



Around the House

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Perpetual Punishment in Inner City Sydney

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Under the new FACS Local Allocation Strategy, people who have drug supply or drug manufacture convictions are now excluded from accessing public housing estates in the inner city Sydney suburbs of Waterloo, Redfern, Surry Hills and Glebe. In February 2018, 3000 letters were sent to public housing applicants on the wait-lists in these areas detailing the new strategy. Applicants were told that they would be required to consent to a criminal record check in order to obtain public housing in this region, and anybody with a *charge* or a *conviction* for drug supply or manufacture would no longer be

eligible for public housing in those regions. Although FACS went on to remove the exclusion for people with charges (but not convictions) from the strategy, it is now the case that all applicants for public housing in the impacted areas are required to undergo a criminal record check in order to have their application considered.

The exclusion of people with criminal records from public housing raises a number of challenging public policy and community safety issues. There is a well-established body of research detailing the close relationship between homelessness and imprisonment. There is also over a decade's worth of 'Housing First' literature that illuminates the centrality of housing in breaking entrenched cycles of poverty and criminal justice system involvement. It is very clear that people who have spent their lives in and out of prison, or in and out of trouble with the law, require a stable place to live in order to address the multiple and complex issues that relate to offending and/or regular contact with police and courts. However, alongside the need for stable housing

for people who are at risk of criminal justice system involvement, there are also recurring community safety issues that arise for residents in inner city public housing estates.

How then to resolve the seeming tension between the needs of all public housing residents to feel safe, and the needs of people who require access to affordable housing in order to establish a pathway *out* of the criminal justice system?

The Local Housing Allocation Strategy in inner city Sydney responds to this dilemma by targeting and banning an easily identifiable criminalised population (in this instance, people who are convicted of drug offences). However to take this approach simply shifts a complex social issue. It does not offer a real community safety solution.

It also requires only the most cursory exploration of the crime data in the region to observe that there is a mismatch between public perception of drug crime being 'out of control' (as depicted in mainstream media and perpetuated in the political realm) and the reality of the severity of drug

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There is a well-established body of research detailing the close relationship between homelessness and imprisonment.

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offending in the regions. Data provided by the NSW Bureau of Crime Statistics and Research shows that over the last five years, only 11 people in Glebe, Surry Hills, Redfern and Waterloo were convicted of drug manufacture charges (on average, 2 people each year). Not surprisingly a much larger number (272) of people were convicted of supply charges over the same time frame (on average around 52 people a year). However, it is not possible to tell how many of these individuals were public housing tenants, or the severity of the supply convictions. Regardless, these figures certainly don't suggest an 'out of control' drug problem. Which begs the question, what actually is the point or intent of the strategy?

In April 2018, a further 300 letters were sent to public housing applicants who were closest to the top of the waitlist. It is now clear that there are two groups quite aside from those with drug supply and manufacture convictions who will be adversely affected and excluded from public housing as a consequence of the strategy. This includes populations who do not consent to a criminal record check, and most significantly, populations who *do not respond* to the letter requesting that they consent to a criminal record check. The Housing NSW expectation that people will firstly receive the letter, secondly be able to read it, thirdly be able to fill out the complex consent form, and finally be able to send it back reflects a startlingly naïve understanding of populations who require public housing. Failure to respond to letters as a consequence of the frequently chaotic nature of life as a homeless person, the high levels of mistrust of government departments (and the letters they send out), the high levels of mental illness, cognitive impairment, and social

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The Housing NSW expectation ... reflects a startlingly naïve understanding of populations who require public housing.
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disconnection, as well as often very low literacy levels amongst vulnerable populations, in this situation, is in fact much more likely to result in exclusions from public housing, than any criminal record.

Although there are clearly a range of community safety issues of concern in some of the housing estates under question, excluding or banning people on the basis of past criminal records represents a troubling policy precedent for Australia. In the US, the 'perpetual punishment' of people

exiting prison via the implementation of overtly discriminatory housing and employment policies has been recognised internationally as constituting a massive public policy failure. Banning people with criminal records from employment and public housing in many states of the US has resulted in increases in crime, and incarceration. Extending punishment beyond that which is determined by judicial processes by banning people with criminal records from social support and housing, simply increases

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Extending punishment beyond that which is determined by judicial processes ... simply increases the social conditions in which crime is more likely to occur.
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the social conditions in which crime is more likely to occur.

The most recent Justice Health survey shows us that 9.3% of men, and 14.8% of women in prison were in primary homelessness prior to their incarceration. A much higher proportion (close to 25%) were in the kinds of unstable accommodation frequently termed secondary homelessness. 63% of people in prison have a mental illness. Between 8-15% have a cognitive impairment. For Indigenous prisoners this figure is higher, at close to 22%. 90% of women in prison have been victims of gendered violence either as children or as adults, and 24% of women and 14% of men were in out of home care as children. All of these figures are *significantly* higher than prevalence figures in the non-imprisoned community.

“... criminal justice system involvement ... should never form the basis on which we determine the legitimacy or otherwise of someone's social and welfare needs.”

Although chronic and complex disadvantage is never an excuse or reason for committing crime, understanding the social context in which people come into contact with the criminal justice system is critical if we ever want to get serious about reducing this contact, and reducing

crime. The reality is that incarcerated and criminalised populations around the world, are also those who require access to significant social supports, including stable and affordable housing. While criminal justice system involvement frequently adds a layer of complexity to this picture, the fact of this involvement—whether that be in the form of a charge, or a conviction, or a period of imprisonment, should never form the basis on which we determine the legitimacy or otherwise of someone's social and welfare needs.

It is difficult to frame the new FACS Local Allocation Strategy, a policy that has at its heart the capacity to exclude someone from public housing with a drug supply or manufacture charge for up to five years, as anything other than discriminatory practice. There is no doubt that this strategy will have a particular impact on the Indigenous populations who make up 25% of all people released from prison in this area.

People in the inner city of Sydney with drug supply or manufacture convictions have already received judicial punishment as determined by the courts. They should not be punished further. Excluding people with drug supply and/or manufacture convictions does nothing to address underlying social and health concerns. It offers a short-term displacement of a complex social issue, which will do little to improve community safety. People looking to break entrenched cycles of criminal justice system involvement require assistance and support—particularly with regard to housing—not further punishment. 🏠

Around the House

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SHELTER
NEW SOUTH WALES

Now you see it ...

Adam Farrar, Principal Policy Officer, Shelter NSW

There seems to be something in the water. Two budgets handed down—Commonwealth and NSW—and the approach to spending on housing initiatives is eerily similar.

Last year both had a flash of recognition that some direct measures were needed to deal with a deep crisis of housing unaffordability, and responded with modest packages of measures. This year, as though simultaneous cases of amnesia have set in, there has been a deafening silence in both budgets.

Of course, both budgets this year were set up to take the respective governments to elections. The NSW state budget in particular, was sold by the Treasurer as directly addressing the cost of living, with rather less emphasis than previously (although continued big spending) on infrastructure. And yet the biggest component of most living costs—the cost of housing—was barely mentioned.

This is a triple puzzle. First, as just noted, it is inconsistent with the theme of the budget. Second, it completely fails to build on the initiatives introduced in last year's budget, as though all that was required was a minor tweak and the job's done. And finally, a number of previous infrastructure-focused budgets were specifically sold as addressing the critical issue of housing affordability, by facilitating the rapid development of increased housing supply in the market (although, until last year, direct housing measures were hard to find).

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So let's be clear — for low income renters and for all but wealthy young households hoping to purchase, the job is nowhere near done.

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It's true that one of last year's measures was particularly highlighted by the Treasurer—the increased number of households who received last year's stamp duty concessions and exemptions for first home buyers. 30,000 households



took advantage of this at a cost \$435 million to the budget. Perhaps that was all that was needed.

Perhaps the slight softening of NSW house prices following stronger regulation of lending practices by Australian Prudential Regulation Authority—really the first since financial deregulation in the 80s and 90s kicked off the whole housing disaster—has also let both governments declare 'job done'. So let's be clear—for low income renters and for all but wealthy young households hoping to purchase, the job is nowhere near done.

Now to focus on the NSW Budget: what's actually there for housing?

