



Residential Tenancies Amendment (Public Housing) Bill.

Second Reading

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [6.15 p.m.], on behalf of Mr Carl Scully: I move:

That this bill be now read a second time.

There are currently 129,000 public housing tenancies in New South Wales. In all, this represents the provision of subsidised housing to around 269,000 people. In fact, one in four people in New South Wales who rent their homes live in housing provided by the Carr Government. Public housing is a valuable community resource built up by successive governments on behalf of the people of New South Wales. Stable, affordable housing is a fundamental requirement for all members of our community. Without housing, it is impossible to hold down a job, stay healthy, get an education or maintain family and community relationships.

As a society, we value the principle that no-one should be shut out of life's opportunities by social disadvantage. We make provision for public housing because we value the principle that people should have a decent standard of living. But public housing is a valuable community resource. So when people are provided with subsidised public housing, it carries with it an obligation to do the right thing by the community. At the most basic level, access to public housing carries an expectation that tenants will live in peace and harmony with their neighbours. The Department of Housing works with other agencies such as police and mental health teams to resolve neighbourhood disputes among public housing tenants. The effectiveness of their efforts is greatly reduced by antisocial behaviour.

The sort of behaviour we are concerned about includes dumping of cars, petty vandalism, graffiti, noise nuisance, throwing of firecrackers, rocks on the roof, and abuse. It also includes more serious criminal behaviour: assault and burglary. Antisocial behaviour does not include people going about their legitimate business. A child playing in the street, or adults using power tools at the proper times is not of itself antisocial behaviour. The measures outlined in this bill are not aimed at curtailing people's daily activities. Nor are we intending to persecute people who are already vulnerable. We recognise that public housing tenants are some of the most disadvantaged members of the community, otherwise they would not be in public housing.

However, there is a small number of individuals who, for various reasons, are unable to get along with their neighbours, and who are unwilling to accept responsibility for their behaviour and its impacts on the surrounding community—impacts like tenants feeling imprisoned in their own homes due to the behaviour of their neighbour; impacts like children being unable to concentrate on studying for their Higher School Certificate because their parents are at war with a neighbour; impacts like families needing to move away from the problem behaviour, resulting in social support networks being disrupted and kids having to change schools; impacts like an increased risk of crime, and an increased fear of becoming a victim of crime.

The cumulative effect of antisocial behaviour is that public housing becomes increasingly stigmatised, which in turn leads to more requests for rehousing and rejection of housing offers made in affected areas. Antisocial behaviour also means that the Department of Housing has to deal with the costs of vandalism and property damage, when it should be putting those resources into enhancing public housing. Antisocial behaviour also means frontline staff spend disproportionate amounts of time dealing with complaints about neighbours or arranging transfers for those people who can no longer continue to put up with the actions of their neighbours.

We all want neighbourhoods where people can socialise without causing trouble or intimidating the neighbours. We all want to live free from noise nuisance, vandalism, and petty crime. Above all, we want people who are doing it tough to be given as much support as they need to fully participate in their communities and give their kids the best possible start in life. This bill supports these community ideals by introducing a number of measures to better address those factors that may undermine neighbourhood harmony and prevent our communities from reaching their full potential. We are supporting tenants to change unacceptable behaviours. We are creating safer and more socially rewarding communities for the overwhelming majority of tenants who live harmoniously with their neighbours. And we are also ensuring that tenants are accountable for their behaviour. The proposed amendments and other strategies that the Government will be putting in place represent a measured response; one that imposes some responsibility on tenants but provides support and assistance to tenants who lapse into antisocial patterns of behaviour.

Proposed new section 35A of the Residential Tenancies Act 1987 introduces acceptable behaviour agreements. These are written agreements between the department and the tenant in which the tenant, or another household member, agrees not to carry out a series of identifiable antisocial behaviours, specific to each set of circumstances. Acceptable behaviour agreements will only be used where the history of the tenancy—or any prior public housing tenancy—points to a likelihood of continued antisocial behaviour. If the tenant does not alter their behaviour or refuses to sign an acceptable behaviour agreement, it may constitute grounds for the department to seek an order for termination of a

tenancy agreement in the Consumer, Trader and Tenancy Tribunal.

