

Submission

No 33

INTERNATIONAL STUDENT ACCOMMODATION IN NEW SOUTH WALES

Organisation: Arc @ UNSW Limited

Name: Ms Natalie Karam

Position: Chair

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Dear Mr Chairman,

Thank you for the opportunity to make a submission to this inquiry.

My name is Natalie Karam and I am a Bachelors of Jurisprudence (Politics) and Law student at the University of New South Wales (UNSW) and the Chair of the Board of Arc@UNSW Limited. (Arc)

Arc is the student organisation at UNSW. We provide services to the student community of UNSW. Our vision and mission are to create the best student experience and to maximise the support, development and engagement of students at UNSW. Our initiatives include social activities, clubs and societies, training, mentoring, volunteer programs, career development programs, legal advice and advocacy, the Student Representative Council, the Postgraduate Council, and student publications.

Student housing affordability and accessibility have been long-standing problems for many students entering into tertiary studies. This situation has led to students entering into living situations which are below acceptable accommodation standards. This problem is even more pronounced with international students who are often taken advantage of by opportunistic and unscrupulous landlords.

Arc's submission focuses on the extent of unauthorised student accommodation operations that exist and the lack of regulatory standards which govern students' living situations.

Finally, our submission makes a number of reform proposals to improve the regulation of student accommodation. These proposals centre around incentivising universities to build more affordable student accommodation, deterring unauthorised student accommodation operators and providing further protections for students.

Yours sincerely,



Natalie Karam

Chair of the Board
Arc @ UNSW Limited

INQUIRY INTO INTERNATIONAL STUDENT ACCOMMODATION

Arc @ UNSW Limited's response to terms of reference

To inquire into and develop proposals for legislation, where appropriate, or other measures to address:

1. The objectives of the Private Member's Bill introduced by the Member for Ryde in the last Parliament (Environmental Planning & Assessment Amendment (Boarding Houses) Bill NSW 2010).

The object of the *Environmental Planning & Assessment Amendment (Boarding Houses) Bill 2010* (NSW) (the Bill) was to provide for the regulation of boarding houses and other places of shared accommodation. The Bill proposed to achieve this through a range of punitive measures aimed at deterrence:

- > Amending the *Environmental Planning and Assessment Act 1979* (the Act) to:
 - Enable powers of entry and inspection under the Principal Act to be exercised in relation to premises that are being unlawfully used for the purposes of a boarding house or other place of shared accommodation;
 - Facilitate proof of the use of premises as a boarding house or other place of shared accommodation in proceedings under the Act;
 - Enable a court to sentence a person to a maximum of 6 months imprisonment for an offence involving unlawful development for the purposes of a boarding house or other place of shared accommodation if the offence caused or contributed to appreciable danger or harm to any person;

- Require proprietors of boarding houses to notify the Director-General of the Department of Services, Technology and Administration of relevant particulars and to require those particulars to be entered into a Register of Boarding Houses to be kept by that Director-General,

- > Amending the *Environmental Planning and Assessment Regulation 2000* to provide for an increase in the penalty notice amount for an alleged offence involving unlawful development for the purposes of a boarding house or other place of shared accommodation; and
- > Amending the *Ombudsman Act 1974* to require the Ombudsman to report on the Ombudsman's work and activities in relation to any complaints made about the conduct of a council, or an authorised officer of a council, in the exercise of the proposed powers.

However, the Member for Ryde identified a number of further objectives that informed the introduction of the Bill in the Honourable member's Agreement-in-Principle Speech, including that:

- > The complexity of the issue of illegal boarding houses has increased following the large number of international students arriving in New South Wales;
- > The Commonwealth needs to provide universities with real incentives to build more on-campus accommodation;
- > Local councils should be responsible for the planning, location, design and safety of boarding houses;

- > Local councils should have the resolve to take enforcement action against illegal operations; and
- > There is clearly a gross undersupply of campus accommodation.

2. Factors affecting the supply of and demand for affordable student accommodation and other accommodation used by students, particularly in relation to international students and implications for the export education industry.

