Senate Inquiry into the worsening rental crisis in Australia

AHURI SUBMISSION

For the Senate Standing Committee on Community Affairs

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Using high quality, independent evidence and through active, managed engagement, AHURI works to inform the policies and practices of governments and the housing and urban development industries and stimulate debate in the broader Australian community.

AHURI undertakes evidence-based policy development on a range of priority policy topics that are of interest to our audience groups. These policy topics include housing and labour markets, urban growth and renewal, planning and infrastructure development, housing supply and affordability, homelessness, economic productivity, and social cohesion and wellbeing, among others.

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- AHURI Research Centre—The University of Adelaide
- AHURI Research Centre—The University of South Australia
- AHURI Research Centre—The University of New South Wales
- AHURI Research Centre—The University of Sydney
- AHURI Research Centre—University of Tasmania.

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Executive summary

AHURI welcomes this opportunity to provide a submission to the Senate Inquiry into “the worsening rental crisis in Australia.” As a national, independent research institute, AHURI’s mission is to deliver high quality research that influences policy development and practice change to improve the housing and urban environments of all Australians.

This submission opens with an overview of Australia’s rental markets have been experiencing increasing strain, as the result of a complex set of drivers. These drivers include persistently low rental vacancy rates, insufficient supply relative to population movement and growth, depletion of rental supply through conversion of stock to short term rental (tourist) accommodation, declining home ownership and residualised social housing supply.

Given the very broad and overlapping terms of reference of the Inquiry, the following paragraphs provide a concise summary of the issues presented in this submission, and how they are aligned with the terms of reference.

In relation to term a of the Inquiry (the experience of renters and people seeking rental housing), this submission reflects on evidence on the impacts of renting during the COVID-19 pandemic, including mental health, loneliness, physical health and wellbeing impacts associated with precarity and with poor quality housing. The submission then considers the specific housing challenges experienced be Aboriginal and Torres Strait Islander peoples, issues of unlawful discrimination, and quality matters including energy hardship.

Responding to term b of the Inquiry (rising rents and rental affordability), this submission identifies ways in which poor rental affordability is a long-term issue, including the shortages of social and affordable housing. The submission notes the ways in which the pandemic has exacerbated rental affordability challenges.

Term c of the Inquiry is focused on actions that can be taken by governments to reduce rents or limit rent rises. This submission recognises the need for Australia to develop a coherent national housing (and homelessness) plan that respects and coordinates the different roles and responsibilities of three tiers of government. Long-term and short-term factors in rental market reform are considered.

There is a pressing need to increase supply, especially affordable supply and to target rental assistance more effectively. Long term reform agendas need to embrace taxation reform, addressing capital gains tax exemptions, reform to land tax and stamp duty, and the capacity for investors to offset losses on rental housing against income (negative gearing). Innovative or alternative investment models to drive increased rental supply need to be supported, including clarification of the relationship between build-to-rent mechanisms and affordable rental housing supply.

Planning reform to accelerate supply, prioritising or rewarding inclusion of affordable supply and infill developing increasing density in established suburbs, can also lead to positive solutions.

In response to term d of the Inquiry (improvements to renters’ rights, including rent stabilisation, length of leases and no grounds evictions), this submission then considers issues of access – regulation of rents and conditions, entry, and exit, as well as management issues (amongst landlords, agents, and tenants) and enforcement.

The submission goes on to identify a number of areas of priority reform for rental regulations, in the areas of:

- tenant application, including rent bidding, applications forms, and data retention
- security of tenure, including length of lease, no cause evictions, and retaliatory evictions
- tenancy liveability, including minimum standards for rental accommodation, security requirements, energy efficiency, health impacts, serviceability, and personal safety (particularly in instances of domestic and family violence).

In response to term e of the Inquiry (factors impacting supply and demand of affordable rents), this submission reviews the impact of short term rental accommodation on rental supply and affordability, as well as the knock on effect of declining home ownership and the barriers to accessing home ownership.

For Inquiry term f (international experience of policies that effectively support renters), the submission reviews international regulatory regimes, international patterns of social housing supply and unmet demand, security of tenure and secure occupancy in other countries, and the regulation of housing quality in international jurisdictions. The submission examines the implementation of rent controls, including definition of key terms that are routinely conflated in public dialogue in Australia, and the targeted nature of rent controls as implemented in North American and Europe. Applications to Australian contexts are considered.

To address term g of the Inquiry (the impact of government programs on the rental sector) the submission identifies key government programs that can positively impact on private renting. These include the increased supply of social housing, rental assistance programs, head leasing programs, rental brokerage, and other supports provided by state and territory governments.

Finally, under term h of the Inquiry (any other related matters), this submission examines the example of the National Regulatory System for Community Housing (NRSCH) including the appointment of independent regulators. The submission then examines arrangements for handling of rental disputes and associated support mechanisms, highlighting the recent appointment of Rental Commissioners in Victoria and NSW, and identifying the potential benefit of establishing similar roles in each state and territory to additionally form a national council (rather than Commonwealth government) to progress rental reforms and improve the conditions experienced by renters across Australia.

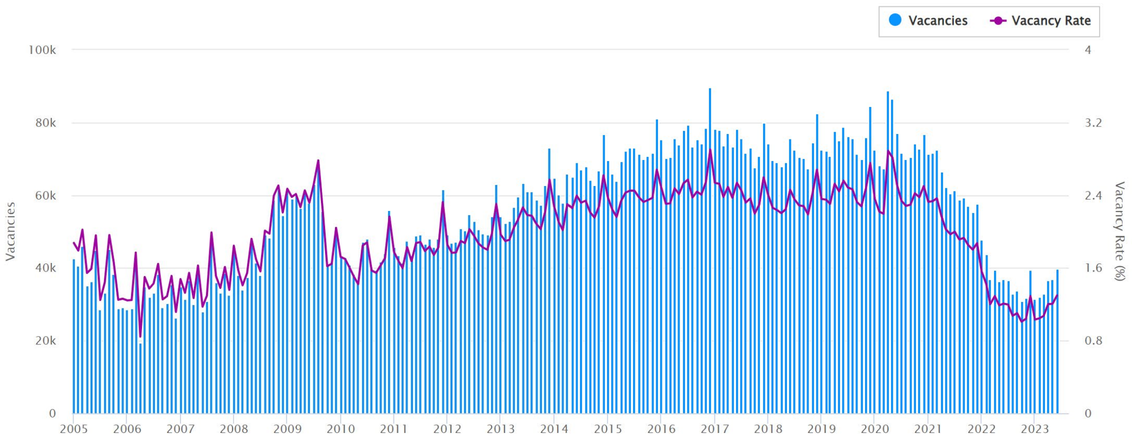
Introduction and background

AHURI welcomes this opportunity to provide a submission to the Senate Inquiry into "the worsening rental crisis in Australia." AHURI has previously examined the causes of current rental market conditions, summarised in the AHURI brief *'Why does Australia have a rental crisis, and what can be done about it?'* (AHURI 2022a). The following section reflects and updates that brief.

Why there is a rental crisis in Australia

Australia is experiencing a period of very low rental vacancy rates and rising rent levels, which has led to what is widely recognised as a "rental crisis." Indeed, the national rental vacancy rate (i.e., the percentage of untenanted rental properties against all rental properties) was at 1.3 per cent in June 2023 (SQM Research 2023a). This very low vacancy rate has been sustained for most of 2022, a situation not seen in the last 20 years.

Figure 1: Rental vacancies in Australia



Source: SQM Research (2023a)

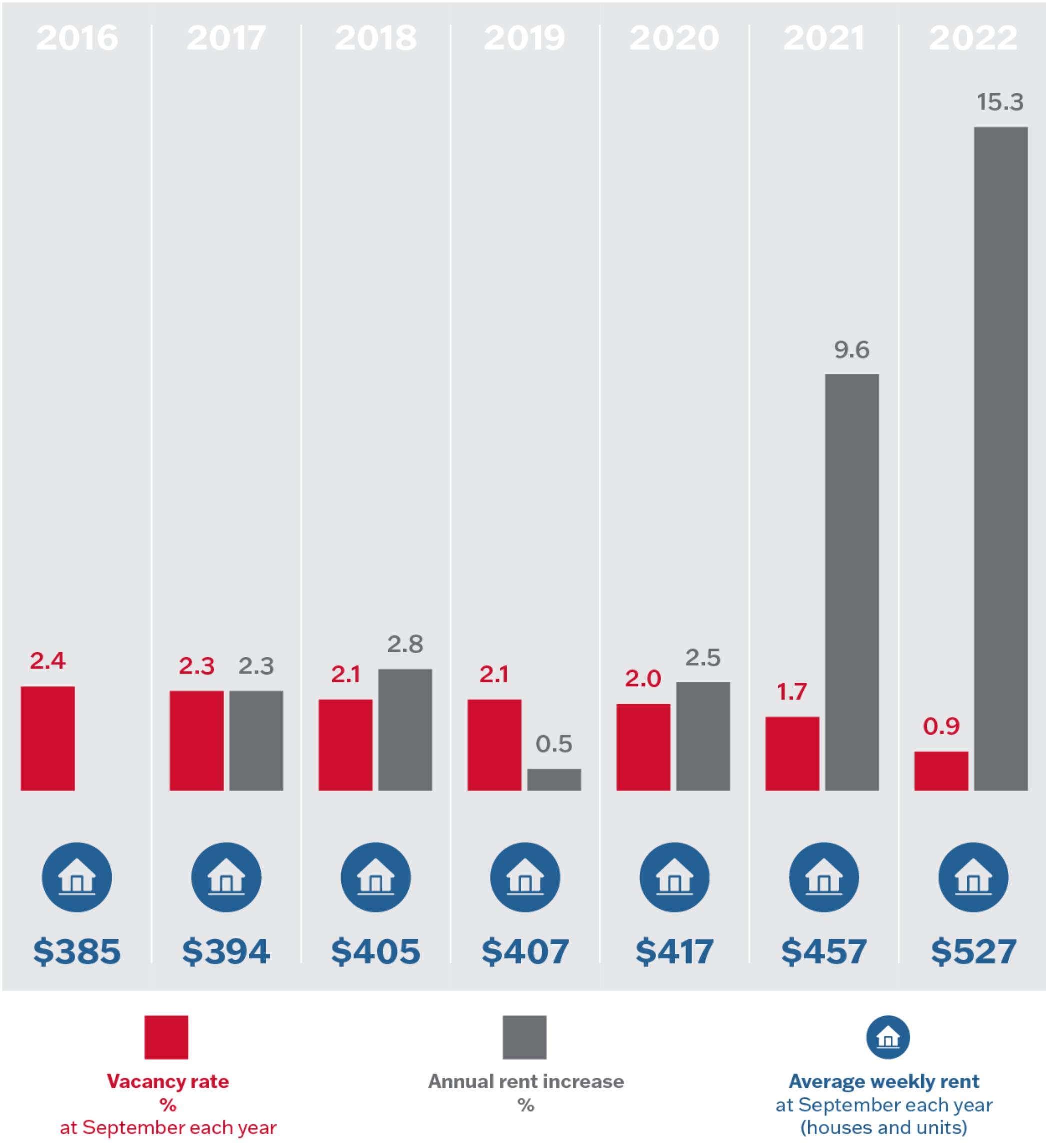
Such pressure for rental housing pushes up rents, and as a result national combined rents (i.e. that is for houses and apartments) are the highest they have ever been: $575 per week (for June 2023; SQM Research 2023b).

This crisis of unaffordable and unavailable rental housing is the consequence of a number of causes and will require a variety of solutions.

Not enough homes to keep up with population and household growth

At a basic level, Australia needs sufficient new housing to house the nearly one million new households formed between the 2016 and 2021 Census; an 11.9 per cent increase (or an average of 197,826 households per year). One reason for the increased number of new households is that there was a large 17.1 per cent rise in the number of single person households between 2016 and 2021 Censuses, in part caused by relationship breakdowns and share houses dissolving due to COVID lockdowns. By comparison, there was only a 7.1% increase in single person households between 2011 and 2016 Census.

Figure 2: Rental vacancy rate and rent increase, Australia 2016–2022



Source: SQM Research

The number of new residential dwellings did not keep up with the number of new households, increasing by only 10.6% per cent (around 198,000 new dwelling each year). This number includes unoccupied dwellings, such as second homes or holiday houses, which are not available for rent or purchase by newly formed households.

As the rate of household formation is greater than the increase in new dwellings, this leads to increased pressures on housing demand.

Table 1: Population and household numbers, Australia 2016–2022

	2016	2022	Change
Population	23,401,881	25,422,789	8.6%
Households	8,286,078	9,275,212	11.9%
Rented dwellings	2,482,548	2,842,378	14.5%
All private dwellings	9,325,958	10,318,993	10.6%

To further compound the pressures of increasing household formation, there is a slowing of the numbers of new housing being built. There was a 2.7 per cent reduction in the number of new residences being built in Australia in June 2022 (compared to the previous quarter; ABS 2023a). The number of new dwellings being completed in the year to the end of June 2022 (174,931 dwellings) was 18.6 per cent less than in the year to the end of June 2019 (214,819 dwellings), before world-wide COVID restrictions applied (ABS, 2023a). Supply chain problems and worker shortages continue to impede home building and leaving projects unfinished, adding to housing pressures.

Internal migration

While the national rental vacancy rate is bad, it does vary across cities and regions. The rates have varied significantly month by month, many reaching their lowest point around September 2022, with faltering minor recoveries since. For example, in June 2023 Melbourne recorded a rate of 1.3 per cent (was 1.4% in October 2022), Sydney of 1.7 per cent (was 1.3%), Canberra of 2.1 per cent (was 1.0%), Darwin of 0.9 per cent (was 07%), Brisbane of 1.0 per cent (was 0.7%), Hobart of 1.9 per cent (was 0.5%), Perth of 0.6 per cent (was 0.4%) and Adelaide of 0.6 per cent (was 0.3%). Regional areas also fared very poorly, with examples of Cairns recording 1.0% (was 1.6%), Gold Coast (QLD) recording 1.1% (was 1.6%), while Far North Coast (QLD) has a vacancy rate of 0.2 per cent (was 0.1%).

Between 2016 and 2021, regional Australia gained 184,000 people who moved from having previously lived in a capital city, more than double the number of 81,600 people revealed in the 2016 Census. This increase was predominately driven by people moving to regional and rural Queensland (+63,700), regional and rural Victoria (+62,900) and regional and rural NSW (+59,000) (ABS, 2022a). Such large internal migration numbers have a real impact upon local vacancy rates in regional and rural areas, particularly in Queensland.

International borders reopening

The lack of rental housing was temporarily alleviated during the COVID pandemic when international students and workers were restricted from living in Australia. At that time vacancy rates across Sydney reached 4 per cent in May 2020 (and 16.2% in the CBD) and 4.7 per cent in Melbourne. Numbers of overseas arrivals plummeted from a high of 2.26 million in January 2020 to a low of 10,000 in August 2020 but started to climb again from November 2021 (70,000 arrivals) to 1.07 million in September 2022 (ABS 2023b). International student arrivals have grown from just 230 individuals in August 2021 to 40,650 in August 2022 (ABS 2023b). While this is not a key reason for housing affordability stress in the last two years, it is a factor in that, as Australia's borders are reopening and the demand for rental housing is increasing, the vacancy rates have dropped to dramatic lows.

