TENANTS' UNION
OF NEW SOUTH WALES

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Dear Standing Committee on Social Issues,

Thank you for the opportunity to provide evidence at the Inquiry hearing on 18/07/2022 for the Inquiry on Homelessness amongst older people aged over 55 in New South Wales.

The Tenants' Union of NSW would like to provide the following as further information and clarification of an issue raised within our submission, and in response to the following supplementary question provided by the Committee.

Supplementary question: How will the landlord remain financially stable (and hence not be at risk of homelessness themselves) if renting rates were to be regulated through times of increased interest rates and inflation?

Housing as an essential service

In line with the government's approach to other essential services such as energy, water, healthcare, food and education, it is necessary for government intervention to ensure the community is able to access the essential services for a dignified and healthy life in a safe manner. Governments generally opt to put in place a combination of obligations and incentives. These interventions often restrict the ultimate profit-making ability of the service provider in order to balance the needs of the community, whether through restricting prices directly or by requiring certain standards to be met and enforced.

The interventions made generally take into account the different dynamics at play in different sectors - for instance, consumers have sufficient choice in the supply of food that the cost of food is kept relatively low. Governments instead focus on ensuring the supply of food is made in a safe and healthy manner. This raises the costs of food provision in balance with the needs of the community to avoid unsafe food handling processes that may cause illness. By contrast in energy provision, a regulator is required to assess both the pricing structures, including putting in price caps, and the safety and quality standards. Here the relationships between stakeholders does not allow for the consumer alone to engage with the provider of their essential service. In both sectors, the profit is reduced in a way that stakeholders and the community agree is generally needed and worthwhile.

Discussion of housing regulation needs to be understood in a similar way. Housing is not an area of life where two equal participants can bargain freely with one another. One party is attempting to meet one of their most basic needs for survival in a system which is not yet structured in a way that ensures those needs are met. This places consumer tenants in precarious positions, accepting both poor standards and high prices without protection.

Tenants' Union of NSW recommendation regarding regulation of rent increases

In our submission we raise the need to regulate rent increases. We recommend putting in place fairer limits on how much rent can be increased at one time and introducing a fairer, more effective way to challenge rent increases. We believe a reasonable limit should be placed on the amount rent can be increased when a rent increase is served during a tenancy. Currently rent can be increased once every 12 months outside a fixed term tenancy, and - if agreed to at the point of signing the fixed term agreement - once within a 12 month period. While there is a limit on the number of times the rent can be increased in a 12 month period, there is currently no limit or regulation of the amount the rent can be increased.

We recommend introducing provisions within our current tenancy laws that would put a reasonable limit on increases. In practice we suggest this might look like a limit based on the Consumer Price Index (CPI) as has been done in the ACT. The ACT recently introduced a framework for rent increases that sets a threshold for 'reasonable' increases of 110% of the change in CPI. A reasonable limit would not rule out or preclude an increase over this amount. Instead the limit would simply act as a 'threshold' regarding who bears the onus of proof to justify a rent increase. Where a landlord wants to increase rent by more than the set limit (the threshold) they would need to seek the renter's explicit consent for such an increase, or where consent is not provided the landlord must apply to the Tribunal for the increase and be able to demonstrate why an increase above the set limit is justified. The Tribunal will consider the evidence provided by the landlord and where insufficient justification is provided may determine the proposed rent increase is excessive, but where the increase can be justified they may determine the increase to be reasonable.

We also propose fair limits may be placed on new rents, for example that new rents could be required to be set within a reasonable range of the median rent of comparable houses in the area or otherwise determined by Government via regulation or alternatively by an independent body such as IPART.

What impact would the implementation of fair limits on rent increases have for landlords?

Rents are not the primary source of investment returns

Investment in property, unlike most other forms of investment, relies heavily on the mechanics of leveraged investment to achieve high returns through capital growth[1]. For many investors this may not be a planned approach, but it is nonetheless a feature of the investment vehicle. If we model the returns for a fairly modest property investment, we can see how a landlord's wealth, and therefore their incentive to hold rather than sell a property is tied to their share of equity in the property rather than the rent collected.

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[1] Lee, C. (2017) *Investors are exploiting returns on debt financing to muscle out home buyers*. The Conversation. accessed at https://theconversation.com/investors-are-exploiting-returns-on-debt-financing-to-muscle-out-home-buyers-77402 19th August 2022

We might imagine a relatively inexpensive property of $500,000, with a 20% deposit of $100,000 on a loan at 4.5% per annum. A current example of this kind of property available for purchase in Sydney is a 2 bedroom townhouse in Glenfield, in the south west of Sydney. The current median rent for such a property is $400per week.[2] To simplify, let us assume the rent is an even $20,000 per annum, or slightly less than the median.

