

# **Tenancy databases in the context of tenure management: risk minimisation and tenant outcomes in the private rental sector**

authored by

**Barbara Adkins, Patricia Short, Elspeth Mead,  
John Minnery, Rod Owens and Maree  
Heffernan**

for the

**Australian Housing  
and Urban Research Institute**  
Queensland Research Centre

August 2003

AHURI Positioning Paper No. 56

ISSN: 1834-9250

ISBN: 1 920758 63 1

## **ACKNOWLEDGEMENTS**

This material was produced with funding from the Commonwealth of Australia and the Australian States and Territories. AHURI Ltd gratefully acknowledges the financial and other support it has received from the Australian, State and Territory governments, without which this work would not have been possible.

## **DISCLAIMER**

AHURI Ltd is an independent, non-political body which has supported this project as part of its programme of research into housing and urban development, which it hopes will be of value to policy-makers, researchers, industry and communities. The opinions in this publication reflect the views of the authors and do not necessarily reflect those of AHURI Ltd, its Board or its funding organisations. No responsibility is accepted by AHURI Ltd or its Board or its funders for the accuracy or omission of any statement, opinion, advice or information in this publication.

## **AHURI POSITIONING PAPER SERIES**

AHURI Positioning Papers is a refereed series presenting the preliminary findings of original research to a diverse readership of policy makers, researchers and practitioners.

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	I
1 INTRODUCTION .....	1
1.1 Introduction .....	1
1.2 Background to the research .....	1
1.3 Paper Outline .....	2
2 TRENDS IN MANAGEMENT IN THE AUSTRALIAN PRIVATE RENTAL MARKET .....	3
2.1 Policy Impacts .....	3
2.2 Market Dynamics .....	3
2.3 Tenancy Databases in Australia .....	5
2.4 Research questions .....	7
3 POLICY CONTEXT .....	8
3.1 Introduction .....	8
3.2 Legislation .....	8
3.2.1 Legislation Pertaining to Privacy .....	8
3.2.2 Legislation Pertaining to the Conduct of Business Practices .....	10
3.2.3 Legislation Pertaining to Relationships Between Tenant and Landlord. ....	11
3.2.4 Summary of Legislative Impacts and Key Issues .....	12
3.2.5 Housing Policy Issues .....	12
4 DATABASES AND RISK SOCIETY .....	14
4.1 Introduction .....	14
4.2 Introducing Risk Management .....	14
4.3 Australian Society .....	15
4.4 Risk Society .....	15
4.5 Tenants as Data Subjects .....	16
4.6 Uses and Impacts .....	17
5 RESEARCH METHODS .....	19
5.1 Introduction .....	19
5.2 Stage One .....	19
5.3 Stage Two .....	20
5.3.1 Reference group .....	21
5.3.2 Focus groups .....	21
5.4 Recruitment .....	22
5.4.1 Property Managers (including Own-account Managers) and Real Estate Agents ....	22
5.4.2 Tenant Advocates .....	22
5.4.3 Tenants .....	22
5.5 The conduct of focus groups .....	22
5.6 Interviews .....	24

5.7	How Focus Groups and Interviews will inform the research .....	27
5.8	Summary.....	27
6	DIRECTIONS FOR THE INVESTIGATION OF THE USES AND IMPACTS OF TENANT DATABASES IN AUSTRALIA. ....	28
	REFERENCES .....	30

## LIST OF TABLES AND FIGURES

Figure 1-1: Paper Outline.....	2
Table 2-2: Overview of Tenant Databases.....	6
Figure 3-1: The Ten National Privacy Principles.....	9
Figure 5-1: Research Strategy .....	26
Figure 5-2: Timeline Diagram.....	27
Table 2-1: Housing Characteristics of Low Income Private Renters – Australia (1999)	4

# EXECUTIVE SUMMARY

1. This paper investigates the emergence and use of electronic databases that are being marketed to assist estate agents and property managers to screen prospective tenants. Electronic tenancy databases such as TICA (Tenancy Information Centre Australasia), NTD (National Tenancy Database), TRA (Trading Reference Australia) and others have emerged in Australia in recent years. The investigation of property managers' use of tenancy databases and the implications for tenants is important. They raise a number of key issues in the management of private rental tenure. Tenancy databases can have important impacts on key stakeholders in the private rental sector - landlords, property managers (in different segments of the private rental market), as well as prospective and current tenants.

2. The paper:

- Provides an outline of the range and scope of tenancy databases currently operating in Australia (Chapter Two);
- Examines the legislative, policy and social context in which these databases operate in Australia and identifies key questions for research (Chapter Three);
- Proposes a framework for enquiry that positions the use of tenancy databases within a broader context of heightened *perceived* need for risk management in 'risk societies', increasing 'individualisation' of risk and responsibility in contemporary societies (Chapter Four); and
- Outlines methods for the investigation of the use of tenancy databases by property managers and the impacts of their use on tenants (Chapter Five).

3. Tenancy databases give the technological ability for subscribers (property managers and real estate agents) to provide and access personal information about tenants, including details of breaches of, or defaults on, any condition of tenancy. Database operators claim that they provide a reliable means of identifying 'high risk' or 'bad' tenants. The use of tenancy database records for screening tenants has become routine among large-scale property managers in Australia.

4. The paper gives an overview of the six tenancy databases currently operating in Australia, identifying their areas of operation and the basis on which they include tenant information.

5. Both policy and market influences on the private rental sector appear to have placed more demands on property managers and greater responsibility upon tenants as individuals to negotiate successful tenancies.

6. Policy shifts in public funding for housing assistance have created a market environment in which property managers in the private rental sector must now deal with high levels of competition for low-cost housing stock and increasing demand from low-income tenants and those with complex needs.

7. Because tenancy databases have emerged as a tool of governance of private rental tenure in the context of complex management issues, it is important to investigate their use and impacts from a tenure management perspective as well as from the perspective of different categories of low-income tenants who now form distinctive sub-markets in the private rental sector.

8. The complexity of management issues in the private rental market in Australia is heightened by a distinctive context of small-scale owner investment that produces patterns of relatively poor quality management and higher levels of financial vulnerability among property owners.

9. When this is combined with the relatively high numbers of lower-income tenants with associated economic and social needs it leads to a situation with great potential for tenant-landlord conflict.

10. These market dynamics point to conditions that are conducive to the perception of the private rental sector as in need of 'risk management' to ensure the security of investments of property owners.

11. Tenancy databases have emerged in this context and have been marketed by commercial operators as effective tools for the efficient management of risks at the point of screening and selection of tenants for occupancy.

12. However, reviews of the legislative context of tenancy databases in Australia point to allowance for significant discretion on the part of property managers in the listing and screening of tenants and an attendant emphasis on self-regulation on the part of database operators and subscribers. This places the onus on tenants to access their personal information stored on databases, and to seek redress if they believe that they have been listed in a way that contravenes legislation.

13. Therefore, concerns have been raised (Guthrie, 2002) about the way the databases operate and specifically about problems that can arise from an absence of legal safeguards against inappropriate listings, breaches of privacy, inappropriate threats to list and inadequate dispute resolution processes. Current research has not, however, identified the possible impact on tenants of the mere presence of databases, even if they are not listed on them.

14. It is argued here that these matters are of critical concern to policy makers attempting to address means through which disadvantaged private renters can negotiate the private rental market to achieve 'successful housing'. Some of these are being partly addressed in current amendments to residential tenancy legislation in some Australian jurisdictions. The key concerns centre around:

- The practices of property managers who wish to maximise their capacity to manage risks for the benefit of property owners in an increasingly complex private rental market (eg the need to manage both economic and social risks); and
- The potential to limit housing access for tenants (eg exclusion from formal private rental through the screening mechanism and/or as a result of tenants in/capacities to negotiate economic barriers or barriers inherent in the complexities of the regulatory environment).

15. There is a need to develop an evidence base for identifying both housing access and property management issues that result from the perceived need to manage risks (for investor and manager) in different segments of the private rental sector in Australia, and to investigate the principles which currently inform the use by property managers of electronic tenancy databases.

16. To this end, this paper proposes a conceptual approach to inquiry that locates the use of tenant databases in Australia as a response to the perception of risk and considers this within a broader context where a 'rhetoric of risk' has become a central 'logic of practice' (Beck, Giddens and Lash, 1994) in contemporary societies.

17. A key aspect of the emergence of the risk society that is important for the study of tenant databases is the process of 'individualisation'. In this the individual is seen as disembedded from social networks and relationships and they (rather than social networks or institutions) are presumed to be responsible for their own biography or life-course.

18. This approach draws attention to:

- The importance of individualised choice and discretion on the part of property managers using tenant data bases in the private rental market in Australia, rather than following common regulated practice;
- The way that tenants may be viewed as being outside the social and economic context that may have led to tenancy problems so that they become seen merely as individual data-subjects; and
- The way this creates different categories of tenants with different capacities and resources to negotiate relationships with property managers and ultimately their access to housing in the private rental market.

19. From this perspective, the research proposed in this paper focuses on the following questions:

- What are the current operating practices adopted by tenancy databases in Australia? Are there uniform procedures or variations within Australia, and how do these compare with those adopted overseas?
- What processes and strategies are pursued by Australian private real estate and property managers (including estate agents and self-managing private landlords) to screen and minimise exposure to risk in the private rental sector?
- What is the role of tenant databases in the context of broader risk minimisation strategies in the private rental sector in Australia?
- What screening and risk management strategies are pursued by those landlords who do not have access to the databases, or who choose not to list tenants?
- What are the impacts on current and future housing and tenure options for tenants?

20. These questions will be addressed through:

- A review of operation of tenancy databases nationally and a comparison internationally;
- Focus group and individual interviews with property managers and property owners in Queensland, New South Wales and Victoria; and
- Focus group and individual interviews with tenants and tenant advocates in Queensland New South Wales and Victoria.

21. The research informed by this paper will thus provide an intensive analysis of the ways in which the use of tenant databases by some property managers in the private rental market may be influencing the processes of risk management across the private rental market and impacting upon housing access for low-income, high needs groups in different segments of this market. It will provide a clear basis for extending current policy on tenancy databases, based on a fuller understanding of the applications of the databases and their use and impacts.

# 1 INTRODUCTION

## 1.1 Introduction

As the continuing acquisition of social housing declines in Australia, people on low incomes and those with complex needs are increasingly dependent on the private rental market for long-term housing. The resulting 'polarisation of clientele' in combination with a relatively poor quality of tenancy management (Burke, 2000), produces a tendency to conflict and disputation between landlords and tenants. In this context, risk minimisation is likely to become an increasingly important feature of tenure management in the private rental field. This paper examines the emergence of tenancy databases – their uses and impacts – as they relate to key issues of tenure management in the Australian private rental sector. The paper proposes a framework from which to study landlords' decisions to list – and the logics employed in screening – tenants, and tenants' understandings of the implications of listing on their prospects for participation in private rental and other tenure options.

## 1.2 Background to the research

During the last decade, tenancy databases in the Australian private rental market have received growing attention in the rental community (Seelig, 1997, 1998; The Age, 1997; Gregory, 2001). These databases have been established by private companies, to identify 'difficult' or 'problem' tenants and are designed to assist estate agents and property managers to screen prospective tenants. Access to the databases is normally made available to real estate agents and property managers, but not self-managing landlords. For a fee, managing agents may obtain information regarding specific prospective tenants from the databases, and, on the basis of this information, tenants can be refused accommodation. This results in listed tenants either seeking accommodation in the non-formal private market or looking for alternative housing. It is not known when the first proper tenant 'blacklist' was established in Australia, however, formal databases run by specialist companies have been in operation for at least ten years (Seelig, 1997). It can be assumed that private landlords over a considerable period of time have used informal lists of 'undesirable' tenants.

A recent report on the implications of tenancy databases identified three issues arising from their operation: the listing of tenants on databases by database users (property managers, lessors and caravan park owners), database operating practices, and access to housing (Consumer Affairs and Fair Trading, 2001). The research informed by this paper will focus specifically on the listing practices of database users and the key housing access issues that arise as a result of their use but it will also provide an overview of the main tenancy data base operations in Australia, including the scope of their listings and the breadth of geographical coverage.

The situation with regard to tenancy databases in Australia is changing rapidly. This project was started early in 2002 and even over the period of the research changes have occurred. The situation in Queensland provides a good illustration. The Queensland Residential Tenancies Authority undertook a major study (see Guthrie, 2002), the results of which became available during the progress of the research and have been incorporated wherever appropriate. Then in May 2003 the Queensland Parliament passed the *Residential Tenancies and Other Legislation Amendment Bill*, part of which specially addressed tenancy database problems and seems to have been influenced by Guthrie's report. The dilemma for the research is finding the most effective way of taking account of these changing circumstances and yet building on the other research already completed.

