

**Submission
No 214**

**INQUIRY INTO SOCIAL, PUBLIC AND AFFORDABLE
HOUSING**

Organisation: Sydney University Postgraduate Representative Association
Date received: 7/03/2014



SUPRA

SYDNEY UNIVERSITY POSTGRADUATE REPRESENTATIVE ASSOCIATION

**Submission for the NSW Inquiry into Public, Social and
Affordable Housing, March 2014**

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Authorised by: Joanne Gad, President
Date: 7 March 2014

SUPRA: STUDENTS WORKING FOR STUDENTS
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Executive Summary

This submission focuses on providing recommendations on state reform options, which encourage more effective management of affordable housing options (Section G). We have taken a broad definition of 'affordable housing' and looked at both state governed regulation of the private rental market and also the policies around the provision of specifically identified 'affordable housing' as provided under the Commonwealth Government's National Rental Affordability Scheme (NRAS).

We focus on the experiences of postgraduate students in the Sydney private renting sector and submit that the experience of this group is representative of the experience of very low to mid income¹ professional renters within urban NSW.

It is our submission that there is a severe shortage in affordable housing in Sydney for professional people on very low to mid incomes, including postgraduate students. We support the NSW Government's recent steps to improve the rights of people in registered boarding houses via the introduction of the *Boarding Houses Act 2012*. We are concerned however that the definitions adopted for what constitutes 'affordable housing' do not actually translate to rents that are in any way accessible for a majority of very low to mid income renters and that the NSW Government has not demonstrated a clear commitment to encouraging government investment in affordable housing for professional low to mid income renters. We are also concerned about the current use of the NRAS scheme as the primary method of providing and developing affordable housing

We are also very concerned that high rents are pushing postgraduate students into less legally legitimate renting options, such as unregistered boarding houses and share housing arrangements excluded under s.10 of the *Residential Tenancies Act 2010*. We advocate on behalf of postgraduate students for greater regulatory control of these forms of 'low cost' accommodation by the NSW state government through the adoption of the *Boarding Houses Act 2012* 'occupancy principles' as standard in any boarding/lodging agreement, the abolition of s.10 in share-housing situations and limits on rent increases in continuing residential tenancy agreements and other non-standard form agreements.

¹ For the purposes of this submission we are defining very low to mid income using 'Table 3A: Household income bands by household size A: Sydney Region' as provided in the Family and Community Services 'NSW Affordable Housing Guidelines' (July 2013) p. 13.

Recommendations

- ❖ Rents under the NRAS scheme should be capped at no greater than 30% of the household's weekly net income;
- ❖ The NSW Government should allocate a number of incentives to projects aimed at providing affordable accommodation for low to mid income professionals via consultation with community stakeholders;
- ❖ That the NSW Government should move to impose the *Boarding Houses Act 2012* 'occupancy principles' as the principles under which all boarding/lodging agreements should operate, regardless of whether the premises falls under the category of a 'registrable boarding house';
- ❖ That the NSW Government remove s.10 of the *Residential Tenancies Act 2010*
- ❖ That the NSW Government introduce a section into the *Residential Tenancies Act 2010* providing that a rent increase is **in principle** excessive if it is greater than 5% over the CPI increase in rents in Sydney over the period since the last rent increase or since the beginning of the lease (whichever is later)

The Director,
Select Committee on Social, Public and Affordable Housing
Parliament House
Macquarie Street
Sydney NSW 2000

7 March 2014

Dear Director,

RE: SUBMISSION FOR THE NSW INQUIRY INTO SOCIAL, PUBLIC AND AFFORDABLE HOUSING

I am writing on behalf of the Sydney University Postgraduate Representative Association (**SUPRA**), the representative body for the University of Sydney's postgraduate students. In 2013, at the 31st March census date, there were **4,471 postgraduate research students** and **13,704 postgraduate coursework students**, making a **total of 18,175 postgraduate students** enrolled at the University of Sydney.

We present this submission to you in anticipation of positive changes for the University's postgraduate students. We welcome any further opportunity to consult.