There is not enough affordable housing in convenient locations available to students. This is because students' perceived financial situation and status means that they are not always considered suitable prospective tenants. Further, there is an inadequate supply of university accommodation compared with the number of students enrolled at university. This disproportionate demand will become even more pronounced with the increased growth in international student numbers projected by the Australian Government and relaxed immigration requirements as recommended in the Knight Review.

The demand for accommodation close to campus has caused a black-market effect in student accommodation, which has opened the door for landlords to overcharge and overcrowd properties. This is especially so for International students, who do not have access to public transport concessions. Factoring in low-SES targets, there needs to be more affordable housing so that students can live to a reasonable standard while they study. Generally, the cost of living such as housing, food and textbooks are the main deterrent factors for students seeking to enrol in tertiary studies.

Overall, both government and university policy are geared towards rapid student growth in the areas where affordable housing is the most important, that is for low-SES and international students.

3. The appropriateness of existing standards for affordable student and other accommodation used by students.

Typically, the types of housing arrangements that students enter into are:

- > Written tenancies (e.g. renting an apartment or living in a share house);
- > Informal (unwritten or partly written) tenancies (usually in share houses);
- > Private boarding and lodging arrangements;
- > Boarding house accommodation;
- > Homestay; and
- > University provided accommodation.

In relation to the appropriateness of existing student accommodation standards, the main issues that students face include:

- > Unfamiliarity with local laws on housing;
- > Risk of discrimination/intimidation;

- > Expense and shortage of accommodation around campuses;
- > Overcrowding; and
- > Informal housing arrangements set up over the web or by pamphlets/advertisements.

The Residential Tenancies Act 2010 (NSW) has negative impacts upon students in share houses

The new tenancy law impacts students disproportionately in share housing situations. Section 10 of the *Residential Tenancies Act 2010* (NSW) provides that if you live in a place and are not named on the actual lease, but someone else living there is named on the lease, you will only be classed as a tenant (and have the rights of a tenant) if you have a separate written tenancy agreement with someone who is on the lease. In other words, if you are subletting from someone (who is also in the house) and you don't have a written agreement with them, you aren't classed as a tenant. The old The main impact of this exists in share housing, where students often live without having a formal written agreement, and therefore don't have any rights as a tenant. The old legislation did not contain this exclusion.

Legal protections are not given to boarders and lodgers

The legal status of boarders and lodgers, compared with tenants, has not been determined, despite lobbying by advocacy groups and the Tenants Union. New South Wales is one of only two states without any laws to protect lodgers (e.g. people living in boarding houses, informal sub-tenancies etc). Further, homestay students are classed as boarders or lodgers. Sometimes, these students have detailed agreements if they go through an agency, but even then these agreements do not afford protections to students. The limited legal rights that are provided to such students are:

- > No guaranteed period of residence;
- > No right to use Tenancy Tribunal;
- > No express rights under tenancy law;
- > Right to "reasonable" notice of termination only; and
- > No obligation to lodge the bond.

Students in colleges and on campus accommodation apart from self-managed accommodation (e.g. Barker and Mulwaree Apartments at UNSW) are classed as boarders or lodgers, and therefore have limited protections as well. However, it is more desirable for students to live in this accommodation rather than in illegal boarding houses or other unregulated and exploitative environments.

The vulnerability of international students is not safeguarded

The most common problems faced by international students living in accommodation are:

- > Repairs are not done often when students rent in the private market, rather than through an agent;
- > A bond is not lodged with the Office of Fair Trading and rent receipts are not given;
- > Often the tenant won't know the actual name of the person they are renting from. For example, international

students may sign a hand written agreement with someone who gives a first name only, which is illegal. This becomes a problem if money has to be recovered through the Tribunal, as applications cannot be made against persons the student does not know;

- > International students have been asked to perform domestic tasks for their landlord, either as a supplement to rent or just because the landlord wanted it; and
- > In a recent *7:30 Report* investigating student accommodation in New South Wales, some students at Macquarie University reported sexual favours being demanded as a way of ensuring their room was kept, as 'payment' on top of rent or for other reasons.

