



Via email: residentialtenancy@customerservice.nsw.gov.au

Re: Improving NSW rental laws consultation paper

The Committee for Sydney thanks the NSW Government for the opportunity for input into the *Improving NSW rental laws* consultation paper.

The Committee for Sydney is the city's peak advocacy and urban policy think tank. We are an independent non-partisan organisation with more than 150 members. We are advocates for the whole of Sydney, developing solutions to the most important problems we face. Our goal is to help Greater Sydney be the best city in the world.

Our submission aims to offer additional ideas for the Government to consider as they continue to look at ways to improve the experience of renting for people right across NSW.

Introduction

It's a difficult time to be a renter in Sydney. Escalating housing costs fuelled by increasing borrowing expenses, supply-side pressures and record low vacancy rates have placed immense strain on renters. In NSW rents have surged by 11% in the 12 months to September 2022, this is even worse in Greater Sydney where prices have risen by 12.9% for houses and 27.6% for units in the 12 months to June 2022.¹

The Committee for Sydney's members are businesses and institutions that provide more than 280,000 jobs in Sydney and more than 670,000 jobs in Australia. In recent months we have heard from our members about the acute impact unaffordable and insecure rental housing in Sydney is having on their ability to attract new talent, and retain existing employees.

This feedback has been from every single member, from every different sector. Regardless of industry, unaffordability is having a profound impact on company's productivity and performance.

Insecure and unaffordable rent has costs to Sydney's productivity, but it's also eroding the sense of fairness and equity across our city.

Take one example from a recent discussion our staff had about unaffordable housing where a recently arrived migrant shared how their child changed schools six times in two years due to unstable and unaffordable renting – despite being in secure employment. As new migrants, this constant moving made it tough for their child to make friends, learn English, and feel settled and at home in Australia.

This is just one story, but it demonstrates the deep, and sometimes lifelong impact unaffordable rental housing can have on people's lives, with many Sydneysiders experiencing similar challenges.

¹ See: <https://www.domain.com.au/research/rental-report/june-2023/>

With renters taking over as the most common housing tenure type in Sydney and NSW, strong renters' rights are vital for fostering a more equitable society, promoting social stability, and nurturing economic growth.

The Committee for Sydney applauds the Government for initiating this important discussion and supports many of the Government's proposed initiatives. However, this should only be the start of the conversation with opportunities to explore other important areas of reform as detailed below.

Who are renters in Sydney?

- In Sydney, renting is the most common tenure type, 35.9% of Sydneysiders are renting followed by 33.2% with a mortgage and 27.7% who own their home outright. This proportion is higher than NSW overall where renters make up 32.6% of the total population.²
- Renters are young. There's a huge generational divide when it comes to housing security and tenure, as 60.1% of Australian renters are under the age of 35 years old.³
- Many renters in Sydney are spending over 30% of their income on rent, with over a third (35.3%) experiencing rental stress. In some LGAs, this is even greater, almost half of all renters in Fairfield are experiencing rental stress, and more than 42% in Canterbury-Bankstown.⁴

Three future areas for rental reform

While the Government's initial proposals are a big step in the right direction, the Committee would like to engage more with Government on further opportunities for rental reform in three key areas:

1. Healthy homes that are fit for habitation

The Government should ensure that rented homes are safe and healthy for tenants through the investigation of additional safeguards and minimum standards. This includes:

- Ensuring tenants aren't exposed to unhealthy levels of mould and damp, which are known to lead to respiratory problems, allergies, skin irritation and other health concerns.
- Ensuring homes have minimum standards of thermal comfort so people aren't at risk of over-heating in summer and freezing in winter. Research from 'Better Renting' found that in summer, temperatures in rental homes were above safe levels 45% of the time.⁵ In winter, homes were below safe levels 75% of the time.⁶ Ensuring minimum energy efficiency standards for rental properties is not only a safety measure, but also an important affordability measure. Many renters are reluctant to use heating and cooling appliances due to high energy costs. Considering over a third of renters are experiencing housing stress,

² See: <https://www.abs.gov.au/census/find-census-data/community-profiles/2021/1GSYD>

³ See: <https://www.aihw.gov.au/reports/australias-welfare/home-ownership-and-housing-tenure#private-rental>

⁴ See: <https://homelessnessnsw.org.au/data/housing-and-homelessness-dashboard/>

⁵ See: [Renter Researchers Report Summer 22-23 - Better Renting](#)

⁶ See: [Cold and costly: Renter Researchers' experiences of Winter 22 \(betterrenting.org.au\)](#)

many likely have to choose between paying rent, eating well or turning the fan or air conditioner (if available) on.

2. Supporting Build to Rent to become a more mainstream product

Another way of aiding rental stress is to increase the supply of rental housing. Build to Rent (BTR) is a product that will directly support this objective. There are several planning and tax reforms that the Government should consider to increase the supply of BTR including:

- Planning reforms that recognise BTR as its own asset class and take into consideration the unique design requirements, yield and mix challenges – with the need for potential trade-offs between private amenity if high-quality communal spaces are provided.
- Land values in NSW are prohibitively high for BTR compared to Victoria and Queensland. Sensible bonuses or incentives should be explored to support BTR as the potential highest and best use over build to sell.
- While NSW has made positive steps around BTR tax treatment, there's more that can be done to equalise BTR land tax with Build to Sell products.

3. Increased stability when it comes to rental affordability

Rental stress is at record-breaking levels. The portion of income required to service a new lease is at its highest level since June 2014.⁷ While 30.2% of all rental listings were under \$400 a week in 2022, that number has now dropped to 16.2%.⁸ In an environment where rent is far exceeding growth in the median income, the Committee for Sydney is open to working with Government to explore fairer and more equitable approaches to determining how much rent can increase relative to consistent measures like CPI or inflation.