Kind Regards,

Hayley Stone
Student Advice and Advocacy Officer, 2014

Introduction

The Sydney University Postgraduate Representative Association (SUPRA) is a representative organisation that promotes and actively advocates for the interests of postgraduate students studying at the University of Sydney. SUPRA has existed as a fully inclusive postgraduate student representative organisation since 1974, and in 2014 SUPRA represents over 17,000 students. The Association is led by a Council made up of democratically elected student representatives, and provides a number of services including casework and advocacy, for which it employs four full time dedicated caseworker staff and a full time solicitor sourced from Redfern Legal Centre. The RLC legal service and our four Student Advice and Advocacy casework staff regularly assist postgraduate students in tenancy and boarding house disputes at the NSW Civil and Administrative Tribunal (NCAT). Several of our casework staff have extensive experience in tenancy matters.

Postgraduate student council members themselves rent and are in contact with other postgraduate students renting within the Sydney private housing market. In 2013, SUPRA assisted more than 600 postgraduate students. Over 250 students came to receive information and advice relating to accommodation or tenancy issues. More than 30% of these students identified as being international.

Accommodation matters are defined as any form of renting or licence to occupy which is excluded from the operation of the *Residential Tenancies Act 2010* or the *Boarding Houses Act 2012*. Tenancy matters include standard form residential tenancy agreements, sub tenancies and boarding/lodging agreements.

Our casework has identified that a significant proportion of postgraduate students at the University of Sydney have trouble securing affordable housing within the Sydney rental market. Our casework also indicates that in practice many affordable housing options operate outside of the protections provided by the *Residential Tenancies Act 2010* and the *Boarding Houses Act 2012*. As a result, a number of postgraduate students are exposed to problems like inability to recover bonds/security deposits, inability to have repairs done and terminations without notice or reason to name but a few of the difficulties they encounter.

What do postgraduate students need?

University of Sydney Postgraduate Student Snapshot*

78% of students rent in the private market

More than half of all students (55%) have less than \$500 per week to spend on living expenses including rent

22% students are living on less than \$200 per week for **all expenses**

44% of students pay \$200 -\$300 per week in rent

81% are stressed about the cost of renting in Sydney

64% of students surveyed have gone without basic necessities, e.g. food, medication costs and transport costs to pay rent

69% of students share house in private accommodation

* Based on SUPRA's Student Accommodation survey, 2014 – this was a self-selecting survey conducted on subscribed SUPRA members – see Attachment A.

Postgraduate students seek accommodation that is well connected to the University main campus (located in Camperdown/Darlington) or its' satellite campuses² either geographically or via direct public transport. Access to supermarkets and places where students do paid work is also relevant to the decision of where to rent.

'The criteria for my future residence had to include nearby supermarket shopping, facilities and close to transport [to the University]' International Postgraduate student, Waterloo.

Our Student Accommodation Survey identified postgraduate students as renting in the following suburbs:

Table 1: Suburbs identified as places of residence – based on provided postcodes

Alexandria/Beaconsfield/Eveleigh
Annandale
Ashfield
Belfield
Beverly Hills/Narwee

² These campuses include Sydney College of the Arts (Rozelle), The Conservatorium of Music (Sydney), the Faculty of Health Sciences (Lidcombe), Australian Technology Park (Redfern) and Camden Campus.

Broadway/Ultimo
Burwood/ Burwood North
Camperdown
Campsie
Carringbah
Centennial Park/Moore Park/ Paddington
Chippendale/Darlington
Colyton/Oxley Park/St Marys
Darlinghurst/Surry Hills
Enmore/Newtown
Forrest Lodge/Glebe
Guildford/Yennora
Harris Park/Parramatta
Homebush/Homebush South/ Homebush West
Leichhardt/Lilyfield
Lewisham/Petersham/Petersham North
Marrickville/Marrickville South
Merrylands/Merrylands West
Pymont
Ultimo

To undertake postgraduate study, whether as a coursework or research student, postgraduate students on the whole have budgetary restraints for the period of their studies. This could vary from a period of 1 -10 years, depending on type of degree and the study mode.

Affordability is the key concern for most postgraduate students. 81% of students we surveyed for the purposes of this submission admitted that they were stressed by the cost of renting. 55% had less than \$500 per week to spend on living costs, including food, rent, medications, transport, bills and entertainment. 64% of students reported that they had had to go without basic necessities in order to pay their rent.