Previous research on tenancy databases has largely been concerned to examine the legal and statutory issues pertaining to their use by property managers, and related implications for private rental tenants (See Chapter Three). However, current and proposed future legislation is expected to have little impact on the everyday management practices of Real Estate Agents in relation to listing and screening tenants including, for example, particular kinds of inappropriate listing practices (Guthrie, 2002: 29). Further, current legislation permits an amount of self-regulation on the part of property managers. There is little information on self-regulatory practices of database operators or subscribers and the ways in which listing practices impact on tenants' access to and participation in the private rental market. These issues need to be



examined in the context of management in this sector. Specifically, it is important to understand the ways in which databases are currently used by different categories of property managers and the ways in which these practices impact on the operations of the private rental sector from the perspectives of different stakeholders - managers, different categories of property owners and different kinds of tenants. These provide a central focus for this research and enable it to extend previous research on tenancy databases.

### 1.3 Paper Outline

The plan of the positioning paper is outlined in Figure 1-1. Chapter Two begins with an examination of the trends that influence the management of private rental property in Australia. It then outlines tenancy databases and proposes some key research questions.

Chapter Three outlines the legislative and policy contexts in which databases operate and identifies the policy areas to which the study contributes. Chapter Four locates the uses and impacts of tenant databases in a conceptual framework based on the concept of 'risk society'. The chapter then turns to broader issues of social risk management examining the social consequences of the inevitable impacts on housing access for some tenants. Chapter Five outlines the research design and methodology for the study, and concludes with a summary of the rationale and goals of the research. The paper concludes with Chapter Six, which summarises the findings to date and direction of the future research.

**Figure 1-1: Paper Outline**



## 2 TRENDS IN MANAGEMENT IN THE AUSTRALIAN PRIVATE RENTAL MARKET

There is a lack of empirical studies on management issues and practices in the Australian private rental market. However, it is possible to identify policy and market influences that are likely to raise important management issues in this sector. This section examines these influences and identifies the ways in which they are likely to impact on the management of private rental tenure.

### 2.1 Policy Impacts

In terms of National policy that impacts on the private rental market there has been a shift in funding emphasis from supply side subsidies for social housing to demand side subsidies in the form of rent assistance<sup>1</sup> (Berry, 2001). In the decade to 1995 there was a sevenfold increase in budget outlays on private rent assistance by successive Australian governments (Yates, 1997) with more support committed to the private rental sector (approximately \$1.6b per annum) than to the public rental sector (approximately \$1b per annum) (Beer and O'Dwyer, 2000). Berry observes that this trend, which crystallised in the 1996 Commonwealth State Housing Agreement now extended to 2003, has "removed the remnants of any general commitment to meeting the housing-related needs of low income and disadvantaged households" (Berry 2001:13). The policy shift is aimed at building the capacity of low-income earners to negotiate their housing outcomes rather than directly solving supply-related problems. This has led to concerns regarding the capacity of the private rental market to meet the needs of low-income tenants. As Yates and Wulff (2000) note, the increase in income supplement to low-income tenants co-exists with a decline in the supply of low-cost housing stock. This has created a market environment in which property managers must now deal with high levels of competition for low-cost housing stock and the issues raised by the influx of low-income tenants and those with complex needs into the market. These issues are outlined more fully in the next section.

### 2.2 Market Dynamics

In addition to these policy influences, other pressures on the private market to meet increasing demand have escalated over the last fifteen years. The home purchasing rate has declined by two percentage points in the two decades to 1994 (Yates, 2000), with the decline particularly marked among younger households (Bourassa, Greig and Troy, 1995). Over the decade to 1996, the private rental sector in Australia grew by 34 per cent (or three per cent per annum) compared with 19 per cent growth in home ownership for the same period (Yates and Wulff, 2000). Further, the private rental sector is increasingly used as a longer-term accommodation option, where approximately 40 per cent of households have rented continuously for more than 10 years (Wulff, 1997). This has been attributed to some extent to changes in the Australian labour market. Malone (1996) suggests that the need for greater job mobility may be resulting in an increasing tendency for households to live in the rental market, where moves out of home ownership could be a response to the need for greater mobility and flexibility. Burke (1999) has described these emerging trends as reflecting the tendency for private rental to provide the flexibility and diversity required for the production and consumption requirements of a "globalised market liberal economy".

In the context of the changing demand for private rental accommodation, it is important to examine the socio-demographic characteristics of private renters and their impact on the nature of participation in this sector. If the private rental sector is examined as a whole between the 1986 and 1996 census periods, the sector appears to have increased by 38 per cent, indicating expanding supply, while median rents increased in real terms by 7 per cent (Burke, 2000). However, a different picture emerges if the sector is further broken down into specific sub-markets defined by different consumer attributes (Burke, 2000: 5). Burke identifies the low-

---

<sup>1</sup> Rent assistance is an income supplement available to private renters who receive social security payments, and are considered "in need"

income part of the sector as a distinctive sub-market. Some key socio-demographic characteristics of this group are summarised in Table 2-1.

**Table 2-1: Housing Characteristics of Low Income Private Renters – Australia (1999)**

Population Group	Number Private Renters	Private renters as % Low Income Population	% Receiving Rental Assistance	% Paying >30% Income as Rent	% with <\$20,000 in Assets	% Living in O'crowded Conditions
Young people	272,968	46%	69%	60%	99%	5%
Older people	161,256	14%	80%	42%	68%	3%
Large Families <sup>2</sup>	23,549	36%	85%	11%	87%	39%
Indigenous Australians	31,007	51%	47%	42%	98%	15%
People with disabilities	223,873	36%	76%	48%	86%	na
Balance private renters	544,209	46%	79%	49%	85%	14%
Total DSS Population	1,256,862	34%	76%	49%	82%	9%

Source: Purdon and Twyford (2000)

Between 42 per cent and 60 per cent of each group within the sub-market (with the exception of large families), including the balance of private renters, face affordability issues, as they outlay more than 30 per cent of their income on rent. On the other hand, 39 per cent of large families experience overcrowding problems. The *Review of Additional Housing Needs for Low-Income Private Renters* (Purdon and Twyford, 2000) further contextualises the housing circumstances of different groups within this sub-market. The report points to the very high housing needs of indigenous Australians and people with disabilities. Further, it raises specific concerns about the circumstances of women in the two lowest income quintiles, estimating that “nearly 110,000 ... had experienced domestic violence from a partner in the last 12 months. Of these, it is estimated that 51% rent privately” (Purdon and Twyford, 2000).

Given the complex and diverse needs of this sub-market, it is important to consider that they are increasing in numbers in the private rental sector (Burke, 2000) in the context of a significant decline in the supply of low cost rental housing across Australia (Seelig, 2001; Yates and Wulff, 1999, 2000; Wulff, 2000). These trends are indicative of an ongoing problem of affordability for this group, empirically supported by the data in Table 1-1 above. However, the problems for this group are further compounded by the fact that they do not always compete successfully with other groups in the sector for the scarce supply of low-cost housing. Less than half of low-cost housing is actually occupied by low-income households (Seelig, 2001; Yates and Wulff, 2000).

This brief profile of the low-income sub-market of the private rental market, suggests that alongside the changes in tenure patterns outlined above, there are clearly emerging issues in the private rental market that are likely to place more demands on property managers. While the management of private rental tenure is regulated through residential tenancies legislation and other codes, the contexts in which property managers apply them are likely to increase in complexity. This raises the question of the nature of professional resources that property managers bring to these settings. Again, while there is no direct evidence of management

<sup>2</sup> This table is sourced from the FaCS Housing Dataset (June 1999) in which large families are defined have having 4+ children.

practices, the characteristics of property managers in Australia have led some to conclude that approaches to management in Australia are less professionalised than in the USA and Europe (Berry, 2000). The majority of private rental stock in Australia is managed through what Berry terms “petty landlordism”, or individual investors, partnerships and small corporate holdings (Berry, 2000). There are few institutional investors because of the perceived high risks. The profile of landlords from the 1997 *Household Investors in Rental Dwellings* (ABS, 1998) characterises them as a group comprised mostly of individual investors, who predominantly own a single rental dwelling, relying on wages or salaries for income (rather than rent), with a gross weekly income of almost double the national average of \$1009.00 (Berry, 2000). In his analysis of private rental investment, Berry (2000) observes that investors perceive the private rental sector in Australia to be characterised by relatively poor property and tenancy management practices. Burke (2000) suggests that relatively poor quality of management, when combined with relatively high numbers of lower-income tenants with associated economic and social needs leads to a situation with great potential for tenant-landlord conflict. Seelig has illustrated this in his documentation of perceptions on the part of the Queensland Property Owners Association, of growing problems of tenants defaulting on leases and damaging property (Seelig, 1997).

The policy and market dynamics of the private rental field, in combination with the specific characteristics of property managers in Australia described above point to conditions that are conducive to the perception of the sector as in need of risk management. Policy shifts from demand-side to supply-side subsidy, move from positioning tenants as accessing social infrastructure to constructing them as individualised negotiators of the market. The nature of the low-income sub-market of the sector suggests that this part of the market is likely to present increasingly complex management issues. The nature of landlordism in Australia as constituted largely by small-scale rather than institutional investors, management problems and conflicts with tenants provides a context in which the sector can be understood as risky, and so in need of risk management strategies. The paper now turns to an outline of tenancy databases in Australia in the context of risk management in the private rental sector.

## **2.3 Tenancy Databases in Australia**

Tenancy databases are electronic databases operated by commercial market providers that are marketed as a means of collecting reliable information on the tenancy history of tenants. They have been represented as a means of minimising risk to property managers and to their landlord clients, through the capacity they provide to identify defaulting tenants and tenants seen to have poor rental histories. The information on tenant databases is provided by subscribers (mainly property managers or agents) and used by property managers to screen prospective tenants. For the majority of the databases subscription is open only to registered real estate agents or owner-managers with large property holdings, although databases for the use of other lessors are now starting to emerge (Guthrie, 2002).

Within some databases (e.g. National Tenancy Database Pty Ltd., or TICA) a ‘risk’ tenant is not listed unless they have lost a Tribunal hearing. In such cases, tenants would be aware of that they are listed on the database. However, in other cases where listing a tenant has not related to a Tribunal matter, tenants may not be aware that information about them has been listed on a tenancy database. To access listed information, databases offer avenues for recourse. For instance, TICA, have a dedicated phone line for tenant enquiry with a charge of \$5.45 per minute – a practice that has attracted much criticism, as the cost for low-income tenants is prohibitive. Recent changes to the TICA website (<http://www.tica.com.au>) indicate that data subjects can write to TICA to enquire about their listing but the provision of information comes at a cost of \$11.00 and a request must be accompanied by self-identifying information such as full contact details, accompanied by passport and driver’s licence numbers.

The scope of subject records, the breadth of the subscriber base as well as the access arrangements for data-subjects are variable. This variability, evident within the Australian context is also apparent in international comparisons. Preliminary discussions and initial searches of websites of Australian and overseas operators indicate that a comparison of the scope of records, breadth of subscriber base and information access arrangements is extremely difficult, given different contexts of privacy and tenancy legislation. Table 2-1 summarises the main database operators in Australia, the kinds of services offered and the regions they cover. More

detailed comparisons of these and other services within Australia and a broad comparison with relevant operators, mainly in New Zealand, the U.K and U.S.A., are in progress.

**Table 2-2: Overview of Tenant Databases**

Company	Lists	Region covered
APOD Australian Property Owners Database Pty Ltd	Tenant history and recommended tenants	All Australian states, but particularly cover SE Queensland
LAC Landlords Advisory Service	Uses National Tenancy Database Pty Ltd	Australia wide
NTD National Tenancy Database Pty Ltd [formerly Rent Check and Remington White	Lists tenant history and referrals	Australia wide
TICA [TICA Default Tenancy Control System] Tenancy Information Centre Australasia Holdings Pty Ltd	Lists recommended tenants and those who default	Australia, New Zealand and the United Kingdom
TRA Trading Reference Australia [was Tenant Reference Australia]	Lists tenants who default	Australia wide
Tenant Check	Lists tenants who default	Australia, United States of America, New Zealand and Canada

The recent report by Guthrie (2002) provides a substantive overview of databases in Australia. Her research started at about the same time as this current project and her report has proved invaluable, although it was not available for the early period of the research. The Guthrie report has been utilised in this early section of this Positioning Paper, but the focus of the project as a whole is on tenancy management from a risk perspective and so it extends beyond that report. It deals more fully with the actual practices and approaches of tenancy database users.

