



Strategic Housing Policy
Department of Disability Housing and Community Services
GPO Box 158
CANBERRA ACT 2601

Re: Housing Policy Consultation

Thank you for the opportunity to provide comments on the Information Papers provided to the ACT Ministerial Housing Consumer Forum and Summit.

The Tenants' Union was able to send representatives to both events however our resourcing was not sufficient to be able to have someone attend all relevant workshops/sessions. In addition we noted that there were some omissions in the papers as well as the topics covered in the events.

The submission attached is unfortunately not as detailed as we would like. We are not in the position to produce comprehensive comments to the lengthy information papers. We have drawn attention to what we see as key issues.

I am happy to discuss these issues further and would like to express the Tenants' Union's ongoing commitment to participation in any ongoing consultation process in relation to housing in the ACT.

Yours sincerely

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Executive Officer

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Submission by Tenants' Union (ACT)

1. Introduction

- 1.1. The Tenants' Union (TU) is one of the primary providers of information, advice and education to tenants in the ACT.
- 1.2. The Tenants' Union membership consists of private, public and community housing tenants, occupants of other forms of accommodation as well as individuals interested in tenancy issues. The TU represents people renting in the ACT (private, public, community), works to promote the rights and interests of tenants and undertakes housing and tenancy-related projects.
- 1.3. The TU is a community legal centre providing tenancy advice, information and referral through the paralegal Tenants' Advice Service (TAS), casework is referred to Welfare Rights and Legal Centre. The TAS provides information, advice and referral through its advice workers and also undertakes community legal education, producing information, conducting workshops and presentations, promoting tenant participation. The TAS is funded through the Department of Justice and Community Safety, by a proportion of the interest earned from bonds lodged with the Office of Rental Bonds.
- 1.4. In the last year (2004/05) our service reported 4052 phone contacts with ACT tenants on tenancy/housing issues. In addition to this we had direct contact with people renting through a variety of other forums including presentations, workshops, information stalls, and community meetings. Furthermore we participate in a range of networks and forums with community service providers who have contact with people renting.
- 1.5. The consequence of this experience and range of services, and close links with related organisations, is extensive knowledge of tenancy and housing issues in the ACT. Accordingly the TU is providing a submission responding to issues and items from the information papers identified as being of particular relevance to the organisation and our expertise, as well as highlighting some issue that were not addressed.
- 1.6. The Tenants Union is aware of the ACT Shelter/ACTCOSS submission, *THE WEALTH OF HOME - A Call for Action on Affordable Housing in the ACT*, and supports the statements and recommendations within the publication. The Tenants' Union also supports and concurs with statements made in relation to this consultation process by CARE Inc Financial Counselling Service and the Welfare Rights and Legal Centre.

2. Introduction

- 2.1. In the first instance in relation to the Housing Summit, it was no surprise to see the level of interest in this event and the diversity of services, organisations and individuals represented. It reflected the importance of housing issues, as well as the fundamental nature of housing to the health and well being of the community as a whole.
- 2.2. Having acknowledged the breadth of issues however, it must be noted that it was very disappointing to not see some major issues from the 2005 Ministerial Forums addressed by specific workshops. Of particular concern was that reviews process and appeals mechanisms were not addressed (either in the discussion papers or the Summit itself). The fact that there was a 2005 discussion paper, a forum and a follow-up forum expressly on these very important issues, and that there was commitment to report back to the community on what was going to be happening with these mechanisms

(specifically the Housing Review Committee) had led many of us in the community sector to expect this area to be covered explicitly. In light of the fact that this did not occur the TU would like to repeat its support for the Welfare Rights and Legal Centre's proposals relating to these issues.