"Its expensive for an international students [sic] with limited scholarship amount. Subsidized government apartment or hostel as it is in practice in Canberra would help student here in Sydney as well. International students in Canberra pay \$150 [per week] around for rent however we are compelled here to pay more than \$350 per week for simple and old unit"

International postgraduate student, Campsie.

"Most of my allowance is for paying rent. Money is always a concern and as a postgrad I don't have much extra time to do other payed [sic] work" International Postgraduate Student, Leichhardt/Lilyfield.

"Both of us think that Sydney is so expensive, particularly in house rent. It is difficult for us to cover all the expenses, especially as we come from a country where prices of everything are very low compared to one of the most expensive cities in the world"

International postgraduate couple

***“It's so much more expensive than my own country! It's over four times more!”
international postgraduate student, Merrylands/Merrylands West***

Most postgraduate students we assist look for accommodation that is as inexpensive as possible whilst still allowing easy accessibility to services such as shops, public transport and the University. Whilst there may be a preference to live independently, postgraduate students, particularly coursework students, often consider affordability to be of greater priority and opt for share-housing situations or ‘quasi-boarder/lodger’ arrangements, for example, occupying a ‘granny flat’ or a converted garage of a private residence with the landlord residing on site. Of the students we surveyed, 69% rented in private share house accommodation. Many students engage in paid work on top of study to cover their day-to-day living expenses. This is a common pattern for coursework students whose degrees are usually of a shorter duration from 6 months to 12 months to 18 months or to 24 months.

“It is not possible to afford rent and living expenses in Sydney without working to supplement government allowance. We are then pressured from university (regarding placements) to not work and be available for them at all times, and penalised if we are not. It seems like something is wrong here” Postgraduate student, Lewisham/Petersham.

“Rent is more than half my total living expenses in Australia and it is a burden. As an international student, I feel obliged to work to cover this rent. The wages however, are never sufficient and my academics are impacted” International postgraduate student, Harris Park/Parramatta

International students may try to arrange share house accommodation with people from the same cultural background prior to arriving in Australia. We understand that they use networks within their own countries to organise this, such as the Chinese social media site ‘Weibo’. International students are also more likely as a demographic to seek on campus accommodation or accommodation through large-scale private ‘student accommodation’ providers who are running their accommodation on a commercial basis. These students will usually utilise this form of accommodation for a limited period of time to get more familiar with the rental market before trying to then rent in the private market. We understand that this is because the cost of commercial accommodation that is specifically geared at the student market is generally more expensive than it is to rent through a private landlord.

International students looking to rent in the private market will usually source potential rental properties through word of mouth, the website, *Gumtree*, international newspapers, the University of Sydney Accommodation Service (which provides a data base of rental offerings listed by private landlords) or informal advertisements. International students are particularly vulnerable to exploitation from landlords due to their unfamiliarity with the NSW rental laws and what are the basic standards, which can be expected of rental accommodation in Sydney.

In the last year we have seen a number of worrying cases including those in which international students have been the victims of rental scams, have had trouble recovering their bonds, or have been expected to live in substandard accommodation, for example, a cordoned off part of a living room. Stable accommodation is essential to these students, who are often do not have the same knowledge and resources as domestic students. Rental instability is a contributor to poor academic performance in a number of show cause and special consideration matters we

deal with, both for international and domestic postgraduate students.³

Domestic students are more likely to rent in the private market from the outset (possibly because they are more savvy to the rental market) and a proportion of domestic students with family who live within a reasonable distance to the University, live 'at home' to avoid the costs of high rents. Regional domestic students studying at the University of Sydney are likely to consider on campus accommodation and the large scale private 'student accommodation', although most will not stay in this form of accommodation for the duration of their studies.

Domestic students are usually aware of accommodation Internet sites such as Domain and Real Estate.com, which tend to advertise more 'mainstream' residential tenancy agreements. They also use Gumtree, word of mouth, social media, the university's accommodation service, and specific 'find a flatmate' websites to find accommodation.

