

## **Submission re changes to NSW Rental Act**

**-content not to be identified but may be quoted in a de-identified form**

### **Proposal for NSW Government purchase of sub-standard rental properties / government intervention in rental market**

Establish a mechanism in the Act for compulsory purchase of rental properties on a limited basis to ...

- a) Incentivise landlords to maintain properties in a liveable condition, attending to maintenance /repair issues promptly.
- b) Transfer ownership of substandard properties to the NSW Government for repair.
- c) Intervene in the rental market to provide downward pressure on rents and improvement in liveable rental stock throughout NSW.
- d) Provide a stock of decently maintained rental stock for the immediate use of those at risk of homelessness at affordable rents using joint federal /state funds.

#### **Rationale**

Successive governments' policies at state/national levels have caused the current acute shortage of rental accommodation. Any normal functioning of a market has been killed.

Radical measures such as this are needed. The issues outlined in the discussion paper may improve the situation at the margins but are utterly inadequate in making palpable improvement. A landlord has no incentive, financially, to do anything but exploit tenants.

A tenant must put up with what he has, he finds it almost impossible to find another place let alone one at a reasonable rental. A tenant asking for essential repairs runs the risk of eviction, getting nothing done and being subject to exorbitant rent increases if repairs are done. Going to the Department or Tenancies Tribunal does not protect him against later eviction or being forced out by rental increase. The prospect of a slight risk of losing ownership if the owner behaves unreasonably is a substantial incentive to better behaviour from all owners/agents.

Most tenants in the lower half of the market fear eviction and under current conditions hardly dare to seek proper repairs. The result is an accumulation of large numbers of properties in a poor condition. While an end to no fault eviction is useful, there are many ways of forcing tenants out such as excessive rent increases.

#### **Situations to address**

Tenants who cannot get essential repairs done:

There are broadly two categories:

- a) renters of single properties whose owner relies on the rental income from a tenant as essential income and
  - b) owners of numbers of properties
- a) where an owner lacks finance to do essential repairs, the government would buy the property at market value being the reduced value due to the current poor condition. The government would then provide the finance to return the property to a liveable condition. The tenant would then have the option to remain and pay reasonable rent (the same or less) to the government. Tenants could

also choose to move on if they found a place in the private rental market. This would provide a pathway to liquidate the owner's asset and release funds for living as a lump sum to the mutual benefit of owner and tenant. The government would return the property to a liveable condition.

OR b)

When the landlord owns more than one property and has been found to have neglected proper upkeep after warnings, this landlord would forfeit ownership and be paid the market value in neglected condition minus a penalty for his neglect. If the problem was repeated over more properties, he would face removal from the rental market. The penalty would contribute to the cost of repairs and costs of an inspectorate to run the scheme.

### **Mechanism/structure**

An inspectorate needs to be established under an appropriate Act/ regulation and responsible to the proposed NSW Rental Commissioner. Inspectors would check the condition of rental properties on a random basis and on request of renters (subject to eligibility criteria being met). Inspectors would have the power to make and enforce repair orders until they finally could make acquisition orders. Appeals could be made and determined by the NSW Tenancy Tribunal. The relationship between the powers of the Inspectorate and Commissioner, and the Tenancy Tribunal would need clarification.

### **Advantages**

Politically funding this scheme would provide a high return for comparatively modest expenditure. A multiplicity of approaches is now essential to address problems for a proportion of the 800,000 properties now renters' homes in NSW. It will probably provide many votes for the governing party at high risk of losing votes if they fail to address the current crisis.

The proposal is scalable in that it could be trialled in an area where there is high rental stress and/or exorbitant rental levels. A university research project should be funded to evaluate effectiveness and check for any rental level changes resulting and improvement of liveability levels of rental properties in general.

The mechanism would make it less profitable and serve to remove the worst exploiters from the market quickly, while setting a standard for all rental property owners. It provides an incentive for landlords and agents to act more fairly and ethically. This comes close to legislating for ethical behaviour.

The names of offending landlords and tenants would be listed on public websites including that of NSW Fair Trading so that potential tenants could avoid dealing with offending persons in future.

The proposal would make it possible for the NSW Government to quickly increase its stock of affordable housing. It would thus intervene in a limited and planned way in the NSW rental market until the present untenable situation is ameliorated.

While it would not increase the supply of rental housing, it would improve the liveable standard of existing rental properties. It would complement other measures in making the market function more rationally and equitably.

### **Conclusion**

Australia is a signatory to the UN Charter of Human Rights and other international agreements. Housing is listed as a fundamental human right. Adequate housing was recognised as part of the right to an adequate standard of living in article 25 of the 1948 Universal Declaration of Human

Rights and in article 11.1 of the 1966 International Covenant on Economic, Social and Cultural Rights. The NSW Government must act to provide residents with proper housing. Previous governments have breached various international laws in failing to provide adequate housing.

#### OTHER ITEMS:

1. Tenants in dispute with fellow residents in multiple occupancy disputes need access to the NSW Tenancy Tribunal. Where tenants are being denied access to common areas, they need to be able to take all parties to the Tenancy Tribunal including landlords/agents. Tenants feeling bullied by others in neighbouring units of multiple occupancy dwellings should be able to take perpetrators to the Tribunal. If necessary, perpetrators' occupancy should be terminated.

2. Amount of compensation ordered by the NSW Tenancy Tribunal should be increased to \$8,000 immediately and periodically raised commensurate with inflation.

3. Agents advertising properties in a misleading way should be subject to rulings and compensation to tenants ordered by the Tribunal. Letting should be treated in a similar way to services under the NSW sale of goods legislation.

4. Provision of examples of what constitutes adequate provision of power points, proper labelling of fuses/circuit breakers, sufficient constant power where there are solar power systems, safe wiring be required in fact sheets and referred to in the Act. Solar systems producing inadequate power during daytime hours should be made illegal. The provision of residual current detectors should be required for all rental properties. The present requirement to fit RCDs when there are requests for fitting of sufficient power points leads to landlords refusing to fit power points because of the requirement to fit RCDs when power boards are upgraded. The current law just leads to landlords shirking their responsibility because of the cost involved. The current law requiring PCDs to be fitted when power board items are upgraded is counterproductive.

5. Where Fair Trading or the Tribunal directs repairs to be undertaken, tenants should have their tenancy rights protected. For example, rents should be frozen for 3 years and in case of sale or demolition of properties costs of removal and provision of suitable alternative accommodation should be the responsibility of landlords. The provision requiring similar action which was available to long-term tenants of twenty years or more should be reinstated. Fair Trading and the Tribunal should have the power to extend the period of notice required in situations of property sales or change or use where tenants are infirm or have a disability or life-threatening illness. Provision of adequate alternative accommodation should be mandatory. Such provisions would encourage tenants to seek repairs /alterations to make properties liveable. Such changes would help the population to live in decent conditions congruent with living in one of the world's richest countries. Strong measures are required to prevent tenants seeking their rights from being forced out by rental increases or harassment by landlords.

6. Landlords should be required to provide thermal insulation and cooling to make properties liveable as the climate boils. Building of properties for rental must be compliant with proper climatic adaption measures to future proof rental accommodation.

7. If no reason evictions are disallowed there is less need for fixed term leases. While a tenancy may start with a fixed term lease the tenant should be able to remain on a carryover lease indefinitely at his discretion on completion of the fixed term. Landlords should not be able to insist on subsequent fixed term leases.

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