

# MAKE RENTING FAIR

## SUBMISSION TO THE SENATE INQUIRY: THE WORSENING RENTAL CRISIS IN AUSTRALIA

September 2023  
by the Make Renting Fair Alliance (WA)



## **Executive Summary**

The WA [Make Renting Fair Alliance](#) is a broad and passionate coalition of renters, landlords and community groups. We are calling for ten changes that will dramatically improve life in a rented home, based on the evidence we heard from WA renters directly.

The Make Renting Fair Alliance has found that renters are stressed and hurting: living in poorly regulated homes, and experiencing cost of living pressures and frequent rent increases. Historically low vacancy rates makes them feel trapped in their current place and fearful of asserting their rights.

There are actions the government can take to limit rental rises and to massively improve the standards of rental homes and circumstances for renters. There are examples of successful policies across Australian jurisdictions as well as internationally. There is also a need for evidence-based government policy, programs and funding to boost the supply of social and affordable rental homes.

## **Recommendations**

1. We recommend and support a nationally harmonised approach to rental standards, with world's leading practice laws using the Tenancy Ten as a guide.
2. We support and recommend the examination and introduction of a rent stabilisation mechanism, such as linking rent rises to the CPI as occurs in the ACT and requiring landlords to justify any increase above the CPI.
3. We support longer and more consistent notice periods for rent increases.
4. We recommend that “without grounds” termination powers be abolished in all jurisdictions, and replaced with prescribed grounds for termination to make renting fairer.
5. We recommend permanent, adequate, rolling funding and financing mechanisms from government, to deliver a pipeline of affordable rental housing in line with evidence-based need.
6. We recommend introduction of minimum standards for all rental housing, with: 1) detailed, express minimum requirements; 2) standards to protect renter health and thermal comfort; 3) all residential tenancy agreements to include a term requiring minimum standards to be complied with by the lessor; and 4) clear, simple processes to resolve disputes and enforce requirements.
7. We recommend that after the initial inspection at three months, rental inspections should be no more than twice a year, to avoid unnecessary stress and imposition on tenants.
8. We recommend legislated privacy protections that apply to tenants’ personal possessions, tenancy documentation and personal files and photos taken in the course of inspections and maintenance issues:
9. We recommend training and regulation for property managers to standardise practices and ensure fair and consistent treatment of tenants.

## INTRODUCTION

We are proud to provide a submission to the Senate Inquiry into the Worsening Rental Crisis in Australia, compiling evidence, accounts of renters, and policy recommendations for consideration at the federal and state levels.

### About Make Renting Fair WA

The WA [Make Renting Fair Alliance](#) is a broad and passionate coalition of renters, landlords and community groups. We are working together for secure, affordable and healthy homes for more than 700,000 West Australian renters.

Our alliance has 24 member organisations including

- **Six peak bodies**, collectively representing over 570 member organisations who provide services to over 500,000 Western Australians;
- **Frontline organisations** providing homelessness and housing services, emergency relief, financial counselling, and legal (tenancy) services to over 158,000 clients; and
- **Unions WA** and the **United Workers Union** who represent thousands of individual members working in care based and essential worker industries, the majority of whom are renting.

Our 24 members include:

- Shelter WA
- WA Council of Social Service (WACOSS)
- Anglicare WA
- Circle Green Community Legal
- Community Legal WA
- Aboriginal Health Council of WA
- MercyCare
- St Barts
- St Vincent de Paul (Vinnies)
- United Workers Union
- Unions WA
- Climate Justice Union
- Just Home Margaret River
- Financial Counsellors Association of WA
- Justice Reform Initiative
- LinkWest
- Women's Legal Service WA
- Curtin University Student Guild
- Pilbara Community Legal Service
- Regional Alliance West
- RISE
- Youth Involvement Council
- RUAH; and
- Building Tenancy Skills

### Our Vision: The Tenancy Ten

The Make Renting Fair Alliance is calling for ten changes that will dramatically improve life in a rented home, based on the evidence we heard from WA renters directly. This included detailed responses from 2,000 surveys. These are the [Tenancy Ten](#):

1. **End unfair evictions.** Stop tenants being evicted without a valid reason and introduce reasonable grounds for ending a tenancy.
2. **Allow reasonable modifications.** Renters should be allowed to make small changes that can make a house feel like home, and improve safety, liveability and running costs of a home.
3. **Create minimum standards.** Including energy-efficient and climate-resilient housing . Most products like your car, television and even a plastic chair need to meet Australian standards – but not your rental home.
4. **Stabilise rent increases.** We need a mechanism to cap unfair rent increases.
5. **Boarders & lodgers, and Students.** Better protections for boarders and lodgers, and students are needed under appropriate and fair law.
6. **Allow pets.** Tenants should be able to have a pet in suitable homes.
7. **Quick, fair & consistent dispute resolution.** Introduce mediation and reported decisions for greater clarity.
8. **A better deal for public housing tenants.** Remove provisions that discriminate against the public housing tenants and give public housing tenants the same protections as other tenants.
9. **Increase access to tenancy advocacy & information.** Make advocacy services and tenancy information available to all renters.
10. **Privacy.** Rent inspections every three months and other invasive requirements need to be rationalised to avoid unnecessary stress on tenants.

A detailed Tenancy Ten fact sheet is available here: <https://makerentingfairwa.org.au/our-vision>

### The reform context in WA

Until recently, WA's Residential Tenancies Act 1987 had not been substantially reformed for more than thirty years.

In 2019 the WA Department of Mining, Industry Regulation and Safety (DMIRS) began a comprehensive process of reform, consulting widely with the WA community on a series of substantive reforms, which were then put on hold for three years due to the COVID-19 pandemic. In mid-2022 the reform process finally began again in earnest, with two tranches announced.

In May 2023 the WA government announced the first tranche of reforms<sup>1</sup> would include:

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<sup>1</sup> WA Government (2023) *WA tenancy law modernisation to strike a balance between tenants and landlords*. <https://www.wa.gov.au/government/media-statements/McGowan-Labor-Government/WA-tenancy-law-modernisation-to-strike-a-balance-between-tenants-and-landlords-20230526>

- Prohibiting the practice of rent bidding, with landlords and property managers unable to pressure or encourage tenants to offer more than the advertised rent;
- Reducing the frequency of rent increases to once every 12 months;
- Tenants will be allowed to keep a pet or pets in a rental premises in most cases;
- Tenants will be able to make certain minor modifications to the rental premises and the landlord will only be able to refuse consent on certain grounds;
- The release of security bonds at the end of a tenancy will be streamlined, allowing tenants and landlords to apply separately regarding how bond payments are to be disbursed; and
- Disputes over bond payments, as well as disagreements about pets and minor modifications, will be referred to the Commissioner for Consumer Protection for determination, and
- \$9m over two years additional funding to tenancy advocate support services.

While we were glad to secure five out of ten changes from the Tenancy Ten, it was incredibly disappointing that the WA government retained no grounds evictions.<sup>2</sup>

The WA government noted when announcing the proposed reforms, the removal of no grounds evictions would cause thousands of investors to sell their properties, leading to a shortfall in rental properties, which in turn would cost the government over one billion dollars to fill the gap with additional social housing.

An independent review of the concerns raised about the removal of no grounds evictions was conducted by a number of academic and tenancy law experts with input from the Australian Housing and Urban Research Institute (AHURI) Curtin Research Centre and Dr Chris Martin from the City Futures Research Centre, UNSW Sydney.<sup>3</sup> The Review concluded that the negative impacts predicted are inaccurate, exaggerated, not reliable, and have not been observed in other jurisdictions where similar reforms have taken place. No-grounds evictions give cover to discrimination and retaliation. Reasonable landlords don't need them but they make all tenants less secure in their homes.<sup>4</sup> (**The Review is attached**).

The second tranche of WA reforms will include the introduction of minimum standards, boarders and lodgers, privacy (including frequency of rental inspections), rent stabilisation, and "everything else".

We will continue to advocate for the second tranche to include all outstanding areas in the Tenancy Ten.

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<sup>2</sup> Make Renting Fair Alliance WA (2023) *Make Renting Fair Alliance responds to proposed rental reforms*. <https://makerentingfairwa.org.au/news/f/make-renting-fair-alliance-responds-to-proposed-rental-reforms>

<sup>3</sup> Make Renting Fair Alliance WA (2023) *Industry scare tactics branded unhelpful*. <https://makerentingfairwa.org.au/news/f/industry-scare-tactics-branded-unhelpful>

<sup>4</sup> Zimmerman (2022) "Tenancy law changes won't lead to mass sell-off, say housing advocates groups" *The West Australian*. <https://thewest.com.au/business/housing-market/tenancy-law-changes-wont-lead-to-mass-sell-off-say-housing-advocates-groups--c-7684375>

### (A) The experience of renters

Make Renting Fair WA began conducting a [WA Renters Survey](#) in June 2022 on a range of important renting issues and renters' experiences, with responses used to produce two detailed reports we have presented to government and released publicly.

These are:

- The [Impact and Experience of No Grounds Evictions in WA](#) (November 2022)
- The [Impact of Unlimited Rent Increases in WA](#) (May 2023)

For the purposes of this submission we are proud to provide an updated summary of findings, using findings current at 15 August (n=382).

#### **MAKE RENTING FAIR RENTER SURVEY FINDINGS**

##### **WA's rental profile:**

- 23% renting more than 10 years and 32% have been renting more than 20 years
- 66% were privately renting through a real estate agent
- 51% reported either they, or someone in the household was experiencing disability
- 56% were on a 12 month fixed term lease, and 22% on a rolling/periodic lease.
- Just 4% were on a fixed term 2 year lease and 2% were on a lease of five years or more.

When asked about their **current** rental:

- 57% reported issues with leaks, dampness or mould
- 56% had difficulty keeping the property cool or warm
- 49% had experienced issues with locks, doors and windows
- 42% had to pay or fix things themselves
- 33% had issues with hot water
- 30% reported storm or rain damage
- 27% reported a lack of flyscreen
- 18% reported major structural repairs were needed
- 7% reported accessibility issues, for example needing a ramp or grab rail in the bathroom

When asked about **rent increases**:

- 61% had a rent increase in the last 12 months, of which 18% had two or more rent increases in the last 12 months
- 40% tried to negotiate the amount their rent was increased but were refused
- 42% didn't ask to negotiate, with the most common reason being fear of losing their lease
- 85% would find it difficult or very difficult financially if rents were to increase another 10% in the next twelve months, as is currently predicted will occur
- 87% of those receiving a rent increase said it was not accompanied by any property improvements or attention to outstanding repairs
- The most common reason provided for the rent increase by the landlord or agent was "the market" (65%)

When considering whether to make a **request for repairs or maintenance** in their current rental,

- 62% were concerned that a request for repairs or maintenance in their current rental could mean a rent rise
- 42% were concerned the request could result in an eviction

- 71% were concerned the request would be stressful and 62% were concerned the request would be ignored

When asked about their **experience of evictions** in the last 12 months:

- 3 out of 5 respondents had received either a notice of eviction or threat to evict
- 23% had received a notice of termination (30 days to vacate) at the end of a fixed term lease without any reasons provided
- 9% were given 60 days notice to vacate during a periodic lease – without any reason
- 27% were threatened with eviction
- 70% had no access to tenancy support services

When asked about the frequency and purpose of **rent inspections**, the survey found:

- 56% feel stressed or anxious about the frequency of inspections
- 55% feel anxious about the landlord taking photos or videos during the inspection
- 42% feel anxious about the landlord looking through their belongings during the inspection
- 13% have caught a landlord or property agent going through their private belongings, cupboards or drawers
- 70% are not satisfied with the frequency and nature of rent inspections

Over their **entire history** as a renter:

- 12% had a lease not renewed at the end of a fixed term due to a request
- 46% had been too scared to report an issue with the property for fear of eviction or poor reference
- 63% had to pay or fix things themselves
- 34% had requested urgent repairs that were never completed, and
- 28% had structural issues that were not addressed adequately

In the following sections we will drill down into these findings, and hear from renters themselves.

## **RECOMMENDATION**

**We recommend and support a nationally harmonised approach to rental standards, with world's leading practice laws using the [Tenancy Ten](#) as a guide.**

### **(B) [Rising Rents and Rental Affordability](#)**

#### **WA context**

Rents in WA have been going up much faster than average wages, and the number of affordable rentals available for people on low income has severely declined. In Perth rents rose by 16% in the last twelve months (year on year at August 2023) – equivalent to \$101 per week, the largest increase of any capital city. The median rent for a three bedroom house is now a record \$633 per week, up from \$400 in August 2020.<sup>5</sup> Since COVID, in Perth a family pays an extra \$233 extra a week or \$11,000 a year in rent.