A particularly disadvantaged class of postgraduate student renter are those who rent with dependents. For example, sometimes, some international students bring their spouse and/or children to Australia whilst they are studying and students have reported to us that some faculties at the University of Sydney have actively promoted this. Smaller scale properties, e.g., bedsits, are often not an option for these postgraduates. We are aware of families who try to share house in order to save costs, but this is very difficult logistically. For international students, student visa requirements add an extra complication by placing limitations on the amount of time international postgraduate students can spend on paid employment during university term times diminishing the household income.

'Locating housing with a child is VERY difficult. Everywhere I go, no one wants a youngster in their midst. As much as I would love to rent a room in a child-friendly home, I have resigned to living in a hotel for the next few months. As you can imagine, this is VERY expensive' – postgraduate student.

Concerns to be addressed by the NSW Government

SUPRA has identified four main areas of concerns relating to housing affordability for postgraduate students which we submit that the NSW Government should address:

1. General lack of affordable housing options which recognise the limited income which a postgraduate student will have whilst they are studying;
2. Lack of regulatory safeguards for students in unregulated boarding/lodging situations;
3. Lack of regulatory safeguards in private share housing situations
4. Lack of consistency in rent for those on continuing leases or other non-standard agreements

1. Lack of affordable housing options

³ Show cause matters are where a student is required to explain to their faculty why they should be able to continue in their candidature due to poor academic performance. Students make special consideration when they have had illness or misadventure, which has had a detrimental impact on their academic performance for a particular assessment task or subject.

The National Housing Supply Council has confirmed that across Australia rents for houses have increased by 75.8% whilst rents for other forms of accommodation (e.g. flat and studios) have increased by 91.8% over the period between 2002 -2012, whereas average earnings only increased by 57% over the same period.⁴

In 2013, the *Tenth Annual Demographia International Housing Affordability Survey* rated Sydney as having the 4th most unaffordable housing market out of 85 major international metropolitan cities.⁵ The NSW Government’s most recent Housing Analysis and Research ‘Rent and Sales Report’ indicated that in the June quarter of 2012, central, mid and outer Sydney properties were attracting median rents of \$410, \$375 and \$280 per week respectively.⁶

Anglicare’s annual *Rental Affordability Snapshot* of April 2013, found that of 12,880 properties available for private rental in the Greater Sydney Area, only 23 of those properties were identified as being able to satisfy being both appropriate and affordable to people on income support (for example, Youth Allowance, Aged Pension)⁷. **No suitable properties were found for single people on Austudy payments.**⁸ Likewise, a search of ‘Flat share/House share’ properties on Gumtree for the Sydney Region conducted for the same report indicated that of 1200 available properties, few if any were feasible for full time students on income support.⁹

SUPRA is deeply concerned at the lack of affordable housing options for low to mid income earners, particularly in the Sydney area. Many postgraduate students are in the low-income bracket and are unable to work full time whilst studying. Domestic students in our experience tend to rely on a combination of paid employment and/or income support, for example AUSTUDY or NEWSTART, Australian Postgraduate Awards (APA) or University Postgraduate Awards (UPA) and we note that many Masters courses are not approved for AUSTUDY benefits.

Whilst a very small percentage of international students rely on grants through schemes like AusAID to meet their living expenses, the majority have to take paid work, rely on their families or use money saved, or a combination of all of these to supplement their income whilst studying. International students must take on a full time course load in order to study at the University of Sydney.

The following table, (Table 2), is a breakdown of the weekly amounts received by students under the AUSTUDY, NEWSTART, APA and AusAID schemes:

Table 2: Breakdown of weekly income amounts

Type of payment	Amount of available funds per week (Based on 52 weeks for single person)
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⁴ National Housing Supply Council, *Housing Supply and Affordability Issues 2012-2013*, p 7

⁵ Cox, Wendell, (Demographia) and Pavletich, Hugh (Performance Urban Institute), *10th Annual Demographia International Housing Affordability Survey: 2014 – Ratings for Metropolitan Markets*, (2013), pp. 12, 14 – for the purposes of the study the authors considered 85 major metropolitan markets within Australia, Canada, Hong Kong, Ireland, Japan, New Zealand, Singapore, the United Kingdom and the United States.

⁶ NSW Government, Housing Analysis and Research, ‘*Rent and Sales Report*’ no. 100 (2012) p.3

⁷ Anglicare, *Anglicare Australia Rental Affordability Snapshot*, (April 2013), pp. 49-50.