The bill requires the department to notify tenants that a refusal to sign an agreement when requested or a serious or persistent breaching of a signed agreement may result in termination of their tenancy. Without such notification, an acceptable behaviour agreement has no effect. The power to evict based on a breach of an acceptable behaviour agreement as per the proposed new section 57A will be used sparingly and rests with the Consumer, Trader, and Tenancy Tribunal. The emphasis is not on evicting tenants but rather on trying to change unacceptable behaviour, and the department will make every effort to assist with behavioural change.

There will be some tenants who, due to mental illness, intellectual disability or other reasons, are unable to form an acceptable behaviour agreement. The Government does not intend to interfere with any of the important legal protections currently afforded these individuals. One reason for the success of acceptable behaviour contracts trialled in the United Kingdom is that a number of different agencies were involved in monitoring behaviour and providing support. That is why we are introducing specialist response teams to support families whose members are engaging in antisocial behaviour, and to make sure behavioural change is achievable. The teams will be made up of representatives from Human Services and other relevant agencies working together at the local level to case manage identified families. A multi-agency approach is vital, as no one agency has the mandate or capacity to respond to the issues in problematic families, and a range of skills and roles are required to respond effectively.

The teams' primary objective will be to identify and implement appropriate measures to prevent the occurrence or recurrence of antisocial behaviour in public housing. Specialist response teams will ensure existing resources are better utilised. The roles and responsibilities of each agency would be clearly outlined under a multilateral memorandum of understanding [MOU] or protocol. The aim is to use the specialist knowledge and experience of relevant government agencies to support tenants who may engage in antisocial behaviour to change their behaviour and sustain their tenancies.

Specialist response teams represent an extension of this Government's recognition that antisocial behaviour may be symptomatic of broader issues of social and economic deprivation and a lack of access to support networks and life opportunities. Specialist response teams represent another commitment by the New South Wales Government to address the problems that stem from social deprivation, a commitment that has included community regeneration strategies in public housing estates; intensive management programs on estates with severe social problems; urban design that reduces the risk of crime; and strategies to increase employment opportunities for tenants. Specialist response teams will help strengthen families, which means safer, stronger communities.

Proposed new section 14A will allow for the public housing renewable tenancies policy to be implemented under the Residential Tenancies Act. The policy was introduced in 2002 to enable tenants and the department to identify early any breaches which might otherwise lead to the termination of a tenancy agreement. This bill strengthens the effectiveness of the policy by giving it a sound legislative base. Initially leases will be for one year, followed by two subsequent terms of three years each. Satisfactory tenants will be promoted to longer terms on the basis of their performance, while tenants causing problems will be demoted to shorter terms. Should a tenant not have signed a new agreement when their renewable tenancy expires, the Department of Housing can nominate the term of the new lease.

The bill provides for public scrutiny of changes to government policy—section 14A (4) requires the Minister to gazette any such changes made in relation to public housing tenancy agreements. The Government cannot and will not continue to house perpetrators of antisocial behaviour. We want to communicate to tenants and the broader community that public housing is not a lifetime proposition. If tenants do not do the right thing the term of their tenancy can be reduced to three years or one year. Under proposed new section 64 (2A), antisocial tenants will be required to show why they should not be evicted if they seriously or persistently breach an acceptable behaviour agreement. This reversal of the onus for antisocial tenants is necessary because there is a history of cases in which tenants have provided evidence against their antisocial neighbours, only to find themselves further victimised if the courts decide anything less than an eviction is warranted.

I stress that reversal of onus applies only before the tribunal where the tenant has seriously or persistently breached an acceptable behaviour agreement. It does not apply to other matters before the tribunal. Tenants' fears of retribution from antisocial neighbours are legitimate. In one case the antisocial behaviour that complainants had to endure included assault, verbal abuse and threats, having their car sprayed with paint, and having hot water containing fat thrown onto them from an upper-storey window. Tenants are understandably reluctant to get involved in giving evidence against their neighbours. Tenants living in public housing are very disadvantaged. They may be elderly or have a disability. With good reason, they fear retribution from their antisocial neighbours.

