

REPORT ON PROCEEDINGS BEFORE

**LEGISLATIVE ASSEMBLY SELECT COMMITTEE ON THE
RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING
NO GROUNDS EVICTIONS) BILL 2024**

**RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING NO
GROUNDS EVICTIONS) BILL 2024**

At Macquarie Room, Parliament House, Sydney, on Monday 29 July 2024

The Committee met at 9:15.

PRESENT

Ms Jenny Leong (Chair)

Mr Clayton Barr
Ms Donna Davis (Deputy Chair)
Mr Tim James

The CHAIR: Good morning, everyone. Thank you for coming today. Before I start, I acknowledge that the New South Wales Parliament is on the land of the Gadigal people of the Eora nation. I pay our respects to Elders past and present, and recognise that it always was and always will be First Nations land. Welcome to the inquiry of the Select Committee on the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024. I'm Jenny Leong, the member for Newtown and Committee Chair. I'm joined by my colleagues Donna Davis, the Deputy Chair and member for Parramatta; Clayton Barr, the member for Cessnock; and Tim James, the member for Willoughby. I note that Trish Doyle, the member for Blue Mountains, has had to be a last-minute apology.

I thank witnesses for appearing before the Committee and thank everyone for making submissions to this very speedy inquiry. I recognise the many stakeholders who have made submissions and the over 1,000 people who have participated in the survey to share their personal opinions and experiences. I acknowledge and appreciate the input given by everyone. I also acknowledge that millions of people in New South Wales rent and that the Government announcement that was made by the Premier yesterday has put us in a situation where we can move to a level of detail and discussion in this inquiry, which I think will allow us to continue to assess and analyse this reform in terms of the private member's bill and the Government's announcement and the public reporting of that yesterday.

I also acknowledge that it's absolutely critical that we continue to address and nut down on the specific details that are referred to in the terms of reference, specifically that being the grounds for which an eviction is reasonable; the appropriateness of the evidence requirements to support reasonable grounds or a penalty scheme for those who falsely claim reasonable grounds; any unintended consequences, including on housing affordability and availability for renters and owners; and any jurisdictional comparisons that we can learn from in terms of implementing no-grounds eviction policies in New South Wales.

Ms PENNY CARR, Convenor, National Association of Renters' Organisations, before the Committee via videoconference, affirmed and examined

Mr LEO PATTERSON ROSS, Chief Executive Officer, Tenants' Union of NSW, affirmed and examined

The CHAIR: I declare the hearing open. I welcome our first witnesses. I note for everyone who is here that Committee staff will be taking photos and videos during the hearing. The photos and videos will be used for social media purposes on the New South Wales Legislative Assembly social media pages. Please let Committee staff know if you don't want to appear in the images. I ask the witnesses to confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

LEO PATTERSON ROSS: I have.

PENNY CARR: Yes.

The CHAIR: Do you have any questions about any of that information?

LEO PATTERSON ROSS: No, thank you.

PENNY CARR: No.

The CHAIR: Would either of you like to make an opening statement before we begin with questions?

LEO PATTERSON ROSS: Yes, I would. Thank you, Chair. Thank you, Committee. Thank you for the opportunity to appear before you today to discuss this absolutely historic reform. I first acknowledge the Gadigal, on whose land we are meeting and who were displaced without any grounds in the not-so-distant past. We're meeting today in the wake of the confirmation from the Labor Government of the timeline and at least some of the specifics of fulfilling the election promise, but this reform has been core to the work of the Tenants' Union since our founding in 1976. I'd like to acknowledge the hundreds of advocates at the Tenants' Union, at local Tenants Advice and Advocacy Services and elsewhere who have worked towards this goal for many, many years.

Reforms to end no-grounds evictions need to ensure that terminations of tenancy agreements are conducted on genuine and contestable grounds, improving fairness and transparency in the rental sector. These reforms will help to restore trust into a sector that has rarely been under as much pressure as it is now. Reform here also means that the Residential Tenancies Act and any future reforms will be more effective in reflecting Parliament's intentions. Repairs and maintenance, privacy in your home, negotiating rent increases or modifications are all

contained in the legislation but too many renters don't experience any ability around those in their lives, so this is not only about the number or type of no-grounds notices served but about the relationship people can have with their home and with the landlord and agent. In these discussions, we look forward to helping set up a new relationship that delivers stability, trust and dignity in the rental system.

PENNY CARR: My name is Penny Carr. I appear today as the convener of the National Association of Renters' Organisations—that is, Tenants Queensland, Tenants' Union of NSW, Tenants' Union of Tasmania, Tenants Victoria, Circle Green Community Legal Centre and the Darwin Community Legal Service. We are considered the leading voice in representing the interests of people who rent their homes across the country. Collectively, we probably advise very close to 100,000 households per annum and we're daily dealing with the trials and tribulations of renting households across the country.

I'm also the CEO of Tenants Queensland. In Queensland, we've been in the process of tenancy law reform since late 2018 and interrupted, of course, by COVID. We've had two major tranches of changes, the first including changes to tenancy terminations, which was going to end up with a just-cause eviction process but did end with the end of the fixed term included in that. We have a lot of very real and current information about what that means for people renting their home. I think the issue of tenancy stability—the ability to remain in your property unless that property is no longer available for rent, as long as you're meeting the responsibilities—is a prime concern across the country, as is the cost of rent and affordability. If I could just add, I'm on the lands of the Jagera and Turrbal people and I do pay my respects to Elders past, present and emerging.

The CHAIR: We'll now move to questions from the Committee. Before we begin, I wanted to let you both know that you can take questions on notice and provide the Committee with answers in writing afterwards. The first question is to you, Leo. Penny, you may wish to come into this as well. Why do you think it's so critical that no-grounds evictions cover both fixed and periodic leases?

LEO PATTERSON ROSS: We need to make sure that the reforms have a positive impact across the whole system. We can look at Queensland—and I'm sure Penny can talk to this as well—but also at Tasmania, who did a split system in the late '90s, and in Victoria, who did a sort of hybrid halfway recently as well. When you only reform one part of the system, you set up two tiers and you set up perverse incentives to change the behaviour of how people would otherwise act. Again, I kind of want to defer to Penny because my chief example is a Queensland one, but we saw that the Real Estate Institute of Queensland began issuing a new best-practice guide to agents in that State, which was that, as you were coming up to the end of a fixed term, you would issue a notice of termination and a renewal at the same time and ask the tenant to choose one. When they chose the renewal then, immediately after entering into a new fixed term, serve a notice for the end of that.

This was the reason given. You ensured that the person was always under the no-grounds system and you could always end that tenancy if you chose. You never fell into the periodic system, where you actually had to justify the reason. In Tasmania and Queensland, the vast majority of people are on fixed terms. They are not periodic agreements, so the reform did not make a difference. In Tasmania, 80-plus per cent of tenancies are fixed terms. I'm not sure of the stat in Queensland currently, but it's very high. That number would only grow. In New South Wales, about 58 per cent of people are on a fixed term. We have a much higher number of people on periodic tenancies currently. The real concern is that if we ended it only for periodic tenancies, we would see that shift quite rapidly and in a way that is clearly not intended by the landlords or tenants currently. It would be a changed behaviour to responding to the Act.

The CHAIR: Did you want to come in, Penny?

PENNY CARR: I can only confirm what Leo's talking about. We already had quite a high percentage of people on fixed-term agreements in Queensland before the laws changed in 2021. We've seen an increase in that, so I would say we're around 90 per cent of people on fixed-term agreements. People are perpetually living in fear of what's going to happen at the end of that fixed term. We also had some changes to tenancy law which restricted rent increases from once every six months to once every 12 months. We saw some behaviour where people were getting their tenancies ended simply for the end of the fixed term and new tenants put in so that it could go up twice a year, rather than once a year. That has sort of been addressed through some subsequent processes, although we still have the end of a fixed term as a reason to end a tenancy. Daily, when we're talking to tenants, they're tossing up between whether they do assert the rights that they have or they protect themselves from that fear of an arbitrary eviction at the end of the current tenancy.

Ms DONNA DAVIS: Thank you very much for coming to the hearing today. One of the reasonable grounds proposed by the bill is the carrying out of renovations or repairs. How should a landlord be required to demonstrate that the premises would be uninhabitable during these repairs? I know this is something that the Tenants' Union touched on in your submission. If you'd both like to comment, that'd be great.

LEO PATTERSON ROSS: With all of the grounds, we want to see them with evidence, which means that can be tested. For renovations, you might look at things like the scope of works carried out by a builder to say that this is what's going to be required and that the property won't be able to be inhabited in the meantime. We've heard reports—for instance, in the ACT, where this reform came in a year ago and where they have the renovations ground—that people have been told it's renovations and then, after having moved out, found out that all the landlord did was paint the place and then put it back up. Painting does not require the place to be uninhabited, and certainly not for any significant period of time.

One of the things in the background of a lot of this is that the relationship between landlords and tenants is ultimately one of a power imbalance and tenants aren't treated as equals who are to be negotiated with. For instance, if you're a landlord who did want to paint the place and make it nicer, and you wanted the tenant to be out so that your workers could be in and out as they needed to, you could negotiate that with the tenant and offer them a week's reduction of rent—maybe they go away or make some other arrangement—rather than ending the tenancy entirely. We want to see this renovation clause be about significant enough work that it is actually uninhabitable for a significant period. If you're at that level, you have got quotes from builders and you have done an amount of research that can be presented to the tenant and can be tested in the tribunal if there is a question. Subsequently, if there is a period where you can't re-let the place, again, that is an indication that this was a genuine reason and not a sort of fig leaf.

Ms DONNA DAVIS: Penny, do you want to comment, or is that fine?

PENNY CARR: No. I think that's fine. It's just restricting people from re-letting the property over a period of time is also another effective mechanism.

Ms DONNA DAVIS: I do have another question to the Tenants' Union. Your submission did not support introducing property being prepared for sale as an eviction ground. I would be interested in you expanding on that, please.

LEO PATTERSON ROSS: When we're thinking about what counts as a reasonable ground, our thinking is that it is about when the property is no longer available for rent to anybody. An owner moving back in is quite obvious. That property has been taken out of the rental sector; the owner's moving back in. Where there's a significant change of use, where it's been demolished and rebuilt into a house, into apartments, clearly that particular property is no longer in the rental sector. The tenancy Act already has a ground for when you have sold the property with vacant possession. The new owner is going to move in and that's why you've sold it with vacant possession. That's already a ground in the Act.

The proposal to include preparation for sale opens up the possibility that an investor sells to another investor and that investor keeps the property in the rental sector and indeed could have continued renting to the same tenant, and that tenant has now been removed from the property—not because they did anything wrong, not because there was any reason, and not because the tenancy could not continue. It was for the preparation of sale. Again, going back to my point about negotiation, the assertion from the industry is that by having a greater capacity to prepare the property for sale and having greater access, you have the ability to increase the sale price. Sometimes we've heard that that might be as much as \$100,000, even more. It is a significant increase.

A respectful relationship between landlord and tenant would suggest that what you could do, if you're wanting to maximise that sale price, is come to the tenant and say, "Look, I want to sell the property. I want to have my capacity to maximise that price. I want to be able to move my furniture in and out, so I would like to end the tenancy early. Can I please pay for your moving costs? Can I pay for some rent somewhere else? I'll give you \$5,000. I'll give you \$10,000." I'm going to make \$100,000. That's a worthwhile investment in your sale. Just as it's worthwhile to hire an agent, who charges a lot more than \$10,000, to maximise the price—sometimes you have to have a cost. That's a much more respectful way of approaching it and it doesn't mean that we make it a foregone conclusion that this tenant has to leave.

Ms DONNA DAVIS: Ms Carr, do you have anything you want to add?

PENNY CARR: Just to confirm that that would be our view as well.

Ms DONNA DAVIS: Yes. I thank you for your contributions. I have the great fortune of representing one of the highest population of renters in the State, so I know how important reforms are. I appreciate all the work that you and your organisations do.

Mr TIM JAMES: Good morning. It's good to see you. I want to drill into two key areas, recognising, as I think we all do, that the dynamics and great challenges of the rental market are overwhelmingly a matter of supply, and anything that in policy terms could risk adding to the supply challenges we need to deal with very carefully and we need to strike a delicate balance. I think everybody recognises that. Can I just start with trying

to get a picture in some broad data terms? Firstly, what percentage of tenants would be subject to an eviction notice each year? That's just so that we've got a sense for the gravity of this, and that would be point (a). Feel free to take it on notice. Secondly, and related thereto, what percentage of those terminations would be made without grounds? Thirdly, to the extent you might have it, what percentage of them are made at the end of fixed terms versus periodic leases? It would be good to try to get a sense for that, recognising, of course, Leo, as I do—and I respect very much—that so many of the submissions made to this Committee draw upon your submission and indeed are very supportive of your submission, so credit to you in that sense. Let me know if you want to take that on notice or have a go at it.

LEO PATTERSON ROSS: I'll have a go and at least speak to the principles, and then I might confirm the specifics, thank you. First of all, in terms of the numbers of people who receive the notice—I'll look at the screen in a second—we have a source of data in New South Wales, which is the end-of-tenancy survey that, in fact, former Minister Dominello first proposed at a Tenants' Union anniversary event a few years ago. That asks, at the end of a tenancy, what the reason is. From that data, we could calculate that about 28,000 notices that are using section 84 or 85—the no-grounds clauses—are served in a year. I'm conscious, though, that that number is from the initial release that was released in September 2022. We know that survey has continued, and we'd really like more updated numbers. It might be something that the Committee requests from government. Of those 28,000 notices, the majority are for fixed term. They are at the end of the fixed term, partly because the majority of people live on a fixed-term agreement.

But the number of notices is actually not the real impact of the no-grounds evictions. The real impact is on the relationship between landlords and tenants, because it is the possibility of being served the notice, rather than actually having the notice served, that is what undermines the intent of Parliament around repairs, rent increases and so on. That affects everybody. I know it's a little bit cute, but it is true that it does actually affect every single renter. There are a million renting households in New South Wales, more or less, and every single one of them is impacted in some way. Some of them don't feel it every moment of every day, but that is what often sets the permission structures for how we treat each other and for the behaviours, and that's why it's such a concern. If it was only the notice, then it wouldn't necessarily be as serious and historic a reform. I've forgotten your third question.

Mr TIM JAMES: To try to get a handle, because this is really important for all of us to get, how big is this? Did you say a million renting households and 28,000 under the data that you're pointing to per year?

LEO PATTERSON ROSS: Yes. I will give the exact numbers, but to be clear, the 28,000 is our extrapolation from the survey. The survey has a response rate of about 20 per cent of bonds that were returned over the period. So we have calculated from that what it would look like across the State. It is our calculation.

Mr TIM JAMES: Got it. That's the big picture and relative incidence and prevalence, so to speak. Can I now turn to what I think is the most critical issue here—namely, that nothing is done in policy terms that makes the supply issue worse. I do have some concerns and I will take you to a couple of things. As is on the public record, last year Fair Trading went about a significant consultation—16,000 responses. Less than one in five owners supported grounds being needed to end a fixed-term lease. Just under 30 per cent supported grounds needed to end a periodic lease. Likewise, last year the Real Estate Institute of New South Wales survey said that over 90 per cent of landlords believed that banning no-grounds terminations would negatively impact a landlord's decision to remain in or invest in residential property. Likewise, we have before us as a Committee—they have not been published, but there is some significant data presented to us as a Committee that will be published, which shows that almost 60 per cent of landlords agree under—

The CHAIR: Sorry, can I say, the member is acutely aware that we have just had a conversation about how that information is not publicly available yet. It has been prepared as a draft by the Committee secretariat, so I'd like to strike that from the record and ask the member to ask the question without sharing that information.

Mr TIM JAMES: It's going to be public information. It will be coming out.

Ms DONNA DAVIS: That's not the point.

Mr TIM JAMES: Is it not pertinent for the purposes of the question?

The CHAIR: The member for Willoughby knows full well that it was shared as a draft with the Committee and that that information has not been finalised, verified or confirmed in a way to make it public. It is absolutely questionable as to your actions to then publicly put it on the record. If the member wants to ask a final question, that's fine. Otherwise, I'll go to the member for Cessnock.

Mr TIM JAMES: It's just a matter of timing, Jenny. It's public information.

The CHAIR: Thanks, member for Willoughby. I will go to the member for Cessnock. Have you got any questions? And then I will come back to the member for Willoughby so he can rephrase his question.

Mr CLAYTON BARR: I wanted to go back to where the member for Willoughby actually started. In broad terms, the question is how many bad actors are there in this space as opposed to good actors? I'm guesstimating that there are a lot of really good actors who don't participate in this nasty space. Penny, part of your submission and part of your opening statement was about a tenant asserting their rights. Do we have any sense of how often or how many times a tenant asserts their rights and seeks a reasonable repair and upgrade or whatever the case is and how often that leads to eviction?

PENNY CARR: I think I have to underscore something that Leo was saying before. It's often fear of the end of the current tenancy but also fear of what's going to occur in future tenancies if you are seen to be difficult, even though it is a right to live in a property that's in good repair and it is the responsibility to keep the property in good repair by the landlord. The other factor here is that in Queensland—and maybe a little bit less in New South Wales, but I know it's still the case—many tenancies are managed by real estate agents. Landlords may not always be completely apprised of what's going on.

Tenants are just not asserting their rights, especially in the current climate. Some are, but it's impossible to know how many that would result in getting a no-grounds eviction. What we know up here is that that is a common way that tenancies are ended, and then the property is re-tenanted. I think people just need more stability and they need firm ground to be able to exercise the rights that they've got. They don't have that when there is the fear at the end of a six- or 12-month term that they can have their tenancy ended and they are going to have to uproot their whole household, their whole family, find another appropriate property and spend a lot of money. It's a very uneven playing field.

Mr CLAYTON BARR: Based on your wide, diverse and expansive experience, are there instances that you believe where sometimes the real estate agents are the bad actors in this space?

PENNY CARR: It's always hard for us to know that, but we speak to tenants who believe that information is not passed on. Maybe their agency agreement allows them to make those decisions for the owner; we don't know, because we don't see those agency agreements. But, certainly, tenants feel that agents have an interest in raising rents, for example. We have seen letters from agencies going, "If you're not getting 20 per cent increases in your rents this month, come to us because we are." There are points of—

Mr CLAYTON BARR: Sorry, Penny, to interrupt you. Could you repeat that last little part?

PENNY CARR: We have seen letters from real estate agents that they send to landlords on their books, plus prospective other landlords that might come to them, saying, "If you're not getting 20 per cent rent increases this month in your renewals, come to us because we are." There are points in time where the interests of agents and owners become diverse. That's an example of one, because the landlord may prefer a long-term tenant who is stable. Agents do sometimes have an agenda that's a little bit different from that of the owner.

Mr CLAYTON BARR: For both of you, I think that in a number of submissions there's a suggestion that maybe there should be a bit of a register about either the landlords and the real estate agencies. Do you have a thought or an opinion on that?

LEO PATTERSON ROSS: If I might, I might return to your first question as well.

Mr CLAYTON BARR: Please.

LEO PATTERSON ROSS: This disconnect between the communication lines is one of the reasons that we suggest that a register is a good idea. Government has regulated around this industry but, unlike most industries, does not have a way of communicating directly with the service providers. We saw this particularly during COVID. The Minister did not have a way to communicate to the service providers to find out how they were going and to check in. It was all moderated through either the tenant or the agent, which is not a reliable system.

That also means that we can know better the questions like supply—are people changing, are they selling off?—without having to rely on things like loans data, where it's implied what might be happening. Then you can get into other aspects of a register—potentially some education, making sure that people know what changes to the law are, what the requirements are. Registers are becoming widespread. Scotland, Ireland and Wales all have national registers. England is considering it and many councils in England have landlord registers. It is about data; it's about communication. It is about showing that the sector is a serious and genuine enterprise. It is very unusual that we have such an important sector that provides such an essential service without any interaction between government and the provider.

I wanted to go back to your first question about the bad apples. We ran a poll earlier in the year through Ipsos. We asked landlords what they thought about the reform, and 76 per cent of landlords supported it. We also asked them about the relationships, and 80 per cent of landlords in this poll agreed that other landlords and agents in the sector were giving them a bad name, that they presumably didn't like, and 90 per cent thought it was important that their tenants were able to communicate with them about maintenance of the property. They support these things because they are sensible, they are fair and they are genuine. The people who oppose that are either under some misapprehension—often we've heard from industry bodies who speak to, "These are the range of reasons that we need," and they list things that are already in the Act, so there's no need for reform and they prove the point that there is always a reason. The point here is to make sure it's a genuine and evidenced one.

The phrase of the "bad apple" comes from, "The bad apple spoils the whole barrel." It's not just about picking just that one bad apple. Because of the structure of the law, because the no-grounds gives you the ability to ignore repair obligations and other things, it spoils the relationship as a whole. That's why this needs to be reformed. The people who really cannot abide open and transparent communication with their tenants may well leave the sector over time. That may not be the worst thing because they'll be replaced by people who do accept that open and transparent communication with their tenants is a good thing, and they do accept that they are providing an essential service, that it's a really important thing to do and that we want that to be done well.

When we look at supply, for instance—and I'll foreshadow the member for Willoughby—we saw in New Zealand in 2016 that they announced significant planning reforms in Auckland that are quite similar, although not identical, to New South Wales. We saw these planning reforms were intended to boost supply. In 2018 New Zealand announced that they would be reforming no-grounds evictions and in 2021 they implemented the reform relatively similar to what we're talking about here. Throughout that whole period, the number of properties being built in Auckland continued to rise, there was never a backward step, and we can see then that this kind of reform is compatible with supply efforts.

New Zealand has also been studying and surveying tenants and landlords about those reforms and showing there were some landlords who said that they sold the properties during the period because of the reforms. But, in net, more landlords brought into the rental sector than sold during the period that they've been studying over the last three years. Again, these reforms are entirely compatible with supply efforts. The people who will buy in are more interested in the long-term stable investment, which is actually what we need in housing.

The CHAIR: Member for Willoughby, I ask that you don't talk about the survey that we've agreed we're not going to talk about yet or else I will cut you off again, out of respect for the people who prepared the report.

Mr TIM JAMES: I see. Leo, many reports have relied upon—as you have substantially—this 2022 AHURI report. I've had a glance at that. There's a lot of reliance placed on that in your submission and other submissions. Given that that report related to and studies tenancy law reform made in 2010 in New South Wales, well before the ending of no-grounds evictions, and the 2015 Victorian reforms, which I also understand to be well before the ending of no-grounds evictions, that is different policy reform and therefore different data. I'm struggling to connect that up with how it is seen to be, with respect, such a basis for there being no concern about impacts upon supply. Again, my concern here is impacts upon supply. I think that is the big picture. I think we should be very concerned about that. Just help me to unpack that. Given it's 2010 and 2015 reform analysed in that report—and I think therefore it's a bit different—I'm not sure how it is seen to be such a counter to this concern about supply that I'm raising with you today.

LEO PATTERSON ROSS: I would note that I believe Dr Chris Martin is appearing shortly, who was one of the key authors. I'm sure he can talk to it as well. The 2010 reforms were the first big reform package of the Residential Tenancies Act since the 1986 Act, so it was considered a significant change to the settings—similarly, 2015. But the claim is that by changing the relationship between landlords and tenants, that will potentially lead to a reduction in supply.

Real estate institutes claimed the same thing about the introduction of the Rental Bond Board in the late '70s. They claimed the same thing about the tenancy Act in 1986. It is a well-trodden claim. We have more landlords than ever; we have more tenants than ever. It does not bear out in the evidence, and that's what the AHURI report shows. AHURI is well respected as a research outfit; Dr Chris Martin and his colleagues are well respected. That's why we refer to it, because it was the biggest and most recent study that was relevant. Just on the plain evidence, every reform comes with the claim that it will reduce supply; every reform goes through and does not reduce supply.

Mr TIM JAMES: I'm glad you made that point because the media reports at least suggest in Victoria, since its 2021 reforms along the lines in front of us here today, that one in four investment properties have in fact been withdrawn from the market. There may be many reasons for that, but some of the anecdotal evidence, media reports and otherwise suggest that part of it is pertaining to tenancy law changes down there.

LEO PATTERSON ROSS: Can I just clarify? When you say "withdrawn from the market", do you mean sold or no longer are in the market?

Mr TIM JAMES: They're no longer rental properties.

LEO PATTERSON ROSS: In Australia generally, the rental and owner-occupier sectors are quite fluid. They're quite dynamic. Things move back and forth all the time. Again, Dr Chris Martin had a study that showed that they do not stay in the market for very long. It's not a surprise that at any one point in time properties that were once rentals are no longer rentals, just as it wouldn't be a surprise that places that were owner-occupied are no longer owner-occupied—they're now rentals. Investors are engaging in an activity where they both have income from the rent, but actually the main game—I think it's well recognised that the main return, I suppose, on an investment is actually the sale of the property. To achieve that gain, you have to sell. Inevitably, some of those properties will be to an owner-occupier.

That's not a bad thing. Particularly for Australia, the basic setting of both Labor and Liberal parties for many years—I won't speak to others—has been that owner-occupation is the goal that they want for people. If a rental is sold to an owner-occupier, it's hard to see how that was a negative outcome from that perspective. I might have a slightly different perspective, but we shouldn't be too distracted by industry reports that an investor sells a property because investors sell properties all the time, and they own about a third of properties in Australia. So, actually, one in four changing hands in any given period is not a great concern. I think we should be concerned about the relationship, the experience of people renting and also the experience of people who would like to buy and can't.

The CHAIR: I just wanted to go to penalties and evidence and if there's time we'll come back if you have other questions as well. I guess I wanted to turn our minds a bit to penalties and evidence, particularly, Leo, off the back of what you just said to the member for Cessnock, being that there is no register which means that there is no way for the Government to communicate such changes to people who are landlords. Given that, and that's the landscape that we're working in, how do you see the need to ensure that there is awareness of new evidence requirements and the penalties to landlords but also that there's adequate resourcing of regulation and oversight and compliance? How do you see the role of, say, NCAT or the Rental Commissioner taking that in? I'm happy to come to you, Penny, if you have examples from other jurisdictions around penalties and also potentially if you can talk to the idea of tenants' moving costs and that being considered as part of a no-fault eviction?

LEO PATTERSON ROSS: In terms of the communication, obviously some of the key communication parts that we have available to us are at the NSW Fair Trading website but also the Tenants NSW website, tenants.org.au, which is run by the Tenants' Union. The tribunal and Fair Trading are both points where people will come to when they have an issue, as are the tenants advice and advocacy services. Making sure that the tenants advice and advocacy services are well funded and are able to meet need is incredibly important. We're currently funded at below the levels that we were in 2008 and the demand for our services is extremely high. We can explain people's situation, we can explain what their options are in a very effective way.

Ultimately, the structure of the Residential Tenancies Act is that landlords and tenants, both parties, are the key enforcers of the Act because it is about shaping a contract. If those two parties in the contract are able to communicate with each other and send each other the message, then that's actually the main interaction that they have. The tribunal will need training to make sure that they are on top of the legislation. We don't foresee that this will increase the workload of the tribunal because most people who receive a notice don't go to the tribunal. Most people who receive a notice either leave because they think they have to, even though it doesn't have any legal standing and it may not be valid. That's where the education of tenants is particularly important.