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<sup>5</sup> SQM Research – Property – Weekly Rents – Perth. <https://sqmresearch.com.au/weekly-rents.php?region=wa-Perth&type=c&t=1>

In WA regions the situation is even more dire. In Port Hedland in the Pilbara rents are up by 74 per cent (from \$675 to \$1209) in three years<sup>6</sup> and the South West rents have risen by 60% (from \$311 to \$499) in three years.<sup>7</sup>

Perth's Vacancy rate is currently just 0.5% at August 2023.<sup>8</sup> In some regions, particularly tourist regions, the rate is closer to zero and has been for three years.

The shortfall of public and community housing exacerbates this problem for those on lower incomes who are often forced to rent in the private market.

In WA under the current Residential Tenancies Act,

- Rents can be raised every six months, even on a fixed term lease\*
- There are no limits on the amount rent can be increased during periodic tenancies, and
- Landlords only need to provide 60 days notice to increase the rent.

*(\*Under the reforms announced in May 2023, the frequency of rent increases will be limited to once per year but this won't take effect for at least 12 months and won't limit the amount rents can be increased.)*

## **Survey findings**

As at August 2023, our survey highlighted these rent and rental affordability experiences:

- **61% of respondents experienced at least one rent increase in the last year.** Specifically, 43% experienced one rent increase in the last 12 months, 15% advised their rent had increased twice or more, and 3% advised rent had increased more than two times.
- **Most rents increased by \$21-\$75 per week.** The majority of respondents (48%) had a rent increase of between \$21 – \$75 per week. But almost two in ten (19%) of respondents had a rent increase of between \$76-\$200 a week. 7% said their rent increased by \$101-\$200 and 2% experienced a rent increase of \$200 per week.
- **85% of renters would struggle with another rent increase.** The survey showed that many respondents were already financially stressed by their rent, and many of our survey respondents described experiencing anxiety as a result of a recent rent increase. When asked about the impact of rents predicted to go up a further 10% in the next 12 months, we found 85% would find this difficult or very difficult to manage. Just 3% would find this comfortable.

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<sup>6</sup> Calculated from August 2020 to August 2023 for 3-bedroom home. <https://sqmresearch.com.au/weekly-rents.php?postcode=6721&t=1>

<sup>7</sup> Calculated from August 2020 to August 2023 for 3-bedroom home <https://sqmresearch.com.au/weekly-rents.php?sfx=&region=wa%3A%3ASouth+West+WA&t=1>

<sup>8</sup> Residential Vacancy Rates – Perth.

[https://sqmresearch.com.au/graph\\_vacancy.php?region=wa%3A%3APerth&type=c&t=1](https://sqmresearch.com.au/graph_vacancy.php?region=wa%3A%3APerth&type=c&t=1)



### Stories from renters on rent increases

*“ We got an email in early July 2022 advising our rent would be **increased by \$200 per week, to \$670pw** for six months or 12 months at \$650 with a mid-year market review. Even though our house is a five bedroom home the lease specifies no more than three people may live here. We had to let the real estate agent know we could not renew at this cost. Then the Real Estate company advised the owner “graciously” offered to reduce the increase to \$550 per week instead – but with a mid-year review included, which would increase the rent by another 15%. We had to accept this due to the minimal availabilities for rentals in our area. I went to 30 other inspections but just gave up. As expected, the rent increased again and we’re now paying \$575pw and it’s highly likely it’ll be increased again to above \$600 in next six months. We’ve got no ability to negotiate anymore. No power. No chips left. I’m a student with two jobs and I just can’t take this anymore. My rent is now 60% of my income.” – A renting couple in North Perth.*

- **Renters feel powerless to negotiate rent increases – mostly due to the fear of no reason evictions.** The threat of a “no reason” eviction hangs over negotiations between tenants and landlords about unfair rent increases, creating a significant power imbalance and a pervasive insecurity for tenants.

The survey asked “Were you able to negotiate the amount your rent was increased?” and found:

- 40% tried to negotiate but were refused
- 42% said they didn’t ask – with the most common reason being the fear of losing their lease and not being able to find another property
- Only 17% were able to negotiate by a moderate amount

### Stories from renters trying to negotiate down excessive rent increases

*“There is no point. If we didn’t sign the new lease with the increase, we would have to try to find another house, there are zero rentals available in our area.” 20-year renter, Busselton 6280*

*“Too scared to ask in case she decided to kick me out.” A single female renter in Yokine 6060*

*“We were told to deal with it or move.” A renter of more than 20 years in Medina 6167*

*“They gave me only a week’s notice of an excessive rise... But the owner said “everyone else is doing it so why should I miss out on the extra money? And the real estate agent did nothing as that was increasing their percentage as well.” A renter of more than 20 years, Scarborough 6019*

*“I was told if you don’t like it, we have a large waiting list of other people willing to move in.” 40yo renter in Baynton 6714*

*“Explained as meeting the market, if you don’t like it, move out.” 50yo renter in Beldon 6027*

*“When I asked for no rent increase or a smaller increase, I was told that the increase was in line with the rise in local property prices. What has that to do with anything? A house is not a farm. Rent increases should be linked to CPI and wage movements.” Over 65yo renter, Carlisle 6101*

- **The majority of rent increases are being justified by “the market”, which is a self-fulfilling prophecy and has been banned in other states.** One alarming finding of the survey was that renters believe landlords and property managers are using the rental crisis as a justification for imposing rent increases. For example:
  - 65% of respondents were told that the increase in their rent was due to the "market".
  - 16% of respondents were advised that the rent increase was due to an increase in actual costs for the Landlord.

#### Stories from renters on the reasons given for rent increases

*“Other properties in the area were leased at higher amounts.” A 50yo renter in Carlisle 6101*

*“We were told it was reflective of the current market.” 45 yo renter in Leederville 6007*

*“The market.” A renter in her 60s in Denmark 6333*

*“Other rental prices in the area have gone up.”30yo renter. West Perth 6005*

*“Same as the market.” 54yo renter in Parmelia 6167*

*“In line with market.” 47yo female renter in Mindarie 6030*

*“The owner said, “Everyone else is doing it so why can’t I?” 60 yo renter in Scarborough 6019*

*“The real estate rental manager said in a way that she expected me to be sympathetic that he wasn’t covering his mortgage enough, as if that was my responsibility. The trouble is when these people buy extra houses, they artificially inflate the prices, which they can’t afford to repay unless they ask way over value rent. Which continually knocks so many people out of the market and forces them to rent these dumps. They buy them then run them to the ground.”.*

*Scarborough 6019*

- **Many renters are too scared to request maintenance for fear of rent increase.** Many survey respondents stated that they would rather do their own property maintenance or live with a problem, than report a maintenance issue, due to a fear that landlords or property managers would use the repair costs to justify increasing the rent.

The survey found that in regards to reporting maintenance:

- 62% were concerned it would mean a rent rise
- 67% were concerned the request might make the landlord less likely to renew the lease
- 42% were concerned the request could result in an eviction
- 71% reported the request could be stressful

**(C) Actions that can be taken by governments to reduce rents or limit rent rises**

WA tenants are subjected to regular and uncapped rent increases, and many tenants also reported that the threat of no reason eviction left them with no choice but to accept excessive rent increases they couldn't afford, or face homelessness due to extremely low vacancy rate.

In most other states rents can only be increased once a year, tenants are given significantly more notice than in WA, and some form of stabilisation has been introduced.

State	Rent Cap or Stabilisation? (At August 2023)
WA	No rent caps but rent increase limited to once a year (once the first tranche of reforms are legislated)
NSW	The method for rent increases must be set out clearly and statements such as 'in line with the market' are not allowed. Tenants can challenge a rent increase they believe is excessive at the tribunal.
VIC	No caps but the rental provider must give the renter information about how they have calculated the rent increase. Four methods are allowed: 1) CPI; 2) Statewide Rent Index; 3) Percentage; or 4) dollar amount. Tenants have the right to challenge increases and can ask Consumer Affairs Victoria to investigate if they believe the increase is too high.
QLD	Tenant may apply to tribunal about significant change in rent.
SA	Tenant may apply to the tribunal to declare that the rent payable under a residential tenancy agreement is excessive.
TAS	There is no limit on the amount a landlord can increase the rent by. If a tenant believes an increase is unreasonable it may be challenged through the Residential Tenancy Commissioner (RTC).
ACT	Rent caps do exist in the ACT. Regulations specify a threshold maximum increase of 110% of the change in CPI for rents. This is for periodic tenancies only – if a lease is being signed, including a renewal, the rent can be set at any amount. Landlords and tenants can apply to the tribunal if they wish to challenge the regulation rent increase amount.
NT	No cap but rent increase must be in lease as either an amount or method of calculation.

Forms of rent stabilisation have been introduced effectively in other jurisdictions and provide evidence-based examples of successful reform. Specifically,

- The best protections exist in the **ACT**, where rent can only increase every 12 months for tenants on fixed or rolling leases, with eight weeks' notice, and details of any rent increase needs to have been included in fixed-term agreements. The most landlords can increase rent is by the rate of inflation for Canberra rentals, plus 10 percent of the inflation rate. For larger increases, which a tenant does not agree to, a landlord must apply to the tribunal.<sup>9</sup>

<sup>9</sup> K Macdonald. "The human face of Perth's dire housing shortage". *The West Australian* 27/10/2022 <https://thewest.com.au/opinion/kim-macdonald/kim-macdonald-the-human-face-of-perths-rental-crisis-c-8658610>

- In **NSW** rent can only be increased once in a 12-month period after a minimum 60 days written notice during an ongoing lease or fixed-term lease of two years or more. Rent cannot be increased during fixed-term leases of less than two years without an agreement at the start that sets out the amount of the increase or method of calculating it. Unclear statements, such as “in line with the market” or “by the rate of inflation” cannot be used. If a tenant believes a rent increase is excessive, they can challenge it at the tribunal within 30 days of receiving the notice.<sup>10</sup>
- In **Queensland**, rents for periodic leases can be increased every six months with two months’ written notice, but in March it was announced the government would seek to limit rent increases to once per year. Rent cannot be increased during a fixed-term unless the amount, or how it will be worked out, is stated in the agreement. Tenants can challenge a rent increase through dispute resolution at the Residential Tenancies Authority. If it is not resolved, tenants can go to the Queensland Civil and Administrative Tribunal.<sup>11</sup>

The evidence presented on spiralling rent increases in the previous section provides a compelling case for the introduction of a rent stabilisation mechanism as soon as possible.

#### Suggestion from a landlord on stabilising rent in regional areas

“We have been landlords of 3 different houses, once through an agent and twice privately on a REIWA lease. We have worked hard to be fair landlords. Real estate agencies could help landlords be fairer by explaining the median weekly wage of people in the town, before people buy investment properties, so landlords can understand what a typical tenant may be able to afford rather than the landlord dreaming about how much they could make and having a house empty and families homeless because no one can afford the rent”. 50yo Female, Postcode 6333

Renters need protection from unreasonable rent increases. There are a range of rent control mechanisms used all over the world that should be considered.

Options could include:

- Capping rent rises at CPI as in the ACT and a number of jurisdictions in Europe, the UK and the USA (to a maximum of 3%);
- Capping rent rises by a fixed amount of 1–2% such as is being proposed in the ACT;
- Requiring the landlord to justify any rent increase above CPI;
- Linking rent increases to average wage increases; or
- A combination of the above.

<sup>10</sup> J Zimmerman. “Housing crisis: Airbnb listings outnumber vacant rentals by more than 40 to one in many regional WA towns” *The West Australian* 24/08/202. <https://thewest.com.au/business/property/housing-crisis-airbnb-listings-outnumber-vacant-rentals-by-more-than-40-to-one-in-many-regional-wa-towns--c-7973592>

<sup>11</sup> M Heagney-Bayliss and T Razaghi (2023) “Who pays for mould and can your landlord actually increase the rent?” *The Sydney Morning Herald* 12/4/23. <https://www.smh.com.au/property/news/what-are-your-rights-as-a-renter-in-australia-20230228-p5co7a.html>

**RECOMMENDATIONS**

**We support and recommend the examination and introduction of a rent stabilisation mechanism, such as linking rent rises to the CPI as occurs in the ACT and requiring landlords to justify any increase above the CPI.**

**We support longer and more consistent notice periods for rent increases.**

**(D) Improvements to renters’ rights including rent stabilisation, length of leases and no grounds evictions**

With the current cost of living and housing supply shortages having such a detrimental effect on the cost and availability of rental properties, renters are finding they have little or no rights in their dealings with rental property owners. Measures to improve the balance of power are desperately needed.

