

**Submission
No 4**

RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING NO GROUNDS EVICTIONS) BILL 2024

Organisation: Western Sydney Community Forum

Date Received: 24 June 2024

Ms Jenny Leong MP
Committee Chair
Select Committee on the Residential
Tenancies Amendment (Prohibiting No
Grounds Evictions) Bill 2024
Parliament House
Macquarie Street
Sydney, NSW 2000



Western Sydney
Community Forum
ABN 15 171 624 226
Level 9, 100 George Street
Parramatta NSW 2150

t 02 9687 9669
e info@wscf.org.au
w www.wscf.org.au

Dear Ms Leong MP,

Please find attached Western Sydney Community Forum's submission to the Select Committee on the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024.

Western Sydney Community Forum has reviewed the Bill and has developed two recommendations for your consideration.

Thank you for providing the opportunity to make a submission.

If you require further information, please do not hesitate to contact me on [REDACTED] or at [REDACTED]

Yours sincerely,

Dr Joshua Bird

Acting Chief Executive Officer

Response to Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024

June 2024



Acknowledgement of Country

We acknowledge First Nations peoples as the sovereign Traditional Owners and Custodians of the unceded lands and waters on which we work and live. We pay respect to Elders past and present. We respectfully recognise all Aboriginal and Torres Strait Islander peoples, their cultures and their heritage. We acknowledge past and present injustices and commit to walking alongside First Nations peoples.

Contents

- 04 / Background
- 05 / Western Sydney Community Forum
- 05 / Western Sydney
- 07 / Recommendations



Background

This submission has been written in response to the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024. The Bill proposes to prohibit no grounds terminations of residential tenancy agreements.

The Select Committee is seeking public input into the provisions of the bill, the grounds for which an eviction is reasonable, the appropriateness of evidence requirements to support reasonable grounds or a penalty scheme for those who falsely claim a reasonable ground; and any unintended consequences, including on housing affordability and availability for renters and owners raised by this bill.

Western Sydney Community Forum (WSCF) welcomes the opportunity to make a submission to this consultation. This submission draws heavily on previous work of WSCF in relation to improving the NSW rental system, and the work of peak housing and tenancy agencies in the community sector, particularly Shelter NSW, the Tenants Union of NSW and the New South Wales Council of Social Services (NCOSS). WSCF thanks them for their input and support.

WSCF has also represented the views and needs of member organisations and the communities they work with — with more than 4,000 members and subscribers across the regional community services system. Organisations reported that housing and private rental remain of vital importance for communities. WSCF uses its annual Shape the Forum survey to seek input from its members, asking them to nominate the priority issues that need to be addressed. Last year, for the second year in a row, housing was most nominated as the top priority. As one respondent reported, “we are dealing with more people who require housing, unable to afford to pay high rent. Unemployed and struggling financially”. WSCF has also been in discussions with peak bodies such as Shelter NSW, and organisations working on the frontline of the rental crisis including Western Sydney Tenants Service and Macarthur Legal Centre, to inform our position on the following matters.

Western Sydney Community Forum supports the amendment prohibiting no grounds evictions and puts forward the following two recommendations:

1. At the end of a lease, a landlord should only be able to end the tenancy for a valid reason, including providing documentary evidence supporting their reason.
2. Funding should be increased for tenancy advice and advocacy services and access to free advice, assistance and advocacy should be improved.

Western Sydney Community Forum

Western Sydney Community Forum (WSCF) has led and shaped social policy and service delivery across Western Sydney for almost 40 years. As the regional peak social development council, we champion solutions that sustain community resilience, health and wellbeing, and we work with community organisations, join with business and partner with government across all levels and services. WSCF is the regional social development council representing and supporting communities and community groups and agencies in the region. This represents a population of over 2.6 million people and a community services industry that annually invests \$2.7 billion into the Western Sydney economy, according to the Australian Charities and Not-for-Profits Commission¹. WSCF has an active and broad member and subscriber base (4,000+) that includes a mix of agencies that connect with and provide services to people across greater Western Sydney. Members range from small community-based agencies to large charitable groups, including community housing providers.

Western Sydney

Western Sydney incorporates the local government areas of Blacktown, Blue Mountains, Camden, Campbelltown, Canterbury Bankstown, Cumberland, Fairfield, Hawkesbury, Liverpool, Parramatta, Penrith, The Hills and Wollondilly. The region is rich with significant cultural, social and economic diversity. Western Sydney has the largest Aboriginal and Torres Strait Islander population of any urban region in the country, as well as the largest percentage of people born outside of Australia.