Guthrie (2002) attributes the emergence of tenancy databases in Australia to two factors. Firstly, databases provide the technological ability to enable personal information to be readily stored and accessed at relatively little cost. Secondly, under Part 111 of the *Commonwealth Privacy Act 1988*, access to an individual's credit history became restricted to solely credit providers. In this context, real estate agents in Australia were specifically prohibited from access to information on the credit history of individuals through the use of credit databases. Tenancy databases, on the other hand, presented a legitimate means of tenant screening. Implicitly, these reasons depict their adoption in Australia as a response to perceived efficiencies associated with the incorporation of information technology in property management. Clearly, the management of risk is an important aspect of these efficiencies (Seelig, 2001; Guthrie, 2002). However, the need to screen tenants also appears to be embedded in a broader logic of the use of information technology in property management as a tool for speeding up the approval

process for applicants, and thus minimising the time taken to lease rental property (Kipnis, 2000).

In the context of the adoption of databases as a management tool for property managers, consumer affairs and tenant advocacy interests have registered concern about the attendant formalisation of information exchange about 'bad' tenants. Services and agencies have reported difficulty finding other forms of housing outside the formal private rental market for clients listed on databases, and some are thus becoming homeless (Tweed Interagency Group, 2001). Further, these groups have raised concerns about the way the databases operate, referring specifically to problems associated with inappropriate listings, inadequate dispute resolution processes, breaches of privacy, and inappropriate threats to list (Guthrie, 2002: 16-17). Johnston (1999) has argued that such problems also create inefficiencies in the management of private rental tenure through the institutionalisation of misinformation and disinformation.

## **2.4 Research questions**

In light of these issues, it is clear that an understanding of property managers' use of tenancy databases and their impacts on tenants in Australia must be based on a systematic study of the management contexts in which listing and screening practices occur, and in which tenants respond to these practices. Thus, the research proposed in this paper seeks to address the following questions:

- What is the role of tenant databases in the context of broader risk minimisation strategies in the private rental sector in Australia, USA and Europe? What are the current management practices adopted by tenant databases in Australia? Are there uniform procedures or variations within Australia, and how do these compare with those adopted overseas?
- What processes and strategies are pursued by Australian private real estate and property managers (including estate agents and self-managing private landlords) to screen and minimise exposure to risk?
- What screening and risk management strategies are pursued by those landlords who do not have access to the databases, or who choose not to list tenants?
- What are the impacts on current and future housing and tenure options for tenants?

## 3 POLICY CONTEXT

### 3.1 Introduction

As discussed in Chapter Two, tenancy databases have emerged in response to a perceived need for risk management in the private rental sector, and their operation and use by property managers have raised key issues concerning privacy and the regulation of listing and screening practices. In this context, government regulation – rather than self-regulation – has been seen as necessary with respect to tenancy databases (Johnston, 1999). The *Senate Legal and Constitutional References Committee* (1999) identified three main problems associated with relying on self-regulation. As reported by Johnston, self-regulation was found to be:

- Incapable of dealing with the “cowboys who never join”,
- Incapable of dealing with the “regulatory deserter”, and
- Failing to guarantee the rights of consumers, because without the credible possibility of coercive intervention by government, adequate standards will not be adopted or enforced (Johnston, 1999: 56).

This chapter will review key federal and state legislative contexts with a view to examining the way they apply to the operation and use of tenancy databases. It will outline provisions that are relevant to both the listing and screening practices of property managers, and redress available to tenants. This will provide for an identification of issues associated with the use of tenancy databases that may not be fully addressed through legislative means.

### 3.2 Legislation

This section draws heavily on reviews of legislation and applications to the use of databases by property managers found in the publications by Guthrie (2002) and Johnston (1999). This project as a whole will extend these findings, providing further analysis based on interviews with database users and wider research, seeking to understand how they use the databases in managing tenancy risk. This additional information will enable the solid information base provided by the two reports to be extended. Both Guthrie (2002) and Johnston (1999) identify Commonwealth and State legislation that has some application to the use of tenancy databases. A full analysis of these aspects of all Australian legislation is beyond the scope of this paper. This Chapter will focus on the role of the Commonwealth legislation with respect to privacy and the State legislation as it applies to relationships between tenants and landlords with respect to tenancy databases. This focus provides clear directions for the further examination of applications and limitations of legislation in the regulation of use of tenancy databases.

#### 3.2.1 Legislation Pertaining to Privacy

Tenancy databases are but one of the areas where changes in electronic data storage and communications technology have impacted on public policy. In recent years the ease of accessing computerised databases of collated personal information has led to an escalation for privacy concerns and is seen to have the potential to threaten personal privacy. Salbu, in commenting upon privacy issues in the European legislative environment, sees this trend as endemic as:

The advantages of technology come at a price: one person’s “enhanced information” can invade another person’s privacy. This double-edged sword naturally creates conflict, based on both self-interest and ideology. .... [with] privacy becoming increasingly more susceptible to ever more significant technologies (Salbu, 2001:657).

The *European Union's Data Privacy Directive's* response to this situation identifies and conceptualises contemporary data privacy issues for the purposes of informing privacy legislation. Some of the European initiatives are reflected in recent changes to Australian privacy legislation. At a national level the Australian Commonwealth moved to amend the *Commonwealth Privacy Act 1988* which previously only applied to the federal public sector and credit providers and credit reporting agencies. The *Commonwealth Privacy Amendment (Privacy Sector) Act 2000* came into effect in December 2001, outlining the compliance of the private sector with 10 National Privacy Principles [NPPs] when dealing with personal information. These principles set the standards that organisations are required to maintain when accumulating, utilising, divulging, protecting and transferring personal information. They also give individuals the right of access to - and verification of - personal information collected by an organisation, with avenues of redress if the information is inaccurate.

**Figure 3-1: The Ten National Privacy Principles**

<p><b>The Ten National Privacy Principles</b></p> <p><b>NPP1: Collection</b> — describes what an organisation should do when collecting personal information.</p> <p><b>NPP2: Use and Disclosure</b> — outlines how organisations can use and disclose personal information.</p> <p><b>NPP3: Data Quality</b> — sets the standards that organisations must meet for the accuracy, currency and completeness of personal information</p> <p><b>NPP4: Data Security</b> — set the standards that organisations must meet for the security of personal information.</p> <p><b>NPP5: Openness</b> — requires organisations to be open about how they handle personal information.</p> <p><b>NPP6: Access &amp; Correction</b> — gives a general right of access to personal information, and the right to have that information corrected, if it is inaccurate, incomplete or out of date.</p> <p><b>NPP7: Identifiers</b> — says that generally, Commonwealth government identifiers (such as the Medicare number or the Veterans Affairs number) can only be used for the purposes for which they were issued.</p> <p><b>NPP8: Anonymity</b> — where possible, requires organisations to provide the opportunity for personal interaction with personal anonymity.</p> <p><b>NPP9: Transborder Data Flows</b> — outlines privacy protections that apply to the transfer of personal information out of Australia.</p> <p><b>NPP10: Sensitive Information</b> — requires consent when an organisation collects sensitive information about a person such as health information, or information about racial or ethnic background, or criminal record. Sensitive information is a subset of personal information and special protection applies to this information.</p> <p>Source: Adapted from: Office of the Federal Privacy Commissioner, 2001</p>
--

Under the current amendment to the Act, only database operators with turnovers exceeding \$3 AUD million a year are subject to the provision of the Act, but by the end of 2002 all database operators involved in the collection of personal information were included. With respect to their impacts on the operation and use of tenancy databases, overall the amendments to the Act are considered to be positive, resulting in improved quality to database information and access. Key changes to the use of databases by property managers that will occur as the result of the



*Commonwealth Privacy Amendment (Privacy Sector) Act 2000* to property manager's use of tenant databases are as follows:

- Real Estate Agents and Property Managers will be covered by the amendments to the Act.
- NPP 6 will apply to existing information providing "some protection to tenants who will therefore have the right to access information once used and then correct it if it is wrong" (Guthrie, 2002: 27).
- Real Estate Agents will need to advise tenants that the agency uses a database. According to Guthrie (2002:27) it seems "most likely that disclosure by agents will occur at the beginning of a tenancy. Agents are likely to ensure that an appropriate clause is included in a tenancy application". This relies on the tenant's awareness of this clause in the tenancy application.
- NPP 3 requires that organisations only collect, use and disclose accurate and up to date information. This provides for tenants to challenge listings they believe are either malicious or inaccurate. However as Guthrie points out this does not cover, "trivial breaches" or "inappropriate listings" such as when a tenant is listed after an unsatisfactory condition report, even though the problem was rectified (2002:28).
- The use of information collected will be limited to the completion of tenancy arrangements, checking databases for existing listings and adding a new listing in the case of default behaviour.
- Tenancy databases are required to be easy to use and readily accessible by subscribers. This being the case, Guthrie argues that "there do not appear to be any good arguments to support charging [tenants] for access" through subscribers. Guthrie further argues that "this will impact on companies.... which charge for telephone access to information on their database" (2002:28).

In the event of disputes about the use of databases by property managers, database subjects have access to the Privacy Commission's own complaint service and, while it is generally agreed that the Privacy Act will have a positive impact on key concerns such as data quality and data access, it has been argued that the amendments will have little impact on some areas identified as problematic in relation to property managers' use of databases and tenants' access to redress. Guthrie has outlined these key concerns as follows:

- Inappropriately listing tenants, although the listing is "accurate, complete and-up-to-date",
- Tenants remaining unaware they are listed (property managers are only obliged to advise of the use of databases at the beginning of the tenancy), and
- Inadequate dispute resolution processes. (These have been acknowledged as a problem in relation to the management of tenancies in general. There is no new provision for dispute resolution to cover property managers' use of databases) (Guthrie, 2002).

These concerns are reiterated in different contexts by Boswell and Warren (2001), Bunning *et al* (2001) and by the Tenants Union of Victoria (2002). Further, preliminary discussions with stakeholder representatives in the early stages of the present enquiry clearly indicate that these are concerns held by tenants and tenant advocates, and are matters that also receive comment by property managers and owners. They will, therefore, be kept in focus as important aspects of the present enquiry and the perspectives of different stakeholders in regard to these concerns will be carefully documented.

### *3.2.2 Legislation Pertaining to the Conduct of Business Practices*

As discussed above, concerns about tenancy databases relate to specific identifiable characteristics such as disclosure and accuracy. It also needs to be recognised that databases are potentially an element creating a power imbalance between tenants and property managers. The *Commonwealth Trade Practices Act 1974* and various Australian State Fair Trading legislation attempt to cover conduct of property managers in the context of power imbalances, impacting on practices associated with taking unfair advantage of clients.

The *Commonwealth Trade Practices Act 1974* addresses unconscionable, misleading and deceptive conduct, undue harassment and coercion in transactions with consumers. In this context, unconscionable conduct applies to situations where, in an unequal relationship, the stronger party takes unfair advantage of their position in the relationship. Examples included in the publication *Fair and Square: A guide to the Trade Practices Act for the real estate industry* (ACCC, 2000) include using unfair tactics to induce a person to sign a contract, taking advantage of cultural and educational inequities, in the context of inequalities placing unnecessarily onerous conditions on clients and requiring clients to sign blank contracts.

The most recent State legislation relevant to tenancy databases are the Queensland Acts: the *Property Agents and Motor Dealers Act 2000* (PAMDA 2000), the *Property Agents and Motor Dealers Amendment Act 2001* and its subordinate legislation the *Property Agents and Motor Dealers Act 2000 Code of Conduct*. This State legislation is the only Act that includes in its Code of Conduct, a specific section dealing with the listing of tenants on databases. This Code includes the parameters under which real estate agents and property managers can record information about tenants on tenant databases.

This Code specifically covers property management practices with respect to the accuracy of recorded information, and precludes listings that are vexatious. When a tenant is listed on a database, the agent must instigate notification to the tenant that they are listed, give the tenant an opportunity to review the information and ensure the tenant is informed how the information can be used. The agent must further amend the database listing if the tenant disproves the listing. In addition to accuracy the regulation requires that the listing should not be trivial in nature and not for a minor tenant breach.

Although this Code sets out to address issues of inaccurate tenant listings, it does not delineate clearly the principles for listing, or provide for areas where dispute resolution practices are inadequate. In the event that the tenant is listed unfairly, the tenant may complain in writing to the Chief Executive who has the option to investigate the complaint. There is no indication that the tenant will be compensated in the event of an inaccurate listing. Whilst this legislation attempts to address some of the problems facing tenants whose rental opportunities have been disadvantaged by inappropriate listings, it relies exclusively on the discretion of Real Estate Agents and Property Managers.