Refer above at (C) for our discussion and recommendations relating to rent stabilisation.

**Length of leases**

Offering longer leases to tenants would significantly improve security and stability for tenants and landlords. However, there is currently very little opportunity to enter into longer-term agreements.

**Survey findings**

Our survey found WA’s renter profile is extremely insecure.

Most tenants (56%) were on a 12 month fixed term lease, which can be ended without reason at the end of the lease with just 30 days notice. Almost a quarter (22%) are on a rolling/periodic lease, which can be ended without reason with just 60 days notice. Just 4% were on a fixed term 2 year lease and only 2% were on a lease of five years or more. (Figure 1)

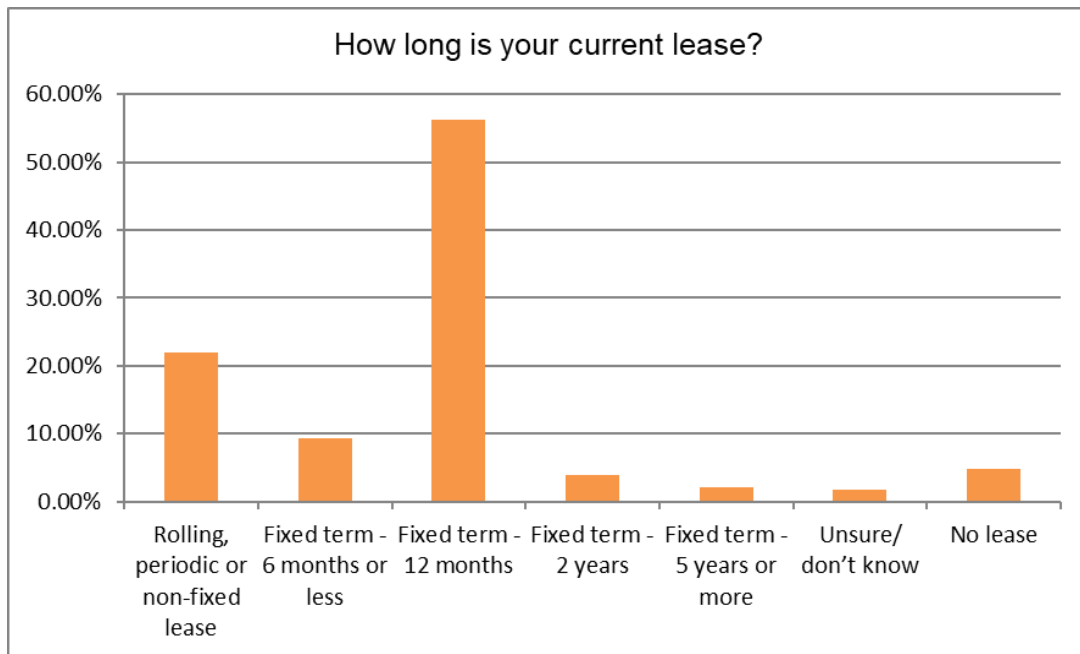


Figure 1: Length and type of current lease (Q.13)

Longer term leases provide more security and stability for renters and families giving them an opportunity to become part of the community. They can keep their children in the same school and they don't incur the costs of moving each time or the stress of trying to find another property when there are hardly any vacancies. From the landlord's perspective, it helps them to keep good tenants in their property.

### **No grounds evictions**

Most renters are on a fixed six or twelve month lease agreement. Generally, when it ends, a renter may get a further fixed term lease or it switches to a periodic lease, one that goes from month to month. However, a landlord or agent can choose not to renew the fixed-term lease by giving just 30 days notice to vacate, and on a periodic lease, the landlord can issue a 60-day termination notice without giving a reason at any time.

This creates an imbalance of power between landlord and tenant. It can lead to tenants fearing losing their home if they request maintenance or exercise their rights. The power for a landlord to terminate without reason means that a renter does not have long-term housing security.

WA's residential tenancy reforms originally proposed to remove "no grounds" evictions, except for the first lease. Unfortunately this has been postponed indefinitely, but we are continuing to advocate for this fundamental change, which underpins every renter experience.

### **Survey findings**

The Make Renting Fair Alliance previously released a report on the impact of "no grounds" evictions for WA renters in October 2022 (the full report is available [here](#)).

We have collected more data and found that 3 out of 5 renters in Western Australia have experienced a "no grounds" eviction or the threat of eviction within the past 12 months, and the fear of eviction without any reason is leaving tenants too scared to assert their rights to repairs, maintenance and even privacy.

The Make Renting Fair renters survey found **six key findings** in relation to the experience of no grounds evictions:

#### **1. The experience or fear of unfair evictions is universal amongst renters.**

When asked about their experience overall more than one in six (16 per cent) had been evicted without any reason at least once over their entire history as a renter.

#### **Stories from renters on the experience of no reason evictions**

*"It turned our life upside down. We had lived there for four and a half years and we hoped to live there much longer. We started looking for a new house as soon as we got the 60 days notice, but even then we were homeless for two months. Meg 6101*

*"Threatening to evict us has been so stressful because we have nowhere to go and an unsupportive family. My partner is transgender and we are both queer so going home to family*

*isn't an option. We spent three weeks in 2020 homeless and living in our car after our last landlord sold the property unexpectedly. We are worried about being homeless and we both work two jobs while studying full time to keep up with payment for this rental." Kay 6053*

*"After 5 years we were thrust into a chaotic rental market. I haven't slept for a month, I have anxiety and we were making back up plans to live in an industrial location (workshop) if we weren't successful in finding a new place." Vanessa 6052*

*"Terrifying and extremely stressful, I was advised after I had agreed to stay another 12 months and then given 60 days notice. Perth market is horrendous at the moment and had to increase budget by \$100 to find something safe and decent which also had to be accepted immediately to secure so paying double rent." Diane 6027*

*"Mentally, it (the without reason eviction) killed me. I've never missed a payment nor had any issues. The house is still vacant after 13 months." Cilsey 6054*

*"I had to find another rental at short notice and move after only living in the dwelling for 6 months (despite having a 12 month lease), this was very hard doing on your own with a chronically ill child." Sally 6157*

When asked about their experiences in the last year,

- 32% had experienced "no grounds" evictions; which includes both receiving a notice of termination at the end of a fixed term lease without any reasons provided (23%) or receiving a notice of termination during a periodic lease with no reason (9%);
- Another 41% reported they had been evicted due to the landlord selling or moving back in; and
- Almost one in three (31%) reported they'd received a breach of agreement that they resolved within 14 days, with many examples provided from respondents showing breaches are often served flippantly or due to administrative issues, rather than the tenant actually doing anything wrong, which is extremely stressful for renters.

#### **WA renters' experience with unfair Breach Notices**

*"I kept getting breach notices because we were washing our car on the lawn when the owner drove by."*

*"I have tried to get the rent 14 days in advance but they take water bills out of my rent that makes rent day two behind all the time so I get late rent letters every fortnight and also some 14 days notices."*

## **2. Fear of without reason eviction translates to renters too scared to assert their rights**

The survey also asked renters about their experience of making a request for repairs or maintenance in their current rental, and found the absence of minimum standards combined with extremely insecure tenure translates to an overwhelming number of renters too scared to assert their rights to a well maintained home.

When asked about making a request for repairs or maintenance in their current rental,

- 62% were concerned that a request for repairs or maintenance in their current rental could mean a rent rise
- 42% were concerned the request could get them evicted
- 67% were somewhat or very concerned the request might make the landlord less likely to renew their lease
- 71% were concerned the request would be stressful, and
- 62% were concerned the request would be ignored

These findings demonstrate an underreported but significant ‘knock on effect’ of WA’s current laws which allow tenants to be evicted without reason: just knowing that the landlord has the option to evict them without any reason results in huge insecurity and uncertainty for tenants, with the fear of eviction leaving a large number of tenants too scared to assert their rights.

When asked about their entire history as a renter, almost half of all renters surveyed (46%) reported they had been too scared to report an issue with their property or the landlord or real estate agent for fear of eviction or receiving a poor reference.

#### **Stories from renters on the fear of asking for repairs or maintenance**

*“I have not lodged a request to have some things repaired and have not lodged a complaint about issues I have reported not being fixed as I am concerned about my rental reference or potential eviction. I have a pet (cat) and am afraid I will be rejected from rentals if I am ever unable to live in my current rental for whatever reason.”*

*“The Regional Manager is a bully and when you ask for a repair you get “Maybe you should move out” and lies placed on my file in writing. His letters are nasty and turn the problem around on you. He never addresses the outstanding repairs, or ongoing breaches including safety breaches and puts in writing that I send too many emails all because the repairs, tripping hazards, safety issues and urgent disability modifications have been blatantly ignored. This leaves me feeling victimised, lies placed on my file, bullied, threatened, upset, stressed and intimidated, sleepless nights and totally disrespected.” Diana 6148*

### **3. The experience of retaliatory eviction is common**

16% of survey respondents reported they had a lease not renewed due to a request of their landlord during the tenancy.

### **4. The fear of no reason eviction is forcing tenants to live in homes with significant health and safety issues**

Findings from our Renters Survey also revealed many renters were living with significant health, safety and comfort issues. When asked about their current rental,

- 57% had issues with leaks, dampness or mould
- 49% had experienced issues with locks, doors and windows
- 56% had difficulty keeping the property cool or warm
- 33% had issues with hot water
- 30% reported storm or rain damage
- 27% reported a lack of fly screen



- 18% reported major structural repairs were needed
- 42% had to pay or fix things themselves

#### **5. Tenants are too scared to enforce the right to quiet enjoyment and privacy**

One concerning issue that emerged in the survey findings was in relation to the right to quiet enjoyment and privacy. A number of respondents reported living in homes where significant breaches by landlords of their right to quiet enjoyment and privacy were occurring but were too scared to take action on.

One such right to privacy relates to the frequency of inspections currently allowed under WA tenancy laws. The survey found 61% of respondents are having a rental inspection *every three months*, which is currently allowed in WA tenancy laws but is largely considered overly onerous, unnecessary and an invasion of privacy by tenant advocates and a majority of respondents.

When asked about the frequency and purpose of rent inspections, the survey found:

- 56% feel stressed or anxious about the frequency of inspections
- 55% feel anxious about the landlord taking photos or videos during the inspection
- 42% feel anxious about the landlord looking through their belongings during the inspection
- 13% have caught a landlord or property agent going through their private belongings, cupboards or drawers
- 70% are not satisfied with the frequency and nature of their rent inspections

#### **6. Support not being accessed**

When asked if they accessed any tenancy support or advice services to help with these issues, almost 70% replied they had no access to tenancy support services to assist them with the eviction process and legal proceedings.

*“No services could help us because there were too many people in similar or worse situations to us and there was nothing they could do to help. We tried to apply for community housing but the waitlist was too long and because my partner has recently worked more shifts than usual he earned too much for us to qualify.”*

Almost one in ten respondents (9%) indicated they were currently in need of assistance with a notice of eviction or tenancy issue. (The Make Renting Fair campaign has provided referral options for legal and non-legal services to assist all of these respondents.)

Renters should not face termination of their tenancies, and bear the financial and emotional cost of moving house continuously, unless there are reasonable grounds for it. Reasonable grounds for termination, and effective scrutiny of termination applications by the Court or Tribunal, will make the process fairer for landlords and renters. Landlords and real estate agents who have previously used the ‘without grounds’ terminations, but have always had a good reason, will see no significant difference under these proposed reforms.

Removal of “without grounds” terminations, including at the end of a fixed term, will also have a positive impact on current insecurity around the length of tenancies.