Fair Trading's communications, particularly the Rental Commissioner, Trina Jones, have an important role in spreading the message and in communicating with all stakeholders. But I think the key thing we do need to keep in mind is that changes like this will take time to work their way out to everybody who needs to know about it. It will depend on the transition arrangements in the Act. It will depend on how quickly it applies to everybody. One concern that has certainly been coming up in the media this morning and in other places is what's going to happen between now and when the legislation commences. Is there going to be a raft of evictions served between now and then because people are trying to avoid it? We have good evidence that that happened in Victoria, and so it's a real concern. But having the certainty that the legislation will look the way it will look is key for everybody, and having it cover everybody as soon as possible will also make a big difference.

The CHAIR: Can I follow up in relation to that and the concern between the gap of time between being announced and potentially being implemented. Do you have any recommendations or suggestions of how that might be minimised?

LEO PATTERSON ROSS: We can look at other industries, banking is one, where reforms come in and they apply from the date they are announced; they're not into the future. We understand Parliament has a general rule that you don't apply new laws to existing contracts, but I think in the circumstances it may be necessary. A softer version would be to put in a transition period that makes sure that the tribunal does have discretion to consider every notice that comes to it.

Currently, the tribunal is not able to consider no-grounds evictions for their circumstances or for anything that's going on behind it unless they can be convinced to exercise their discretion around retaliation, which is a very narrow and very limited clause. So that would be a softer version: to give the tribunal the ability to at least consider the circumstances and consider whether this is an attempt to evade an upcoming law or if, indeed, it's one of the reasonable grounds that's coming in any event.

The CHAIR: Penny, do you want to come in on penalties, but also moving costs?

PENNY CARR: The only thing I would add is that obviously there needs to be education to begin with and in an ongoing way. To bring compliance you do need very active regulators and you need visible consequences for poor behaviour or behaviour that doesn't meet the legal requirements. I think also the licensing scheme would actually back the ability to impose clear penalties for poor behaviour, in a very positive way, to bring compliance across the sector.

The CHAIR: If we can turn now to notice periods, I note that the Government has extended and announced an extension of notice periods but I note that in your submissions you had a longer notice period. I wonder if you can talk to why you believe the notice period is important and views around the extension of the notice period.

LEO PATTERSON ROSS: Moving home is not easy. We calculated in 2023 that the cost of moving was, on average, about \$4,500 in New South Wales. Any time you have to move, you have to make a lot of preparations. You might have children who need to move schools, you might have employment to consider, particularly if—in the current situation, we are hearing more and more from people who are actually moving out of the region that they might be in. They may no longer be able to live close enough to their current employment, simply because there's not the places available. That is all significant.

It may be that it's easy to move. You might find it very easy. You apply for one property and get it—but you might not. We have heard from a number of people, and reports continue to come in of people applying for dozens and dozens of properties and being knocked back every single time and they don't know why. They get no feedback on that application process, so it's very hard for them to know what they're doing or not doing, or what they might change about their behaviour. So giving people enough time to actually find a new home that actually meets their needs is important—that they're not in a rush, that they're not accepting places that actually don't meet the needs of them, their family and so on. We know that even within Australia, we have longer periods. The ACT is probably the longest notice regime. It's about that preparation. It's about knowing, being able to plan for and being able to make sure that you are actually making good decisions for yourself and your family.

Ms DONNA DAVIS: I know that this was slightly touched on before, but you did note that reforms to tenancy laws may increase availability of rental properties. Can you expand on how reforms could improve rental availability?

LEO PATTERSON ROSS: I'm not sure I said that. I'm sorry if I've gotten confused. I think that these reforms—

Ms DONNA DAVIS: It was on page 19 of your submission.

LEO PATTERSON ROSS: Okay. I might have to refresh my memory.

Ms DONNA DAVIS: That's okay. I don't expect that you're going to remember everything.

LEO PATTERSON ROSS: I think that we've got a couple of problems at the moment that are worth mentioning. One of the reasons that the vacancy rate is so low is that people aren't moving. They aren't moving when they would otherwise want to because there's nowhere for them to go that's affordable, so the rents have increased so much. That is meaning that there's not the same turnover of properties. If we had a system that meant that people could choose the right place, they could stay there for longer and then they would not be needing to move and we would have less competition. I will have to refresh my memory on the argument we were making on that point.

Ms DONNA DAVIS: That's okay. You can take it on notice and respond.

LEO PATTERSON ROSS: Yes.

Mr TIM JAMES: I just want to ask about what data, insights, experience or otherwise we might have coming out of the ACT, whose reforms were about a year ago, I think. And South Australia, was it this year the SA reforms came in? So it's very early. In both jurisdictions there's very limited time, so in terms of the Australian experience with any real data, is it just Victoria that can be pointed to at this stage for obvious reasons, given timing?

LEO PATTERSON ROSS: The ACT is the only jurisdiction that has a rental bond board that doesn't publish data from it, which is a frustration for the people of the ACT but also does frustrate us here. It may be that there's greater capacity—maybe New South Wales can speak to ACT and convince them to open it up. We do have data from Victoria. WA and Tasmania both actually have now similar bond release datasets to New South Wales. City Futures is, I believe, assisting with those. We can compare, across a number of jurisdictions, the length of tenancy and potentially look at the impacts. I think that's important as well, because what we know from the Victorian experience, even New South Wales, is that there are a range of reasons—not to refer to the 2022 report again. But there are a range of reasons that landlords might sell their property that have nothing to do with tenancy reform.

If we're seeing similar economic conditions across different States and Territories and some have legislative reform and others don't, then we can say, "Well, it's not the legislative reform that's causing this changed behaviour." I think that's very clear in Victoria—that there is a trend generally to a slower growth in the number of bonds being held, and indeed New South Wales just recorded a small drop in the number of bonds being held. I don't think that has anything to do with legislative reform. I think it has everything to do with how people are travelling with their mortgages.

Mr TIM JAMES: I just worry that—yes, there are potentially many reasons why a property owner may sell. But there are so many reports, surveys—including those that haven't been published—stories, anecdotal evidence et cetera that do speak to the risk that such tenancy reforms do impact supply. I'm looking at an article in front of me that is headed, "Investors are deserting these States". It speaks to Queensland and Victoria, and it states one of the main reasons is:

Changing tenancy legislation that impacts their control and increases their compliance burden and holding costs was cited as the key reason for selling.

I don't want to see that in New South Wales. I'm just really concerned about finding the balance. This State is in a crisis. Everybody recognises that. The concern we have is that we may well make matters worse.

LEO PATTERSON ROSS: I think we need to really closely—sorry, Penny.

PENNY CARR: Thank you. We've actually done our own research in the years—about 2007 and 2017. We did some desktop research about the motivations of landlords when selling. It was research on all the other bits of research that had been done, and pretty much there was little or no evidence to show that landlords are motivated to sell because of tenancy law changes. Landlords come in and out of the market all the time for various reasons, as Leo mentioned, but overall the number of landlords has generally increased in both those periods of time that we looked at. Whilst there might be a few landlords who do enter or leave the market because of tenancy laws, the vast majority are basing their decisions on fiscal and financial policy. That's what research has just consistently shown, although what you hear from real estate lobby groups is that it's all about tenancy law reform.

The CHAIR: Can I clarify that? The member for Willoughby is discussing it in relation to supply. I personally have never seen evidence of a property being taken off the market and that house disappearing from the physical space it is in. We still have that home available in some form or another. So it may be taken off the rental market, but that home is still available in some capacity for someone to be able to live in. I wonder, in relation to these discussions around supply, what would the bigger picture solutions be that you would be advocating for to address the issue of supply when it comes to providing people with housing security?

LEO PATTERSON ROSS: I think that the discussions around zoning reform and planning reform are well trodden and probably better left to others to prosecute. But strategies to encourage investment in property that is long term, that is stable, that encourages people to be able to make a home in those properties is what we should be focusing on. That includes reforming some of the kinds of strategies that people employ around property investment. We have a system in Australia which encourages very short-term usage, and when I say "short-term" I mean five or six years rather than 10, 15 or 20 years. The average owner-occupier lives in their place for about 10 to 15 years. Research shows that renters need the stability of about five to six years before they have equivalent mental health effects—so not even just preferences, but the actual health outcomes need to be at least five to six years before they become equivalent with owner-occupiers. That's the kind of strategy we should be encouraging: for people to invest for the long term.

We also need to significantly increase the proportion of public and community housing so that we can have properties that meet people's needs at a range of price points and in a range of configurations in places that it does not make—the numbers don't stack up for a developer to build three- or four-bedroom family homes in some areas. That's where government needs to lead the market to ensure that the community is receiving what they need. We need a range of strategies. Ultimately, we need a national strategy, but New South Wales can also develop its own strategy to make sure that all the different parts of the housing system—the construction, the development, the usage, and the regulation of landlords and tenants—work together. That's what we're missing. At the moment it's very siloed; they're very separate conversations. That means that they can be used in bad faith sometimes to say, "This bit is focusing on this area and this bit is focusing on that area, and we shouldn't mess with the two." It needs to be joined up. That's a big part of what we're missing at the moment.

I will just reiterate my point that when we look at the actual evidence, when we look at what happens in the real world—in New Zealand, more landlords bought into the rental sector than sold during the reform period. When we see headlines, we have to look behind the headlines. We have to look behind the media release and think about who is asking these questions, why are they asking it, and what's their purpose. If the purpose is to sow discontent or to prevent reforms from happening, then we need to be alive to that possibility. But we also need to be looking at real-world outcomes, not what is promoted in the media.

The CHAIR: I thank you both for appearing before the Committee today. You will both be provided with a copy of the transcript from today's proceedings for any corrections. I recognise that there were questions put on notice. The member for Willoughby asked the data question and the Deputy Chair also asked a question on notice. The Committee staff will provide those to you. Please kindly return those by Monday next week, because we are on a tight timeline determined by the Parliament. Thank you both very much for the ongoing work that you do to provide support to people across New South Wales and, indeed, across the country to be able to engage with what are very complex tenancy laws and regulations. Thank you to you and all of your members.

(The witnesses withdrew.)

Mr MARK DEGOTARDI, Chief Executive Officer, Community Housing Industry Association NSW, affirmed and examined

Mr BEN McALPINE, Director, Policy and Advocacy, NSW Council of Social Service, affirmed and examined

Ms ALANNAH DALY, Policy Officer, Justice and Equity Centre, affirmed and examined

The CHAIR: We welcome our next witnesses. Thank you, all three of you, for appearing before the Committee today to give evidence. I'd like to note that the Committee secretariat and staff will be taking photos and videos during the hearing. These will be available for social media. If you don't want your photos or video taken, please inform the staff. Can I ask that all three of you confirm that you've been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses.

ALANNAH DALY: Yes.

BEN McALPINE: Yes.

MARK DEGOTARDI: Yes.

The CHAIR: Did you have any questions about that information?

MARK DEGOTARDI: No.

BEN McALPINE: No.

ALANNAH DALY: No.

The CHAIR: If any questions are asked that you wish to take on notice, you are absolutely able to do that and provide the Committee with an answer in writing. As a guidance from all of your organisations, I might start by asking whether you support ending no-grounds evictions for both fixed and periodic leases. I think that's a simple question. Before that, I'd like to see if you have any opening statements that you'd like to make.

ALANNAH DALY: Thank you for the invitation to appear before the Committee. I would like to acknowledge the traditional custodians of the land, the Gadigal people of the Eora nation. Sovereignty was never ceded, and I pay my respects to Elders past and present and any First Nations people here today. I'm appearing on

behalf of the Justice and Equity Centre, the JEC, which was formerly known as the Public Interest Advocacy Centre. We are a social justice, law and policy organisation that works with people and communities who are marginalised and facing disadvantage. We have a homeless persons' legal service, which provides free legal advice to people experiencing or at risk of homelessness. We also address the causes of homelessness and broader housing issues through policy work.

Reform of no-grounds eviction is necessary and urgent. People who rent should be able to stay in their home unless it is no longer available for rent. All renters deserve stability. A stable home is fundamental to wellbeing. It allows people to maintain connections with school, work, support services and their community. Evictions, on the other hand, create significant financial and psychological stress and can push people into homelessness. We support the introduction of additional grounds for eviction where the property will no longer be available on the rental market. Significantly, this would reduce the number of renters evicted into homelessness and it would also strengthen the rental system more broadly by empowering tenants to assert their rights without fear of unfair and retaliatory evictions.

BEN McALPINE: Good morning. I start by acknowledging the traditional custodians of the lands on which we meet today, the Gadigal people, and pay my respects to their Elders past and present. The NSW Council of Social Service stands in solidarity with First Nations people and communities in their fight for justice and self-determination. Thank you for the invitation to appear today. I'm the director of policy and advocacy at NCOSS. We regularly hear from our members and our lived-experience advocates about the threat and fear of no-grounds evictions, and the precarity of renting, especially in the private rental market. In some parts of Greater Sydney, more than half of those living in private rentals live in poverty. In other areas across New South Wales, it is more than half. Given the exorbitant costs and disruptions to everyday life caused by evictions, it is imperative that we enact swift and effective reform. NCOSS thus welcomes this bill, as well as the Government's announcement yesterday, which is a historic moment in housing reform.

With reference to the announcement yesterday and this bill, I wish to highlight three quick points. First, it is imperative that no-grounds evictions are ended for both periodic and fixed-term leases. Without it, reforms will fail to provide sufficient protection for vulnerable households. Secondly, strong evidence and compliance measures are essential, alongside temporary bans on re-letting. Thirdly, while we must craft the legislation and regulation carefully, we must not lose too much time and continue to deny renters these overdue protections. I would end with Leila's story of insecure renting, a story that is all too common. I quote:

I've lived in 49 houses over 3 states ... my kids don't have a lot of friends because we keep moving ..., sometimes the rent goes up, or sometimes the owner wants to sell the house ... I'm so stressed, I can't move anymore ... it's too much for me, it's too stressful for my kids ... it's affected my daughter with a disability, it's too much.

MARK DEGOTARDI: Thanks for the opportunity to appear here today in front of you all. We represent all of New South Wales's not-for-profit CHPs, who collectively look after about 54,000 tenancies across New South Wales. Some of the most vulnerable families in this State are folks that we are responsible for caring for and for providing accommodation. We're purpose-driven organisations, of course. As a result of what we do, we're in a regulated sector and we need to comply with regulated benchmarks around evictions. To be absolutely clear, CHIA NSW absolutely supports the prohibition of no-grounds evictions. We believe that evictions are a last resort and should be a last-resort measure. They are and should be rare. However, as you've seen in our submission, there are a couple of vagaries or peculiarities about our business and our tenancies that need to be acknowledged.

There are a small number of cases for us where no-grounds evictions will need to be considered in specific ways under the Act. The first of those is around where tenants no longer meet eligibility criteria for the housing that they've been given. It could be also for tenants who are in crisis or transitional housing, which, by its nature, is temporary. We need to have that recognised. We also have about 6,000 headleased properties, which is in a program with the State Government. When we get evicted from a property which we don't own, we need some sort of mechanism to end the tenancy for the tenant as well. In all cases, we find a way to try to rehouse those tenants, but we do need a look-through provision in the Act to recognise those circumstances. To be abundantly clear and without too much equivocation, we absolutely support the prohibition of no-grounds eviction. Thanks for the opportunity to be here today.

The CHAIR: Thank you so much. Given that you both responded to my question that I pre-empted your opening statements with, I might ask a really specific question in relation to the Justice and Equity Centre's submission. It's looking at the fact that you had concerns about the idea of tenants having to move out as a result of renovations and how you would deal with that. I'm not sure if the three of you were here at the beginning, but recognising the Government's announcement yesterday in relation to that and looking at the issue around renovations and whether you see that as a reasonable ground—and, similarly, as preparation for sale—I might open it up to all of you and see if you have thoughts around either of those two elements.

ALANNAH DALY: Around renovations and repairs, we do see that as a valid reason for evicting someone, but we need to have safeguards around that to make sure that the renovations and repairs are significant enough that the tenant can no longer stay in their home. That four-week period in the bill is fairly suitable, but we want to emphasise that it should definitely be for significant renovations that would make the property uninhabitable. We also thought that to perhaps mitigate the impact on the tenant, the tenant could be offered the option that they could maintain their lease during the period of the renovation to give them an option to keep the tenancy going and find alternative accommodation for the period of the renovation. That might be easier for the tenant than having to find a new property. That was one suggestion that we had.

We also have some concerns that the ground could be used by landlords who have neglected their responsibilities for repair and then allow the property to deteriorate to a point where they can use that ground. I'm not sure if others have thoughts on the best ways to mitigate that, but that is a concern that we have. In terms of sale of property, we don't support that as a ground for eviction because, in many cases, properties are sold and leased on the market again. In many cases evicting the tenant can be avoided because often the property is kept on the market as a rental.

BEN McALPINE: I would echo most of those comments from Ms Daly, particularly the issue around making sure that any renovations are significant. I know that you discussed earlier with the Tenants' Union about the definition of uninhabitable. Linked with that—and you could go either one way around significance or the duration, depending on what the renovation is—four weeks may not be a sufficient period of time to be able to say that, therefore, you can execute an eviction. Similarly, on sale, you shouldn't be having a reason by default that, if you're going to sell, you can evict unless, for example, it says in the contract that you must be providing vacant possession. I would agree with what was just said by Ms Daly.

MARK DEGOTARDI: In terms of our tenancies, it's a little bit different. If we have serious renovations or repairs to do and the tenants remain eligible for social affordable housing, typically we will find them alternate accommodation, anyway—not in that actual property—so that's not a significant concern for us. I guess I would note that probably four weeks is not a long time trying to get things fixed in this State from a construction point of view these days. In terms of sale, I probably demur from my colleagues here a little. It would seem to me that the sale of a property seems to be a reasonable reason for an eviction notice and a necessary part of a functioning market.

The CHAIR: In relation to that, given your unique perspective in relation to that remark, what is the evidence that you think would be required? Obviously you're aware that there are good actors and bad actors in this space. Probably more acutely than others, you would see both sides of that from the headlease perspective and the landlord perspective. What evidence do you think would be reasonable to expect in terms of that preparation for sale so it wasn't used as a loophole?

MARK DEGOTARDI: I guess we haven't gone through the specifics of that, Chair, although things like a prepared contract for sale would seem to be a fairly straightforward kind of mechanism, I would have thought.

The CHAIR: Great. Thank you. I'm happy for you take that on notice if you have other specifics around what you believe would be workable evidence around that to close loopholes but also address your concerns. That would be appreciated.

MARK DEGOTARDI: Sure.

Mr CLAYTON BARR: Preparing a contract for sale would come at a cost or an expense. Would I be right in thinking that's probably around \$1,500 to \$2,000?

MARK DEGOTARDI: I'm not in the conveyancing game. Unfortunately, I can't answer that question. But I guess my response to that would be, if you're genuinely selling the property that's a cost you will genuinely have, anyway, so it's not an additional cost of that requirement under this legislation, to be clear.

Mr CLAYTON BARR: Having that drawn up—and I believe it does come at a pretty significant expense—I guess that shows a real purpose to do it, as opposed to gaming the system for the purpose—

The CHAIR: Yes, just saying, "I am hoping to do it sometime in the future."

Mr CLAYTON BARR: Yes.

The CHAIR: Indeed.

Ms DONNA DAVIS: Thank you very much for being here today. I have a question specifically directed to Mark. This is in relation to a comment in your submission on page 3 where you suggested that the bill should include "additional grounds" for community housing providers to terminate a lease. Firstly, can you please explain

why this sector needs additional grounds? Secondly, how could the bill best accommodate community housing providers while balancing the needs of tenants?

MARK DEGOTARDI: Yes. In our submission, we laid out three specific areas where we thought the concerns could be pretty reasonably and easily addressed. The first of those, as I mentioned earlier in my opening statement, we have about 6,000 properties that are in headleasing arrangements through the Community Housing Leasing Program, the CHLP. Under that we lease properties on the private market and then we re-lease them to social housing tenants. Under that program, the Government provides us with a subsidy for the difference between market rent and the rent that we collect from tenants. That's what they're supposed to do, anyway, but that's another story.

The issue for us is we don't, obviously, own the properties themselves. And so, if a landlord, the owner of that property, terminates the lease with us—and they may, for example, terminate it because they are selling the property—that is, under the proposed legislation, probably going to be a reasonable grounds. But that doesn't necessarily give us the grounds to terminate the subsequent property. So all we're seeking is some kind of look-through kind of administrative process so that, if the owner of the property terminates a lease for legal reasons, that it's then okay for us to terminate the subsequent re-lease for the same reason. So that, to me, seems like a pretty simple, straightforward process.

We also provide, as mentioned in our submission, crisis and transitional accommodation, which are specifically for temporary periods. Under those circumstances, we need to be able to provide accommodation for short-term reasons and for short-term periods. If there was anything in the eventual bill that frustrated our ability to do that, because we would then not be able to have tenants move on from that crisis or transitional housing, that would be a difficulty for us. All of those programs are designed so that you move from crisis to more permanent forms of accommodation. Of course, that's what we do, but we don't want to create a legal ground where that becomes an issue for us.

Ms DONNA DAVIS: Thank you for raising that. I think also, given that Housing NSW operate on that same basis of headleasing, this will be something that will be taken into consideration. But it's really important that you've highlighted that concern.

Mr CLAYTON BARR: Just on that last point, Mark—and thank you for raising that in your submission, because it added layers into this entire inquiry that I hadn't turned my attention to, obviously. You mentioned just then 6,000 properties on headlease. Is that a number that is increasing or decreasing, or is it pretty stable over a long period of time?

MARK DEGOTARDI: Headleasing is a really good way of managing demand through the system. It obviously takes a long time to build property, so being able to lease through the private market is a good way of managing that demand through the social housing system. Unfortunately, it's become a long-term feature of the system, as opposed to a temporary kind of model. Probably at 6,000 properties you'd hope over time that number would be reducing from that level to something else, and you'd be having more owned, permanent forms of accommodation in the system. But, because of underfunding for decades, that's not the situation we find ourselves in, and it's become a quasi-permanent part of the system. You've had a transitional policy become a permanent part of the system. It's not increasing, and the numbers are not increasing, but you'd probably, in best practice, want to think, "How could I be spending that money on permanent accommodation options rather than subsidising the private market?"

Mr CLAYTON BARR: Can I ask everyone about a concept that's been raised, and you would have heard me ask it earlier: the concept of having a register of, fundamentally, the landlords and/or the real estate agents that hold some sort of record or account about people's conduct or behaviour in this space.

ALANNAH DALY: Sure, happy to comment on that. It's something that we did consider in our submission. We sort of turned our minds to it because we were wondering, practically, if a tenant was falsely evicted on one of these new grounds, how would they find out that the property had been used for a different purpose than what was told to them. So we thought a register—and I think that is something that the Tenants' Union has been talking about for a long time. A register would be a good way to have publicly available, very basic details about tenancies and a record of whether a property is on the market so that, if a tenant was falsely evicted, they would be able to easily see that the tenancy they'd been falsely evicted from is available again.

More broadly, it would just be a very useful tool for compliance and enforcement for Fair Trading to be able to easily identify landlords and what properties they have, and perhaps also be able to identify, if there's a landlord who is recurrently breaching their responsibilities, whether they have any other properties and so whether there's a systemic compliance measure that could be taken. It's something that we're quite interested in. I don't know if others have thoughts.

BEN McALPINE: Nothing to add, other than that, by that description, it's worth investigating.

MARK DEGOTARDI: By our nature, we're tenancy managers and we're a regulated system, so we report anyway. We're not particularly perturbed by that. The one thing I would say about a register is: Don't underestimate the complexity of that and how it could become really large. What you don't want is a lot of information which is impenetrable. You want really clear information about where things are going wrong. People do make mistakes, sometimes, inadvertently. So you could make one mistake and end up on a register. Is that useful? I don't know. If you make several mistakes or if there are systemic problems, maybe that's where you focus your attention. But just be aware of creating a behemoth of a register that is too impenetrable to provide any kind of service.

Mr CLAYTON BARR: Ms Daly, on page 11, the very last page of your submission, you've made a comment, "... there is little evidence that landlords disinvest as a result of reforms to tenancy law." Could you speak to that?

ALANNAH DALY: Sure. We were guided by the research of the Tenants' Union and, as I know came up in the previous session, the report from AHURI about the regulation of residential tenancies. As well, one thing that we turned our minds to was that even in the case that disinvestment does occur, it doesn't mean that the property is no longer available for others. If a property is taken out of the rental market, that could then become available for someone who wants to buy a property, and then those interested buyers would transition out of the rental market. Guided by the research of the Tenants' Union and the AHURI report and also, broadly, there's a bit more complexity to how the market will react other than just a decrease in investment. Those were our thoughts.

Mr TIM JAMES: I'll preface my question, as I think you've heard earlier, by saying that the key issue here is one of supply. Anything that we do that might add to supply challenges is going to be powerless in a rental crisis, and it's a delicate balance that we need to strike. I've got questions in relation to each submission. Let's see how I go for time. Can we start with the NCOSS submission, please, on page 2, just to understand the relative incidence and prevalence of this as an issue? You've outlined that 20 to 30 per cent of renters move due to an eviction, around a quarter of which—this is in the middle of the page—are due to no-fault termination or no-grounds evictions. Do I take that to mean that between 5 per cent to 7.5 per cent of renters moving are due to the issuing of a no-grounds eviction notice? That's the prevalence of it. In the whole rental market, between 5 per cent and 7.5 per cent seems to be the figure, based on your submission.

BEN McALPINE: I might take that on notice and double check those numbers, if that's all right. But I also notice that we've referenced the Tenants' Union research, which I know you discussed earlier this morning.

Mr TIM JAMES: Yes. I'm just trying to get a clear picture of how big this is in the marketplace, and how much actual factual evidence of this would serve to justify what is quite a significant rewriting of tenancy law and what may create some of the risks that you've heard me speak of and which I'll come back to shortly.

The CHAIR: Given the member for Willoughby is very keen on data and facts, and it goes on the back of this in relation to it, I wonder if you might also talk to NCOSS's research in relation to any data or facts you have around the number of renters living in poverty and the impacts that that has. I understand that there has been relevant and new research around that and how that might compare with geographic trends on distribution of rental availability.

BEN McALPINE: Absolutely. I was going to make the broader point—that risks going over old ground—that the clear view from NCOSS is that safe, secure, affordable housing is absolutely critical, as Ms Daly talked about, to wellbeing. We launched research late last year that looked at the cost-of-living impacts on people living on low incomes. I noted that the Tenants' Union earlier referred to the average moving costs being around \$4,500. In that survey, we asked how much money people had put aside for emergencies. Two-thirds had no savings at all put aside for any form of an emergency, and that would include \$4,500 for moving. Of those who did have savings, the average was \$4,050. The vast majority of people living on low incomes, including those living below the poverty line, could not afford the average cost of moving. What that probably means for many of them is that they are at risk or feel at risk of either being pushed into homelessness or some other form of dangerous, unstable and unsustainable house.