The impact of short-term rental

The impact of rental housing being removed from long term rental to the short-term letting market (e.g., AirBnB) has also been a factor in worsening vacancy rates, but generally only in specific areas. AHURI research shows that 'short-term letting platforms like Airbnb are probably not significantly worsening rental affordability across our major cities as a whole but are having an impact on the availability of rental properties in high-demand inner city areas with significant tourism appeal' (Crommelin et al 2018).

For tenants in tourism-rich regional and coastal areas the impact of short-term letting is apparent. Prior to COVID, AHURI research focussed on Tasmania showed a steady increase in properties being available in the short-term letting market between 2016 and March 2020 (Verdouw et al 2020). Despite a large fall in short-term letting activity after March, the research shows that people began using the short-term letting market again after June 2020.

Structural changes in Australian housing tenures

Recent AHURI research has documented that the 'Australian dream' of home ownership is no longer a universal goal in the contemporary era (Burke et al 2020). This analysis suggests that no single market or policy shift has eroded the ability to achieve the ownership dream; instead, the change has come from complex shifts throughout the entire institutional environment over recent decades.

In this context, 'institutional environment' includes the values, structures and mechanisms of social order and cooperation that govern the behaviour of people, organisations, and government within a society. 'Institutions' are the legal frameworks, market mechanisms, cultural values, political processes (including policy environment), geography, environmental conditions and demographic attributes that give direction to a country's housing practices and performance.

Broadly, Australia now has an institutional environment which no longer supports ownership as it did in the past. This means (a) that ownership will continue to decline in the coming decades and the housing system will become more inequitable irrespective of what incremental housing policy reforms are made; and (b) given this, we have to rethink what sort of housing system is appropriate for Australia's future; either we embrace more fundamental and broad based reforms to rebuild ownership or we accept a retreat from its historical dominance, moving to a system which has more balance between rental and ownership—what we can call a dual tenure system (Burke et al 2020).

Despite massive investment, the shortage of rental stock relative to need (notably at the low-cost end) has worsened over time. These trends suggest investment has come at a direct cost to home purchase (investors outbidding purchasers) and indirectly, by not increasing supply to the degree it should have it has contributed to house price inflation and pushed some purchasers out of the market.

The projected declines mean Australia will no longer be a society with near universal home ownership, but must become a dual tenure society of ownership and rental (both private and social). A dual tenure housing system in which one half (owners; predominantly older households) acquires wealth and the other half (renters; generally younger) doesn't is a recipe for long-term social problems (Burke et al 2020).

Addressing the generational divide will require new policy instruments to give renters the opportunity achieve greater security, affordability, and liveability in private rental (and also rebuilding social housing). It will also need to enable renters to create wealth and/or processes to redistribute some of the asset-generated wealth of owners. In addition, it will require greater income support for households in older age. In addition, policy focus requires recognition that tenure change and direction can be affected by the evolving nature of urban form and land use patterns, labour market changes, migration and settlement patterns, income distribution, the nature of income support, and financial systems (Burke et al 2020).

What can be done to improve Australia’s rental crisis?

At its simplest, to reduce the rental crisis Australia needs to build more well-located rental dwellings that are affordable to people on low incomes. Strategies to make this happen need to include increased supply of rental housing, including affordable rental supply, and can include targeting Commonwealth Rent Assistance (CRA) more effectively; increasing CRA to better align with rents in local areas; and improving connectivity between outer suburban and satellite city housing markets and job-rich areas.

Build the right kinds of homes in the right places

While keeping the price of housing down is essential, it’s also vital that affordable housing is built in the right areas. Recent AHURI research reveals that although low-income households (i.e., with household incomes between 21 and 40 per cent of Australia’s income distribution) are a critical part of the workforce, they are increasingly unable to find affordable rental housing near the employment centres of Australia’s major urban areas (Gurran et al 2021). Across Australia, there is a shortage of 173,000 affordable dwellings in the private rental sector available for these households, and 71 per cent pay an unaffordable rent that is greater than 30 per cent of household income.

The result is that working low-income households are “either enduring affordability stress, commuting burdens, or both in order to access employment opportunities” (Gurran et al 2021). To reduce the mismatch between employment rich areas and affordable housing, AHURI research identified three primary policy options: “increasing affordable rental housing near key employment areas; improving accessibility and connectivity to outer suburban and satellite city housing markets via strategic investment in transport and communications infrastructure; and ‘concentrated decentralisation’ —fostering new employment clusters through strategic place-based funding interventions and digital innovation” (Gurran et al 2021).

To help ensure the right kinds of dwellings are built in the right places, AHURI is currently conducting a research Inquiry ‘into projecting Australia’s urban and regional futures,’ to gain new insights into population dynamics and growth, including the drivers of regional mobility, across Australia’s cities and regions (AHURI 2023a). The Inquiry’s findings will inform and guide future settlement and infrastructure planning at national, state, and local levels.

Target rental assistance more effectively

Since its introduction in 1958 CRA was “indexed to the Consumer Price Index (CPI), so where rents have increased more than CPI, the real value of CRA has not kept up” (Ong et al 2020).

The May 2023 Federal Budget included a change in the rates of CRA, to take effect in September 2023: the maximum rates payable to households through CRA will rise by 15 per cent at a cost of $2.7 billion over 5 years from 2023 (Commonwealth of Australia 2023). This increase is at a rate higher than the usual CPI increases applied every March and September.

Recent evidence indicated that over one-third of low-income CRA recipients were still in housing affordability stress after CRA is deducted from their rents (Ong et al 2020). To overcome the inability of CRA to fully support low-income tenants' housing costs AHURI has modelled reforms to CRA. Targeting the eligibility rules to those who fully need it could cut the numbers of CRA recipients who are in housing stress by 44 per cent (Ong et al 2020). At the same time, it would generate an annual cost saving of $1.2 billion.

However, as a Commonwealth funded welfare assistance program, CRA is restricted by constitutional limitations in that "the Australian Government is empowered to make certain social security payments only, which do not include rent or other housing payments in their own right" (Ong et al 2020). A work around could involve the Commonwealth Government making grants to the states and territories "to pay Rent Assistance to eligible persons" (Ong et al 2020).

Increase supply of land and homes in places where they are needed

Of course, not all low income, renting households live (or want to live) in a city or major urban areas. However, the availability of rental housing is often very restricted in regional and rural areas. Although land might be a lot cheaper than in major cities there can be constraints: land zoned for agriculture is not able to be built on; and there are higher costs in building in the regions due to shortages of specialised labour, extra costs to bring in building materials, requirements to build to expensive standards in bushfire prone areas, difficulty obtaining bank loans in economically restricted areas, and higher costs of housing insurance in areas at risk of fire and flood.

As a result of such economic risks, private rental sector investors are less enthusiastic about committing to regional and rural area housing, particularly as regional households generally have lower incomes than metropolitan households (and can't afford overly high rents), and capital growth is usually greater in metropolitan areas (although people moving to regions to escape COVID did push up regional dwelling prices by 5 per cent per annum by July 2020, which overtook the growth rate in cities at that time) (Verdouw et al 2021).

Increases to CRA for tenants in regional and rural areas may see tenants able to pay rents that could stimulate an increase in rental housing supply, particularly an increase in affordable social housing provided by community housing providers.

The newly announced National Housing Accord, which aims to encourage the building of one million new well-located homes over five years from 2024, recognises that the Commonwealth Government has a "a key role in enabling and kick-starting investment." (Australian Government 2022). Although most of the new housing will be supplied by the private market, the Accord is intended to expedite development such as by providing "financing options through the Housing Australia Future Fund to facilitate institutional investment in social and affordable housing".

This submission

This submission provides a response to the terms of reference of the Inquiry, referencing mainly AHURI research and policy consultation. AHURI would be willing to provide further evidence to the Inquiry, should this be required.

The submission is structured according to the Inquiry Terms of Reference which relate to the "worsening rental crisis in Australia," with particular reference to:

a) the experience of renters and people seeking rental housing

b) rising rents and rental affordability

c) actions that can be taken by governments to reduce rents or limit rent rises

d) improvements to renters' rights, including rent stabilisation, length of leases and no grounds evictions

e) factors impacting supply and demand of affordable rentals

f) international experience of policies that effectively support renters

g) the impact of government programs on the rental sector, and

h) any other related matters.

Inquiry Term a

The experience of renters and people seeking rental housing

AHURI has not yet been able to report on the experience of renters over the last 12 months while rental conditions have worsened. However, AHURI has conducted extensive prior research on the experiences of renters, including over the recent COVID pandemic period. Because there has been a long-term issue with affordability of private rental, it is not surprising that the experience of renting – especially those experiencing some form of constraint – has been difficult. For example, long-term renters (especially those on low incomes) are more likely to express lower rates of satisfaction about their financial situation and levels of feeling connected to their local community compared to other renters or homeowners, even though there is no difference in relation to health, sociability, and connectedness (Stone et al. 2013).

Occupying rental housing during the COVID pandemic has had negative impacts for renters, in terms of:

- Mental health – This was especially the case for women, those who needed financial assistance, had issues with affordability, higher mobility, and/or had poor housing conditions. The effects on mental health were greatest in Victoria where restrictions because of the pandemic were most pronounced (Baker, Daniels, et al. 2020).

- Loneliness – This was especially the case for single people and those engaged in remote work or study.

- Poor health – this was related to incapacity of some renters to properly keep their house warm in cold weather, and the prevalence of cold, mould and damp in housing occupied by those with poor health. This was of particular concern for renters with children.

- Poor housing quality and conditions – These were especially an issue while families were spending more extended periods of time in their home. This was apparent particularly for public housing tenants, but also in housing that was considered unaffordable and led to low ratings by tenants of satisfaction with their home.

Renting in COVID

Recent AHURI research examined the experience of renters in the midst of the COVID pandemic (Baker, Bentley, et al 2020). This research surveyed and analysed the circumstances for Australian renters during the initial phase of the COVID-19 lockdowns in July and August 2020 to give insights into how the rental market is performing, the uptake of existing support measures and the demand for future assistance.

Almost all tenants were affected in some way (often in multiple ways): in their employment, living environment, ability to pay rent, and risk of eviction. Low-to-moderate income households (<$90,000/annum) generally faced higher rates of reduced working hours (up to 26%), temporary job loss (up to 16%) or reduction to overall income (up to 11%) compared to higher income households. Younger age groups were disproportionately affected across all categories of changes to employment or income (Baker, Bentley, et al 2020).

Just under 30 per cent of tenant households surveyed had either requested (16%) or were planning to request (12%) a rent alteration as a result of COVID-19-related hardship. The majority (60%) of these requests were met with either a rent reduction or deferment. More than a third (36%) of respondents said that either the landlord would not negotiate or that they have not yet received a response from their landlord (Baker, Bentley, et al 2020).

Other recent AHURI research investigated the mental and economic wellbeing of landlords and tenants affected by the COVID-19 pandemic. The financial challenges and uncertainty were very stressful for many tenants. The survey results reinforced that there were higher stress levels in tenants than with landlords: almost one third (32%) of tenants reported that they often felt they were unable to control important things in their lives, compared to 15 per cent of landlords (Oswald et al 2020). Also, 47 per cent of landlords had confidence in their ability to handle personal problems compared to only 27 per cent of tenants.

Further AHURI research has investigated the Australian rental sector during the second year of the COVID-19 pandemic and considers priorities for governments; tenant experiences and reflections on the effectiveness of assistance and interventions; changing tenant aspirations; and the priorities for emerging responses. The research highlights how 'nimble' the Australian policy community had been in response to COVID-19, and the success of many of their rapid interventions (Baker et al 2022).

This research notes that there is a need for policies and strategies that build resilience in the rental market. Key initiatives could include the provision of a larger stock of affordable housing available through the social housing sector, reform of tenancy legislation, and measures to sustain affordable entry into home ownership (Baker et al 2022).

Precarity and wellbeing

AHURI research has also examined how the bi-directional relationship between housing precariousness and wellbeing varies across population subgroups and over time (Ong ViforJ et al 2022). This work sheds light on the dimensions of housing precariousness that affect wellbeing, and vice versa; and considers how policy interventions to effectively minimise negative impacts of precarious housing on wellbeing.

Wellbeing is a critical and internationally recognised yardstick of societal progress and policy impact, putting individuals at the centre of evaluation. Precarious housing includes household-based conditions such as forced moves and living in unaffordable housing or overcrowded housing, and area-based precarious housing conditions, such as living in an area of relative socio-economic disadvantage or in a higher crime area.

Singles, households with no children, low-income households, private renters, and residents of major cities have lower wellbeing when precariously housed compared to when they are not precariously housed. Young people are more likely to fall into or remain in precarious housing than older people. Among the 25–34-years age band, 19 per cent fall into precarious housing and 24 per cent stay in precarious housing from year to year. On the other hand, only 4 per cent of the 65+ years age group fall into precarious housing and just 12 per cent stay in precarious housing from year to year (Ong ViforJ et al 2022).

Aboriginal and Torres Strait Islander peoples

A considerable body of AHURI research has examined the specific housing challenges of Aboriginal and Torres Strait Islander peoples. Recent AHURI research examined the characteristics of successful tenancies for Indigenous people to understand 'what works' for securing successful housing outcomes (Moskos et al 2022). It explores the successful initiatives in sustaining tenancies for Indigenous people and what particular elements contribute to this success, including for different types of housing—private and social housing, and across different locations—urban, rural, and remote.

Aboriginal and Torres Strait Islander people face considerable barriers to achieving successful housing outcomes. Only around a third of Indigenous Australians own their own home, compared to two-thirds of non-Indigenous people. Consequently, a far greater proportion of Indigenous people (around 60%) live in rental accommodation than non-Indigenous people (30%). Indigenous households are particularly over-represented in the social housing sector due to difficulties experienced in accessing private rental accommodation. These difficulties include racial discrimination within the private rental market; challenges meeting criteria for properties; and lack of appropriate and good quality housing. The research identifies several barriers to the delivery of tenancy support programs, including a lack of cultural understanding and the provision of culturally inappropriate services (Moskos et al 2022).

Discrimination

AHURI has also examined discrimination in the private rental system, as well as and existing policy, law and practice in Australia's private rental sector including the impact of informal tenancies and the increasing role of digital technologies. Discrimination in the private rental sector has been exacerbated by the growth of the informal sector, which exposes more people without a legally binding lease to the threat of unregulated rental discrimination and very limited security of tenure and other rights (Maalsen et al 2021).

This research notes that, alongside the growth in renting is a rapid increase in digital real estate technologies that have profoundly reshaped how tenants, landlords and agents navigate the private rental system. These digital technologies, whether apps, automated management systems or online housing markets, are at risk of reproducing existing and creating new housing inequalities (Maalsen et al 2021).

The research maps several critical policy areas for reform, including:

- removing 'no-grounds' justification for evictions
- increasing rental assistance
- increasing supply of public and social housing and low-cost private rental options particularly in, and proximate to, labour-dense locations to decrease pressure on the lower end of the private rental system
- developing specific and minimum quality, efficiency, repair and maintenance standards for all Australian rental accommodations, and meaningful tools for their enforcement

- providing financial and tax incentives to build for and rent to low socio-economic status tenants; and to provide housing for tenants who experience discrimination (Maalsen et al 2021).