The answer is a few tiny measures. These might be welcome in their own right, but they do nothing to respond to the need. And it's time—in fact, way beyond time—to insist that doing something, but not anything that will change the underlying problem that simply gets worse for thousands of households, for whole generations, and for the wider economy, is a failure. There is a threshold for action that makes a difference, and there are no brownie points for tiny tweaks.

And this is a state whose strong fiscal position is built on the windfall gains from transfer (stamp) duty that has floated the state revenues to record heights. This past year transfer

duty revenue passed its peak, falling from \$9.7 billion to \$8.7 billion as housing sales slowed, and is projected to fall further during this financial year before recovering. This means that previous years' revenue from soaring house prices has slipped back to be only the second largest source of state revenue after payroll tax. Even so, if the other housing-related tax—land tax—is included, housing-related taxation is still the dominant form of state taxation. Land tax is projected to continue to grow strongly.

The continuing failure of the state to reinvest these gains directly into housing should be an embarrassment.

This year NSW plans to spend \$598 million on capital for the broad housing 'functional sector' (not all of this is social and affordable housing). This is lower than was projected in the last budget and way below the four year projections for big recipients of state capital spending: transport, water, health, education, justice and even below 'venues arts and culture'.

In terms of revenue to fund social housing, NSW will receive \$477 million from the Commonwealth through the new National Housing and Homelessness Agreement (NHHA). This will fund almost half of the state's spending on homelessness, but it will only partly cover the operating losses made by the public housing system.

No new spending measures were announced for mainstream social or affordable housing, although new initiatives were included for both homelessness and Aboriginal housing.

Homelessness has been touted as a winner, with additional funding to implement a new Homelessness Strategy designed to particularly focus on prevention. It includes support for homelessness social impact investment, new 'sustaining tenancies' support, some additional transitional accommodation, and assertive outreach for rough sleepers.

In this first year there will be an additional \$7 million, and \$61.7 million over four years. But in the context of a \$280.7 million homelessness budget, with routine funding for specialist homelessness services (and the information service Link2Home) of \$202.8 million this year, the package is less than a 6% increase for those four years. In contrast, homelessness in NSW increased by 37% between the last two censuses.

But most of all, homelessness peaks have consistently made the point that until there is enough housing that is genuinely affordable, nothing can really change. The budget has no such measures.

The Budget also includes \$33.1 million for an Aboriginal Housing Strategy. The strategy itself has just been announced

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... if the other housing-related tax—land tax—is included, housing-related taxation is still the dominant form of state taxation.

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by the Minister, Pru Goward, who described it as “the most significant transformation to Aboriginal housing in a decade”.

The strategy includes measures to increase employment for Aboriginal people in the Aboriginal community housing sector, and to pilot Aboriginal tenancy management through partnerships. Across the Aboriginal Housing Office expenditure this year there will be a significant increase in grants and subsidies (from \$14 million last year to \$42 million this year). On the other side of the coin, Aboriginal housing in NSW has to contend with the loss of funding from the now discontinued Commonwealth partnership program on remote Indigenous housing. While that funding was targeted to a small proportion of Aboriginal communities in NSW, it nonetheless leaves a gap that is in no way filled by an additional \$33 million from the State Government.

To be fair, the Budget does refer to other measures to increase social housing and affordable housing supply. On the social housing side, these are not new measures, but perhaps are enough for the government to feel that anything further is unnecessary. The Social and Affordable Housing Fund (SAHF) is expected to deliver up to 3,400 units over the next three or four years (and has already delivered 140). Over the next ten years, the far bigger Communities Plus program is expected to deliver at least 6,000 new social housing and 500 new affordable housing dwellings in the new mixed communities on redeveloped public housing estates.

All up, that's an increased supply of around 10,000 new social housing dwellings over the next ten years. But the undersupply of rental housing that is affordable and available to low income households in housing stress in NSW is over 130,000. And with population growth, we will need 100,000 extra social housing units over the next 20 years just to stop the level of housing need getting worse. So these two, actually quite modest, new supply programs are not anywhere near what's needed. And the already stretched public housing waiting times will be further stretched as around 17,000 tenants are rehoused for Communities Plus redevelopments.

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But most of all, homelessness peaks have consistently made the point that until there is enough housing that is genuinely affordable, nothing can really change. The budget has no such measures.

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In fact, these are barely budget expenditure measures at all. Despite the talk of the ‘\$1.1 billion SAHF’ and the ‘\$22 billion Communities Plus program’, SAHF is funded from the interest earned from a sovereign wealth fund created from the sale of the state’s electricity ‘poles and wires’. The building program for Communities Plus is private sector activity, effectively returning to government the proceeds from the sale of public housing land.

There are also two other new initiatives that might help deliver more affordable housing—but again, not direct housing expenditures. The first is last year’s repurposing of the state’s developer entity, Landcom, to focus on projects that increase the availability of housing that is affordable—including rental housing. The second is the establishment of a new State Productivity Commission.

Setting up the new Productivity Commission will cost \$3.2 million this year and \$13.3 million over the forward estimates. It will focus on four key themes. It’s no surprise that these include reducing business regulation and reducing barriers to people moving to the state, and lowering the cost of living by increasing competition to lower prices. But significantly, it also includes “housing affordability—reducing costs associated with residential housing construction and tenancy”.

Of course this yet again repeats the belief that affordability is all about production and production costs. But it also does include the word “tenancy”. And there are signs that there could be interest in the wider productivity implications of our out-of-control housing market.

Finally, while not a budget measure—and one focused on the wider rental market—the Budget Statement also makes reference to the need to pursue ‘build to rent’ products to improve security of tenure and responsiveness for renters. Hot on the heels of the budget, Minister Goward announced that the Communities Plus redevelopment at Redfern will be the first to include build to rent as key part of its private sector engagement, and will provide a 40 year lease of government land for the initiative.

So the number of housing policy measures to deal with rental housing failures are gradually increasing; but there is still very little to applaud in terms of real budget spending.

It is impossible to leave a discussion of the NSW state budget without expressing dismay at the steady decline in meaningful reporting—at least of housing or the general Family and Community Services portfolio. Part of this is because of the adoption of an outcomes framework for the budget. Instead of reporting budget expenditure by specific functional area or program, much of it is now grouped into spending on outcomes like “ongoing support for vulnerable people”, “protecting vulnerable people from harm” or “enabling families to live independently”.

Routine community housing headleasing funding and the new Aboriginal housing strategy appears under the first. The additional homelessness strategy funding appears under the second. And some private rental assistance appears under the third. But such broad outcomes are absolutely meaningless in evaluating the usefulness of any spending; and ad hoc inclusions tell us nothing about what is being actually spent in this year’s budget. In fact, the inclusion of items under one vague outcome or another is pretty much a matter of art or whimsy.

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Despite the talk of the ‘\$1.1 billion SAHF’ and the ‘\$22 billion Communities Plus program’, SAHF is funded from the interest earned from a sovereign wealth fund created from the sale of the state’s electricity ‘poles and wires’.

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There have been times when the necessarily broader brush of a state budget was supplemented by detailed departmental briefings. But in the briefing provided by a mega department like FACS, housing spending detail has been exchanged for a four page infographic comic book of random broad brush items. This is simply not an acceptable level of information provision about how the funding that delivers a raft of vital programs is being allocated. And it’s hard not to feel that it shows disdain for the people and organisations whose job it is to hold government accountable for how well it does this. 🏠

Delay or Develop?

What really determines the rate of new housing supply

Dr Cameron K. Murray
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Recent reports by Grattan Institute and the Reserve Bank of Australia have argued that zoning is a significant cause of Australia's high home prices. Yet neither organisation has applied the appropriate economic theory to the property market, leading to conclusions that are almost the complete opposite of reality.

The main issue in property is that the static equilibrium assumptions of short-run supply and demand economics do not apply. If you try to apply these models you will interpret the market, and policy effects on it, incorrectly. In this article I provide some background on the gap between reality and what static equilibrium means when applied to land markets.

I'm not being radical. I'm not trying to earn street cred by being the anti-establishment economist. All I am doing is applying the totally standard, but correct, economic framework of real options.

It took me a long time to learn about property markets and how important real options are to understanding them. When I began studying economics the stories most economists were telling about property markets conflicted with my previous experience as a trained valuer working in the development industry. I had to really search to dig out this often-ignored but crucially important part of economics.

I want to use this article to explain why static-equilibrium analysis of the supply and demand type does not apply to property, provide a quick lesson on real options, and show how real development behaviour is best predicted by a real options approach.