When we look at this question we're really focusing on that intersection between poverty and disadvantage and housing, and the real impacts, which the member of the Committee is actually asking about. But also I would make reference to what the Tenants' Union referred to before about the fear that this puts into people's lives. If we're trying to grapple with this balance, there is an interesting piece here around trying to strike a balance that, if there are not many landlords using no-grounds evictions for arbitrary evictions or retaliation, then trying to resolve it should not have a big impact on supply because the vast majority of landlords are not using no-grounds evictions. I would just take us back to that point around the risk of poverty. We've got a growing number of people

living in rental properties who are facing or living in poverty, particularly in that increase between 2016 and 2021. That was all before massive impacts of COVID, rental increases, interest rate hikes and skyrocketing costs of living. We would expect that, if we were to look at the rates of poverty in New South Wales today, particularly for people in rental properties, they would be far higher than the rates that we saw just a couple of years ago.

Mr TIM JAMES: I look forward to getting some more data and detail, please, when you can. I'm still on the NCOSS submission on page 4. Can I just try to understand this notion that you submit that there ought to be a temporary ban on re-letting for a minimum period of six months? Could I give you a hypothetical. Let's say I'm the landlord and I decide I'm going to renovate my apartment—new kitchen, new bathroom, repaint the whole things, carpet et cetera. Let's say that might take two months. Under your proposal, it would be unlawful for me to put it back on the market until six months have passed, so it's going to be sitting there idle for months. Can you help me to understand what is the rationale for such a ban?

BEN McALPINE: What we're doing is trying to draw that distinction between minor renovations that could be done while people are still living in the property and major renovations, linked with what Mr Degotardi said before. If you're doing a major renovation, it's not taking four weeks; it will take up to three, four, five, six months. We're trying to create a high benchmark that would allow people to evict. I acknowledge that there will be discussions around trying to get that balance right, but that's what we were proposing to also draw that distinction in contrast to relatively minor renovations that can be done while either people live there or you can give them other options to pause their lease, for example.

Mr TIM JAMES: I guess there would be a range of views about how long it might take to refit an apartment. You would obviously submit it is around six months.

The CHAIR: To jump in there, if I can, member for Willoughby, in relation to that. I think it's useful to flesh this out. It's obviously an area that we're going to have to address, rather than speculating on how long a renovation may or may not take. One of the suggestions that was made by the Tenants' Union—and I open it up to comment and I am interested to hear from the Community Housing Industry Association as well in relation to this—was the potential to negotiate a reduction in rent or a pause on rent to allow the tenant to go and live somewhere else for a period of time while that was to be undertaken and how that would be navigated. I wonder if you have thoughts in relation to that as a potential solution to actually maintain the tenancy but allow an alternative option for a period of time while that renovation was taking place.

MARK DEGOTARDI: As I said earlier, when we do renovations of properties—whether our own or the government-owned properties that we manage—where tenants have remained eligible for housing, they are all subject to relocation policies. Those tenants are relocated for major estate redevelopment. As you'd know, they've got rights of return to the properties, although not that many actually do, predominantly because of the time it takes to redevelop the estates. So from our tenancy point of view, these are not significant issues for our tenants.

From a broader market point of view, I think it's probably worthwhile observing that when we go to the market to try and find private market rentals, even though we are significant organisations with significant records, it's very difficult to rent on the private market. I think we need to be careful. We need to allow good landlords and good tenants to negotiate outcomes for themselves. I'm not sure having a system in place through legislation for that to occur is going to get the outcomes we're trying to achieve.

Mr TIM JAMES: I'll turn to the Justice and Equity Centre submission. I'm on page 4, in which you submit, in terms of reasonable grounds for eviction, that any occupation by the landlord or their immediate family would have to be for at least 12 months. What about the hypothetical situation in which I'm the landlord. I've got adult children who are moving back from overseas or from another part of Australia and I want to give them the opportunity to live in the property that I own. Let's say they might want to do that for six months while they're trying to buy a property—as hard as that is, I recognise. Why does it have to be 12 months? Why the stipulation that there must be a 12-month time frame for occupation of premises? Because there would be many circumstances like that which I've just outlined in which it could be and would be significantly less than 12 months.

ALANNAH DALY: Sure. I do accept that there are many circumstances and the perhaps exact time frame is something that could be considered. We were trying to uphold the stability for renters and a 12-month period seems like a fair kind of benchmark, I suppose. We were just interested in making sure that this ground was not used arbitrarily so that a tenant would be evicted for someone else to move in for a very short period of time. So I guess that's a question of balance, of trying to make sure that the occupation of premises by someone known to the landlord is for a fair period of time such that it would be reasonable to evict someone.

Mr TIM JAMES: As you can tell from my previous example and now this example, I'm concerned that we might be setting somewhat arbitrary terms. I understand the desire not to see landlords gaming the system, but

the risk is that you've got properties that could and should be occupied but which are not because there are bans imposed for 12 months, six months or whatever they might be. That is not optimal amidst a rental crisis, is it?

The CHAIR: Ms Daly, just to go off the back of that. I'm aware of the time and that I'm jumping in. The question that I was going to ask was about the role of NCAT and the Rental Commissioner. In relation to those examples that the member for Willoughby is raising, I wonder whether there is a role for some kind of ability to be able to, in exceptional circumstances—or changes to NCAT. I would go to all of you about what you see as the role of NCAT and the Rental Commissioner in ensuring compliance and on penalties. Please answer the member for Willoughby's question, but I wonder if we'll move into that as well and hear from all of you.

ALANNAH DALY: I suppose I'll note that a landlord can apply to NCAT if it would give them undue hardship if a tenant were to remain in the property. So that is an option. In terms of the role of NCAT, we said in our submission that we support the orders proposed in the bill and note that if there was a ban on re-leasing, that is just one of the options that NCAT could use as an order. But they could also make other orders like directing the landlord to do the repairs, if that was the ground for eviction, or an order to reinstate a tenancy agreement, for example. So we just see it as one of the options, if it's seen as reasonable by the tribunal. Do others have thoughts?

MARK DEGOTARDI: Again, the penalty system for us, or the restitution system—whichever way you look at it—does need to be significant enough to cause those landlords who don't do the right thing to think, "I better do the right thing." That's clear. Any penalty or fine system should apply there. We would support significant fines, particularly where that is not a one-off, isolated event, but where there's clear demonstration of intent or repeated offences. The concern we would have around complexity around tenants' rights and the like—and, let's be clear, the tenant right-landlord right thing needs to be rebalanced because it's completely out of whack at the moment. This is clear.

We do favour tenants getting more rights, to be clear there. But I am also worried about many of these complicated processes coming to NCAT for adjudication, because I think the Tenants' Union of NSW in their evidence suggested that they didn't think NCAT would be too badly affected. They might be right. I don't say it, and I can't say for sure, but I am concerned that more issues will go to NCAT, and NCAT's system is already overloaded and becoming delayed in ways that are not good for tenants or landlords. You could resource NCAT and have more—you could solve it that way—but at the moment the system's not fit for purpose and I think we need to be careful about that.

BEN McALPINE: NCOSS would agree. We need the strong penalties and compliance mechanisms, otherwise there is a risk that we implement a set of protections for renters that people actually don't get to take advantage of.

The CHAIR: I will jump in with one quick final question to NCOSS, specifically in relation to the notice periods. I'm wondering why you see that as such a significant factor, to have a longer notice period.

BEN McALPINE: Our submission looked at the notification periods. I note that the Government's announcement has also linked the need for longer notice periods. I noticed that the Tenants' Union earlier referenced the need for planning and not taking on a rental property that is not fit for purpose. When you are, for example, living below the poverty line in south-west Sydney, where more than 50 per cent of renters are in the same circumstance—living in poverty—and you're trying to keep your kids in their local school, having that extra period of time where they can get their affairs in order, try to find a rental property that is actually in their local community, and not be forced—due to the short period of time—to take anything that they can get, that they can afford, which may require them to move out of Sydney, I think is an entirely reasonable thing to do to protect those most vulnerable and disadvantaged community members who, due to not having enough money, have to completely uproot their lives and possibly the lives of their children. That's why we were very supportive of increased notice periods.

The CHAIR: Ms Daly, I note that you talked in your submission about the need for the tenant to be able to move out, when it is not their fault, at a time of their choosing, rather than the other way around. I wonder if you wanted to speak to that briefly—recognising the time?

ALANNAH DALY: Sure. I note that under the current Act, if a renter is on a periodic lease, they can move out at any time after an eviction, but we think it would be suitable to extend that to renters on fixed-term leases, to avoid the situation where they have found another suitable property but can't afford paying two rents at once. It would just allow a smoother transition, I suppose, and reduce the risk of putting that renter into financial strain.

The CHAIR: I'd like to thank all three of you for appearing before our Committee today and recognise that we're doing so in the context of the Government having announced significant reform plans yesterday. Thank you for the detail in your submission that will help guide the final stages of that legislation moving through and

the further consultation that will occur. Thank you all for your ongoing work and contribution to looking after some of the most vulnerable people in our State. There were some questions put on notice. We will ask, if you can, that you respond to those by 5 August, which is next Monday, given our short time frame. That would be appreciated. I also note that you will be provided with a copy of the transcript from today to provide any response in relation to corrections on the comments or answers that you made. Thank you to the three of you and for the work that you all do.

(The witnesses withdrew.)

Dr CHRIS MARTIN, Scientia Senior Research Fellow, UNSW City Futures Research Centre, affirmed and examined

The CHAIR: I welcome our next witness. Thank you for appearing before the Committee today to give evidence. I want to note that at some point someone will probably take photos and video of the inquiry for social media. Please let us know, you or anyone sitting in the gallery, whether or not you have concerns with that so that we can address them accordingly. Can I ask that you have a copy of the Committee's terms of reference and the information in relation to the standing orders and that they've been provided to you?

CHRIS MARTIN: I have seen them, but I don't have them in front of me.

The CHAIR: Do you have any questions about them?

CHRIS MARTIN: No.

The CHAIR: Do you wish to make an opening statement before we go to questions?

CHRIS MARTIN: Only to cover a couple of things very briefly. One is to thank you for bringing the bill on and for reminding the Government of the priority that this reform should always have had. It's the most important law reform for residential tenancies. It's the reform on which all the other reforms and improvements we might like to make in residential tenancy law depends, and really it's the reform on which tenants' current legal rights under the Residential Tenancies Act depend as well.

We're talking today also now with an eye on the Government's announcement of the weekend, that it will bring on legislation itself to abolish no-grounds terminations. That is a very welcome announcement. This bill that has been brought on now is a great model for any legislation the Government itself might bring on. I've made in my submission a couple of suggested changes to it but only to give effect to what I think is the intention of the legislation, which is to improve the security of renters and their ability to make a home in rental housing. One of the things I touched on in my submission was an issue that has been a little overshadowed by the question of, if we're getting rid of no-grounds, what should be the grounds? The overshadowed issue, I think, is the issue of the tribunal's scope for declining to terminate in with-grounds termination proceedings.

The CHAIR: Maybe just on that, then, to go to that point, I wonder—and just for context, at the start of the hearing today we acknowledged, and I absolutely also welcome, the Government's announcement yesterday. I recognise that, in the context of the terms of reference we're dealing with, the content is going to be very useful in feeding and informing the ongoing consultation to get us to the point of that legislation getting through. Thank you and feel free to make your comments today in relation to the general grounds and policy reform and changes rather than necessarily having to keep to the scope of the private member's bill that was instigated through this process.

To the point around specifically the idea of the broader scope of NCAT and additional powers of NCAT, I wonder if you could talk beyond the contents of the private member's bill and, given that it isn't addressed directly in the media release and the details we've seen from the Government so far in terms of its plans, whether you believe it would be beneficial for NCAT to be granted more powers in relation to evictions and if you believe it's necessary for NCAT to have the power to refuse an application for termination orders in certain circumstances and what circumstances you might see those to be.

CHRIS MARTIN: Sure. The issue is the tribunal having scope to decline termination where that's appropriate. The formulation is up for discussion, I should think—the formulation of the scope to decline termination, considering the circumstances of the case or where it's appropriate or whatever other words you might use, as opposed to the tribunal being required to terminate where a valid notice has been given subject to the proviso that the proceedings are not retaliatory. Currently, to put it in context, under the current Residential Tenancies Act, this question of the tribunal's scope to decline to terminate is pretty complex because it's treated

differently in different parts of the Act. In relation to most of the breach grounds, the tribunal does have scope to decline to make termination orders, considering the gravity of the breach and the circumstances of the case.

The CHAIR: Just to clarify, in relation to "breach", you mean things like non-rental payment or damage to the property and other things?

CHRIS MARTIN: Yes. The non-rental payment has its own complications because there are things about the frequency of non-payment. But for the other breach provisions, the Act allows the tribunal to consider the circumstances of the case and to consider the breach in those circumstances and whether it's appropriate to terminate. So it may be that a minor breach won't justify terminating the tenancy.

In the current no-grounds provisions, the tribunal has no scope to terminate but to decline to terminate, considering the circumstances, with only a couple of exceptions, and that is where either the termination notice or the application to the tribunal isn't valid. Where the proceedings are retaliatory is another reason why the tribunal would have scope to decline termination. In very rare circumstances, a particular type of no-grounds termination proceedings, which are under section 94, is for tenancies that are longer than 20 years. Otherwise, though, no-grounds notices under the way the Residential Tenancies Act currently works are a trump card. If the notice is good, valid—that is to say the period of notice was right and parties' names were correct. If the paperwork is correct, and if it's not apparently retaliatory and it's one of the 99.9 per cent of tenancies that are not 20 years or longer, it's a trump card; the tenancy has to end.

In moving from that regime to a with-grounds regime, we also do need to have in mind the tribunal's scope to decline. There are a few places we can look for formulations. Well, even before that I think it is absolutely appropriate that the tribunal should have a scope to decline to terminate, including for these termination proceedings on these new grounds. We can get into the details, if you like, in further questions. Accepting that there should be discretion or some sort of scope to decline to terminate, the question is to how to formulate that. The bill has one way, which I think is sound, but there are a couple of other formulations that I think should also be considered because they would tap into or connect with some jurisprudence either coming out of Victoria or even the international human rights jurisprudence.

The CHAIR: We might come back to human rights. I will go the member for Parramatta first because I'm interested to delve into that a little more.

Ms DONNA DAVIS: Dr Martin, your submission suggested that section 86 of the Residential Tenancies Act 2010 in relation to the sale of premises with vacant possession should be amended in light of reasonable-grounds termination. You speak about this on page 4 of your submission. Could you, firstly, explain a little bit more about this? How should that section 86 be amended? If it is amended to mirror reasonable grounds, will prospective owners be bound by those reasonable grounds that the former owner used to terminate the lease?

CHRIS MARTIN: I will just check, the question is about the grounds that the bill would provide in the place of no-grounds and the omission from the bill of a ground relating to sale of the premises, is that—

The CHAIR: Do you want me to jump in?

Ms DONNA DAVIS: Yes.

CHRIS MARTIN: Please.

The CHAIR: There is a genuine live debate at the moment around whether sale of a property is a reasonable ground. Whether or not we look at the private member's bill or the announcement by the Government, the discussion then goes to what exists currently. There is currently reasonable grounds set out in the Act that allows for the property being sold and the need for vacant possession to be provided; that's clear. The question then comes in at the point of do we need additional grounds, which is, say, preparing a property for sale. Also, how would the integration exist between new clauses around reasonable grounds and the vacant possession clause?

CHRIS MARTIN: I think we're on the same page now. I think the bill—and any other bill like it—would be right in not providing for an additional ground relating to sale. We've already got a sale requiring vacant possession ground, and I suggest in my submission that that might be tweaked or changed a bit to reflect the new grounds and that there could be adjustments to the existing ground. But the idea that either preparing the premises for sale or that there has simply been a sale is not a reasonable ground—I support that. The rationale should be that a sale of rented premises has a reasonable prospect of concluding with a purchase by another landlord. The idea that there should be an upheaval of a tenancy, with that reasonable prospect in sight, I don't think, justifies its inclusion as a new ground for termination. Instead, it would be for the purchaser, if they've got some contrary use of the premises in mind, as their own premises or redeveloping it or whatever—for the corresponding grounds

for termination that the bill would introduce, they should be the grounds to be used by or on behalf of the incoming new owner, the purchaser.

Mr TIM JAMES: I want to understand in a clear, data-detailed-like fashion what it is that makes you say this is the single most important tenancy law reform that the Parliament could make today. I'd be grateful if you could help us to understand the incidence or prevalence of no-grounds evictions. I don't know if you heard, but in the last session we heard that about 5 to 7 per cent of renters' moves in this State would be borne out of no-grounds evictions. In the whole scheme of things, there is a whole range of factors and forces out there, of course, but how big is this in order that you say it is the single most important—I note you also describe it as being crucial and long overdue. I'd be grateful if you could detail why that is so.

CHRIS MARTIN: It goes to what I think is—and this is borne out in lots of research as well. The single most unsatisfactory aspect of the experience of renting is the chronic insecurity, and you don't need to have in your hands a notice of termination without grounds to feel that. The insecurity hangs over any tenancy, hangs over every tenancy—the prospect of getting a no-grounds termination, including for bad reasons. Even though there's provision for retaliatory termination proceedings to be declined by the tribunal, that still hangs over every tenancy, including when a tenant thinks, "Something's happened and this might become an issue between me and my landlord. I need to ask for repairs to be done or I've got a rent increase notice that I'd like to push back on." The prospect of getting a no-grounds notice after that hangs over all of those tenancies when those events arise. I can say that as someone who has read a lot of the research and has done a lot of the research but also who used to answer tenants' advice inquiries on the phone. If someone rings asking about getting repairs done, so much of the time they also ask, "But can I get a termination notice?"

Even aside from the number of proceedings that are actually taken without grounds, it's the way it hangs over everything else. It undermines the other provisions that the Parliament has decided should be in the Residential Tenancies Act and should be the rights of tenants through their tenancy agreement. The continued permission to landlords to give no-grounds notices undermines all of the other legal rights that the Parliament has decided should be in residential tenancies law.

Mr TIM JAMES: I'd be grateful if you could perhaps drill into the question, in real data terms, of how widespread no-grounds evictions are. If you're able to help us to understand it both in terms of that being done at the end of fixed terms relative to periodic leases as well, that'd be great. We just heard, for example, from NCOSS. They took it on notice, but it is in their submission that potentially 95 per cent of renters' moves have nothing to do with no-grounds evictions. I'm getting a bit of an unclear picture of just how prevalent this is.

CHRIS MARTIN: The prevalence in terms of the effect of this legislation is very widespread, as I said, because it affects people during their tenancies, even without them getting the notice itself. There is not a great accounting of termination proceedings and the grounds on which termination proceedings are taken. There's ABS data and the University of Melbourne's HILDA data that most tenancies end at the instigation of the tenant. That's fairly clear. That still leaves a significant minority of moves that are instigated by the landlord.

Mr TIM JAMES: My understanding is that almost 60 per cent of evictions by a landlord are accompanied by grounds.

CHRIS MARTIN: That may be, yes.

The CHAIR: Just to jump in on the member for Willoughby's point in relation to that—and we haven't drilled down into that—we don't have details on the reasons for the tenant ending the tenancy. Going to the point around your earlier comments, Dr Martin, in relation to the habitability or not of the rental property and the fear that someone may have about saying yes or no—not being able to afford the rent increase, the oven still not working or the mould in the bedroom being so bad to want to end it—there are a number of reasons why a tenant may end the tenancy that still has a result of actions that may or may not have been taken by the landlord.

CHRIS MARTIN: That is true. It's also difficult to put numbers on it. You can compare tenancy terminations or evictions to an iceberg. The biggest part of it doesn't get seen. The reasons for it, the type of notice given and even the party who gave the notice doesn't get seen by any sort of accounting authority. A landlord gives a notice to a tenant or a tenant gives a notice to a landlord and the tenant moves out afterwards. There's no actual proceedings before the tribunal. A little bit of that gets picked up in Fair Trading's exit survey when bonds are claimed. That's a potential data source. I know the Tenants' Union has done some analysis of that data source, and that would be one area where we could glimpse a little more of what's beneath the surface of the water and the iceberg underneath termination proceedings. But the tribunal does not regularly publish data about how many termination proceedings it deals with, the number of orders it makes in those proceedings, or the grounds on which proceedings have been taken. There's a real data dearth around termination proceedings and there are some clear ways of beginning to address that. We might be getting outside the terms of this bill.

The CHAIR: Maybe, or maybe not.

Mr CLAYTON BARR: I loved your line on page 2 at paragraph 2, which says:

No-grounds reform will benefit all renters, but will not equally disadvantage all landlords.

I guess to the point, and launching off the back of some of the inquiry from the member for Willoughby, if 90 per cent or 95 per cent of landlords aren't in this space, no-grounds evictions and creating upheaval for families, I guess that means, for 90 per cent of landlords, there's no need to be concerned about any change in this legislation, whatever that number of landlords is—but it's obviously a very high number.

CHRIS MARTIN: Yes. This is one of those happy sorts of reforms that isn't zero sum because, as I say, it hangs over every tenancy and there would be plenty of landlords who have tenants worrying about no-grounds terminations and who themselves aren't inclined to use them unfairly, but the tenant can't know that. As I say, this one isn't but there might be other reforms that are zero sum, and it really is about taking something from landlords and giving it to tenants. In this case it's about addressing a problem that affects all tenants, even though some very large number of landlords may not be interested in using this sort of provision at all and would be perfectly well accommodated by a prescribed set of reasonable grounds for termination.

The CHAIR: If I can, just briefly, Dr Martin—I don't know if it's possible—go into the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, but let's give it a shot, shall we, in the next three minutes we have? I'm not sure if you've seen the other submissions we've received, but the Real Estate Institute has referred to property rights, and specifically article 17 and the right to property, but I note that in relation to a number of other submissions and in discussions with yourselves and others the right to housing and looking at those as economic, social and cultural rights. I wonder if you could comment briefly, and I'm happy also for you to take it on notice, about how you see both article 17 and then the right to housing intersecting and where you see the balancing of rights, responsibilities and obligations around those rights?

CHRIS MARTIN: The right to adequate housing is one of the rights that's affirmed as ICESCR, as you've pointed out, to which Australia signed up 50 years ago.

The CHAIR: Sadly, it still hasn't implemented it in any domestic law, but that's another debate for another time—next year's project.

CHRIS MARTIN: This would be a partial implementation of that right, because there has been commentary by the UN Committee on Economic, Social and Cultural Rights that makes clear that the right to housing, specifically in relation to the termination of tenancies, means that the termination of tenancies must always be justified—that is one aspect of the commentary—and there's also commentary about it being the last resort and there's a bit of discussion of this in my submission. In lots of other countries around the world, and now in a couple of other Australian jurisdictions, that qualification on property rights is represented by a requirement that termination only proceed on certain prescribed grounds. That is a justified qualification, and it doesn't contravene property rights in an invalidating way at all. The human right to adequate housing, in all of these authoritative commentaries on the right, includes a protection against arbitrary eviction, and that further includes requirements that the termination of a tenancy or eviction always be justified and after a certain due process. There is no question that the qualifications that this makes on property rights, which are qualified in all sorts of other ways by governments through taxation and all the rest of it, are entirely justified qualifications on property rights and justified by these authoritative statements on human rights law.

The CHAIR: Given the time, I will ask this final question on notice, if I can. We've heard from the community housing providers, in both their submission and the evidence presented today, about the need for consideration of the specific way of dealing with community housing providers, in terms of both their headlease arrangements and how any future legislation would address that and the flowthrough result of them receiving a reasonable-ground eviction and then having to take that on to a headlease arrangement, but also some other provisions.

I wonder if you could take on notice potential responses that you might have to how you would see that playing out and how best to address some of those specific recommendations that we've seen from the community housing sector, given that they mentioned today that they're dealing with 6,000-odd headleases and, as the Deputy Chair mentioned, Homes NSW also have a number of headleases. Any thoughts that you might have, given your expertise in that space, about that would be very welcome on notice.

CHRIS MARTIN: Sure. I'll follow that up. I'll do that.

The CHAIR: Thank you so much for appearing before us today. You will be provided with a copy of the transcript and the ability to provide any corrections or changes that you have to that. The Committee staff will

also email you questions on notice. That will be provided later today and, ideally, they could be returned by next Monday, given the tight time frame. But obviously that is flexible, within reason, given that Parliament is also required to report back on this fairly soon.

(The witness withdrew.)

(Short adjournment)

Mr JOHN ENGELER, Chief Executive Officer, Shelter NSW, sworn and examined

Dr KATE DAVIES, Director of Policy and Research, Homelessness NSW, affirmed and examined

Ms MAIY AZIZE, Deputy Director, National Spokesperson, Everybody's Home, Anglicare Australia, before the Committee via videoconference, affirmed and examined

The CHAIR: Thank you for appearing today before the Committee to give evidence. I note that photos and videos may be taken to use on social media. Please let the Committee staff know if you have concerns about those being posted. I also would like to check that you have both been issued with the Committee's terms of reference and information about the standing orders relating to witnesses.

JOHN ENGELER: Yes, I have.

KATE DAVIES: Yes.

The CHAIR: Do you have any questions about that information?

JOHN ENGELER: No.

KATE DAVIES: None from me.

The CHAIR: We are waiting for our third witness to appear, so we might have to pause in the middle and deal with technical issues and take that process. Why don't we get started, given that time is limited. Would either of you like to make a brief opening statement?

KATE DAVIES: We're here today to really look at no-grounds evictions, particularly from the homelessness perspective and from that pointy end of people experiencing homelessness as a result of such evictions. This is really a time when New South Wales is experiencing a homelessness crisis. Those fair rental laws will provide security and safety for renters at a time when that's more important than ever. We really welcome the legislation reform that was announced yesterday. That will have a direct impact on people accessing homelessness services and we really hope that it has a direct impact on reducing homelessness. We know that more than 68,000 people each year seek support from homelessness services in New South Wales. Having no accommodation or a housing crisis is the main reason people seek those services.

We also know that more than 50 per cent of the people who go to homelessness services seeking help can't get the accommodation support that they need. We know that people are unexpectedly leaving rental accommodation, trying to access support through homelessness services and not being able to access that support. Less than 1 per cent of rental properties are affordable to people on low incomes. That means, really, that there is no safety net for those people who are evicted from rental properties, and that thrusts people into homelessness. No-grounds evictions from rental properties can actually be quite direct pathways into homelessness. Safe, sustainable, fair and secure tenancies can be prevention measures for homelessness.

JOHN ENGELER: Thank you to the Committee for its invitation and to you, Chair, in particular, to give evidence today. Ending no-grounds evictions and replacing them with a set of reasonable grounds is a reform we wholeheartedly support, recognising that this is a critical change within a broader set of reforms intended to create more fairness in the rental system. Housing security is paramount; it's gold. We note and welcome the weekend's announcement by the New South Wales Government and look forward to seeing the detail implemented. Everyone deserves to live with stability and peace of mind, including those who rent their homes. Moving house is often cited as one of life's most stressful events due to the significant financial costs and the emotional strain that's involved, which are further intensified when the household, many of which include children, are low income and are forced to move. I know that; I've had to move a number of times myself through an eviction.