In addition, the Code does not address many of the issues that arise from the operation of tenancy databases. For example, when an agent is proven to have made an inaccurate listing, the complainant has no access to compensation, or the power to ensure tenancy database companies remove listings within a given time frame. Furthermore, a complainant has no 'remedy' under the Code, but is left with only an option of complaining in writing to the Chief Executive who "may investigate the complaint" (Guthrie, 2002). If an investigation finds there is sufficient evidence, the Chief Executive may then start disciplinary proceedings against the agent. It is also important to note that *PAMDA 2000* does not extend to include caravan park operators who are not classified as licensed Real Estate Agents but nevertheless, can access tenancy database information as subscribers.

### ***3.2.3 Legislation Pertaining to Relationships Between Tenant and Landlord.***

The various State Residential Tenancy Acts delineate the parameters of the relationship between lessors/agents and their clients, the tenants, and set out clearly defined rights and obligations for both parties in relation to such matters as what constitutes a 'breach', remedial timeframes for breaches and procedures for dispute resolution. In the event that the process of dispute resolution is unable to resolve specific disputes, the parties then have the option of proceeding to a Small Claims Tribunal.

As this legislation applies specifically to the relationship between tenants and landlords in the context of tenancy agreements, it does not extend to rights and obligations associated with other aspects of landlord-tenant relationships such as those relevant to property managers' use of tenant databases<sup>3</sup>. Thus a breach as defined for the purpose of listing a tenant on a database is

---

<sup>3</sup> The Guthrie report (2002) *Recommended Queensland Government Strategy Regarding Tenant Databases* has proposed the following amendments to the *Queensland Residential Tenancies Act 1994*. "That the Residential

not necessarily consistent with breach as defined under the Residential Tenancy legislation. While Residential Tenancy legislation does not directly apply to property managers' use of tenancy databases, some tenancy advocates have argued that the operation of the legislation is potentially impacted by this use. It has been suggested that tenants may avoid the use of existing dispute processes for fear of retaliatory listings on the part of property managers. The very recent amending legislation in Queensland (the *Residential Tenancies and Other Legislations Amendment Bill 2003*, passed by the Queensland Parliament in May, 2003), however, has a section dealing specifically with databases and their use. This amendment is too current to be considered in depth in this report. Further details, as well as an analysis of the public reaction to it, will be included in the project's Final Report.

### 3.2.4 Summary of Legislative Impacts and Key Issues

In summary, the *Commonwealth Trade Practices Act 1974* addresses unconscionable, misleading and deceptive conduct and undue harassment and coercion in transactions with consumers and the Code of Conduct under *PAMDA 2000* in Queensland applies to inaccurate or vexatious listings. (Guthrie, 2002). The new amendments to the privacy legislation will additionally impact on the quality of data provided by Property Managers and improve tenants' access to data held by databases. However, Guthrie identifies other problems that in her view are not adequately addressed through existing legislative frameworks. These are inappropriate listings such as listing a tenant for a breach that has been rectified since the breach occurred, and inadequate dispute resolution processes in relation to listings (Guthrie, 2002).

In addition to Guthrie's concerns, it is important to consider the capacity for Property Managers and tenants to exercise discretion in relation to the way they identify and define 'breaches' (Johnston, 1999). In this respect, the amendments to the Commonwealth Privacy legislation are seen to represent a 'light touch' approach, placing emphasis on discretion and self-regulation in the context of specific industry practices. In relation to the operation and use of tenancy databases in Australia, the legislation adopts a lenient approach concerning data-subjects' access to information, placing the onus on tenants to complain and seek redress if they believe that they have been listed in a way that contravenes legislation. For example, rather than data controllers being required to send a data-subject information automatically, they are only required to make a 'reasonable' attempt to notify the subject of a listing, or to send information on the request of the data subject. This kind of process also applies with respect to rectification of incorrect data. Based on a review of privacy issues informing the *European Union's Data Privacy Directive*, Salbu argues that in these cases:

Requiring data subject action could create complex and time-consuming procedures. Indeed, given the complex nature of much legislation and regulation, one might expect complexity of procedures. Complicated processes are likely to undermine the consumer interest that they are ostensibly created to protect (2001: 673).<sup>4</sup>

### 3.2.5 Housing Policy Issues

While the above review of legislation as it applies to the operation and use of tenancy databases has identified some critical issues with respect to property managers' use of the databases and tenants' rights as consumers of property management services, an examination of the policy context also requires consideration of a broader set of relationships associated with tenants' access to housing. This Chapter now turns to consider the implications of the operation and use of tenancy databases for Australian Housing Policy.

---

Tenancies Act be amended to extend to the database listing and disclosure practises for lessors. Detailed listing criteria should be set out in regulation .... (and) that the Residential Tenancies Act be amended to specifically provide that the Small Claims Tribunal can make orders about current and proposed database listings that are binding on lessor, agents and caravan park owners".

<sup>4</sup> The law faculties of UTS and UNSW have recently launched an initiative, The Australian Privacy Charter Council, which is presided over by Justice Michael Kirby, and is an attempt to shift the onus for justifying privacy protection from affected individuals, back to those who wish to interfere with privacy.

As outlined in Chapter Two, tenancy databases in Australia operate in the context of a differentiated and unequal private rental market characterised by structurally produced tensions in the low-income sub-market of this sector. The analysis pointed to important questions concerning the management of this section of the market and its implications for housing access for low-income groups and those with complex needs. The preliminary investigations for this project found that some potential tenants may act as though they are listed on a database without being certain if they are or not. Such behaviour is relevant to housing policy rather than to the legislative context. The need for a broader housing access perspective has received some preliminary support in the reports by both Guthrie (2002) and Johnston (1999). The Guthrie report (2002) cites reduced access to housing as one of the three specific problems associated with the current operation of tenancy databases. Johnston elaborates on some of the processes whereby tenancy databases may influence access to private rental housing particularly in the cases of disadvantaged people. He argues that this group may present with attributes that can be read as 'risk' by landlords and real estate agents and cites a study by Boswell (1998) where tenancy databases were successfully used by Landlords and Real Estate Agents to exert undue market power over tenants (1999:51-67). For this reason Johnston places his analysis of tenancy databases in the context of broader structural relationships in the private rental market as follows:

The formalisation of information exchange about "bad" tenants on the supply side, through the commodification of this information, represents a potential major reinforcement of the (already great) structural power imbalance in the market in the suppliers' favour (1999:67).

Australian Commonwealth and state governments implicitly or explicitly adopt this broader housing access approach in their strategic planning and attempt to address the means through which disadvantaged private renters can negotiate the private rental market to achieve 'successful housing'. In the context of potential private rental tenants with special needs or who are disadvantaged in other ways, governments have recognised the need for policies that address power imbalances and the difficulties such households can face. These approaches emphasise support that can lead to greater and more effective participation. For example, among other goals the Department of Family and Community Services' *Strategic Plan: Our Vision, Our Purpose* (2002) emphasise processes aimed at achieving economic and social participation. The policy aims to reduce the number of incidents of social and economic marginalisation caused by financial and personal crises, and to maintain a strong and sustainable social safety net, encompassing income-support, accommodation and support services. Some of the means through which these goals will be achieved include prevention through capacity building and early intervention and an emphasis on integration of programs and services.

The states included in this study, Queensland, New South Wales and Victoria, have developed housing strategies that reinforce these goals, placing emphasis on housing outcomes for low-income and vulnerable people and offering assistance which is responsive to changing needs.

In order to inform these principles and strategies it is necessary to develop an evidence base for identifying housing access issues that may result from the operation of tenancy databases and as part of this to investigate the principles which currently inform their use on the part of property managers.

The next Chapter turns to a review of risk management in the context and the operation of tenancy databases with a view to establishing hypotheses concerning their use and impacts.

## 4 DATABASES AND RISK SOCIETY

### 4.1 Introduction

Chapter Three identified key legislative frameworks which apply to the operation and use of tenancy databases in Australia. The Chapter argued that these frameworks at both commonwealth and state levels provided for an amount of discretion and self-regulation on the part of industry bodies such as real estate institutes. In the case of the commonwealth privacy legislation, some provisions were seen as representing a lenient approach to the operation and use of tenancy databases, particularly in relation to action required on the part of the tenant to seek access to information or rectification. This Chapter locates issues associated with the use of tenancy databases by property managers and their impacts on housing access, in the context of the use of information technology in the management of risk. It further examines the impacts of the use of tenant databases on issues of housing access with reference to a broader context of social risk management.

### 4.2 Introducing Risk Management

Information and communication technology, and specifically databases, are increasingly acknowledged as playing an important role in the management of risk. Poster points to the role of databases in promoting stability and providing organisations with 'vast stores of accessible information about the population that facilitates the fashioning of policies that maintain stability' (Poster, 1996:189).

Lyon (2001) argues that the perceived need to maintain stability can be understood as a response to the reduction of traditional means of establishing trust relationships in the context of face-to-face interactions. The increasing use of indirect relations through the use of Information and Communication Technologies diminishes reliance on traditional mechanisms of trust needed to mitigate the uncertainties of human actions. He describes the implications of this in the use of databases for the purposes of risk management:

As trust is rendered problematic, so, increasingly, tokens of trustworthiness are sought and proffered as substitutes for trust generated through long-term and face-to-face relations. The quest for more private lives—the 'loss of the front porch'—along with the fracturing of the time-space co-ordinates of sociality, means we need other checks on mutual reliability. We are obliged to show identification at the video store, a credit card in the mall, to give a number in order to obtain welfare benefits. These tokens correspond to lists of approved or eligible persons, that today comprise huge databanks of constantly circulating personal data, and which are used as a means of minimizing risk (Lyon, 2001:386).

Given the emergence of databases in the service of checking and screening, it is important to acknowledge the subjective and culturally dependent dimensions of the risk management framework in which they are embedded. Various researchers and theorists point to the tendency for risks to be culturally constructed, at least in the first instance, and then justified through statistical calculation. In a review of the implications of Mary Douglas's work on the cultural basis of risk, Scott suggests that there may be no simple correspondence between risk perception and ... 'real risk' (Scott, 2000: 38-9). Henman's Australian study of the use of databases in social security has led to the insight that defining risk is a means of selecting specific groups for particularly intense checking. 'Some groups of clients', he observes, 'are perceived to be more at risk of receiving overpayments than others' (Henman, 1998:1). In relation to this process, Henman identifies a number of different kinds of risk governance. However, tenancy databases clearly fit a category he describes as 'profiled' risk governance, where risks are managed by identifying a profile of people (defined, for example, in terms of age, sex, income, ethnicity) likely to create higher levels of future risk. A key point to make here is that risk management strategies are arguably, at least in part, a response to a *perception* of risk, a culturally based identification of areas requiring risk management. Once an area is identified, risk can be calculated as the effect of a combination of abstract factors that render more or less probable the occurrence of undesirable modes of behaviour or outcomes. Risks can then be monitored precipitating new modes of surveillance based on systematic pre-detection (Lupton 1999: 93).

With specific reference to the field of housing, Six has recently argued that 'the process by which risks become salient is one which is highly culturally specific' (Six, 1998). The combination of market, policy and cultural frameworks in the field of Housing in Australia constitutes a context conducive to the perception of the private rental market as presenting risks for investors and property managers. Chapter Two outlined the policy and market characteristics of the Australian private rental field that may promote the culturally based perceptions of risk associated with specific sub-markets of the private rental sector. Policy shifts from demand-side to supply-side subsidy produced a change from positioning tenants as accessing social infrastructure to constructing them as individualised negotiators of the market. Effectively tenants and prospective tenants are supposed to have the personal and other resources to negotiate their own individual tenancy arrangements. The nature of landlordism in Australia as constituted largely by small-scale (more vulnerable) rather than institutional investors, the problems of management and conflicts with tenants provide a context in which specific types of tenants are understood as risks, and landlords as vulnerable.

### **4.3 Australian Society**

Another factor relevant to the identification of risk in the context of private renters is the symbolic value placed on home ownership in Australia. Kemeny (1983) and Berry (1988) outline the importance of policy and market forces and the role of the financial sector in producing very high levels of homeownership. From the 1940s through to the 1980s, housing policy focused on assisting renter householders to achieve home ownership through a variety of direct and indirect measures, including regulated interest rates, deposit assistance, mortgage insurance and concessional government finance (Dalton and Maher, 1996). Further, the 1960s saw the widespread release of public housing for sale to tenants. The take-up rate was so successful that, in the early 1970s, sales were capped at a maximum of 30 per cent of the stock of family dwellings (Department of Health, Housing, Local Government and Community Services, 1993). Winter's (1994) exploration of the meanings attributed to tenure types by homeowners and renters provides evidence that the policy and market emphasis on homeownership was reflected in the dispositions and practices of owners and renters. As a result, the Australian private rental market has traditionally been seen (and still is) as secondary in status to home ownership. The rental market is seen, for the most part, negatively, as a residual tenure for those who are unable to move up the housing ladder, for those who have 'fallen out of homeownership', and often as a option of 'last resort' (Yates, 1997). The private rental market shows less stability and so greater risk than home ownership. Within private rental the disadvantaged sub-market identified by Burke appears to be specifically stigmatised. The Inquiry into Public Housing recognised that 'Low-income households, families with young children and those who are perceived to be different...often find it difficult to obtain accommodation because others are preferred' (Department of Health, Housing, Local Government & Community Services, 1993:51). Thus cultural perceptions of rental tenure in Australia, and, specifically, the disadvantaged sub-market, are consistent with a view of this sector as requiring specific forms of risk management focused upon the profiling of the most 'risky' tenants.