First, the monopoly question

Land is a monopoly. This is fundamental to understanding property markets.

The reason is that there is no free entry—any potential market entrant must buy land from an existing monopoly owner. In practice, this means that property developers cannot be in the business of maximising turnover or undercutting each other on price since once they have sold all their new dwellings on one parcel of land they are out of business. They must buy back into the market from another land monopolist.

It is only because of this monopolistic power that land has a non-zero market value at all. Indeed, for a land market to be competitive we must be able to produce land (locations) with non-land (non-location) inputs.

In practice this means that each landowner is their own 'little monopolist' and their individual incentives are reflective of the incentives of the market as a whole.

The vacant land problem

The trick to understanding the dynamics of land development is to ask the question 'why is there vacant or underdeveloped land?' The reason becomes clear only in a real options framework. A vacant plot, despite making no current income, contains options for future uses, such as to build a house, a new retail centre, or a new commercial or industrial facility. It has a value because of the future options for income flows it represents.

Because development is a one-shot game, the decision for a landowner is a joint one of what to develop (residential or commercial, a 10 storey or 20 storey building, etc.), and most importantly, when to develop. Developing land now eliminates potentially valuable options to develop differently in the future.



A real options example

Let me try and convey the basic idea of real options as they apply to land development with the aid of the below diagram. Only through this lens can we consider the crucial question when development will take place, as well as how much will take place on a particular plot of land.

If you are worried about the total growth in the housing supply then the 'when to develop' question is the much more important one.

The diagram shows on the left a 'binomial options tree' with the available future options for apartment development in two years' time compared to the optimal (profit-maximising) development today for a hypothetical plot of land without zoning controls or limits on development density.

Two possible future states of the world are shown; one where price growth for apartments means a 20-storey building is optimal and profit-maximising at that point (providing a \$15m profit), and one where prices rise only a little, and a 10 storey building is still best but at

a lower total profit (of \$12m). Each is judged to have a 50% chance of occurring.

Under this scenario, we can now consider the joint problem of the landowner—when to develop, and what to develop (10 or 20 storeys)?

The 'when to develop' question can be answered by comparing the present value of building now or waiting and having a 50% chance at each of the two future options. With a 10% per year discount rate we simply consider whether the present value of building today exceeds the expected present value of waiting.

Build now:

PV = \$10m

Wait two years:

$PV = (\$12m \times 0.5 + \$15m \times 0.5) / 1.21 = \$11.2m$

In this case, the best thing to do is wait and keep the property vacant for two more years. Then, in two years, the same decision will again be made, and perhaps then it will also be optimal to delay.

On the right part of the diagram I have shown a scenario with zoning that applies a strict height limit of 10 storeys. Here there is no upside option

from waiting. In the language of real options, we have 'reduced uncertainty'.

We can then rerun our calculations to see whether waiting or building is the profit-maximising choice.

Build now:

PV = \$10m

Wait two years:

$PV = \$12m \times 1 / 1.21 = \$9.9m$

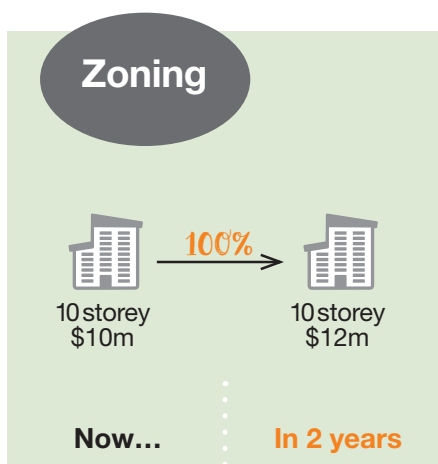
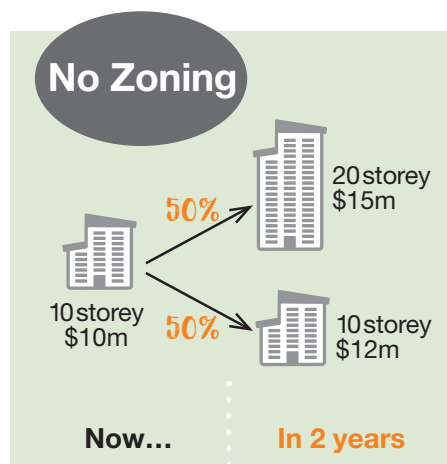
Look at that! Now the profit-maximising decision is to develop a 10-storey apartment building today. By imposing zoning control we can increase the supply of housing by a 10-storey building's worth of apartments compared to the alternative no-zoning situation!

Providing the option to build higher in the future increases the present value of the land, but also provides the incentive to delay development! The same logic applies to zoning rules that allow both commercial and residential uses. Removing commercial development options for landowners can bring forward residential housing supply.

If that sounds a bit crazy and contrary to 'economic intuition', maybe you will take more seriously Sheridan Titman who made the exact same argument the American Economic Review back in 1987.

... if uncertainty is increased in a manner that keeps the state prices constant, prices of both land and building units as well as rental rates will increase, a larger portion of the land will remain vacant, but taller buildings will be constructed.

Let me translate. If "uncertainty is increased" means that more future options are added to a landowner's rights, which happens when zoning controls are removed. Keeping the



“state prices constant” means that the relative prices of different types of dwellings or commercial buildings are expected to be the same when the uncertainty change happens. The rest I hope is straightforward. In effect, this is the opposite of what anti-zoning economists have been saying.

This logic applies to the land market as a whole and to any individual parcel in it. There is no magic economic mechanism that means that removing zoning controls in one place increases those land values and can delay development there, but removing it everywhere decreases land values because somewhere else development has accelerated.

Shouldn't prices of zoned and un-zoned land equalise?

No. Land is not a physical object. It is a set of legal rights that define the available real options. Property valuers and lawyers call this a ‘bundle of rights’ approach. Land is worth whatever the highest and best option is from the selection of legally defined rights.

For example, you don't own the minerals under your land, nor the airspace above it. If the law changed to provide you the right to access and sell those minerals, your property would be worth more because of that option (if there is a positive probability of using the new minerals right). A new ‘property right’ that is separate and additional to the previous rights is now bundled together with those previous property rights.

The same applies to zoning. There is no economic logic to the often-repeated argument that land with different zoning rights should equalise in value under market conditions. New zoning creates a different set of property rights. The value of two different set of property rights will be different if the highest and best option available in each is different.

Again, this is not radical. Economists who study land development know that prices of zoned land, with tight controls on possible uses, and un-zoned land, with few controls, will be different—and the zoned land will be cheaper!

Actual development behaviour reflects real options

This real options approach is the only way to make sense of the actual behaviour of landowners and developers in the market. There is no point arguing for removing of planning controls to ‘let the market work’ without understanding how land markets actually work. Here are some examples.

1.

The Brisbane City Council has been repeatedly up-zoning an inner-city industrial site owned by Parmalat. The problem here is that this increases the value of waiting to develop, offering the global dairy firm a free boost to the balance sheet by sitting on the inner-city site rather than selling for re-development and it moving to an industrial area.

2.

When I was working for the property developer FKP we had a new building approved and ready to start off-the-plan sales at the Sunshine Coast during the early 2000s boom. There was a queue at the sales office on opening day, and by mid-morning dozens of sales were made. The prices were set months ago, and market prices had unexpectedly moved up since then. Continuing to sell quickly at these older prices and undercutting rivals was not the optimal thing to do in a real options world. So we closed the sales office early and put all the prices up. It then took nearly three years to sell the remaining apartments



in that building. But that was profit-maximising in the sense of exercising our option to delay selling. There was only one chance to maximise profits from that site.

3.

A recent paper on rent-control in San Francisco shows that when you eliminate the option to keep your current tenant at a higher rent next year, you are more likely to exercise your option to redevelop the site into apartments. This is a classic example of decreasing uncertainty in a real-options world and bringing forward in time the execution of remaining options.

4.

Adding costs to development on a per dwelling basis can bring forward development because it reduces the payoff to waiting to develop to more dense, higher-value, uses. This pattern was seen in Queensland when developer charges were changed suddenly and those areas where charges increased saw faster new development compared to those areas where charges were decreased.

5.

