

# SUBMISSION

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## IPART Review of rent models for social and affordable housing

### Brief response to the draft report - May 2017

The Tenants' Union of NSW is generally pleased with the direction IPART's review of rent models for social and affordable housing is taking. We are not in a position to make a substantial comment on the draft recommendations at this time, however we are in broad agreement with comments submitted by Shelter NSW. We also broadly support the general thrust of questions and comments made by social housing tenants and sector colleagues during the recent public hearings, which are reflected in the written transcripts.

There are two aspects of the draft report on which we offer brief additional remarks: the notion that rent-paying households should make further contributions to the financial stability of the social housing system; and the need to clarify the intent behind use of the expression "security of tenure" within the sector.

### 1. Higher incomes, not adjustments to subsidy calculations, to improve revenue from rents

Implicit in draft recommendations 1, 2, 3 & 4 is recognition that there is a significant gap between the incomes of social housing landlords and the cost of their operations. The draft report correctly identifies the need for Government to contribute directly to this shortfall, but also suggest tenants should contribute further through higher rents. There are two ways this would be achieved – through including certain kinds of income that are currently excluded from rent subsidy calculations, or are included to a lesser degree than others, and through the imposition of a 5% premium for tenants whose income is high enough to render them ineligible for a rent subsidy.

We make four observations in response to this. The first is that low-income households who are eligible for a rent subsidy are already some of the most socio-economically disadvantaged members of our communities. The second is that tenants who do not receive a rent subsidy because their incomes are too high are already paying market rent, and contributing to the sector at the reasonable maximum required. The third is that tenants across the board are already making the greatest contribution to social housing landlord incomes (as IPART itself has observed and noted in its draft report at figure 4.2). The fourth

is that is that the anticipated increase in revenue from these proposed rent increases would amount to less than one-tenth of the identified funding shortfall.

Funding the shortfall should not place additional burden on tenants or the income supports upon which they sometimes rely. Allowing and encouraging more tenants into circumstances where their incomes, and therefore their rents, can increase will produce far better results for social housing landlords and their revenues. Of course, that would be of greater benefit to tenants as well.

## 2. Give certainty to the expression “security of tenure”

Draft recommendation 1 suggests tenants might pay a premium for the improved “security of tenure provided by social housing compared to private rental”. We do not support this proposal, as we would prefer to see reforms to the state’s renting laws to deliver greater security of tenure to all tenants. This would neutralise what can be rightly seen as one attraction of a social housing tenancy over the private rental market. However we are extremely encouraged that social housing tenants’ expectations of security of tenure is both reflected and supported in the draft report.

As we stated in our submission to the Issues Paper, social housing landlords tend not to use provisions within our renting laws that allow them to end continuous tenancies without grounds. This is because there is always a reason to end a tenancy, and social housing landlords tend to support the proposition that tenants should be put on notice of any such reason that is to be applied. Indeed, tenants should be given the opportunity to interrogate and respond to such reasons before a tenancy is brought to an end, and this is particularly important for a social housing tenant who may lose their eligibility for housing assistance as well as their home when a tenancy ends. By comparison, landlords in the private rental market make no promises as to security of tenure. Whether consciously or otherwise, private market landlords offer short fixed-term agreements of six or twelve months and hold the prospect of eviction without grounds over their tenants. This, rather than the number of occasions on which tenants are forced to move, is what security of tenure boils down to.

We note the draft report’s considerations of security of tenure very much concern the cost and frequency of relocation. Our view is that it concerns the instability and anxiety that comes with not knowing when you might next have to move, or whether you might continue to afford the rent in a preferred area as the market increases over the length of time you hope to live there. We have recently noted that the majority of rental bonds lodged in New South Wales are held for longer than a year, indicating that most tenancies

tend to last longer than their initial fixed-term periods. Some tenants are offered new fixed-terms of six or twelve months, while others carry over onto periodic agreements. In either case, tenants have no guarantee that their tenancy will continue in the long-term. It stands to reason that there is a high degree of stress in the private rental market relating to security of tenure.

This is an important consideration in light of draft recommendation 16, which would see all social housing tenancies proceed on a periodic or continuous basis, and it is during a periodic agreement that tenants are most susceptible to evictions without grounds. We support this recommendation because social housing landlords tend not to make use of the provisions within our renting laws that allow for evictions without grounds. However, there is a growing sense amongst some social housing landlords that they can and should make use of them because, on the face of it, the *Residential Tenancies Act 2010* allows it. We contend that other legal considerations should come to bear on a social housing landlord's decision to end a tenancy without grounds, but in the rapidly changing legal and policy framework within which the social housing sector operates, this may be far from settled.

It is therefore appropriate that the expectation of security of tenure is clearly defined as a feature of social housing tenancies in New South Wales.