### **4.4 Risk Society**

In locating the emergence and operation of tenancy databases as a response to this perception of higher risk, it is important to consider the broader context and social implications of this in terms of the 'risk society'. The rhetoric of risk, according to Beck, Giddens and Lash, informs an increasingly central logic of practice in contemporary society. They describe the implications of this for everyday thinking as follows:

The notion of 'risk' is central to modern culture today precisely because so much of our thinking has to be of an 'as-if' kind. In most aspects of our lives, individual and collective, we have regularly to construct potential futures, knowing such very construction may in fact prevent them from coming about. New areas of unpredictability are created quite often by the very attempts that seek to control them (Beck, Giddens and Lash, 1994: vii).

The importance of identifying this rhetoric as influencing practice and assumptions in the Australian private rental sector is that it draws our attention to a key aspect of the emergence of

the risk society that may also be important in the study of tenant databases: namely individualisation. This term refers to a process where ways of life become disembedded from the networks and relationships on which industrial society was based. Life is then re-embedded with a presumption of the individual as:

actor, designer, juggler and stage director of his or her own biography, identity, social networks, commitments and convictions. Put in plain terms individualisation means the disintegration of the certainties of industrial society as well as the compulsion to find and invent new certainties for oneself and others without them (Beck, Giddens and Lash, 1994: 14).

The following comment made by a property manager (PM2) in preliminary discussions, prior to the commencement of fieldwork for the present research illustrates such a tendency to individualisation and illustrates a widely-held view that tenants are responsible for their own biography and identity as a 'good' or 'bad' tenant.

"[If their applications for tenancy are unsuccessful repeatedly]...they have to go away and make their own history" (PM2, 2002<sup>5</sup>)

In relation to the legislative context for the governance of tenancy databases, the previous Chapter identified that relevant legislation provided for a level of autonomy and discretion on the part property managers with respect to the use of databases and allocated a level of responsibility to tenants for accessing information and rectifying errors.

Risk management in this sector could thus be conceptualised as based on individual responsibilities allocated to property managers and tenants involving the exercise of choice and discretion. For property managers, the rhetoric of risk establishes their responsibility to acknowledge and act upon the risks that tenants may default or damage property by listing and screening tenants using the databases. Tenancy databases are thus promoted as a means of informing the processes and choices associated with tenant screening. However, as outlined in Chapter Three, the use of the databases opens up new arenas of choice and discretion, associated with principles of self-regulation. The conceptual approach suggested in Beck's account of risk society has drawn attention to the importance of individualised choice and discretion on the part of property managers. There is no research, which currently documents the exercise of this in relation to the use of tenancy databases in Australia but it is a central focus of the current research.

## 4.5 Tenants as Data Subjects

The notion of risk society and an attendant focus on the importance of individualisation also provides for an important focus on the practices of tenants as data subjects. It could be argued that in the private rental field, the rhetoric of risk establishes a practice of abstracting tenants from the contexts that have led to tenancy problems, positioning them as individual data subjects with specific 'rental histories'. The term 'rental history' is widely used in the private rental sector to refer to a persons personal record of tenancy over a period of time and is understood and applied, by both property managers and tenants, in a similar manner to the term 'work history' in the labour market context. Its particular meanings and uses in the contexts of risk management and access to rental accommodation will be explored in this research. In *The Post-Fordist City*, Forrest and Kennett argue, this kind of individualisation creates new dimensions of division and difference. Households living side-by-side participating in the same housing tenure and on similar incomes may have widely differing capacities to cope with uncertainty and change, due to differences in informal support networks, employment security and tenure and so on (Forrest and Kennett, 1997: 352). In relation to tenants' capacities to seek redress where necessary, it is highly probable that some will have far greater capacity than others to negotiate the relationships designated by tenancy databases by virtue of specific sets of resources that may not be reducible to traditional dimensions of social difference. This possibility raises questions about the nature of the resources and their combinations that may enhance or hinder tenants' capacities to

---

<sup>5</sup> In order to protect the anonymity of all informants in the present research project, code names only are used to signify the authenticity of any quotation.

negotiate relationships with property managers over tenancy database issues. The review of legislation in Chapter Three pointed to the emphasis in the Australian context on the need for data subjects to exercise considerable initiative in relation to accessing information and seeking rectification. This provides further reason for a focus on the nature of tenants' strategies in this context.

The above review has identified questions raised by locating property managers' use of tenancy databases and impacts on tenants in the context of risk management in the private rental field. However, there is also a broader context in which these tenant-landlord relationships need to be considered with respect to tenancy databases. Chapter Three argued that both Commonwealth and State governments in Australia are concerned to identify and address key elements of housing access, and that these may be affected by the use of tenancy databases. While the use of tenancy databases on the part of property managers and responses of tenants are examined in the context of risk management in the private rental market, this paper also acknowledges that governments are concerned about the broader range of social risks associated with issues of housing access. This raises the question of the specific forms of social risk associated with the effects on housing access that arise from the operations of tenancy databases in the private rental sector, and possible means of social risk management.

## **4.6 Uses and Impacts**

The new sets of relationships generated through the use of databases for the purposes of checking and screening, and their combination with the process of individualisation characteristic of the risk society will most likely have specific and direct impacts on tenant-landlord relationships and the capacity of different kinds of tenants to negotiate these relationships. It is important to acknowledge the way these impacts combine with structural conditions in a hierarchical, segmented private rental market where participants experience different levels of access to basic housing needs. In his review of approaches to housing tenure practices and dispositions, Winter (1994) points to the importance of economic, political and cultural power relations, in the context of culturally specific systems of housing provision. From a similar perspective, Sullivan (1994) proposes a model specifically oriented to understanding housing access. The model involves an analysis of the resources (including gender, age, income, employment and social contacts) that social actors bring to the housing system and the structural relations of housing – both external and internal to the housing system – that form the context of housing access. The components of these structural relations are policy, markets, institutions and ideology. Applying these perspectives, the conditions of housing access can be seen to encompass this interface between the specific characteristics and resources of social agents that may influence their access to housing and the structural relations of housing: the specific policy, market, institutional and ideological frameworks that social agents confront in specific housing systems.

As outlined in Chapter Two, recent research has identified key characteristics of groups comprising a disadvantaged sub-market of the Australian private rental sector: young people, older people, large families, indigenous Australians and people with disabilities. It reported that between 42 per cent and 60 per cent of each group within the sub-market (with the exception of large families), including the balance of private renters, face affordability issues, as they outlay more than 30 per cent of their income on rent. Thirty per cent of large families, on the other hand, experience overcrowding problems. In this context, Burke argues that:

What happens in the private rental sector is fundamental to the future form and degree of homelessness. If the rental sector becomes increasingly difficult for low-income households, in terms of access and affordability, then it is potentially a context for greater homelessness (Burke, 2000: 5).

In light of these key issues of access to the private rental market, Burke proposes that state governments are concerned to 'make the lower end of the private rental market work more effectively' and may need to explore other alternatives (Burke, 2000:6). In this context, governments also have a critical interest in the ways in which the use of tenancy databases may be impacting on access. The research informed by this paper will examine the influences of tenants' social and economic characteristics on their capacities to access housing and the



impact of tenancy databases on market relationships in the private rental sector. The research will further examine tenants' current use of specific forms of state, territory or commonwealth assistance in the management of social risks associated with tenancy databases, and the extent of their reliance upon informal sources of assistance and/or informal markets in responding to the impacts of tenancy databases. Thus the key questions for this research centre around the use of tenancy databases in the broader context of risk management strategies used in the private rental sector.

The questions include issues about current management practices and the procedures private rental managers use. The processes used by managers to screen potential tenants and so minimise their own risk will clearly impact on potential tenants and their ability to access private rental accommodation. The research will attempt to disentangle the complex relationships involved in intersections of the potential offered by changing electronic communications and data storage, social and private risk management, social power imbalances, and social disadvantage. This will lead to a clearer picture of the way that tenants are impacted on by the practices rental managers use, and to a clearer picture of the role of tenancy databases in rental management. The way that rental managers deal with risk has powerful implications for themselves and for potential tenants. Many of these implications can be understood only by investigating the actual practices of managers and agents, within the legislative and policy context of what they can and cannot do.

The next Chapter in this paper will outline the design and methodology for the study.

## **5 RESEARCH METHODS**

### **5.1 Introduction**

The aim of the present research is to answer the key questions identified in the discussion above by providing an intensive analysis of the ways in which tenancy databases may be influencing processes of risk management in the private rental sector and patterns of housing access for different tenant groups in different segments of the private rental market. The research will be conducted in Queensland, New South Wales and Victoria so as to enable a broad coverage of the databases in use in Australia and a comparison of their affects in different market and state (legislative) contexts. The Research strategy for the project has two major stages.

### **5.2 Stage One**

The first stage is a discrete scoping exercise with the aim of understanding the operation and use of tenancy databases in Australia as part of broader risk management strategies in the rental housing markets. Stage One is designed to address the following research questions:

- What is the role of tenant databases in the context of broader risk minimisation strategies in the private rental sector in Australia?
- What are the current management practices adopted by tenant database operators in Australia?
- Are there uniform procedures or variations within Australia in the operation of tenant databases, and how do these compare with those adopted overseas?
- What is the full range of strategies currently applied by Australian private real estate and property managers (including estate agents and self-managing private landlords) to screen and minimise exposure to risk in the private rental market?
- What screening and risk management strategies are pursued by those landlords and/or property managers who do not have access to databases, or who choose not to list tenants?

The principal research strategies adopted to address the first three of these questions will include:

- Literature search (including web searches) and review to document the range of tenancy databases, their ownership, access arrangements, purposes, functions, uses and users.

Guthrie (2002) is a key point of reference for this aspect of Stage One. Her comprehensive review of tenant databases has drawn upon a significant body of literature and this will be used as a basis for further search and review, especially to extend our understanding of issues associated with tenant databases. Guthrie's report became available during the early stages of this research. It has provided a major platform for the research. The research will build on that report, but as shown below will also extend Guthrie's work.

- Documentation and analysis of relevant legislative and policy frameworks including residential tenancy dispute resolution processes in each State.

The Tasmanian Consumer Affairs and Fair Trading (2001) also provides a significant point of departure for this aspect of Stage One. This aspect of the present project will be focused most particularly upon:

- Approaches to stakeholders and database gatekeepers for initial mapping of 'risk management' processes and practices

Key stakeholders and gatekeepers will be approached directly or through referral by members of the Project Reference Group. They will be fully informed of the purposes and auspices of the research. As knowledgeable informants, they will be asked to assist in clarifying the range of risk management practices in use and in providing preliminary 'ethnographic' data on contexts of 'risk management' and the perspectives of different stakeholders. Key stakeholders and gatekeepers may include representatives of commercial and other database operators, property

managers and real estate agents, property owners, third sector/community housing property managers and tenant advocacy groups such as tenant unions in each state.

Initial approaches will be made by telephone or in person, by appointment. Questions will be formulated on the basis of prior consultations with the Project Reference Group, literature search and review, and analysis of relevant legislative and policy frameworks. Clarification will be sought on any aspects of risk management and especially the uses of tenancy databases that may not be clear from these initial investigations.

The second set of (two) research questions above will be addressed mainly through:

- Focus group interviews in each state with representatives of key stakeholder groups, including tenant advocates and third sector property managers, followed by
- Semi-structured interviews with informants from different kinds of landlord and property management groups, including tenant advocates and third sector property managers.

A full discussion of recruitment and interview methods, and topics is included below.

All of the above research strategies will contribute to:

- An up-to-date report or inventory of tenant databases in Australia and comparison with information from overseas.

The types and scope of databases available and arrangements for access to and application of data are dynamic. Changing legislative environments and changing perceptions of 'risk' and practice ethics in the private rental market are all aspects of the changing contexts in which tenant databases and their applications are being developed and marketed, and used. The purpose of the audit/inventory is to describe the scope and functions of databases, and the procedures and protocols for use and application of database content in order to assess the place of databases within a broad range of risk management strategies in the private rental market, and to identify potential sources of tension or problems in their uses and applications that might properly be the subject of legislative controls or policy responses at the state or national level.