⁸ Anglicare, *Anglicare Australia Rental Affordability Snapshot*, (April 2013), pp. 49-50.

⁹ Anglicare, *Anglicare Australia Rental Affordability Snapshot*, (April 2013), pp. 49-50.

AUSTUDY (including rent assistance)	\$268.70
NEWSTART (including rent assistance)	\$312.50
APA*	\$488.30
AusAID*	\$576.90

*Based on the yearly rates and divided into weekly allocations.

Obviously the amount of money offered under each of these schemes is insufficient to cover all living expenses. We also note that none of these amounts comes close to the national minimum wage of \$622.20 per week, and are alarmed that **the current rate of AUSTUDY (including rent assistance) in particular is less than half of the national minimum wage.**¹⁰

“I know others near me pay more, so I feel lucky that I only pay \$170 per week [to share] but then there are all the bills and costs (electricity, internet, gas, travel, food, clothes etc.)”
Postgraduate student, Croydon.

“I’m from outside of Sydney and have had to rent since studying there. The housing prices for renting a room have almost tripled. Centrelink payment for students doesn’t reflect this change. It’s something that I feel really strongly about. It’s not fair that landlords can ask for so much rent from anyone” Postgraduate student.

SUPRA believes that students should be able to pursue postgraduate level education **in accommodation that is affordable, secure and suitable for their needs.** Postgraduate students are being placed in the position where they must do paid work to supplement their weekly income and balance this commitment with their studies. This paid work often comes on top of full time study, and in the case of international students, there is no choice but to take on paid work whilst studying on a full time basis. Balancing work commitments and study often results in poor academic performance, which can further increase education costs for students if a subject needs to be repeated due to a fail result.

“I have now decided that I need to find a second job to make ends meet. This is making me nervous as I am not sure how I will go finding a job and still maintaining my research/experimental needs” PhD student, Waterloo.

National Rental Affordability Scheme

We note that the Australian Government’s National Rental Affordability Scheme is seen as a potential way of alleviating the rental crisis in Sydney and we further note that the NSW government has established a target of 25,000 new dwellings in the Sydney Greater Metropolitan region each year.¹¹ However we have two concerns about the NRAS both at Federal and State levels. Firstly, that the rent cap of 80% of market rent is not true affordability and secondly that prioritising community housing providers will not benefit postgraduate students.

¹⁰ Fair Work Ombudsman, <http://www.fairwork.gov.au/pay/national-minimum-wage/pages/default.aspx> (accessed 18 February 2014)

¹¹ NSW Government, *National Rental Affordability Scheme NRAS Round 5 NSW Program Requirements NRAS B Incentives*, (June 2013) p. 7.

The Commonwealth Government's NRAS Policy Guidelines set rents to be capped at no more than 80% of market rent – this is still outside the reach of many low-income earners especially in urban areas. A solution could be to cap rents at an affordable amount for households. The Australian Bureau of Statistics defines a household to be in 'rental stress' if its rental costs are greater than 30% of the weekly household income.¹² SUPRA **recommends** that an income based rent cap at no more than 30% of the total household income is the only real way to achieve housing affordability;

We note that in NRAS Round 5, the NSW Government has a stated preference for projects that will be run by registered community housing providers. We are concerned that any NRAS properties owned or head leased by a community housing provider will, in practice, be used to house very low income households which cannot be accommodated in the social housing market and who are unable to rent at all in the private rental market for various reasons, for example, disabilities or family structure. Very –low to mid income earners, (particularly those without dependents) can find private rental accommodation, be that share housing, 'couch surfing' or otherwise, but our concern is that the types of accommodation they are finding are generally substandard and place these people in an unacceptable state of rental stress. Obviously we appreciate the need to house very low income households with no real access to the private rental market as a main priority, however we want to see a tangible commitment by the NSW Government to a proportion of the 25,000 new dwellings in the Sydney Greater Metropolitan area being non community, purpose built housing for professional very low to mid income earners in suburbs with easy accessibility to transport and other resources.

We note that a number of States and Territories including Tasmania and the Australian Capital Territory have provided NRAS funding for the development of affordable student accommodation connected to Universities. We encourage the NSW Government to adopt a similar approach and to consider projects aimed at providing affordable student accommodation connected to universities, but stress that any provision of NRAS funding to develop student accommodation must result in the provision of accommodation that is realistically affordable to students based on a cap of 30% of the total household income as discussed above.