There's always a reason to end a tenancy. Whether it is fair reason or not has had absolutely none or zero scrutiny in New South Wales up until now. You just need to switch on the radio today and you'll hear a lot of

detail about what-if discussions, so it's worth coming back to a point of principle. If a renter is being forced to move and they had not breached their agreement, it does not seem unreasonable that their landlord be required to provide a genuine reason for ending that tenancy.

For clarity and completeness, I will also note at this stage that Shelter NSW has called for the ending of no-grounds evictions for all types of tenancies—so periodic and fixed term. Once enacted in its fullest sense, this reform will serve two key purposes. One, it will address and correct the power imbalance inherent in the private rental market. Secondly, it will reduce the stressful dynamic of the current rental market—that is, reduce the churn of renters in and out of properties, including those being evicted as a backdoor way to ratchet up the rents.

Housing is an essential service. Therefore, taking on the role of providing that service for a commercial return is itself a serious business. Post these reforms we expect and hope to see a new era of landlords, and their real estate agents, who really understand and accept their obligations with a more balanced understanding as to how their property investment pursuits fit within the rights of tenants to a safe and secure home. Shelter NSW recognises that the proposal to end no-grounds evictions goes to the heart of the power differential between landlords and tenants, which is why this reform is worth doing, doing well and doing now.

The CHAIR: Ms Azize, can you hear us now or are we still having technical challenges? We are still having technical challenges. We will hold off on that and we might move to questions and maybe people will let me know when we can bring Ms Azize in. Mr Engeler, in relation to what has been one of the concerns that's been raised around property rights, I note in your submission you dismiss concerns that stronger rental regulation will infringe on the rights of property owners by saying that "private rental market as a whole limits the inherent rights of a property owner to use their private property as they wish". Given your expertise and the perspectives of Shelter NSW, could expand on what you mean by this and how you see this working?

JOHN ENGELER: Where it intersects most fruitfully, or most understandably, is that that particular right over a particular property is not outside the idea of it being an asset class. So I think this idea starts to permeate through that the right for that particular property as an asset class somehow overrides other investment-type decisions. For example, we hear that further restrictions or the inability for landlords to quickly move in and out of a property market because of it being an asset class might even reduce the amount of properties that are available. We would say, "Well, not necessarily. Those properties don't magically disappear. They're still otherwise available." Again, like any other asset class, people who own those assets—whether they're shares, cash or property—have a right to those.

It should be balanced against the rights of the people who are actually occupying that particular asset. In this case we would say, generally, not enough weight is given. There's a disproportionate imbalance between the said property rights of an asset owner over the person who has the use of those rights and the notice period required or what has to happen. We accept that properties get demolished; they might disappear. But the argument that somehow those properties, because of this extra protection that's offered to tenants, will necessarily mean that there's a massive loss of properties in the private rental market is something that we would certainly challenge.

The CHAIR: Dr Davies, I wonder if you could comment in relation to your opening remarks around how this potential reform of ending unfair no-grounds evictions would reduce homelessness and reduce pressure on homelessness services. We know that pre-pandemic we saw the former Liberal-Nationals Government touting record levels of supply in New South Wales at the same time as we saw census data released that we also had record levels of homelessness in New South Wales. Some will say that supply is the silver bullet that will address the housing crisis. It seems impossible to understand how that works if we have record levels of supply and record levels of homelessness in the same year. How do you see this reform of ending unfair no-grounds evictions actually reducing rates of homelessness in New South Wales and addressing the housing crisis that we're facing?

KATE DAVIES: I might start by discussing the potential reduction on accessing of homelessness services and then perhaps homelessness itself. They're slightly different things. In fact, quite a large number of the people who access specialist homelessness services, which are services that are funded under a particular program administered by New South Wales government—the people who access those services, many of them are what we describe as at risk of homelessness. They're in that precarious situation where perhaps loss of accommodation is inevitable and they have no other options, or they are people who are actually homeless and in that immediate period of crisis.

About 40 per cent of the people who are accessing specialist homelessness services report housing crisis as the main reason for approaching those services. That means either housing crisis and an eviction, for example, is imminent. In most cases, those people are renters and very often they are people in what might be described as affordable rentals—not always but predominantly people on low incomes, for example. So the issue is not only about supply; it's about accessibility and affordability of that supply to a particular group of people who are often experiencing complex intersecting issues.

We're talking about people who, for example, may be experiencing and escaping domestic and family violence, who perhaps have significant health issues. We see groups such as people with disabilities disproportionately represented in the people who access homelessness services. Those are people who are particularly vulnerable if evicted from properties. If there's a lack of affordable and lack of accessible properties on the market, those are the first people to miss out. Our social housing waitlists are huge, so social housing as an option for many of those groups of people is unfeasible as well. That's where we see that kind of crisis homelessness services really under high demand.

The CHAIR: Thank you so much for that. Ms Azize, I understand that you might now be able to hear us. Is that correct?

MAIY AZIZE: I can hear you.

The CHAIR: I asked the others if they wanted to make brief opening statements, which they have done. Do you have a brief opening statement you would like to make? Alternatively, we can continue with the questions—whatever you would prefer.

MAIY AZIZE: I'm happy to continue with the questions.

The CHAIR: Thank you for joining us and thank you for the amazing work that Everybody's Home does.

Ms DONNA DAVIS: Thank you for being here today, online and in the building. The introduction of no-grounds evictions and the portable bonds scheme will make renting fairer in New South Wales, but they're two measures and obviously there needs to be consideration of other measures as well to address the inequities. In my electorate, for example, homelessness amongst youth and women is on the rise and a challenge. What do you see as other reforms that we should be considering to address that?

KATE DAVIES: Particularly in relation to rental reforms?

Ms DONNA DAVIS: Yes.

KATE DAVIES: I think really holding a firm line on the legislative reforms that were announced yesterday is important. We would like to see the periods of notice as long as possible really. The increase in the amount of days of periods of notice is excellent but, given the lack of housing, particularly affordable rental housing, and the constraints of social housing availability, when people are getting notices of eviction, that's potentially months or years that it may take to find alternative housing, and legislation really needs to reflect that. We would keep pressing on making sure that people get sufficient notice and really recognising that the kind of state of crisis that we are in requires as long a notice as possible.

I think some of the reform sits outside legislation, of course. It is about the application of that legislation and making sure that there are sufficient advocacy services for people. We know that the people who are most vulnerable are those potentially least likely to reach out for help, and we see that as potentially opportunities for collaboration with landlords. Landlords are incredibly important to the solutions around homelessness. Mechanisms that support communication between landlords and tenants and really repositioning housing as that human right, that's really fundamental.

JOHN ENGELER: I would say a couple of things from a very practical level, and I think it's within the terms. One thing is around privacy, which I think has been talked about. We know that that's an issue around people as they apply, particularly for women escaping domestic violence and some youth. Just the privacy issue and tightening that—I know that has already been looked at. We would suggest a number of things. We focus on low and very low income families, so at the end of the day the security of the tenure is one thing but the actual affordability of it is another issue. At some point obviously—and we do have this in other jurisdictions—being able to know and have some certainty about the quantum of increases is something that has to be also the next area that we'd like to see addressed.

We can't help but think that when we think about younger people or particular groups who are failed by the private rental market that social housing must be restored back to its basic safety net of 5 per cent, and indeed we argue that it should be closer to 10 per cent. We see a lot more people renting, a lot more people renting on low incomes. We see a lot more people renting on low incomes for longer periods and probably not likely to ever access other types of secure tenure. I think increasing social housing, if it's not outside the terms, I think is absolutely what is also required here for particular groups in your electorate, member for Parramatta, like younger people and women escaping domestic violence.

The CHAIR: Ms Azize, do you want to jump in as well?

MAIY AZIZE: Yes, thanks so much. It is great to get a question about what more can be done to promote affordability. I'm normally in the ACT. I'm in the Northern Territory today, which has contributed to the tech

issues. In the ACT, we do actually have a legislative framework around limiting unfair rent increases. That is something that the Government in New South Wales could do tomorrow.

Our submission on no-cause evictions was pretty substantially informed by hearings we had as part of this people's commission we're conducting into Australia's housing crisis, where we've been hearing from people on the ground about what the housing crisis actually means to them. Person after person after person was telling us about these enormous rent increases that they were coping in Sydney, which was where we had two days of hearings. Overwhelmingly, people don't understand why it is legal for landlords to be able to hand down these unlimited rent increases. I absolutely agree with the point John has made about people having a sense of what those rent increases are but actually putting some limits on them. We've found in the ACT it has been pretty effective. Rents aren't going up by anywhere near as high or as much in the ACT as they are in other parts of the country.

I also echo the point that John made about restoring social housing. Our campaign has done quite a bit of work trying to understand the role that social housing played in keeping housing affordable for everybody back in the era when rents and homes were much more affordable in Australia. Right up until the early '80s, about one in three renters was actually renting from the Government, and now we're looking at a situation where it's a fraction of that. This used to be a really important cornerstone of the Government's response to affordable housing—actually providing housing directly and doing it itself, and not simply relying on the private market. We'd love to see the Government step up and build more social housing.

KATE DAVIES: Can I add a couple of additional points? Absolutely we support more transparency and limits on rent increases, which is really fundamental. Some of the other points that we've talked about in previous submissions as well are mechanisms to ensure accessibility of properties and make sure that properties are adequately set up for people with disabilities, women with children, young people, large families, small families; and also increasing people's rights to have pets with their properties, because we know that when people can keep their pets with them, they're likely to have more secure and safe housing outcomes.

Mr TIM JAMES: Thank you both. I think both of your submissions—correct me if I'm wrong—put forth the proposition that sale of the property ought not be a reasonable ground for eviction within the Act. Why is that so? If I'm a landlord, I own the property, I've decided to sell up. Why should I not have a right to host the property, present the property et cetera in the manner that I see fit and that I might be advised by my real estate agent maximises the prospects of the sale of my asset? Help me to understand that from your point of view.

JOHN ENGELER: I'm happy to start. We do. I think the word we often use is the fluidity between what is otherwise an asset class—capital sales of properties—versus the rental market. They don't overlay nicely. In fact, where they don't overlay, and the people who end up bearing the brunt of the lack of overlay, is tenants who might be, for the sale of a property—I'm happy to declare an interest; I've done this recently. Where a property, if it's likely to be sold and for the purposes of preparation for sale—the percentage of those properties that would otherwise end up being back in the rental market anyway is not insubstantial. A conversation can be had with an actual tenant that says, "This property looks like it's going up for sale," and I'm happy to talk about a personal anecdote which exemplifies this absolutely. We'll just assume that the property is more likely to be sold if it's empty so we'll terminate the tenancy, only to then find that the property is then rented soon after by someone who's an investor and who's taken over and would also have liked a tenant. Arguably that tenant already enjoyed the property and would have otherwise made a perfectly reasonable tenant.

That's the general proposition that we start with: we don't have a system at the moment that coordinates those capital sales versus ongoing tenancies. More could be done. I think the Tenants' Union have made some points earlier today, and certainly in their submissions and their policy, around the maturity that happens when conversations happen with existing tenants about what could happen to help, to say, "If we are going to make it empty, we recognise that that comes at a substantial emotional and financial cost to you that we could look to do something about it." Again, addressing that to make sure. In and of itself, as a rebuttable presumption, we should say that it shouldn't necessarily be the reason to do it but understand the particular circumstances, and if that's the case then a different set of discussions happen.

I'll just talk about one that I had, just because coming here today made me realise what that person is going through. Same thing happened to me. Given notice, there was going to be an auction, the property was going to be empty on 5 January, I think was the date. All of a sudden the owner—a two bedroom property I'd lived in for a couple of years—said, "Oh, actually, we've taken an early offer and a short settlement. The property will now be vacant. We need to hand over. The exchange happens"—not the settlement, the exchange happens—"on 23 December. So you'll have to move out by 23 December." I said, "That's a really difficult thing to find out on the first week of December, that you've managed to arrange a very quick settlement."

I'm not sure if this would even happen at the same stage now. But, nevertheless, what I was able to do, and just because I happened to be studying it at the time, was go, "That seems unreasonable to me." The owner said, "We're really sorry but we can't extend a lease on a property that we no longer own. There's nothing we can do about it." They contacted their solicitor, all that. Anyway, in the end I was able to negotiate with the new owner, the person who'd purchased the property, via their solicitor, a two-week short, restricted lease period. I said, "I just need two weeks." I said that the difference that makes to my life, to be able to not have to move out at Christmas, and at new year, and just to have it for two more weeks, was exceptional.

I was in a particular position. I think we talk about the power imbalance. It's because of the work that I'd previously done, and my education, that I was aware. I was able to do that, and it was a perfectly reasonable outcome. The people thought, "Oh, what a great idea." I just think that level was an absolute minor example of there is no reason why in and of itself those sorts of things can't happen as a matter of course and routine.

Mr TIM JAMES: What about the circumstances in which perhaps, as would be the case from time to time, a tenant has a property in such a state, condition, presentation, that it is not going to be optimised for sale? You don't accept that the landlord has any right to evict the tenant, given the sale is coming? The landlord just has to continue on? That is your position?

JOHN ENGELER: A couple of things. I might defer back to somebody from the Tenants' Union, someone with a bit more experience about these things. If the property had fallen into such a state that it didn't otherwise pass the normal routine inspection suitability anyway, I think that would be a different issue. But I think, again, that if we do see—again, it's that unfortunate nexus, that unholy alliance sometimes, between the sale of the property. I think the conversation earlier today was around saying if that's the case, and you're asking the tenant to move—recognising that there is a compensation, or a financial impost to that particular person. For whatever reason, again, the presumption that we make is that it shouldn't in and of itself be grounds to do it, but that there may be some provision later on that says, "Look, we really need that particular property."

It's recognising that puts the tenant—untidy though they might be, they're just living in the property. Of course it's not going to look like that every day. So recognising that either financially or at least emotionally, giving a nod to the fact that this is this person's home, the property is being sold for investment reasons, we want to maximise the yield. Refer some of that, or at least reflect some of that back in some sort of opportunity for the tenant even to share in some of that.

Mr TIM JAMES: It's a good segue actually, because this is a little bit different, but on page 4 of your submission at point 9 you're talking about the circumstances in which a valid termination notice has been given, and you say, and I get it, tenants must be able to move out as soon as that notice has been given, without financial penalty. You say they should be compensated for moving costs and rent waiver. So this is where the tenant has elected to move out as soon as a valid notice has been issued, but you're saying that the owner has to pay their moving costs? Do I understand that?

JOHN ENGELER: No. I'm just saying it would show good faith in terms of two things. We've got the legal framework here, but in terms of recognising—I think the evidence was given earlier that sometimes properties for sale might increase in so much value the quantum is such, \$100,000, I think it's been reported. If that is the argument, there should be some recognition that the cost, or that increase in value, comes at the expense of the tenant who has to move. Research that the Tenants' Union and others have done indicates that the value of that is in the several thousands of dollars. It's not inappropriate to have a more mature discussion around how you could make sure that the tenant was not disincentivised or not disadvantaged unduly by having this happen.

Mr CLAYTON BARR: My question is to Ms Azize. With regards to your submission, at the bottom of page 2 you make the point that the NSW Productivity Commission has conservatively placed the cost to the New South Wales economy at \$116 million per annum. In that you were referring to people being forced to move homes. I haven't had a chance to read that Productivity Commission report. Could you just explain to us in a bit more detail what that means and how you came to that statement?

MAIY AZIZE: Yes. I can't speak to their methodology but, having spent some time with people through this people's commission and hearing the impact of people having to repeatedly move, it's a combination of actual costs—I mean, it costs thousands of dollars to move house. But the disruption to people's lives, the time needed to take off work, moving people, moving children from one school to another—we've got some of the stories in the submission of people who've had to move seven times in seven years, people moving basically every single year because of a combination of not being able to either afford a rent increase or because they've been evicted for effectively no reason. I would imagine that it's related to the cost to the economy of people having to constantly move and absorb these enormous disruptions into their lives.

Mr CLAYTON BARR: Thank you. That helps enormously. Ms Davies, I wanted to ask you about your submission, if you don't mind. Towards the top of page 2, you talk about 35,000 people experiencing homelessness and 68,000 people seeking support for homelessness services—tellingly, most of those are at risk of becoming homeless. I'm wondering if you can clarify how much contact is received from people who feel like they are at risk of becoming homeless specifically through an eviction process. I don't know if you have that sort of number and data available.

KATE DAVIES: No, unfortunately, we don't have that level of specificity in the data. The two figures that you've cited there from our submission are—the 35,000 people homeless comes from the last census and the 68,000 accessing specialist homelessness services comes from the annual evaluation data of those services specifically funded under specialist homelessness services program funding. The specialist homelessness services have a set list of reasons that they record. So housing crisis is the most common. I guess we can extrapolate from some of those reasons for talking about that as having a connection to evictions from rentals. We know, for example, that most, in fact, of the people that access those services are renters. We know that they are tending to rent affordable—or not affordable; that's why they're accessing the homelessness services. We can extrapolate some of that renting crisis from those figures, but we don't have that precise detail.

The second most common reason that people are accessing homelessness services is financial crisis as well. We really see those two intersections there. And the fact that—obviously, the number of people accessing homelessness services is higher than the number of people who are homeless, and that's because people are presenting to homelessness services at that moment of crisis, which is again why we really emphasise those periods of notice and that security of tenancy as really fundamental to prevention of homelessness. Because it's often in that period where perhaps someone has been issued notice or had a discussion with the landlord that people realise that homelessness is potentially imminent for them.

The CHAIR: Mr Engeler, in your submission you talk about the business model and the idea of those that are profiting from the churn in the current rental market. I wonder if you could elaborate on why you believe the real estate industry benefits from the higher churn. By higher churn, I'm assuming you mean shorter lease times, more movement in the market and less stability for tenants and that's something that people are seeing as a benefit of no-grounds evictions—that it seems that people are profiting from that current system. Do you want to go into that in more detail?

JOHN ENGELER: Our point is that sometimes the business model or the activity of real estate businesses is based on properties being let, and the more they're let—there's letting fees at the beginning and letting fees at the end. Their business model—and sometimes it looks like a bigger rental role—happens because there's just more activity with that particular business. Somewhat perversely, we would say, a landlord and a tenant might both otherwise be interested in a very long-term lease. Full disclosure, it suits me. I've got a rental property. I rent through a community housing organisation. I have done for a number of years and have to actively say, "Take a long lease on this." You really want the stability for the tenant. They should not be subject to the vagaries of me. I'm making a decision here to keep this for a long thing.

I remember at the time having to explain, which is why I moved—community housing now looks after that for me. The private agent at the time said, "You don't want to give anyone more than six months or 12 months," or, "I've found someone, but I've got a better group for you because they don't have a cat." I said, "No, I really want a cat. I used to have a cat when I lived in the unit. Why would they not want the same?" They said, "The cat might cause damage," or this or that. I said, "But I lived there with a cat. I enjoyed it." To me, anyone who has a pet, for example—I know this is another area that you're looking at—it generally demonstrates that they've got a commitment to wanting to make a difference and look after that pet.

If we add all of those things, what a tenant may need and what a landlord might prefer is sometimes interrupted because of the business model that real estate does, which says, "You make the decision, but here's the people we would suggest would be recommended for this particular property." It's not always what mum-and-dad investors like me actually want. I want to be able to say, and a lot of our members and a not insubstantial group of mum-and-dad investors want to be able to think, that that particular investment class that we're using is making a difference. We don't really have a mechanism for that at the moment. The real estate industry, because of the way in which it is set up, doesn't always promote that. I think the churn model actually disincentivises long leases and stability.

The CHAIR: Has there been any research done as to the level of profit and the average costs? We've got good research from the Tenants' Union in relation to moving costs in terms of renters. People now point to the thousands of dollars that are involved. Is there any indication of the billing, the costing and the profit that's coming into the real estate industry as a result of each time someone is issued a no-grounds eviction or each time the house

is re-let and those kind of things? Are you aware of that kind of research or is that something that you could point us to?

JOHN ENGELER: Not off the top of my head, but I could certainly come back to you and have a look to see what we've got around it.

The CHAIR: If there is, that would be really helpful as another consideration, in this cost-of-living crisis, of who's paying and who's benefiting. That would be great. Thank you very much. Ms Azize, if I can come in in terms of the impact on families and children. You touched on it briefly in terms of the people's commission that you had, but it would be great to get a sense of what you see as the benefits of this reform in terms of broader social support and security for people, but also the impact. People talk about this concept of young people being the beneficiaries of changes to rental reform. In actual fact, we know older women are the largest growing cohort of renters in New South Wales. Talking about the very young generation—the ones that aren't signing the lease—and the impact on the next generation of housing and security that occurs through tenancy, I think you heard a lot of stories about that in your recent commission.

MAIY AZIZE: The impacts of promoting stability and security in people's homes, I really don't think it can be overstated. Ending no-grounds evictions is one really important step to doing that. We heard from people whose children don't believe them anymore when they say, "We've finally come home. This is our home. We're going to be able to stay here." They say that to their kids and their kids don't believe it because that is how frequently they've had to move. That is how frequently they've had to be taken out of school and moved to a new place. It really was one of the most striking things that came out of the hearings—people who just have not been able to expect any kind of stability from their home.

For those of us who have the benefits of a home that is actually secure and is a source of stability and security in our lives, we can't underestimate the impact of making homes more secure for people who have really only known it as a source of anxiety and not knowing how long they're going to be able to stay in a place. This is one step towards that. I was really interested in some of the exchanges that happened a bit earlier with John. I agree we should be doing more to promote longer term leases in general. I think there's an enormous amount of demand for that from tenants, and I wonder if there is a bit of demand for that from landlords as well.

Mr CLAYTON BARR: Mr Engeler, I wasn't going to get into this, but you mentioned rent roll. My understanding of the inherent value of a real estate agency is heavily linked to the rent roll that they have. I guess, in my mind, that then incentivises the real estate agent to constantly encourage their landlords to increase rent, increase rent, increase rent because then their roll grows. Is that kind of how it works in that industry, if you could just help me out, please?

JOHN ENGELER: Again, I'm not a particular expert in how real estate agents are regulated.

Mr CLAYTON BARR: Well, you mentioned it.

JOHN ENGELER: Yes. I can tell you about my own experience, certainly, as well as that from the more cursory one, which is, yes, activity is the basis of the business model. So whether that's because of an increase that gets passed through or tenancies churning or happening more quickly than they might otherwise, of course the business model is predicated on that and the size of it is not outside of the argument. The point that I would make is that when you have—I would contrast for the moment residential leases and the residential real estate industry versus commercial because the two of them sometimes, to me, show the comparison and show the difference. For example—I'll go to it now—when we're talking about commercial leases, the certainty of knowing that you have a three-year lease or a five-year lease or a five by five or a three by three is predicated on knowing, not only how long that lease will be, but what the quantum of increase will be. Often there is argument about is it 3 per cent or CPI, so that idea of knowing how often and by how much my rent will rise as a result of occupying that property is a certainty that the commercial sector relies on.

Contrast that to the uncertainty, the vagaries, of not knowing five-year turnover of residential properties but average length of tenancies nowhere near that five years. It can't help but point to saying some of the business model at least—an appreciable amount; again, I'm not sure exactly what, but not nothing—is based on the activity of either the size of the rent roll, the number of transactions, and one of those transactions has to be that every time there's a rent increase, there's a change of activity and there's a right of that real estate agent to charge for that service. In some ways, if the reforms that are proposed suggest that there's less that has to be done because tenancies tend to be longer, we would also say that if tenancies tend to be longer and the rate at which those tenancies' rental increases is fixed at once a year or once every two years, whatever it happens to be, it can't help but be the activity of the real estate is slightly reduced. That's as much as I've got to say on that, but I'm happy to come back to you with some details.

Mr CLAYTON BARR: I think the comparison with commercial is really interesting, and I'd love some detail or something in that regard because it's a very good point you make. Ms Davies, I noticed you nodding your head at one stage during that. Would you like to contribute, or add?

KATE DAVIES: I'm just really reflecting on John's comments that the importance of that security up-front is so crucial. Again, I'm speaking in relation to a particular cohort of renters, I guess, but we think about the complex issues that we all deal with, but some people are really pushing against a range of complicated stuff in their lives. We think about groups such as people with disabilities, people with complex health issues, people with caring responsibilities, people who have significant safety concerns and perhaps escaping domestic violence, for example. That opportunity to not only have tenancy but to have some security about the length of that tenancy, to have security around your rights in that tenancy, it is life-changing. The benefits of that are beyond the kind of welfare community service sector that I'm involved in. That has an economic benefit for the whole society, certainly for government in terms of reduced impact on services. The implications are so far-reaching that thinking beyond the particular sector that people like John and I represent is so significant.

The CHAIR: Thank you so much. We need to draw an end to it, but I thank all three of you, and the organisations and groups that you represent, for all of the work that you do and the contributions that you make to the ongoing, pressing priority that we have to deal with in the housing crisis in this State. Each of you will be provided with a copy of the transcript of today's hearing. You will be able to provide any corrections as required. There were a couple of questions on notice that will be provided in writing by the Committee staff. Appreciating the tight timeline that we've been set by the Parliament to report back on this, if you could kindly return these by 5 August, which is next Monday, that would be wonderful. Thank you for your time today and for your submissions.

(The witnesses withdrew.)

Mr JULIAN LAURENS, Senior Policy Officer, People with Disability Australia, sworn and examined

Mx MEGAN SPINDLER-SMITH, Deputy Chief Executive Officer, People with Disability Australia, affirmed and examined

The CHAIR: We now welcome our next witnesses. Thank you both for appearing before the Committee today to give evidence. I note that Committee staff will be taking photos and video. Please let them know if you don't want that to be done or distributed. Can I also confirm that you have been issued with details of both of Committee's terms of reference and information about the Standing Orders for witnesses? I note you are both nodding. That's wonderful. Did you have any questions about that information?

MEGAN SPINDLER-SMITH: No, not at this stage.

JULIAN LAURENS: No.

The CHAIR: Would either both or one of you like to make a short opening statement before we move on to questions?

MEGAN SPINDLER-SMITH: Yes, thank you, I would like to make one. People with Disability Australia is Australia's peak cross-disability representative organisation and is funded to provide cross-disability, systemic and individual advocacy on behalf of people with disability in Australia under the Department of Communities and Justice, as part of the Disability Advocacy Futures Program. In 2022, 5.5 million Australians, which is about 21.4 per cent of Australians, identified as having a disability. That was actually an increase from 4.4 million, which was about 17.7 per cent, in 2018. What we do know is that, in 2018, the figures showed that 16.9 per cent of the New South Wales population had an equivalent identification of disability, which was equivalent to 1,346,200 people.

People with Disability Australia seeks to advance and protect the rights, health and wellbeing of people with disability. The UN Convention on the Rights of Persons with Disabilities guides and informs what we do. We embrace the human rights model of disability where everybody has equity of access and is treated with dignity. People with Disability is a board who, like myself, are all people with disability. This uniqueness is recognised and we're afforded the privilege of participating on relevant UN committees and forums across state's parties. Furthermore, many of our staff are people with disability and many identify with other intersectional and marginalised lived experiences.