Western Sydney experiences compounding disadvantages that impacts people's ability to manage with the current rental situation. Only four LGAs in greater Western Sydney have higher weekly gross incomes than the median for Greater Sydney: Blacktown, Camden, The Hills, and Wollondilly. In addition, according to 2021 Census data², seven out of the thirteen LGAs experience rental stress (classified as paying more than 30 per cent of their total household income in rent), a higher percentage than Greater Sydney. Fairfield in Western Sydney's south west is at the top of the list with 48.5 per cent in rental stress, compared to 35.5 per cent for Greater Sydney.

Cost of living, poverty and disadvantage in Western Sydney

In Western Sydney, as with much of Australia, rising costs of living and the worsening rental crisis are combining to push private renters further into poverty. The ability of private landlords to excessively increase rent, issue notices to vacate and apply other administrative burdens on tenants adds further to the financial precariousness experienced by many of Western Sydney's most vulnerable residents.

The 2023 Mapping Economic Disadvantage in NSW report from NCOSS³ reveals the continuing link between private renting and poverty. In NSW, almost one in five renters live in poverty, representing a 10 percent increase since 2016. In Greater Sydney, the private rental market has the largest number of people experiencing poverty of all housing tenures - at over 275,000. The rate of poverty faced by this group increased by 10 percent since 2016 to 19.4 percent, with significant intensification in Western Sydney. At the same time as poverty rates have increased, so too has the proportion of people living in rental properties. As more people become reliant on the private rental market for housing, more people are at risk of experiencing poverty. This problem is particularly acute in Western Sydney, home to Sydney's most socio-economically disadvantaged local government areas. For example, the more advantaged SA2 Katoomba-Leura saw a 34 percent growth in poverty among private renters – with almost one in three now living below the poverty line. Similarly, private renters in Yagoona-Birrong in South Western Sydney experienced a 27 percent growth in poverty to the current level of 40 percent of private renters living below the poverty line.

Having a secure, safe and affordable home is vital to ensure a decent life. Housing is a human right and is also an important social determinant of health, recognising the range of ways in which a lack of housing, or poor-quality housing, can negatively affect health and wellbeing. Service providers working with vulnerable community members with complex needs have emphasised the need for safe, secure and affordable housing for their clients. As one of WSCF's member organisations commented, "a safe and secure place to call home is the basis for a better life". Another service provider emphasised the critical importance of housing to enable stability for a family, and the negative implications of children facing constant changes to school and the additional financial pressures involved with purchasing new school uniforms and related costs.

Yet many of Western Sydney's private renters find themselves struggling to secure and retain rental accommodation. Direct and indirect discrimination impacts Western Sydney's most vulnerable groups, and the existing rental laws leave them even more disempowered. With stock of public and community housing unsustainably low and borrowing costs for private ownership increasing, private renting will continue to be the only option for many.

The primary intent of these recommendations is to ensure that any changes to existing laws do not create or widen any loopholes for landlords or real estate agents to exploit or mistreat renters. WSCF therefore supports the private member's bill to prohibit no grounds evictions, due to the devastating impact on people who are most vulnerable. Any changes that are made must improve housing access and stability if we are to break the increasing link between private renting, poverty and homelessness in Western Sydney.

Recommendations

Recommendation 1: At the end of a lease, a landlord should only be able to end the tenancy for a valid reason, including providing documentary evidence supporting their reason.

WSCF supports the removal of the No Grounds Evictions clause from existing legislation and believes that all renters should be provided with a valid reason for ending a tenancy—including those on both periodic and fixed term leases. The end of a fixed term is not a valid reason, in and of itself, for a termination. WSCF has strong concerns regarding some of the ‘reasonable grounds’ proposed for eviction in the Improving NSW Rental Laws Consultation Paper released in July 2023. WSCF strongly opposes the proposed addition of ‘is being prepared for sale’ as a reasonable grounds for eviction. Relying upon an ‘intention to sell’ as a new reason for eviction opens the door for a landlord to claim they are preparing to sell, evict a sitting tenant, and then claim to have had a change of intention and secure new tenants. If there is insufficient regulation of these proposed changes, there is no way to ensure that ‘no grounds evictions’ will not persist under the guise of another reason. This remains true even in cases where the landlord complies with restrictions such as a temporary ban on renting the property for six months after the renter has moved out.