The database audit/inventory will be based upon the information gathered and analysed through a broad-based review of literature, the analysis of legislative and policy frameworks and the information gathered and verified in consultations and interviews with key stakeholders and gatekeepers.

A report will be compiled to provide a summary of database features in terms of:

- Fields of case information
- Sources of case information
- Access eligibility
- Procedures and protocols for:
  - listing of cases
  - verification of case details
  - removal of cases
  - access to case files
  - client use of case details
  - internal audits of database uses and management strategies
- Evidence of 'best practice' standards

### **5.3 Stage Two**

The second stage of the project is informed by the first, scoping stage. Stage Two is designed to gain an understanding of the range of objective and subjective impacts of 'listing' on tenants'

housing and tenure options, including **tenants'** strategies for risk management. The principal research strategies will include:

- Focus group interviews (conducted as part of Stage One) in each state with representatives of key stakeholder groups, including tenant advocates and third sector property managers, followed by
- Semi-structured interviews (conducted as part of Stage One) with representatives of different kinds of landlord and property management groups, including tenant advocates and third sector property managers.

One of the range of topics to be discussed in focus group and semi-structured interviews with private rental market stakeholders groups in Stage One, will be the 'impacts' of tenant listing, including the impacts upon tenants as customers in the private rental market. As noted above, a full discussion of these interview methods and topics is included below.

Stage Two will also involve:

- Focus group interviews in each state with representative tenants from different market/risk positions identified in the first stage of scoping, followed by
- Semi-structured, individual interviews with representative tenants as knowledgeable informants.

Recruitment and interview methods, and topics for these sessions are included also discussed below.

### *5.3.1 Reference group*

Consultation with the Project Reference Group will proceed through all stages of the research. Members of the Reference Group will act as key informants, referees, and informed critics throughout the research.

As 'key informants', they will assist by providing experiential knowledge of current risk-management practices in a changing market and policy environment.

As referees, they will be asked to assist us by providing contacts with other key stakeholders and relevant practitioners.

As informed critics, their knowledge and opinions will be valued within a critical framework of inquiry to assist us in making judgements regarding the reliability and validity of our research methods.

### *5.3.2 Focus groups*

Focus group interviews are a research technique designed to collect data 'through group interaction on a topic determined by the researcher' (Morgan, 1997). They provide an efficient, cost-effective means to gather data rapidly and to observe directly, through group interactions, similarities and differences of experiences and opinions among participants (Morgan, 1997).

Two focus group interviews will be conducted in each state:

- A mixed group of participants will be recruited from the key stakeholder groups noted above – real estate agents and property managers, third sector property managers and tenant advocates.
- A mixed group of tenants from different market segments or localities and with a range of experiential knowledge of different risks and risk management strategies (e.g. some tenants who have had the experience of being excluded from a segment of the rental market because they may have been judged as 'poor risks', some who have experienced different 'risk management' strategies on the part of property owners or their representatives and some who may have developed novel strategies for the self-management of risks in private rental tenancy).

## **5.4 Recruitment**

The aim of the recruitment process is to include participants with direct experiential knowledge of 'risk management' in the residential rental sector. The purposive sampling strategy will be designed to maximise diversity of the sample to provide the best opportunities to reveal the full range of 'risk-management strategies' that are currently practiced in different contexts and by different stakeholders (including tenants) within the residential rental sector.

### **5.4.1 *Property Managers (including Own-account Managers) and Real Estate Agents***

Property managers and real estate agents will be recruited mainly through referral by members of the Project Reference Group and their contacts or counterparts in each State. It will be important to include managers/agents who use tenancy databases as part of their risk management process and those who do not. Own-account landlords/property managers who are not members of any property-owners organisation or association (and therefore will not have access to tenancy databases) will be recruited by telephone canvassing of landlords who advertise their properties for rent in local metropolitan daily newspapers.

### **5.4.2 *Tenant Advocates***

Tenant advocates will be contacted and recruited through referral by members of the Project Reference Group and by contact with both more formal advocacy organisations (such as tenant unions in each state) and less formal, smaller scale advocacy groups (such as local area tenant groups or groups organised to meet needs in a particular market segment such as caravan park tenants) to encompass a range of constituencies across the residential tenancy sector.

### **5.4.3 *Tenants***

Tenants will be contacted primarily by referral from advocacy organisations and then, if necessary, by referral from other tenant participants. The sampling aim is to include people who are most likely to be knowledgeable informants about particular "rental risks", risks related to rental tenancy (eg: labour market or educational/vocational education access issues) and 'risk management strategies' (others as well as their own).

Whilst 'low-income tenants' have been identified as the main target of this research, it will be important to identify and include tenant representatives of different segments of this category of tenants and not to assume either particular characteristics or an homogeneity of 'low-income' tenants. (See Table 2-1 in Chapter Two for some categories of difference among low-income tenants.) At every stage of the recruitment, composition and conduct of tenant focus groups, attention will be given to ensuring that the fullest possible representation of the diversity of this target group is achieved. Specific language and/or cultural requirements will be taken into account, where necessary, to enable inclusion and clear understanding of minority group experiences (Chui and Knight, 1999).

All participants will be fully informed of the purposes and auspices of the research and the ways in which the data gathered from group interviews will be analysed, reported and disseminated, and they will be assured of the safe keeping of records of focus group interviews. Participants will be asked to consent in writing to participate in the research and each participant will be asked to give verbal consent to the audio-recording of their interview(s). Such verbal consent will be recorded at the beginning of each session. If participants wish to remain anonymous in the focus group situation, they will be offered the option of using a pseudonym.

## **5.5 The conduct of focus groups**

All focus group interviews will be audio-taped and each of the participants will be asked to give their verbal consent for tape-recording of the interview. Each participant will be offered a small payment as an acknowledgement of their contribution of knowledge and time to the research process. There is some debate about the impact of providing a fee or 'reward' for participation in research but the methodological arguments against it are often unfounded and are not considered, in the present research context, to outweigh the methodological (e.g. the valuing of direct experiential knowledge) and moral benefits of acknowledging participants' contribution to the research. The set fee of \$25 for each participant has been carefully considered and agreed

by the Project Team and the Reference Group as providing an appropriate requital that would not constitute 'undue inducement' for any (including low-income) participants.

Focus group sessions will be structured to engage and increasingly focus participants' attention on key topics and issues through stages of introduction, contextual questioning, key topic questioning and probing (Dick, 1998a). The following questions, applied in this pattern, will provide the 'focus' of group interviews with both property managers and agents groups, and tenant groups:

- What are the 'risks' in the residential rental market?
- How do people in your position manage them?
- What is your experience of tenant databases?
- How do tenant databases affect you? ...make risk management easier? ...make it more difficult?

Within this topic framework, structured sets of questions will be used to facilitate discussion around three broad sets of issues - access to (participation in/exclusion from) the market, management/negotiation of tenant-landlord relations and conditions of tenancy, and management of conflicts of interest. Probe questions will be used for clarification and/or to encourage participants to explore issues in more depth, and as a strategy for piecing together the diversity of experiences and opinions among participants.

At each stage of focus group interviews, the participation of **all** participants will be facilitated. Expressions of diverse, possibly contradictory views will be used to explore different perspectives and to encourage participants to view events in different ways, not solely from their own perspective. Thus, focus group interviews will have the potential not only to inform the research questions above, but also to reveal possible new strategies for 'risk' management in the private rental sector (Kitzinger and Farquhar, 1999).

All focus groups will be conducted by two facilitators – (1) a moderator who will introduce participants, inform the group of basic ground rules for discussion and guide discussion, and (2) a monitor whose role is to prompt the moderator if any participants are not involved in the discussion, to record main points in note form and to assist with discussion summaries. The presence of two researchers at each focus group enables effective debriefing and assists also in corroborating outcomes.

Thematic analysis of focus group interview tapes will begin immediately after the conduct of the interview at a debriefing session. The central strategy for qualitative analysis is 'constant comparison' of text as illustrated by Tesch (1990) and Silverman (2000). The aim is to discover patterns (in this research, patterns of risk management in the private rental sector) through establishing themes or categories of phenomena, summarising the content or the qualities of each theme or category and seeking contradictory evidence that might lead to re-defining themes or categories.

Initial identification of themes and sub-themes will be conducted after each interview by both researchers present at the interview, at first, independently and then collaboratively. Later, other team members also will be recruited to code the focus group audio-tapes and analysis will proceed until a high level of agreement is achieved among all coders.

All participants will be provided with a brief summary record of the focus group discussion in which they participated and a brief summary of principal themes identified in the first stage of analysis. Participants will be invited to comment on these and their comments will be taken into account in analysis of interview records, and in the identification of themes and questions for further inquiry through semi-structured, individual interviews.

Analysis will be conducted, and the procedures and outcomes of analysis will be recorded using either NUD\*IST/Nvivo or Transana software. These applications are specifically designed to facilitate efficiency and rigour in the analysis of qualitative (non-numerical) data.

## 5.6 Interviews

As noted above, one of the advantages of focus group interviews is that they provide opportunities to observe interaction on a topic. However, although focus groups provide opportunities for 'free-flowing discussion' (Morgan, 1997: 11), they are highly structured around researcher interests and the interview process is highly controlled by the facilitator(s). Opportunities to explore the personal experience or personal strategies for risk management of any particular participant in depth are very limited. Therefore, focus group interviews, in the present research, will be supplemented by semi-structured, one-on-one, follow-up interviews with selected informants from each of the stakeholder groups – property owners, managers and agents, and tenants.

Informants will be drawn from but not be restricted to the membership of focus groups. They will be selected purposively for their ability to provide specific experiential detail of 'risk management' in the private rental sector, especially where it has involved the use of or reference to tenancy databases.

Follow-up interviews will be important where individual views may not have been elicited or may have been withheld in group-interview situations. They will be crucial where a participant has expressed markedly different views from other group members, especially where they may have been diverted, silenced or marginalised in the group context (Michell, 1999). One-on-one interviews will be essential also for providing continuity and completeness of case details and/or clarification of individual perspectives on group discussion that are important for fullness of understanding of practices and outcomes of risk management.

The semi-structured, one-on-one interviews will follow broadly the same pattern of questioning as the focus group interviews but will be planned more closely around probing questions and questions for clarification. Whilst the structure of one-on-one interviews will be standardised, the content of questions may vary according to the particular experience or stance of each informant. Interviewees will be provided, in advance, with an outline plan of the interview and they will be asked to give their informed consent to be interviewed and for their interview to be audio-taped. Their verbal consent for audio-recording of the interview will be obtained at the beginning of their interview tape. Within a short time after the date of their interview, interviewees will also be provided with an audio-recording of their interview and an interview abstract for their information and commentary. This strategy will be used as a way of confirming the detail of the information provided and as a check on the validity of interview procedures.

Throughout the stage of semi-structured, one-on-one interviews, at least two interviewers will work collaboratively, each conducting independent interviews but applying the technique of 'convergent interviewing' described below. Wherever possible, to provide consistency and enhance reliability of data collection procedures, follow-up interviews will be conducted by team members who have facilitated focus group-interviews.

A convergent interview strategy will be used. This strategy is designed to enhance reliability and reduce bias whilst maximising efficiency in the conduct and analysis of a series of unstructured or semi-structured interviews (Dick, 1998b). The core strategy of the convergent interviewing technique involves review and corroboration of interview themes by at least two interviewers in the field and continuation of interviews until agreement is reached that successive interviews add no significant information (Dick, 1998b).