People with disability continue to experience discrimination and poorer life outcomes across all life domains when compared to those without disability. Access to stable, safe and appropriately accessible housing is a key concern for people with disability, and we know that it's a critical social determinant of health. People with disability are at a greater risk of becoming homeless, as they receive lower incomes and have less engagement with the private housing market when compared with those without disability. As at June 2020, 36 per cent of social housing households had at least one person with disability. We note that support received through the NDIS does not include rental support in the private market, and the NDIS itself does not provide housing, except for an extremely limited number of people with disability who meet eligibility criteria for specialist disability accommodation.

The current rental and cost-of-living crisis is hitting many Australians hard, and for the most vulnerable in society, such as people with disability, urgent action is needed. Current data shows that as of June 2022, 33 per cent of individuals and families receiving Commonwealth rent assistance, and with disability support payments as their primary income, were in rental stress. For many people with disability and their families, if eviction occurs, they will have nowhere to go. The percentage of accessible rental housing in New South Wales is not readily identifiable, and this in itself is a source of concern as the limited supply increases risk to people with disability being able to secure appropriate, accessible housing in a timely manner. For people with disability in the private rental market—and this includes situations where they may be living with family, for example—it is imperative that they and their family are supported to stay there. For PWDA, access to safe, secure and appropriately accessible housing is a fundamental human right and abolishing no-grounds evictions will provide some measure of stability, supporting the wellbeing and inclusion of people with disability.

The CHAIR: Thank you for those opening remarks. I will start with a question and then pass around to the Committee members. I want to turn to the contribution you make in your submission around the need for longer notice period times and specifically look at the impacts directly on people with a disability and the reason why having longer notice periods is so critical for people who are renters that also identify as having a disability.

MEGAN SPINDLER-SMITH: For us the 90-day period is extremely important. The reason for that is that, for people with disability, especially those that do have physical accessibility needs, a lot of homes that are available in the private rental market at the moment are not accessible. Being able to find an accessible home that you can utilise, or a place where a landlord is willing to make changes to the property, within a currently highly competitive market is almost impossible. When you need to find these and you need support to find these places that are actually accessible—for example, may not have any stairs. For me, as an example, I cannot use more than three stairs. If I was to have to move and had a very short period of time trying to find somewhere to live in that period of time that doesn't have access for that, or the ability to use my wheelchair inside, that would mean that I wouldn't actually be able to move anywhere and the risk of homelessness is quite high in that fact. We do need the longer time because the available properties are almost non-existent.

The CHAIR: I realise that I omitted to say at the beginning that you are both very welcome to take questions on notice if the Committee asks and you want to take that on notice. Feel free to indicate that that is the case.

MEGAN SPINDLER-SMITH: Perfect. Thank you.

Ms DONNA DAVIS: Having read through your submission, what additional considerations should the rental reform legislation take into account to better support people with disability in the rental market?

JULIAN LAURENS: I think one thing we want to make clear is that, when we speak about people with disability in the rental market, we are not just talking about adults, for example, trying to find a place. That kind of gets lost a little bit. We are also talking about families. We are talking about a single mum or a single dad who might have a child with disability as well. These things kind of get lost. That's what we mean when we talk about people with disability in the rental market. Historically speaking, people with disability haven't had a lot of input into the private rental market as an adult. They are often living in support accommodation. What I mean by that is they are supported by their parents, for example. But it is important to bear in mind that we are talking about families as well here and not just individuals. What was the question again, if you don't mind me asking?

Ms DONNA DAVIS: We know that we are focusing a lot on no-grounds evictions, a portable bond scheme and other measures, but are there any particular measures that you believe should be considered in future legislation to make renting a lot easier and better for people with disabilities?

JULIAN LAURENS: We are going a bit beyond the terms of reference of this bill, potentially, and we are looking back at some of the things that maybe were raised in the initial consultation paper.

The CHAIR: For context—and we have repeated this but I may not have done it at the beginning of the session when you were in—we are recognising the framework that we are dealing with now with the Premier's

announcement yesterday. Obviously, there is now a need to look at the details of what the reasonable grounds would be and how that would work, hence the notice period is a factor up for discussion. But also members are asking if there are broader things that we should be considering as part of this legislative reform.

JULIAN LAURENS: How long is a piece of string?

Ms DONNA DAVIS: I'm happy for you to take that on notice. I'm just looking at what you have presented to us in your submission and if there's anything you wanted to specifically expand on.

JULIAN LAURENS: I think the notice period is a huge one. I think it is for those reasons that for people with disability it does take longer to find a place that's suitable. There is a whole raft of reasons why that might be; we talked about that in the submission. Living near supports, for example, is a big one. We talked in an earlier submission we did to the initial inquiry about things such as simply making it easier for people with disability to get a rental in the first place. The process of actually applying for rentals is convoluted, difficult and open to discrimination.

We definitely know that from feedback from our members. We've heard that the minute they find out you have a disability, then straightaway you know you're not going to get the property. The minute you ask or inquire as to whether the premises are accessible, then suddenly you're not even going to go further down the track. We hear that quite a few times. Of course you can't prove discrimination because the process is hidden behind closed doors. So making the rental process itself more transparent would be a really positive step forward for so many marginalised communities who are obstructed maybe for race, sexuality or disability status and so forth. That's a really big one.

One of the things that was mooted around was a move towards more AI being involved within the actual application process—automated kind of decision-making around who was going to get the rental accommodation or who was not. Of course we have a big issue with that, because depending on what you feed into that, in terms of your parameters, is what you're going to get out of it. So if you're feeding in a certain criteria, you're going to get a certain outcome. Having a more transparent process to start with would be extremely beneficial for, I think, all marginalised communities, particularly for people with disability.

Other things we've talked about previously which are really important are things like service animals and assistance animals in general. There's a big difference as well. We do know of firsthand accounts of people—as soon as they work out you've got an assistance animal, it's like, "No, you're not coming in." Even though there's been legislation and some change around that, there's been good case law around that, it's not always—the issue here is, and I know our previous colleagues have spoken about that, there seems to be a barrier here with the real estate agents themselves, rather than the landlord, some of the times. The minute a real estate agent hears that you've got an assistance animal it's, "Forget about it. You're not going to get that property." It's a huge issue. So transparency definitely around the initial process to prevent discrimination occurring, notwithstanding the fact that we need more than 90 days sometimes, as well.

We talk about 90 days being a minimum for an eviction notice for periodic and fixed leases, and we think it is fantastic. I will say that the Labor Party has recognised that 90 days for both types is the bare minimum. But we would also say, in addition to that, there may be a need for some kind of discretionary mechanism there, potentially by the tribunal, as well, to go to that to say, "In this particular case this person does require longer because of a disability. They have a number of reasons." All we would say to that is that's simply giving effect to that person's human rights. Those fundamental human rights are outlined in a number of instruments. You've seen it in our other submissions but also in the convention itself, the CRPD, which makes it very clear that people with disability have a right to choose where they live and with whom. We don't see that always being upheld in the current system.

MEGAN SPINDLER-SMITH: I do want to add just a couple of small things. One of the things that we do need to make sure that we're clear on is, because we can't currently understand how many accessible properties there are unless you actually go to the property, there does need to be a measure to allow for a percentage of accessible properties available, or there needs to be some form of support to ensure that properties are able to be made accessible if people with disability are looking for somewhere to work. So that is one really important part. To add to what my colleague has said, the application process does need to be made more accessible. A lot of the time it can be paper-based which, as you can imagine for someone who is visually impaired or blind, will not work. They will require support, and people shouldn't have to require support to be able to access that.

Then just to add with regard to assistance animals, to train up an assistance animal versus a service animal, the difference—it does take about two years. You do have to have them in your home during that time. They are classified as an assistance animal in training, which does not actually cover them in the same way. It is a starting

point. It is something to recognise that there are some grey areas when it comes to the two-year training period for assistance animals that need to be considered as part of this.

The CHAIR: Can I ask for clarity around that? How would that work in a situation where—leases are on average 12 months; we know in some cases they're six months. How do people go about doing that training with their assistance animals if they're supposed to be moving every six to 12 months?

MEGAN SPINDLER-SMITH: It's very difficult. The training is not just building-based. It depends on what their need is. It can also be in the community. However, when you are training them to get things from your fridge or to be able to pick up medications for you, they need to be able to associate that with the building that you're in. For instance, for me, if I was to have a fall and I needed my support animal to come and help me, grab something to help me get back up, then I would need them to know where to get that from, and then you have to retrain that part. So it can actually extend the training period. The two-year period is before they are seen as fully licensed as an assistance animal.

The CHAIR: But it would add in extra resourcing and risk and health implications.

MEGAN SPINDLER-SMITH: Correct, and cost.

Mr TIM JAMES: Thank you both. It's much appreciated. In terms of the overall picture and incidence of no-grounds evictions—and noting, as I do, that your submission draws heavily upon that of the Tenants' Union—I want to ask you to what extent you might have data or detail around how much this is happening, obviously particularly among people with a disability. In the broader population, we heard this morning from the Tenants' Union that in New South Wales there are one million renting households. They are to going take it on notice and come back, but for now they said 28,000 no-grounds evictions per year would take place. That's less than 3 per cent of all renting households in New South Wales that would be affected by a no-grounds eviction. Do you have a sense for how much it might differ among the disability population?

The CHAIR: Just to be clear, given they're not here, they also said that the current insecurity impacts all renters because the potential of a risk around a no-grounds eviction is also there.

Mr TIM JAMES: Yes, but in terms of actual numbers—

The CHAIR: That was also part of their evidence, just to be clear on the record, for those that might just read this section and not another section of the transcript.

JULIAN LAURENS: Just a quick point, that number of 3 per cent, they are actually all individuals with families. There is no doubt in my mind that—we've definitely heard stories, like I mentioned—there has been trauma done to some of those families. Don't forget these are no grounds. These are people, families, who have been paying their rent, doing everything fine, not a problem at all, and then one day they are told, "You're out." Where do you go in a situation like that? There's no doubt in many of those cases—we know there are multiple stories; we've got some here—that the rent was jacked up two weeks later, \$400 higher, \$300 higher, and that person is now priced out of their community.

This goes back to someone with disability. If you are a mother of a child with autism, where do you go when your rent gets jacked up several hundred dollars? Your hospital is down the road, your medical treatment is down the road, your school is across the road, and you are training your child to work in this environment. It's extremely traumatic. I do take your point on one level that it doesn't seem excessively high until you realise it is actually individuals—households, in fact. There are more than 28,000 people. They are households.

In terms of numbers, this is a great problem. We have actually spoken to our colleagues about this, and we are going to work on stuff like this to work out how many people with disability are specifically affected—or families are affected. We don't know necessarily. What we do know is we do get calls from people who do say, "I've got a child with Down syndrome. We have to move. What can we do? I can't get a rental," or, "As soon as I had a dog, we got kicked out. What do I have to do?" Some of those cases we would refer them, because we are not a legal service, but we definitely see these cases.

Often times we go, "Look, obviously something has happened here," and we might refer them to another service like the Australian Centre for Disability Law or the Tenants' Union. Is it a huge number? We don't know. We only get to see a percentage in our service as well. Does it occur? Yes, it does. People do ring us up and say, "We are being evicted. We don't know why. My partner and I are both on the DSP. We can barely afford to rent now. We are now not going to be able to live in this neighbourhood, in this place. Where do we go?"

We actually don't always see the end of that story because at that point we're going, "You've probably got a legal problem somewhere and we have to refer you on."

I haven't got those numbers. All I can say is we had 1,300 to 1,400 individual advocacy claims made in 2022-23. All I can say is we have a specific program looking at housing where we get hundreds—you know what I mean. It's a whole range of issues here, and sometimes these tenants have done the wrong thing. A lot of our inquiries are actually related to social housing as well, don't forget. I know colleagues are aware of trying to break the demographics down a little bit more. Does it go on? Absolutely. Does it go on unjustifiably? Yes. That's all we can say at this stage on that. I wish I could say more.

Mr TIM JAMES: I understand. I'm entirely sympathetic. Of course there is a very human, very real, very personal element to it. At the same time we're talking about public policies. As we know, and I think everyone broadly accepts amidst this rental crisis, the fundamental issue really is one of supply. We have to be extremely careful not to do anything, in fact, to make supply worse, which takes me to, I guess, my next question, which is probably going to sound a little bit vague. It's something, I'll be honest, I know relatively little about. In terms of the supply of properties that have been fitted or built in a manner that is suitable for people with a disability, can you just help me to understand that some more in terms of the supply challenges there and the extent to which they may be different to the broader supply challenges in the marketplace? Obviously take it on notice in terms of any sort of data or detail that you have that sits around that. I would be grateful to hear it.

MEGAN SPINDLER-SMITH: We would definitely need to take on notice any of the data around that. However, the big difference when you think about accessible homes is that what you are talking about here is homes that have the ability for wheelchair access. They have large enough bathroom spaces for supported personal hygiene experiences, the ability for a support worker to be able to come in and support you with being able to navigate your home. That also means accessible kitchens, which may mean that you either need a lower kitchen or a kitchen that is set up where a wheelchair can physically go under.

Percentage wise, we know that at the moment there is no real way to monitor that in the rental market because it is changing so regularly, but we can look into it and see if we can find any further details. One of the issues that does come up is around how people can access information around that, and that is not readily available when you are going into the rental market. A lot of the time, even being able to get to a place to see if it is accessible requires support, which then requires you hiring a support worker, which is an additional cost.

We're talking about things like making sure that the bathroom has rails in the shower. I can give you an example. In my home I have rails next to my toilet so that I can utilise my toilet. I know this is very personal but these are important things when it comes to your home. I have a physical seat in my shower. You can get ones, but you need enough room in a shower to put a seat. I'm lucky enough to be able to have the choice of a seat in my shower. You also need rails to be able to get in and out, and for some people, it needs the ability to be able to have no lip and no step into the shower. If you take a moment and imagine your own bathrooms in this moment, how many people have to take even just this size of a step into your bathroom. That is not accessible for many people, including myself.

From the kitchen perspective, anything that requires high reaching may not be viable. Anything that involves many steps between your cooking and your cleaning spaces or being able to access your fridge needs to be moveable and there needs to be space to be able to move a wheelchair in between those different spaces, which many kitchens do not or many living spaces do not, and then not having any steps inside the actual property is almost impossible.

The CHAIR: Just on that, given that obviously all the homes in New South Wales, at one point, have been constructed, and there's a lot of discussion at the moment about supply, what could be done in terms of that construction phase, recognising that some are then going to be put on the rental market? I guess one is the adaptation, but I understand that the New South Wales Government currently isn't doing what you're asking for in relation to the broader issue of supply. If everyone is so gung-ho about supply, it'd be great to know.

JULIAN LAURENS: Chair and Mr James, I think one of the issues here is that you're veering off into a slightly separate policy area, which is around the National Construction Code and the signing on for that. That might be a little bit out of scope, but it's not out of scope in the sense that there needs to be more disability-specific housing. We would sit there and say that all new housing in New South Wales should be built to a minimum standard under that code. It's a bit of a shame—and I'll say this, and it's our policy—that the New South Wales Government hasn't yet signed on to this code to have a minimum standard of building, a minimum standard of accessibility, not even bronze standard.

MEGAN SPINDLER-SMITH: No.

JULIAN LAURENS: We're not even talking about top level. We're simply talking about having a house where your friends can come and visit you. That's a minimum level. So that's something slightly different than we're talking about, and there are definitely moves about to try to encourage more housing to be built to a standard,

even though it's not mandated. There's definitely some incentives around it—not enough, though, is what we'd say. In terms of general supply, again, that's not really what our expertise is in solving the general supply market.

MEGAN SPINDLER-SMITH: What we do know, however, is that currently what we are trying to push for, as part of building better access, is us in New South Wales signing on to the silver level of liveable housing, which we know Queensland has signed on for. It is one of those spaces where that will ensure minimum—obviously we'd love gold standard; we're not going to say we don't. From a percentage perspective, and the additional cost to actually building homes that are at that level, it's actually not very high. My understanding is that it's about a 1 per cent to 2 per cent additional cost to meet silver level standard. That is what we're actually looking for.

The CHAIR: At that point in time, if the Government was to regulate that national code now for new supply, we would be avoiding, down the track, having a situation where individual landlords would have to be making adaptations for rental properties in the future, because there would be a standard for all new supply that would meet that level without putting it back on to individual investors or tenants to negotiate that.

MEGAN SPINDLER-SMITH: Exactly. Yes, that's correct.

JULIAN LAURENS: The irony of all this is these are standards that are actually beneficial for all people. They make all houses more liveable—slightly wider hallways et cetera—so it's a bit mind-boggling. Maybe the question is similar. We have seen no evidence ourselves, and we know the evidence is limited in terms of who's doing research in this area, but measures such as what we're talking about here and the terms of reference of the inquiry and the bill, the research to date shows no negative impact on supply. Evidence in other jurisdictions shows it's stable, if not more improved. I think the evidence—

The CHAIR: I'm conscious of the time. Maybe we will go for a few more minutes to allow the member for Cessnock to ask a question.

Mr CLAYTON BARR: I am very mindful of the time. We're already over time. I do want to ask a question, particularly about the example you gave, Mr Laurens, about—maybe it's a single parent with a child with autism or Asperger's or something like that. In instances where one of the people living in a rented property has behavioural responses that can be loud or aggressive, or whatever the case is, do we see evictions? In instances where we see evictions, do they generally come by way of no-grounds evictions? Or within the current Act, are there grounds to evict in those instances, fair or unfair? Do you understand—

JULIAN LAURENS: I understand your question. I'm actually a property lawyer background as well so what I want to say is your question is veering potentially into a legal issue around an interpretation of strata laws, by-laws and so forth. There are definitely rules within strata schemes around nuisance behaviours and so forth. I know of cases previously—in fact, some of them have been reported—of a family being evicted because a baby was crying too much. Absolutely outrageous. It was actually reported quite widely. I've certainly seen those cases myself in practice and they've been in the media. I know of cases where children who have a particular—I wouldn't call them behaviours of concern; I'd call them communication challenges, maybe, if anything. We don't tend to see children in that way anymore—absolutely have had sanctions from a strata body. The thing with no-grounds eviction is you have no idea what the eviction was for. Would people use things for excuses? You just don't know, do you? As I say, there have definitely been, in the public arena, cases around people being evicted for babies crying or being fined by strata for babies crying and for other behaviours with children running around.

Mr CLAYTON BARR: Just to clarify, in those instances, their eviction has been on grounds. As unfair as those grounds might be, they've been evicted because of a certain grounds to evict.

The CHAIR: But there is no ground in the current legislation—

JULIAN LAURENS: All I'm saying is it might influence the reason why eviction was given, if that makes sense. Because I think we're getting into an area where I'm getting into legal, and I don't want to make judgements about that. But there are definitely examples I know of and that have been reported about.

Mr CLAYTON BARR: Thank you so much. That helps.

The CHAIR: Given we were moving quickly but also given your submission does talk to the use of no-grounds evictions as a way of impacting on discrimination and other things, maybe if you want to take that on notice and come back with that as a potential—what you would see as the benefit of this change to avoiding those kinds of discriminatory practices on the basis of a ground.

JULIAN LAURENS: We would say that would be the case.

The CHAIR: That would be great if you want to—

JULIAN LAURENS: We would say this would help that. One of our contentions would be that this bill would help with minimising discriminatory practices.

The CHAIR: Thank you both for appearing before us and for all of the work that you do to support people in the community and for your submission. A copy of the transcript will be provided to you so that you can provide any corrections on any details that were commented on by yourself during the inquiry hearing. Committee staff will also email you a copy of any questions on notice. We ask that, if possible, you get back to us in a week, by 5 August. That would be appreciated. Thank you again for your time today and for your ongoing work in the community.

(The witnesses withdrew.)

(Luncheon adjournment)

Ms DELIA DONOVAN, Chief Executive Officer, Domestic Violence NSW, before the Committee via videoconference, affirmed and examined

Ms EMILY ROBERTS, Policy and Advocacy Officer, Domestic Violence NSW, before the Committee via videoconference, affirmed and examined

Ms SUE CRIPPS, Acting Director, Housing and Service Development, Women's Community Shelters, affirmed and examined

Ms NICOLE YADE, Chief Executive Officer, Women's and Girls' Emergency Centre, affirmed and examined

The CHAIR: I welcome everyone to the afternoon session of the public hearing of the select committee's inquiry into the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024. I acknowledge that we are on Gadigal land and pay our respects to Elders past and present. I also recognise, as I did this morning, that we are conducting this inquiry into a private member's bill in the context of an announcement by the Premier yesterday in terms of their next steps in relation to delivering on no-grounds eviction reforms. I recognise that our terms of reference certainly do still apply in relation to looking at the grounds for which an eviction is reasonable, the appropriateness of evidence requirements to support reasonable grounds or potential penalty schemes and also any unintended consequences and housing affordability issues, as well as jurisdictional comparisons. I recognise that that may want to go outside of the scope of just this bill, recognising the context of the announcement yesterday.

I also wanted to pass on a member of the Committee's apologies. The member for Blue Mountains, Trish Doyle, was hoping to join us today but has been unable to do so due to an unplanned family situation. The member for Parramatta, Donna Davis, was here in person with us this morning and is about to join us online for the second half of the afternoon, but she will be participating remotely for the rest of the session. I'd like to welcome our next witnesses. Thank you all for appearing before the Committee today to give evidence. I note that Committee staff will be taking photographs and video during the hearing. If you don't want that to be shared on social media, please do let them know. I'd also like to confirm that you have all been issued with a copy of the Committee's terms of reference and the standing orders that relate to the examination of witnesses. Did you have any questions about any of that information?

NICOLE YADE: No.

The CHAIR: Can I ask whether any of you would like to make an opening statement? I might go to the video first, if you have one, and then I'll come into the room.

DELIA DONOVAN: We do, yes, acknowledging that we're coming to you today, everyone, from the Gadigal land of the Eora nation and pay our respects to Elders, past and present. It's wonderful to see you today, Jenny, and your colleagues, and, obviously, our wonderful domestic violence colleagues there today. Thank you. I am the CEO of Domestic Violence NSW. I'm joined by Emily Roberts, our policy and advocacy officer. We're a peak body representing almost 200 specialist domestic and family violence services across the State. Quite simply, we exist to eliminate domestic and family violence.

Replacing no-grounds evictions with reasonable grounds evictions isn't limiting a landlord's rights. It just means ensuring a tenancy agreement can be terminated for valid reasons, giving renters the chance to challenge an eviction that has insufficient evidence. Further, we're thrilled that the New South Wales Government has announced its intentions to end no-grounds evictions and progress renters' rights. Alongside other colleagues and

peaks, we are now eager to hear the details of this announcement to ensure renters are educated about their rights and victim-survivors are prioritised and protected through the New South Wales tenancy laws.

Some might ask why ending no-grounds evictions is important for victim-survivors. Just over 9,000 victim-survivors a year become homeless after leaving their homes due to domestic and family violence. This is a national shame. Women and children deserve the right to secure housing, not living in fear that they may lose their home because they're being harassed by a perpetrator or stereotyped by landlords and rental agencies. In May this year, the New South Wales Government committed to expanding the Staying Home Leaving Violence program to all local government areas in New South Wales. This program will support victim-survivors to stay in their home, or a home of their choosing, by providing security and safety upgrades to their properties.

For this program to be successful, tenancy laws must correct the current power imbalance between a renter and the landlord. Victim-survivors must feel confident to seek approval of the simple safety modifications and not fear repercussions or being stereotyped as problematic tenants under this expanded program. This, for us, will require ongoing monitoring. Eliminating no-grounds evictions is one way to stop victim-survivors bearing the responsibility of a perpetrator's actions, but overall the reform ensures women and children have the fundamental basic right to access stable long-term housing. Thank you, everyone.

The CHAIR: Thank you so much for that. Ms Cripps, do you have an opening statement?

SUE CRIPPS: Just to further build on what Domestic Violence NSW's Delia has shared, there are some specific things that we need to pay consideration to in terms of older women and their vulnerability to homelessness. We know that many older women have stories and have histories of unstable relationships, vulnerable relationships, where there may well have been domestic and family violence in earlier days that has resulted in them being in rental accommodation situations such that they lose access to their housing and become homeless, with no history of becoming homeless. They don't meet that paradigm of being homeless. We know that homelessness amongst older women is one of the biggest growth areas. That's been on the radar since about 2007, 2008. It's something we shouldn't lose sight of in this consideration.

The CHAIR: Thank you. Ms Yade?

NICOLE YADE: Thank you. Every night the Women and Girl's Emergency Centre has 200 women and children who stay with us and approximately 2,000 women and children who stay with us in the course of a year. In preparation for today's session I wanted to dig into our data a little bit more to see, upon first presentation at WAGEC, how many of those women were renting. It was 99 per cent of women who were renters when they came into our service. Less than 1 per cent were home owners. I think we're talking about a really serious link between renting laws and homelessness that we need to call out specifically, and we need to have better protections for really vulnerable women and children in the community to ensure they're not coming into homelessness.

The CHAIR: Thank you for your submissions and those opening remarks. I wonder if I can turn to DVNSW first and ask about the issues around the choices that are being made by women who may be facing or are at risk of a no-grounds eviction and insecurity in the rental market and the risk that may result in them being forced to choose between homelessness or remaining with a violent perpetrator. Then I will ask for comments and hear from both of you about the cyclic nature of leaving violence and trying to stay away from violence. I wonder if all of you might talk to the precarious nature of this dynamic and how it particularly impacts women and children escaping domestic and family violence.

DELIA DONOVAN: We would speak to our concerns around the refugee and migrant community here as well and around how they are often put through kind of a racist system at times and are at more risk. That is something we definitely want to be making sure we've got a clear view and eyes on. We certainly know, as Sue has mentioned, that older women over 55 are the largest growing population at the moment. We need to be really careful around our approach there and make sure we've got tailored responses. We are often hearing from those 200 or so members that we've got women and children fleeing and sleeping in cars. There's no long-term pathways being prioritised. We've been really pleased to see the social housing investment, but we know that is going to be a long time. We need to really, really think about those options for renters.

EMILY ROBERTS: That is also particularly true and exacerbated in regional areas, where there are less homes and less options to go to, less shelters, less capacity. We've had comments again mentioning women living in cars. We've heard of victim-survivors being forced to stay mobile and actually live in their cars and travel large distances to remain safe from perpetrators. They don't have anywhere to go. They don't have access to what we have in metro areas. The impacts of unsecured tenancies in those areas is quite substantial.

The CHAIR: I realise I omitted to say that it's fine to take questions on notice from myself or other Committee members and you can get back to us if you don't want to respond to them right now. Did you want to go, Ms Yade?

NICOLE YADE: When people come into refuge, it's as a last resort. They're out of options so often. They've stayed with family already. They might have used some money staying in a hotel. There are really no other options for them than to come into refuge. Unfortunately, the pathways out of refuge are really difficult for people. We pride ourselves at WAGEC at having really expert staff who are delivering support, but we can't deliver support if there is no housing for these women to go to that is affordable in the community.

When someone comes into refuge, they often have to move suburbs. That might mean shifting their kids out of school and away from their teachers and support networks. But then, depending on which area they are placed in refuge, it can mean another move to a more affordable suburb. But the women we work with just find it impossible to find affordable housing in the community. The refuges we run, people are supposed to stay in for just that crisis period, three to six months. At the end of last year we had someone leave our refuge after three years with her two children. It's completely unacceptable. There are no housing pathways that are affordable for women, which means people are living in circumstances in one room with their children for lengthy periods of time. It has an impact on people's mental health.

