 – 6 months, to enable a rent increase at the beginning of the renewal of each fixed term. Potentially allowing up to four rent increase in a 12 month period.

A limit of one increase within a 12 month period for a fixed term agreement under two years could have more impact, if introduced alongside a fair limit or formulation regarding the amount of the increase.

Landlord to prove why rent is not excessive

Q. 30 What do you think of the above options? Please provide detail.

Require a landlord to prove that a rent increase is not 'excessive' where, for example. A rent increase exceeds CPI over a certain period.

Amend the criteria in the Act for when a rent increase is 'excessive'. Currently, the list of factors that may be taken into account in considering if an increase is 'excessive' includes the market level or rent for comparable properties and the state of repair of the property.

Currently the onus is on the tenant to prove that a rent increase is excessive. This is a very difficult process for a tenant to navigate. Many tenants do not feel confident challenging an excessive rent increase, and they worry the landlord may retaliate in response, with the issuing of a termination notice.

It is difficult for tenants to access and provide the information and evidence currently required to demonstrate a rent increase is excessive. It is much easier for landlords and agents to access the required information.

The proposal set out in the Consultation Paper, if implemented well, could improve accuracy and understanding of current market rents across new and older tenancies and make it more available for tenants.

However, the current financial pressure facing renting households, due to a large part because of the steep increase in rents experience over the past 12 months, requires further reforms.

Consideration must be given to the nature of rent increases and the onus must be on the landlord to show that a rent increase is not excessive. Landlords should be required to justify a rent increase if it is over a reasonable threshold, to be set by the Rental Commissioner or other relevant independent agency. The responsibility to prove that a rent increase is not excessive must sit with the landlord.

Factors to be considered regarding excessive rent increases

- Rent increases between tenancies

Under the current system, rents are being set at a price that tenants are "willing to pay", that is they accept the rent increase and may not move out, but that is only because they feel forced to. They are facing undue pressure given the current housing crisis.

CCTAAS is regularly contacted by tenants who have received a rent increase that is unaffordable and when attempting to negotiate with their landlord or agent for a more realistic rent payable, are being told, that if they don't like it, the landlord will finding someone else willing to pay the increased amount. The rental market is so tight on the Central Coast of NSW that tenants are paying unaffordable rents, to ensure that they have a roof over their heads.

Currently the primary consideration for an 'excessive' rent increase is comparable rents. With the rental market as tight as it is currently, comparable rents are difficult to measure. Currently it is whatever someone is willing to pay. Tenants are finding it very difficult to dispute excessive rent increases when the comparable rent payable is so volatile.

The Tribunal is allowed to consider "any other matters it considers relevant" during an excessive rent increase matter, however the Act explicitly restricts consideration or the tenants ability to pay an increase. The Tribunal should have the ability to take into account the tenants ability to pay the increase as proposed by the landlord.

There is currently no limit on the amount of a rent increase during a tenancy. CCTAAS is aware of rents being increased over 175% by landlords who are using a rent increase as a means to terminate an agreement.

Now is the time to consider a method to stabilise rents in the private rental market by introducing reasonable limits on increases to rents in a property during the tenancy and ones that are being re-let, one that has a new tenancy agreement.

Other changes to make rental laws better

Renting and embedded networks

Q.31 Do you support new laws to require landlords or their agents to tell rental applicants if a rental property uses any embedded network? Why/why not?

Q.32 When should a rental applicant be told that a property uses an embedded network?

Q.33 What information should a renter be told about a rental property using an embedded network? Please explain.

On the whole embedded networks are a disadvantage to tenants. This is due to:

- Uncompetitive pricing arrangements
- Limited access to information on supply and charges
- Inconsistent billing
- Lack of access to hardship provisions and protections
- Lack of equivalent safeguards in relation to safety and reliability of energy and other utility service supply through embedded network.

Currently there is no requirement for tenants to be notified before signing the tenancy agreement that the utilities are provided through an embedded network.

Disclosure should be required in the advertisement for the rental property and again at the time of inspection of the property. Information at the time of the listing of the advertisement must include specific information about the utilities or services provided at the property through an embedded network and the retailer/s (where appropriate)

Disclosure must be accompanied by more information, in plain English, regarding what an embedded network means for consumers in practical terms, including specific costs, reduced consumer protections, lack of choice and where to get further information.

Free ways to pay rent

Q.34 What would be the best way to ensure that the free way for renters to pay rent is convenient or easy to use? Please explain.

Q.35 Should the law require a landlord or agent to offer an electronic way to pay rent that is free to use? Why/why not?

Tenants should not be charged a fee to pay their rent. Tenants must be provided with at least one free, convenient, and easy way to pay their rent.

CCTAAS is aware of tenants receiving changes to their lease agreements with regards to rent payments. From being able to pay direct into the landlord/agent trust account, to being provided with only an electronic payment system

This is a change to the term of the agreement that the tenant has not had the opportunity to agree to. A term of an agreement cannot be changed unilaterally.

These electronic systems routinely charge the tenant to pay.

CCTAAS is aware that tenants can use the electronic system with no fee, however when using the free fee paying version, there is no opportunity to keep the payment details in the system as, the details for the deposit have to be entered every time. This is time consuming and opens the possibility of errors in the payment details.

Many REA no longer accept cash over the counter, and those that do, only accept the payments during certain times of the day. Tenants should be able to pay their rent whenever, and where, within reason, they want.

Renting in strata schemes

> Q.36 What are the issues faced by renters when moving into a strata scheme? Would better disclosure about the strata rules for moving in help with this?

CCTAAS is aware for tenants that the main concerns with renting in strata is the lack of knowledge of the by-laws and the lack of information provided as to responsibility for repairs and maintenance. Repair issues are often passed off between the agent/landlord and strata management.

This could easily be resolved by having the by-laws form part of the agreement when renting in a strata complex, with a penalty to the landlord if not supplied on the signing of the agreement. Also, the details provided to the tenant in the lease agreement of who is responsible (and how to contact) for repairs and maintenance within the unit and around the complex.

Public register

CCTAAS has considered the need for a public register for all rental properties. The Register would list the property, the owners name and contact details, the Termination Notices issued by the landlord/agent, the rent increase notices issued and the previous tenants and length of stay. It could also include dates the bond has been claimed by the landlord and other relevant information to help a renter decide on the appropriateness of the property. The personal details of renters should not be included on the Register.

Landlords are requiring the financial and tenancy history of a prospective tenants. Renters should have the opportunity to check on a property and its history.