Quality

AHURI research has examined energy hardship within Australia's rental housing market and considered strategies and policy actions to reduce its impact on the lives of Australian households (Daniel et al 2020). In this context, energy hardship includes absolute measures of financial hardship; consensual or subjective reflections on households' lived experiences; and circumstances where residents limit their energy use for normal daily activities.

Household expenditure on domestic fuel and power, as a proportion of total expenditure, rose in the period 2009–10 to 2015–16 by up to 37 per cent. Up to 40% of Australian households who rent their housing experience energy hardship. Both private and social renters are frequently found to experience a higher likelihood of being exposed to energy hardship than people in other tenures (Daniel et al 2020).

Formulating effective solutions to problems of unaffordable energy and thermally inefficient housing in the low-cost rental sector is particularly challenging because of 'split incentives'—where the landlord pays for improvements that provide them with no immediate or direct financial benefit—and other tenancy and financial barriers. Having minimum standards for the energy-performance of rental homes is a critical starting point and must underpin all other policy strategies. Similarly, mandatory disclosure of dwelling performance was seen as a potentially powerful tool to aid residents in their selection of properties, and as a way of monitoring compliance with minimum standards (Daniel et al 2020).

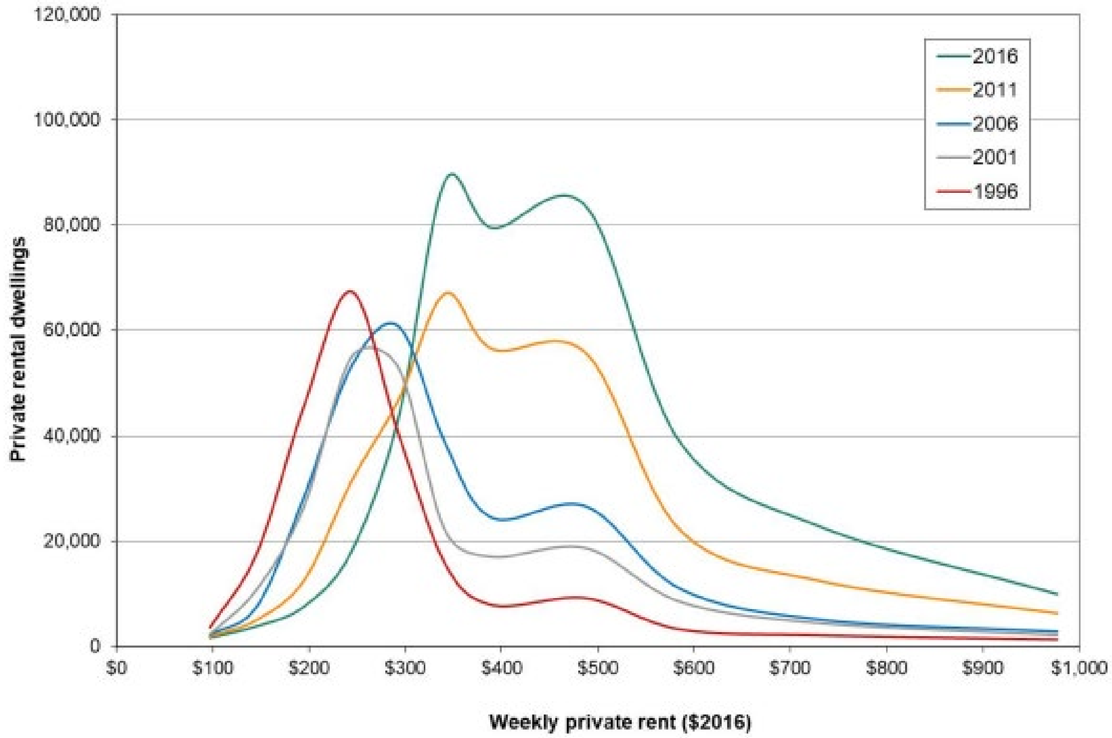
The costs of poorly maintained rental properties are compounded for tenants. Affordability needs to account for the costs of running the home, particularly energy consumption. Many renters can only afford low-efficiency appliances, which increase costs in the long-term. The impacts of the costs of energy, including heating and cooling, will only increase as climate change drives more extreme weather events. This will make renters even more vulnerable. Affordable housing is intertwined with energy and sustainability policy (Maalsen et al 2021). Addressing these issues at an individual tenancy level is challenging. The relationship between the landlord and tenant can play out unevenly. For example, as capital gains are predominantly driven by land debt and scarcity rather than housing quality, there is little incentive for landlords to provide repair and maintenance. However, rental insecurity disincentivises property upkeep from the tenant's perspective, and can contribute to the loss of investment value for the landlord (Maalsen et al 2021).

Inquiry Term b:
Rising rents and rental affordability

Poor affordability is a long-term issue

Present concerns around shortages in the private rental market need to be connected to longer term concerns about the sector. Hulse et al (2019) showed there has been a progressive increase in the rates of rents in private rental dwellings away from affordable rents towards those in the middle of the distribution (see Figure 3).

Figure 3: Distribution of real rents in Melbourne, 1996-2016 ($2016)



Source: Hulse et al. (2019)

Because of relative stagnation of incomes at the bottom end of the income distribution, this has translated into the progressive increase in shortages of affordable rental housing among those in the lowest quintile of incomes (Q1).[1] Table 2 shows how this increased from 2006 to 2016 in all capital cities – but was most pronounced in Melbourne, where there was an *absolute* shortage of affordable stock of 52,600 in 2016 (compared to 31,700 in 2006). Because

[1] More up to date estimates including data from the 2021 Census will be provided in a forthcoming AHURI project due for completion later in 2023.

some affordable stock is occupied by higher income households, the shortage of affordable *and available* stock increased from 40,200 in 2006 to 62,800 in 2016, and the percentage of low income (Q1) households paying unaffordable rents increased from 87% to 90%.

Table 2: Shortage of affordable and available stock for Q1 private renter households, capital cities, 2006, 2011, 2016

	Shortages/surplus of affordable stock			Shortage of affordable and available stock			Proportion (%) of low-income (Q1) households paying unaffordable rents		
	2006	2011	2016	2006	2011	2016	2006	2011	2016
Sydney	-40,400	-47,000	-49,700	-44,500	-52,600	-56,000	93	92	92
Melbourne	-31,700	-43,200	-52,600	-40,200	-51,800	-62,800	87	88	90
Brisbane	-15,400	-22,500	-24,900	-19,100	-26,300	-29,600	87	89	89
Adelaide	-7,800	-12,000	-16,800	-11,900	-16,300	-21,100	79	80	84
Perth	-9,900	-14,700	-16,700	-15,300	-18,600	-20,700	79	87	89
Hobart^	-1,000	-2,000	-2,500	-2,100	-3,000	-3,700	68	71	72
Darwin^	-300	-500	-400	-600	-700	-700	81	86	88
Canberra^	-800	-1,300	-2,000	-1,200	-1,700	-2,700	89	90	90

^ Very low counts in these cities: caution should be exercised when interpreting these figures.

Source: Hulse et al. (2019)

Shortages were also apparent for Q2 households (those in the second quintile of incomes). Increased shortages were most apparent in inner metropolitan areas, but also in outer suburbs. This was despite the fact that across the two bottom quintiles of rental dwellings, there was an increase in the supply of rental housing that was affordable to Q1 and Q2 households from 2006 to 2016, especially in outer suburbs.

The high number of low-income households in unaffordable private rental housing might be less problematic if this was a temporary phenomenon and renters transitioned into more affordable housing or other tenures over time as their incomes increased.

However, other trends in Australian housing markets have combined to increase the likelihood of households remaining in unaffordable rental. AHURI research (Stone et al. 2013, Hulse et al. 2018) has shown that there has been:

- An increase in the relative size of the private rental sector at the same time as the social rental sector and home ownership has declined in relative terms (limiting capacity to access those alternative tenures)
- An increase in the incidence of 'rental stress' (paying more than 30 per cent of income on housing costs)
- An increase in the incidence of the numbers of 'long term' renters (defined as those households that have been renting for ten years or longer), including families with children
- a higher percentage of private renters in each age cohort in 2016 compared to a decade previously.

Hulse et al (2018) found that the growth in the private rental sector in Australia is consistent with international trends and is related to a combination of financial and policy settings. There is no recent evidence this is linked to a deregulation of tenancies. Despite the significant growth in the sector, policy settings are still largely premised on the idea that the rental sector is a 'tenure of transition', with most residents moving eventually into home ownership.

In Australia, the private rental sector is distinctively different from overseas jurisdictions and is characterised by:

- an ownership structure which is dominated by small investors
- a high degree of integration with the owner occupation sector (i.e., properties regularly switch between the ownership and rental sectors)
- high usage of real estate agents and property agents and a growth in other intermediaries
- weak laws in relation to security of tenure and rent regulation.

Because rental housing in Australia is a cottage industry comprised mostly of small-scale investors, market signals are weak. Supply responses are sluggish as it is difficult to coordinate new supply across a multiplicity of suppliers who are themselves often financially constrained. AHURI research shows that, relative to other countries, supply is relatively inelastic to price increases in Australia (Ong et al. 2017).

This situation can be contrasted with other countries which have large-scale, long-term investors for dedicated rental housing (e.g., Austria), larger social housing sectors (e.g., UK) and laws that provide greater rights and protections for renters and those who are homeless (e.g., Finland). However, there has been some recent innovation in particular sub-markets, such as the build-to-rent sector, and the student apartment market (Hulse et al. 2018).

Impact of COVID pandemic on rental affordability

As noted previously, the COVID pandemic introduced several new problems for many renters in what was already an unaffordable and insecure rental market. Despite government-introduced protections against eviction, options to apply for a reduction of rents, and increased income support benefits, the COVID pandemic still had adverse impacts on many renters (Baker, Bentley et al. 2020; Baker, Daniel, et al 2020). The impacts were felt most by those experiencing lower incomes because of job loss, and in regional housing markets. Impacts included:

- increased *rental stress* (paying more than 30 per cent of income in housing costs), with 80% of low-income households in the private rental sector experiencing rental stress
- difficulties with paying rents due to unemployment and mental health issues
- not being able to save for a home deposit
- *discomfort* due to incapacity to pay for heating, or missing essential medical care, food, or utilities
- *Post-rent deprivation*, with those most affected including families and young people.

There were also geographic impacts on rental markets due to the pandemic (Rowley et al. 2023), including:

- Increased demand for regional or outer suburban housing and lower demand for inner urban areas – this affected tree- and sea-change areas in particular
- Tighter supply of rental housing – rental investors in regional markets sold stock to first or second home buyers which reduced rental availability and vacancy rates, and displaced private renters
- Investors in high demand rental markets had to pay higher prices – this meant renters in those locations had to pay correspondingly higher rents.

It might have been expected that impacts for social renters would be neutral (and possibly improved because of enhanced income support). However, loss of employment affected social tenants too and, even pre-pandemic, the levels of rent in social housing are still generally too high to avoid deprivation, as well as too low to properly provide sufficient rent revenue for social housing providers to fund essential property management.

There is evidence that many retrenched workers were already struggling before the COVID pandemic, so the short-term provision of increased income support benefits, while beneficial, was not necessarily able to address these longer-term issues once they were wound back (Baker, Bentley et al. 2020).

Despite efforts to provide some protections for renters, these were not without problems:

- around one third of renters who requested a rent reduction during the pandemic were refused, and those on the lowest incomes had the most trouble negotiating rent reductions
- Those experiencing housing affordability issues (especially those who had experienced this as a result of the pandemic, and young people) were more likely to apply to access funds

from their superannuation under the Superannuation Early Release Scheme, with significant potential for longer term impacts on those persons' retirement incomes.

Inquiry Term c:

Actions that can be taken by governments to reduce rents or limit rent rises

Since Federation, the different tiers of government in Australia (Commonwealth Government, state and territory governments, and local governments) have each held different roles and responsibilities in housing and homelessness policy.

In the time between Federation and the end of the Second World War, housing and homelessness policies and programmes were largely the domain of the states, as well as philanthropic organisations (Commonwealth of Australia 2014).

It was in the changed social and political landscape following the Second World War (including the Commonwealth take-over of income taxing powers and the expansion of its role in social security) that the Commonwealth pursued major housing initiatives for the first time. This was part of a broader effort to stimulate the domestic economy (Commonwealth of Australia 2014).

The National Housing and Homelessness Agreement (NHHA) is the most recent iteration of a continuous series of the periodic agreements between the Commonwealth Government and the state and territory governments (hereafter 'states'), that have been in place since 1945. Prior to this date, the then Commonwealth Housing Commission, with its final report, wrote that "a dwelling of good standard and equipment is not only the need but the right of every citizen" (CHC 25 August 1944).

Commonwealth State Housing Agreements (CSHAs) operated with that ambition from 1945 to 2000, with re-signing of the agreement in 1956, 1961, 1966, 1973, 1978, 1981, 1984, 1989, 1996, 1999, and 2003. The CSHAs recognised the fact that the states had ceded taxation powers to the Commonwealth to assist the war effort, and that a housing programme required this income base (see Troy, 2012). In 2008 the final CSHA ended. Since that year a patchwork of "national partnership" and bilateral agreements have addressed parts of the CSHA ambition and responsibilities.

The 1945 CSHA provided loan funds over 53 years on the condition that housing was directed, in the first instance, to meeting the accommodation needs of low-income families, in particular for the provision of rental housing. From 1956, the CSHA increased focus on home ownership and middle-income households, both the 1961 and 1966 CSHAs were characterised by shifts toward greater input by the Commonwealth. Initially the Commonwealth's public housing program had a broad and inclusive remit, channelled through each state housing authority to respond to the housing needs of different groups in their communities. The nature of Commonwealth and state roles shifted with each increasing Commonwealth roles in managing the accommodation needs of the different welfare groups.

The 1973 CSHA significantly increased the targeting of public housing to low-income households. The 1978 CSHA further targeted those in most need and required that states introduce market-related rents instead of the historic rents they had previously employed (with rental rebates for those in need).

The 1978 and 1981 agreements put public housing responsibility back with the states, while the Commonwealth managed national economic policy, including interest rates, which influence the supply, cost, and access to housing. In 1982 the Commonwealth Department of Housing and Construction was abolished, and its welfare housing functions were shifted to the Department of Social Security, effectively designating housing as a welfare concern. Previously, the scope of social housing policy extended beyond welfare provision.

The 1984 CSHA continued the shifting focus and further segmented the provision of welfare housing by introducing rental housing programs for specified groups such as pensioners, Aboriginal households and those needing crisis accommodation. The 1989 CSHA and 1996 CSHA saw significant declines in funding and public housing stock. Public housing funding was transferred to resource new rent subsidies to low-income households in the private rental market with the establishment of Commonwealth Rent Assistance (CRA).

The 1999 CSHA extended Commonwealth control over welfare housing, focusing on the needs of vulnerable households; in the 2003 CSHA this was provided through public and community housing, Indigenous housing, crisis accommodation, assistance for home buyers and CRA.

Alongside the 2008 National Affordable Housing Agreement (NAHA), a National Partnership Agreement on Homelessness (NPAH) was implemented to initiate reforms to reduce homelessness. The initial period of the NPAH was 1 July 2009 to 30 June 2013. From 2013 to 2018 NPAH annual agreements were reached (usually around March, to support state funding of services commencing 1 July), leading to funding uncertainty for the sector.