## RECOMMENDATION

**We recommend that “without grounds” termination powers be abolished in all jurisdictions, and replaced with prescribed grounds for termination to make renting fairer.**

### **(E) Factors impacting supply and demand of affordable rentals**

Anglicare’s latest Rental Affordability Snapshot<sup>12</sup> highlights that rentals have never been less affordable. In the Perth metro area, rents rose by 17% in the last year, and regional areas saw increases up to 25%. No properties were affordable for a single person on jobseeker, and only 1% were affordable for people on other income support payments.<sup>13</sup>

Anglicare’s report outlines how housing supply is repeatedly touted as the answer to housing affordability, however “the undersupply is not in housing, but in social and affordable housing.”<sup>14</sup>

### **Historic underinvestment in social and affordable housing**

Social housing is a critical part of the housing continuum that provides an important safety net for people on very low incomes who require a place to call home. Due to years of underinvestment from all levels of government, social housing represents just 3.8% of WA’s total housing stock,<sup>15</sup> which is below the national average of 4.3% and is very low by international standards.<sup>16</sup> This has led to extended wait times and a reduced safety net where social housing is only able to be allocated to those with very complex needs or an urgent need for a home.<sup>17</sup>

Figures requested from the Department of Communities show as at 30 November 2022 there were 43,380 public and community housing properties in WA, compared with 43,759 four years earlier. As at September 2022, there were over 19,000 households on the social housing waitlist.<sup>18</sup> As of 2019, researchers calculated a shortage of 39,200 social housing dwellings across the state.

Moving along the housing continuum, serious supply shortages are seen in Western Australia’s affordable rental housing<sup>19</sup> too. It is a critical link in the housing continuum between social housing

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<sup>12</sup> Anglicare (2023) 2023: *Rental Affordability Snapshot* – Anglicare Australia.

<https://www.anglicare.asn.au/publications/2023-rental-affordability-snapshot/>

<sup>13</sup> Anglicare (2023) *Rental Affordability Snapshot Regional Reports*. <https://www.anglicare.asn.au/wp-content/uploads/2023/04/Rental-Affordability-Snapshot-Regional-Reports.pdf>

<sup>14</sup> Anglicare (2023) 2023: *Rental Affordability Snapshot* – Anglicare Australia.

<https://www.anglicare.asn.au/publications/2023-rental-affordability-snapshot/> at page 16.

<sup>15</sup> Infrastructure WA (2022) *State Infrastructure Strategy: Foundations for a Stronger Tomorrow*. <https://www.infrastructure.wa.gov.au/state-infrastructure-strategy>

<sup>16</sup> OECD (2020), “Social housing: A key part of past and future housing policy”, *Employment, Labour and Social Affairs Policy Briefs*. <http://oe.cd/social-housing-2020>.

<sup>17</sup> AHURI (2019) *Understanding the ‘residualisation’ of social housing. Policy brief*.

<https://www.ahuri.edu.au/research/brief/understanding-residualisationsocial-housing>

<sup>18</sup> Extract from Hansard (Tuesday, 11 October 2022) Public housing – waitlist.

[https://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/a2b2e0ef9f2e54a4482588db001ef388/\\$FILE/C41+S1+20221011+p4356d-4356d.pdf](https://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/a2b2e0ef9f2e54a4482588db001ef388/$FILE/C41+S1+20221011+p4356d-4356d.pdf)

<sup>19</sup> By ‘affordable rental housing’, we refer here to subsidised, below market rental housing made available to income eligible households on low to moderate incomes.

and the private market, and in Western Australia, there is an estimated shortfall of at least 32,000 affordable dwellings in Western Australia.<sup>20</sup>

This shortage will be compounded by the loss of up to 4,847 affordable rental dwellings between 2022 and 2026 due to the discontinuation of the Commonwealth National Affordability Rental Scheme (NRAS) – we discussed this in further detail below at (G).

### **Current vacancy rates in private rental market**

According to REIWA, a rental vacancy rate between 2.5% – 3.5% represents a balanced market.<sup>21</sup> In WA, rental vacancy rates are currently at historic lows leading to many WA households struggling to find affordable houses to rent.

Vacancy rates at August 2023:

	<b>Vacancy rates</b>
<b>Perth</b>	0.7%
<b>Regional</b>	1.2%

This equates to just 2,982 houses as at 9 August 2023.

In order to get back to an ideal equilibrium of a 2–3% rental vacancy rate there would need to be a minimum of 3,000 more rentals added to the market.

### **Short Term Rental Accommodation**

Recent analysis of rental vacancy rate figures from Domain, combined with data from AirDNA, which compares AirBnB and Stayz listings, reveals a notable increase in short-term rental listings at the same time longer term rental vacancy rates have declined.

Specifically, in Perth, the number of short-stay rental listings surged by 20.5% between April 2022 and April 2023, and corresponded closely with the decline in private rental bonds of 22% over the same period (Figure 2).

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<sup>20</sup> L Troy, R van den Nouwelant & B Randolph (2018) *Estimating need and costs of social and affordable housing delivery*, UNSW, page 3.

[https://cityfutures.ada.unsw.edu.au/documents/522/Modelling\\_costs\\_of\\_housing\\_provision\\_FINAL.pdf](https://cityfutures.ada.unsw.edu.au/documents/522/Modelling_costs_of_housing_provision_FINAL.pdf)

<sup>21</sup> REIWA (2023) Rental vacancy rates. <https://reiwa.com.au/the-wa-market/rental-vacancy-rates/>

## % change in Perth short-stay and rental listings

In the previous 12 months

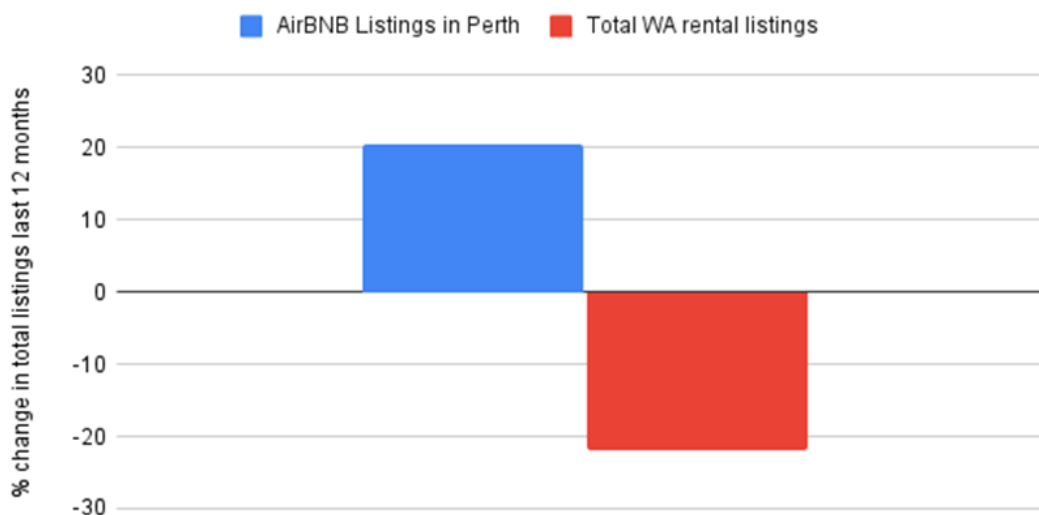


Figure 2: Percentage change – Short Stay and Private Listings (April 2022 – April 2023)

There are currently 10,000 whole properties<sup>22</sup> listed on Airbnb in WA (at August 2023). This compares to just 2,982 private rentals listed on realestate.com.au and means there are currently three Airbnbs listed for every private rental. In some regions and electorates, the figures are far worse. For example in Esperance there are 55 Airbnbs for every private rental listed:

Current listings for Airbnb compared with Private rentals August 2023		
Electorate	Private Rentals Listed	Airbnbs Listed
WA	2982	10,000
Esperance (at 8 August 2023)	5	166
Stirling (at 27 July 2023)	167	542

The reforms to the short-term rental accommodation (STRA) market already on the table<sup>23</sup> in Western Australia can have a positive effect on rental supply by incentivising current owners of short stay accommodation to return the property to the private rental market. Once implemented, the registration scheme will be a critical first step for understanding and managing the impacts of STRA on housing markets, particularly in tourist areas. Appropriately designed State level planning guidance, coupled with place-appropriate local government level planning strategies can be rolled out to incentivise the return of STRA to the private market.

<sup>22</sup> These numbers are for “unhosted” properties, where the guest has exclusive possession of the property.

<sup>23</sup> DMIRS (2023) Short-term rental accommodation reform. <https://www.commerce.wa.gov.au/consumer-protection/short-term-rental-accommodation-reform>

## RECOMMENDATIONS

**We recommend permanent, adequate, rolling funding and financing mechanisms from government, to deliver a pipeline of affordable rental housing in line with evidence-based need.**

### **(F) International experience of policies that effectively support renters**

**Germany – German tenancy law is set up in a way that protects the tenant.** Tenants are safe from sudden evictions. The majority of rental contracts are indefinite and shorter fixed term contracts are available to students and others who want a short contract. Every tenant in Germany is protected by the legal notice of contract termination of at least 3 months. Additionally, landlords can't cancel rental contracts without a legally valid reason.

**USA – some states have a more strongly regulated rental market.** Some of the older apartment buildings in NYC have rent control that generally keeps rent lower than the market. The Uniform Law Commission (ULC) completed the Uniform Residential Landlord and Tenant Act in 1972 and some states have adopted part or all of it. Among other things, it outlines a process by which tenants can be evicted due to certain breaches. It also has provisions that protect tenants from acts of retaliation should they request maintenance for example.

**Sweden – Stronger rental controls and a right to housing.** In Sweden everyone has a right to housing and stronger rental controls exist than in many parts of the world. Rent is set in the majority of apartments, through collective bargaining of the Tenants Union with both public and private landlords.<sup>24</sup>

**New Zealand – Increased security for tenants.** Landlords must give a specific reason (outlined in legislation) for ending a periodic tenancy. All Fixed Term tenancies will revert to periodic tenancies at the end of the fixed term unless landlord and tenant agree otherwise.<sup>25</sup> In an attempt to cool the New Zealand property market, Jacinda Ardern's government abolished negative gearing in March 2021 and it will be fully phased out by April 2025.<sup>26</sup>

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<sup>24</sup> D Aidone. "How bad do Australians have it? Our rental laws versus the world's" SBS News 9/8/2023 <https://www.sbs.com.au/news/article/how-bad-do-australians-have-it-our-rental-laws-versus-the-worlds/zi6s5gygx>

<sup>25</sup> Te Tuapapa Kura Kainga Ministry of Housing and Urban Development. *Residential Tenancies Amendment Act 2020*. <https://www.hud.govt.nz/our-work/residential-tenancies-amendment-act-2020/>

<sup>26</sup> Property Planning Australia. "New Zealand abolishes negative gearing" 29/3/2023. <https://propertyplanning.com.au/new-zealand-abolishes-negative-gearing/>

### **(G) The impact of government programs on the rental sector**

#### **Lack of investment in supply of social and affordable housing**

As discussed above at (E) social and affordable housing has suffered from years of underinvestment from all levels of government.

#### **Discontinuation of National Rental Affordability Scheme (NRAS)**

The National Rental Affordability Scheme (NRAS) was started in 2008 and is due to finish in 2026. It was intended to increase the supply of affordable rentals and reduce the rent for low income families by stimulating the building and investment in low rent properties. We are still in a position of extremely low supply. Unless this situation suddenly recovers by 2026, then it is important that a continuation or design of a new scheme occurs. Tenants are extremely worried about where they will be able to afford to rent when NRAS finishes.

#### **Lack of cohesive regulatory responses to short term rental accommodation**

As discussed above at (E) short term rental accommodation is contributing to reduced availability of houses available for long term rentals. Local governments have taken different approaches to regulating responses through the planning system. The Western Australian government has committed to a mandatory registration scheme, and has consulted on a draft position statement for tourism that would require development approval for houses used for more than 60 days per year as a short term rental.<sup>27</sup> Appropriately designed State level planning guidance, coupled with place-appropriate Local Government planning strategies could make a significant contribution to easing the pressure of housing supply shortages.

#### **Inflationary home building bonuses**

In June 2020 the WA State Government introduced a policy to provide \$20,000 Building Bonus grants. At the same time the Federal Government unveiled their own \$25,000 HomeBuilder package. This put unprecedented pressure on the building industry leading to a shortage of workers and materials. There are still countless WA first home buyers waiting for their homes to be completed. Future building bonuses should triage affordable rental and social housing supply.

