

Improving NSW Rental Laws Sydney Bi+ Network Submission

Sydney Bi+ Network acknowledges that we organise and connect on stolen lands. We pay our respect to Elders past and present, and especially want to acknowledge First Nations LGBTQIA+ people, Brotherboys, and Sistergirls, who continue to lead the way in making change. Always was, always will be Aboriginal land.

About Sydney Bi+ Network

Sydney Bi+ Network (SBN) is a volunteer-run, grassroots organisation dedicated to improving the wellbeing of bi+ people through community building, education, and advocacy. While our activities are primarily based across Gadigal, Wangal, Cammeraygal, Bidjigal, Dharug, and Dharawal lands, bi+ folks across the state engage with our activities, ideas, and actions.

Our work spans three primary areas:

- **Community Building:** Building community for bi+ people is crucial to improving wellbeing. We create bi+ specific spaces, where people have an opportunity to strengthen connections with one another and share stories about lived experiences. Much of what we do in this space includes peer support.
- **Education:** Bi+ issues are unique and distinct from broader LGBTQIA+ experiences. Bi-erasure and biphobia commonly influence experiences that bi+ people have. Sydney Bi+ Network seeks to provide education that breaks down stigmas, myths, and misconceptions surrounding the bi+ community.
- **Advocacy:** Common perceptions and knowledge about LGBTQIA+ communities stems from information about lesbian and gay experiences. We seek to increase understanding of bi+ specific experiences and use this information to improve bi+ inclusion in services, programming, and policies

What Does Bi+ Mean?

We use bi+ as an umbrella term to describe people who are attracted to more than one gender, in any way, to any degree. Bi+ can include (but is not limited to) bisexual, pansexual, omnisexual, polysexual, biromantic, panromantic, queer, fluid, gay, lesbian, and questioning.

Executive Summary

Sydney Bi+ Network welcomes the opportunity to provide a submission on the proposed tenancy law changes. Access to secure and affordable housing is a significant issue impacting bi+ people, with affordable housing and the cost of living being priority issues raised by bi+ people.

As a grassroots organisation working to improve the wellbeing of bi+ people, we recognise and affirm that housing is a human right, and access to affordable, safe and liveable housing has significant impacts on every part of a person's life. This submission describes key issues related to rental laws and housing more broadly, as experienced by bi+ people and communities. This submission was prepared by members of the Sydney Bi+ Network on a volunteer basis.

The submission begins with an overview of bi+ experiences related to housing and outlines issues which intersect with and impact on housing. As priority areas, this submission also addresses:

- Information about rental increases and affordability
- Access to safe and liveable housing
- Discrimination in housing and rental processes
- Experiences with the Tribunal
- Keeping pets
- Renter's personal information

Bi+ Experiences Relating to Housing

In consultation undertaken by Sydney Bi+ Network during the lead up to the 2023 NSW State Election, access to secure and affordable housing emerged as a major issue for bi+ people. Bi+ people are at higher risk of homelessness, with an earlier average age of first homelessness, and are more likely to have repeated episodes of homelessness relative to their monosexual peers.¹ Family conflict or violence was much more likely to be the primary reason for first homelessness for bi+ people than for lesbian, gay and heterosexual people.

Housing stress can have significant impacts on mental health and wellbeing. It can lead to increased stress, anxiety, and depression, and also impact the ability to maintain stable relationships, achieve career goals, and participate fully in communities. Existing research has found that, compared to our gay, lesbian, and straight counterparts, bi+ people experience high rates of poor mental health outcomes. For example data relating to mental health and suicidality show that:

¹ McNair, R. P., Parkinson, S., Dempsey, D., & Andrews, C. (2022). Lesbian, gay and bisexual homelessness in Australia: Risk and resilience factors to consider in policy and practice. *Health & Social Care in the Community*, 30(3), e687-e694.

- 88.4.% pansexual participants reported having ever seriously considered attempting suicide.²
- 79.7% bisexual participants reported having ever seriously considered attempting suicide.³
- Trans and gender diverse bisexual people are more likely to report high rates of psychological distress compared with cisgender bisexual people.⁴
- 77.6% of bisexual people aged 18 and over reported having thoughts of suicide in their lifetime.
- 88.1% of pansexual people aged 14 to 21 reported experiencing high or very high levels of psychological distress
- 67.4% of pansexual people aged 14 to 21 reported having experienced suicidal ideation in the past 12 months

Given the relationship between mental health and secure and safe housing, these statistics play an important role in creating equitable tenancy laws and housing rights for bi+ people. Bi+ people are also named as a priority population in the NSW LGBTIQ+ health strategy, and note the decades of evidence which shows the relationship between housing and health.

Addressing housing stress for bi+ individuals requires a comprehensive approach that considers the intersection of bi+ identities with other aspects of an individual's experience. This includes addressing discrimination in the housing market, increasing access to safe and affordable housing, and providing support for those experiencing homelessness. It is also important to provide mental health support and other resources to help bi+ individuals in navigating the impacts of housing stress.