The National Partnership Agreement on Social Housing (NPASH) was intended to facilitate establishment of a *Social Housing Growth Fund* to support reforms to increase social housing supply in the context of the Global Financial Crisis. It operated from 2008-2010 and was not renewed. COAG also endorsed the National Partnership Agreement on Remote Indigenous Housing (NPARIH) in November 2008 for the ten-year period 2008-09 to 2017-18.

In 2018, the National Partnership Agreement on Homelessness and the National Affordable Housing Agreement were effectively merged, bringing increased certainty to funding for homelessness. This shift, effectively ring-fencing homelessness funding within the longer-term housing agreement, was consistent with strong feedback from stakeholders seeking greater certainty for homelessness funding (see Brackertz et al. 2016).

The increasingly transactional focus of the NHHA in recent years is not consistent with the long history of partnership between the Commonwealth and the states to supply housing for low-income households. The purpose of the NHHA is less ambitious than the original CSHAs, and the NHHA has a more limited scope, focused on specific activities rather than a comprehensive strategic approach to addressing Australia's housing needs. The mutual accountability build into the previous CSHAs was replaced by an emphasis on the accountability of the states and greater transparency in reporting on outcomes by the states to the Commonwealth, while reciprocal reporting by the Commonwealth has largely been eliminated from the NHHA, other than reporting (aggregated) data provided by the states.

The current renegotiation of the NHHA is an opportunity to restore a partnership approach to the agreement. This is also the explicit intent of the National Housing Accord. As recommended in AHURI's submission to the Productivity Commission review of the National Housing and Homelessness Agreement, this approach "AHURI suggests provides a better foundation for a coherent, coordinated (and strategic) approach to respond to housing needs" (AHURI 2022b, p. 3).

Recognising roles of tiers of governments

Beyond the negotiation of the Commonwealth-State housing agreements, there have been various reviews of the roles of government in relation to housing and homelessness. Perhaps the most ambitious of these (since the post World War 2 period) was the 2010-2014 Reform of the Federation process, culminating in a White Paper on the Reform of the Federation in 2014. In its terms of reference, this White Paper positioned a major part of the problem was that over time, the Commonwealth has become increasingly involved in matters which have traditionally been the responsibility of the states and territories. The White Paper included a number of Issues Paper, the second of which focused on Roles and Responsibilities in Housing and Homelessness (Commonwealth of Australia, 2014).

The Issues Paper contained a useful illustration of the roles, responsibilities and overlaps in housing policy between the Commonwealth and state and territory governments (Figure 4).

Notably, though proposing an ambitious reform agenda, the White Paper did not propose a change to the responsibility for regulation of rental housing, which were recognised as state responsibility, and noted that his is an area of minimal overlap between levels of government:

> *Housing is primarily regulated by the States and Territories (through, for example, urban planning and residential tenancy legislation and regulations). The States and Territories also have responsibility for regulating building and construction activity, and house purchases and sales. In line with Housing Ministers' decision to develop a large-scale community housing sector in Australia, a National Regulatory System for Community Housing was introduced on 1 January 2014, supported by State and Territory legislation.*
>
> *Commonwealth of Australia (2014) p. 21*

More recently, AHURI has examined the contemporary context for housing policy amongst the three tiers of government (AHURI 2023b). Rental regulation is a clear responsibility of state and territory governments (Figure 5). The private rental system is overseen by rental laws, known as the Residential Tenancies Regulations in each state and territory. Rental laws are different in each state and territory, though most include provisions regarding rights and responsibilities of renters (tenants) and rental providers (landlords), management of bond payments, and regulation around minimum standards.

Figure 4: Summary of Commonwealth and State and Territory roles and overlaps

Area	State and Territory role	Commonwealth role	Overlaps
Policy	*Shared lead* Oversee policies that directly affect the housing market (land release, zoning, land taxes). Social housing and homelessness policy.	*Shared lead* Oversees policies that indirectly affect the housing market (migration, tax settings, financial services regulation). Commonwealth Rent Assistance (CRA) policy. Influences national social housing, homelessness and Indigenous housing policy.	*High* Both levels of government share responsibility for policy to address housing affordability pressures.
Funding	*Shared lead* Fund social housing and specialist homelessness services. Funds grants and concessions for first home buyers.	*Shared lead* Provides funding to States and Territories for social housing and homelessness services. Funds the National Rental Affordability Scheme (NRAS). Funds CRA. Funds Commonwealth homelessness programmes.	*High* Both levels of government jointly and separately fund housing assistance and homelessness programmes.
Delivery	*Lead* Oversee delivery of housing and homelessness services (often provided by non-government organisations).	*Secondary* Typically not involved in delivery of housing services. Delivers CRA payments to individuals. Limited direct involvement in homelessness services.	*Low* Limited overlap in delivery of individual programmes.
Regulation	*Lead* Regulate housing (community housing, tenancy management, planning, land release and zoning). Local governments also regulate residential planning and construction.	*Secondary* Regulates NRAS.	*Low* Little regulatory overlap.

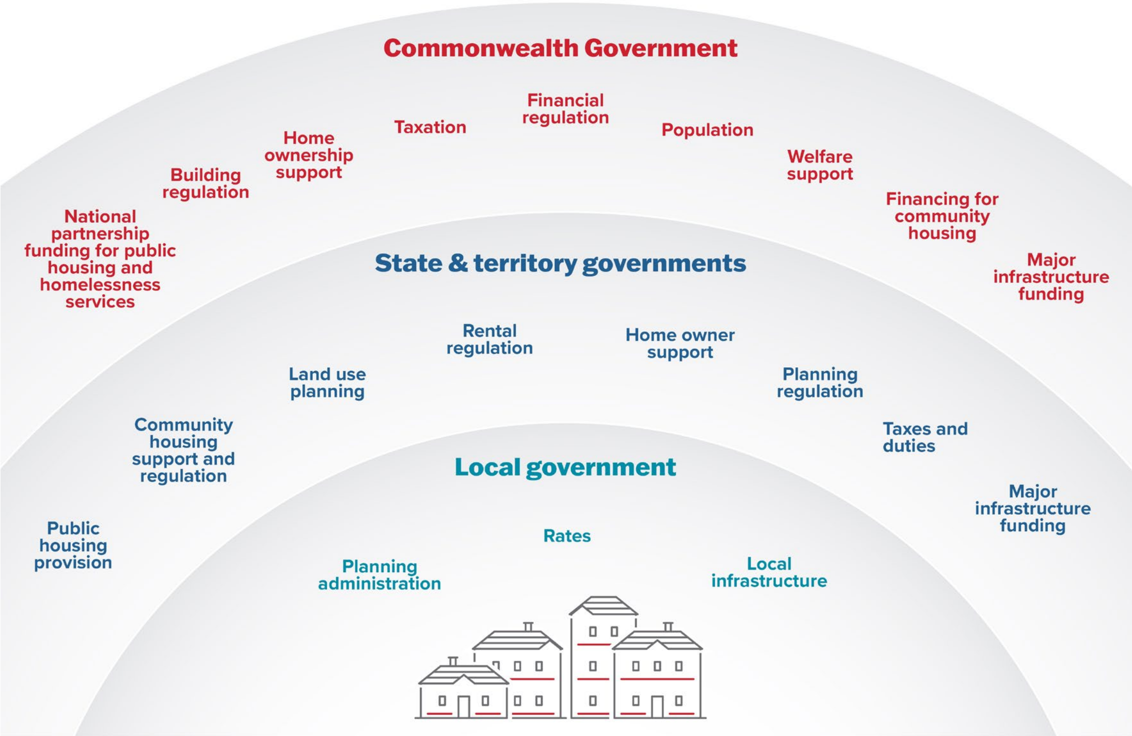
Key

Who leads: Lead, Secondary, Shared lead

Level of overlap: High, Medium, Low

Source: Commonwealth of Australia (2014)

Figure 5: Housing policy levers of Commonwealth, state and territory, and local governments



Source: AHURI (2023b)

The need for a national housing and homelessness plan

Recently published AHURI research investigates the rationale for an Australian Housing and Homelessness Strategy (Martin et al 2023). Applying contemporary thinking about the role of governments in complex problem-solving, and lessons from other 'national approaches' here and internationally, it sets out options for achieving cohesive, co-ordinated action on housing and homelessness in the Australian federation.

This research notes that the landmark UN project *Housing2030* conceives of good housing policy governance deriving from clear strategic frameworks, mission-focused institutions, capable stakeholders, long-term leadership and commitment. It typically requires multi-level governance, based on long-term agreements. The research identifies ways in which a national housing strategy can be market-shaping and transformative, addressing causes of well understood challenges, designing relevant policies and programs to ensure adequate housing for all.

The research also notes that Australia's system of concurrent federalism requires intergovernmental cooperation, and suggests that a mission-oriented Housing and Homelessness Strategy could revitalise inter-governmental cooperation (Martin et al 2023).

There has been a long trend towards the expansion of the Commonwealth's powers, though it must interact with the states to implement policies. The current peak forum for intergovernmental relations, the National Cabinet, replaced the Council of Australian Governments (COAG) at a time when principles for intergovernmental cooperation remained unresolved (Martin et al 2023).

Housing policy coordination lessons from the COVID-19 pandemic

AHURI research during the COVID-19 pandemic gathered data on the scale and scope of policy interventions in the housing system during the pandemic in Australia. The multi-level response to pandemic impacts on the housing system were rapid; large in scale and scope; and generally well-coordinated. In total, 98 Australian Government and state/territory government initiatives were announced between March and June 2020, supported by $4 billion of new or expedited funding (Mason et al 2020).

Australian Government commitments totalled $859m until June 2020, covering each housing outcome except for social housing (due to existing agreements over the division of governance of different elements of the social housing system). Combined commitments from the states dwarfed this figure—a total of $3.2b committed across all jurisdictions. The bulk of funding was injected by Victoria, Western Australia, New South Wales, and Queensland—which also reflects the responses to anticipated economic and social risks in those jurisdictions, especially where the fall-out would have been disastrous to the economic and social wellbeing of the state as well as creating ripple-effects across the country (Mason et al 2020).

Approximately $1.2 billion was earmarked for the private rental sector housing outcomes during the early stages of the pandemic. Due to the distribution of responsibilities under the federation much activity was driven by the states/ territories with regulatory oversight of residential tenancy legislation and control over core revenue policies such as land tax and stamp duty. A plurality of states also provided transfers/payments in the form of rent relief for those experiencing hardship due to the suppression of economic activity associated with social distancing measures and adverse labour market conditions associated with the economic downturn. The private rental system was nonetheless a key focus of the National Cabinet discussion early in the pandemic and there was evidence of harmonisation of laws to protect tenants through eviction moratoria and suspension of rental increases in the early stage of the pandemic (Mason et al 2020).

Subsequent AHURI research reviewed Australia's COVID-19 housing policy responses to better understand their intervention approach, underlying logic, short- and long-term goals, target groups and level of success (Leishman et al 2022). It considered literature and policy from Australia and a small number of international comparator policies; conducted online surveys of landlords and of economists; and consulted key stake holders.

Over the course of the pandemic period, considerable differences emerged between intervention approaches across states and territories. This was also driven by the extent to which different jurisdictions were impacted by the spread of the virus, the extent and frequency of lockdowns, and damage to state/local economies (Leishman et al 2022).

From the very beginning of the COVID-19 pandemic it was clear that job losses, reduced working hours and incomes, light regulation and housing insecurity would disproportionately affect Australians renting in the private sector. The economic shocks also disproportionately affected people with public-facing roles, notably in the tourism, hospitality, arts, and leisure sectors. This 'perfect storm' of greatest economic harm targeting society's already more vulnerable, living in a tenure with the weakest rights and safeguards of the three main tenures, had the potential to end in catastrophe (Leishman et al 2022).

Yet, the AHURI research conducted later in the pandemic period showed that Australia's policy interventions in this tenure were among the lightest, least co-ordinated, and inconsistent between jurisdiction or over time (Leishman et al 2022). The previous published evidence shows that a very small minority of tenants received rent variations, and that nearly three times as many were refused one (Baker et al 2020).

Perhaps the most powerful evidence collected by the more recent research lies in its diversity. Private renting is a 'sector' in name only. In reality, it is highly fragmented, mainly consisting of many thousands of individual landlords, investors, and their agents. Aggregating and making sense of the decisions of such a diverse, and lightly regulated, set of interests does not amount to having a coherent or systemic policy response. Indeed, the evidence shows that income support interventions were far more effective in safeguarding homes (as well as incomes) than direct interventions, for example through eviction moratoriums or rent relief measures (Leishman et al 2022).

The research concluded that the state-to-state approaches that were developed rapidly and which supported jurisdictional responses to COVID-19 provide a template for a shelf-ready policy-sharing practice that warrants supported development across governments. This could usefully include local government as well as state and territory and national tiers of governance (Leishman et al 2022).

Notably, this approach is consistent with the national cabinet decisions in April 2023, calling for programs of work by Housing Ministers to compare best practices in protection for renters, and by Planning Ministers to identify way to improve supply and affordability.

Long-term and short-term factors in rental market reform

Determining how to address the current lack of security, availability and affordability of rental housing means understanding the larger institutional factors driving rental market outcomes, as well as longer-term and shorter-term factors driving supply and demand.

Longer-term factors

AHURI research (Burke et al. 2020) argues that current policy and institutional arrangements are such that renting will continue to become a more important tenure into the future as home ownership declines. The projected decline means Australia will no longer be a society with near universal home ownership, but a dual tenure society in which some (owners; predominantly older households) acquire wealth and others (renters; generally younger households) don't.

Burke et al (2020) argue that addressing the generational divide will require new policy instruments that give renters the opportunity to achieve greater security, affordability, and liveability in private rental housing, while also rebuilding the social housing sector. New policy will also be needed to enable renters to create wealth and/or processes put in place to redistribute some of the asset-generated wealth of homeowners. In addition, greater income support for households in older age will be required into the future.

The evidence presented above suggests that there are at present long-term problems of security, availability, and affordability in rental markets:

- *Lack of security* is related to inadequate protections for renters but also the needs and stability of rental investors who can sell properties from underneath sitting tenants.
- *Lack of availability* is linked to supply factors (inadequate supply of affordable rental housing), but also how well this stock is allocated to those on lower incomes.
- *Lack of affordability* is linked to both inadequate incomes and lack of affordable rental properties.

To counter these issues, a range of longer-term policies is needed, such as: improved protections for renters, incomes policies to boost incomes (wages and income support), dedicated affordable housing provision, and allocation policies that orient housing to those most in need.

Shorter-term factors

The evidence above also shows that, following the COVID pandemic, there have been disruptions to the housing market, relating to both demand and supply, and these have contributed to current problems of shortages in rental housing. Short-term shortages can, to some extent, be accommodated through choices made by individuals in the market, such as young people delaying new household formation, or people choosing alternative housing such as group housing. Market signals like higher rents can work to contribute to these decisions.

However, such choices are only possible for those with options such as family networks. Higher rents have welfare consequences, including poorer affordability and increased deprivation. They will likely result in increased homelessness or overcrowding, especially among those most vulnerable in the housing market. Short term demand factors can have longer term adverse consequences if there are not good supply responses in the longer term.