What we are proposing distances tenants from the firing line, and makes the department better able to respond to complaints about antisocial behaviour. Despite the reversal of onus where breach of acceptable behaviour agreements is involved, the department must still follow legal procedures and gather evidence before seeking an order for termination in the Consumer, Trader and Tenancy Tribunal. The department still has a responsibility to ensure that any decision to seek termination is just and fair. If, for example, it is alleged that a tenant has breached their acceptable behaviour agreement the circumstances of the breach must be clearly and unequivocally stated, and tenants must be given an opportunity to modify their behaviour before eviction.

Tenants retain access to existing appeals processes. They can apply to have their case reheard in the tribunal in the

event that the tribunal's decision was not fair and equitable or was against the weight of evidence, or where there is new evidence. Tenants also have recourse to the Supreme Court if they believe that the tribunal has made an error of law. Other proposed amendments will streamline application of the Residential Tenancies Act so that successive tenancy agreements between a tenant and the department, regardless of whether in the same or a different premise, will be taken to be a continuous tenancy.

The bill also protects front-line staff from harassment by tenants. Proposed section 68A allows for conduct by tenants that amounts to harassment, molestation, or intimidation of departmental staff to ground an application for termination of a tenancy agreement. The tenants' behaviour must, however, be severe or persistently threatening, or intentional, before any action to evict can occur. This change will help the Government fulfil its occupational health and safety responsibilities to its front-line staff, for whom current protections from the effects of repeated antisocial behaviour are inadequate. Client service staff have a vital role to play in helping tenants sustain their tenancies; they need to be adequately protected in the face of unreasonable behaviour.

The New South Wales Government wants to help our tenants understand the consequences of their behaviour, and provide them with every support to change it. That is what these amendments to the Residential Tenancies Act are all about. It is about establishing a balance between the entitlement to secure housing and the need for tenants to be accountable for their behaviour within their communities. We want to drive home the message that living in public housing does not provide exemptions from the consequences of behaviour that would not be tolerated in the broader community.

Section 22 of the Residential Tenancies Act 1987 obliges the Department of Housing, as with all other landlords, to preserve the peace, comfort, and privacy of tenants. This carries with it an obligation to deal with any behaviour that undermines their peace, comfort, and privacy. Due to the potentially serious impact that these changes will have on the lives of the few tenants who perpetrate antisocial behaviour, the Government is proposing that any decision resulting in the termination of a tenancy agreement will be made by very senior officers within the department, and the Minister will be informed. In the event of a tenant actually being evicted, the department will continue to provide support. For example, the department may make RentStart available to give the tenant the best possible chance of securing private rental accommodation.

This suite of new initiatives will not require further expenditure. Rather, it will use existing resources more effectively and efficiently. We must remember that antisocial behaviour is perpetrated by a very small number of tenants. These measures have been developed in recognition that the behaviour of this small group has a disproportionate effect. Input from stakeholders is vital, and the Department of Housing has commenced this process with peak bodies including Shelter, the National Council of Social Services, and the Tenants Union, all of which have recognised the need for some measures to reduce the impact of antisocial behaviour in public housing estates. We will continue to seek input from these important stakeholders as we implement these measures.

If we are sincere about addressing some of the really serious problems on our estates, one strategy has to be to implement measures that will really work to reduce antisocial behaviour. For the sake of the vast majority of tenants who live together without any neighbourly problems, we cannot afford to ignore the few whose behaviour can, at times, make others feel like virtual prisoners in their own homes. The emphasis is not on evicting tenants. Rather, these measures are intended to support tenants to change unacceptable behaviour. I commend the bill to the House.

[Your feedback](#) [Legal notice](#)

Refer updates to Hansard Office on 02 9230 2233 or use the feedback link above.