- 2.3. An additional point in relation to the Summit was that it was disappointing that there was no opportunity for direct evaluation of the day via participant surveys. It would have been beneficial for participants to have the opportunity to give constructive feedback as well as the Department and the Minister to hear directly from participants about how they experienced the process of public consultation and participation. This was an unfortunate missed opportunity.
- 2.4. Regarding the information papers, there was some useful information provided however it was unfortunate that they were not made available until just before the Summits. There was also some lack of clarity in relation to what was being said and what statements were leading to. In some cases the questions being asked did not reflect the information provided and/or did not have enough background detail to enable a constructive response. This lack of clarity makes it difficult for anything other than broad statements in response. That said, it is assumed that there will be further work on specific issues and we look forward to being involved in processes relating to them.

3. Paper No 2: Targeted Housing Assistance

- 3.1. It is encouraging to see a commitment to tenant participation in the articulation of over-arching principles, although it is worth noting that many tenants feel that the use of the term "client" detracts from who they are and who they are legally recognised as. Another positive feature is the acknowledgment of the need for "grandfathering" and lead times for changes, however it is important to strongly note that there is concern in the community about equity in relation to rights where a policy change creates inequity between tenants in different tenures. A further inequity can be created between tenants in the same tenure where regulations tighten eligibility or entitlements for new tenants. From a social/community aspect this creates tensions between tenants that have greater protection and those who move into newer, more restrictive regimes.

3.2. *Question: What are the most effective ways to build partnerships in housing assistance?*

(a) Between government agencies?

- 3.2.1. This issue is not something we can comment on aside from saying that while there have been clear statements about the need for communication across departments/agencies that it is our experience that there is still some way to go in achieving this.

(b) Between government, community organisations, the private sector and the community?

- 3.2.2. There has been substantive work done on this issue, and there is little we can add here but to say that showing respect, communicating effectively, and providing clear, comprehensive and timely feedback will help build effective and positive partnerships. While these types of commitments are articulated in many government documents, including *The Social Compact*, from a community perspective there is still some significant work to be done regarding moving this into practice. It is important to communicate issues of relevance to stakeholders in a timely manner and to adequately resource secretariats to provide the support required for working groups and committees to function properly. Community experience indicates that

there needs to be some significant cultural change within some areas of government to actually recognise and work towards these goals.

3.2.3. An example of this is that, as already noted, there was no opportunity for participant feedback at the forums where a survey would have been very useful in determining the success of the event as well as steps to take for improvements of such events in the future. Such review would give extra credence to how participants are valued and help build positive relationships and the view that these are in fact partnerships.

3.2.4. An action that could be taken by Government is to undertake comprehensive and transparent reviews of consultation processes or a particular high exposure consultation process in particular. An example of such a process that should be reviewed and would provide very useful feedback is the process around the HACT debt management policies and programs.

3.3. How should relative need be determined?

3.3.1. The Tenants' Union believes that the current system works as well as a system can within the constraints of very heavy demand and few options for meeting that demand. There is little that can be done to shift definitions within the constraints that exist. If there was to be a review of the allocations system it would need to be fair and transparent and involve relevant stakeholders. Such a review must acknowledge the worth of stakeholders in identifying and therefore avoiding problems. We refer to the Welfare Rights and Legal Centre submission in relation to this issue.

3.4. Should market renters, who have the capacity, move into the private sector?

3.4.1. The Tenants' Union is disappointed to see this issue being raised yet again despite overwhelmingly evidence from a wide range of sources including the Department's own 2004 review clearly highlighting the importance maintaining market renters:

Housing ACT, like other public housing authorities, uses rental income from market renters as an important component to help finance services it provides. This rental stream is decreasing, as the number of market renters decreases, and increased targeting of assistance by Housing ACT means that for the first time rental rebates are now larger than rent received. A report by Jon Hall and Mike Berry of the Australian Housing and Urban Research Institute confirms that as a long term strategy, targeting of assistance with decreasing funding from both the CSHA and from rental incomes is not sustainable, and suggests that an increasing proportion of tenants with greater household income growth potential should be allocated housing than at present.