In the short term, there may be options to improve availability, affordability, and security of rental accommodation in Victoria through:

- Providing *targeted relief to renters on* lower *incomes*, such as capping rents for a temporary period
- More *Housing First* and homelessness prevention programs (to stabilise housing for the most vulnerable)
- Identifying alternative forms of temporary accommodation for those unable to find housing through the market
- Funding and constructing more social and affordable housing (in the present downturn in building activity this could both support building activity while providing social infrastructure needed over the longer term).
- Reduce barriers to first home ownershi*p* through shared equity and other programs for ownership and thereby reduce pressures on existing rental stock.

Inquiry Term d:

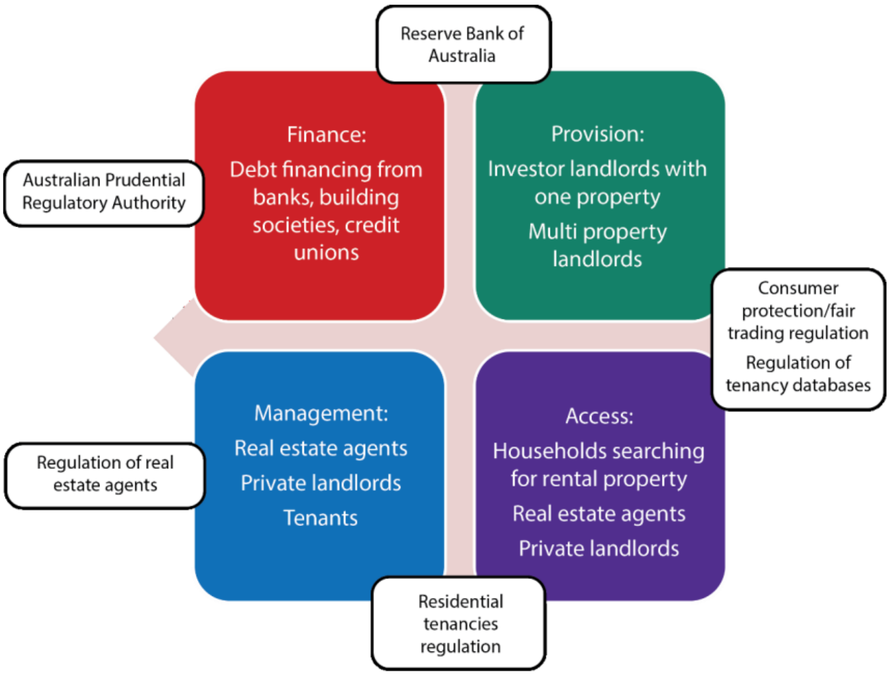
Improvements to renters' rights, including rent stabilisation, length of leases and no grounds evictions

AHURI research (Hulse et al. 2018) identifies that private rental housing is regulated across four key domains:

- *Provision*: planning of new housing, development and construction of rental housing, taxation, and fiscal support of rental investments
- *Financing:* provision of finance for rental housing
- *Access:* advertising and application processes, consumer rights and protections for renters around rents, security of tenure and exit.
- *Management:* of rental housing including regulation of landlords and other intermediaries

Regulatory frameworks can vary across different segments of the market, including public or social rental, private rental, and informal sectors, including the short-term letting market. There are separate regulatory arrangements for social rental housing, and around regulating providers of transitional or rooming housing for people who are homeless. Figure 6 provides a description of the varying means by which the private rental sector is regulated (Finance, Provision, Management, and Access).

Figure 6: Established institutions of the private rental sector in Australia



Source: Hulse et al. (2018)

Regulation of rental housing needs to weigh up the interests of different parties – financiers, planners, developers, builders, real estate agents and intermediaries, and of course renters and property owners. It might also need to consider those that might be excluded by the present system (e.g., the homeless or those unable to access properties).

Provision: taxation, planning, development, and construction

Taxation system

Providers are regulated and supported through a range of government arrangements. The taxation system provides support for private rental investment, especially by small rental investors through:

- capital gains tax exemptions
- lower rates of land tax (compared to larger scale investors)
- capacity to offset losses on rental housing against income (negative gearing)

Since most rental investors are smaller households, changes might be made to these taxation arrangements to reorient new investment away from smaller investors towards larger scale investors, or to particular types of rental investment (e.g., build-to-rent, or long-term rental), as part of an attempt to increase the professionalisation of rental housing provision. Larger scale providers may be more responsive to profit signals and able to take on risk around new investments.

However, there are political and equity issues with disrupting an established class of investors. Large scale reform of the tax system will likely need a national approach (Eccleston et al. 2018). Most of the smaller household investors who own only one property are spread across the middle and top wealth quintiles, while owners of multiple rental properties are only in the top quintile (Hulse et al. 2018). Even so, some ways forward might include:

- treating property investment as a small business (e.g., by use of registration processes)
- improving financial literacy of investor landlords, and the quality of their product and service provision
- considering alternative models such as build-to-rent and multi-family models
- clarifying the relationship between build-to-rent and affordable housing provision
- improving data collection and access around ownership concentration and distribution, as well as the use of trusts and other intermediary structures to own rental properties (Hulse et al. 2018).

Planning system

The supply of new housing is regulated under the planning system, and in Victoria this is the *Victoria Planning Provisions*. The planning code can be used to provide incentives to produce affordable housing and housing types suited to renting, like apartments. The long time horizons involved in development, and the complexity of the process, mean it is difficult to alter outcomes in the short-term. However, ensuring clear and efficient development approval process, including planning, infrastructure, and environmental approvals, has potential to reduce timeframes (Rowley et al. 2022).

Construction

Construction of new dwellings is regulated through the *National Construction Code 2022*. There is little scope to change construction codes to increase supply in the short term, however construction regulation may be relevant to facilitating improvements in the quality and amenity of new rental housing.

Social rental supply

Social rental housing is provided in Victoria under the *Housing Act 1983*. In the medium term to longer term there is potential to look to plan for more affordable housing both through the planning system and under the *Housing Act* to improve the amount of long term secure social and affordable housing provided for renters.

Financing of rental housing

Mortgage finance for investors

Approved Deposit-taking Institutions (ADIs), such as banks, provide the majority of loan finance (92%) for housing investment, including for private rental investors. However, there has been an increase in the types of intermediaries involved in arranging lending for rental housing, including mortgage brokers, mortgage referrers, mortgage aggregators, and wealth and property advisors (Hulse et al.2018).

Prudential bodies such as the Australian Prudential Regulation Authority (APRA) and the Reserve Bank of Australia regulate the finance market for housing and the provision of loans by ADIs. These bodies are generally concerned about the stability of rental housing investments so that it does not disrupt the economy or lead to default. Regulatory bodies have in recent years expressed concern about the growth in indebtedness of households and the growth of interest-only loans rather than conventional loans, repaying principal and interest (Hulse et al. 2018). Small scale investors are generally conservative and focused on investments for retirement or to provide nest-eggs to assist children to access housing (as renters of their property or to help finance owner occupied housing at a later stage). These bodies would be concerned if many households were stressed, leading them to sell their investment properties. But these government agencies are otherwise not interested in promoting rental investment as a business, the longer-term welfare of renters, facilitating particular rental products, or new supply.

Since recent declines in housing approvals are likely linked to increased interest rates, it is not clear how well any short-term government intervention could address changes in the financing of properties, or if indeed they should do so.

Foreign investors

There is regulation of foreign investment in real estate by the Foreign Investment Review Board (FIRB), which was strengthened in 2017, to include limitations on foreign investment in multi-storey developments and to limit unoccupied housing. Such restrictions can exercise a downward pressure on prices but may also limit additional supply. Even so, there is a need to better understand the extent of foreign ownership and its impact on rental markets (Hulse et al, 2018).

Social housing

Finance for social rental housing is sourced from rents, direct government funding, and government bodies such as the National Housing Finance and Investment Corporation (NHFIC), which provide finance for some approved social and affordable housing providers.

Access: regulation of rents and conditions, entry, and exit

Standards and conditions of rental housing are regulated principally through the *Residential Tenancy Act 1997*. Lease conditions are informed by the provisions in this Act. In addition, consumers are protected by consumer protections through Consumer Affairs Victoria. There can be regulations on the use of tenancy databases, around access to housing. Matters under the Act can be raised by parties with the Victorian Civil and Administrative Tribunal (VCAT).

In social housing, conditions around entry are regulated by waiting lists and application processes and public housing renters are also potentially protected through the *Victorian Charter of Rights and Responsibilities 2006*.

Hulse et al (2018) find that there has been an increase in the use of new information technology and databases, as well as new practices (e.g., rental bidding) to manage access in the private rental market. They argue find that these are areas where regulation could be improved in relation to access:

- Keeping reasonable limits on data collection and transparency in its use
- Examining online access portals and databases
- Examining rental bidding
- Examining alternative bond products.

An alternative approach to regulatory oversight considers outcomes for private renters in concert with wider social and economic protections, such as wages and incomes policies, since outcomes around housing affordability are jointly determined by income and housing costs. Using this perspective, any reform around regulating rental housing and housing assistance needs to consider both horizontal equity (treating those with similar housing wealth and incomes the same) as well as vertical equity (reducing the divide between those at the bottom and top of the wealth distribution). In this respect, other interventions around the wages policy, income support and Commonwealth Rent Assistance are all relevant (Parkinson et al. 2018).

Management: private landlords, agents, and tenants

Around 14% of all Australians are landlords (Martin et al. 2022). AHURI research (Hulse et al. 2018) shows there has been an increase in the proportion of properties managed in Melbourne by the real estate sector (from 75% in 2006 to 81% in 2016) and a consequent reduction in the share of properties managed directly by landlords. Property management is regulated through residential tenancies legislation (in both the private and social rental sectors), and agents are represented through industry associations (Real Estate Institute of Victoria).

AHURI research (Hulse et al. 2018) has raised three key issues for rental managers:

- The rise in tenants renting for longer has raised expectations of longer-term tenancies and higher standards of housing
- Shared housing and renting room arrangements that were 'under the radar', require new regulatory responses
- The increase in low-income tenants in the private rental sector brings implications related to the complex behaviours of some tenants.

Regulation around management might seek to address protection of renters by requiring more comprehensive approaches to rental property management around: (a) facilitating longer term tenancies; (b) addressing overcrowding (e.g., sharing and renting by room), and (c) management challenges associated with supporting vulnerable tenants (Hulse et a. 2018). Initiatives might include:

- Establishing national standards around regulation of residential tenancies
- Improving rental-by-the-room sector outcomes
- Improving provision of services to vulnerable tenants, and
- Raising professional standards in rental management.

Rental System and Enforcement

AHURI research (Parkinson et al. 2018) argues that in Australia and Victoria, there are three main intermediary pathways of tenancy access and management within the private rental system:

- Formal pathway – via traditional real estate agent intermediaries, and governed by the Residential Tenancies Act
- Informal pathway – bypassing intermediaries to go directly to rooms and dwellings managed privately by landlords, or sub-let, and characterised by limited transparency or tenure protections
- Rogue pathway of last resort – unregistered boarding house living arrangements or room rentals including overcrowding in small apartments, with landlord tenant relationships more exploitative and with increased risk of landlords being unfamiliar with the Residential Tenancies Act.

The present rental system provides protections and arrangements for the formal pathway, but protections have been poorer for informal and rogue pathways of last resort. AHURI research finds that the management of private rental has been a matter of regulation rather than policy, and regulation has increased incrementally over many years. However, the increased diversity of the sector and housing market restructuring means that regulation needs to better connect to housing policy (Hulse et al. 2018).

Regulation does not appear to have adversely impacted rental housing investment – rather it has, if anything, accommodated and facilitated it (Martin et al. 2022). However, there may be implications for the households who occupy rental housing, as increased frequency of property transactions due to regulatory changes leads to instability in tenancies.

Rental systems in Australia involves numerous stakeholders:

- Tenants
- Tenant advocates
- Rental providers: private rental investors (i.e., landlords), real estate agents and short-term letting agents (e.g., AirBnB), boarding house and other marginal housing providers, Homes Victoria, community housing providers
- Regulators *and dispute resolution bodies*: Consumer Affairs departments, Civil and Administrative Tribunals, Housing Registrar (for social housing).

Rental management typically involve a number of processes:

- *Business development* (advertising, attracting new investors, signing management authorities)
- Leasing (attracting and recommending suitable tenants)
- Property management (rent collection and arrears management, repairs and maintenance, property condition reports, routine inspections)
- Trust accounting (ensuring bonds and rent in advance are lodged in line with state regulation).

The rental process involves many repetitive tasks, and there is scope to improve services using technology, which is occurring increasingly.

Presently, enforcement can take place using a variety of mechanisms:

- *Residential Tenancy Acts* provides legal protections for tenants around rent and conditions of rental leases; however, its use is dependent upon knowledge of the Act by renters and their willingness to use it.

- Tenants can seek to advance claims based on the Act through applying to Civil and Administrative Tribunals around any issue relating to their lease agreement, either by themselves or with the help of Tenants Advocate organisations
- The Tenants Assistance and Advocacy Programs provides assistance to those financially disadvantaged or experiencing family violence.

The private rental system can involve significant issues for both renters and rental managers that will require cultural change, and not just reliance on regulation and enforcement mechanisms. According to Hulse et al. (2018) this might involve establishing 'some common directions rather than reinforcing adversarial positions as private renting increases, with concomitant visibility at a political level'. Key cultural changes might include (Hulse et al. 2018:79):

- encouraging investor landlords to see themselves as being in the business of being a housing provider, rather than an informal arrangement of 'allowing' someone use their property
- enabling more financially literate household level investment in the private rental system
- acknowledging that private renters are not second-class citizens and increasingly expect and require a high level of service for the rent that they pay, including timely and accurate responses to requests
- ensuring that regulation advances housing policy objectives, primarily the right to a secure and dignified home life
- raising the status, recognition, and training of rental property managers, with routine processing tasks outsourced to third parties, leaving the property manager to develop relationships and solve problems as they arise.

Priority areas for rental regulation reforms

Regulatory reforms of the rental systems in Australian states and territories have been identified as a key focus for National Cabinet in 2023. There are a number of areas of recent reform in different jurisdictions that offer promise for wider implementation. The preceding sections cover a range of perspectives and issues relating to challenges in Australia's rental systems. This section identifies recent examples of positive reform that may be anticipated as areas of further improvement, as well as areas still requiring improvement.

Notably, reforms implemented to date, while received with trepidation from landlord-representative groups, have not resulted in mass exodus of investors (Martin et al 2022). Rental reforms need to achieve a balance between improving the conditions and rights of renters and making property investment unviable, thereby reducing rental supply. This balance is made more difficult by the existence of alternative investment property use – through short term letting platforms (an area also requiring further coordinated regulatory reform).

Priority reforms of rental regulations can be classified into two principal categories: tenure security reforms and liveability reforms.

Tenure application

Rent bidding

Several states have recently imposed bans on solicitation of rent bidding (e.g., SA, NSW, Victoria). Under these rules, landlords and agents cannot solicit or encourage prospective tenants to offer more attractive rental payments to secure a property in a competitive market. Rent bidding can include offering increased rent prices (improving rental yield), advanced payment (e.g., 12 months paid up front), or other benefits to the landlord.