Sydney Bi+ Network believes that addressing housing discrimination and increasing access to safe and affordable housing for all individuals, regardless of their sexual orientation or gender identity, is essential for promoting the health and wellbeing of bi+ individuals and communities.

Rental increases and housing affordability

Housing is a human right, and having a secure, safe, and affordable home provides an essential foundation for a healthy and fulfilling life. Members of the bi+ community have reported

² Hill, A. O., Bourne, A., McNair, R., Carman, M., Lyons, A. (2020) Private Lives 3: The health and wellbeing of LGBTIQ people in Australia. ARCSHS Monograph Series No. 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University. Retrieved from https://www.latrobe.edu.au/_data/assets/pdf_file/0009/1185885/Private-Lives-3.pdf

³ Ibid

⁴ Taylor, J., Power, J., Smith, E., Rathbone, M. (2020). Bisexual mental health and gender diversity: Findings from the 'Who I Am' study. *Australian Journal of General Practice*, 49(7), <https://www1.racgp.org.au/getattachment/5ccc0c4b-7007-454a-ba3b-34ba87ecf185/Bisexual-mental-health-and-gender-diversity.aspx>

spending more of their income on rent, particularly with the increased cost of living and needing to move further away from areas with bisexual-friendly spaces, services and communities. This compounds the isolation many bi+ people face as they often report experiencing biphobia in many mainstream and LGBTQIA+ spaces. Rental increases have also impacted their ability to access healthcare and other resources. Renters need to be able to pay rent without worrying that it means we will go without other essential services.

Sydney Bi+ Network endorses the use of regulatory strategies such as limiting rental increases and creating residential tenancy support packages to provide immediate relief to people experiencing significant rental stress, pending the implementation of longer-term solutions including increasing the availability of state funded social housing. We also support the implementation of requirements for a landlord to prove that a rent increase is not 'excessive' and reflects the condition of the property. The collection of information by the NSW government on rental increases and provision of public access to this information will improve renters capacity to identify unfair rental increases.

Access to safe and liveable housing

In consultation, bi+ people reported poor property conditions which have impacted on their ability to live in safe and healthy conditions. For example, people reported rental properties which did not have working powerpoints or light switches, as well as properties that had been advertised without essential appliances such as an oven or stove. People also reported significant problems with mould. Importantly, this included mould being painted over by landlords, and mould not being attended to when it has been caused by leaks in the roof, faulty pipers, gutters, or other structural faults. Ultimately this causes significant health concerns.

Sydney Bi+ Network recommends that further work is done by the NSW Government to ensure that rental properties meet standards to support the health and safety of tenants and that all advertising of properties is required to be an accurate reflection of the state of the property and available facilities.

Discrimination in housing

Many people experience discrimination when applying for a rental property. In Australia's largest study on LGBTIQ health and wellbeing, 15.9% of participants reported having experienced barriers to housing and/or accessing homelessness services because of their sexual orientation and 29.8% trans and gender diverse participants reported having experienced any barriers to housing and/or accessing homelessness services because of their gender identity.⁵ Trans Pathways, a study focused on young trans people in Australia found that 22% of participants

⁵ Hill, A. O., Bourne, A., McNair, R., Carman, M., Lyons, A. (2020) Private Lives 3: The health and wellbeing of LGBTIQ people in Australia. ARCSHS Monograph Series No. 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University. Retrieved from https://www.latrobe.edu.au/_data/assets/pdf_file/0009/1185885/Private-Lives-3.pdf

named accommodation issues and homelessness as a driver for poor mental health.⁶ This study also highlighted that when young trans people are not supported by their families they may not have a support system if they cannot afford their own housing, increasing the risks of homelessness.

Additionally, trans people may face barriers in the rental application process. While limiting the information that is collected in application processes is a welcome change, it may not fully address discrimination experienced by trans people. Trans people are opened up to discrimination, invasive questions about their backgrounds, or invasive requests for further information to “prove” who they are if their gender marker or identity documents or name does not match what a property agent or landlord believes the person “should” look like.

Additional barriers arise if a trans person has affirmed their gender or updated their name on some forms of identification, but not others. Trans people may also have mismatched identity documents, such as in circumstances where they have been able to update some documents but not others. This discrepancy may “out” a person as trans or even prevent them from being able to submit a rental application altogether. As a result automated rental applications forms and automated decision making can negatively impact trans people.

Culturally and racially marginalised people also face discrimination in housing, and again limiting the information that is collected in tenancy applications may not address this. Research has shown that people from non-Anglo backgrounds are treated significantly differently in rental application processes. This research found significant differences across the following areas: likelihood an agent offered an individual appointment, providing additional information about other housing, providing information about completing the application form, and contacting prospective renters after an inspection.⁷ Experts and lived experience also notes that people with non-Anglo names have rental applications rejected, even when having reliable income, excellent rental records and good references.⁸ This impact of this discrimination is exacerbated in the experiences of people from culturally and racially marginalised people who experience the erosion of social support from family and friends after ‘coming out’. Racism in the rental sector is a significant issue impacting people’s right to safe, affordable, and liveable housing. Automated rental applications, automated decision making and the use of other technologies in the rental market has been found to exacerbate discrimination.⁹

⁶ Strauss, P., Cook, A., Winter, S., Watson, V., Wright Toussaint, D., Lin, A. (2017). Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results. Telethon Kids Institute, Perth, Australia.