Local council/not for profit affordable housing initiatives

We also encourage the NSW Government to work in partnership with the City of Sydney, LGAs and not for profit community organisations to implement affordable housing initiatives aimed at providing affordable accommodation for very low to mid income professionals, such as postgraduate students. This would provide much needed affordable housing options for these students and give them a much greater level of housing security than currently experienced in the private Sydney rental market.

We see the main benefit of utilising councils, LGAs and not for profit organisations as being firstly, that these organisations are generally 'on the ground', and are in touch with the

¹² Australian Bureau of Statistics, *Housing Circumstances, PERSONS, PROPORTION LIVING IN LOW INCOME HOUSEHOLD IN RENTAL STRESS (a)(b)(c), 15 years and over*, <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4125.0main+features1310Jan%202013> (accessed 20 February 2014)

populations they wish to cater for. We would also anticipate that there would be less focus on profitability than one might expect through private investment. We understand, for instance, that private investors have expressed dissatisfaction with the fact that NRAS stipulates the rent cap of 80% for a minimum of 10 years.¹³

Recommendations

- ❖ Rents under the NRAS scheme are capped according to household net income. Rents should be no greater than 30% of the household's total net weekly income;
- ❖ The NSW government should allocate a proportion of incentives for the development of projects aimed at providing affordable income for low income professionals, such as postgraduate students in high demand areas;
- ❖ The NSW Government should consider projects aimed at providing affordable student accommodation connected to universities capped at a rent of no more than 30% of the total household income
- ❖ The NSW Government should work in partnership with the City of Sydney, LGAs and not for profit organisations to implement affordable housing schemes on the basis that rents are capped to no greater than 30% of the household's total net weekly income.

2. Lack of regulatory safeguards for students in unregulated boarding/lodging accommodation

We have observed numbers of students living in subdivided premises in the private rental market where the landlord lives on site and exerts control over the students' use of the premises. An example of this type of arrangement can be seen below:

'In short we live in the garage of the house, which {sic} has been arranged for three people to live. Our landlord enters our section of the house whenever she wants simply because she has keys and needs something from this side' – International Postgraduate student.

Landlords who rent out these premises are currently not required to adhere to a standard form agreement, or even to provide an agreement in writing under NSW Law. Oral agreements are commonplace and receipts for payments of rent, holding deposits etc. are not always provided. Holding deposits are seldom lodged with NSW Fair Trading and it is not unusual for postgraduate students to encounter problems when requesting a refund of this money. Postgraduate students, particularly International students, are often unaware of what they should expect in respect to a contract for the provision of this type of accommodation. They are also usually unaware of their rights in relation to termination, peace, comfort and privacy, repairs etc. There is widespread fear that asking landlords to act on repairs or other issues will result in inaction, the landlord terminating the agreement or a rent increase.

'I deal directly with my landlord on a month to month lease, which makes me very

¹³ Chancellor, Jonathan, *Low Income NRAS Incentives wasted on university student housing*, The Property Observer (online) <http://www.propertyobserver.com.au/housing-affordability/low-income-nras-incentives-wasted-on-university-student-housing-grace-mutual> (accessed 18 February 2014)

reluctant to bring up any problems with the house in case I get booted, and I put up with a lot as a result – they come around without notifying us roughly every month and often does spontaneous house inspections, there is a chronic black mould problem that they refuse to do anything about’ – postgraduate student, Dulwich Hill.

Presently remedies for these students when there is a breach of the agreed terms include applying to the Consumer Division of the NSW Civil and Administrative Tribunal or, if the breach relates to money, pursuing debts through the Small Claims Division of the Local Court. In contrast to matters which come under the *Residential Tenancies Act 2010* or the *Boarding Houses Act 2012* there is no clear way to access either of these remedies.

Complex legal arguments about whether the accommodation falls under the definition of a ‘consumer contract’ and what rights are implied through the provision of ‘accommodation’ are required and these arguments usually require the intervention of an experienced (legal) caseworker. A lack of regulations regarding the provision of contracts, receipts and other forms of evidence, means that many postgraduate students do not have sufficient evidence to satisfy the reasonable probability test required under civil law.