SUE CRIPPS: Building on that discussion, we know through our discussions and conversations with clients within our shelter network that many women make the decision to leave home at that final end point, when the crisis has become so severe. That's partly because their range of choices—their options available to them—are so small in that housing space. We know that many women do not make complaints about property, for example, to the real estate agent because of the risk of losing their home because they have raised very reasonable and valid questions around the quality of the property that they're living in. When we look at those two factors combined—that lack of access to housing plus that risk that we want to see legislative change around—it makes them so vulnerable to raise really valid and reasonable questions around the quality of the property that they're living in. It's such a critical thing that we must not lose sight of in this reform process period.

Mr TIM JAMES: I've just got a general question. Thank you all for your presence, your submissions and, most of all, for the precious work that you are doing. It means a great deal. Obviously you've got private market circumstances and then you've got refuges and perhaps specific-purpose homes and, indeed, many to come on the back of recent announcements. Your asks pertain to the whole of the market, I assume. Do you have any additional or, shall I say for want of a better term, sector-specific asks that aren't otherwise dealt with or haven't otherwise been considered here? I hope that makes some sense to you.

DELIA DONOVAN: It does, thank you. I think the main thing in doing this work and this advocacy, alongside peaks and colleagues here today, the education piece is going to be key for us. We can't have law and legislation alone without the community education piece and the responsibility that landlords and real estate agents need to take. We know that there has been probably scattergun, sporadic levels of training and education to real estate agencies. We certainly did some work back in 2019 called Safer Homes. It was going out to real estate agents and talking to them about how they can support domestic and family violence victims within their own sphere of influence. That would need to be safe, of course. I think we're going to need to have education alongside any law reform and that, sometimes, is the piece we miss. We've got to have them in tandem. We look at these reforms, we look at this legislation and we make these really important changes, but we have to educate the community and those who are going to be interacting with the legislation, including our sector and the real estate agents and those landlords. There needs to be the education.

EMILY ROBERTS: To add to that, within that, we do have this precarious situation where we have, in New South Wales, ways for victim-survivors to end tenancies, get out of the domestic violence situation and remove the perpetrator from the lease, and that's fantastic. The missing piece to that is that victim-survivors who are remaining in their tenancies can often become a victim again of systems abuse by the perpetrator, who understands how tenancy laws work and knows that if they show up, stalk, harass or cause damage to the property, that means the victim-survivor is the one who bears the responsibility. They are the one forced out of the home and often back with the perpetrator then, because they have no other option. I understand that's a very difficult one to navigate because, as a landlord, you don't want your property damaged. It is, essentially, the person on the lease who is responsible on paper. That is also a huge area of concern for us and something we're going to be looking into closely with the recent announcements as well.

The CHAIR: Did you want to come in on those, Ms Yade?

NICOLE YADE: I think how we define "reasonable grounds" is going to be really critically important. I just last week had a conversation with someone who had left one of our refuges and did actually manage to move into a granny flat situation. The landlord had come out to do an inspection for them—and it was their first inspection—and there were weeds growing along the side of the House, and there were photos taken of the weeds and a really nasty letter sent to this woman, with her four children, who had never rented before, about "If these

weeds aren't fixed within a week"—I think it was a week or something—"this is going to be really big problem." It was quite a threatening email. We were like, "It's no big deal."

Are weeds going to be part of reasonable grounds? I know it sounds like a silly question but these are the experiences that tenants are having in our community all the time about things like weeds in a garden. How we define reasonable grounds is going to be really important. I will also put a plug in for how we define "affordable housing". A unit for over \$800 in Bondi isn't affordable housing to the women and children that we serve at WAGEC. I think there should be some common definition about what affordable housing is. It should include people who are on social security being able to afford that kind of housing. At the moment, affordable housing is a percentage off market rate, and that means something can be classified as affordable housing that's still way too much for the people we serve to have access to.

The CHAIR: Did you want to come in, Ms Cripps, on that response?

SUE CRIPPS: I think the only thing to build on what my colleagues have identified is that not only is there a need for training for real estate agents and the like, but I think also we should never shy away from looking at our sector and the support we might need in helping to really build our casework staff's understanding around that rental aspect of being a tenant. That will make sure that they are able to really support and build the knowledge and understanding of clients so that, as they prepare to take on the tenancy, they know their rights but also their responsibilities. I think that builds neatly in.

Mr CLAYTON BARR: Where you finished there, Ms Cripps, and knowing your rights versus asserting your rights, given the cohort that you all work with and their lived experience of being deprived of many of their rights, are they able to assert their rights? They are entitled to. They have rights. Is that a difficult hurdle for them?

SUE CRIPPS: For many women, absolutely, it would be. But I think knowing that there are support services out there that can actually work with them—such as their casework support, if they still have engagement with our services, but also with the tenant rights services so that there are people whose job it is to actually help you when you're in a sticky situation—is very empowering for somebody who doesn't feel able to take that role on themselves and to know the services are out there. I think that importance of that tenant-rights-type focus is a really critical aspect of this reform mechanism.

Mr CLAYTON BARR: To circle that back around, some of what we've heard and certainly in some of the submissions is the suggestion that, when a tenant asserts their rights, currently, landlords or real estate agents might then use no-grounds evictions to punish.

SUE CRIPPS: Correct. That is people's experiences. I would strongly support that. We have seen many examples and over my working life I have seen many examples, particularly with older women, where when they have sought assistance—or permission, even—to make modifications to bathrooms, for example, they suddenly find that they lose their tenancy through a no-grounds eviction. So, yes, that is a very real issue and I think it's something that will need some really deep consideration and thinking about in that whole legislative reform process into the mechanisms that need to be in place to protect people having a right to advocate for their rights.

Mr CLAYTON BARR: It's probably slightly outside the terms of this particular inquiry but it seems to have come up a couple of times. There's a suggestion about the landlords being on some type of register of some nature and the potential that evictions could be reduced if the tenants themselves were able to have a more direct access to a landlord, so maybe without the real estate agent in the middle. Again, given that most landlords are probably going to be male—I think, statistically—and most of your cohort are female who have come out of terrible circumstances, do you think your tenants being able to directly contact a landlord would be of any use or does it create other challenges? That's a question for all three of you.

NICOLE YADE: I think it's hard to say, to be honest. Our experience at WAGEC is that many of the women we serve live in constant fear of the real estate agent and the landlord for simple repairs that you and I probably would just think, "The tap's not working. You should ask about that," or, "The window's broken." It's okay, you should have a window. I remember somebody we were working with who didn't have a working oven for six months. She had young children but was petrified to ask the landlord to make a repair because she knew that if she asked for too much, she'd probably get the boot. She was sick and tired of moving around—when the rent got put up, had to move again, had to move the kids again. Often that means a move for the kids in school again.

The consequences aren't just about moving house. They're about moving a sense of belonging and community for people and a sense of support. That has really devastating consequences for people in terms of they just won't ask for things because they don't want to lose that support in the community. So I'm not sure, to be honest, if a direct line to the landlord would help with that because I imagine that would work both ways. I think sometimes we find the real estate agents can mediate a little bit around expectations from both parties. If you find

a good real estate agent, that's certainly someone we work with again and again and again at WAGEC because that can be a critical part to keeping the tenancy happy.

EMILY ROBERTS: I think it's not so much the person that you're directed to but it's the systems that they operate in. What we're seeing here is a complete imbalance in the system where the landlord or the rental agency have the power, so the renter doesn't. There are people coming forward asking for things because of that position. If our systems were more balanced to the renter and they had their rights, I don't know that it would make much difference who you spoke to because you still operate within more of a level playing field. But certainly a big concern for us in making sure we have that level playing field is implementing the rollout of the Staying Home Leaving Violence where victim-survivors are going to require modifications to their properties. It could be as simple as installing a camera at the front door, but they will have to ask for that. They need to have the confidence in the system that they can ask for that and not fear repercussion.

DELIA DONOVAN: I think where the system isn't safe at this current point, we just see it's an exposure to further risk.

The CHAIR: I acknowledge that the member for Parramatta and Deputy Chair of the Committee has joined us remotely now. I might come to you in a second, Donna, if you've got any questions. I'll just ask a few first. The first one was in relation to the perception that is slowly changing—thankfully—that renting was something that young people did for a short period of time before they had the joy of owning their own home, but also the perception that the beneficiaries of a more secure and stable rental market are young people. Even noting the housing Minister's comments today on the radio this morning announcing the changes saying, "This will be great for young people. We know young people will love it," when really we know that the growing cohort of women facing rental insecurity and housing insecurity is actually older women. I wonder if you can talk further about the impact on older women, considering the member for Willoughby's comments about recognising that WAGEC serves people in a certain demographic and at that level of crisis, but to our friends at DVNSW, the impact this has on women across the spectrum of economic advantage, if you like. Maybe I'll come to you first, Ms Cripps.

SUE CRIPPS: Women's Community Shelters has been innovating for the last five-odd years in looking at a pragmatic solution—short-term solution, hopefully—for this housing crisis that we're in. That is our "meanwhile use" activity that we've been leading with property owners, property developers and community housing providers. Over the last five years, we have housed more than 180 women, I think, off the top of my head, in our "meanwhile use" properties. Meanwhile use is just that—it's a property that is sitting caught in that planning cycle that can be repurposed and used, with support, to enable women to not be out on the street.

Ten years ago, when I was an advocate and a lobbyist, I would never, ever have sat there and said, "This is just fantastic," but it is fantastic because what it does is, given our current housing situation, it absolutely gives a place of safety and security—a secure, warm house that, admittedly, you have to share with a number of people, shared spaces, but you actually have a place that you can genuinely call home whilst your other issues are dealt with over a period of time.

We have one property in our meanwhile use portfolio that was supposed to be operating for 18 months. We are now hitting three years, and we probably have another 18 months caught in that planning cycle before we're going to need to look to wind that down. Those women have a period of up to four years of a safe place to call home whilst we look at helping them to find a permanent secure home. I think at this point in time looking at the broad suite of options that are available to women and their children, where children are there, is really critical.

The CHAIR: Did you want to come in, Ms Roberts or Ms Donovan?

DELIA DONOVAN: I guess just supporting of that. We're just trying to quickly dig out something. We did a lot of advocacy around older women back in 2022, and I'm sure there are some really key recommendations that we want to share with this Committee and we'd like to follow up to do so, but absolutely keeping our mind's eye on all the marginalised groups across New South Wales and, as we've said, around refugee and migrant community. We have heard from many members and services that there is a layer of systemic racism that they have to move through when it comes to renting and accessing those rentals of home, so we really want to keep our mind's eye on that and any decisions or progress we make.

The CHAIR: I note that WAGEC also made comments around that, particularly for people who are not permanent residents and migrants. If there is any other information or details you can provide around that and how you feel these reforms might address particularly the unintended—or the intended discrimination by those who are perpetrating it but the unintended consequences of legislation, that would be appreciated. Turning our mind to penalties and compliance, given where you sit, I'm sure you have seen the good and the bad. I think our friends at WAGEC just mentioned the good real estate agents versus the challenges that people might have in

people trying to navigate and game the system. I wonder how you feel the current legislation needs to address penalties, evidence and compliance when it comes to putting in place these reforms. Did you want to start first, Ms Yade?

NICOLE YADE: We need to protect people in the community. The power difference is so extreme that people don't feel like they've got the protection, even sometimes when the law is there. How do people make a complaint and have it treated fairly so that they're more inclined to raise issues again in the future is something we should certainly be looking at, because the reality on the ground is people are living where sometimes things are absolutely unsafe but they won't raise it because they're too scared to move.

Our experience at WAGEC isn't very positive, unfortunately, about landlords. We find people are having their rent—in the last year, not only for our clients but actually for our staff. I've had, in the last year, more of our staff be at risk of homelessness because their rent has been put up \$150 a week. This is for people who are on the front line, trying to serve women who are homeless, becoming homeless themselves. Everyone I know pretty much has had their rent put up \$100, \$150 a week in the past 12 months. It's a massive problem that shouldn't be allowed. People's wages aren't keeping up with that kind of increase and we need to do something to protect people.

The CHAIR: Ms Roberts, I think you wanted to come in on that question.

EMILY ROBERTS: Yes, just regarding the penalties and the fines. If we're going to meaningfully make any change, we need to have meaningful repercussions for people who are doing the wrong things. Certainly, with all good intentions, there is always going to be some loophole or some way to exploit the system. If we're going to make any of this meaningful and substantial, we need to make sure that the penalty system for false and misleading use of eviction grounds is actually quite severe. There should be significant fines; there should be significant penalties.

We need to look at that and make sure that's right to deter people from even attempting anything, and then within that, if they are found to be wrong, we need adequate compensation for people who are forced out of their homes wrongfully, to ensure that they're not trapped in a cycle of homelessness, they're not impacted when they're applying for their next rental even, based on discrimination or stigma that they have been kicked out of this home for something which wasn't their fault. We need to make sure their records are clean and they are appropriately compensated as well.

The CHAIR: Ms Cripps, I just wondered if you wanted to make any comments. I know your submission also touched on workforce concerns around security of housing in the community sector.

SUE CRIPPS: I think that's a really important point that Nicole raised, and we should not lose sight of workforce issues, because you can't deliver services if you don't have staff able to do that job. We know that it is a real issue in terms of rental affordability if you don't own your own property, being able to actually be there on the front line delivering critical services. We should not lose sight of that.

The CHAIR: Donna, did you have any questions?

Ms DONNA DAVIS: Firstly I want to apologise that I missed the beginning in transit. Also please let me know if this question has already been asked. Some landlords and stakeholders are claiming that the introduction of no-grounds evictions will result in the number of rental properties actually declining. What is your response to that claim?

SUE CRIPPS: I think that is a ridiculous summary, and I think that's just scaremongering, really. I don't believe that a good landlord is going to remove their property, because a property managed well will generate enough income for them to sustain the value of their asset, so I think that is just scaremongering.

EMILY ROBERTS: We can also speak to it more anecdotally and say if you have a person in a home for a longer period of time, yes, you have less people out there looking for homes, because if someone has a safe and stable home, they're not constantly out there looking for somewhere to rent to impact the higher numbers. It would be a good thing to have people in longer term, stable homes, and hopefully it will impact the greater system.

Ms DONNA DAVIS: Any other comments?

DELIA DONOVAN: Donna, I will mention, because you might not have seen this or heard me when I spoke earlier, that I also think there is an education piece missing with real estate and landlords around the stereotyping that I think is pushed around each other. I think it reinforces what we said there about the harmful stereotypes around renters. We can certainly send our opening speech to you.

Ms DONNA DAVIS: You don't need to. You can send it for the record. That would be good for you to submit it as part of the response, if you'd like to.

The CHAIR: Thank you to all of you for appearing before the inquiry today. The Committee staff will share a copy of the transcript with you for any corrections. If you've taken questions on notice, they will send those to you in writing. We're asking that you get back to us ideally by Monday next week because we're working on a short time frame in terms of reporting back to Parliament. Thank you, again, for all of the work you do, for keeping many people in our community safe and for recognising the ongoing struggles that your workforces are all having as well in the current rental crisis. Thank you for everything, and thank you for appearing and making submissions today.

(The witnesses withdrew.)

Ms KATELIN McINERNEY, Policy and Projects Officer, Community Industry Group, affirmed and examined

Ms NICOLE GRGAS, Coordinator, Hunter Tenants Advice and Advocacy Service, affirmed and examined

Mr BENJAMIN READ, Acting Manager, Central Coast Tenants' Advice and Advocacy Service, affirmed and examined

Ms KERRYANN PANKHURST, Service Manager, New England and Western Tenants Advice and Advocacy Service, affirmed and examined

The CHAIR: Welcome, and thank you for being with us here today. For a little bit of context, and to say what we said earlier in the day, we acknowledge that we are here still on Gadigal land. Earlier in the day we acknowledged that while we're here conducting an inquiry into a private member's bill, we're doing so in the context of the announcement yesterday by the Premier. We are being slightly broad in our discussion of the terms of reference, recognising that the terms of reference did identify the reasonable grounds, the types of penalties, evidence and those kinds of things, so feel free to speak more generally to both the details around those grounds that were announced yesterday, as well as the content of the bill and your submissions. Before we commence, I'll let you know that the Committee staff may be taking photos and videos for social media. If you'd prefer them not to do that, please do discuss that directly with them. Can you confirm that you have seen the Committee's terms of reference and also the standing orders as they relate to witnesses?

KATELIN McINERNEY: Yes.

NICOLE GRGAS: Yes.

BENJAMIN READ: Yes.

KERRYANN PANKHURST: Yes.

The CHAIR: Do any of you have opening statements, before we move on to questions?

KERRYANN PANKHURST: I'll make the brief comment that I wrote this before the announcement, but I think it still stands true for you.

Mr CLAYTON BARR: We started this before the announcement too.

The CHAIR: We're all working with what we have, so it's all good.

KERRYANN PANKHURST: I'm here to give you context, as you consider the proposed bill, of the real stories of the real people who live in the homes across more than half of New South Wales. Our submission illustrates that absolute power—the power to end a family's tenancy without any care or consideration for that family—results only in the consideration of the rights and profits of the tenancy industry of landlords, large and small, and their property-managing agents, because that is how this law works when there aren't protections built in—not all landlords, not all real estate agents, but a growing proportion. That absolute power of issuing an uncontested termination notice manifests in real estate agents having conversations with tenants about payments for repairs that are not the tenant's responsibility before any additional fixed-term lease will be considered. It results in termination notices when the tenant pushes back.

We had another example of this again on Thursday just past. A copy has been circulated; I've tabled an email that states, "The landlord has withheld the lease re-sign until the invoice is paid. Warmest regards." It manifests in no-grounds notices being given to older men and women who can't believe that there is nothing they can do to save their home. These are people on age pensions, who don't have the additional money to have a removalist come and pack up all the things that make up a life—the furniture and knick-knacks and photos and

quilts—that are not just belongings, but memories. They don't have the strength and resilience to do this again and again and again as they get older and frailer. This absolute power is brought against so many people in the towns and villages across our region who can't believe the advice we give them: "There is nothing you can do to save this tenancy." They may have offered a higher rent or said, "Don't worry about the repairs." But it is not their decision; it is the absolute right of the landlord to decide if they stay or go. Thank you.

The CHAIR: Thank you so much for that powerful statement, Ms Pankhurst.

BENJAMIN READ: I'd like to second KerryAnn's opening statement there. We at the Central Coast tenants' advice service deal with tenants every day that are facing a tremendous amount of hardship and stress and anxiety around their tenancies as a result of no-grounds terminations. We welcome the proposed changes and certainly we advocate fiercely for those changes in order to protect tenants and their rights in being able to maintain homes in their rental properties.

NICOLE GRGAS: I'd just like to talk about the fact that renters in New South Wales have lived with the spectre of eviction for far too long and, having worked as a tenant advocate for close to 25 years, I found it really demoralising, especially in the last probably five years, telling people day in, day out, as has already been explained, "There is nothing you can do. Yes, your landlord can evict you without any reason", and that "If you can't find somewhere, the tribunal will end your tenancy and the sheriff will come." It's such a powerful shock to people. It's very difficult to describe the horror that you hear in people's voices when they're saying, "What about my family? I can't have my children on the street." It's really impactful when you're working in the space to be doing that day in, day out. It is the fact that no-grounds evictions have really impacted heavily on the most vulnerable. In the Hunter region, we have historically low vacancy rates, around 1 per cent in a lot of our areas. It's not uncommon for our clients to say that this notice of termination means that they have to cease their study, that they have to leave their community or they are actually exiting into homelessness.

The current climate is this perfect storm in which renters are the losers time and time again. The other thing that we see is that, when someone rings us about a non-eviction issue—it might be to assert their rights—the question always comes, "Can I be evicted?" So that power imbalance is just really, really stopping people from asserting their rights for that fear. We see that fear made out. I know you probably hear it from advocates time and again, but every day we are talking to people who do actually have a notice of termination and they have asked for a repair or they have asked for a landlord to reconsider a rent increase. We're really thankful, though, to see this strong commitment to removing evictions without grounds. I want to recognise the work of the Committee. I think that what we need to do now that we know that there is likely to be some positive change—that we get the reasonable grounds right, that they're clear, unambiguous and not open to abuse. I think that it's also incumbent on us to ensure that there are processes in place for robust compliance and for penalties that are sufficient to create meaningful change.

KATELIN McINERNEY: I just want to echo everything that Nicole has just said. It's a similar situation in the Illawarra, Shoalhaven, South Coast and Southern Highlands and Southern Tablelands, where our membership are operating. We are not a frontline service; we're the original peak body representing the frontline service groups. Our members have, for a very long time, supported the abolition of no-grounds evictions. We not only have also historically had exceptionally low vacancy rates but Kiama is now the fastest growing property values in the State and we have one of the lowest vacancy rates outside Sydney and Wollongong, which is sitting at 1.3 per cent. We have a great need in our area to grow and we are doing that and that is pushing more and more working families to the brink in terms of cost of living.

The message that our members had today was very much that they are now seeing a cohort of people, working families, who have been pushed to the absolute breaking point, particularly in housing stress, who are now joining a queue that was already very long—with lower income people—and who are again facing incredible stress in the housing market, where rents have gone up exponentially. We're talking bigger than a 10 per cent increase in some of our towns. We have a short-term rental squeeze as well. We welcome the announcement around no-grounds evictions because this will mean the difference for families ending a lease being told, "It's \$150 more a week to live here or you're going. We need you out." That will make a big difference in our region, where we are seeing the numbers of people pushed from tenancy out into homelessness becoming such a big problem, on top of what was already a pretty significant waiting list in our housing sectors.

The CHAIR: Thank you all for your work and thank you for those opening statements. I want to acknowledge that we're going to move to questions now, but if there are any questions that you wish to take on notice or provide further detail about, that is absolutely open for you to be able to do so. I might ask the first question and then go to the other members of the Committee. Representing an area in the inner city that no-one denies is full of renters—close to 60 per cent of people in the electorate of Newtown in the inner city rent—I think there are probably two big misconceptions about rental benefits and rental reforms: the first is that it impacts on

young people and that it's just a problem that young people will be relieved to see, and the second is that it's just an inner-city problem.

I will go to you first, Ms Pankhurst, but I will be happy to hear from others as well. In terms of your submission and the particularly challenging situation where your area represents seven of the 10 most disadvantaged LGAs in New South Wales, and how that power imbalance between tenants negotiating with landlords or real estate agents plays out, day to day, for you. In addition to that, what do you see as strong reform to ending no-grounds evictions? Also, what goes with that in terms of penalties and evidence to provide some protection to some of those most vulnerable people?

KERRYANN PANKHURST: It has been, as Nicole mentioned earlier, a perfect storm. We had a situation, during the pandemic and the floods, where people were moving into our region. The Lismore floods, strangely, had a huge impact in New England as people were leaving that region in their search for a habitable home, and then they were moving into Moree, Tamworth, Armidale and Narrabri—moving further out for them. But it meant increasing pressure on the stock, so it became something that was very frequent to us. We were hearing from tenants who were getting the rent increase—because it's an opportunity. If there's high demand, it's an opportunity to put the price up. Tenants were telling us that they couldn't afford a \$75 a week increase. In particular, that was something that really particularly affected the very poorest of people, generally on statutory incomes.

It isn't just young people on Newstart in our region; it is the older people, people are who are old and frail who are on aged pensions, which is why I included them in our opening statement. We see working families in towns like Dubbo being pushed out of Dubbo. They are moving to the smaller outlying areas and the towns that surround that town, because then they can travel the 45 minutes to work every day but they would be able to find an affordable property. We saw this whole thing happening. The rents in the large towns jumped hard and fast. Now we're seeing the rents coming up in all the small surrounding towns and villages. So where we were seeing rent increases of 27 per cent, I think it was, in Dubbo one year and then another case—I'm just quickly finding Dubbo. I'm referring to page 14. The rent increase was 6 per cent in—the annual change up to March 2023. It had been a much higher jump the year before, so it's a big jump and then a little jump. That's a bigger squeeze, particularly since we don't earn as much, generally speaking, across our region.

The CHAIR: I might come to the workforce question if we get time as we move along. Did anyone else want to jump in on that or should we move on to other questions?

BENJAMIN READ: I'm not sure if it's just leading off from that statement, but so much of the stock on the Central Coast and the issues that arise in terms of tenancy advocacy—our role in providing advice and assistance in the tribunal revolves around the fact that there are so many issues with repairs and maintenance. The behaviour of the landlords—and a lot of the agents, frankly—in reaching a conclusion amongst themselves that the no-grounds terminations are the first point of call is the easiest way to find a way for a tenant to be moved on when there are obviously other avenues within the Residential Tenancies Act that are perfectly legitimate for them. I would just say that, in terms of no-grounds and how the interaction operates between asserting rights outside, a removal of the no-grounds may hopefully see a shift in the way the landlord prepares their property and a little bit of foresight in terms of what it's going to mean for them later on if they don't comply with their obligations as they currently stand.

KATELIN McINERNEY: The only thing I would add is we are a demographic across our regions that does skew a bit older. We have a higher average of older folks who live in our communities, so we do experience something very similar to KerryAnn, which is you do see the vulnerable pointy end of rent increases—either in the middle of a tenancy or at the end of a tenancy—come into play with the fact that our services are seeing an increase, particularly in older women exiting leases into homelessness. In Shoalhaven—where we have a chronic shortage of affordable housing, public housing and interim transition-style arrangements—we have services where the best they can do for those women is give them a tent and tell them where the safest place is to go and spend the night. This is an incredibly vexed issue for older people. We particularly hear from that Shoalhaven group. We have an inter-agency that we're part of down there and that is a consistent message that we've been receiving for the better part of four or five years.

The CHAIR: It's truly remarkable and unacceptable that is occurring in the current situation.

Ms DONNA DAVIS: Thank you very much for appearing today. My apologies that I'm not there in person. To the Community Industry Group, your submission stated that ending no-grounds evictions is essential to ensure housing stability for essential workers. Can you explain what we can do better to support essential workers in the rental market, especially in the regions?

KATELIN McINERNEY: How long do you have? We think there are really important areas. No-grounds eviction is a fundamental right that organisations in our area have identified as needing to change for the reasons that we've put out before. Our fastest-growing sectors are the care sector and construction. The difficulty with those two is you've got one industry who can afford to come into town and pay whatever the temporary accommodation or higher rent rate is. At the other end of that, you have a sector where workers tend to be lower paid, or often not on permanent arrangements, who find it difficult to even move into the town to meet the needs of our essential workforce.

Our hospital upgrade at Shoalhaven hospital is expected to require around 800 new homes just to house the increased staff numbers over the next few years. Our lack of affordable housing coming on line has had an enormous impact on our care sector people being (a) able to attract workforce in and (b) keep people in the area. We have an aged-care provider who, in response to her staff not being able to rent homes, is now the primary tenant on 28 leases at the very tail end of the South Coast. Businesses that are taking care of our elderly and not-for-profit organisations that are in the care sector really need to see affordable housing backed in and supported. We're really proud to be the first build-to-rent pilot in Kiama and in Bomaderry. It's near the hospital, which is great.

