

15 September 2016

In reply please quote reference:

**Ref: A3783130**

The Hon. Marlene Kairouz MP  
Minister for Consumer Affairs, Gaming and Liquor Regulation  
Consumer Affairs Victoria  
GPO Box 123  
Melbourne 3001



Dear Minister Kairouz,

**RE: Residential Tenancies Act (RTA) Review: Stage 2: Alternate Forms of Tenure: Parks, Rooming Houses and Other Shared Living Arrangements.**

Please find attached Darebin City Council's (Council) response to the Residential Tenancies Act (RTA) Review: Stage 2: Alternate Forms of Tenure: Parks, Rooming Houses and Other Shared Living Arrangements.

Darebin City Council's submission is underpinned by substantial practice wisdom from a wide range of professional perspectives that includes social policy, human rights, wellbeing and regulatory functions. It is our belief that this collective experience can provide a balanced approach to the review of the RTA and rooming house issues.

We would like to take this opportunity to commend you and the Victorian State Government on the introduction of a 'fit and proper persons' test under the Rooming House Operators Act 2016.

Please accept this submission as an open invitation from Council to you and members of your department for an ongoing conversation in this and other matters of mutual interest. If you require further information with regards to this submission please contact:

Community Planner, Nick Matteo  
Phone: 8470 8635  
[Nick.Matteo@darebin.vic.gov.au](mailto:Nick.Matteo@darebin.vic.gov.au)

Yours sincerely

**Katrina Knox**  
Director Community Development

Darebin City Council  
ABN 75 815 980 522

**Postal Address**  
PO Box 91  
Preston VIC 3072  
T 03 8470 8888  
[darebin.vic.gov.au](http://darebin.vic.gov.au)

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## Introduction

This submission is underpinned by the principle that there is a significant and widening power imbalance between vulnerable individuals (many of whom have complex needs and no other viable housing options) and the operators of rooming houses and other alternative forms of shared living arrangements.

This power gap has created a situation where the Residential Tenancies Act 1997, ('The RTA') has not and cannot in its current form (and by itself) meet its stated objectives:

- To promote a well- functioning rental market,
- Ensure a fair balance between the rights and responsibilities of landlords and tenants, and
- Provide for an effective and efficient dispute resolution.

In the context of a constantly changing housing and rental market in Victoria, and the withdrawal of social housing investment by all levels of Government, we now operate in an environment which has and will continue to privilege landlords, owners and investors above tenants.

It is Darebin City Council's view that it is imperative for Consumer Affairs Victoria (CAV) to acknowledge and redress this power imbalance through clear legislative changes and by increasing the investment in the the regulation and conduct of the rooming house sector.

## Definition of a Rooming House

The Rooming House Task Force 2009 rightly acknowledged the challenges associated with the multiple and confusing definition of rooming houses in the Victorian legislative and regulatory architecture. With the emergence of other shared living arrangements, it is even more imperative that a single definition of a rooming house be created that is underpinned primarily by principles of human rights.

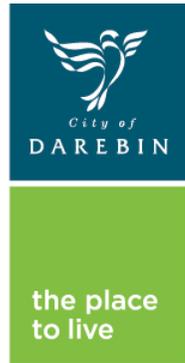
CAV have a pivotal role in facilitating an intergovernmental working group to review the current scope of legislation with the aim of creating a single definition of a rooming house. The single definition of a rooming house / shared living arrangement should then guide any alternative and integrated regulatory model.

Darebin City Council believes that there is real merit for an inter-governmental working group to examine international models and international law to guide the fairer regulation and conduct of rooming houses in Victoria and protection for rooming house tenants. Council would welcome an opportunity to assist CAV to establish any inter-governmental instrument to commence this vital conversation.

## Strengthening protections for rooming house tenants

In the short term, greatest positive impact and protection for rooming house residents can be achieved by;

- Increasing the CAV investment and capacity in the current regulatory regime. Vulnerable tenants can be best served by the increased frequency and quality of rooming house inspections.
- Introduce stronger enforcement powers for inspectors.



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- Timely enforcement of penalties for operators who do not comply with (and in contempt of) repair orders or other directions determined by VCAT.
- Introduce rent control measures. For many, rooming houses have become the housing of last resort and therefore they are vulnerable to exploitative rental practices.
- Introduce provisions to allow third parties to represent tenants at VCAT.
- Introduce an enforceable repairs system for rooming houses.
- Introduce minimum standards for repairs to rooming houses (including timeliness) and commensurate consequences for noncompliance.
- Request repairs notice inspection
- Review and expand minimum standards and accountability for noncompliance (eg. Working heating).
- Remove 'no reason to vacate' provisions under the Act to reduce arbitrary retaliation against tenants.

Longer term actions include:

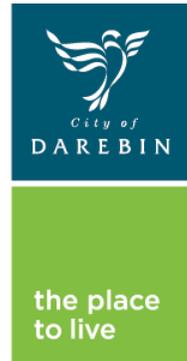
- Improve compliance and operation of VCAT to better reflect VCAT as the 'consumer's arena'.
- Introduce clear stated sanctions against operators who do not meet their responsibilities such as deregistration.
- Improve investigation and enforcement provisions by reversing the current onus of proof of breach to inspectors. Compliance for licence / registration provisions rooming houses needs to be consistent with other small businesses. For example enforcing registration should be based on capacity (number of rooms) not on the visual evidence of the number of tenants.
- Create a single definition for a rooming house.
- Explore the creation of a single centralised regulatory instrument and agency.

### **Pets in rooming houses**

Council supports changes to the Act to include keeping of pets as a right. This is also a human rights issue in that rooming house residents should be treated as any tenant. The Department of Health and Human Services have developed a framework and clear guidelines for the management of pets in public housing that balances the wellbeing of residents and the quiet enjoyment of neighbours and property maintenance. This could be used as a model for rooming houses.

### **Mail**

Darebin City Council strongly supports the provision of one locked mail box per room in all rooming houses as a minimum requirement. This is a relatively small investment to ensure the human rights and dignity of tenants.



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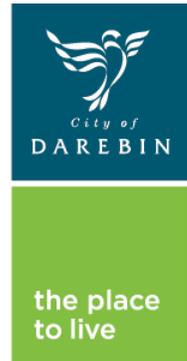
## **Timely payment of rent as a duty owed under the Act by rooming house residents**

Council supports in principle that the timely payment of rent is a reasonable duty owed under the RTA. However an equal and reciprocal provision needs to include the duty of operators to maintain safe and affordable premises and to ensure timely repairs at the behest of the tenant or a tenant advocate.

### **Conclusion**

In summary it is Council's strong view that the current housing market and dilution of government policy and investment in affordable housing has created and is likely to exacerbate an unequal environment for tenants. This inequality has widened since the last review of The Act in 2001.

Darebin City Council trusts that in reviewing of the RTA, the State Government is mindful of having a unique opportunity to address this growing inequality and to restore a residential tenancies sector where equally informed and equally empowered landlords and tenants enter into mutually beneficial rental agreements.



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