Councils do not feel empowered to act upon suspected illegal housing

The Manly Daily recently reported that an illegal boarding house in Queenscliff burned down as the result of an electrical fault. There were eleven students living in the house, who were all unaware that the house was modified against regulations. Warringah Council's internal Ombudsman had received complaints about the house for over four years, but were not compelled to act due to issues with the owner of the house. Warringah Council stated that not only are council orders often ignored in these situations, but that it should be easier for council inspectors to gain entry to premises they suspect are illegal boarding houses.

4. Appropriate or minimum standards for student accommodation, and the adequacy of current legislation in ensuring that such standards are achieved.

All accommodation should comply with health and safety standards which could be enforced through local councils. This would necessitate an increase in the powers of local council to inspect properties on the request of an occupant or intervene where repairs are needed. Many students complain about the inaction of landlords to make repairs even where those repairs are urgent (e.g. serious roof leaks).

Rents for student accommodation should be independently regulated so that rents are more affordable and in line with the financial realities of student life. This is especially important for International students who do not have access to Centrelink benefits and have visa restrictions which limit work hours.

There should be enforceable occupancy standards to reduce overcrowding. Currently, there is no single standard measure of residential overcrowding in Australia. While the accepted rule is that single occupants over the age of 18 should each have a separate bedroom, there is no real method of enforcement which means students are often paying full rent to sleep in bunk beds with 3 other people.

Anyone who pays rent to another person to live in their house should be considered a tenant. By specifically excluding boarders and lodgers, those with unwritten tenancy agreements and other accommodation providers from the protections of the *Residential Tenancies Act 2010* (NSW), a majority of students who rent are without protection from inadequate accommodation and unscrupulous landlords.

5. The current extent of unauthorised student accommodation operations in NSW.

Over 25% of legal advice and advocacy requests that Arc@UNSW Limited receives are accommodation related. Some common trends are identified below.

Illegal boarding houses and overcrowding

Illegal boarding houses and overcrowding in sub-tenancy arrangements are still quite common, although the Department of Fair Trading has taken a proactive role in investigating certain properties that are reported. A significant fear of international students is that making any sort of complaint (housing, employment, university etc) will somehow have an impact on their visa. From experience, this fear is played upon by rogue operators and unscrupulous landlords. For example, operators may say 'you'll be reported to immigration; this will go on your passport'.

Unauthorised student accommodation examples

- > Five students rent the top half of a two storey house, which was advertised to each student as having a separate bedroom with shared facilities. The accommodation is an area with three bedrooms and a living area. This living area is divided into two additional spaces made into bedrooms. Each student is charged over \$200 per week rent. They do not have a written agreement and do not know the name of the owner or agent as they lease directly from the head tenant. The bond is not lodged and they complain about lack of space.
- > Two students (married) rent one half of a garage that has been converted into a bedsitter. They are living next to a parked car separated by only a plasterboard wall. There is no written agreement, the conversion is unsafe and the pollution from the vehicle exhaust makes the occupants ill.
- > A student is living with his wife in a three bedroom house where the living room has been converted into more bedrooms. It is a boarding house in every aspect, however it is not registered with the local council. He has serious trouble getting security deposit back when departing.
- > Multiple students live in a boarding house (Cleveland St, Surry Hills) with mostly international students. When damage or breakages occur, or when there is a dispute about money, the students are told that a debt will be recorded on their passport if they do not pay.

The problems of overcrowding

Fire safety:

- > Smoke alarms may not be installed correctly where extra bedrooms have been created;
- > Too many people (and furniture) can block exits making evacuation difficult in the event of an emergency; and
- > A greater strain on electricity supply can lead to blown fuses and power outages.

Health and the lack of space:

- > There is increased use of kitchen, laundry and bathroom facilities which, unlike bedrooms, are harder to improvise;

- > Stress on waste disposal systems such as septic tanks and garbage collection is increased; and
- > Increased chance of spreading infectious diseases (e.g. flu), psychological stress (through lack of regular and peaceful sleep) and friction among housemates.