When Lend Lease had their site at Yarrabilba, between Brisbane and the Gold Coast, rezoned from rural to residential uses they had argued that there was a housing shortage and that only if their site was rezoned could new homes be built. Once they got their approval they told their investors the project would take 'approximately 30 years' to build those promised homes. Their optimal strategy is delay and dribble out new homes, not to flood the market and undercut others on price.

6.

A similar situation has happened at Springfield, also between Brisbane and the Gold Coast, where the developer has had their own act of Queensland parliament granting them extensive freedom to develop as they choose since 1997—you can't get more freedom to develop than that.

The Queensland and Federal governments have invested more than \$1.2 billion in this region's infrastructure, and the Springfield rail station is state of the art. But the most extraordinary gift from the Queensland government was the Local Government (Springfield Zoning) Act 1997. This law puts all the planning and development powers for Greater Springfield in the hands of the Springfield Development Corporation.

And yet, 20 years later, the area is one-third developed. They are optimally delaying development. Between Springfield, Yarrabilba, and the dozens of other similar developments in South East Queensland, there are hundreds of thousands of zoned plots of residential land waiting to be developed. The delay is because the landowners possess attractive future options.

A comment on the political economy of property


Developers hate zoning and planning rules because they want the flexibility to delay. If removing zoning controls really creates a flood of new supply and lower prices, as the static supply and demand approach might suggest, then developers are the worst lobbyists you can imagine!

Is it plausible that they have been lobbying for years to drastically reduce their profit? Or more plausible that they use supply and demand economics as a cover story for what is really happening?

Only a real options view can make sense of this lobbying. Removing zoning gives current landowners, especially the large land-owning developers, more valuable future development options without requiring them to build them until they decide it maximises their profits!

In sum

It is time to start using the correct economic framework to analyse property markets. Only then can we make policies that deliver planning and housing outcomes we want. Otherwise, we will implement all the wrong policies, and in the process providing windfall gains to the development industry.

A longer version of this article appears in on Dr Cameron Murray's [website](#). 

Make Renting Fair: the realities of renting and why tenancy law needs to change

Jemima Mowbray, Policy and Campaigns Officer, Tenants' Union NSW

The problem of unfair evictions

Nicole and her family had been living in her rented home in the Shoalhaven for three years when she got an eviction notice. The house had a serious mould problem that Nicole had been asking the real estate to look at for some time without success.

“This house and its mould problem was making my family sick.” Nicole told me, “My daughter has asthma, and the mould really affected her. My son who is a toddler was getting sick every few weeks. I got really sick. All of this was connected to the mould—it’s a very serious issue.”

When Nicole followed up on the repairs for the property with a new property agent at the firm she was told they

would talk to the owner. Instead six days later she got given a ‘no grounds’ eviction notice (that is, an eviction with no reason provided).

Sadly Nicole’s story is not an isolated one. Serious mould infestations in rental properties because of a landlord’s failure to conduct necessary repairs are unfortunately also common. Recently renters shared their experiences of mould and renting with the Tenants’ Union for submission to the House of Representatives Standing Committee on Health, Aged Care, and Sport’s recently announced inquiry into biotoxin-related illnesses in Australia. We received more than 100 formal responses from across the country within 48 hours, and they continued to come in at the same volume



over the next few days. These included stories of retaliatory evictions for chasing mould repairs along similar lines to Nicole's experience. Some quick examples:

"Brought the mould to the attention of the Landlord and was given notice to leave without reason."

"I got evicted for complaining about black mould the owner knew existed but refused to care for."

Mould is a serious health issue. Renters should be able to confidently request repairs to a rental property that will eliminate mould in their homes and ensure the health and safety of their household. But it is clear that tenancy laws in NSW and indeed around the country do not adequately protect renters who assert their rights. Chase repairs and next thing you know you find yourself evicted.

But this is not only about mould. At the Tenants' Union of NSW, and across the nation-wide network of state-based tenants' advice services, we talk to tenants every day who report being evicted in retaliation for asserting their rights. These include asking for repairs, looking to negotiate regarding a rent increase, and requesting the landlord give them notice before knocking at their door. Sometimes because of discrimination, or simply a relationship breakdown, their landlord says—or doesn't say—they just 'don't like them'. The result is the same: a lack of action on pressing issues, or a no grounds eviction.

Realities of renting

The landscape of renting has changed—renting no longer fits (if it ever did) with the stereotypical imagined 'student sharehouse' or as a stepping stone or transitional 'phase' for young people before moving on to purchase a home. In NSW almost a third of all households rent their homes. Those of us renting are doing so for longer and often with kids. A third of all those in the private rental market are classified as 'long-term renters'—that is, we've been renting continuously

for ten years or more. A growing number of us recognise we'll likely be renting for life.

Although there are some advantages to renting, the reality is that people who rent their homes in the private market do not experience the same levels of stability and comfort. Rents are rising and are quickly becoming less affordable. For those on low incomes they have long been unaffordable. Renters move home much more often than people who own their home. One in three renters are likely to have moved home in the last year, and more still (around 40%) have moved three or more times in the past five years.

Last year when Choice, National Shelter, and the National Association of Tenant Organisations undertook a survey of renters they found:

- Almost a quarter of all renters reported ongoing problems with pests, doors or windows that didn't close properly, peeling paint and loose tiles;
- Half reported having been discriminated against;
- One in seven tenants said they held back from asking for repairs because they were afraid of a rent hike or getting evicted; and
- Around one in ten said they had been evicted for 'no reason' at least once since renting.

We need to Make Renting Fair

Clearly tenancy laws have not kept up. They do not offer the protections required to ensure liveable, secure, affordable homes for renters.

It is now almost three years since the NSW Government began a statutory review of the *Residential Tenancies Act 2010* to determine whether the law was working effectively and reflects the needs of the community. After a short period of public consultation at the end of 2015, a Report on the Statutory Review was tabled in Parliament mid 2016. Disappointingly the Report did not pick up on a number of the key issues flagged by the many tenants, tenant advocates, and community and consumer organisations who actively took part in the Review's consultation process. In particular, the Report made clear that the review would not address the need to remove provisions within current tenancy law that allow unfair (no grounds) evictions. The Victorian Parliament has now passed the 'RentFair' bill.

Enter #MakeRentingFair. The community campaign—launched last year in June—is backed by a strong coalition of around 100 organisations made up of a mix of community and faith-based organisations, tenants groups and tenant advocates, consumer rights groups, and unions. At the end of last year Inner West Council endorsed the campaign, followed by Randwick City Council earlier this year.

The campaign focuses on the issue of unfair (no grounds) evictions. Currently a person who rents their home in NSW can be evicted without being given a reason. Sections 84 and 85 of the NSW Residential Tenancies Act 2010 allow a landlord to issue what is called a ‘no grounds’ eviction notice at the end of a fixed term lease or once the lease is outside of a fixed term. The Tenants’ Union estimate that of the over two million people who rent in NSW, at least 160,000 will experience a ‘no grounds’ eviction while renting.

Unlike grounds for eviction that exist during the fixed term period of a tenancy, such as breach of agreement or sale of premises, tenants can’t dispute the reason for eviction if they are given one, except in very limited circumstances. This means renters have very little protection in the face of retaliatory or discriminatory evictions.

Since we launched the campaign, many people have shared stories about their experiences of receiving a ‘no grounds’ notice. We’ve heard from people evicted for chasing much needed repairs—things like fencing around pools, and significant mould issues; or questioning why their rent increase was so high; or asking the landlord to give them notice when they were coming to the property. Renters have told us consistently that instead of being an incentive for a tenant to comply with their responsibilities, the threat of eviction has a chilling effect on their confidence to assert their rights as renters.

What has the campaign achieved?

The campaign has made good progress in the year since we launched. We have a strong supporter base—both in terms of the coalition of organisations who publicly endorse us as well as the growing number of individual supporters engaging with the campaign. We’ve had excellent media coverage of the issue with renters’ stories about the impact of unfair (no grounds) evictions appearing regularly in the news and helping to build community understanding about the level of insecurity renters face and how ‘no grounds’ evictions undermine the other rights renters have.

Significantly we have also seen the NSW Greens and NSW Labor come out strongly on this issue. Both parties have adopted a strong renters rights policy platforms that include removal of unfair ‘no grounds’ eviction as a priority reform. Luke Foley, leader of the NSW opposition, has publicly committed a NSW Labor Government to ending unfair evictions, most recently when speaking at a Renters’ Rights Assembly out the front of Parliament House at the end of June.