⁷ MacDonald, H., Nelson, J., Galster, G., Paradies, Y., Dunn, K., & Duffy-Jones, R. (2016). Rental Discrimination in the Multi-ethnic Metropolis: Evidence from Sydney. *Urban Policy and Research*, 34(4), 373–385. <https://doi.org/10.1080/08111146.2015.1118376>

⁸ <https://www.abc.net.au/news/2018-08-17/racism-in-the-rental-sector-wa/10129418>

⁹ Maalsen, S., Wolifson, P., Rogers, D., Nelson, J. and Buckle, C. (2021) AHURI Final Report No. 363, Understanding discrimination effects in private rental housing, Australian Housing and Urban Research Institute Limited, Melbourne. Available from the AHURI website at ahuri.edu.au/research/final-reports/363

Sydney Bi+ Network recommends that the NSW Government undertakes further work to prevent and respond to discrimination against rental applicants and in housing more broadly. Significant reform is needed in this area given the substantial intersection of marginalised identities experienced by many LGBTQIA+ people. As only one example, this could include more education for real estate agents and landlords about appropriate practice, especially how discrimination manifests in the private rental sector.

Experiences with the Tribunal

Sydney Bi+ Network acknowledges the role of the Tribunal in resolving disputes between tenants and landlords. In discussing proposed changes in the consultation paper and the role of the Tribunal, bi+ people indicated that Tribunal processes are currently confusing to navigate, making the processes inaccessible and may cause significant stress and exacerbate poor mental health outcomes. Existing information about the Tribunal, and processes through the Tribunal needs to be simplified in order to create more equitable access.

Also, many bi+ people may not feel confident to negotiate with their landlord, and/or access the Tribunal processes, due to a fear of losing access to housing (whether current or future), noting bi+ specific experiences of accessing housing detailed in the previous sections. There is also a power imbalance between a landlord and tenant, as a tenant will be engaging with a real estate agent acting behalf of the landlord, and who will usually possess more knowledge of residential tenancy laws.

Sydney Bi+ Network recommends that the NSW Government explore improved avenues for renters seeking support, including considering setting up a separate rental disputes agency or body (separate from the Tribunal) which uses alternative dispute resolution processes, such as negotiation and mediation, to resolve disputes between a landlord and tenant. This would make dispute resolution more accessible, and allow for an independent third party to assist mediate the dispute, ultimately striking a better balance of power between the two parties, mitigating the potential stress of a dispute. We accept the Tribunal has the ability to assist parties resolve a case by agreement, so there is the potential option to expand this to create a specific dispute resolution pathway for rental disputes.

In addition to simplifying the processes of the Tribunal, Sydney Bi+ Network also recommends increased education and training for those working within the Tribunal to work with LGBTQIA+ people safely and effectively.

Keeping Pets

Renters with pets face increased difficulties when finding places to live. Sydney Bi+ Network is supportive of changes to residential tenancy laws on keeping pets. In updates to the proposed model, NSW should ensure that people are not penalised for applying for a property with a pet. Research commissioned by Mad Paws, Australia's largest online pet care marketplace, found that 73% of LGBTIQ respondents in Australia were pet owners, and more than half (54%) said

having a pet made them feel more connected to community.¹⁰ Many rental properties do not allow pets, which creates barriers for LGBTQIA+ people seeking housing and may prevent people from moving from unsafe housing conditions as they fear a move would involve necessitating that their pets be surrendered to shelters.

Broadly, Australia has one of the highest rates of pet ownership in the world, according to the RSPCA, with around 60% of us owning an animal. Research supports the physical and mental health benefits of owning a pet. “Contact with pets is a source of support and wellbeing for people of all ages,” says Emeritus Professor Jacquie Rand, executive director at the Australian Pet Welfare Foundation.¹¹

Sydney Bi+ Network endorses the implementation of legislation where landlords cannot unreasonably refuse consent to keep a pet and require an application to the Tribunal unless keeping a pet breaks other laws, such as the Prevention of Cruelty to Animals Act 1979, council zoning laws or council ordinances.

Renters Personal Information

We acknowledge that for many LGBTQIA+ people information collected as part of the rental application process (e.g. details such as legal names or same gender partners) could be sensitive information. Breaches of privacy can have significant consequences, including increased risk of discrimination.

Sydney Bi+ Network supports new laws requiring anyone holding renter personal information to secure it and endorse formal legislation around the deletion of personal information once it is no longer required as well as proposals to give rental applicants’ access to their personal information and the opportunity to correct personal information as required. Given the sensitive nature of some data held by real estate agents we would also seek for renters to have additional control over the distribution of this data e.g. be informed if additional parties require access to their personal information.

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<https://www.starobserver.com.au/news/national-news/pets-are-wonderful-allies-to-lgbt-people-new-study/222555>

¹¹ <https://www.hcf.com.au/health-agenda/work-life/play/pet-therapy>