Similar issues also exist regarding the other proposed reasonable grounds for eviction. The proposed grounds lack specificity and focus on the intention of the landlord—without asking for evidence that this intent is genuinely held. It is recommended that any reasonable grounds for eviction require that the landlord ‘genuinely intends’ to take the proposed action (e.g. demolish property, change property usage or allow a family member to move in), and that independent regulation and oversight of this is implemented.

No grounds evictions are also of particular concern for older people, especially older women who have been identified in a 2023 report from Anglicare⁴ as being a group at high risk of homelessness. Recent data⁵ reveals that a single woman on the Age Pension can afford less than 1 percent of rental listings across Australia. From 2016 to 2021, every LGA in Western Sydney experienced an increase in their population over 70 aside from Camden, which had a 2.9 percent decrease⁶. Three areas of concern are Blue Mountains, Fairfield and Hawkesbury, which have a higher proportion of people aged 70+ compared to Greater Sydney. It is important to ensure that older people are supported as they age to minimise the risk of homelessness and make sure they can retain their accommodation.

To ensure that the laws regarding landlords giving valid notice to vacate are not abused or used contrary to the intentions of the law, it is crucial that notice be supported with documentary evidence. Examples can include receipts of deposits to construction workers already paid, rental agreements and bonds received of immediate family members moving in, or council documentation of the property’s change in use. This evidence must be independently verifiable, with the onus of responsibility for demonstrating its validity resting on the landlord rather than the tenant. A notice to vacate served without this documentation should not be considered valid.

Recommendation 2: Funding should be increased for tenancy advice and advocacy services and access to free advice, assistance and advocacy should be improved.

Under the existing legislative environment, combined with a tight housing market stemming from the limited stock of housing, a power imbalance exists between tenants and their landlords. This is amplified in Western Sydney due to the socio-economic demographics of vulnerable groups and a higher proportion of individuals with language barriers.

Tenants Advice and Advocacy Services provides essential assistance and advocacy to all tenants, particularly social housing tenants or the vulnerable. Tenancy services in Western Sydney that WSCF consulted with shared that the services receive insufficient funding and are overstretched in the delivery of essential advocacy services at tribunals to support individuals at risk of homelessness.

Western Sydney Tenants Service (WESTS) highlighted that the needs of Western Sydney tenants for interpreters and case support are not being met. It is recommended that funding for tenancy advice and advocacy services is increased in line with demand to ensure that vulnerable communities can access free advice, assistance and advocacy services.

Investment in advisory and advocacy services is vital for tenants in Western Sydney which is home to over 740,000 tenants in the private market and sees 5.3 per cent of the population in social housing, compared to 3.0 per cent in the rest of Sydney.⁷

References

1. Australian Charities and Not-for-Profits Commission, 2016 Annual Information Statement (AIS) dataset. Available from <https://data.gov.au/dataset/ds-dga-7e073d71-4eef-4f0c-921b-9880fb59b206/distribution/dist-dga-b4a08924-af4f-4def-96f7-bf32ada7ee2b/details?q=>
2. Australian Bureau of Statistics. (2021). Find Census Data [comparison from 2016 to 2021 data by LGA]. Available from <https://www.abs.gov.au/census/find-census-data/search-by-area>
3. New South Wales Council of Social Services. (2023). Mapping Economic Disadvantage in NSW - The Great Divide: Overview of Key Themes. <https://www.ncoss.org.au/policy-advocacy/policy-research-publications/mapping-economic-disadvantage-in-nsw/>
4. Anglicare. (2023). More than Shelter: A Study of the Impact of Safe, Secure and Supported Housing for Older Women. https://www.anglicare.org.au/media/9620/7660_ac_more-than-shelter-report_oct22-digital-sp-1.pdf
5. Anglicare. (2023). Rental Affordability Snapshot 2023: Greater Sydney and the Illawarra https://www.anglicare.org.au/media/9839/2023_rental_affordability_snapshot.pdf
6. Australian Bureau of Statistics. (2021). Find Census Data [comparison from 2016 to 2021 data by LGA]. Available from <https://www.abs.gov.au/census/find-census-data/search-by-area>
7. Nance, T. (2023). Home Truths: The Real Housing Story in Western Sydney. Centre for Western Sydney. <https://doi.org/10.26183/rhdw-9088>

Western Sydney Community Forum
(02) 9687 9669
info@wscf.org.au
PO BOX 208 Parramatta NSW 2124
Level 9 100 George Street Parramatta



WSCF.ORG.AU