“No-grounds evictions, retaliatory evictions, all these things are currently undermining renters’ rights in NSW.”

Last year the Better Regulation Minister, Matt Kean, conceded ‘no grounds’ evictions were a problem, stating in October: “No-grounds evictions, retaliatory evictions, all these things are currently undermining renters’ rights in NSW.” However the NSW Government continues to avoid dealing with the issue, confirming that they will not be removing ‘no grounds’ provisions when they finally do announce the tenancy reforms coming out of the review of the Act.

Meanwhile, other Governments are improving their Residential Tenancy Acts. The ACT currently has a 26 week notice period for ‘no grounds’ evictions – though unfortunately the longer notice period is not as effective a disincentive against use (and misuse) that you might hope it would be. The ACT Government has made a number of reforms to its RTA in the last 18 months, and a second tranche of reforms is expected to be introduced to the ACT Legislative Assembly in October.

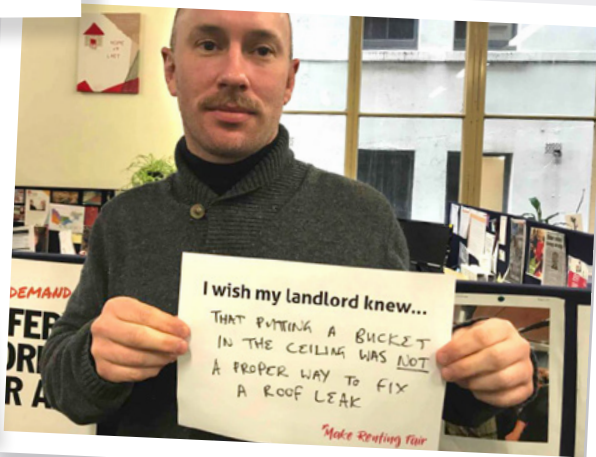
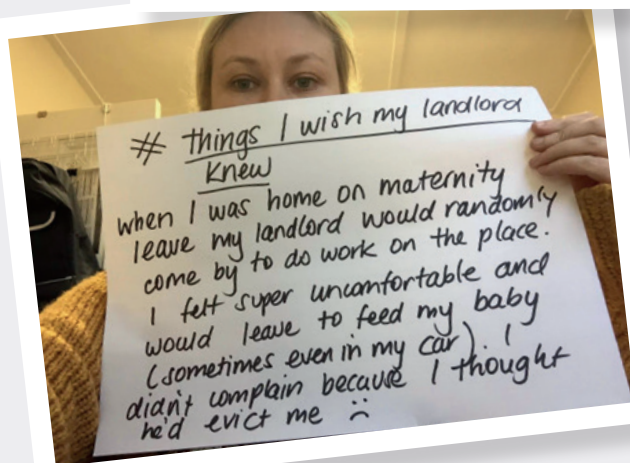
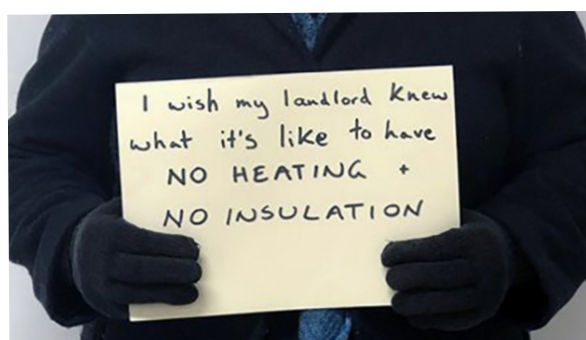
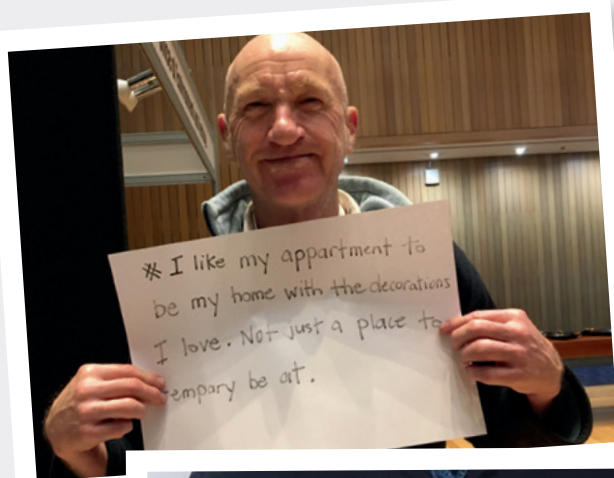
In Victoria, the Government has recently introduced to the parliament of Victoria amendments to its RTA, commonly known as the “RentFair” bill. This legislation requires rental properties to meet minimum health, safety, and energy efficiency standards. Mould will be treated as a priority maintenance issue, and locks, heating, and insulation will be covered. Tenants will have a right to make minor modifications, including anchoring furniture to improve child safety, and the onus will be on landlords to object to tenants having a pet, rather than the other way around. Significantly, the reforms will require that landlords provide a reason when they end a tenancy agreement by removing the 120 day ‘no specific reason’ notice to vacate from the RTA, and only allow the use of an ‘end of fixed term’ agreement at the end of a tenant’s first fixed term. This is a great step forward towards ending unfair evictions.

In June the NSW Parliament unanimously confirmed housing as a human right and recognised their responsibility for providing safe, secure, and affordable housing. Despite this, it seems the NSW Government will miss this valuable opportunity to implement reform that would bring significant improvements to security and stability for people who rent their home.

Things #IWishMyLandlordKnew

Perhaps members of the NSW Government still just don't understand the realities of renting and why things need to change. Maybe they need to listen more closely to renters.

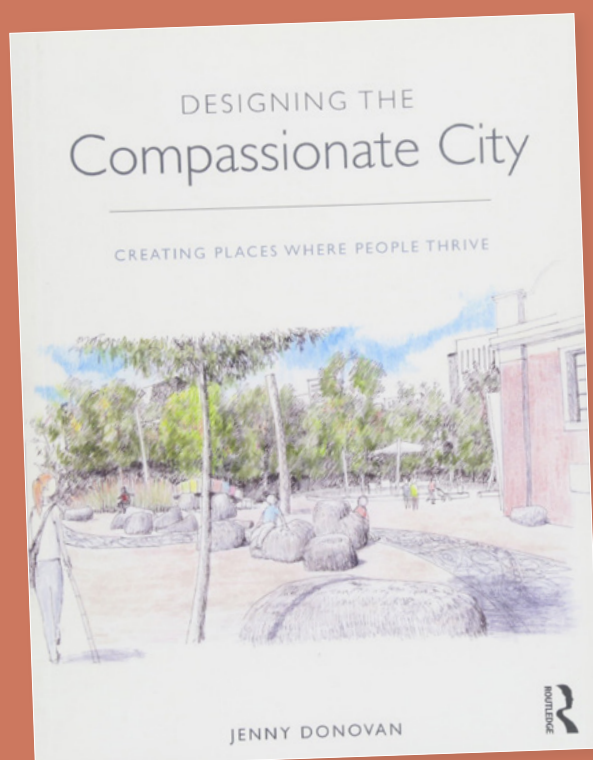
The Make Renting Fair alliance and Everybody's Home's latest campaign is asking renters to give the Government a reality check and post a photo of themselves holding a sign sharing something they 'wish their landlord knew'. Here's just some of what they told us...



Book review:

Designing the Compassionate City, by Jenny Donovan

Ned Cutcher, Senior Policy Officer, Shelter NSW



“The buildings and spaces that surround us are more than just a backdrop to our lives—they are players in our lives whether we know it or not. They trap us when they dissuade us from experiencing things that would enhance our lives and influence us to choose unhealthy and unrewarding behaviours that leave our needs unmet and our potential unfulfilled. They liberate when they facilitate us to gather the wealth of experience and positive interactions necessary to understand what our needs are, meet those needs and support us to express our humanity.”

