

## The Tribunal's submission in response to the 'Residential Tenancies Act Review Laying the Groundwork Consultation Paper'

### Key Areas for Consideration

#### What is a residential tenancy?

- What types of housing arrangements should the *Residential Tenancies Act 1997* ('the Act') cover?
- Should the Act cover and/or clarify whether it applies to fixed term tenancies; crisis accommodation; student housing; shared housing (excluding rooming houses); rooms let by tenants who do not reside at the premises; short and long term licences; serviced apartments; and housing attached to employment?
- Should public housing tenancies (Director of Housing) be distinguished from private tenancies?
- Should the Act provide for conditional social housing, that is, conditional upon complying with conditions such as alcohol and drug counselling?
- How sufficiently does the Act deal with situations where the landlord does not own the premises?
- Do caravan parks and rooming houses require separate legislation?
- Should consideration be given to how the Act interacts with other legislation, and where possible streamline it, to promote cohesion and simplify its application? Such legislation includes the *Disabilities Act 2006*; *Supported Residential Services Act (Private Providers) Act 2010*; *Housing Act 1983*; *Owners Corporations Act 2006*; *Australian Consumer Law and Fair Trading Act 2012*; and *Social Security Act 1991* (Cth).

#### Process

- Do the service provisions, time limits relating to notices and applications under the Act and rental payment provisions of the Act reflect current social and economic practices and/or accord with electronic communication and payment methods?
- Is the language used in notices given under the Act sufficient to explain their legal effect?
- Is there a need for parties to a tenancy agreement to more clearly identify themselves, including providing evidence that the landlord has the legal right to rent out premises? Often names are not given in full and ACN or ABN's not provided or landlord's provide the address of their real estate agent in lieu of their own.
- Should the jurisdictional limit for the Tribunal be increased or alternatively, should it be retained?
- Should there be less flexibility surrounding the type of agreement rooming house residents and owners can enter into and should agreements involving Part 4A dwellings (where the owner lets the dwelling to a third party) be streamlined to avoid multiple agreements regarding the same site and dwelling, which creates uncertainty?

## **Rights and responsibilities**

- Does the Act provide specific enough guidance and clarity and/or effectively address and balance the rights, duties and obligations of landlords and tenants (including between tenants) in such circumstances as where premises are managed by an owners corporation; where what is commonly known as 'revolving tenancies', are involved; in relation to grounds of entry provisions, for example where a property is to be sold; and where there is a termination arising from final intervention orders related to family violence?
- Should notices to vacate provisions in the Act be reviewed to ensure clarity and remove inconsistency?
- With respect to the end of a tenancy, do landlord claims against a bond or under the Act need to be broadened and clarified?
- Should mortgages on rental properties be disclosed to tenants, as this can adversely affect a tenant, if the landlord defaults under the mortgage?
- Do the mechanisms in the Act dealing with repair and maintenance of premises operate efficiently and effectively?
- Does the Act adequately deal with goods left behind by tenants?
- Should the provisions dealing with termination of a tenancy be more streamlined and reframed in the Act to more clearly determine when a tenancy ends and to better deal with termination upon the death of a tenant and issues arising therefrom?
- Do the provisions for liability for utilities reflect the modern era?
- Do condition reports serve their intended purpose and should prior reports be disclosed to the Tribunal?

## **Dispute resolution and enforcement**

- Should there be provisions in the Act to enable enforcement of breaches of special provisions in a tenancy agreement (which do not constitute a breach of duty under the Act)?
- How effective are the options available to the Tribunal to deal with compliance with the Act and persistent breaches related to anti-social behaviour?
- Are there appropriate mechanisms in place to enforce Tribunal orders, such as restraining orders?
- Does the Act adequately empower tenants/the Tribunal where a landlord resides overseas?
- Should the Tribunal have any powers under the Act in relation to the Director of Housing or social housing rebates?
- How adequate are the provisions for joint tenants and occupiers to enforce their rights under the Act?
- Does the alternative procedure for possession need to be reviewed?
- Should there be more flexibility under the Act for landlords who do not execute warrants for possession, to retain their rights under the original order?
- Should there be a mechanism in place for the Tribunal to refer breaches subject to penalty provisions, to the relevant prosecutorial body?