While soliciting for rent bidding is banned in some states, this does not prevent potential tenants from bidding on their own initiative. To date no Australian jurisdiction has proposed regulations to require that properties be leased at an advertised price – blocking any rent bidding. Enforcement of rent bidding rules (solicited or applicant-initiated) is challenging, and compliance may be hard to monitor.

There are a range of phone applications (apps) or websites which can be used to submit rent bids in Australian rental markets (RentBerry, RentWolf, LiveOffer) which facilitate rent bidding.

Application forms

There has been a shift toward non-standardised forms for rental applications in recent years. This includes nonstandard forms requiring increasing data on applicants (such as social media profiles) and the use of online application forms and application portals.

While some states have requirements for the application form (e.g., in Victoria the rental application form must include information about unlawful discrimination) the use, and potential abuse, of extensive and invasive data requirements and centralised online portals is largely unregulated. The regulation of a standard form and limits on the data requirements for rental applications would assist in the prevention of unlawful discrimination, and help to protect the data security of applicants.

Data retention

Current tenancy regulations offer minimal protection for tenant and those applying for rental property in terms of retention of data. As noted previously, the amount of identifying information required of applicants, the security with which this information is stored, and the length of time it is stored are currently not well regulated. Specification of the length of data retention, the extensiveness of data and the security measure in place to ensure data safety are important areas of reform.

Tenure security

Length of lease

Typical rental leases in Australian jurisdictions are initial 12-month (or 6-month) leases, followed by month-to-month less secure tenure. Australian rental systems allow, but do not encourage, longer leases. Lease application forms frequently only contain 'tick-box' selections for 6 or 12 months, but could readily include 24-month options or longer. While there is minimal regulatory reform required to enable longer leases, there are wider rental sector factors that inhibit this reform.

At the 2021 Census, 74 per cent of private rental properties were managed by agents (ABS 2022b). This rate is higher than many other countries (Martin et al 2018). Letting fees can act as an incentive for churn of tenants, and undermine attempts to obtain longer leases, a reform of the fee structures of the property management sector would offer one potential avenue for improving tenure stability.

No cause eviction

Several Australian jurisdictions have imposed limits on no cause evictions. The best example of this is seen in the ACT, where no-cause evictions have been completely removed from rental tenancy regulations. This approach, rather than narrowing options for no-cause eviction, provides best protection for tenant from being evicted without reason.

Retaliatory eviction

Retaliatory evictions are evictions imposed in apparent retaliation for a reasonable action taken by a tenant (e.g., seeking repairs and maintenance on the property, requesting quiet enjoyment of the property, or making complaints about conditions).

In some jurisdictions (e.g., NSW) renters can appeal to the Civil and Administrative Tribunal to have the eviction overturned. If the tribunal finds the eviction to be retaliatory, it may declare the eviction notice to have no effect.

Tenancy liveability

Previous AHURI research identified the need for improved minimum standards (Martin et al 2018). This research identifies as a priority, "the obligation of landlords to provide and maintain premises in a habitable condition … augmented by specific additional requirements in identified priority areas for improvement (e.g., electrical safety devices and energy efficiency standards) (p. 82). At present, a variety of minimum standards apply to rental properties in Australian Jurisdictions. For example, in Victoria:

- The rental property's external entry doors must have functioning deadlatches or be fitted with locks that can be unlocked with a key from the outside but can be unlocked without one from the inside.
- Rental providers must supply a rubbish bin and a recycling bin for the renter to use.

- The property's toilet must be in good working order. A rental property's bathroom must have a washbasin and a shower or bath, and be connected to a reasonable supply of hot and cold water.
- The property must have a kitchen with a dedicated cooking and food preparation area, a sink in good working order connected to a reasonable supply of hot and cold water, and a stovetop in good working order that has two or more burners.
- The property must be structurally sound and weatherproof. All rooms must be free from mould and damp caused by or related to the building structure
- Rental properties must have modern style switchboards, with circuit breakers and electrical safety switches installed.
- All external windows in a rental property that can be opened must be lockable. Windows in rooms likely to be used as bedrooms or living areas must be fitted with curtains or blinds that can be closed, block light and provide privacy.
- Inside rooms, corridors and hallways must have access to light to make the areas functional.
- Rental properties must have adequate ventilation in all rooms including the bathroom, shower, toilet, and laundry.
- Rental properties must have a fixed heater (not portable) in good working order in the main living area. From 29 March 2023, the heater must also meet energy efficiency standards (Consumer Affairs Victoria, 2023).

In NSW, as of 2020 there are seven minimum standards determining whether a property is fit for habitation:

1. Must be structurally sound
2. Must have adequate natural or artificial lighting in each room, except storage rooms or garages
3. Must have adequate ventilation
4. Must be supplied with electricity or gas, and have enough electricity or gas sockets for lighting, heating, and other appliances
5. Must have adequate plumbing and drainage
6. Must have a water connection that can supply hot and cold water for drinking, washing, and cleaning
7. Must have bathroom facilities, including toilet and washing facilities that allow users' privacy (NSW Fair Trading 2023).

In Western Australia, Minimum security standards apply to door locks, window locks and exterior lights, as well as residual current devices (electrical safety), smoke alarms and swimming pool fences (WA Consumer Protection, 2021).

There are not consistent minimum standards in Australian jurisdictions for the quality and safety of properties, and there are a number of areas in which more stringent minimum standards would be appropriate. A jurisdictional comparison of minimum standards, through National Cabinet, offers an opportunity to implement regulatory reforms drawn from the successes in other states and territories.

Two recent reforms are worth noting in this domain are the ACT reform to require ceiling insulation, and Queensland reforms on the timeliness of repairs and maintenance.

Many renters are living in housing that is expensive to heat or cool. The ACT requirement for minimum energy efficiency standards for rental homes is expected to improve energy performance, increase thermal comfort, reduce greenhouse gas emissions, and contribute to climate change resilience (ACT Justice and Community Safety Directorate, 2023). Landlords are required to ensure rental properties meet minimum standards by installing effective insulation.

Changes to Queensland legislation around repairs in 2022 included the introduction of repair orders. A repair order is an order made by the Civil and Administrative Tribunal addressing repairs that are needed to the rental property or its inclusions. It is intended to ensure that repairs to a rental property are made in a timely manner. A repair order does not expire with the ending of any particular residential tenancy agreement or change of ownership. This means a repair order can still be in place even when a tenant has left or the property is sold (Queensland Residential Tenancies Authority, 2023).

Personal safety

Provisions for tenants experiencing domestic or family violence have been a focus of reform in some jurisdiction in recent years. There are a number of provisions in various states:

- The right to end leases without penalty where the tenant has experienced domestic or family violence, with survivor tenants not held responsible for costs relating to ending of a tenancy, goods left behind, or re-letting costs.
- The right to change locks and make security improvements without delay (i.e., without the requirement to seek and obtain landlord permission),
- to have their name removed from rental blacklisting databases due to FDV-related property damage
- Survivor tenants can apply to have a perpetrator's name removed from a lease.
- In the case of damage to the premises or unpaid rent because of DFV, liability can be assigned to the perpetrator (not the survivor).

Minor alterations

The right for renters to make minor alterations, such as installing child safety features, picture hooks on walls, or low-flow shower heads without landlord permission is an area of recent reform in some jurisdictions (e.g., Victoria). Implementing these reforms in other jurisdictions would not be expected to be controversial.

Pets

Allowing renters to keep pets in their rented properties has been a source of contention in Australia for many years, most regulations requiring landlord permission. In 2021 Victoria changed these regulations to require that landlords specify a good reason to not consent to the renter keeping the pet. While some other states have followed this example, it is not consistent across Australia – for example in NSW landlords can include a clause in the tenancy agreement restricting or excluding pets.

Inquiry Term e:

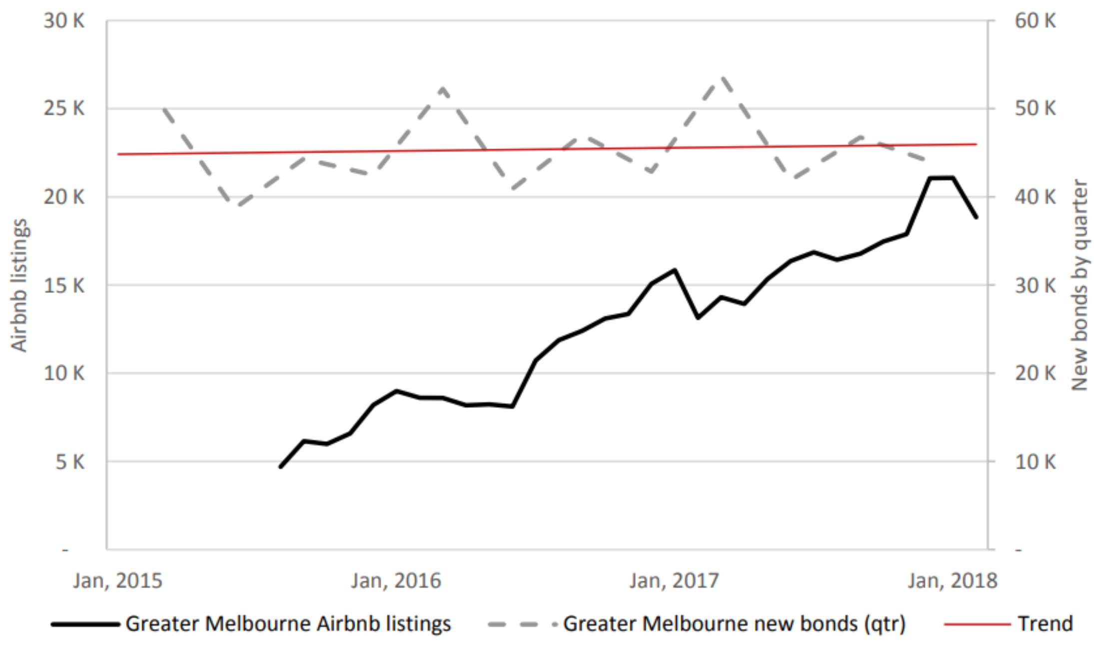
Factors impacting supply and demand of affordable rents

Short stay accommodation

AHURI research on short stay accommodation found that that platforms like Airbnb are probably not significantly worsening rental affordability at the metropolitan scale, given that commercial Airbnb listings represent between 1 and 2 per cent of total rental stock in Melbourne and Sydney. However, these platforms seem to be having an impact on the availability of rental properties in high-demand inner city areas that have significant tourism appeal (Pettit et al. 2018).

For example, as Figure 7 shows, AirBnB listings in Melbourne increased significantly from 2015-2018, with concentrations in Melbourne, Docklands, Southbank, Fitzroy, and St Kilda. This compared with stable bond listings over the same period. However, AirBnB listings in Melbourne were likely adversely impacted by the COVID pandemic in 2020-2021 when international tourism demand dried up (Crommelin et al. 2018).

Figure 7: Airbnb listings and new rental bonds lodged for Greater Melbourne, 2015–2018



Source: Crommelin et al. (2018)

Crommelin et al. (2022), in analysing regulation of short-term letting regimes in Australia and overseas found three types of regulatory approach for short stay accommodation: permissive, notificatory, and restrictive.

The regulatory approach in places like Melbourne (and Sydney) was found to be permissive and there was no specific law in place to address this type of rental. The most relevant laws were planning related (e.g., *Planning and Environment Act 1987*). The laws allow councils to prohibit certain uses, or to permit uses with or without consent, though only a few councils use them. Although there are separate building code regulations for guest houses and hotels, there are no thresholds for where uses are mixed between residential and guest house use, meaning that there has been some ambiguity about whether short term lettings should be regulated as a normal dwelling. This has led to some governments (e.g., NSW) legislating that it would be exempt from the guest house requirements where the host was not present overnight and up to a limit (180 days per year in Greater Sydney). In addition, some owners' corporations have sought to impose private regulation on short term lettings to minimise impacts on long term residents in their buildings, though these have been challenged and found unlawful.

Crommelin et al. (2018) argued that short-term letting markets are reducing the fluidity of rental markets and increasing inequality. They advocated for increased use of registration of short-term listings using the notificatory approach. While restrictive approaches (which involve taxation) may be appropriate in specific locations where long-term rental housing supply is very adversely impacted, they need to be considered as part of a wider approach to housing policy.

Barriers to first home ownership and impact on rental stock

Because private rental is often a 'gateway tenure' to ownership, rental markets are affected by the capacity of renters to progress into ownership. Key barriers to entry to ownership include long term risks and uncertainties generated through rising house prices, rising interest rates and an uncertain labour market, and high deposit constraints.

Troy et al (2023) find that young households (aged 25-34) have had to adapt their saving and spending behaviours. There has been a diminished ability to save for a deposit through employment alone, with around 40 per cent of research survey participants expecting family assistance, whether direct finance or in-kind, to help them purchase. The ability to access such family support was found to be the single biggest factor in supporting being able to buy a home.

Current Australian first homebuyer assistance measures primarily act to bring forward first home purchase for households already close to doing so, rather than opening home-ownership access to households otherwise excluded. In doing so, these measures add to demand and hence increase house prices. (Pawson et al 2022).

Alternative schemes, such as mortgage guarantee and shared equity, have potential to open opportunities for ownership for constrained households. Modelling by Ong-ViforJ et al. (2023) suggests that, of the 1.6 million households who are renting in Australia and are aspiring first home buyers, 266,500 households (16%) are eligible for a mortgage guarantee scheme, while 496,800 (31%) are eligible for a shared equity scheme. Of those households who were found to be eligible, the modelling shows 22 per cent of would be assisted into home ownership by the mortgage guarantee scheme, and 41 per cent would be assisted by the shared equity scheme.

Inquiry Term f:

International experience of policies that effectively support renters

International comparisons of rental regulatory regimes

AHURI research has investigated the private rental sector policy settings and institutions relevant to Australia in 10 countries in Australasia, Europe, and North America, with a detailed review of the sectors in Germany, Ireland, the United Kingdom, and United States (Martin et al 2018). By studying international experiences of PRS change, policymakers may gain alternative perspectives on Australia's private rental sector institutions and insights into the opportunities and challenges that change presents.

The research investigated the international experience of PRS housing through:

- housing and socio-economic system factors, such as housing form, housing markets, household form and economic performance
- financial settings, such as housing credit, taxation, and subsidies
- landlords and managers, both individual persons and large corporations
- regulation, with a focus on laws regarding security of tenure and rents (Martin et al 2018).

Population growth, economic growth, house prices and household debt levels varied across the countries surveyed. In 9 of the 10 countries, including Australia, the private rental sector was the second largest tenure after owner occupation: only in Germany was the private rental sector larger. In 7 of the 10 countries, the private rental sector share was growing, mostly at the expense of owner occupation, and nowhere was it significantly contracting (Martin et al 2018).

Australia has been unusual for having had a long escalation in house prices and no recession, and at the time of the research (2018) had the highest level of household debt of the 10 countries. In most countries, the private rental sector tends towards apartments, small households, and lower incomes than for the general housing system. In this, Australia stands out for having a private rental sector that is closer to the wider Australian housing system in terms of building types, household form and household incomes (Martin et al 2018). Australia has a comparatively high rate of management by professional agents (70%) rather than directly from landlords (Martin et al 2018).

The following sections examine Australian policy and regulatory settings that support better outcomes for renters, in comparison to international experience. This section draws on Martin and colleagues (2018) recent AHURI research, as well as other sources. The policy and regulatory settings considered are social housing supply, security of tenure in private rental systems, and rent controls.