#### **RECOMMENDATION**

**As noted above at (E) we recommend permanent, adequate, rolling funding and financing mechanisms from government, to deliver a pipeline of affordable rental housing in line with evidence based need.**

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<sup>27</sup> DPLH (2022) Short term rental accommodation. <https://www.wa.gov.au/organisation/departments-of-planning-lands-and-heritage/short-term-rental-accommodation>

**(H) Any other related matters**

**Minimum Standards**

*“Western Australian homes are amongst the least energy efficient in the modern world. Our glorified tents are often as cool inside as outside through winter and we have the energy bills to prove it.” – Associate Professor Martin Anda, Murdoch University<sup>28</sup>*

Minimum building standards for energy and thermal comfort in Australian houses lag far behind many regions. The energy efficiency of our homes can be measured by the nationwide house energy rating scheme (NatHERS). Ratings range from 0 stars, for a house that would provide no protection at all from the climate, to 10 stars, where virtually no artificial heating or cooling is needed all year round. The current minimum performance for *new homes* is 6 stars, which has been in place since 2011. However, the average energy efficiency rating of existing homes in Australia is only 1.7 stars<sup>29</sup> which is perhaps closer to a ‘glorified tent’ than anything else.<sup>30</sup>

**Inefficient homes are more expensive to heat and cool and lower-income households are more likely to live in the poorest quality housing.** Low-income households in the rental market are already struggling with the cost of living. In the twelve months to September 2022, there was a 7.3 per cent increase in CPI, with increases in food, fuel, and housing costs<sup>31</sup>, and recent ABS figures show 54 per cent of low-income households are paying more than 30 per cent of income on housing costs in WA.<sup>32</sup>

Queensland University of Technology Professor Adrian Barnett says Australia’s poor efficiency standards and indifference to insulating against hot and cold weather is a huge public health issue.<sup>33</sup> Houses that are too cold contribute to six per cent of deaths in Australia – double the rate in Sweden. And there were 36,000 deaths in Australia associated with the heat between 2006 and 2017, with heat waves predicted to worsen.<sup>34</sup> These deaths are largely due to our lack of regard for quality heating and insulation in housing.

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<sup>28</sup>M Anda (2022) “The simple steps to make our homes more sustainable”

<https://www.murdoch.edu.au/news/articles/the-simple-steps-to-make-our-homes-more-sustainable>

<sup>29</sup> COAG Energy Council (2019) *Report for Achieving Low Energy Existing Homes*.

[https://energyministers.gov.au/sites/prod.energycouncil/files/publications/documents/Trajectory%20Addendum%20-%20Report%20for%20Achieving%20Low%20Energy%20Existing%20Homes\\_1.pdf](https://energyministers.gov.au/sites/prod.energycouncil/files/publications/documents/Trajectory%20Addendum%20-%20Report%20for%20Achieving%20Low%20Energy%20Existing%20Homes_1.pdf)

<sup>30</sup>Climate Council (2022) *Tents to Castles: Building energy efficient, cost saving Aussie homes*.

<https://www.climatecouncil.org.au/resources/tents-castles-building-energy-efficient-cost-saving-aussie-homes/>

<sup>31</sup> ABS (2022) Consumer Price Index, Australia <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-priceindex-australia/latest-release>

<sup>32</sup> ABS (2022) *Housing occupancy and costs* Table 8.1.

<https://www.abs.gov.au/statistics/people/housing/housing-occupancy-andcosts/2019-20#data-download>

<sup>33</sup> K Stanton (2017) “Lack of insulation, proper fittings mean Australian houses are too cold for many-20170524-gwaxax/” <https://www.domain.com.au/news/lack-of-insulation-proper-fittings-mean-australian-houses-are-too-cold-for-many-20170524-gwaxax/>

<sup>34</sup> Climateworks Centre (2022) “Benefits of lifting Australian National Construction Code energy standards reaffirmed in joint statement” <https://www.climateworkscentre.org/news/benefits-of-lifting-australian-national-construction-code-energy-standards-reaffirmed-in-joint-statement-co-signed-by-climateworks/>

Homes with high energy efficiency and thermal comfort support the health of their residents, and at the same time reduce residents' energy bills. Combining this with rooftop solar can allow for even more significant energy savings, with the average payoff period in Western Australia being 3-4 years.<sup>35</sup> Home owners therefore have a financial incentive to build or retrofit their homes with solar PV and energy efficient products such as insulation, thermal curtains or blinds, and sealing draughts.

**For rental homes, this financial incentive doesn't exist.** If landlords pay for upgrades, it is renters that benefit from reduced running costs and thermal comfort (referred to as the 'split incentive'). Renters are not in a strong position to negotiate for these upgrades for a range of reasons already discussed in our submission, including historically low vacancy rates (as discussed above at E), fears of 'no grounds' evictions (as discussed above at D)), and fears of further rental increases (as discussed above at B).

As discussed above (see introduction) the Western Australian Government is progressing a second tranche of rental regulatory reforms, which will include minimum standards. Currently, Western Australian rental minimum standards are amongst the most limited in Australia. A cohesive national approach to minimum standards for rental homes can lift health and thermal comfort for renters, and at the same time reduce greenhouse gas emissions.

Below is a comparison of legislated minimum standards for rental properties across Australia:

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<sup>35</sup>Choice (2018) Solar panel systems payback times – Australian cities. <https://www.choice.com.au/home-improvement/energy-saving/solar/articles/solar-panel-payback-times>



**THE WORSENING RENTAL CRISIS IN AUSTRALIA – submission of the Make Renting Fair Alliance (WA)**

	WA*	ACT*	NSW	NT	QLD	SA*	TAS	VIC
Be structurally sound			✓		✓	✓	✓	✓
Weatherproof, clean and in good repair	✓			✓	✓	✓	✓	✓
Have adequate natural or artificial lighting in each room, except storage rooms or garages			✓			✓	✓	✓
Have adequate ventilation			✓			✓	✓	✓
Free from mould					✓			✓
Be supplied with electricity or gas, and have enough electricity or gas sockets for lighting, heating and other appliances			✓			✓	✓	
Have adequate plumbing and drainage		✓	✓		✓	✓	✓	
Have a water connection that can supply hot and cold water for drinking, washing and cleaning.			✓		✓	✓	✓	✓
Have bathroom facilities, including toilet and washing facilities that allow users' privacy		✓	✓		✓	✓	✓	✓
Working kitchen with stove top, oven and sink					✓	✓	✓	✓
Laundry with necessary fixtures to attach washing machine					✓	✓		✓
Heating device in main room							✓	✓
Window coverings					✓	✓	✓	✓
Fire Safety eg, smoke alarms	✓	✓	✓	✓	✓	✓	✓	✓
Electricity safety eg, two professionally installed RCDs for all lighting and power points	✓	✓		✓		✓	✓	✓
Energy efficiency eg, insulation, energy efficient appliances		✓						✓
Free from pests and vermin. Adequate waste disposal facilities	✓	✓			✓	✓		✓
Door and window locks and exterior lights.	✓	✓		✓	✓	✓		✓

**\* Currently reviewing and amending RTA legislation**

New Zealand's Healthy Homes Standards<sup>36</sup> are an excellent example of legislated approaches to tackling cold, unhealthy rental houses. The experience in New Zealand is that mandatory requirements to protect tenants need to be transparent and objective.<sup>37</sup> The Australian Healthy Homes for Renters Blueprint discusses how minimum energy efficiency standards and healthy rental homes could be implemented in Australia. It discusses how this could be achieved by mandating certain features (e.g. insulation, heating), by mandating the energy performance required of homes, or through a hybrid of these two.<sup>38</sup> New Zealand's Health Homes Standard uses a hybrid approach.

### Survey findings

When asked about their **current** rental the Make Renting Fair renters survey found:

- 57% reported issues with leaks, dampness or mould
- 56% had difficulty keeping the property cool or warm
- 49% had experienced issues with locks, doors and windows
- 33% had issues with hot water
- 30% reported storm or rain damage
- 27% reported a lack of fly screen
- 18% reported major structural repairs were needed
- 7% reported accessibility issues for example needing a ramp or grab rail in the bathroom

#### Stories from renters about keeping cool or warm

*"Requested an overhead fan in the bedroom that doesn't have an air conditioner which was refused" Couple in a private rental in Bayswater 6053.*

*"Keeping cool- did not report (may have mentioned) because it had been hot for years in summer- if there was ceiling insulation it did not do much." 63 year old living alone as a boarder/lodger in Albany 6330.*

*"Near impossible to heat and cool the house and the electricity bills are huge" Single Mum, Gingin 6503.*

*"We repeatedly asked for maintenance on the house... We had to book hotel accommodation as the air conditioner was not working during a heatwave and my partner was hospitalised for heat stroke despite us running four fans, two evaporative coolers and an ice machine that we had to purchase. We measured the internal house temperature which reached 53 degrees in the Christmas week. The property manager repeatedly threatened to evict us for filing maintenance requests." Couple, one of whom experiences a disability, in a private rental Bayswater, 6053.*

*"I have not reported difficulties with keeping the house warm/cool as I know that the Department of Housing will not do anything about it." 62 year old Public Housing tenant, Doubleview, 6018.*

<sup>36</sup> Tenancy Services (undated). *About the healthy homes standards*. <https://www.tenancy.govt.nz/healthy-homes/about-the-healthy-homes-standards/>

<sup>37</sup>C Faye Barlow, E Baker & L Daniel (2023) "Feeling frozen? 4 out of 5 homes in southern Australia are colder than is healthy. *The Conversation*. <https://theconversation.com/feeling-frozen-4-out-of-5-homes-in-southern-australia-are-colder-than-is-healthy-205293>

<sup>38</sup> Healthy Homes for Renters (2022) *Community Sector Blueprint*. <https://www.healthyhomes.org.au/news/community-sector-blueprint>

*“Asked to put aircon in and they said rent would increase by \$300 (Total \$800)” 23 year old female in a private rental, share house in Doubleview, 2018.*

*“At the beginning of the summer our aircon broke. The owner didn’t repair it straight away and decided to ‘get quotes’. It took 3 months for it to be fixed, during which time my roommate and myself got heat stroke and went to hospital, all our plants died. My roommate lost her job because she was too sick to work. And we lost our savings because we had to eat out! When it finally got repaired, summer was over.” 30 year old female renter in a share house, Carlisle, 6101.*

*“The heater broke in the middle of winter. I was informed the landlord would not replace it.” 44 year old female, private rental in Albany, 6330.*

**RECOMMENDATION**

**We recommend introduction of minimum standards for all rental housing, with:**

- 1) detailed, express minimum requirements;**
- 2) standards to protect renter health and thermal comfort;**
- 3) all residential tenancy agreements to include a term requiring minimum standards to be complied with by the lessor; and**
- 4) clear, simple processes to resolve disputes and enforce requirements.**

Minimum requirements should include:

<p><b>Baseline standards</b></p>	<ul style="list-style-type: none"> <li>● Structurally sound and weatherproof</li> <li>● Clean and in good repair (including fixtures, fittings and included appliances)</li> <li>● Adequate natural or artificial light</li> <li>● Electricity and water (including adequate hot water)</li> <li>● Required inclusions in bathroom, toilet and kitchen for functionality (eg, access to hot and cold water, sink, shower or bath, stovetop with at least 2 burners, food preparation area)</li> <li>● Adequate plumbing and drainage</li> </ul>
<p><b>Safety and privacy</b></p>	<ul style="list-style-type: none"> <li>● Windows and doors – locks, flyscreens, security screens, can open and safely leave open windows</li> <li>● Electrical and gas safety – requirements for safety checks and demonstration of compliance</li> <li>● Window coverings that block light and provide privacy</li> <li>● Smoke alarms</li> <li>● Disclosure and management requirements for hazardous materials (eg, asbestos, flaking lead paint, chemical residues)</li> </ul>

<p><b>Healthy homes</b></p>	<ul style="list-style-type: none"> <li>● Free from mould, leaks and dampness</li> <li>● Free from pests and vermin</li> <li>● Draughtproof</li> <li>● Adequate ventilation (including, as above, secure windows and doors that can safely be left open)</li> <li>● Adequate insulation (eg, a minimum R-value with transition to higher standards over time)</li> <li>● Climate appropriate heating and cooling in main room that enables occupants to maintain thermal comfort year-round:             <ul style="list-style-type: none"> <li>○ Heating/cooling capacity of appliances is suitable for the space</li> <li>○ Demonstrated compliance prior to occupancy (eg, requirement for certificate evidencing assessment/calculation of satisfactory thermal comfort)</li> <li>○ Minimum energy efficiency for heating and cooling appliances (this could include a phase in period, with energy efficiency standards becoming more stringent over time)</li> <li>○ Standards that build in climate resilience (eg, increases in number of hot days per year)</li> </ul> </li> <li>● Phase out gas appliances for indoor air quality and emissions reductions (eg, requirement that replacement appliances are to be electric)</li> <li>● Phase in minimum water efficiency and energy efficiency standards for appliances.</li> <li>● Flexibility introduced to enable tenants to grow food and compost (eg, tenant can seek permission for small plants and composting as ‘minor modifications’)</li> </ul>
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There should also be clear guidance for tenants about their rights and what to do if their landlord is not meeting their obligations, as well as clear guidance to help landlords understand their obligations and how to meet them. Most landlords will have no difficulty meeting baseline minimum standards. Health, thermal comfort and energy requirements can become increasingly stringent over time, and potentially coupled with incentives, subsidies or programs to encourage early action.