The Review has concluded that market renters play an important role in the viability and sustainability of Housing ACT, both as an income source to help pay for services the organisation provides, and as an important contributor to the broader role of public housing being more representative of the community, and helping to sustain tenancies. It is recommended that a study be conducted to assess appropriate strategies to help strengthen this viability in the long term. (p.6 ,DDHCS, *Review of Housing ACT Market Renters, August 2004*)

3.4.2. In addition to the importance of market renters in terms of financial contribution and social mix, there is the crucial role secure housing plays in their lives and ability to contribute to the ACT Community. An issue that has never been adequately addressed is the inherent inequity with policies removing security of tenure on the basis of improving financial situations. This something that is never faced in the private market, and a very real disincentive for people to improve their situations at the cost of their homes.

3.4.3. There has also been little acknowledgment of the barriers and disincentives faced by HACT tenants moving into the private market and how they could be addressed if people are encouraged and assisted to enter that market. These barriers include:

- **Discrimination.** The private market is based on the landlord choosing who they determine as “suitable tenants”. Application forms from real estate agents reflect the amount of detail (in many cases inappropriate and unreasonable) on which they will base their decisions, including previous rental history, workplace, salary, length of employment, employment history, credit history, banking details, country of birth, passport details and even study details. This is aside from the discrimination prohibited under Anti-Discrimination legislation but that in reality many tenants face continually in the private market. After 12 years of having direct contact with tenants in the private rental market it is clear to the Tenants’ Union that public housing tenants face very real obstacles due to discrimination based on their previous rental history. This discrimination is virtually impossible to counteract.
- **Lack of affordability in the ACT private rental market.** This includes the well documented and broadcast affordability in relation to entering the market and also ongoing affordability issues in relation to the fact that most tenants can expect rent increases every 12 months regardless of what their financial situation may be. Costs can be expected to increase while there is no such guarantee on income.
- **Lack of transparency and accountability in the private rental market.** While the Residential Tenancies Act does provide some avenues for resolution of disputes, there is little in the way for tenants to make lessors accountable for poor process, bad behaviour and bad decisions. The RTA does not apply penalties for breaches of the Act or the Standard Terms and accordingly there is no disincentive for unprofessional behaviour. Recently the Agents Act was amended to provide that tenants can make complaints against real estate agents, but there is no similar avenue of complaint against private landlords, and tenants are apprehensive about taking any action for fear of losing their housing or being listed on tenancy databases.
- **The actual costs associated with moving from public housing into a new private tenancy can also be prohibitive.**
- **The perception (with a sound basis) that tenants can lose their private tenancy for any number of reasons because of a lack of security of tenure in the private market and then end up back on the waiting list for public housing.**

3.4.4. The Tenants’ Union holds that there is no reasonable justification for the removal of security of tenure for public housing tenants. Many of the claimed benefits are difficult to verify and do not offset the problems associated with such a policy change.

3.4.5. In order to encourage and give incentives for people to move into the private rental sector the ACT government should be providing security of tenure across the rental market and improving access to the private market by strengthening residential tenancy legislation. It should be working to

help people maintain private tenancies, and establish private tenancies as a real alternative for secure, affordable, accessible, safe, appropriate and long term housing.

3.5. How can demand for housing assistance be better managed?

3.5.1. The way to address demand is to acknowledge that there is insufficient affordable housing in the ACT and adopt the recommendations of the ACT Affordable Housing Taskforce. Recommendations in the Wealth of Home are relevant to this issue and the Tenants' Union supports them

3.6. Which groups, if any, should receive priority housing assistance, and on what basis?

3.6.1. The Tenants Union supports the Welfare Rights and Legal Centre submission in relation to eligibility and allocations.

3.7. How can targeting systems respond to the diverse needs of local communities without compromising other objectives such as equity?

3.7.1. The Tenants Union supports the Welfare Rights and Legal Centre submission in relation to eligibility and allocations.