Social housing supply

One of the most effective ways governments can ease pressure on private rental systems, ease rental affordability concerns of lower income renting households, and improve security of tenure for these households is through the provision of social and affordable housing.

In the 40 years between 1981 and 2021 the percentage of all Australian households living in social housing (i.e., state owned and managed public housing or community managed housing) has ranged from 4.9 per cent in 1981 to 3.8 per cent in 2021 Table 3; (ABS 2022b).

Table 3: Public and Community housing stock, Australia, 1981 and 2021

	Social housing dwellings	All Australian	% social housing
1981	228,938 dwellings	4,668,906 dwellings	4.9%
2021	351,017	9,275,217 households	3.8%

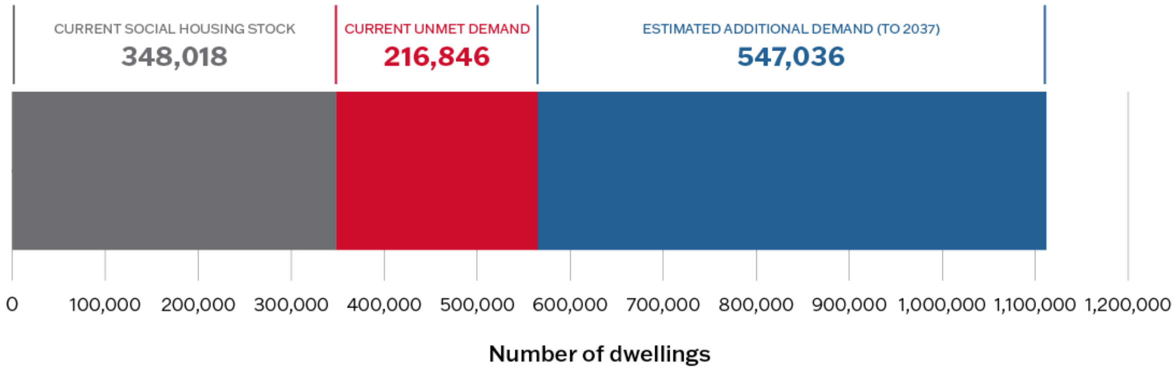
Sources: Groenhart & Burke (2014) and ABS (2022b).

Determining just what is the right level of social housing in a healthy housing system is complex. While the 2021 Census recorded there were almost 350,000 social housing dwellings across Australia (just shy of 4% of the number of all households), at the end of June 2021 there were another almost 165,000 applicants on the waiting lists for public housing, more than 40,000 applicants for community housing and just over 12,000 applicants for State owned and managed Indigenous housing (SOMIH) (ABS 2022b). If we add together all the households on the waiting list and those already in social housing, we find that over half a million (close to 565,000, or just over 6 per cent) Australian households were living in, or had requested to live in, a form of social housing. AHURI research has projected growth in demand for social housing to the year 2037, estimating that over 1.1 million social dwellings will be needed by that point (Lawson et al 2018).

Australia's level of social housing in 2020 is low in comparison to the UK (17%) and countries within the European Union (with an average of almost 8%, but varying from 34% in the Netherlands to less than 1% in Lithuania) but is comparable to culturally similar Canada, New Zealand, and the US (all just under 4% respectively; OECD 2020).

In recent years, state and territory governments have carried the responsibility for supplying public housing and a number have schemes in place to increase the number of dwellings (including working with community housing providers to increase supply). The Commonwealth Government’s Housing Australia Future Fund proposed to finance long term supply of affordable housing with the target of building 20,000 social dwellings by 2029, and to operate in perpetuity to support continuing new affordable supply.

Figure 8: Current social housing stock, current unmet demand and estimated additional demand to 2037



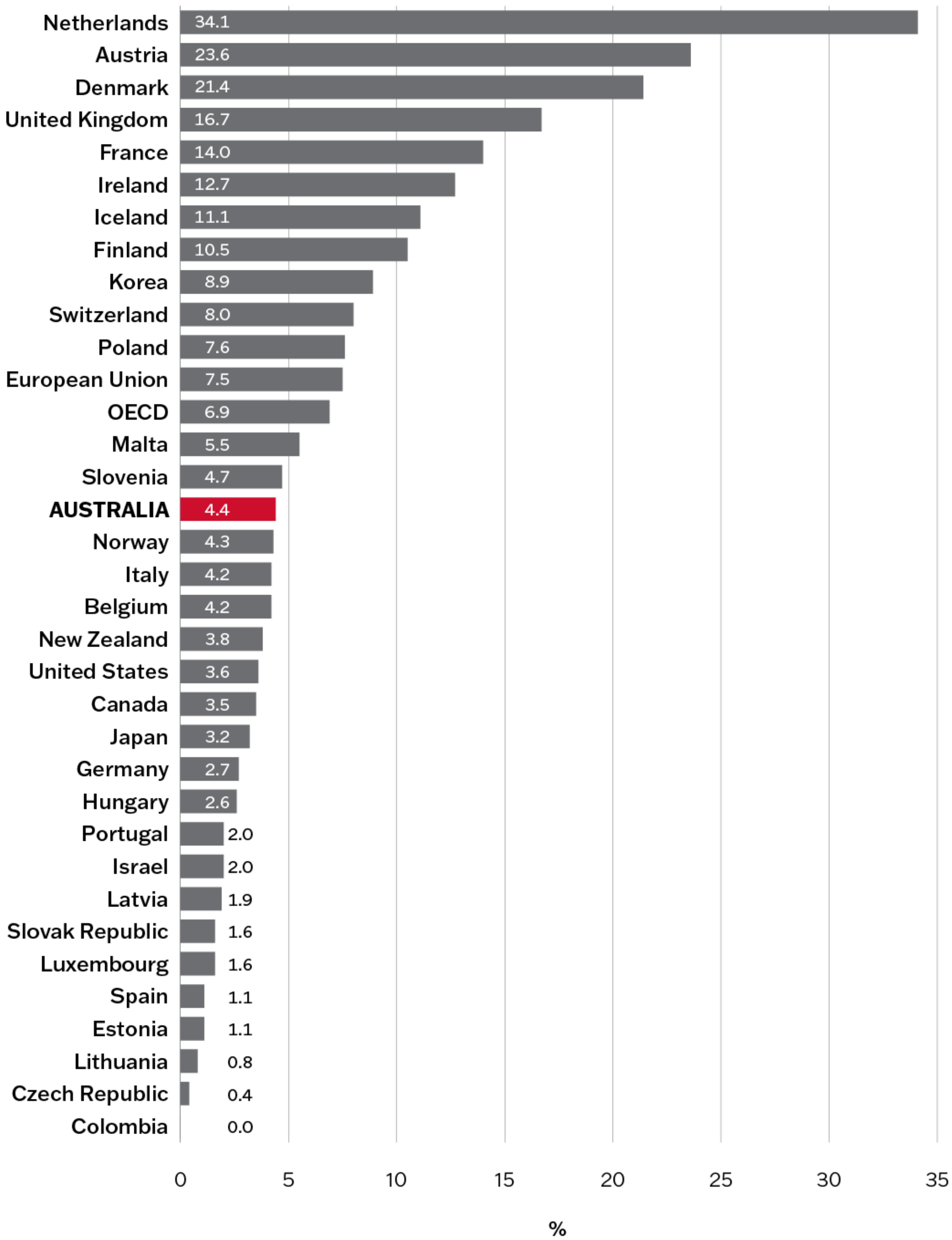
Source: ABS (2022b); Lawson et al (2018)

In addition to the Housing Australia Future Fund and the National Housing Accord building commitments, the Federal Government is creating a National Housing and Homelessness Plan in order to encourage provision of the right types of housing in the right places. It is essential for this plan to prioritise delivering rental housing that is affordable to very low and low income households in areas that are close to employment and other amenities (including education and health facilities).

Government policies and subsidies to promote affordable housing in the private rental market should encourage landlords to deliver properties that are properly maintained and offer good security of tenure. Affordable rental housing policy should also support the expansion and sustainability of the not-for-profit community housing sector, including emphasis on both social housing tenants and tenants with slightly larger incomes (including second and third income quintile households).

Australian governments now and into the future will need to work hard to address the failures of housing policy and underinvestment in past decades. They will need to ensure that stocks of social and affordable housing are not only increased to resolve our current crisis, but that appropriate stocks are then sustained in perpetuity for a more inclusive housing system.

Figure 9: Australian social housing supply relative to other OECD nations



Source: OECD (2020)

Security of tenure

Previous AHURI research has considered the degree to which 'secure occupancy' can be enjoyed by tenants in different countries (Hulse et al 2011). This concept is properly understood as something more than 'security of tenure' and is a function not only of a country's laws but subsidies, market structures and cultural norms.

In comparison with comparable countries, policy and legal settings for the Australian private rental market result in volatility in rental investment and weak tenant rights which do not facilitate secure occupancy. International experience demonstrates that it is possible • to have a large private rental sector with small scale investors and higher levels of secure occupancy for tenants (Hulse et al 2011).

Secure occupancy is the capacity of households to make a home and stay there for reasonable periods if they wish to do so, provided they meet their obligations. It is linked with important social outcomes including family functioning, childhood development, economic and social participation, and health.

Some changes to regulation could be considered to improve security of occupancy for tenants, including initial tenancy provisions that can convert into longer term tenancies if successful. Ireland provides some demonstration of this approach (Hulse et al 2011).

Across the 10 countries considered in the AHURI review by Martin and colleagues (2018; see table 4), the foremost approach to assuring tenants' security is to allow landlords to terminate on prescribed grounds only (as in Germany, Sweden, Scotland, most Canadian provinces, and some major US cities). Only two countries rely on long fixed terms, and Ireland has a unique regime of cyclical restrictions. Only Australia, New Zealand, the United Kingdom (other than Scotland) and some US jurisdictions allow termination without grounds (Martin et al 2018). Notably the ACT has recently eliminated no-cause evictions from rental tenancy regulations – an important protection that Housing Ministers would be expected to highlight in reporting back to National Cabinet.

Table 4: Security of tenure and rent regulation in selected countries

	Fixed term and periodic tenancies	Grounds for termination by landlord	Rent increases	New tenancy rents
Australia	Short (6–12 months), fixed-term and periodic tenancies	No-grounds termination allowed; Victoria has proposed legislation to remove the 'no specified reason' ground	Varies by state; mostly provision for disputing 'excessive to market' increases*	No regulation
Belgium	9-year fixed terms, but most are 3-year terms	Termination at end of fixed term allowed	Increases in line with CPI	No regulation

	Fixed term and periodic tenancies	Grounds for termination by landlord	Rent increases	New tenancy rents
Canada	Mostly short (6–12 months), fixed-term and periodic tenancies	Mostly prescribed grounds only; some allow termination at end of fixed term	Varies by province; most restrict increases to annual 'guideline' rate	No regulation
Germany	Little use of fixed-term tenancies	Prescribed grounds only	Restrictions by reference to 'reference rents' and caps; additional increases for improvements	Restriction by reference to 'reference rents' in specified areas (but regulation is in doubt)
Ireland	Short fixed-term and periodic tenancies	Prescribed 6-year cycle with lesser restrictions on termination in initial 6 months, then prescribed grounds only	Rents must not exceed market rent; high pressure zones	Rents must not exceed market rent
New Zealand	Short (6–12 months), fixed-term and periodic tenancies	No-grounds termination allowed	Restrictions against 'excessive to market' increases	No regulation
Sweden	Little use of fixed-term tenancies	Prescribed grounds only	Collectively bargained utility rents	Collectively bargained utility rents
Spain	3-year fixed terms with some provision for early termination	Termination at end of and, in limited circumstances during, fixed term	Increases in line with CPI; additional increases for improvements	No regulation
United Kingdom	Short (6–12 months), fixed-term and periodic tenancies	No-grounds termination allowed (England and Wales); prescribed grounds only (Scotland)	Provision for disputing excessive rent increases*; in Scotland, high pressure zones	No regulation
United States	Short fixed-term and periodic tenancies	Varies by state and municipality: most allow termination without grounds, a few large cities allow termination on prescribed grounds only	Mostly no regulation; a few major cities have rent regulation (by annual guideline rates) and rent control	Mostly no regulation; a few major cities have rent regulation

Source: Adapted from Martin et al (2018)

Across these countries, the degree of tenants' legal security against termination by landlords varies on a pattern with rent regulation. This reflects a necessary connection between effective rent regulation and security: rents cannot be regulated effectively if tenancies can be readily terminated (Martin et al 2018). Table 4 summarises the different ways in which security is afforded.

Regulation of housing quality

Across Australia, laws relating to minimum standards for private rental properties vary, with different state and territory Rental Tenancy Acts often outlining a paucity of information as to what a rental property should contain or provide for tenants.

AHURI research has examined the impacts of energy hardship in Australia's rental housing market and considered strategies and policy actions to reduce its effect on lower income households (Daniel et al 2020). The research examined surveys of low-income renters that found there are numerous housing quality issues affecting low-income households renting in both private and social housing; 14 per cent of private renters were unable to keep sufficiently warm in winter.

Tenants were constrained with what they could do reduce heating and cooling their homes and felt that landlords didn't see property upgrades that made dwellings cheaper to heat or cool as being smart investment decisions. While landlords were reported to be amenable to tenants spending their own money on these projects, tenants were not enthusiastic about investing in their rented properties given the insecurity of their tenure (Daniel et al 2020).

The research found that minimum standards for the energy-performance of rental homes is a critical starting point to improving living conditions and energy affordability within the rental sector and must underpin all other strategies. There needs to be a clear understanding of what constitutes basic housing quality. This could be partially addressed by creating and enforcing minimum energy-efficiency standards (Daniel et al 2020). In addition, mandatory disclosure of dwelling performance was seen as a potentially powerful tool to aid residents in their selection of properties, and as a way of monitoring compliance with minimum standards. The research noted, however, that installing heaters or air conditioners to make housing more comfortable may simply mean lower income tenants are unable to afford to operate the appliances, leaving their home either too hot or too cold.

Australian jurisdictions can learn from rental property laws in New Zealand that go further in protecting the health of vulnerable tenants.

In addition to ensuring electrical, plumbing and construction standards, New Zealand law requires landlords to install adequate insulation in the ceiling and under the floor, where practicable, and to provide an approved form of heating in every living space. The Residential Tenancies (Healthy Homes Standards) Regulations 2019 introduced specific and minimum standards for heating, insulation, ventilation, moisture ingress and drainage, and draught stopping in rental properties. These standards will make it easier for renters to keep their homes warm and dry, and themselves healthier. The Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2022 additionally cover changes to the heating, ventilation and moisture ingress and drainage standards (New Zealand Ministry of Business, Innovation and Employment 2023).

The laws also specify the minimum size of bedrooms: generally, a bedroom must be at least six square metres, and if there is more than one person sleeping in it the room will need to be bigger. In addition, a property must not be advertised as 'having a certain number of bedrooms if the rooms are not compliant with the Regulations'.