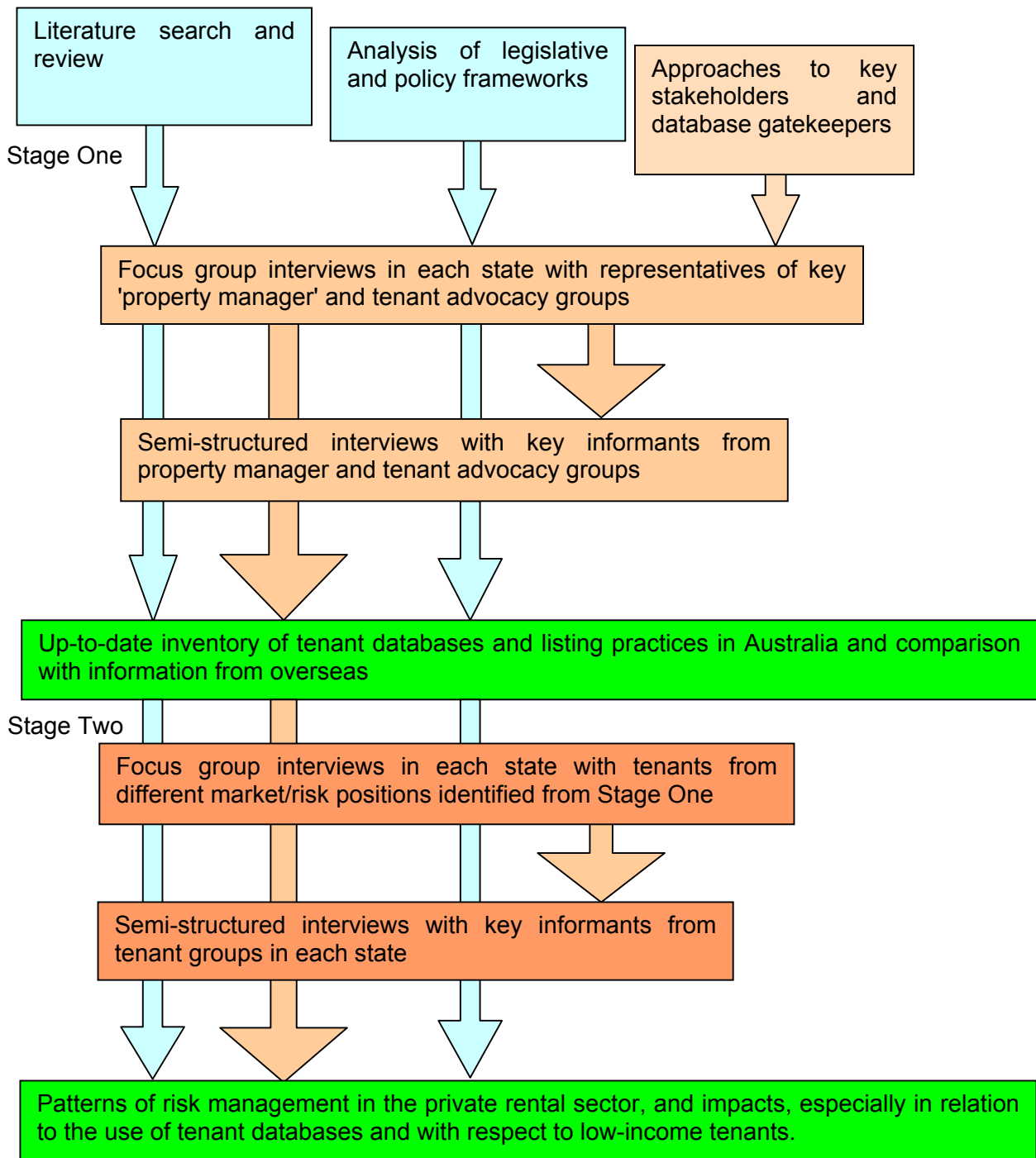
The value of this technique applied to the detailed investigation of 'risk management' strategies and experiences of tenant databases lies in the capacity it provides for maintaining a focus on key research questions whilst, at the same time, enabling recording of a broad range of detail. Whilst it may not be practical, given time and other constraints, to continue interviewing to the point of theoretical saturation (where there is agreement that 'no added significant information' is being obtained), this systematic approach will maximise the quality of information obtained from the process, however limited. It has the potential also to point to future research directions.

The analysis of semi-structured interview data will proceed along the same lines as the analysis of focus group interview data that has been described above. It is expected that thematic

analysis of semi-structured interview material will build upon and extend both the depth and breadth of the categories of information developed in the analysis of focus group interviews.



**Figure 5-1: Research Strategy**

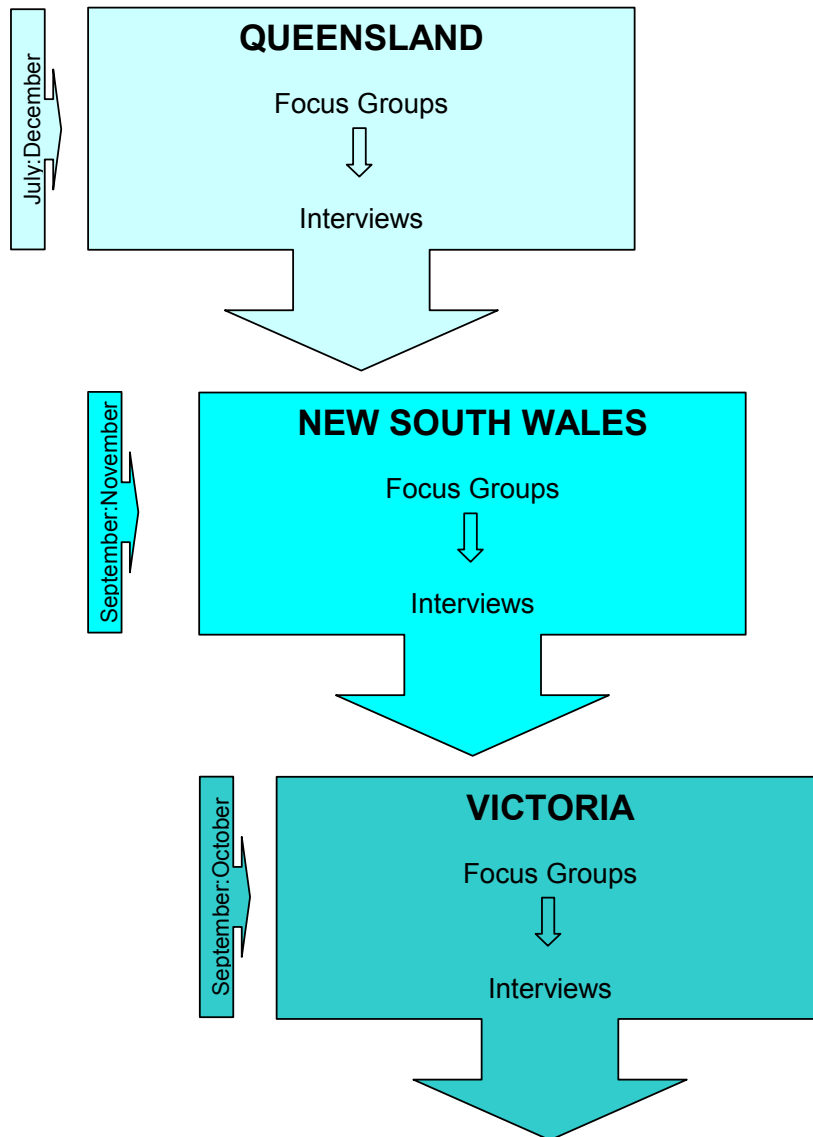


## 5.7 How Focus Groups and Interviews will inform the research

Figure 5.1 above provides a summary of 'the data stream' (Kreuger, 1998: 11) for this inquiry. Applying the procedures described in Sections 5.1 to 5.6 above, information gathered from a variety of sources and stakeholder perspectives, through two major stages of fieldwork will be progressively compiled, verified and cross-referenced to provide a broad-based account of risk-management practices in the private residential, rental market.

The research procedure will be applied in a manner that will both highlight and point to the legislative and policy contexts in which risk-management practices in the private rental market take place. The proposed timeline for implementation of this strategy is summarised in Figure 5.2.

**Figure 5-2: Timeline Diagram**



## 5.8 Summary

In summary, the research methods proposed for this study are closely designed around specific project aims and research questions. The research design takes into account the reasonable limits of expenditure specified in the project budget and, importantly, the proposed methods give voice to a range of stakeholder perspectives on the issues involved in encountering and managing or succumbing to 'risks' in the private, residential, rental housing market. Moreover, the research strategy provides for a balance of efficiency and rigour in the application of methods at each stage of the inquiry. Chapter Six summarises the findings to date and direction of the future research.

## **6 DIRECTIONS FOR THE INVESTIGATION OF THE USES AND IMPACTS OF TENANT DATABASES IN AUSTRALIA.**

This paper has provided a review of trends in property management in the private rental sector with respect to the emergence of electronic tenant databases. It has argued that the investigation of property managers' use of tenancy databases and the implications for tenants is important because the increasing prevalence of the use of tenant databases in a relatively 'lenient' regulatory environment has raised a number of key issues regarding the management practices and the impacts of tenant databases on key stakeholders in the private rental sector - landlords, property managers (in different segments of the private rental market), as well as prospective and current tenants.

Tenant Databases give the technological ability for subscribers (property managers and real estate agents) to provide and access personal information about tenants, including details of breaches of or defaults on any condition of tenancy. They are used routinely by large-scale property managers in Australia in a context where both policy and market influences on the private rental sector appear to have placed more demands on property managers to deal with high levels of competition for low-cost housing stock and increasing demand from low-income tenants and those with complex needs. The same shifts in policy and in the rental housing market have forced a greater onus or responsibility upon individual tenants to negotiate successful tenancies. The position taken in this paper with regard to these issues is that because tenancy databases have emerged as a tool of governance of private rental tenure in the context of complex management issues, it is important to investigate their use and impacts, both from a tenure management perspective as well as from the perspective of different categories of low-income tenants who now form distinctive sub-markets in the private rental sector.

Distinctive features of the private rental market in Australia have been noted as producing a combination of relatively poor quality management, high levels of financial vulnerability among landlords and relatively high numbers of lower-income tenants with associated economic and social needs. This leads to a situation with great potential for tenant-landlord conflict. It has been argued that these market dynamics point to conditions that are conducive to the perception of the private rental sector as in need of 'risk management' to ensure the security of investments of property owners. The emergence of tenant databases in this context of risk management is significant as a starting point for the current research.

The legislative context of tenancy databases in Australia, which provides for significant discretion on the part of property managers in the listing and screening of tenants on databases, and an attendant emphasis on self-regulation on the part of database operators and subscribers, also points to key issues of concern for this research. Concerns raised (Guthrie, 2002) have been reiterated in this paper and taken as focal points for the start of the enquiry outlined in this paper. The key concerns centre around:

- the changing management practices of property managers, including increasing demands to manage both economic and social risks in changing policy and market contexts, and
- the potential within the private rental sector to limit housing access for tenants (eg through the use of tenancy databases as a screening mechanism and/or as a result of tenants in/capacities to negotiate economic and political barriers).

There is a need to develop an evidence base for identifying both housing access and property management issues that result from the processes of risk management in different segments of the private rental sector in Australia. A conceptual approach to inquiry has been proposed that locates the use of tenant databases in Australia as a response to the perception of risk and considers this within a broader context where a 'rhetoric of risk' has become a central 'logic of practice' (Beck, Giddens and Lash, 1994) in contemporary societies.

This approach will draw attention to:

- The importance of individualised choice and discretion on the part of property managers (rather than regulated common practice) using tenant databases in the private rental market in Australia, and
- The manner in which a rhetoric of risk establishes a practice of abstracting tenants from the contexts that have led to tenancy problems and positions them as individual data-subjects on tenant databases.
- Ways in which an attendant process of individualisation creates dimensions of division and difference among tenants with different capacities and resources to negotiate relationships with property managers and ultimately their access to housing in the private rental market.

From this perspective, the research proposed in this paper will provide answers to the following questions:

- What is the role of tenant databases in the context of a broader range of risk minimisation strategies in the private rental sector in Australia?
- What are the current operating practices adopted by tenant databases in Australia? Are there uniform procedures or variations within Australia, and how do these compare, broadly, with those adopted overseas?
- What processes and strategies are pursued by Australian private real estate and property managers (including estate agents and self-managing private landlords) to screen tenants and minimise exposure to risk in the private rental sector?
- What screening and risk management strategies are pursued by those landlords who do not have access to the databases, or who choose not to list tenants?
- What are the impacts on current and future housing and tenure options for different categories of tenants in the private rental sector?

These questions will be addressed through:

- A review of operation of tenancy databases nationally and comparison internationally.
- Focus group and individual interviews with property managers and property owners in Queensland, New South Wales and Victoria.
- Focus group and individual interviews with tenants and tenant advocates in Queensland New South Wales and Victoria.

The research informed by this paper will thus provide an intensive analysis of the ways in which the use of tenant databases by some property managers in the private rental market may be influencing the processes of risk management across the private rental market and impacting upon housing access for low-income, high needs groups in different segments of this market. The research will build on existing studies of the impacts of tenancy databases. It will indicate how landlords and managers use them to manage rental risk; but it will also show how the simple presence of tenancy databases alters the dynamics of the low-cost private rental market. For example, the preliminary investigations have already shown that some tenants are not aware they have been listed; whilst others act as though they have been, even without clear evidence one way or the other. The research will investigate these dynamics and provide evidence that will inform policy-makers and provide a clear basis for extending policy in relation to tenancy databases.