Governments could lead the way with large scale energy efficiency and thermal comfort retrofits in public and community housing properties, prioritising remote communities and regions where climate conditions are most extreme, and where housing is often inefficient and uncomfortable to live in. This could potentially be coupled with rooftop solar and community battery programs.

### Privacy

**Western Australia has one of the more frequent property inspection schedules, with inspections permitted every three months. Rent inspections can cause undue stress and pressure on tenants.**

Tenants are required to provide personal information, but often their highly sensitive documents aren't protected under standard privacy laws.

Some tenants complain that the rental inspection often feels like a judgement about them and how they live, with comments about general cleanliness and clutter rather than substantive issues relating to the condition of the property. Inspections often include taking photos inside the home with tenants' possessions, which can be intrusive or make tenants feel vulnerable. Tenants are also required to disclose a wide range of personal information including bank details, which can pose a security concern especially as there aren't privacy laws covering all real estate agents or landlords.

It is standard practice to undertake property inspections in WA every three months. However, in Victoria and the ACT it is a maximum of once every 6 months, which is adequate and working well. The current advice from the WA regulator states "If photographs or video recordings are taken at the time of the property inspection or other required activity by the lessor, it is recommended that all photographs or video recordings are sighted, signed and dated by all parties. The photos taken should not depict anything beyond what is necessary. You should ask if the property manager intends to take photos and ensure personal items are put away before the visit. Photographs and/or video recordings are not a substitute for accurate written descriptions of the condition of the property."

Tenants are now required to provide extensive personal information, including employment and banking details, when applying for a property. However, there is currently no standard procedure for storing or disposing of this information. These documents are highly sensitive and many are not currently protected under standard privacy laws and regulations.

### **Survey findings**

When asked about the frequency and purpose of **rent inspections**, the survey found:

- 56% feel stressed or anxious about the frequency of inspections
- 55% feel anxious about the landlord taking photos or videos during the inspection
- 42% I feel anxious about the landlord looking through my belongings during the inspection
- 13% have caught a landlord or property agent going through my private belongings, cupboards or drawers
- 70% are not satisfied with the frequency and nature of my rent inspections

#### **Stories from renters on invasions of privacy**

*"I have caught the property manager photographing inside my underwear drawer while I was home alone with him. Also experienced sexist/homophobic remarks when I ask for repairs as he says if we weren't lesbians my boyfriend could fix these things for me. He also asks lots of personal questions about our relationship and has told me that he thinks about us having sex which creeps us out. We now have a male friend over during inspections to keep me safe."*

*"I have found the person doing the rent inspections feels they have the right to open anything, draws, cupboards etc during the inspection."*

*"We have had people go through our storage cupboards and have had negative reviews about fingerprints on lightbulbs. We feel that we need to put in a considerable amount of effort to make sure the house is showroom quality. We also take time off work to be available for the inspection as we have caught agents going through our belongings."*

*“I am always present for inspections because I know of other agents that do go through peoples cupboards without cause or due process.”*

*“One property manager opened and looked in my washing machine and dryer and told me I had too many clothes which was why the laundry trough was blocked! Also had a rude note left by the property manager saying he assumed I would be fixing the broken blinds. I had notified the agent months prior that the blinds had broken in normal usage and I had sliced my finger open (I sent photos at the time) on the old, brittle metal part of the blinds. The property manager responded to my email reminding him of this, that he couldn't be expected to know everything about properties when he is doing inspections. I was shocked by that one – what else is he supposed to know about except the property itself??”*

*“We still get 3 monthly inspections despite being her for over 10 years”*

*“It's like it's an invasion of my privacy. I have been here for 5.5 years and there has never been anything they weren't happy with so I feel they should reduce the amount of inspections*

*“We have been here for over 5 years. There is NO need for 3 monthly inspections any more. It's an invasion of privacy.”*

*“Considering the state of disrepair the place is in structurally, and that most maintenance required is not done, I have to wonder why they bother with inspections.”*

## RECOMMENDATIONS

**We recommend that after the initial inspection at three months, rental inspections should be no more than twice a year, to avoid unnecessary stress and imposition on tenants.**

**We recommend legislated privacy protections that apply to tenants' personal possessions, tenancy documentation and personal files and photos taken in the course of inspections and maintenance issues:**

- Tenants should be able to prevent their personal possessions from being photographed if they object, in writing, on the grounds of privacy or personal security.
- Any photos taken should always be shared with the tenant and should only include relevant content such as maintenance issues.
- Documentation and personal files associated with a rental application or tenancy should be protected by Privacy Laws and dealt with in confidence and disposed of appropriately.

**We recommend training and regulation for property managers to standardise practices and ensure fair and consistent treatment of tenants.**

- The focus should remain on substantive property management issues rather than a general assessment of the tenant and how they live their life.

## CONCLUSION

WA renters are overwhelmingly:

- **Insecure** – 3% of renters are on leases longer than 2 years & have the fear of eviction for no reason hanging over them every day

## THE WORSENING RENTAL CRISIS IN AUSTRALIA – submission of the Make Renting Fair Alliance (WA)

- **Stressed & Hurting** – with unlimited rent increases and the highest increases in the country
- **Living in poorly regulated homes** – 56% have experienced issues with leaks, damp or mould or keeping cool or warm
- **Fearful of asserting their rights** – 71% of WA renters are concerned a request for repairs or maintenance would make the landlord less likely to renew their lease
- **Trapped** – Vacancy rate of 0.5% in Perth in August means they cannot move to a more affordable place and
- **At the back of the pack** compared with the rest of the country.

### Attachments:

- **Attachment A: Independent Polling on Investor Motivations – May 2023** – Polling covered nine issues relating to investor motivations, investor understanding of their current rights, and level of community support for reforms to the Residential Tenancies Act.
- **Attachment B: Response to REIWA “Synergies Report”** – An independent analysis and critique on the findings and methodology used in the Real Estate Institute WA (REIWA) / Synergies Report ‘Economic Cost of Reforms to the WA Residential Tenancies Act’ submitted to government. Prepared for Shelter WA & Circle Green Community Legal and available here: [https://www.shelterwa.org.au/wp-content/uploads/2022/08/Response-to-REIWA-study\\_FINAL2.0\\_28July2022.pdf](https://www.shelterwa.org.au/wp-content/uploads/2022/08/Response-to-REIWA-study_FINAL2.0_28July2022.pdf)

# MAKE RENTING FAIR

## Independent Polling on Investor Motivations – May 2023

### Overview

Independent polling was conducted in May 2023 by Painted Dog Research group operating in line with the international standard for market, opinion and social research (ISO 2052). The survey was conducted Thursday 18/05/23–Tuesday 23/05/23, with a split of WA Metro (80%) & Regional (20%) responses. The sample size was n=804 including 168 current investment property owners. The quota sampled and post weighted to be representative of WA 18+ population.

The polling covered nine issues relating to investor motivations, investor understanding of their current rights, and level of community support for reforms to the Residential Tenancies Act..

### Findings

#### ISSUE 1: MOTIVATION TO INVEST

**QU: What motivated current owners of investment property in WA to invest in property?**

<b>Table 1: Motivation to invest</b>		
<b>What motivated you to invest in property?</b> (SHWA16)	Setting myself / my family up for the future	<b>58%</b>
	Steady income stream / rental Income	<b>36%</b>
	Secure investment / secure place to store money	<b>34%</b>
	Tax benefits	<b>25%</b>
	Capital gains	<b>22%</b>
	Provide housing to family member(s)	<b>18%</b>
	To rent it out temporarily (before developing further / moving in)	<b>17%</b>
	Satisfaction with tenancy laws / regulatory environment*	<b>8%</b>
	Other (please specify):	<b>3%</b>

\*Given respondents could select multiple reasons, it's even more powerful that regulatory reform was so low.



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## ISSUE 2: BARRIERS TO NEW INVESTORS

**QU: What do investment property owners believe would be the biggest barrier to a new investor coming into the market right now?**

<b>In your view, what would be the biggest barrier to a new investor coming into the market right now?</b>  (SHWA17)	Increased investment costs / house prices	<b>41%</b>
	High / increasing interest rates	<b>31%</b>
	Low availability / demand of houses / properties on the market	<b>16%</b>
	Tenancy laws / government changes (e.g., property changes, rental caps, terminations etc)**	<b>10%*</b>
	Uncertainty in the market generally / volatility (e.g., house prices)	<b>6%</b>
	High / excessive taxes (e.g., capital gains taxes, removal of negative gearing))	<b>5%</b>
	Bad tenants (e.g., not looking after the property etc)	<b>5%</b>
	Increased cost of living (e.g., inflation etc)	<b>3%</b>
	Lack of understanding / research / financial literacy	<b>3%</b>
	Poor investor protections (e.g., from bad tenants)	<b>3%</b>
	Tighter lending restrictions from banks	<b>3%</b>
	Stamp duty costs	<b>2%</b>
	Build time of a new home	<b>2%</b>
	Cost of maintaining property	<b>2%</b>
	Lack of incentives to invest in the market (e.g., no tax incentives)	<b>2%</b>
	Cost of building	<b>2%</b>
Poor capital gains	<b>2%</b>	
Poor quality of new builds	<b>1%</b>	

\*\*In relation to this answer, it's crucial to note that the raw verbatim answers provided by respondents listing "tenancy laws" as a barrier to new investors demonstrated a lack of understanding about the rights and protections landlords currently enjoy, and/or a fear that current rights will be lost under the proposed reforms.

For example, respondents stated:

# MAKE RENTING FAIR

- *“Poor protection for the investor, tenants can ruin a property with little consequence.”*
- *“Landlords having less rights & so-called rent freezes”.*
- *“Tenants have more rights than the landlord - Investment property is untenanted and will remain so.”*
- *“Changes to real estate laws the owner seems to no longer own house.”*

Our conclusion is the figure of 10% is artificially high due to a lack of understanding amongst investors around the strong rights they already enjoy. .

### **ISSUE 3: INTENTIONS WITH CURRENT INVESTMENT PROPERTY**

The survey asked residential investment owners with a property that is currently tenanted (n=168) about their current intentions with the property.

<b>Which of the below apply to you...</b>  (SHWA18)	I am currently considering selling my investment property in the next 12 months	<b>31%</b>
	I have previously sold an investment property in the last 3 years	<b>17%</b>
	My investment property is currently in the short-term rental market (e.g., Airbnb)	<b>5%</b>
	None of the above	<b>54%</b>

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## ISSUE 4: REASONS WHY CURRENT INVESTORS ARE CONSIDERING SELLING

Qu: Why are you considering selling your investment property?

Table 4: Reasons for considering selling rental property in the next 12 months		
<b>Why are you considering selling your investment property?</b> (SHWA18-N12M)	A good time to sell / high house prices	<b>18%</b>
	Lack of capital gains / cost too high / cutting our losses <i>("The cost is too high so we're cutting our losses")</i>	<b>17%</b>
	To purchase a different investment property / have other properties	<b>14%</b>
	Interest rate increases	<b>13%</b>
	Stress of ownership / being a landlord	<b>10%</b>
	To pay off / service another mortgage	<b>9%</b>
	Poor experience with tenants (e.g., damage, loss of rental income)	<b>9%</b>
	Financial issues / impact of increasing cost of living / change of circumstances	<b>8%</b>
	Can invest in other things (e.g., share market / super)	<b>8%</b>
	Cost of overheads (e.g., insurance, rates, land tax)	<b>8%</b>
	No reason / don't know	<b>5%</b>
	Cost of repairs / maintenance	<b>3%</b>
	Rental increases not keeping up with interest rate increases	<b>2%</b>
	Tenancy law reforms	<b>0%</b>

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## ISSUE 5: REASONS FOR ACTUAL SALE IN LAST THREE YEARS

Qu: Why are you considering selling your investment property?