3.8. What approaches may be applied to measure and to determine the relative need of individuals?

3.8.1. The Tenants Union supports the Welfare Rights and Legal Centre submission in relation to eligibility and allocations

3.9. Should the income threshold be modified to be more consistent with other jurisdictions? If yes, to what extent would be reasonable?

3.9.1. No. Further restricting eligibility to reduce the number of people able to access housing does not address issues of need for affordable housing and access to affordable housing. Consistency with other jurisdictions is not a sound or fair basis for decision-making about ACT issues when it is proposed in order to reduce access or lessen ACT residents' rights. Reducing the size of waiting lists does not remove need.

3.10. Should the current system of priority categories be retained with some relatively minor changes or are more fundamental changes required?

3.10.1. The Tenants Union supports the Welfare Rights and Legal Centre submission in relation to eligibility and allocations.

3.11. Should public housing tenants reasonably expect to be housed for life, irrespective of their need, or changes in their capacity to obtain and sustain other housing options?

3.11.1. As noted previously it is reasonable for public housing tenants to expect to be housed for life. Policies protecting security of tenure recognise the importance of secure housing in the ACT community to the ACT community. Incentives and support to move out of public housing must be constructive and realistic, acknowledging the problems that people face in accessing and maintaining private tenancies. The Tenants' Union encourages the development of such mechanisms and anticipates that they would be developed as part of a transparent and consultative process.

3.11.2. The importance of stability and security is acknowledged in Information Paper No.3 (p53):

Access to stable and affordable housing is an important factor in alleviating poverty and disadvantage for many in our community, it also assists in

developing a sense of community for those who may otherwise be isolated or vulnerable. It is a building block for many on a road to economic and personal fulfilment.

It is not reasonable or fair to put a limit on people's entitlements in relation to retaining stability and security.

- 3.11.3. Proposals in relation to "alternative systems" of security fail to acknowledge the importance of security of tenure as noted above. They ignore that fact that like all others in the ACT community, people in public housing have strong links to their homes and will be significantly affected by being forced to move out of those homes and community. Housing is not just a commodity or a simple service that can be simply or easily transferred. Recent action by the ACT Government to support the residents of the Narrabundah Long Stay Park to retain their homes demonstrates recognition of this. It is hoped that future housing policies do not counteract this.

4. Paper No 3: Social Housing Supply

In relation to housing supply the Tenants' Union does not have the expertise or resources to provide detailed comment on issues. Comments are limited to those issues we have identified as being associated with proposed models provided. For detailed comment we support and refer to the ACTCOSS/ACT Shelter paper "*Taking Stock: A Discussion Paper on Low Cost Housing in the ACT*".

4.1. How can we increase the supply of social housing in the ACT?

4.1.1. In the first instance the provision extra capital investment is urgently required. It is acknowledged throughout the ACT housing sector that there is an inadequate supply of affordable housing in the ACT, and a growing number of people experiencing housing stress. The continued high and increasing cost of private rental clearly demonstrates the private sector's failure to meet this critical need. In light of this ongoing failure it is crucial that public housing stock be increased to fill the widening gap. The \$30 million promised by the ACT Government must be forthcoming in order to even begin to address this worsening problem, realistically more is needed. Without additional funds this problem cannot be adequately addressed. Other innovative ideas such as those included in the Affordable Housing Taskforce recommendations are worthy objectives but will not in themselves adequately address the problem. As has already been noted this is a significant issue that needs innovative thinking and contributions across portfolios and sectors. However without the injection of more funds for more public housing properties the ACT cannot hope to even maintain the current levels – a disastrous consequence for the growing number of people in need.

4.1.2. Growth of the community housing sector is proposed as an answer. In order to properly grow there must be investment in and resources devoted to providing a sound and professional base for this sector. It is our experience that many community housing providers are not sufficiently resourced and/or trained in the provision of housing and tenancy management. Too often we have seen providers demonstrating little to no knowledge of the regulatory regime they have to work under. This can result in a range of problems from tenants being taken advantage of in relation to lack of services and poor maintenance to breaches of privacy and unreasonable requirements relating to rules being imposed upon them. This is not to say

that all providers are negligent or have problems; however it should be that community housing is able to be held up as the model of best practise in relation to supportive and tenant/community-focussed management. In the interest of current and future tenants there should be no expansion of the community housing sector without sufficient resources being made available to providers linked with the requirement that providers attain appropriate levels of expertise as detailed in CCHOACT's "Good Practice Manual".