So begins the conclusion to Jenny Donovan’s *Designing the Compassionate City - Creating Places Where People Thrive* (Routledge 2018). In reaching this, Donovan explores and expands upon theoretical frameworks that seek to identify and categorise human needs, considers how we interpret messages and meaning from the structures we place

across our urban environments, and articulates a range of ways that cities can be either nurturing or neglectful according to their built form. The “compassionate city”, as envisaged by Donovan, is one where residents are encouraged to develop our individual capacities, to live and act in ways that promote belonging, health, hope and empowerment, and which set us on our pathways to happiness. She presents a key role for designers, architects and planners in delivering such cities, and acknowledges that engaged communities and good public policy are also essential to the cause.

Human needs

Central to Donovan’s compassionate city is a built environment that facilitates people meeting basic needs. This goes beyond bare essentials such as water, food and shelter, to include secondary needs that allow life to become worthwhile and a person’s potential to be fulfilled. It stops short of conflating needs with wants, while assuming that, in the human condition, sometimes the motivation to satisfy a want will be greater than that of meeting a need.

In arriving at a developed “human needs framework” Donovan considers the work of philosophers, psychologists, economists and others who have published work on the subject, adapting and developing ideas to suit her own. She prefers a framework that links needs with the actions and settings that enable those needs to be met, offers insight into the effectiveness of particular actions at meeting needs, and considers the implications of a need not being met. She identifies subsistence, physical activity, protection, affection, understanding, participation, leisure, creation, identity, freedom and beauty as fundamental human needs, each of which could be helped or hindered by our interactions with an urban environment.

The “compassionate city”, as envisaged by Donovan, is one where residents are encouraged to develop our individual capacities, to live and act in ways that promote belonging, health, hope and empowerment, and which set us on our pathways to happiness.

Receiving embedded messages

Donavan picks up an argument that to operate in urban environments is to be exposed to a series of messages about what is or is not possible, desirable, and likely within a place. Each of us will interpret these messages according to a range of influencing factors, and the compassionate city will be built with this in mind. But it will be built according to a range of influencers as well—government, industry and citizenry—whose messages may not always reflect a consistent point of view. Ultimately it is the people who live and act within a place that interpret and respond to its embedded messages, and the design of a place will have a significant impact upon its evolution. Thus there is a strong need for designers to understand the way messages are embedded, transmitted and received from the urban environment as a critical prerequisite for the compassionate city.

But the built environment is only one part of this messaging process. Donovan characterizes it as the “hardware” component of a scheme that also includes “software” and “orgware”—where software is a reflection of the priorities, experiences and values that lead us to interpret and make choices about how to be in the built environment; and “orgware” is the organisational capacity, or framework of authority that influences the development of hardware and software, and sets the processes by which resources are allocated and/or protected. This is an important observation, as it invites a much broader conversation about how the compassionate city might be achieved: the right design is critical, but without engaged communities making demands for it, and public policy settings that enable it, the right kinds of urban design may only ever be realised in limited ways.

Designing the Compassionate City draws us directly into this conversation, as Donovan includes a series of case studies to highlight both the possibilities and challenges for designers and communities operating within “hardware, software and orgware” contexts that are frequently misaligned. However she misses an opportunity to explore the reciprocal nature of influence, and how a seemingly entrenched “orgware” can—indeed, sometimes must—be affected by changes in hardware and software. It may be up to other proponents of the compassionate city to pick up and progress this part of the discussion.

... an excellent reminder of the importance of urban planning and design at the building, neighbourhood and metropolitan scales.

Nurturing or neglectful cities?

What makes “good design”? Donovan presents a spectrum upon which a number of design considerations can be tested, according to whether they make a place more nurturing or neglectful. A city will be nurturing if it offers residents a range of options for moving around, and a diversity of routes that encourage active transport, whereas a neglectful city provides only narrow transport choices and keeps people more or less confined to private cars. A city will be nurturing if it offers a broad range of “experiences” that resonate with residents, and neglectful where choices are limited and people struggle to access opportunities that are relevant to them.

This test can be applied across a number of factors: whether a city provides people with some exposure to nature; the adaptability of urban

environments to changing needs; the ease of connection between people and places; the maturity and longevity of a city’s social infrastructure; the “playability” of a place; the ease with which an urban environment’s embedded messages can be interpreted; what our surroundings say about us to people who come from other places; and the extent to which our surroundings inspire and enthuse us. The more of these factors that are designed to nurture us, rather than neglect us, the closer we come to living in a compassionate city that will allow us to realise our full potential.

As concerns for affordability drive increased density across private housing markets and in our social and affordable housing portfolios in New South Wales, Jenny Donovan’s *Designing the Compassionate City – Creating Places Where People Thrive* is an excellent reminder of the importance of urban planning and design at the building, neighbourhood and metropolitan scales. It challenges us to think beyond mere function and form, to interrogate how the places we create will promote happiness for the people who will live, work and pass through them now and into the future. Programs like the NSW Government’s Communities Plus scheme, and Urban Growth Precincts that are driving urban renewal and redevelopment throughout the suburbs of Sydney, will provide countless opportunities for designers to consider Donovan’s messages, and put them into practice. But all the more, they present the chance for the diverse communities across New South Wales to consider just what our streets, neighbourhoods, towns and suburbs might be like if they were part of Donovan’s compassionate city, and to implore our policy-makers to help make it so. 🏠

Residential Tenancies Amendment (Social Housing) Bill 2018:

Mid-Tenancy Bond Demands

Nicole Kennedy and Kimberley McKenzie
Redfern Legal Centre – Tenancy Team

The Residential Tenancies Amendment (Social Housing) Bill 2018 was passed unopposed by both houses of the NSW Parliament on 15 August 2018. It introduces a mechanism to allow Housing NSW and the Aboriginal Housing Office to demand a bond from a social housing tenant after the tenancy has already commenced. This will be based on “rental bond guidelines” yet to be published by FACS.

The second reading speech indicated that safeguards will be in place for vulnerable clients, although what shape these safeguards take is not clear, and nor has the definition of “vulnerable person” made clear. It is said that payment plan and deferral options will be offered to those suffering financial hardship, but again “financial hardship” is not specifically defined. It is also said that victims of domestic violence will not be required to pay a bond based on damage Housing NSW deem caused by the perpetrator.

“Vulnerable people” has no definition attached, other than a loose list in the second reading speech that includes mental and physical impediments that interfere with the tenant’s ability to care for themselves and their property. We are concerned that many vulnerable people will not have access to the proposed safeguards.

In particular, Hoarding Disorder was recognised as a mental illness 2013 in the DSM-5, but there is no clarity around whether a person who has shown hoarding tendencies in the past will be exempt from the bond due to suffering from a mental illness. The fact that a number of existing social housing tenancy agreements currently include a clause that requires the tenant to agree not to engage in, participate in, or allow hoarding, and that this clause paves the way for termination of tenancy on the basis of this mental illness illustrates that our concerns about the proposed safeguards for people with mental illness are not frivolous.

The determination of the need for a bond to be imposed on a specific social housing tenant will be determined by a set of guidelines that will be developed by the Department and approved by the Minister. The guidelines will be a predictive risk assessment for the likelihood of damage being done to the property. This has very real potential for tenants who have caused no damage in their property being required to



produce an extra four weeks rent within a two week period or risk losing their tenancy.

While it is positive that the Minister has promised that victims of domestic violence will not be liable for damage caused perpetrators, this does not mean that it will not occur. Damage caused by a perpetrator is not necessarily easily identified or defined. Such damage can go way beyond what many may assume is damage related to domestic violence, for example a hole in a door or blood on the wall. At Redfern Legal Centre we have seen cases where victims of domestic violence have been charged for damage caused by a perpetrator, and cases where this has prevented them from accessing social housing for many years. For this reason we are concerned that victims of domestic violence will not be adequately protected by the proposed safeguards.

The current legislation already provides a robust mechanism that allows landlords—both social and private—to recoup the cost of repairing damage to properties. Indeed, social housing landlords currently utilise these provisions. A tenant providing a bond does not alter the process that a landlord will need to engage in to recoup losses associated with tenant damage. A bond is not money that automatically goes to a landlord to cover damages, it is tenants’ money that is held by a third party. A landlord still requires either

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The guidelines will be a predictive risk assessment for the likelihood of damage being done to the property. This has very real potential for tenants who have caused no damage in their property being required to produce an extra four weeks rent within a two week period or risk losing their tenancy.

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consent by the tenant or an order from the NCAT to access bond money or receive compensation from a tenant.