Table 5: Reasons for actual sale in last three years		
<b>Why are you considering selling your investment property?</b> (SHWA18-N12M)	Financial issues / impact of increasing cost of living / change of circumstances	19%
	To purchase a different investment property / have other properties.	15%
	Lack of capital gains / cost too high / cutting our losses	14%
	To pay off / service another mortgage	11%
	Interest rate increases	10%
	Poor experience with tenants (e.g., damage, loss of rental income)	9%
	A good time to sell / high house prices	8%
	Better return on investment	3%
	Cost of repairs / maintenance	3%
	Stress of ownership / being a landlord	3%
	Specific issues with the location (e.g., neighbours)	3%
	Negative experience re tenancy laws (e.g., favour the tenant over landlords too often)	3%

## ISSUE 6: REASONS FOR ENTERING THE SHORT STAY (EG AIRBNB) MARKET

Qu: What are the reasons you have entered your investment property onto the short-term market (e.g., Airbnb)?

Table 6: Reasons for entering short term rental market (e.g. Airbnb)		
<b>What are the reasons you have entered your investment property onto the short-term market (e.g., Airbnb)?</b>	Better rental income available / "extra money"	40%
	No reason provided**	20%
	Tourist surge / Increased tourism	20%
	Better tenants	20%

\*\* We have sought further information on this grouping.

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## ISSUE 7: INCENTIVES TO BRING RENTALS BACK INTO THE LONG-TERM RENTAL MARKET

**Qu: What incentives would be likely to bring you back onto the long-term rental market?**

What incentives would be likely to bring you back onto the long-term rental market?	Better rental income or greater return on investment	<b>40%</b>
	Unsure	<b>20%</b>
	An increase in tourism	<b>20%</b>
	Legislation	<b>20%</b>

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## ISSUE 8: INVESTOR UNDERSTANDING OF THEIR RIGHTS – INCLUDING GROUNDS FOR EVICTIONS

**Qu:** Below is a list of some potential grounds for tenant eviction. Please select which ones you believe are true.

<b>Table 8: Investor understanding of current grounds for eviction</b> (*Note all of the grounds listed are prescribed grounds under the Residential Tenancies Act 1987)		
<b>Which of these reasons do you think are true?</b>	Without grounds evictions	<b>25%</b>
	Undue hardship where landlord suffers significantly if they have to continue with tenancy	<b>39%</b>
	Breach by tenant causing a nuisance to neighbours	<b>49%</b>
	Sale of premises (property has been sold by landlord)	<b>53%</b>
	Breach by tenant for not keeping property reasonably clean	<b>53%</b>
	Breach by tenant for unauthorised pets	<b>55%</b>
	Additional provisions for social housing tenancies	<b>56%</b>
	Mortgagee repossession where bank or mortgagee terminates	<b>60%</b>
	Abandoned property where landlord suspects the tenant has abandoned or won't return to the property	<b>68%</b>
	Frustration - where property is uninhabitable due to natural disaster for example	<b>68%</b>
	Breach by tenant for changing the locks or unauthorised changes	<b>71%</b>
	Breach by tenant for unauthorised subletting	<b>77%</b>
	Breach by tenant using the premise for illegal purpose	<b>83%</b>
	Breach by tenant for rental arrears	<b>84%</b>
Breach by tenant causing serious damage to the property or people	<b>85%</b>	

# MAKE RENTING FAIR

## **ISSUE 9: SUPPORT FOR REFORMS OVERALL**

**Recently, proposed changes to the Residential Tenancies Act have been reviewed. To what extent do you support or oppose the following?**

### **Ensuring that tenants can't be evicted without a valid reason**

- 74% overall support (44% strongly support)
- 66% overall support by current investors
- Only 18% of investors oppose (incl 9% strongly oppose)

### **Having a clear list of grounds to evict a tenant**

- 86% overall support (59% strongly support)
- 78% overall support by current investors
- 9% of investors oppose

### **Introducing Minimum standards to rental properties (e.g., insulation, adequate and efficient heating)**

- 80% overall support (51% strongly support)
- 66% overall support by current investors
- Only 12% of investors oppose (incl. 1 % strongly oppose)

### **Limiting rent increases to once per year**

- 79% overall support (52% strongly support)
- 60% investors support overall
- 20% of investors oppose

### **Introducing some type of rent stabilisation mechanism (e.g., limiting rent increases to CPI)**

- 70% support (40% strongly)
- 47% overall support by investors and another 17% neither support or oppose
- 17% of investors strongly oppose

*These findings demonstrate strong agreement on all proposed changes – most strongly among the younger age groups.*

Raw data for all questions can be provided on request to [Sara.Kane@anglicarewa.org.au](mailto:Sara.Kane@anglicarewa.org.au)



## **Response to the REIWA ‘Synergies’ report**

**An independent analysis and critique on the findings and methodology used in the Real Estate Institute WA (REIWA) / Synergies Report ‘Economic Cost of Reforms to the WA Residential Tenancies Act’ submitted to government**

**Prepared for Shelter WA & Circle Green Community Legal**

**July 2022 FINAL**

### **Contributors**

A number of independent academic and tenancy law experts contributed to this paper, including the Australian Housing and Urban Research Institute (AHURI) Curtin Research Centre and Dr Chris Martin (City Futures Research Centre, UNSW Sydney).

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## **Purpose of this Report**

This report outlines why reform of the WA Residential Tenancies Act is critical for renters and landlords, will strengthen renting in WA, and will bring overwhelming benefits to the community.

The tenancy reforms proposed will increase the security and wellbeing of Western Australia's 700,000 renters.

**This brief, independent response to the Synergies report discusses why reform is essential and highlights the impact on the rental market from tenancy act reform in other jurisdictions. It discusses and rebukes the five key findings from the Synergy report outlining flaws in methodology, costings and assumptions described for each.**

## **Summary of REIWA 'Synergies' study**

The Synergies report 'Economic Cost of Reforms to the WA Residential Tenancies Act' (the Synergies report) for REIWA focuses on two reform proposals that are of particular concern to the real estate lobby:

- the proposal to remove the right of a property owner to terminate a tenancy, unless it is done so on prescribed grounds (such as the owner wishing to sell or move back in); and
- the proposal to remove the requirement of a tenant to seek consent of the property owner to make minor modifications to the property (such as installing a picture hook). (p3)

The Synergies report argues these changes will increase the cost of managing rental properties, erode owners' rights over their asset, cause investors to exit the market, and decrease rental stock. The report ignores the most important issue relating to the proposed change: the positive impact for tenants.

## **The importance of security of tenure and a place to call home**

The Synergies report claims that the changes being proposed are "at odds" with independent findings from the Bankwest Curtin Economics Centre (BCEC) 2018 report on the private rental sector (Rowley & James, 2018) which, according to the Synergies report, "found WA tenants are the most satisfied with their rental arrangements of any Australian state or territory"<sup>1</sup>.

In fact, the BCEC report showed satisfaction with the private rental market in WA compared with other states was at best only marginally better and in some instances worse than other states.

More importantly, the BCEC report on the private rental sector highlighted how a lack of security is an issue for almost a third of private rental sector (PRS) tenants (Hodgson et al., 2018; Rowley & James, 2018).

It found

- Around a third of tenants were forced to leave their last property (31 per cent) with the primary reason being the owner selling the dwelling (Rowley & James, 2018);

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<sup>1</sup> Synergies Report page 3 citing Bankwest Curtin Economics Centre (2018) The Private Rental Sector in Australia. p.31

- 46 per cent of survey respondents indicated they would choose to sign a lease longer than one year demonstrating a strong appetite by tenants for longer leases, and thus greater security; and
- Only eleven per cent of tenants surveyed had a lease of two years or longer.

These findings contradict the Synergies report attempting to ‘Brightside’ tenants’ experiences in the WA rental market and in fact provide strong evidence for the need to **improve** security of tenure. The BCEC authors argue

“Security of tenure is often highlighted as the biggest issue within the PRS (Duncan et al., 2016). Short-term leases and uncertainty around how long a tenant can stay have a negative impact on the feeling of home. Other countries do not seem to have these issues (Martin et al., 2018.)” (Rowley & James 2018 p21).

The growing proportion of older renters in Australia and WA (Hodgson et al., 2018) and the evolving housing aspirations of younger households (see James et al., 2019; Parkinson et al., 2019) brings into sharp focus the vital role of the PRS and the need to make it a secure environment that households can call home. Older tenants mainly rent because they have no other choice (James et al., 2019). Indeed, the percentage of renters aged 45-64 years increased from 18 to 27 per cent in the 20 years to 2016 (Morris et al. 2021, p. 16). The BCEC survey found that not only were older tenants more likely to be in housing stress compared to their younger counterparts, but a greater proportion would be willing to sign a lease longer than 12 months because of the desire for security (Hodgson et al., 2018).

Specific to this cohort is the need for modifications to enable older households to age safely in their dwellings. Combined with longer leases, and the removal of no grounds termination, modifications enable older Australian to age in place in the PRS, a factor which could prevent premature entry to aged care. While many respondents indicated that their property managers and landlords were supportive of modifications to support ageing in place, over 20 per cent reported that it was difficult to get modifications made or rents were increased as a result of these modifications (Hodgson et al., 2018).

While the experience of living as a private renter is highly dependent on the legal and administrative terms governing landlord and tenant behaviour (see Morris et al. 2021, 18), **regulations to protect tenants’ rights are comparably weak by the standards of many other advanced economies** (Yanotti and Wright 2021; Hulse et al. 2018).

Security of tenure is a factor which underpins many Australians’ housing aspirations and contributes to the housing aspiration gaps experienced by tenants in the private rental sector (Stone, Rowley, Parkinson, James, & Spinney, 2020 (forthcoming)). No grounds termination undermines any sense of security. Hodgson et al. (2018) argued that the availability of no grounds termination may compromise a tenants’ willingness to assert their rights for fear of receiving a retaliatory eviction notice. Therefore, replacing no grounds termination with prescribed grounds for termination would provide security to tenants while still ensuring that the landlord had the right to terminate a lease on prescribed grounds. With very small numbers of tenants actually evicted under no grounds termination, as highlighted in the Synergies report, such a change should not make a massive difference to landlords but it will make a very positive difference to tenants and their experience of renting.

## **The impact of residential tenancies act reform in other jurisdictions**

The Synergies report has not included any evidence of the impacts of similar reforms introduced in other states. Such evidence would be the most reliable indicator of the extent to which proposed changes would affect the current private rental market.

In yet-to-be published research by the University of NSW, analysis of bond data in NSW and Victoria found **no evidence** of any disinvestment effect in the two reform episodes studied. A recent media report suggested the Victorian rental reforms have not led to an increase in rents or sales by landlords (Carbines 2022).

In breaking news, the ACT has just announced a proposed on the removal of 'no cause evictions' and bidding on rental properties. Announcing the release of the bill for consultation, ACT Attorney-General Shane Rattenbury said:

"With growing pressure on rental affordability and availability, the ACT government is modernising tenancy laws to create more secure housing and a fairer rental system for all Canberrans. The bottom line is people deserve a home to live in and shouldn't be evicted without a legitimate reason. The ACT government has committed to end no-cause evictions to help address the power imbalance that currently exists between landlords and a tenant. We heard from tenants that removing no-cause evictions will give them better security of tenure and greater confidence to assert other tenancy rights without fearing eviction. The proposed reform strikes a careful balance of giving tenants better security of tenure, while also ensuring landlords can continue to manage their properties effectively."<sup>2</sup>

## **The REIWA Synergies report**

This section discusses the findings of the report and questions some of the major assumptions behind the analysis. Independent experts examined the report with specific regard to the modelling and assumptions underpinning its findings and found a number of areas of concern. Each of the five key findings of the report are summarised and reviewed below, with flaws in methodology, costings and assumptions described for each.

## **Overall flaws in the Synergies report**

The report argues the rationale for these proposed reforms and the existence and scale of the problems have not been adequately established by the Department of Mines, Industry Regulation and Safety (DMIRS). (p3). This is simply incorrect. There has been vast empirical evidence on the need for reforms

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<sup>2</sup> <https://www.abc.net.au/news/2022-07-27/act-rental-bill-propose-remove-no-cause-evictions-public-consult/101271884>

and the scale of the problems in the private rental market for decades (see the section above, for example).

The Synergies report concludes the proposed reforms would have a massive, negative impact on the private rental sector. As noted above, there is no evidence to support this from other jurisdictions in Australia, or around the world, that do not permit no grounds eviction and provide the limited freedom for tenants to make minor modifications to their dwelling.