- 4.1.3. Other issues raised through the 2005 forums in relation to community housing must also be addressed before the sector is in a position to provide a genuine alternative for tenants. Most importantly this includes ensuring equity of rights across the social housing sector particularly those involving transparency, appeals, complaints and dispute resolution. It is also worth noting that the only way the expansion of community housing can address the need for affordable housing is for it to occur in addition to the expansion of supply of public housing
- 4.1.4. In relation to other proposals such as PPIs, the Paper raises many broad issues without detail. The Tenants' Union is wary of schemes transferring ownership because of questions about the long-term future of the tenancies - the current Narrabundah Park situation highlights the problems that arise from such ownership changes. There is no guarantee for tenants that their tenancies will be secure into the future. Related issues are that obviously this is no longer public housing stock or even community held assets and questions must be asked about how tenancies are to be managed and what rights tenants will have; as well as how the funds raised will be used to ensure that the overall numbers of real public housing stock will be maintained. In all discussions about methods there must be clarity about the impact on tenants, how tenants will be involved in processes and what protections there will be for them.
- 4.1.5. Proposed solutions involving private landlords in the manner utilised by Defence Housing again do not increase the supply of public or social housing stock. They have also not been successfully taken up in the ACT or other jurisdictions primarily because of perceptions of the tenant group. It is a very different matter for a landlord to consider a public housing tenant with all of the negative stereotypes about these tenants as opposed to military personnel and the very positive public perception of their conduct.
- 4.1.6. Aside from the reticence of private landlords the Tenants' Union has identified problems with these private leasing schemes that have not been adequately addressed. Most serious of these is that security of tenure cannot be guaranteed because the asset belongs to a private individual who may at any time default on the mortgage on the premises. Such defaults will result in the tenants receiving 8 weeks notice to vacate from the mortgagor.

4.2. How can the private sector enhance the availability of affordable housing options for low income earners?

- 4.2.1. The Tenants' Union supports a range of mechanisms such as inclusionary zoning and refers back to the ACTCOSS/Shelter paper. It is not surprising that this is not favoured by developers, however with no evidence that the private sector will voluntarily contribute to expanding the supply of affordable housing stock the government must take the lead and "encourage" the private sector in the same way it is intending to encourage market renters and other tenants to act in the required manner.

5. Paper No 4: Financial Viability

- 5.1. The Tenants Union would not support a wholesale increase in the proportion of income to be paid as rent. Such a policy change would ignore the extensive amount of work undertaken in relation to housing affordability, at both the ACT and national level. It would result in additional hardship on the very people being targeted as needing assistance.
- 5.2. The Tenants Union welcomes proposals to reduce the private rental leasing scheme because of issues already noted. It is crucial that any move towards such changes will only occur once there is sufficient replacement stock for sitting tenants to move to and that there is an open, consultative and transparent process for transferring tenants to new premises. Such transfers should not be used as an opportunity to force tenants out of public housing.
- 5.3. With regards to tenants paying for water consumption, while it is permissible under the Residential Tenancies Act 1997 where properties are separately metered HACT must develop a comprehensive analysis of the possible effects of such a change on tenants including expected consumption costs that they would have to meet and how that will effect overall household expenses. Disputes about water consumption costs are an issue commonly dealt with by our Tenants' Advice Service and areas of dispute are often to do with unrealistic expectations in relation to watering garden and unanticipated costs due to failure by the landlord/agent to do repairs.
- 5.4. When considering cost cutting measures it is crucial that the importance of support services including tenant participation not be diminished.