That direct intervention was really welcome because there's not much else working. We need that short-term accommodation piece to come on line in a way that starts to return some holiday rentals to the long-term rental market. That's going to be really important for essential workers. We need local councils to be moving as quickly as they can to rezone land in order for our really great community housing providers that we work in partnership with to be able to build on that land. It's a complicated question. I hope that's answered a bit for you. This piece allows certainty for our older people. It allows certainty for our lower income and essential frontline workers, but it's also a way that, I'm hoping, we will see some of the short-term rental market being a piece that will need to come on line to help us in that regard too.

Mr TIM JAMES: Hi, everyone. Thanks for being with us today. One of the themes that shines through in one or more of your submissions—and thanks, again, for your time and effort—is the effectiveness and the role or otherwise of NCAT, the tribunal, including in relation to retaliatory evictions, in respect of which there are legislative powers, as you know. There's one or two case studies that speak to prospects at NCAT, confidence of matters being resolved effectively at NCAT and so on. I want to draw that out some more. There's some case studies, but I want to get a sense for what you would say in broad terms—whether it's in terms of particular cases or just thematic and the experience more broadly—about NCAT, where it's at and what the feeling is in relation to it and/or its powers at the present time.

NICOLE GRGAS: Certainly, there is a section of the Act that goes to retaliatory. The way that the tribunal has considered those matters, they have a very narrow look at it. There's specific things that need to have happened to be determined to be retaliatory, and then it's still a discretionary power. Even if the tribunal finds that there is an element of retaliation, it's a may, not must. The tribunal might say, "Yes, it's retaliatory, but it looks as though the relationship's broken down," so I'm not going to say that it's retaliatory and has no effect. That just goes away. Their notice continues and has effect. We have not found it to be particularly useful for the majority of those tenants that we give the advice to. I think that the discretionary part of it, but also how narrowly the tribunal is interpreting that section, means that, unless you have very specifically applied to the tribunal or made very clear in writing that you will apply to the tribunal, it's struck out. Even when you can show the retaliation element, it's still open to the tribunal to not find that the notice has no effect. It's not been an effective piece of legislation.

KERRYANN PANKHURST: That's certainly our experience as well. The tribunal may well find that it's retaliatory but, when it is clear that the business relationship between the tenant and the landlord has broken down, the tribunal declines to find that it is retaliatory and strike it out. We have been in hearings where the tribunal says, "Well, there's nothing to stop them from issuing another termination notice next month, is there, and that won't be retaliatory." It's a really hard path to walk and getting into the tribunal is really, really hard if you struggle with reading and writing, or access to a computer to make your online application. It is really hard for people to go to what they think of as a court. We have 25 per cent of our clients who identify as people with a disability. Another 27 per cent this year identify as being Aboriginal or Torres Strait Islander, or both. That's really hard, asking people to get into what is more and more technologically driven as far as access to justice goes. It has a real impact on that.

We are in the slightly amazing situation where real estate agents are able to make applications for landlords and they have their own special category within NCAT's online registry, but there is no place for tenants' advice and advocacy services. Before there was a shift to the new version of the online registry, we were able to assist people who had really low literacy and very limited access to a computer. They would call and we would walk through the entire application for them so it could be lodged for them to get into the tribunal. They're having to

do it alone and it is hard, hard work for someone to make that application and then to go for a hearing that maybe listed hundreds of kilometres away.

We received last Wednesday a notice of hearing for a matter where the tenancy is in Broken Hill. It's been set down for an in-person hearing in Tamworth. I know that it is 1,197 kilometres to drive from our office in Armidale to Broken Hill where we would normally be but take 110 kilometres off for your trip to Tamworth and it's still 1,000 kilometres, and it's been set down for an in-person hearing. Sure, the tenant, if they read the entirety of the notice of hearing, they can contact a tenants' advice and advocacy service. Not everybody does.

The CHAIR: Maybe we could ask on notice if you could provide more detail about what you were saying in terms of the portal access and the online system in terms of what's done and what the TAASs don't have access to versus what the real estate agents have in terms of doing it on people's behalf. Maybe provide that collectively and you can provide a bit more detail around that on notice.

KERRYANN PANKHURST: Yes. We would be happy to.

The CHAIR: That would be appreciated because the member for Cessnock and I were both raising our eyebrows around that.

Mr CLAYTON BARR: I think I was frowning more than raising my eyebrows.

The CHAIR: Either way, we were looking for more detail so that we might be able to assist in solving that.

Mr CLAYTON BARR: Yes. Ms Pankhurst, I want to go to your opening statement and delve into that a little bit. I'm paraphrasing now but I believe that you said words to the effect that more landlords and more real estate agents are using no-grounds evictions today. Is that what you said?

KERRYANN PANKHURST: Yes, that is correct, but it is also the power that hangs over a tenant and it has had a supremely chilling effect. You don't even bring it up. Don't rock the boat. Don't cause trouble. Don't argue. Don't be someone who's difficult, because all of those people are far more easily made a target of a no-grounds termination. It's easier just to move them on than to deal with it. Yes, it is a growing proportion. A real estate agent, in the north-west, said to the tenant who was on an age pension, "I know you can't afford the rent increase, sweetheart, so I've just given you 90 days, and I'll give you this no-grounds so you can find somewhere else." There was nowhere else to be found. We have had tenants—a gentleman and his disabled son. I think the son was 27. They couldn't find another place in their small town, so dad moved himself and his son into his car. It's that exclusive power that is the problem. There's just no way to stop it. There's no way to fight it. But there will be—sensible arrangements, commonsense arrangements and really practical, pragmatic arrangements.

Mr CLAYTON BARR: Can I ask this question? I try to ask it respectfully, and it's going to sound anything other than respectful. When a person gets evicted for grounds, does that go against their record like a bad mark or a black mark, as opposed to when they get evicted for no grounds, they don't have that bad or black mark against their record?

KERRYANN PANKHURST: There are official records and then there are unofficial records. The official records are, of course, TICA—the tenancy information control access database for bad tenants. NEWTAAS's people live in little towns. Everyone knows everyone else. Real estate agents all know each other. If you have gotten a no-grounds termination notice that might be because you're a bit difficult, then you're going to hear about it from the agent. It doesn't need to be put into a database, and it might be harder for you to get another place. I have a young fellow who has a bit of an intellectual disability. He's quicker to anger and quicker to respond. For him, he has not been able to find a place in his town. The sheriff has been and changed the locks. I cannot say for sure that he isn't in temporary accommodation, but what he needs is a home so he can keep his job.

Mr CLAYTON BARR: Would anybody else like to comment on that concept of getting a bad mark against your name if you are removed for grounds, as opposed to no-grounds and not getting a bad mark? I don't know if that's how it works. This is a genuine question.

NICOLE GRGAS: There are a couple of things from that line of questioning. Certainly, we're seeing an increase where someone might have a breach notice. We assist them at NCAT, because the breach is remedied but they have a no grounds underneath that. We know that there's a practice of using no grounds to get them out anyway. So that's just one of the things that we're seeing. In terms of whether they get a bad reference, to be listed as a bad tenant on the tenant database is very specific. The problem that we have is our system of renting and application has no regulation. Applying for a rental, there is no regulation. So real estates do talk to each other. In our communities—in Cessnock, for instance—we know that the agents do talk to each other. But through these application processes, there is that informal channel and then the formal listing on the tenant database. Even

though they are two different things, we still talk to people who have a no grounds, may have overstayed the notice because they've not found anywhere and they're being told they're going to get a bad reference for overstaying the no grounds, which they still have a right to do until the tribunal makes orders. The threat is always there for renters, whether they've breached or not, that they're going to get that bad reference. That's another area of legislative change that we need to look at.

Mr CLAYTON BARR: I appreciate that. Central Coast?

BENJAMIN READ: I would just echo that sentiment. The front line is taking phone calls from tenants who have been evicted in situations where they may or may not have breached their agreement. There are no-grounds terminations where there's not a lot of—agents and landlords are not working hand in hand with tenants in terms of being able to assist tenants move on when they're evicted. That is something that we find quite profound in our office. You frequently receive phone calls from people saying, "It's all happening. I'm going to be evicted. I'm going to the tribunal"—or that has occurred—"I've got to give vacant possession on X date. I need advice on what's going to happen." But the agent, even though there may not be a breach or there may have been small breaches during the course of the term of the tenancy, is refusing to give assistance through referrals. Quite often it's the same agents that are the ones that are threatening them with TICA, regardless of whether or not they reach the threshold to go onto a TICA listing.

Mr CLAYTON BARR: Ms McInerney?

KATELIN McINERNEY: Nothing to add on that one.

The CHAIR: I have a few more questions to go a bit deeper into the idea of the evidence and penalty requirements, particularly for our TAASs, given that you are on the front line of these things. I note specifically the Central Coast submission arguing for evidence to be supplied about the reasonable grounds at the point where the termination notice is issued. I'm curious as to why you see that as a significant element and, linked to that, what you think needs to go alongside this legislation to make sure that any tenant or renter in New South Wales actually knows, if this reform is to pass and if they get an eviction notice that doesn't have a reasonable ground, that that is required and they don't just get an eviction notice saying, "You have to be out in this much time," and they go. What needs to be done around this legislation to make sure that's the case? One is the evidence and the other is what has to go with this reform if it's being delivered to make sure that it's actually providing the protection we want.

BENJAMIN READ: In a practical sense, the tribunal is the place for these matters to be adjudicated. If you are proposing having a landlord give a termination notice for reasonable grounds, then it should be incumbent on the landlord at that time to produce the evidence of support. If there's a dispute about whether or not there are reasonable grounds, it's only going to flow on into the tribunal if that tenant comes to one of our services and asks for help. If they don't, obviously it will be dealt with by the tribunal, which is not always necessarily going to result in a good outcome for a tenant, regardless.

The CHAIR: It also would add a lot more pressure onto the tribunal.

BENJAMIN READ: Absolutely. Obviously if there was severe dispute about whether or not there's reasonable grounds, it should be dealt with at the start as opposed to throwing it into the tribunal process, which is obviously a drain on the tribunal. In terms of the amount of stress and strain on the tenants in understanding what rights they have, if any, it should be incumbent on the landlord to say if they actually know in advance. This is where I hope there will be some behavioural changes by landlords and their agents who are advising them, mostly to say, "This is what we have to have in place to be able to evict someone for that purpose." Not merely, "I've had enough of this situation. We're going to angle into that position and we're going to use that as a trigger point for us to say reasonable grounds. But we'll get to that later."

The CHAIR: Ms Grgas, do you want to come in on that?

NICOLE GRGAS: Yes, I think it's always a difficult one, because we know landlords say, "I don't think that the person should have all of that information about my intentions or whatnot," but to become the tenant of the premises, you have to hand over a whole lot of information. So I think that if someone is saying, "I need you to relocate your entire life," then it should have some form of verification before that person is packing and looking for other places. We know that people get notices of termination all the time that says the premises is sold when in fact it's not. It's very difficult, as a renter, to check that. That's just an example we see frequently where, without that verification, people probably are being moved on when in fact they didn't have to.

In terms of how do we let people know about legislative change, the tenants advice network does do a lot of education work. I would say that we're really feeling the squeeze at the moment in terms of our funding levels and the areas we cover. I know that the Tenants' Union has also been doing a lot of work around educating renters

on renters' rights. I think that across the State we have really good connections within our communities to get the message out. In terms of compliance, we know at the moment there are penalty units within the legislation. We see very little compliance and very little penalties applied to people who aren't doing the right thing. I know that there is an intention to improve on that. But I think it's really important. As I said in my opening, we need those penalties to be substantial enough to make the legislative change meaningful.

KERRYANN PANKHURST: I just wanted to say it's really important that, at the start of the process of a termination notice, all the facts be on the table. Because then the tenant can make the decision, "I'm not going to have to fight this in the tribunal; it's real. I have to start looking and I have to go." Otherwise, if it takes until there is a tribunal hearing for the evidence to come onto the table, then the tenant's going to be much more strained and stressed—and that's really stressful on families—where they're not going to know what sort of hearing they would get at NCAT so they are therefore more likely to leave with what may be a noncompliant notice.

The CHAIR: Can I take an example? The kind of thing we're talking about here is the significant reconstruction or demolition of a house. For example, in your case, if a tenant was to receive an eviction notice and had attached to it a development application that had been improved or some kind of indication that consent had been given to demolish and rebuild or renovate the home, then you would be able to advise someone coming to you at that initial point that that's a reasonable ground; it looks like it's all set in place.

KERRYANN PANKHURST: Exactly.

The CHAIR: So let's try and go about finding you a new home rather than taking it up. Whereas they might get an eviction notice that says, "This is under this section a reasonable ground." They don't provide any evidence. You go through a process to challenge it and discover actually that is the intention and they've wasted that period of time when they could have been looking for another property.

KERRYANN PANKHURST: That's correct.

The CHAIR: So it's actually limiting the process to be challenged because that information is being provided.

KERRYANN PANKHURST: Yes, it makes it cleaner.

The CHAIR: I'm conscious of the time, but I have one question specifically recognising the unique place that community housing providers sit in relation to this space. I think, Ms Pankhurst, it was your submission specifically talking about social housing providers, how we deal with issues of using no-grounds provisions and how that's covered. I'm happy for you to take it on notice, but I wonder if you can share from your experience the challenges that are specific and unique to potential use of no-grounds evictions when it comes to social housing providers, particularly in the context of knowing that the community housing provider peak body earlier today was advocating for specific considerations for what grounds they may be able to act on.

KERRYANN PANKHURST: There are certainly grounds already within the Residential Tenancies Act that allow social housing providers to issue termination notices where there is already—they no longer meet the grounds to actually be eligible for social housing. There are antisocial behaviour provisions in the Act that allow for the termination of tenants without having to go through a no-grounds process. So there are already existing grounds, but I don't know that they would need to be expanded any further because they already exist. It's actually just in the getting them to work. We know that community housing providers will issue a no-grounds termination notice on occasion—certainly in our area, on occasion—and they are sometimes issued for tenants who are extremely challenging, extremely difficult to try to resolve, particularly for people who are living in very close quarters with other tenants.

The CHAIR: Did any of you have further to add on that? If you have any final remarks that you want to make, feel free.

KERRYANN PANKHURST: I really would like to bring two things to the Committee, if that is okay. First of all, I'd really like you to see the NCAT application information that's on page 6, where we've got housing providers generally—private community housing, public housing, social housing. There are 1,200 applications to terminate in my region and 20 applications for repairs. Just to emphasise—don't rock the boat, don't cause trouble—we provide almost equal statistical amounts of advice on repairs and advice on termination. Secondly, I'd like to bring up TICA again. There's a particular feature of TICA that the Committee may not be aware of. It's called the virtual manager. That's a provision that allows a real estate agent to search a database of people that they have added to their own personal database. It's not the public records database that is more generally available.

It means that if real estate agent A in Tamworth were to list a handful of people on their own internal database, virtual manager, then if the person who has been listed goes down the road to a slightly different town

and they apply for a rental down there, then the listing agent gets an email of the tenant's name, their phone number, their last known address, and the agent who has made the inquiry and the contact details of the agent who has made the inquiry. That system allows for telephone communication and email communication between these two agents over someone who is purportedly not listed on TICA. It's virtual manager, and TICA consider that to be a private database owned by that real estate agent. It's obviously interrogating—

The CHAIR: Just to clarify, it's a private database owned by one real estate agency?

KERRYANN PANKHURST: No, it's a part of TICA.

The CHAIR: What I mean is, it's purported that one real estate agency has their own database and they use TICA to manage their own database. But if another agency then engages with that, then they can, in a sense, communicate to each other's private databases?

KERRYANN PANKHURST: Exactly. They get notified. This might be something that the Committee is interested in exploring further, because it is something that if you have had your cranky tenant, who has had a no-grounds notice previously—I'm thinking specifically of an elderly lady who is renting, who is outraged. She is safely outraged with us, but she became outraged to her real estate agent and that didn't end well. She had a no-grounds termination—out. Now she has got another end of fixed-term tenancy agreement and termination notice. For those people, they haven't committed a breach that allows them to be listed on the public access database of TICA, but the real estate agent can still keep tabs on them.

The CHAIR: Thank you so much to all of you for providing evidence to the Committee today. It has been amazing to have your experiences from across the State, but also particularly for our TAASs in terms of the frontline experience in support of how these laws are impacting people on the ground. Thank you for all the work that you do. I appreciate that it is hard work and, particularly in these current times, that the level of impact of trauma of the housing crisis on people who are accessing your services but also on those of you and your teams that are doing that service is also really intense.

Thank you all for taking the time to provide evidence and make submissions. I note that the Committee staff will provide a copy of the transcript of today's hearing for you to provide any details or corrections back to them on what you have said. In addition to that, the Committee staff will also email any questions taken on notice to you by the end of today, and we ask that you get back to us with those by Monday next week given the short time frame that we're working with to report back to Parliament and recognising that things are moving relatively quickly now in this space, which we welcome after a long time.

(The witnesses withdrew.)

(Short adjournment)

Mr BLAKE CANSDALE, National Director, Australians for Native Title and Reconciliation, and Acting National Director, Change the Record, sworn and examined

Ms DAMIYA HAYDEN, Policy Lead, Change the Record, affirmed and examined

The CHAIR: I welcome our next witnesses. Thank you for appearing before the Committee today and for your submission. I note that the Committee staff may take photos and videos that would be used for social media. If you didn't want that to occur, please let them know. In addition to that, I just wanted to check that you have been provided with a copy of the Committee's terms of reference and the standing orders relating to witnesses.

DAMIYA HAYDEN: Yes.

BLAKE CANSDALE: Yes.

The CHAIR: Did you have any questions about those?

BLAKE CANSDALE: No.

DAMIYA HAYDEN: No.

The CHAIR: Would you like to make a short opening statement?

BLAKE CANSDALE: Yes. Good afternoon, Madam Chair and Committee members. My name is Blake Cansdale. I'm a proud Anaiwan man and the Acting National Director of Change the Record. I'm joined today by Damiya Hayden, policy lead at Change the Record. I'd like to start by acknowledging that we're meeting on the unceded lands of the Gadigal people and pay my sincerest respects to Elders past and present. What you may not know is that Change the Record is Australia's only First Nations led coalition of legal, family violence and health professionals. We are dedicated to ending mass incarceration of First Nations peoples in Australia and also to ending family violence towards our peoples, particularly our women and children.

As the Committee would appreciate, housing justice is critical to ending mass incarceration and to ending family violence towards our peoples. Our women and children experiencing family violence and mobs who have been criminalised are structurally disadvantaged and put at risk of harm by Australia's housing system. Despite the increased likelihood of needing to find accommodation in the private rental market, First Nations households experience significant discrimination. This discrimination makes it harder to rent a home in the first place, and it puts us greater risk of unfair eviction and homelessness in our own country. Until invasion and colonisation, homelessness was a foreign concept here.

This inquiry is ultimately about power relations and economic justice. Governments in Australia have designed housing markets geared towards ever-increasing capital gains and extracting of rents. This approach treats housing as a commodity rather than a human right, and it fails to ensure that every individual has a home, irrespective of their means. Governments have actively withdrawn from the provision of alternative forms of tenure and failed to regulate rental markets. We have some of the worst rental protections in the OECD. This needs to change now. Yesterday we were pleased to see the New South Wales Government announce that it would be bringing a bill to ban no-grounds eviction for periodic and fixed-term leases. This is an important first step toward a fairer rental system. In addition to this reform, Change the Record advocates for robust and enforced renters' rights and rent controls to ensure affordability and significant investment in beautiful public and First Nations community-controlled housing. Thank you to the Committee and staff for your time. We look forward to your questions.

The CHAIR: Thank you so much, Mr Cansdale. Do you want to make an opening statement as well, Ms Hayden?

DAMIYA HAYDEN: No, I endorse Blake's comments.

The CHAIR: We'll now move to questions but if you want to take on something on notice or provide additional information to any of the questions that you're asked, feel free to do that. I might start with the first question, which is about how your submission identifies the disproportionate representation of First Nations people in the rental market. I'm wondering whether you can talk about the experience of First Nations people, both within the housing and private rental markets and also how facing, and the experience of, an unfair no-grounds eviction would impact on First Nations people.

DAMIYA HAYDEN: There's a lot in that question. Starting with the experience of First Nations folks experiencing incarceration, as ex-prisoners, for the last 15 years, they've been the largest growing cohort of people accessing services from specialist homelessness services. As we know, First Nations peoples are extremely disproportionately represented in that cohort as well. There are serious issues of discrimination related to gaps in rental history, and incarceration can result in the loss of housing and child removal and it is very, very difficult to reverse those cycles of structural violence.

First Nations peoples have reported often not disclosing to real estate agents or landlords that they are Indigenous because there is a well-apprehended risk that people will face discrimination. There are a lot of landlords who are pretty explicit with their real estate agents that they do not want to let their properties to people of colour, people with disability or Indigenous people and women who might be experiencing family violence, because of prejudice. First Nations women are the least likely cohort to receive housing and other support post-release and also are much more likely—orders of magnitude more likely—to experience family violence and, therefore, experience the risks of coercive control that come from unstable housing and lack of security of tenure. There is a continuum of violence stemming from colonisation around dispossession, where the original land theft has resulted in a system where First Nations people are less likely to build asset wealth. Currently in our housing system the only road to security of tenure is buying it.

Ms DONNA DAVIS: Thank you very much for presenting today and taking the time to make the submission as well. I thought what you were just saying was extremely interesting. It is sobering. It's so relevant—the over-representation of our First Nations people particularly in our homeless cohort. You certainly notice that here in Parramatta. It's more of a general question—what impact do you think introducing no-grounds eviction will have on your stakeholders and your organisation? What do you see as the major change? I know that's a very

broad question. It's a bit more of an uplifting question, I suppose. What can you see this opening the opportunities for to improvement?

BLAKE CANSDALE: A regulation that benefits landlords certainly has a disproportionately negative impact on First Nations peoples, as we have a much lower percentage of home ownership than non-Indigenous. I think it's 42 or 43 per cent for First Nations peoples, whereas it's around 66 per cent of home ownership for everyone else. Similarly you'd imagine a much higher percentage of rentership. Damiya touched on in the previous question the kind of discrimination unfortunately that still exists in our communities. It is experienced by, anecdotally and quite clear evidence based—discrimination towards Aboriginal and Torres Strait Islander peoples and renters. This no-cause evictions bill would mean that our people are at less risk of being ousted, particularly on a fixed-term basis, where there is no other merit or means for that eviction other than a landlord—and I won't speculate for what reason they might be wanting to evict a tenant at the end of a term.

It does provide protections, which are important for our people that they can have security. Again, Damiya touched on the devastating realities of not all but unfortunately a significant portion of Aboriginal and Torres Strait Islander peoples around concurrent family violence, mental health, engagement or interaction with the criminal justice system. I myself—seems like a past life now—was a criminal solicitor with Legal Aid NSW. I worked both in the Children's Court and in local courts with adults. It was devastating, particularly in the kids' court, to have clients' bail refused for no other reason than that they didn't have accommodation. Unfortunately, again, that's a higher prevalence of that occurring in relation to our people. It's really important. These protections mean a significant thing for a much greater number of First Nations peoples. Damiya, have you got anything else?

DAMIYA HAYDEN: Yes, I agree with Blake. The only other thing that I'd add is that fundamentally this is about shifting a power balance that is enormous. Currently renters have—I am a renter. I do not know how to enforce my rights because there is no real avenue for that. I'm an extremely privileged person but I have no right to housing in New South Wales. A fundamental thing about this reform is that it's the starting point for renters to be able to assert their rights. If I know that I'm not going to be kicked out for asking for my windows to be able to lock or for the dodgy, squishy electrical outlet in one of our rooms to be fixed because I have no idea if it's going to burn the house down or not, that's a pretty significant thing to be able to say to a landlord, "Come on." If somebody lives in an uninhabitable house and they are afraid of being kicked out of their uninhabitable house for having the temerity to ask that it be made liveable, preventing that is very important. There are a lot of things that need to be done to change the power imbalance in our private rental market. This is a very important first step.

Ms DONNA DAVIS: This morning we had the community housing providers speaking about the impact of the no-fault eviction on their different housing providers across New South Wales. Do the Aboriginal housing services that operate across New South Wales work within the community housing providers or do they work separately? Am I making sense? I know that there are Aboriginal housing properties that are owned by the different Aboriginal housing organisations across the State. Do they work under community housing provisions or do they work separately? I'm just wanting to know in terms of ensuring that any future legislation incorporates everybody and all of the agencies that deliver housing.

BLAKE CANSDALE: Unfortunately, I haven't worked in that field previously, so I can't give a confident response. I believe that they do operate under the same regulatory environment as other community housing providers. I might pivot the question slightly, if you don't mind. I have worked adjacent to that in the land rights network in New South Wales previously. I don't need to mention where, but I had a lot of experience where land councils have, over 40 years of the operation of the Aboriginal Land Rights Act, secured stolen lands that have been returned—vacant Crown lands. Unfortunately, it's often not those landholdings that have a significant degree of inherent value in them. They tend to be, largely, lands on the outskirts of town that are conservation zoned with little to no infrastructure and are difficult to leverage to deliver housing.

I was lucky enough to be at a land council that did have, out of the near 4,000 hectares of land, a portion of that that was suited to rezoning and/or development. A primary purpose for the land council moving into the planning and development space was to provide housing for our members. Unfortunately, we got to the point where I had to deal with the implications of us not being a community housing provider, so that's an interesting nuance. I would encourage the Government to do a lot more work to consider how it can work more effectively with land councils to leverage the extensive estate that exists in New South Wales to provide housing for our mob—not just affordable but quality housing. Too often there's discussion of pushing out affordable housing. It needs to be affordable and quality. We're all entitled to quality housing that is capital A affordable as well as lower case A—so social housing as well as free market or open market affordable housing.

In terms of being a community housing provider, there were some implications there. We had dealings on foot with a major New South Wales government developer that is heavily invested in providing a portion of their developments as affordable housing. There were challenges, in that we weren't registered as a CHP, in securing

that partnership. We were able to work around it, but it needed a third party. For a portion of that affordable housing to be delivered, we needed to partner with an actual registered community housing provider. There are a lot of different models to deliver an increased housing supply, particularly through a First Nations lens.

Through our lens of economic empowerment and self-determination, we've got government working with private industry and with our First Nations peoples delivering housing solutions. Within all these other issues I think that get picked up more at a granular level or at a fundamental level, that will address the way in which we approach the housing needs of First Nations peoples. Then, right from the outset, you'll have Aboriginal and Torres Strait Islander people making decisions about the quality of that housing, the design of that housing, the appropriate regulations and policies that apply to the use of the assets—if there's a pool there, or how many kids can come and visit and stay in a particular unit—restrictions that might work for a majority of the community. But First Nations peoples have different models, a different world view, not as nuclear a concept of family. We often have a lot of aunts and uncles and grannies all coming around and staying together. So, rather than retrospectively trying to fill that in, that thinking needs to be brought up-front and embedded in decision-making right from the outset. I apologise—I didn't distinctly answer your question there.

Ms DONNA DAVIS: No, you did. That was very good—a much better answer than my way of asking. Thank you very much.

The CHAIR: Thank you to the member for Parramatta. I will now go to the member for Willoughby.