Illegal unit subdivisions:

- > Tenants living in overcrowded premises can be evicted with little warning;
- > Local Council can force landlords to remove illegally built internal walls and demolish extensions (effectively removing bedrooms); and
- > No court will enforce your right to live in illegal premises.

Legal rights?

- > Occupants are not usually recorded on a lease agreement, nor are they able to easily demonstrate that they are tenants; and
- > There is no protection under the Residential Tenancies Act 2010 (NSW) if your bond is not returned or belongings are damaged.

Proliferation of rental scams

Many scams target International students because of their known need to secure accommodation, and assumed lack of knowledge about Australian tenancy laws and customs. Scammers will use fake postings on real property websites (gumtree, domain, flatmate.com.au) to target vulnerable students. The advertisements will look genuine (as photos and descriptions are taken from other sites) but the address will either not exist, or is not available for rent. Common scams that Arc@UNSW Limited has identified or where legal advice has been sought are below.

The overseas property owner:

A student finds a property to rent. It is a nice house in a good neighbourhood with cheap rent. The owner is currently overseas with his family doing God's work and wants the property to go to a good person. He gives extensive information about himself, his family and his work, and has chosen the student as the lucky and trustworthy person to rent the property. The owner then asks the student to transfer money (via Western Union) to show their commitment to renting the property. In return, he will mail the key and lease agreement. The student is assured that if they do not like the property, they can send the key back and get a refund. It sounds too good to be true.

The money is transferred, but the keys are never sent, and the owner has mysteriously disappeared.

Fake tenants:

A student advertises a room for rent, and the response is from someone who is travelling to Australia for work. They are so keen to rent the room they mail the student a cheque for the first month's rent and security deposit without even seeing the property. The cheque arrives, however it is for more than the agreed price, so the student contacts the new tenant. Their company (who is paying relocation costs) has made a mistake. They ask the student to cash the cheque; deduct the rent and

refund the extra money through Western Union (as this is the quickest way to transfer money and is needed for their trip). The student does not want to lose this tenant or delay their arrival, so they wire the money before the cheque has cleared.

A week later, the student is contacted by the bank. The cheque has either bounced (there was not enough money in the account to cover the amount) or is a fake. In either case, the student is left out of pocket and without a tenant.

The forgetful property owner:

A student finds a property to rent on the internet and arranges to meet the owner for an inspection. But when the student arrives, the owner has forgotten the key and arranges to meet at another time. However, the owner really wants the student to rent it, and asks for a deposit to hold the property for the student until they can see inside. The rent is low, the student likes the look of the building (the student may even have seen some photos of the inside), so they hand over the money.

The student waits for the next inspection, but the owner never shows up. The student knocks on the door hoping that the owner is there, but instead they find someone who tells the student that the person who took their money is not the owner, and the property is not even for rent.

6. The appropriate framework for the on-going operation of affordable student accommodation and other accommodation used by students, including the adequacy of local government powers to identify unauthorised operations and enforce compliance with the relevant laws.

The appropriate framework for the on-going operation of affordable student accommodation and other accommodation used by students is to incentivise universities to provide more affordable student accommodation, while deterring the proliferation of unauthorised operations by:

- Providing legal protections for boarders and lodgers;
- Giving financial incentives for universities to build and/or manage more affordable student accommodation which provides protections for students under written agreements or tenancies;
- Authorising local councils to enter suspected unauthorised operations on the request of an occupant, rather than requiring permission of the home owner;
- Providing students with methods of recourse to mediate accommodation, rent and safety issues with landlords or managers of accommodation;
- Providing international students with the opportunity to take up university accommodation at competitive prices at the time of enrolment to prevent exploitation by unscrupulous landlords;
- Providing international students with better accessibility to transport and transport concessions; and
- Including a statutory definition of overcrowding which limits occupancy to single occupants over the age of 18 who live in separate bedrooms.

