



Victorian Young Planners Committee
Planning Institute of Australia (Victoria Division)
Level 3, 124 Exhibition Street
Melbourne, VIC 3000

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Residential Tenancies Act Review
Consumer Affairs Victoria
GPO Box 123
Melbourne
VICTORIA 3001

By Online Submission

Dear Sir/Madam

Victorian Young Planners: Response to Residential Tenancies Act Review Options Discussion Paper

The Victorian Young Planners Committee is pleased to make this submission on the Residential Tenancies Act Review Options Discussion Paper and we value the opportunity to provide our feedback. This submission identifies and responds to those themes of particular interest and relevance to our members and, more broadly to young Victorians.

The Victorian Young Planners (VYP) is the local group for Young Planners supported by the Victorian Division of the Planning Institute of Australia (PIA). Membership to the VYP is open to students and professionals with up to five years of professional experience within the planning and urban design fields. The VYP is supported by an elected committee of members engaged in both the public and private sectors of planning.

We are united by a common passion for planning and the future of Victoria's cities and regions. The review of the Residential Tenancies Act ('the Act') is of particular interest to the VYP

committee ('Committee', 'we') and to our wider membership group given the role of urban planning in shaping rental and housing affordability, and the large number of our Committee and members who are currently accommodated in rental housing. We believe there needs to be a greater understanding of the social and economic implications on the long-term housing rental population, especially young people. The review of the Act is a positive step forward in this direction.

Response to the Options Discussion Paper

Access to appropriate housing and security of tenure is a key issue facing many young Victorians. The Committee has been active in urging the State government to address the lack of affordable housing across the private rental and home ownership markets. We note that barriers to housing for young people generally relate to cost, access, and choice due to low housing vacancy rates in inner urban locations or in close proximity to educational institutions and jobs.

Young people are becoming increasingly reliant on the rental market for housing as current housing prices and policies preclude them from entering the housing market. The corollary being a generational shift with many young Victorians relying on private rental market as a long-term option rather than as a transitional arrangement. We also note that a growing preference for inner city rental properties that offer lifestyle benefits has also contributed to the current culture of renting.

In an overheated rental market, the balance of power generally lies with the landlord. Maintaining the status quo will not adequately address contemporary expectations of landlords or tenants. This review of the Act is an important opportunity to address many of the long-standing issues of tenancy agreements and better meet the needs of young people and communities in a fair and reasonable manner. The remainder of this submission will address the options of particular interest to the Committee.

Section 3.1: Limitations to the scope of the Act

We believe that tenants wishing to enter into a fixed-term lease longer than five years should be protected by the Act. The Committee supports Option 3.1 to remove the five-year limit on the Act as we believe this will provide greater power balance for tenants entering into longer-term leases with landlords.

Section 3.2: Long Term Leasing in General Tenancies

The Committee supports the general intent of the review to incentivise and protect tenants who opt to undertake long-term leases. However, we urge that lease terms remain unregulated by the Act to maintain flexibility for both residential landlords and tenants as the proliferation of long-term leases will greatly impact access to housing by young people. While such conditions are common in the commercial sector under provisions under the *Retail Leases Act 2003*, we note the rationale behind this includes:

- Power imbalances during negotiations between typically large institutional landlords and 'mum and dad' operators with very little bargaining power;
- Commercial vulnerabilities faced by business owners including their reliance on establishing goodwill trade and the initial expenses associated with establishing a new business (i.e. fit out costs etc).

We believe that such factors are less applicable to the private residential market and note that long-term leases are less likely to meet younger people's rental requirements. We identify that long term leases may also result in less housing stock coming onto the market as short-term rentals or for sale, tightening supply and further exacerbating current housing access issues.

The Committee supports Option 3.3, which provides tenants with a mechanism to extend fixed term leases for a subsequent period. The VYP agree that if the property is sold during the tenancy, provision in the legislation should be made for the incoming owner to honour any existing agreements. We believe this would provide a higher level of security of tenure and ensures the tenant retain their discretion to exercise the option.

However, additional information around the terms of such agreements is required. These should be similar to those outlined in Section 27 of the *Retail Leases Act 2003*, which include:

- The date until which the option is exercisable;
- How the option is to be exercised;
- The terms and conditions on which the lease is renewable under the option; and
- How the rent payable during the new term is determined.