We would suggest that the NSW Government look to extending the scope of aspects of the *Boarding Houses Act 2012* to apply to all boarding house situations, regardless of whether they are registrable. In particular, we would like to see the application of the occupancy principals (s. 30 of the *Boarding Houses Act 2012*) apply to all boarding house or lodging situations. We would also seek to have disputes arising in these types of situations included under s. 32 of the *Boarding Houses Act 2012*, with NCAT given the same powers as in registrable boarding house situations.

SUPRA appreciates that a landlord who rents out a single room is different to a boarding house proprietor and we also appreciate that small scale landlords provide one of the few sources of low cost accommodation for the student market, so we would not like to see these landlords being discouraged by excessive amounts of state government control.

It is our submission that the broader application of the occupancy principals will **not** place an unreasonable burden on these landlords, and that any perceived negative effect would be counteracted by greater clarity and consistency as to the rights and responsibilities of both parties.

Recommendations

- ❖ That the NSW Government should move to impose the *Boarding Houses Act 2012* ‘occupancy principles’ as the principles under which all boarding/lodging agreements should operate, regardless of whether the premises falls under the category of a ‘registrable boarding house’

3. S. 10 of the Residential Tenancies Act 2010

SUPRA did not support the introduction of s.10 into the *Residential Tenancies Act 2010* at the draft consultation phase of this legislation. We remain opposed to this provision in the

Residential Tenancies Act 2010. We note that a number of postgraduate share housing students who contact our service are not covered under the *Residential Tenancies Act 2010* due to the fact that they do not have a written agreement with their head tenant.

The reality of high rental prices in the Sydney rental market means that share housing is often the only possible option available to postgraduate students. Postgraduate students do not always know the status of the person from who they rent. Competition for low priced accommodation means that postgraduate students are reluctant to force people they rent from to sign written agreements.

Many head tenants will not sign agreements due to the fact that they may not have sought permission from the landlord to sublet. International students may not realise that they are required to sign a written agreement with their head tenant in order to be covered under the *Residential Tenancies Act 2010*.

In our casework experience, it can be very difficult to determine the status of a landlord/head tenant, as many of them are aware that they are breaching their own residential tenancy agreement with the owner/real estate agent. We frequently conduct property searches in order to determine property owners. It is not uncommon for subtenants to be told that they are renting from the owner when in fact they are renting from a head tenant.

It is onerous to expect that a postgraduate student be required to undertake their own investigations as to the status of the person they intend to rent from and to then also convince that person to enter into a residential tenancy agreement, if necessary, to assure their rights. This is particularly troublesome in a tight rental market where postgraduate students are trying to find the cheapest accommodation possible.

The practical problems of not being covered under the *Residential Tenancies Act 2010* are most apparent in relation to rental bonds. Postgraduate students who do not have a written agreement with a head tenant to rent a room have no easy mechanism to recover their security deposits at the end of the agreement. They could try to apply under the general consumer division of NCAT arguing that they had a licence to occupy and that the refund of the security deposit was a term of the agreement, but in our experience most students would have difficulties negotiating the consumer law principles and would require the assistance of a caseworker.

An alternative solution would be a claim to the Small Claims Division of the Local Court, but this is potentially time consuming and costly. The same evidentiary requirements would also apply. Many international students with fixed visa deadlines cannot stay in Australia long enough to pursue lengthy local court actions.

Section 10 unfairly disempowers people who are already most vulnerable to exploitation, due to their limited financial capacities. The introduction of s 10 is unnecessary from the perspective of protecting the landlord's interests as the landlord can claim a breach of the agreement if a head tenant sublets without consent.

The reality of the situation is that people looking to rent a room are in such competition to find rooms which are affordable that they are unwilling to persuade head tenants to sign written

agreements for fear that they will not be accepted to live at the property. These occupants often do not realise they have no power to enforce their agreement until the landlord has already breached terms, at which point there is no easy remedy for the occupant and the head tenant does not suffer any detriment for their wrongful actions.

Recommendations

- ❖ SUPRA recommends that s. 10 of the *Residential Tenancies Act 2010* should be removed.