In Table 1. we have calculated the impact on the return of investment in different scenarios after 10 years of ownership, adjusting two factors - the rate of property value appreciation and the rate of CPI increase (which we have tied precisely to rent increases, a more restrictive approach than proposed above). We have accounted for the costs of ownership, calculating stamp duty on the property and otherwise using the average costs reported by landlords to the Australian Tax Office.[3]

Table 1. **Net ROI p.a. over 10 years**

Property value appreciation p.a.	CPI (rent) increase p.a. 0%	3%	10%
2%	7.4%	8.1%	10.2%
5%	15.1%	15.50%	16.70%
10%	24.40%	24.70%	25.30%

The figures show that while property value has a large impact on the annualised return achieved by the investor, rent increases have a relatively small impact. The change in rent increases makes no difference in the number of years before the investor sees a positive return on investment, where the rate of property appreciation makes a large difference, with a high appreciation rate allowing a positive return after just one year.

Of course this highly leveraged approach does leave investors at risk of price falls. This should be the subject of lending regulations, ensuring that banks are not lending to investors who are purchasing beyond their means.

We recommend investors should receive appropriate financial advice and education around determining their risk and the financial viability of their investment strategy. This could be built into lending practices, or as part of an ongoing education component of a licencing scheme. This would ensure landlords are able to consider whether and how they will meet their legal obligations as a provider of essential services and/or any additional costs as a result of increased costs such as interest rates, council rates or tax reforms.

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[2] As calculated using the Tenants' Union of NSW Rent Tracker Postcode Tool on 19th August 2022. https://www.tenants.org.au/resource/rent-tracker-postcode-tool

[3] Australian Tax Office (2022) Table 26: Rental property schedule items, by state/territory of property and net rent position, 2012–13 to 2019–20 income years. Accessed on 19th August 2022 at https://data.gov.au/data/dataset/taxation-statistics-2019-20/resource/be8b7089-6dcb-48b3-8f61-3233f665b958

Are landlords at risk of homelessness as a result of regulatory reforms?
The supplementary question seeks assurance that landlords are not likely to fall into homelessness themselves as a result of any reform to rent setting. The committee should feel confident this is a highly unlikely outcome.

Recent research examining the causes of homelessness and the characteristics of those 'at risk' of homelessness has usefully identified that people can generally be deemed "at-risk" if they are experiencing one of more of the common stressors or causes that can lead to homelessness.[4] These include, for example, low income and/or income instability, discrimination, the need for support to access or maintain a living situation, limited social capital and supports, and housing market tightness. This last mechanism of cause - housing market tightness - refers to the limited or scarce availability of affordable housing available to those on low or very low incomes.

Batterham et al's recent (Nov 2021) comprehensive study, *Estimating the population at-risk of homelessness*, excluded home-owners when measuring risk. They explained that while there was some evidence to suggest owner-occupation can be precarious and those exiting the tenure do not return, in most cases home ownership (whether outright or with a mortgage) slows or prevents a transition into homelessness.[5]

It is reasonable to assume that ownership of an investment property would similarly exclude this group (landlords) from the risk of homelessness. As with home ownership, ownership of an investment property provides a level of insurance or protection against a transition into homelessness, even when faced with other stressors or cause mechanisms connected to homelessness.

As a prima facie protection against a landlord experiencing homelessness, when dealing with the provision of essential service for another's housing they are by definition not dealing with their own accommodation. A large majority of landlords are owner-occupiers of their principal residence, which - as outlined above - offers significantly higher protection against homelessness. Where the investment property is causing the landlord financial concern, they are able to sell the premises and liquidate their equity to provide economic resources with which to secure their housing.

The Australian Bureau of Statistics created a measure of low economic resource households - combining households simultaneously in the lowest 4 deciles of both income and wealth - to most accurately capture people at greater risk of economic hardship.[6] Low economic

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[4] Batterham, D. (2019a) 'Defining "At-risk of Homelessness": Re-connecting Causes, Mechanisms and Risk', *Housing, Theory and Society*, vol. 36, no. 1: 1–24, doi:10.1080/14036096.2017.1408678.
[5] Batterham, D., Nygaard, C., Reynolds, M. and de Vries, J. (2021), *Estimating the population at-risk of homelessness in small areas*, AHURI Final Report No. 370, Australian Housing and Urban Research Institute Limited, Melbourne, https://www.ahuri.edu.au/research/finalreports/370, doi: 10.18408/ahuri5123501, p19

[6] Australian Bureau of Statistics (2022) *Household Income and Wealth, Australia*. Accessed on 22nd August 2022 at
https://www.abs.gov.au/statistics/economy/finance/household-income-and-wealth-australia/latest-release

resource households in the 2019-20 study held a gross mean value of $20,000 in property other than their principal residence. Given the availability of residential properties available to purchase for $20,000 this indicates it is practically impossible for a property investor to be counted as a low economic resource household. In contrast, 53% of low economic resource households rented in the private market and are experiencing financial hardship on a regular basis.

Regards,

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