Several states and cities around the world have different ways to regulate rent increases. While not strictly speaking a rent cap, the ACT introduced a guideline in 2019 that limits rent increases to 110% of inflation a year. If a landlord wants to exceed this, they need to apply to the ACT Civil & Administrative Tribunal (ACAT) to demonstrate that the increase is not excessive, in relation to prevailing market rents for comparable premises.⁹

Formal response to discussion paper questions

This section of the submission responds to the Discussion paper's formal questions:

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

While there is some validity to the concept that ending a fixed-term lease at the end of the contract should be easier than ending a lease at any other time, there remains a risk that the implied threat of eviction at the end of a fixed-term lease will impact on the tenant's reasonable ability to exercise their rights.

⁷ See: <https://news.anz.com/posts/2023/05/anz-news-corelogic-housing-affordability-report-2023>

⁸ See: <https://www.proptrack.com.au/insights-hub/>

⁹ See: <https://www.ahuri.edu.au/analysis/brief/understanding-what-rent-freeze-rent-cap-or-rent-control>

On balance, this likely suggests that the ACT model where the landlord needs a reason when ending any type of lease offers good precedent to follow. It's reasonable for tenants who wish to stay living in the property to receive a genuine reason why their lease is being terminated, even if the end of a fixed term is approaching.

The 'proposed new reasons' listed in Section 3.4 are sound.

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

No response; CfS currently has no established policy position on this question.

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?

No response; CfS currently has no established policy position on this question.

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

Yes, evidence would be relevant to the reason given, such as the Victoria example where evidence of a builder's contract is requested if the reason for termination is building works.

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?

If the reason is that the owner or their family is moving back into the property, it's reasonable to consider a temporary ban on renting again, such as 6 months. However, it's important to not overuse temporary, as it could result in an unnecessary negative impact on rental supply.

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?

The Government should consider reframing the 'request to keep a pet', to a 'Notification of intention to keep a pet'. This shifts the power dynamic, instead of 'granting permission' the Landlord is given an opportunity to flag any concerns. Once receiving a 'notification of intention to keep a pet' the landlord should have less time to respond – such as a maximum of 7 days.

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

To give tenants the opportunity to feel at home in a rental property, having agency over their ability to have and care for a pet is important.

One of the only valid reasons that a landlord should be able to refuse a pet is if keeping the animal breaks other laws, such as the *Prevention of Cruelty to Animals Act 1979*, or if the

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

No. This should be decided on a case-by-case basis, rather than having blanket bans.

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

Conditions around where pets can be in the property should be unnecessary, the tenant is bound to ensure that the property isn't damaged and remains clean regardless of whether they own pets or not.

10. Do you support limiting the information that applicants can be asked for in a tenancy application? Why/why not?

Yes, the less information required the better to protect applicants from potential data breaches as much as possible.

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.

No, this is a sensible privacy protection measure.

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

Yes, see above.

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

Yes, this may help reduce discrimination in the application process.

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

Yes, privacy of information is critical, safeguards should be in place so that the significant personal data submitted as part of a rental application is protected from being misused.

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

If laws are in place that outline where, when and how applicants' information can be used, this information could be included as part of the proposed standardised tenancy application form.

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

No response; CfS currently has no established policy position on this question.

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

No response; CfS currently has no established policy position on this question.

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

Yes, applicants should have the opportunity to access or correct their own personal information.

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

No response; CfS currently has no established policy position on this question.

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

No response; CfS currently has no established policy position on this question.

- 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?**

No response; CfS currently has no established policy position on this question.

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

No response; CfS currently has no established policy position on this question.

- 23. Should this scheme be available to all renters, or should it only be available to some? Please explain why.**

This scheme should be available to all renters to ensure fair and equitable application of the policy.

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

See above.

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

No response; CfS currently has no established policy position on this question.

- 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.**

This would be a positive step that would benefit tenants by increasing the transparency of rent increases. It would also be valuable data for researchers, policy makers and organisations like the Committee for Sydney to understand rental trends over time.

- 27. What do you think is the best way to collect this information?**

The data collection process should be as simple as possible, one of the best ways to collect data would be through existing mechanisms and processes like the Rental Bond Board. Instead of only

collecting data about bonds, there could be potential to expand their remit to also collect data about rent increases.

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.

Yes, shifting the tenancy agreement is an irrelevant consideration to the number of times rent should be increased.

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?

Yes, see above.

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

The Committee for Sydney supports options that improve rental affordability by limiting unfair rent increases, as outlined earlier in this submission. Amending criteria in the Act for when a rent increase is 'excessive' is a move in the right direction. Market level of rent for comparable properties and the state of repair of the property is a reasonable measure for inclusion.

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?

Yes, it's critical to be transparent about the use of embedded networks, so tenants are informed about their options when it comes to choosing a utility provider, and whether they will be able to afford utility bills under this provider when taking residence in the property.

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

It should be made clear as part of the details of the advertised property and any information shared with potential future tenants prior to signing a rental agreement. It should also be included as part of the rental agreement.

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

All relevant information, including the provider and costs so that prospective tenants can make informed decisions.

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.

See below.

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?



Yes. We're moving towards a cashless society and electronic payments are currently the main method of financial transactions, it should be a requirement to have a fee free way to pay electronically.

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?

Better disclosure about the strata rules for moving in is essential. Strata rules that relate to living in the unit should be summarised and provided to tenants prior to moving in.

Thankyou

Thank you again for the opportunity to provide input.

Kind regards,

Eamon Waterford
CEO
The Committee for Sydney