Section 4.1: Unlawful discrimination against applicants and tenants

Discrimination against young people by property agents and landlords is a key limitation in accessing rental housing. Young people may face discrimination in the rental market if they receive social assistance, lack credit or rental history, are students, or do not satisfy minimum

income requirements. It is common practice for landlords and real estate agents to question and require additional proof of a young person's ability to meet rental requirements.

We agree with the inclusion of an information statement on unlawful discrimination on application forms, as described in Option 4.1. We believe that more young Victorians would secure housing if they had requisite knowledge and access to resources needed to understand discrimination and advocate for their rights. We would also strongly support any future initiatives such as awareness campaigns that would further for further educate and engage tenants and landlords on their rights and obligations on discrimination under the Equal Opportunities Act 2010.

Section 6.1: Lease break fees

The VYP notes that the current system of compensation creates uncertainty for both parties over lease break costs. Unexpected costs during a lease break can result in unforeseen financial burdens on tenants and limit the ability to terminate tenancies in extreme or unforeseen circumstances.

We agree with the codification of common law compensation principles, including the four outlined in Option 6.1. However, we believe this should be expanded to include a principle against unjust enrichment, where a landlord may profit from the recovery of hypothetical losses. This may occur where when rent has been paid in advance but a replacement tenant is found within the rental period. In such instances, we believe any advanced amounts should be returned to the tenant.

The Committee also agrees with Option 6.2, which provides for fixed lease break fees as an optional clause. However, we would add that if a tenant requests to exercise this clause, the landlord should be required to agree, particularly in the cases of long-term leases (considered to be those beyond twelve months). To ensure tenants are provided sufficient protective measures in lease break circumstance, we also believe Options 6.1 and 6.2 should operate in conjunction with each other.

Section 7.3: Frequency of rent increases

Unexpected rent increases undermine the security of tenure for young people and can often cause undue and unforeseen financial stress. We consider the existing frequency of six months to be unnecessarily frequent and incongruous with current practice by property agents and landlords.

The Committee agrees that a frequency of twelve months between rent increases as being a reasonable outcome. However, clarity around whether the bond amount increases in conjunction with the rent increase is required. We would accept a bond increase as being reasonable, but any additional bond amount should be lodged with the existing bond.

Section 7.6 Rental bidding

Rental bidding creates additional barriers and uncertainty for low-income tenants because of a lack of transparency around costs and the rental advertising process. Such practices contravene state and federal consumer laws around misleading advertising and we strongly believe property agents and landlords should ensure that any representation of their property, including rental cost and agreements, are not misleading to potential tenants.

We strongly recommend that Option 7.8A and Option 7.8B are both incorporated into the Act going forward. The removal of rental bidding practice will better ensure greater transparency in rental processes and ensure young people and disadvantaged tenants are not forced into housing stress through financial over commitment.

We note that the proposed options do not prevent other bidding practices to occur, such as offers by prospective tenant to pay rent in advance or offers of long-term leases. Amendments relating to rental bidding should preclude the ability to accept any such offers or those that lead to an unfair or unjust advantage during rental application phase.

Section 8.8: Liability for access to services

We agree with Option 8.22 to update a landlord's liability in line with modern installation and supply practices. However, we note the need to specifically identify the installation of internet and phone connections if requested by a tenant. These are currently classified under the term 'any other charges prescribed by the regulations'.

We believe that clarity is required as confusion may default to the tenant paying and pursuing internet and telephone installation costs from landlords. Given that such infrastructure would also be considered a capital improvement to the rental property and therefore improve its market value, we believe it is a reasonable expectation that its provision be entirely covered by the landlord.

Further recommendations

The VYP recommends that the effectiveness and impact of any amendments to the Act is evaluated during implementation. This will ensure that any new legislation provides the Government and the wider community better and fairer outcomes that meet the needs and expectations of both tenants and landlords.

We strongly believe that any proposed reforms to the legal and regulatory framework for rental housing should include ongoing consultation that directly target young Victorians. We believe this will be important to the successful adoption of any changes given the high representation of young people in the rental market. This may be achieved through continued advertisement of the strategy through mainstream media and social media channels that provides information on the current issues how amendments to the Act seek to address them.

We note that the VYP committee would be pleased to participate in future consultations beyond this submission on the Options Discussion Paper.

Conclusion

Thank you again for this opportunity to provide comments on the Residential Tenancies Act Review Options Discussion Paper. Should you have any further inquires regarding the content of this submission, please contact me on 0431 789 572 or by email on vic@planning.org.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Hugh Utting', with a stylized flourish at the end.

Hugh Utting
Victorian Young Planners
Planning Institute of Victoria