The Synergies report uses the more recent Australian rental housing conditions (ARHC) dataset<sup>3</sup>, to support arguments around WA tenants wanting short term tenancies, undermining the need for increased security. Their discussion assumes tenants are making decisions by choice rather than being forced to move due to landlord decisions or affordability. The BCEC survey identified around 31 per cent of renters were forced to move (Rowley and James 2018). The ARHC data shows just 27.3 per cent of WA tenants have lived in their dwelling for 2-5 years, more than any other state.

The Synergies report also stated that *“only a [sic] 16per cent of WA tenants expected to be residing at their current same property in five years [sic] time”*, again assuming that is a tenant choice rather than tenants believing they will be forced to leave because of a lack of security. The reality is, as shown in the BCEC survey, some tenant decisions are made by choice, and some are forced. Reducing the number of forced moves, whether it is due to general market affordability or landlord decisions, increases household wellbeing. It also saves considerable financial costs and disruption to tenant’s lives. Tenancy reform should reduce the number of forced moves.

It is usual when reporting the results of a survey to discuss the population, sample, response rate, confidence level and margin of error to provide an indication of the robustness of the survey results. While the Synergies survey does note how around 3,000 responses were removed from analysis, it doesn’t discuss the issues above or contrast the characteristics of those responses removed with those retained. Synergies also note the survey selection bias given it covers only REIWA members and not other investors which typically account for around a third of all private rental dwellings (ABS Census 2016).

Additionally, they state *“it is possible that respondents who gave their time were more passionate about the issues raised in survey than non-participants”* (Synergies, p30). This is emphasised by 44per cent of the sample owning multiple investment properties compared to 29 per cent of all Australian property investors (Synergies p36). The results of the survey should therefore be treated with some caution.

**The five key findings or claims made in the Synergies report are discussed in turn below.**

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<sup>3</sup> The Australian Rental Housing Conditions Dataset, 2020 (<https://ada.edu.au/the-australian-rental-housingconditions-dataset/>)

## **Claim 1: Increased management costs**

The report relies heavily on claims the two proposed reforms would increase the cost to manage an investment property by \$550-\$699 per year. These are estimates based on outcomes that might, or might not occur so the figure is speculative. A more appropriate methodology would have been to consult with property managers in Victoria, for example, to identify the actual increases in costs resulting from similar reforms. This would have delivered much more robust evidence.

The purported cost increase included additional time and out of pocket expenses of \$250, and a 10-30 per cent increase in costs incurred by property managers equating to \$300-\$449 per property, of which 70 per cent is passed on to the owner. The study concludes this equates to an aggregate increased cost of \$142.5 million across the rental sector.

This finding is questionable for the following reasons:

### ***Costs relating to Modifications***

The estimation that an owner will incur additional expenses of \$250 due to allowing a tenant to make minor modifications is flawed for the following reasons:

- It is questionable that allowing minor modifications by a tenant adds additional management time and expenses to the owner: in fact, the opposite would be expected. Both owner and agent would save time and expense by no longer having to respond to requests by tenants who wish to make minor modifications such as hanging a picture.
- Further, the owner is protected against any additional costs that may be incurred by restoring or repairing modifications made to the property through the 'make good' provision proposed, in addition to the collection of bond from tenants at the time of lease. The landlord may, in fact, benefit from the tenant improvements through increase rents from a new tenant.

On a broader level, there is strong evidence that the issue of having landlords and real estate agents respond to a request for maintenance in a fair and timely manner is a much bigger issue that needs to be addressed. The BCEC 2018 report found 60 per cent of tenants renting via a real estate agent had to wait more than one week for a response to a maintenance request, with five per cent reporting they don't respond at all so they just live with the issue (Rowley & James, 2018).

### ***Costs relating to Evictions***

The Synergies report estimates that the removal of 'no grounds' termination would cause real estate agents' labour costs to increase by 10-30 per cent. Specifically, the study states:

*“Under the law change, Synergies found that the removal of ‘no grounds termination’ would lead to a significant increase in the number of breach notices issued to tenants, as this would become the only means of removing problematic tenants.” (p6)*

This is questionable and concerning for a number of reasons:

- ‘With fault’ notices already allow for termination with 14 days’ notice, while no grounds is 60 days. So realistically, if a tenant is in breach, then 14 days is much simpler and faster, and they are likely doing this.
- The researchers are therefore implying a situation wherein tenants are not actually violating their tenancy agreement, but the owner/agent wishes to rely on no grounds evictions to remove them.
- The researchers’ use of the term "problematic tenants" is loaded, alarmist, and is also incorrect. ‘Problematic’ tenants can be issued with breach notices and can be given 14 days to leave. That will not change under the proposed reforms (in fact, it is proposed that without grounds evictions remain for the first term of a tenants’ lease).
- It appears the researchers are admitting to a desire to use no grounds to remove tenants they don't like when they aren't in breach.
- The report does not discuss the positive impact on tenants and how being secure in a dwelling and having a sense of home would reduce the likelihood of tenancy breaches thereby reducing costs. The report consistently takes a worst-case scenario approach and does not factor in any change in tenant behaviour resulting from reform.

The conclusion made by the study that the reforms will impose an estimated \$142.5 million of increased costs each year across the rental sector from higher property management costs is therefore unsound. It is used, however, as the basis for many of the cost-based calculations in the report so such figures - and all subsequent findings in the Synergies report - should be regarded as similarly unsound.

## **Claim 2: Investors will leave the market**

The Synergies report found, when informed of the proposed reforms and a cost of \$500 per property, per year, 76 per cent of respondents indicated they would be ‘likely’ or ‘more likely’ to sell their property in the next two years (compared with 13 per cent absent reforms). Traditionally in a survey such as this, the survey design would ensure the policy being tested is not explicitly identified as this can lead to respondent bias with pre-conceived ideas leading to answer bias. We would therefore question the validity of such an outcome. The massive shift in attitudes based on a \$500 annual cost suggests there are issues with the way the survey is designed.

This finding that 76 per cent of investors are likely to sell their property because of the reform is also questionable because:

- Survey participants were informed of what the survey was about (the reforms proposed) and that proposed reforms would cost them \$500 or more. Respondents would have been motivated to press their self-interest and more likely to exaggerate an intention to sell, in retaliation or as a 'warning shot' not to change anything especially when posed as a hypothetical.
- Respondents' stated intention of retaliatory divestment in responses to an increased cost of \$500 appears to be greatly exaggerated, given the alleged increase in costs is extremely small compared to the huge growth in house prices and rents over the last two years, and where capital gains are in the order of \$50,000 per year. An investor is not likely to sell a \$500,000 asset because of a trivial increase in expenses.
- Further, the impact of the alleged increase in costs to manage the property are further reduced by the owner's ability to claim the full amount as a tax deduction and would actually provide a benefit to investors by reducing their taxable income suggesting responses were not fully thought through.
- It is also worthy of serious exploration why 76 per cent of investors would be 'likely or more likely' to sell their asset in response to very modest reforms. Are the large majority of mum-and-dad investors so vulnerable to minor imposts that an additional \$500 annual cost would drive them out of the sector? If so then interest rate rises presumably would mean even more investors are likely to sell in the near future.

### **Claim 3: Loss of rental housing**

The report found, based on the stated intention to divest described above, there would be an estimated loss of 93,000 rental properties, revised down by the researchers to a net reduction of 3,543-8,804 rental properties based on their housing market model, calibrated using the survey data.

Without a peer review of the modelling process and assumptions underpinning the model the outcomes are open to question. Timeframes are also unclear with around 90,000 of the sold rental properties seeming to instantly return to the rental market, despite relying on increased rents to stimulate new investment activity. It also fails to take into account how many of these properties would be purchased by households in the private rental market, given house prices will fall with the instant sale of 90,000 dwellings, therefore reducing demand and therefore rents. Housing markets are incredibly complex and human behaviour even more so, and while we understand the attempt to try and quantify the monetary impact of reforms as this has more impact on policy maker decision making, such outcomes must be robust. We would argue the assumptions underlying the modelling lack this robustness.

Another issue the report fails to take into account is the response of government to such disinvestment. There are many simple measures that could be implemented to ensure tenants do not lose their homes en-masse, including:

- Giving tenants the first option to purchase the property; and/or
- Giving Community Housing Providers the first option to purchase the property which would allow them to also take over the lease to the same tenant, and/or
- Giving the state government the first option to purchase the property as part of its 'spot purchasing' program to increase social housing stock

These are sensible and simple reforms that would counteract the significant loss of rental homes predicted by the Synergies report.

#### **Claim 4: The cost burden to social housing**

Perhaps one of the most dangerous and exaggerated findings in the Synergies report is the purported impact of the proposed reforms and sell offs to the social housing system. The report claims that, of the 3543 to 8804 properties they estimate to exit the rental market, about 815-2023 (or around 23 per cent) are expected to come from the low-tier rental segment. It states:

*“While some of these tenants may have alternative housing options, we expect the majority would be forced into social housing. The 2021-22 State Budget has allocated \$2.1 billion to fund 3,300 new social housing dwellings, which equates to an average cost of \$636,364 per dwelling. Applying this modelled loss of rental housing from the private rental market provides a measure of the additional budgetary cost to government, which is calculated to be between \$519 million and \$1.3 billion based on the modelled range of low-tier rental properties existing the market.” (p8).*

This finding is problematic for a number of significant reasons, and the figures used are based on a number of questionable methodologies:

- The researchers claim 'a majority' of tenants in low-tier rental housing would require social housing but their model assumes 100 per cent of tenants (some of which they earlier claim may go into owner-occupation). This is a deeply flawed assumption, and means the figure is inaccurate to begin with.
- The researchers use a figure of \$636,364 per social housing dwelling, which at face value is way too high. The state government has been purchasing new social housing properties through its spot purchasing program at an average settled contract value of \$356,789.<sup>4</sup> In addition, there are many ways to significantly reduce the purchase price of social housing: lower cost technologies coming on to the market (such as prefabricated and modular housing), building on government land, supporting the community housing sector to build and purchase more homes, and buying off the plan would significantly reduce or even halve the stated purchase price. In short, the researchers have exaggerated the cost to purchase new social housing by 80-100 per cent.

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<sup>4</sup>Question Without Notice No. 170 asked in the Legislative Council on 16 March 2022 by Hon Steve Martin MLC



- Again, even if the number of rental properties the study purports would be sold, there is no reason the same properties could not be kept as rental properties, if the government, community housing sector, or indeed the tenant purchased them instead, as outlined in the previous section.

The conclusion in the report that the reforms will impose between \$519 million and \$1.3 billion to the social housing sector to meet additional demand is therefore grossly exaggerated.

### **Claim 5: Increased rents**

The Synergies report found the reforms proposed will also cause rents to rise. They estimate median rental prices will rise by almost \$10 per week, which equates to a 2 per cent increase on the current median rent of \$431 per week. (p7) They conclude up to \$105 million in increased rents will be paid each year. It is uncertain why a rent increase of 10 per cent would be the case and we believe this figure to be arbitrary and contradictory.

It is also worth noting, in the absence of any reforms, rental prices in Perth have increased by 26.2 per cent over the last two years, and by 30 per cent since March 2020 when the pandemic first hit (SQM Research, July 2022).

### **Conclusion**

**The many areas of concern with the Synergies report described above, including false assumptions and exaggerated negative outcomes, as well as a lack of empirical data on the impacts similar reforms have had in other jurisdictions, lead us to conclude the findings of the Synergies report are not reliable.**

Further, we argue that housing is a human right and lessors must be encouraged to view themselves as services providers. As service providers it is fair that their product be well regulated for quality, safety, and satisfaction of the consumer, like any other industry.

**The proposed tenancy reforms will increase security for the 700,000 renters in WA<sup>5</sup>.**

Removing no grounds termination, even though it is used infrequently, improves security, and perhaps more importantly, the perception of security. This, added to the ability to make minor modifications, will improve the feeling of “home” considered so important for renters and may well lead to fewer lease breaches as a result.

The Synergy report is based on highly dubious survey outcomes and assumptions about costs to the market and government. We believe that the conclusion are not a good reflection of policy reform that is likely to improve conditions for tenants without fundamentally affecting the structure of ownership and investment in the rental sector.

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<sup>5</sup> ABS (2022) Housing occupancy and costs. <https://www.abs.gov.au/statistics/people/housing/housing-occupancy-and-costs/2019-20#data-download>

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