The proposed legislation contains provisions that would allow for a tenancy to be terminated as a result of a demand for a bond during the course of the tenancy. In such a scenario, a tenant would be given just fourteen days to raise and pay this bond to avoid termination proceedings.

It must be remembered that social housing tenants' incomes, especially when they enter social housing, are very low. Household income is assessed every six months to ensure that the household is paying what is deemed the maximum affordable rent based on its total income. This is usually much less than market rent, and generally calculated at 25% of household income. With this in mind, it is not realistic to require a social housing tenant to pay an additional amount equating to four weeks rent within a two week period.

Social housing tenants already paying the maximum amount deemed affordable. This type of financial impost would put the average household living in social housing tenant into immediate and extreme financial stress. The likely result will be a termination of their tenancy, which could in turn lead to homelessness. This would be a terrible outcome for social housing tenants, and one that would place even further pressure on overburdened specialist homelessness services (perversely, also funded by FACS).

Missing from the Bill and the Minister's second reading speech is any indication as to how the amount of bond will

actually be determined. While the amount of four weeks rent is stipulated, this is not as clear cut: will this refer to four weeks based on tenants' current rent, or will it be based on market rent? Further, while the tenant named on the agreement is legally liable for the entire rent, when rent is calculated an amount is apportioned to each household member.

Whether the rental bond will be calculated on the basis of the tenant's portion of rent only, or on the basis of the entire household's rent, or on the basis of the market rent, has not been clarified.

It is also important to point out that these measures are not afforded to private landlords. There are currently provisions within the Residential Tenancies Act for a landlord—private or public—to require a bond prior to entering a tenancy. Neither public nor private landlords can currently demand a bond mid-tenancy, nor use the inability of the tenant to raise a four week bond within fourteen days mid tenancy, to terminate the tenancy. This legislation is only open to social housing landlords. Importantly it will not change the process for recovering costs for damage done by a tenant. Instead, it will just provide a way for a social housing tenant who is up to date with rent and not breaching their tenancy agreement in any way, to be terminated from the safety net of social housing and be faced with homelessness.

With the commencement of this law on the 21 August 2018, we are now in the position that a tenant can be terminated from social housing for a reason other than a debt to the landlord, as though it is a debt to the landlord. A bond is not the landlord's money, nor a debt owed to the landlord, it is the tenant's money held in security against possible future debts. Under no circumstances does a landlord automatically have access to this security. The landlord would need to make an application and justify the claim, to access this security. However, if the tenant does no damage to the property secured, then the bond comes back to the tenant in full, as it is the tenant's money.

So, a tenant may be terminated for not paying the landlord, Housing NSW or AHO, money which is not owed to the landlord and the tenant did not agree to pay the landlord before entering the tenancy, and even though this money may never be owed to the landlord. Doesn't sound like circumstances private tenants would tolerate, so why are we subjecting public tenants to it? 🏠



A Policy Paradox: Ageing in Place Without a Home

Bronagh Power, Policy Officer, Combined Pensioners and Superannuants Association of NSW

Many older people want to stay in their own home and remain connected to their community as they get older. Australian Government aged care policy has followed suit and is shifting focus from residential aged care to supporting older people to remain in their home. Similarly, the NSW Government's Ageing Strategy recognises that older people increasingly prefer to 'age in place', but policymakers seem to have forgotten that the ability to age in place rests on one critical ingredient—a home.

Housing affordability and rates of home ownership are declining in NSW, as they are across Australia. Older people, of whom a majority rely wholly or in part on Australia's Age Pension, face further challenges. Australia has one of the lowest Age

Pension payment rates in the OECD. This is in part because Australia's retirement system has developed under the assumption that retirees will be outright homeowners with low housing costs. Social housing is becoming a less viable option for people as well, with the waiting list in NSW sitting at over 60,000 households. Concurrently, older people aged 55-74 are the fastest growing cohort experiencing homelessness, increasing by 55 per cent from 2006 to 2016. Without homeownership and social housing, people are forced to find other, often more insecure, forms of accommodation. This includes, but is not limited to, accommodation in the private rental market, boarding houses, strata scheme units and informal family arrangements.

Currently, NSW legislation offers limited to no protections and recourse for the inhabitants of a variety of accommodation types. The lack of protections is a major contributing factor to the housing insecurity faced by many older people. The cost and lack of housing security has many effects on people, including on their physical and mental health. This is due to a lessened ability to participate in physical activity, access medical services, or simply from living in housing that is substandard or located away from family, community services and transport. Further, people experience a loss of control and social connectedness if they are forced to move between homes.

In both private rental and boarding house tenancies there are a lack of protections against eviction,

rent increases and the lack of legal assurance that individuals can modify premises. In order to age in place, you need to know you won't be kicked out of your house at any time. But in residential tenancies, landlords can terminate tenancies on 'no grounds', or for no reason, as long as notice has been given within the legislated timelines. These timelines range from 14 days if a resident has breached the tenancy agreement to 90 days for a 'no grounds' eviction on a periodic agreement. For boarding house residents, the situation is even worse, as the reason for eviction and how long the resident gets before they have to leave is left to what the proprietor deems 'reasonable'. For people living in a residential tenancy under a periodic lease or in a boarding house, there is also no limit as to how often rent may be increased. Rent increases can force older people living on low incomes to leave if the increase is too high.

Australia's retirement system has developed under the assumption that retirees will be outright homeowners with low housing costs.

Moving house is a significant financial, physical and emotional burden for older people. The timelines for eviction don't leave enough time for older people to reorganise their affairs and find another suitable property. They may not have the financial resources necessary for rent in advance, a bond, moving furniture or to afford rental in the same neighbourhood. They may have to move further away to where rents are cheaper and face disconnection from the area in which

they may have lived for a long time or face homelessness if no alternatives are available.

The lack of ability to modify premises to increase accessibility or to make it feel like a home is another significant area of insecurity. In residential tenancies, a tenant can't modify the premises with the landlord's written consent. A landlord cannot unreasonably withhold consent to a minor renovation but NSW law does not define what changes are of a 'minor nature.' NSW Fair Trading [lists examples](#) of requests a landlord may consider reasonable including "installing a grab rail in the shower for elderly or disabled occupants". Whilst this type of modification 'may' be reasonable, there are no legal protections to ensure rental premises can be modified. In turn, this disables older people to age in place as they may be forced to move to more accessible housing or even to a residential aged care facility if they cannot make alterations to increase accessibility.

Whilst the problems with mainstream residential tenancies are gaining increasing recognition, there are other forms of accommodation that also face insecurity. For example, older people face the collective sale of strata schemes and the lack of redress in informal family arrangements.

The law governing strata schemes is weighted against low income occupants or tenants. Strata schemes can be terminated for sale or redevelopment, termed 'renewal' with the approval of 75% of owners. If the strata renewal process is successful and the scheme is terminated, owners are forced to sell and any tenancies are terminated. The outcomes of homeowners and tenants living in strata schemes will be determined by

the financial resources available to them. Low income owner-occupiers are likely to have no other assets than their strata unit and if forced to sell may not be able to afford to buy again in the same area, particularly if the strata scheme is run down. If they are forced to rent instead, like private tenants facing strata scheme terminations, it is likely that they would not be able to rent affordably in the local area. After renewal, the new dwellings will sell or rent for substantially more than those in the old scheme. Again, older people would be faced with unaffordable housing costs or moving away, severing social ties to the area and losing connection to local services.

... older people aged 55–74 are the fastest growing cohort experiencing homelessness, increasing by 55 per cent from 2006 to 2016.

For people living in informal arrangements with family, lack of formal documentation and lack of access to recourse is a significant issue. Despite the prevalence of family arrangements, the law is difficult to understand and practically ineffectual. In many cases where family accommodation agreements have gone wrong, older people lose their family home or life savings with no chance for redress. This is because remedies to financial elder abuse in family accommodation arrangements largely involve civil actions in the Supreme Court. As this potentially costs tens of thousands of dollars in legal fees, it is cost prohibitive for many older people. The assets involved in the agreement may be the

remaining financial resources of the older person, leaving them unable to pay for legal assistance. Legal action may also take many years to be resolved at a time when older people need to find new accommodation immediately. Even if the proceedings are successful, they commonly supply insufficient compensation to enable an older person to fully recover from the breakdown. Older people in particular often do not have the emotional resources to pursue legal action in the first place. Due to the family context of the dispute they may feel a sense of shame and powerlessness or they may fear that civil action may exacerbate family breakdown or lead to a loss of access to grandchildren.