## REFERENCES

- Australasian Institute of Risk Management (2002) Whats New: Welcome to the Australasian Institute of Risk Management Online. Available at: <http://www.airm.org.au/>
- Australasian Legal Information Institute (1995) Privacy Charter sets new benchmark in privacy protection, Available at: <http://www.austlii.edu.au/cgi-bin/disp.pl/au/journals/PLPR/1995/30.html?query=%22privacy%22+and+%22charter%22>
- Australian Bureau of Statistics (1998) Household Investors in Rental Dwellings, Category Number 8711.0, Australian Government Printing Services
- Australian Competition and Consumer Commission (ACCC) (2000), Fair and Square: A guide to the Trade Practices Act for the real estate industry. Australian Competition and Consumer Commission. Available at: [http://www.accc.gov.au/pubs/Publications/Industry/Real\\_estate/Fair\\_Square.pdf](http://www.accc.gov.au/pubs/Publications/Industry/Real_estate/Fair_Square.pdf)
- Beck U, Giddens A and Lash S. (1994). Reflexive modernization : politics, tradition and aesthetics in the modern social order. Polity Press in association with Blackwell Publishers, Cambridge, England.
- Beer A and O'Dwyer L. (2000). 'The Use of Data from South Australia's Rental Tenancy Tribunal for Research and Policy Analysis: Issues of Validity and Efficacy.' Urban and Policy Research. Volume 18 (1) pp 29-43.
- Berry M. (1988). 'Unravelling the Australian Housing Solution: The Postwar Years.' Paper presented to the 8<sup>th</sup> International Planning History Conference, University of New South Wales, Sydney, July 1988.
- Berry M. (2000). 'Investment in rental housing in Australia: Small landlords and institutional investors.' Housing Studies. September 2000, Volume 15 (5) pp 661-681.
- Berry M. (2001). New Approaches to Expanding the Supply of Affordable Housing in Australia: An Increasing Role for the Private Sector, Positioning Paper. Prepared by the Australian Housing and Research Institute and RMIT Research Centre. Available at: [http://www.ahuri.edu.au/pubs/positioning/pp\\_affordable.pdf](http://www.ahuri.edu.au/pubs/positioning/pp_affordable.pdf)
- Boswell L and Warren N. [20 May 2001] Background paper - Tenancy Databases in NSW [For Property Services Advisory Council]. Available at: <http://tenants.org.au/member/publications/tendbases20010520.html>
- Bourassa S, Greig A and Troy P. (1995). 'The Limits of Housing Policy: Home Ownership in Australia.' Housing Studies. Volume 10 (1) pp 83-104.
- Bunning J, Clark J, Cosier M, Williams J, [2001] Tenancy Databases and Fairness to Housing Tenants Report, Report by Student Researchers at Griffith University School of Law. Available at: <http://www.gu.edu.au/school/law/slrc/pdf/tenancyreport.pdf>
- Burke T. (1999), Private rental in Australia, Institute for Social Research, Swinburne University of Technology. Available at: <http://www.sisr.edu.au>
- Burke Terry, (2000), "Private Rental Trends and Homelessness", in Parity, Volume 13, Issue 5, pp5.
- Chui LF and Knight D, (1999) "How useful are focus groups for obtaining the views of minority groups?" in Rosaline S. Barbour and Jenny Kitzinger (eds) Developing Focus Group Research: Politics, theory and practice. London, Sage Publications, pp 99-112.
- Consumer Affairs and Fair Trading (2001) Tenant Data Bases: Issues And Approaches, Office of Consumer Affairs and Fair Trading, Tasmania
- Dalton T and Maher C. (1996). 'Private renting: changing context and policy directions.' Just Policy. August 1996, Number 7 pp 5-14.
- Department of Families and Community Services (FaCS) (2002) Strategic Plan: Our Vision, Our Purpose. Available at: <http://www.facs.gov.au/strategic/index.htm>

Department of Health, Housing, Local Government & Community Services, (DHHLGCS), (April 1993). Submission to the Industry Commission Inquiry into Public Housing. Department of Health, Housing, Local Government and Community Services. Australian Government Printing Services, Canberra.

Dick, B. (1998a) Structured focus groups [On line]. Available at <http://www.scu.edu.au/schools/gcm/ar/arp/focus.html>

Dick, B. (1998b) Convergent interviewing: a technique for qualitative data collection [On line]. Available at <http://www.scu.edu.au/schools/gcm/ar/arp/iview.html>

European Union, (1995) European Union's Data Privacy Directive 95/46/EC, The European Union. Available at: [http://www.privacy.org/pi/intl\\_orgs/ec/final\\_EU\\_Data\\_Protection.html](http://www.privacy.org/pi/intl_orgs/ec/final_EU_Data_Protection.html)

Forrest R and Kennett P, (1997) "Risk, Residence, and the Post-Fordist City" in American Behavioural Scientist, November/December 1997, Vol 41:3, pp342-359

Gregory J. (2001), "More tenants flee as rental debts mount" in The Courier-Mail 16/7/2001, pp 7.

Guthrie F. (2002) Recommended Queensland Strategy Regarding Tenancy Databases, Residential Tenancies Authority, Queensland. Available at: <http://www.rta.qld.gov.au/>

Henman Paul (1998) "Governing by computers: and drowning by numbers" in Arena Magazine, Feb-March 1998 n33 p24-25

Henman Paul, (forthcoming), Sourced at: [http://www.soc.mq.edu.au/soc\\_webpages/s\\_paulHenman.html](http://www.soc.mq.edu.au/soc_webpages/s_paulHenman.html)

Johnston C. (1999) Cash and Cowboys: Barriers for entry to private rental by disadvantaged consumers. NSW Council of Social Service.

Kemeny J. (1983). The Great Australian Nightmare. Georgian House, Melbourne, Australia.

Kipnis Barry, (2000), Dehart Cites Heightened Interest in Resident Background Checks in Multi-Housing News, April 2000 pp25-26, Subscription available at: <http://www.multiphousingnews.com>

Kitzinger J. and Farquhar C, (1999) "The analytical potential of 'sensitive moments' in focus group discussions" in Rosaline S. Barbour and Jenny Kitzinger (eds) Developing Focus Group research: Politics, theory and practice. London, Sage Publications, pp 156-172.

Kreuger R, (1998) The Focus Group Kit, v.6: Analyzing and reporting focus group results, Thousand Oaks, California, Sage Publications

Lupton D, (1999), Risk, Routledge, London and New York.

Lyon David, (2001), "Everyday Life in Informational Societies: Uncertainties, Morals, and Zygmunt Bauman's Sociology" in International Review of Sociology - Revue Internationale de Sociologie, Vol. 11, No. 3, 2001.

Malone P. (1996) Emerging Housing Trends to the Next Millennium. 8th National Conference of the Australian Population Association, Adelaide, 3-6 December 1996.

Michell L. (1999) "Combining focus groups and interviews: telling how it is; telling how it feels" in R. Barbour and J. Kitzinger (eds) Developing focus group research: politics, theory and practice. London, Sage.

Morgan D. (1997, 2nd ed), Focus groups as qualitative research, Thousand Oaks, California, Sage Publications.

NSW Department of Housing and Commonwealth Department of Family and Community Services (June 1999 First Edition) National Community Housing Standards Manual,. Available at: <http://www.nchf.org.au/manual.htm>

Office of the Federal Privacy Commissioner. (2001) My privacy my choice: Your new privacy rights. Available at: <http://www.privacy.gov.au/publications/npr.doc>

Poster, M (1996) *Databases as Discourse; or, Electronic Interpellations* in Lyon, D. and E. Zureik (eds) (1996) *Computers, Surveillance and Privacy* Minneapolis/London: University of Minnesota Press.

Purdon & Twyford. (2000). *Review of Additional Housing Needs for Low-Income Private Renters*, Australian Housing Research Fund, Purdon Associates Pty Ltd and Twyford Consulting Pty Ltd. Available at: [http://www.facs.goc.au/internet/facsinternet.nsf/aboutfacs/programs/house-add\\_housing\\_needs.htm](http://www.facs.goc.au/internet/facsinternet.nsf/aboutfacs/programs/house-add_housing_needs.htm)

Queensland Department of Housing. (2000). *Department of Housing Corporate Plan 2000-2003: Improving Peoples' Lives Through Housing*, 2000. Available at: [http://www.housing.qld.gov.au/corp/dept\\_info/publications/pdf/corporate\\_plan.pdf](http://www.housing.qld.gov.au/corp/dept_info/publications/pdf/corporate_plan.pdf)

Salbu S. (2001) "The European Union Data Privacy Directive and International Relations", *Vanderbilt Journal of Transnational Law*, Volume 35, pp 655-695.

Scott Alan, (2000), "Risk Society or Angst Society? Two Views of Risk, Consciousness and Community" in Adam B, Beck U and Van Loon J (eds), *The Risk Society and Beyond: Critical Issues for Social Theory*, Sage Publications, London.

Seelig T (1998), 'Tenant Advocacy in the private rental sector: addressing power imbalances in rental housing' contained in Burke T (ed) (1998), *Responsive Jurisdictions for Changing Times: Third Australasian Conference of Tenancy Tribunals and Associated Bodies*, Centre for Urban and Social Research, Swinburne University of Technology, Hawthorn

Seelig T. (1997), *Privacy Issues in the private rental sector: The growth of tenant databases in Australia*, National Housing Action, Volume 13(1).

Seelig T. (2001), "Private rental housing provision in Australia: A Structural Analysis", presented at the 2001 National Housing Conference, Brisbane. Available at: [http://www.housing.qld.gov.au/nhc2001/pdf/seelig\\_tim\\_32.pdf](http://www.housing.qld.gov.au/nhc2001/pdf/seelig_tim_32.pdf)

Senate Legal and Constitutional References Committee (1999) *Privacy and the Private Sector: Inquiry into privacy issues, including the Privacy Amendment Bill 1998*, Parliament of the Commonwealth, Australia.

Silverman David, (2000), *Doing qualitative research: a practical handbook*, Sage, London.

Six Perry, (1998), "Housing Policy in the Risk of Archipelago: Toward Anticipatory and Holistic Government Housing Studies", *Housing Policy*, May 1998, Volume 13:3, pp 347-375.

Sullivan O. (1994). *Processes of housing access: a dynamic approach to housing consumption*. *Sociology*. August 1994, Volume 28 (3) pp679(19).

Tenants Union of Victoria [Summer 2002] *Tenant News: Newsletter of the Tenants Union of Victoria*, Issue 3. Available at: [http://www.tuv.org.au/TN\\_issue\\_3.pdf](http://www.tuv.org.au/TN_issue_3.pdf)

Tesch Renata, (1990), *Qualitative research : analysis types and software tools*, Falmer Press, New York.

The Age (1997) 'Landlords 'must have' data on tenants', January 18, pp 6.

Tweed Interagency Group (newsletter excerpts) (2001) "TICA – tenant databases" in *Housing Matters*, A Publication by Queensland Community Housing Coalition Ltd, Australia, Volume 7:4, pp1-3.

Winter I. (1994). *The Radical Home Owner: Housing Tenure and Social Change*. Gordon and Breach, Basel.

Wulff, M. (1997). 'Understanding the private rental market: a new approach', pp 57-67 in: Maher C, Wulff M, Yates J, Beer A, Earl G, Karmel R, Stimpson R, Wood G, Department of Social Security and National Shelter. (1997). *Australia's Private Rental Housing Market: Processes and Policies*, Working Paper 9. Australian Housing and Urban Regional Institute, Australia.

Wulff, M. (2000). 'Changing Families, Changing Households: Australian Housing Assistance Policy' pp37-45 in Hancock L, Howe B and O'Donnell A. (eds). (November 2000). Reshaping Australian Social Policy: Changes in Work, Welfare and Families. Melbourne: CEDA, Committee for Economic Development of Australia. Can be ordered at <http://www.ceda.com.au/RecentPubsF.htm>

Yates J and Wulff M (eds.). (1999). Australian Housing Choices. Australian Housing and Urban Research Institute, (AHURI), The University of Queensland Press, Australia.

Yates J and Wulff M. (2000). 'W(h)ither Low Cost Private Rental Housing?' Urban Policy and Research. March 2000, 18 (1) pp 45-64.

Yates J. (2000). "Is Australia's home-ownership rate really stable? An examination of change between 1975 and 1994" Urban Studies. February 2000, Volume 37 (2) pp 319-342.

Yates J. (1997). "Changing directions in Australian policies: The end of muddling through?" Housing Studies. Volume 12 (2) pp 265-277.



### **AHURI Research Centres**

Sydney Research Centre  
UNSW-UWS Research Centre  
RMIT NATSEM Research Centre  
Swinburne-Monash Research Centre  
Queensland Research Centre  
Western Australia Research Centre  
Southern Research Centre

### **Affiliates**

Northern Territory University  
National Community Housing Forum



Australian Housing and Urban Research Institute  
Level 7 20 Queen Street, Melbourne Victoria 3000  
Phone +61 3 9613 5400 Fax +61 3 9629 8536  
Email [information@ahuri.edu.au](mailto:information@ahuri.edu.au) Web [www.ahuri.edu.au](http://www.ahuri.edu.au)