Mr TIM JAMES: Thanks for your time here today and your submission, both. There's a lot in it. I see there are multiple references to legal protections to discrimination, to prejudice, to incarceration and to our justice system more broadly. If I can start with a general question in a broader sense, how much of the issues, concerns and challenges that you speak of relate specifically to the residential and tenancy laws that are in front of this Committee here today, relative to those matters of which I've just spoken, which are largely dealt with in other areas of law and government and policy?

DAMIYA HAYDEN: It's a good question. My apologies, it's been a little while since I read the Residential Tenancies Act.

Mr TIM JAMES: Me too.

DAMIYA HAYDEN: But I would imagine that if a robust system of renters' rights were included in the Residential Tenancies Act, that would include stipulations about how people's data can be collected and used, so that would potentially include standardised forms rather than the ability of a landlord to request any kind of information that they can think of. You could include some mechanism for independent enforcement of those rights, which would include things around discrimination, proving that you're not discriminating, requiring landlords and agents to actively prove that they are doing the right thing. That would go a long way to protecting people.

There are things in the Bail Act which are highly problematic. Section 28 of the Bail Act is something that Aboriginal and Torres Strait Islander people in New South Wales have been fighting against for probably about—I can't remember when it was brought in; maybe 20 years ago—where if a child is on remand and they don't have anywhere to go, they stay on remand. That's because there are not enough bail beds. Maybe their carer is not able to take them home because maybe there's an AVO issue, maybe there's something like that. That's not the Residential Tenancies Act, but if one wanted to, you could bring a bill repealing section 28 of the Bail Act—if you wanted.

The CHAIR: Can I jump in on that? I'm curious about this report around the idea of the intersection between no-grounds evictions and discrimination. To me, while I totally hear the member for Willoughby's point around the bigger reforms that, obviously, if we were to ask, or change the record, what are your highest priorities in terms of legislative reform, I would imagine that these reforms would be ones you would support, but not of the highest priority. That said, I am really curious about this idea of the loopholes that are currently allowed through no-grounds evictions allowing for further discrimination, with people choosing not to identify that they are a First Nations person because of the risk that might be to being successful in a tenancy but also then the risk that might pose. We heard from one tenants advice and advocacy service that they were in a situation where the landlord had asked to go along to an inspection with the real estate agent. They'd got to the inspection and seen it was a same-sex relationship. That didn't align with their views of what was acceptable or not, and those people were issued subsequently with a no-grounds eviction. Is there more you can talk about in terms of the social justice commissioner's report into the kinds of discrimination that particularly women and girls were facing around that space?

DAMIYA HAYDEN: Do you mean the variety?

The CHAIR: Yes, the types of discrimination and the types of examples of how people are finding discrimination within the housing space.

DAMIYA HAYDEN: Do you want case studies?

The CHAIR: Yes, sure. Have you got any?

DAMIYA HAYDEN: We have a lot of member organisations who are Aboriginal legal services, who help people with tenancy issues and family violence prevention legal services. We would be able to get case studies from them if required by the Committee and take them on notice. I can't list them off the top of my head because there are too many.

The CHAIR: Feel free, Mr Cansdale, to jump in. I certainly don't want to provide more work for any of those services, but if they have existing examples of the intersection between what is the rental market and examples of discrimination and the risks around it, that would be useful. I don't want to provide a whole level of additional work behind the scenes to do that, but if they have other submissions, that would be great.

BLAKE CANSDALE: Unfortunately, I can't speak to the specifics of case studies but, as my colleague said, we can follow up on that. I would say, though, in terms of the nexus between this particular inquiry and some of—

The CHAIR: Back to the member of Willoughby's comment.

BLAKE CANSDALE: —yes, dare I say what we might consider the bigger picture matters that we are putting on the table. I absolutely think it's critical. I return to the basics of—sorry to start wide—Maslow's Hierarchy of Needs that housing is pivotal. Unless we get stability with housing, then the other matters of family violence, drugs and alcohol, and mental health that I mentioned are just—and I'm going to make up a word here—exacerbatory. They exacerbate those other matters, so it's critical to get it right. Where there is a disparity that's very obvious and well evidenced between housing outcomes for our people and others, I think all of these elements contribute to addressing that. I believe, Madam Chair, in your second reading speech you actually used terminology for this bill, if you don't mind me recounting your own words there.

The CHAIR: Go for it. The others will all mind, but I won't mind.

BLAKE CANSDALE: That is a positive. You said:

These changes to the Residential Tenancies Act would go a significantly long way toward correcting the power imbalance between landlords and tenants, which has been allowed to grow unchecked for too long. It is unconscionable that no-grounds evictions have been permitted in New South Wales for this long, but we in this place have an opportunity to put this right and, this year, deliver a crucial reform ...

That's obviously talking broadly in respect to landlords and tenants in a general sense. Place that in the context of First Nations people and that's an even greater point that's being made. I do think it's devastating. It pains me to hear that you've got mob out there that are not disclosing their identifies by virtue of the risk of being discriminated against.

The CHAIR: That is a damning indictment, isn't it?

BLAKE CANSDALE: Is it 2024 or are we still in the 1960s or something? That is not okay in any way, shape or form. Whilst I appreciate, and I do agree with Madam Chair, that it wouldn't be our number one priority, it absolutely is a priority and it's well within the remit of what Change the Record represents. It's very common across all areas of First Nations affairs. It is a holistic model of addressing the underlying issues as necessary. Housing is critical in that respect.

The CHAIR: Just to identify in your submission the points made—and, Ms Hayden, I think you alluded to it earlier in one of your responses—around secure housing being a preventive measure in terms of both people's risks of family violence and also further incarceration, and seeing those as protective and preventive measures, not just a separate, isolated, siloed problem.

DAMIYA HAYDEN: Yes. To add to your point, there is a framework for thinking about housing called Housing First, which is that the most effective way to support people who are experiencing housing crisis or housing precarity or conflict with the criminal legal system is to make sure that people have somewhere safe to live. It's the most effective situation to assist someone in rehabilitation. Our current system is set up to make this impossible. We had an experience during COVID that was approximating Housing First—it was shelter first rather than housing first—where there was a massive amount of emergency accommodation made available to people because there was an appreciation by government that central to public health and wellbeing was making sure that people had somewhere to live, even though it was very temporary and a lot of it was hotel rooms. You

can't really live long term in a hotel room. But we had an approach from government that accepted how critical housing is. It was kind of a scandal that that has been taken away.

Mr CLAYTON BARR: I'm very mindful of the time, but could you help to educate me? On a rental application form, do you need to respond to a box that asks if you're Aboriginal or Torres Strait Islander? Is that on the form?

DAMIYA HAYDEN: It depends who writes the form. Landlords can ask for whatever they want, really. We don't have standardised forms. I would recommend on a standardised form that that not be included until we have good evidence of discrimination not being a massive factor.

Mr CLAYTON BARR: I was going to ask exactly the same question about incarceration but, given that you have now described that there is no standard form—

The CHAIR: I believe the Government is working on a standardised form, which I am excited about, Mr Barr.

Mr CLAYTON BARR: The crux of what I actually wanted to ask was, anecdotally, are there instances where people have deliberately not identified, for example, their Aboriginal identity while doing the application form, they get into a home and then potentially the landlord or something finds out and then they're given a no-grounds eviction at the next available opportunity? Is that the nature of what you're describing on pages 4 and 5? You describe the Kempsey woman, the Nowra women and girls, and then another Kempsey woman. You describe their journey.

DAMIYA HAYDEN: I think it is definitely a risk. We have seen cases of landlords realising that—

Mr CLAYTON BARR: A little bit like the same-sex scenario that Ms Leong described earlier.

DAMIYA HAYDEN: Yes, exactly.

Mr CLAYTON BARR: You're allowed to come in on certain grounds but then the landlord discovers some other factor—albeit discriminatory—and then you are out.

DAMIYA HAYDEN: That does happen. The section of the Wiyi Yani U Thangani report that we quote has a lot of—the Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar, did this fantastic report about four years ago and did a lot of regional engagements with Aboriginal and Torres Strait Islander women and girls in the places where they live. The overwhelming consensus that she reported in her report was that Aboriginal and Torres Strait Islander women experience a significant amount of anxiety about that happening and have experienced it and it's quite widespread. It was widespread to the extent that it was unequivocal in that report that this is a systemic structural problem of the rental market, experienced not just in New South Wales but across Australia.

Mr CLAYTON BARR: On that, just a final comment, I found your submission just confronting. Thank you so much for making it.

DAMIYA HAYDEN: Thank you for reading it and absorbing what it said.

BLAKE CANSDALE: Thank you for acknowledging that you're confronted. Ideally more Australians would be confronted by the realities about people.

Mr CLAYTON BARR: Agreed.

BLAKE CANSDALE: It's important that it goes to the heart of truth-telling, these processes that are going on around the nation; it's critical. It's part of our shared history—First Nations people and non-Indigenous Australians. My belief is we're all part of the Dreaming now and the more we understand that—warts and all but the positive as well. There are beautiful parts of that story that need to be told, so I appreciate you calling that out.

The CHAIR: If there's any more detail that you want to provide about the importance of First Nations community-controlled tenants advice and advocacy services and any advice you would have about how this reform goes through and communicating to First Nations communities so that they're aware of their rights, that would be very welcome because we didn't get to touch on it, but we did have a good session with some of the regional tenants advice and advocacy services earlier. If there are other thoughts that you have around that in terms of resourcing and making sure that people are aware of it, then please take that on notice.

Thank you so much to both of you for appearing today and for your submission. The transcript from today's proceeding will be provided to you so that you can address any corrections that you may have. Similarly, if you've taken questions on notice, the Committee will provide those in writing today, or if there's other information you

want to provide, it would be appreciated if you get back to us by next Monday because we're on a tight timeline with our reporting requirements to Parliament.

(The witnesses withdrew.)

Ms BILLIE SANKOVIC, Chief Executive Officer, Western Sydney Community Forum, affirmed and examined

Mr EAMON WATERFORD, Chief Executive Officer, The Committee for Sydney, affirmed and examined

The CHAIR: I'd like to welcome our next witnesses. Thank you both for appearing today. I've said it a number of times but as we have new people come in, I will say it again. I'm conscious that the terms of reference of this Committee came out of a specific private member's bill. But, given that we've had the context of the Premier's announcement in the last 24 hours, we are happy to take comments in relation to the broader context of the terms of reference as well as how they are set out in relation to the bill. There will be photos and videos taken during this session. If you have any concerns about that, please let the Committee staff know. It would be great if you could confirm to the Committee that you have seen the terms of reference and the standing orders for witnesses appearing before inquiries.

EAMON WATERFORD: Yes.

BILLIE SANKOVIC: Yes.

The CHAIR: Great. Do you have questions about either of those?

EAMON WATERFORD: No.

BILLIE SANKOVIC: No.

The CHAIR: Before we go to questions, do either or both of you have opening statements that you would like to make, briefly?

BILLIE SANKOVIC: Yes, I'd like to, thank you. Thank you so much for the opportunity to contribute to the inquiry. We certainly welcomed it but more so we're just so delighted, I suppose, about the announcement over the weekend. We certainly congratulate the Government on moving forward and taking an important step that we know has been necessary for decades—decades. This is fabulous news, but today is also an opportunity for us to think about the legislation that's being put forward. We think that it's certainly valuable to have the conversation.

By way of background, I think you are all aware that Western Sydney Community Forum is the regional peak social development council. We cover 13 local government areas in New South Wales. It's about 2.6 million people—more than half the population of Sydney metropolitan and close to 40 per cent of the population of New South Wales. It's a pretty extensive area. As the regional peak, we have more than 4,000 service users and members and subscribers, so we have a pretty significant reach. Our position is absolutely that access to a safe and secure home is a human right, not a commodity, as my colleagues have earlier stated. Our experience, certainly, in Western Sydney for many, many decades is that—certainly of late in the last several decades—the economic imperative, instead of the public good, has been driving decision-making. We really welcome this opportunity, this dialogue and the decision over the weekend.

The other point I'd like to make within that context—one of the things that not only the evidence tells us but certainly our experience as the regional peak tells us—is that people who are already experiencing some level of vulnerability or are at risk of crisis are the ones hardest hit when there are factors like housing affordability issues and so on. Whether it's housing, employment or education, I think these are really important points to make from the outset in terms of Western Sydney. For Western Sydney, there are probably a couple of points that I'd like to make. In fact, I note that they build on some of the conversations that have already been had today.

When we think about Western Sydney, we need to overlay a number of considerations when we're thinking about policymaking. One of the things that the evidence tells us clearly is that there are disparities in experiences and in outcomes for the people of Western Sydney; that geographical polarisation is evident, absolutely; and that where you live absolutely matters in this country. In the context of housing affordability, a point that I really want to make is that affordability is relative. Often we, as a mainstream, think about access to tenancies or to a safe and secure home as being more accessible or affordable in Western Sydney, but I just want to draw to your attention that the data tells us there are higher levels of housing stress and pressure in Western Sydney.

If I can take Fairfield, for example, the most recent data says the vacancy rate at the moment is 0.5 per cent. There was a 17 per cent increase in the last 12 months. This is one of the most disadvantaged areas in Australia, and these are the experiences. Within this context, I have a couple of points to make, specifically about Western Sydney and the stories that we have been hearing, and that is about the power imbalances between tenants and landlords. My colleagues today have already talked about that, so this is certainly what we're hearing as well from our agencies.

This is amplified in Western Sydney because of the diversity, high proportions of First Nations communities, high proportions of people from culturally and linguistically diverse backgrounds, and pockets where people experience socio-economic disadvantage. In addition to that, there have been significant stories and information from the service system about discriminatory practices. They play out in ways like when multi-generational families want to take up a tenancy and they're not able to. But there are certainly many other examples around that.

The final point I'd like to make is in the context of Western Sydney. Our submission talks about improving access to services in Western Sydney. The evidence tells us there are gross inequities in service funding across the spectrum, whether we assess that at a per capita level or whether we assess that on a needs basis, whether we're talking about access to housing or support or health. What we've seen is public funding simply has not increased with the level of growth in Western Sydney but also with the level of increased demand. I think that's a really important consideration when we're thinking about legislation like this and the other pieces of legislation that integrate with that, because we need to be considering how people access services and support in addition to maintaining their residency. I might leave it at that.

The CHAIR: Thank you so much for the opening remarks. Mr Waterford, did you have any opening remarks?

EAMON WATERFORD: I'll start by apologising to the Hansard team that they're handwritten notes so I don't have a version to share with you. I want to maybe frame this in the context of the broader Sydney society or Sydney economy. We have historically thought of renting as something that people do for a temporary period of time before they go on to home ownership in this city. Home ownership has worked really well for us as a society. It has been an incredible community connector; it has been an incredible anchor to social cohesion. But renting is becoming increasingly common.

As we know, 660,000 households in Greater Sydney are renting at the moment. That's over a third; it's about 35 per cent of the population. The age of first home ownership is rising. We know more than half of 30-year-olds to 34-year-olds don't own a home in this city. That's historically not normal. Probably we have conceptualised home ownership as something that happens in your twenties or at least in your early thirties, and it's not any more. Today, less than half of 34-year-olds own a home. Less than 60 per cent of them will ever own a home. The other point is that the rate of the proportion of the population that are never going to be home owners is increasing.

If we track that through to kids born today—my children—less than half of people born today will ever own a home in this city. Renting for life has become the norm for children who will grow up in this city. That is a big problem. I spoke to the value that home ownership has provided in terms of social cohesion, in terms of anchoring people to place. People putting down roots then invest in their communities and build relationships in that community. As long as we are losing that as a core social connector, we have real problems in terms of how we make sure that this is a city that works really well.

We are supportive, as the Committee for Sydney, of changing the Residential Tenancies Act to enable renting to be something that still enables people to put down roots. We see, as far as our work goes—and we mostly work with the business community—huge impacts of unstable housing on businesses' ability to be productive in this city. We know that productivity and talent is being impacted by housing unaffordability and housing uncertainty. When I speak to businesses in this city, the number one issue they raise is housing. In terms of whether they work in the housing sector or not, their ability to attract and retain talented people to grow their business is absolutely affected by the lack of affordable and secure housing.

Research we have done shows that housing unaffordability is costing the Sydney economy about \$14 billion a year every year. That is costs to productivity, costs to labour but also costs to innovation. Essentially, people are struggling to come up with new ideas because the risk of high housing cost is making it difficult for them to invest in risky ventures. We are seeing huge consequences as a result of a lack of affordable and secure housing in this city in terms of our economic vibrancy, in terms of our ability to sustain an innovation ecosystem, in terms of our ability for our growth sectors, primary knowledge economy sectors and high value sectors that compete on the global market. Their ability to continue to operate successfully in Sydney is being put at risk by housing perhaps more than any other issue that we're facing. For those reasons, we're very supportive of changes

that are going to make renting a more secure proposition for people, where they're able to put down more roots and be connected to the local communities and more hooked in to Sydney in the long-term.

The CHAIR: Thank you for the opening remarks. I will start with a question for you, Ms Sankovic, in relation to what you see as the real levels of rental stress that exist currently in Western Sydney, and how you see reforms to no-ground evictions for both fixed and periodic leases having an impact on people's lives in Western Sydney.

BILLIE SANKOVIC: To the first point, we completed a piece of work looking at "home" in Western Sydney and used about seven or eight indicators, and I can certainly forward you that work. What we saw was that the people of Western Sydney were disproportionately impacted across all those indicators when it came to access to a safe and secure home and whether that was in relation to the level of supply relative to what was available, whether it was around proportions of income that were dedicated to housing but also in terms of the gap between the income growth and wealth growth or housing—the increases in capital, I suppose, in terms of housing. What we saw was accessing housing to purchase, as my colleague said, we've certainly seen that becoming unattainable in some areas. We saw a significant increase whilst incomes were increasing at a much lower level. Across all those indicators of having access to a safe and secure home, we saw communities in Western Sydney disproportionately impacted, not just at a regional level but also at an LGA level. They were quite stark.

In terms of no-grounds eviction and how that might help, we are the peak for the service system so when people are at risk, access services—whether it's the local hospital or whatever that service might be—what we hear from agencies on the ground is that the first and foremost issue in order to stabilise and support families that are vulnerable or at risk is finding a secure and safe home for those families, and they're just not able to do that, increasingly. Any sense of being able to support families and individuals at risk, moving forward, becomes almost impossible unless you can house those families. Certainly the specialist homeless services sector does do an excellent job in Western Sydney in terms of providing that temporary accommodation, but in order to move forward and improve quality of life and access to those fundamentals like education and employment and so on, housing is absolutely first and foremost, but services are just not being able to find the level of housing they need to provide that support.

The CHAIR: Mr Waterford, hearing from you saying that you have a lot of businesses as your members and the Committee for Sydney being behind this reform, there are misconceptions around rental reform. The first is that it's just young people that are going to benefit; the second one is that it's just an inner-city problem, which we know it's not; and the third would probably be that businesses are opposed to it and all the social part of society are all for it. I want to see why you think it's so critical. You touched on the productivity element and we know the Premier is nervous about people moving to Queensland and Victoria at rapid rates, but do you know of other organisations that might also have businesses as members that have come in supportive of no-ground evictions?

EAMON WATERFORD: Yes, we're a member of an alliance called the Housing Now! alliance. That's made up of the Committee for Sydney but it also has Business NSW, the peak body for business in this State—they're members. The Housing Now! alliance recently launched—the word is "manifesto", but that makes it sound more bolshie than it perhaps is—its 10-point plan for housing action. One of those items was specifically calling for the removal of no-grounds eviction. So this is actually something that is pretty well established. I would note other members of that include Sydney YIMBY, so the yimby movement; the vice-chancellors' council, so the university leadership across all the public universities in New South Wales; and the Faith Housing Alliance, so the groups that represent the church-based housing support organisations.

There is probably a number of other members that I'm very rudely forgetting, but it's something that I think is being recognised. Look, historically I don't think the rental tenancies Act has been something that's been high on the agenda for the business community. It has been a pretty niche thing but, as we've recognised the consequence that housing unaffordability and insecurity has had on productivity across the board, it is increasingly becoming something that the business community is switched on to.

Mr TIM JAMES: Thanks for being with us and for your submissions. We heard this morning, just to give some overall context, that there are one million renting households in New South Wales and each year there are 28,000 no-grounds evictions. So less than 3 per cent of households are affected by this issue. I'll be honest with you, Mr Waterford, particularly in light of your remarks about home ownership and the benefits and merits of home ownership and making housing more affordable, for this to be such a priority of business does surprise me. I'd be interested to know in a deeper sense what sort of particular engagement you might have had with people running businesses that would espouse the views in your submission.

Among other things, I've noted your concern about what's happened in Queensland, in which you say there are perverse impacts on rental security in light of those reforms. Have you looked at the Victorian jurisdiction, in which one in four landlords are getting out of supplying rental properties partly because of tenancy reforms down

there? Even in other jurisdictions, including those cited by the tenants' union in New Zealand, one in four owners of rental properties have confirmed that tenancy law reforms make them want to get out of their property. Surely the big issue here is that of supply. I'd like to invite your comment about just that.

The CHAIR: I put on record that there are probably some questions around what parts of the evidence that were presented there and what other parts weren't included in the member for Willoughby's statement. Feel free to take the question, but for the record and for those that might read the transcript later, I'm not sure those who provided evidence earlier would agree with Mr James' representation of all of the facts there.

EAMON WATERFORD: No stress. Let's take two parts that I'd love to respond to. The point that not many no-grounds evictions happen, I think, is an interesting point. My sense is there is probably a totemic role that no-grounds eviction plays in reducing the rights of tenants to exercise the rights that exist in other parts of the rental tenancies Act. The threat or the implied threat of a no-grounds eviction, if a tenant was to utilise their reasonable rights that are contained in other parts of the Act, makes them not ask for those things. We know that there are many homes that don't really meet the habitable standards, but tenants feel unsafe to ask for reasonable repairs to be made or for changes to be made because of the threat of a no-grounds eviction.

I suppose the other element of it is probably an implicit threat in rental rises. One of the other elements of this is that rent increases are pretty problematic at the moment. They're rising quite quickly in Sydney and they're contributing to housing unaffordability. We've got some very interesting research out of the US that quite clearly ties increases in rental prices to reductions in patent applications. Essentially there's a really clear alignment where every one per cent increase in rent sees patent applications reduce by half a per cent. There's a few steps that happen between those two things but, essentially, what's happening is people aren't inventing things; they're not taking risks to try new things because they can't afford to take risks. That really is at the core of this. Is rental reform in and of itself, by itself, the panacea to our housing affordability crisis? Absolutely not. I would say that in most of the conversations I have with businesses worried about this, they are concerned about a whole breadth of different issues in this space.

To the second point around landlords getting out of the rental market, these homes don't disappear. If a landlord decides to sell a property, that is either purchased by another landlord who rents it out or it's purchased by someone who then goes and lives in the house. My sense is that it's probably not resulting in vacant properties. What we really are concerned with is there being enough affordable and secure homes for people to live in. Owning a house is probably an upgrade, in many instances, from renting if that house was to then convert to an owner-occupied property.

Mr CLAYTON BARR: Ms Sankovic, I wish I had a question for you, but I'm going to go back to Mr Waterford, I'm sorry. I'm really interested in the question of productivity. You have in here that one of the best productivity savings that can be gained by rental reforms is to do everything possible to keep people in the homes that they're already in. I think that statement is separate from what you just described in terms of a \$14 billion productivity loss in terms of housing problems overall. Do you have any work, data, statistics, facts or research that sits in behind this comment in your contribution about productivity savings by keeping people in their homes?

EAMON WATERFORD: I will take it on notice because I think there is some interesting data. I've got some very light touch stuff around the cost of moving and the impact that has. I've got a little bit of data, I suspect, on the likelihood that someone leaves a jurisdiction when they're choosing to move home. Essentially, people don't think about moving until they have to move, and then they are open to suggestions of moving to Queensland or moving to Victoria, which, from the Committee for Sydney's perspective, is a bad outcome. I don't have it on hand. I'm happy to take it on notice.

Mr CLAYTON BARR: I'd really appreciate it, if you would, because anything that you could throw into that space I would be most interested in reading.

The CHAIR: Given that you didn't ask Ms Sankovic a question, I'm going to quickly do that and ask specifically around the under-resourcing and the inferred discrimination that exists for communities in Western Sydney. I'm happy for you to take it on notice, but it'd be really great to know what you think are the necessary communication and resourcing elements that have to go around this legislative change to make sure that it is actually able to be used by people who may not have the ability to access AustLII and read the Residential Tenancies Act in full to be able to exercise their rights. I'm happy to hear a quick answer now, but if you want you can take on notice, what you think that resourcing needs to look like.

BILLIE SANKOVIC: Absolutely. I'm happy to take it on notice and provide a more comprehensive response. What I can do is give you a really quick example of a tangible way to respond to that. Several years ago, Western Sydney Community Forum facilitated what we called at the time the Macarthur Real Estate Engagement project. It was an extraordinary success. Essentially we were able to facilitate and bring together real estate agents

and providers in the Macarthur region, because what was happening was we were seeing an increasing level of evictions, some of which were no-grounds evictions. The facilitative process was about bringing these groups together and saying, "We want to keep people in tenancies," exactly for the reasons that my colleague has identified. It is a human right aside from that, not just a productivity issue.

Essentially we wanted to keep people in tenancies. We were able to facilitate and develop a bit of a service system. When there was a risk—be that a risk coming from a landlord's perspective or a risk coming from a tenant's perspective—they were able to do cross-referrals and there was a pathway for them to resolve that issue. An evaluation was done of that project and we were able to demonstrate that, of the tenancies where there needed to be some intervention, there was something like 70 per cent that were saved as a result.

The CHAIR: Wow!

BILLIE SANKOVIC: It was incredible. It was one of the biggest success stories in this space but, unfortunately, it was a pilot. We've got an evaluation I would like to send. It's on our website and you can go on there and read it for yourself. But, essentially, in order to sustain that initiative in the Macarthur, but also expand it to other areas of Western Sydney and beyond, for that matter, it needs resourcing.

The CHAIR: For sure.

BILLIE SANKOVIC: There was no resourcing provided, and now it relies on the willingness of individuals. But agents move, providers move, and you don't have a systemic response. That's an excellent example of how something like this amendment could be reinforced through some resourcing, and it's not expensive.

Mr CLAYTON BARR: You left that right until the very end? That's staggering.

The CHAIR: Now I don't feel bad for sneaking in a final question.

BILLIE SANKOVIC: I was going to say it in my introduction, but I was conscious of time and that I was talking a little bit.

The CHAIR: Thank you so much for that.

Mr CLAYTON BARR: That's excellent.

The CHAIR: Thank you both for appearing in front of the Committee today. We really appreciate your submissions and the ongoing work that you do. A transcript of the hearing will be shared with you. If you have any corrections, you are able to do that. Also, if you have taken anything on notice, including the web link and other details, the Committee secretariat will follow up with you. We ask that you get back to us by next Monday. That would be great because we have a short turnaround time to report to Parliament. Thank you both very much. It's wonderful to have you here and to have you give evidence to the Committee.

(The witnesses withdrew.)

The Committee adjourned at 16:55.