These examples are just a snapshot of some of the gaps in NSW housing law. Whilst these gaps are experienced in varying degrees by people of all

Whilst aged care policy increasingly emphasises ageing in place, there is no comprehensive strategy to ensure that older people have secure and appropriate housing in which they can age.

demographics, they have particular effects and outcomes for older people, including negative effects on health, social inclusion and the risk of homelessness.

The decline in home ownership among our ageing population is a great cause for concern in light of the inadequacies of the Age Pension for those living in private rental, and the insecurity pervasive in many forms of accommodation. Whilst aged care

policy increasingly emphasises ageing in place, there is no comprehensive strategy to ensure that older people have secure and appropriate housing in which they can age.

Now we know the problems, the next stage is to find the solutions, of which some are clear. NSW housing policy needs to consider the demographic challenge of an ageing population. At the same time, Australian retirement policy needs to consider the changing landscape of what we call home, as the great Australian dream of homeownership moves further out of reach. With a rapidly ageing population and increasing shortage of appropriate and affordable accommodation, addressing the housing needs of older people should be a policy priority of both the Australian and NSW Governments. 🏠



From a nation of home owners to a nation of share housing?

Sophia Maalsen, Post-Doctoral Research Fellow,
Faculty of Architecture, Design, and Planning,
University of Sydney

Many of us are familiar with share housing and its highs and lows from our student days. From the ‘housemate from hell’ characters popularized in John Birmingham’s “He Died with a Falafel in his Hand”, to friendships that have endured beyond shared living, share housing has been a rite of passage associated with independence and adulthood for many Australians. In Australia, share housing is predominantly considered a transitional form of housing, the first step out of the family home before moving into a place of one’s own. But increasingly share housing is neither the domain of students nor a temporary tenure. Rising rents and property prices are forcing a widening demographic into sharing—from professionals in their 30s and 40s to seniors returning to, or sharing for the first time. Share housing, it seems, is increasingly a form of long-term affordable housing.

As home ownership declines, rates of renting—and sharing of—private properties rise. In Australia, an



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increasing number of singles, linked to divorce and declining marriage rates, are locked out of home ownership, as are many more single occupant, de facto, and sole parent households. On average, these household types all have lower total income and home ownership rates compared to the rest of Australia's population. This isn't only a problem for younger demographics: the rate of middle aged and older private renters is expected to double in the next 15 years.

Alongside this rise in renting is a rise in share housing, as many tenants are unable to afford rent on an entire dwelling—even a smaller one—on a single income. With this rise in sharing, we see a correlated shift in the demographics of share housing. Until recently, the expectation of people in their 30s and beyond was that they would be living in their own homes. It is now the case, however, that many are staying in or returning to share housing. Of particular concern are the growing numbers of older people turning to share housing as their only affordable housing option.

The rise in share housing and its broadening demographic is not a solely Australian phenomenon. Ireland and the UK have seen similar trends. The UK flatshare site, [SpareRoom](#), claimed that middle-aged flatsharers aged 35 to 44 increased by 186% between 2009 and 2014, while the 45-54 age group rose 300% in the same period. Similarly in Ireland, the number of people flat-sharing in middle age is growing, particularly among those who are divorced or separated and no longer living in the family home.

Share housing's changing role as a tenure for a greater number and wider range of people is reflective of our ongoing housing unaffordability crisis, and has serious implications for policy. In Australia, home ownership is considered the performance of good citizenship and linked to numerous social and economic policies. For example, many retirement policies are based around the idea of private home ownership—the home becomes an asset in old age because of the security and capital bound up within. With very few housing costs, a pension is better able to cover living costs and further, being an owner occupier offers much greater housing security than is offered in the private rental market.

This has serious implications for the provision of income and services after retirement, especially for the growing number of Australians locked out of home ownership. In

housing markets driven by investment, such as Australia's, renters and people who share houses are treated as second-class citizens, and their lack of home ownership is considered a moral flaw and their own fault—Joe Hockey's infamous remark in 2015 that people wanting to buy their own home should “get a good job that pays good money” is reflective of this and betrays the ignorance of a government that is out of touch with the day-to-day of most Australians.

In this context, it is no surprise that the last couple of years has seen a push by renting advocacy groups, tenants' unions, and renters themselves for better renting rights awarded to tenants. While the Victorian State Government made steps towards this in 2017, there remains a lot more to be done for renter's rights Australia-wide.

Improving conditions for renters will require a better understanding of renting, and in particular share housing. Share housing is rarely analysed independently of other forms of living arrangements and is often subsumed under labels such as ‘non-family’ or ‘other’. This is problematic because sharing housing comes in many forms, including multigenerational sharing, co-living, co-housing, and share housing as it is traditionally viewed in Australia, i.e. non-familial households with two or more occupants sharing

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utilities and spaces, often with individual bedrooms. There is of course the noted rise in room sharing in cities such as Sydney where two or more people share a room, and which leads to dangerous overcrowding. And we can't forget to include AirBnB as a form of commercialized and platform capitalism-driven sharing, which has been associated with displacing local residents in some areas.

The way we access and manage our share households is also being digitally reconfigured. Advertising, selecting rooms, and contacting future share households or tenants are now primarily enabled by online sites such as [flatmatefinders.com.au](#), [domain.com.au](#), [flatmates.com.au](#) and Facebook groups. Such sites allow users to upload photos, provide

information on the houses and rooms available, specify rent, and write profiles about themselves, all in the name of better matching flatmates and houses. Comparisons have been made with room finding and flatmate selecting as similar to online dating, and certainly in competitive markets like Sydney, your online profile counts.

While online platforms often make the process of finding flatmates and housing easier, there are potential downsides. Are those services free? If yes, then they are most likely collecting your data—your preferences, rent range and biographical details listed in your profile. Additionally, participants in research I recently conducted on share housing told stories about being harassed online and adapting their profile to minimize this. And of course these online platforms can facilitate discrimination across race, sexuality, gender, class and access to the Internet. This is not to say discrimination against potential flatmates or households didn't exist previously, but that these digital platforms can amplify it.

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So while the digital reconfiguration of rental and share housing can offer benefits such as increased ease of finding a house or flatmate, and better management of finances within the home, we must remember how it can equally be a vehicle for discrimination.

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Still, it's not all bad. The days of chasing your flatmates for money are being minimized by bill sharing and household management apps. Seeing an opportunity to do household finances in better ways, apps such as Sydney-based [easyshare](#) do the chasing for you, collecting everyone's share and paying bills on behalf of the household. For some users, the app also offers a way to demonstrate the fiscal responsibility that would normally be demonstrated in other ways such as housing repayments. Never late on rent? Well you're being a good financial citizen and you may just get a future loan. But again, we must think critically about the implications of the digitalization of our share housing. While data across various platforms can build a profile of a good renter, it can also be

used to profile people as problem renters. This is problematic because those who rent and share do so primarily for financial reasons and such surveillance and profile building is at risk of targeting an already financially vulnerable group.

Controversy around the rent bidding app [Rentberry](#) is illustrative here. The app relies on algorithmic decision-making to profile tenants and sorts them on their potential risk. Potential tenants can also see other potential tenant's rent bids and adjust theirs accordingly. Landlords can then choose the best tenant for their property based on the profile and bid. It is not hard to make the link between rent bidding and rent market increases. Such interventions privilege those with more money and discriminate against those tenants with lower incomes. At a time when high levels of housing unaffordability have already pushed people out of home ownership and into rental tenancies, any actions that further inflate the market and profile those most in need as risky tenants, should not be endured. So while the digital reconfiguration of rental and share housing can offer benefits such as increased ease of finding a house or flatmate, and better management of finances within the home, we must remember how it can equally be a vehicle for discrimination.

Share housing does have benefits aside from being cheaper than living alone. The social value of sharing should not be underestimated. But sharing should be a choice, not a financial necessity. We have known for some time that Australia's property market means the 'Australian dream' of home ownership is now out of reach for many. The increase in share housing is evidence of this. And until the market becomes more accessible, we must focus on ensuring the rights of the growing number of renters and share households. This not only includes changes to lease terms, rents and the autonomy of renters within the home, but also regulation of digital platforms to ensure they work for the good of tenants and not solely for the investor. 🏠

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