4. Lack of consistency in rent

Dealing with such limited funds, postgraduate students are very concerned about rent increases as these can put greater strain on their finances and can result in further rental stress, or potentially homelessness. Many students talk of being very reluctant to raise issues about repairs and maintenance, even urgent repairs, due to the fear that the landlord will respond by increasing the rent. We note in our Student Accommodation Survey that 6% of postgraduate students identified rent increases as a specific concern to them, whilst 58% said that their current rental property was too expensive. 81% said that they felt stressed about the amount of money they needed to pay for accommodation.

For tenants, under the current provisions of the *Residential Tenancies Act 2010* a landlord can increase the rent of a property for a continuing agreement within 60 days of the tenant being provided with a written notice. This could hypothetically result in a tenant experiencing 6 rent increases within a 12-month period.

“I worry that the rent will go up – last time it went up it was an extra \$30. If it goes up again I will have to consider moving” – Postgraduate student, Croydon.

The provisions under which a tenant can fight rent increases are very weak and in our experience are seldom successful at Tribunal level. Tenants are to challenge the rent increase within 30 days of receiving the rent increase notice and to apply to NCAT for an order that the rent increase is excessive. The Tribunal will consider the following:

44. Tenants remedies for excessive rent

(5) The Tribunal may have regard to the following in determining whether a rent increase or rent is excessive:

- (a) The general market level of rents for comparable premises in the locality or a similar locality,
- (b) The landlord’s outgoings under the residential tenancy agreement or proposed agreement,
- (c) Any fittings, appliances or other goods, services or facilities provided with the residential premises,
- (d) The state of repair of the residential premises,
- (e) The accommodation and amenities provided in the residential premises,
- (f) Any work done to the residential premises by or on behalf of the tenant,
- (g) When the last increase occurred,
- (h) Any other matter it considers relevant (other than the income of the tenant or the tenant’s ability to afford the rent increase or rent).

We recommend that NSW should adopt a model similar to the rent increase provisions in the

ACT where it is specifically specified that a rent increase will be deemed to be in principle, excessive if it is in excess of 20% of the rents component of the Consumer Price Index (CPI) for Canberra over the period since the last rental increase, or since the beginning of the lease, whichever is later.¹⁴ The Tribunal is open to consider claims by either party as to the rent increase being too high or too low based on similar criteria to that proposed under s. 44 of the NSW Act.

Capping rent increases in this way and setting a benchmark of 'reasonableness' in such a way removes the onus on the tenant to prove that any rent increase is too high and we also hope would make landlords reconsider large rent increases, on the basis that any increase greater than a set percentage above CPI for rents would automatically be presumed as excessive.

Considering the tight rental market in Sydney and data that the Sydney rental market is already outside the reach of many on income support, we would suggest that any rental increase be held to be excessive by NCAT *in principle* if it is in excess of 5% of the rents component of the Consumer Price Index (CPI) for Sydney over the period since the last rental increase or since the beginning of the lease, whichever is later.

We would argue that provisions should be incorporated into the *Boarding Houses Act 2012* giving NCAT the authority to determine whether an occupancy fee is excessive and for the onus to be on landlords to demonstrate an occupancy fee is not excessive if it is greater than 5% of CPI for rents, as detailed above.

Recommendations

- ❖ That the NSW Government introduce a section into the *Residential Tenancies Act 2010* providing that a rent increase is **in principle** excessive if it is greater than 5% over the CPI increase in rents in Sydney over the period since the last rent increase or since the beginning of the lease (whichever is later)

Conclusions

Postgraduate students require accommodation that is secure, suitable and affordable for the duration of their studies at the University of Sydney. Through our casework we are acutely aware that many postgraduate students are struggling to balance their studies and paid work commitments in order to sustain unaffordable rents and often going without basic living necessities in the meantime.

We need to see an investment at the State Government level in improving the situation for these students. We believe that improving protections for these students renting in the private market, capping rent increases to a level that is commensurate with the cost of living and facilitating the provision of realistically affordable accommodation through LGA initiatives and private and government investment will go a long way to easing the burdens faced by postgraduate students and indeed very-low to medium income professionals in general.

¹⁴ *Residential Tenancies Act 1997* (ACT) s. 68 (2).