By legislating for these improvements in the stock of rental properties, the New Zealand Government aims to improve the health of tenants. An evaluation of a previous Warm Up New

Zealand: Heat Smart program, which began in 2009 and allocated NZ $340 million for installing insulation and heating in eligible dwellings, found annual health savings of $64.44 in total hospitalisation costs for each household that received some combination of ceiling or floor insulation under the program; a $67.44 saving per household in circulatory illness related hospitalisation costs; a $98.88 reduction in respiratory illness related hospitalisation costs per household; and a saving of $107.52 for asthma-related hospitalisation costs. The evaluation also found that when health and energy results were combined with analysis of industry impacts and employment changes, the program had a net benefit of NZ $951 million dollars (He Kainga Oranga, undated).

Rent controls

Rent control – either in the form of improved rental caps or a "freeze" have been touted as potential responses to Australian rental housing challenges. These terms have often been used interchangeably, but have different meanings and can be applied in a range of ways. International experience of rent controls has been varied.

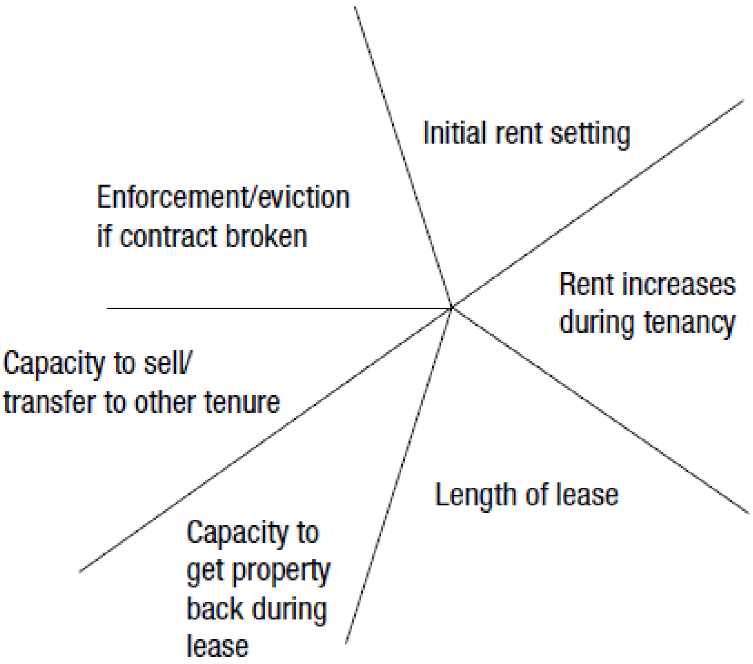
Whitehead and Williams (2018) in reviewing international experiences in the use of rent controls, note a widely accepted typology of three generations or types of rent control

- rent freezes
- control of rent increases between tenancies, and
- control of rent increases within tenancies - often called rent stabilisation.

Whitehead and Williams (2018) note that a trajectory towards liberalisation of rental markets in the UK and Europe appears to have been partially reversed to limit rent increases as a result of political pressures in the face of market pressures. Marsh and colleagues (2022), in a more recent review of international evidence for rental regulation policy, also note that rent regulation policy has been based on popular protest rather than evidence-based policy making. Whitehead and Williams (2018) further observe that there are strongly held but highly polarised views about the nature and effects of rent control, and that these are rarely strongly evidence based.

It should be noted that Whitehead and Williams (2018) emphasise that the complexity of regulatory systems makes it inappropriate simply to look at the nature of controls over rents. Reforms to rental controls or caps need to be sensitive to the existing rental tenancy protections, to the availability of sufficient rental supply, and to the duration of leases. Figure 10 illustrates some of the important elements which interact with one another to help determine outcomes: "In reality the impact of rent control depends on its form and economic context (notably inflation and the costs of delivery) plus crucially the nature of the welfare system in place" (Whitehead and Williams 2018, p 7).

Figure 10: Elements of rent regulation



Source: Whitehead and Williams (2018)

Rent freezes

During a legislated 'rent freeze' landlords are not able to increase rents for current tenants and, depending on legislation, may also mean landlords can't increase rents for new tenants. 'Rent freeze' legislation needs to ensure that tenants can't be simply evicted and replaced with tenants who are pay higher rents. A rent freeze is usually applied for a specified restricted time (e.g., for two years). There is limited use of rent freezes internationally.

Rent caps

A 'rent cap' can incorporate options that restrict how often rents can be increased, how much they can be increased or be a combination of both frequency and value of increase. The cap on the rate of increase can be a specific value (i.e., can only increase by $X per week); be a specific proportion of the rent (i.e., increase by X% of current rent); or be referenced to an external economic measurement such the consumer price index (CPI). A rent cap can also restrict the number of times rent can be increased each year; usually once a year, but in some jurisdictions, landlords can raise the rent twice a year.

While not strictly speaking a rent cap, the ACT is the only Australian jurisdiction to include an objective 'guideline' in its excessive rent increase provisions. This guideline means that, where a rent increase would be more than 110 per cent of the increase in the rent component of the ACT Consumer Price Index over the relevant period, the landlord needs to apply to the ACT Civil & Administrative Tribunal (ACAT) to demonstrate that the increase is not excessive, in relation to prevailing market rents for comparable premises (Martin et al 2022).

Other terms used in restricting rents

Other terms common in legislation used in restricting rents (particularly internationally) include rent control and rent stabilisation. These terms have no legal definition in Australian jurisdictions.

There is a growing body of international research on the effects of rent control. Much of the research is econometric, and takes advantage of 'natural experiments': that is, it examines changes in housing market data when rent controls are introduced or lifted in particular locations. As such, it usually deals with specific rent control regimes. Because there are many different ways of regulating rents, and many different housing systems contexts, care needs to be taken in generalising from the results of research.

North American experience of rent controls

The most commonly quoted legislated occurrence of rent control occurs in New York (USA) for apartments in buildings built before February 1947. The legislation allows landlords to raise the rent by up to 7.5 percent each year up to a ceiling rent determined by a rent control board. These apartments are only available to the original tenants (as of the passing of the legislation) or to their heir. However, once the original tenant or their heir dies or moves out, the apartment reverts to become a rent stabilised apartment (if in a building with 6 or more apartments) or to the unregulated private rental market.

Rent stabilisation is another legislated term used in New York (USA). Apartments in buildings with six or more apartments, that were built between February 1, 1947, and January 1, 1974, can be covered by rent stabilisation laws. While the benefits to tenants are not as large as in rent controlled apartments, rent stabilised tenants enjoy 'limits on annual rent increases (determined annually by the Rent Guidelines Board) and a guaranteed right to renew.' In New York (in 2017), 45 per cent of tenant households lived in rent stabilised dwellings (946,514 households); 1 per cent (21,751 households) lived in rent controlled dwellings; 42 per cent (879,995 households) lived in unregulated private rental sector dwellings; and 9 per cent (184,729 households) lived in public housing, with 3% in other forms of rental housing (Waickman et al 2018).

Rent control and stabilisation can benefit tenants by preventing excessive rent increases, which potentially limits tenants having to move away from local communities that they value, such as a network of friends and family, proximity to a job, or children enrolled in local schools. However, the Brookings Institution's assessment is that the overall cost of providing that benefit to tenants is very large (Diamond 2018).

The Brookings studies showed that when rent stabilisations were removed from properties previously subject to rent control (in Cambridge, Massachusetts, USA), landlords began to charge market rents and the value of those properties increased by 45 per cent. Neighbouring properties also increased their value as a result, 'suggesting that the effect of rent control had been to reduce the whole neighbourhood's desirability' and that 'the policy imposed $2.0 billion in costs to local property owners, but only $300 million of that cost was transferred to renters in rent-controlled apartments' (Diamond 2018).

The lifting of rent stabilisation on some specific types of dwellings in San Francisco (USA) revealed that the beneficiaries of rent control are 19 percent less likely move to a new address. However, in practice landlords could evict tenants for a number of practical reasons (such as moving in themselves or converting/building condominiums for sale). As a result, 'rent-controlled buildings were 8 percentage points more likely to convert to a condo than buildings in the control group' and that 'rent control led to a 15-percentage point decline in the number of renters living in treated buildings and a 25 percentage point reduction in the number of renters living in rent-controlled units, relative to 1994 levels. This large reduction in rental housing supply was driven by converting existing structures to owner-occupied condominium housing[2] and by replacing existing structures with new construction' usually for the higher priced end of the market.

The US research states that an unfortunate outcome was that 'rent control has actually contributed to the gentrification of San Francisco, the exact opposite of the policy's intended goal.' Ultimately the research found that (in the USA) 'rent control appears to help affordability in the short run for current tenants, but in the long-run decreases affordability, fuels gentrification and creates negative externalities on the surrounding neighbourhood' (Diamond 2018).

United Kingdom and European experience of rent controls

In the UK the application of rent controls coincided with a decline in the private rented sector from 90% of the total housing stock in 1915 to under 10% by 1991 (Whitehead and Williams 2018). It was blamed for this contraction with critics drawing a direct correlation between reduced rental returns and reduced investment in the sector. However, it is evident that other major factors such as the opening up of alternative forms of investment, the improved access to home ownership consequent upon rising real terms incomes and increased availability of mortgages also contributed to that decline. Importantly after decontrol it was not until the mid-1990s that there was significant evidence of revival.

Rent stabilisation based on market rents at the beginning of tenancy, indefinite tenancies and rent indexation within a tenancy have been core elements in the movement towards viable private rental sectors in Europe and the UK (Whitehead and Williams, 2018). Importantly, a key element has been the specification of pressure zones where rent controls have been tightened considerably.

Whitehead and Williams (2018) note that, un the UK context, rent stabilisation and controls risk distorting rental markets and deterring investment, particularly if rents were to become seriously decoupled from the market. Policy in Scotland has adjusted to these concerns by introducing an indefinite tenancy (with exceptions), and enabled local authorities to request the introduction of rent caps in high pressure areas.

Whitehead and Williams (2018) note the consistency across a number of European countries in how governments were responding to political pressure by tightening rent stabilisation measures, especially in pressured markets. This trend could be seen not just in countries such as Germany and France but also nearer home in Ireland and Scotland – in all of which the idea of rent pressure zones (rather than blanket application across a city or region) has been implemented.

In short, the Whitehead and Williams (2018) review concludes that there is a need for a more enabling regulatory structure with rent stabilisation and the potential for longer term and

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[2] A condominium, or condo, is an individually owned unit in a larger building containing many units, and roughly equates to strata-titled apartment ownership—whether for owner occupiers or for renting in the private rental market—in the Australian housing system.

perhaps indefinite tenancies at its core. Rent determination is only part of any regulatory regime. Countries with any type of rent control or stabilisation also feature long or indefinite leases or mandatory lease renewal, regulations to limit evictions to circumstances where the tenant has broken the agreement, and often restrictions on the ways in which landlords can dispose of their property.

Application of international rent control experience for Australian law

It is relevant to note that, in Australia, rental regulations are legislated through (and are the responsibility of) state and territory rental tenancy laws. Indeed, the Australian Constitution (under Part V – Powers of the Parliament. 51.) doesn't give the Commonwealth Government legislative powers in relation to private rental markets. Australian states and territories only lightly regulate rents. No jurisdiction regulates the amount of rent a landlord may seek when letting a property, nor limit the size of an increase, except by providing that a tenant may dispute a notified rent increase as 'excessive' (Martin et al 2022).

In the ACT, for example, rent increases are resolved through the ACT Civil & Administrative Tribunal (ACAT). The law that applies to rental property disputes (including rent increases) is the Residential Tenancies Act 1997; ACAT resolves and decides disputes under this Act. Similar regulation and tribunals exist in each of the other states and territories. There is no equivalent federal legislation, and no equivalent national tribunal. (The Administrative Appeals Tribunal is the closest equivalent, but for this body to address property disputes would likely require a significant change in operational scope).

Rent freezes are not a feature of international rental regulation. Rent increases are regulated in four countries (Belgium, Germany, Spain, and Sweden), most of the Canadian provinces and some major US cities by limiting them to a stated guideline or reference rent. Ireland and Scotland do so in designated 'rent pressure zones' (Martin et al 2018). A few of the countries regulate rents at the commencement of new tenancies and most regulate rent increases once tenancies are in existence (although the ways in which they do this vary significantly) (Table 4). Martin et al (2018).

Taken together, the North American, UK and European evidence highlights significant concerns about introducing strong rent controls:

- controls over rents at the start of a lease may not allow landlords to make a sustainable return
- rigid rent-adjustment systems may not accommodate unexpected changes in costs (e.g., inflation or energy efficiency requirements)
- governments themselves build in uncertainties by continuing to make changes to their regulatory regime - with implications for both risk and returns
- it can reduce number of rental properties as landlords sell, so that they can earn the market price for their real estate
- it can lead to disrepair of the rental housing stock as landlords may not invest in maintenance because they can't recoup their investment by raising rents.

Unless strict legal restrictions are put on the use of properties, implementation of rental controls in Australia risk encouraging landlords to take dwellings off the long-term private rental market and instead make those properties only available on short-term letting (STL) platforms such as AirBnB. AHURI research has identified that STL does reduce 'the availability of rental properties in high-demand inner city areas with significant tourism appeal' of Australian cities, removing an estimated 15 per cent of long-term rental housing stock in some areas (Crommelin et al 2018).

Importantly, international use of rental controls has been preceded by availability of sufficient rental supply, robust protections for tenants, including tenure security with long or indefinite leases Tenure security relates not just to length of lease, but considers the level of certainty with which tenants can extend their tenure, how easily landlords can gain vacant possession, and the rights of the landlord to sell the property.

Rent caps have also tended to be targeted – to specific built form times in individual cities, or to designated high pressure zones. Whole of nation rent caps are rare, there is no precedent for a whole of continent rent control measure.

Inquiry Term g:

The impact of government programs on the rental sector

Social housing supply

Historically, the Australian public housing system was built and operated directly by government. It met the needs of households unable to find adequate housing within the private rental market, but it also functioned to promote other aims—for example, the post-war reconstruction effort, improvements in public health and sanitation, and national and economic development (Flanagan et al 2019).

More recently, the sector has become increasingly residualised. This is due to a number of factors, including the chronic under-investment by governments. The social housing system is now only a small component of the wider housing market, and tenants frequently have a need for high levels of additional support as well as for affordable housing (Flanagan et al 2019).

The obvious shortcomings of this residualised sector are that not only is the sector unable to achieve its existing purpose, but large numbers of households who are ineligible or insufficiently 'needy' enough to get into social housing are living in unaffordable and insecure conditions in the private rental market (Flanagan et al 2019).

Recent investments by state and territory governments in increasing social housing supply are vital to improve the functioning of Australia's rental markets (both social and private). Commonwealth investment, through the Social Housing Accelerator, and the proposed Housing Australia Future Fund, are key foundations to improvement of Australia's housing challenges.

Rent Assistance

As mentioned earlier in this submission, CRA is provided to lower Rent Assistance is a non-taxable income supplement payable to eligible people who rent in the private rental market or community housing. The amount of rent assistance people can receive depends on an applicant's income, rent and household circumstances. The 2023 Federal Budget includes increases to CRA payments.

Some state governments also provide rent assistance, such as the Victorian Government's Private Rental Assistance Program (PRAP), the NSW Rent Choice program, or assistance with rental bonds, such as Queensland's Bond Loan and Bond Loan Plus programs.

AHURI research has examined the impact of rental assistance, particularly CRA, and indicates that better targeting of the assistance would make it more effective. The research modelled a number of possible cost-effective reforms to CRA that could improve housing outcomes for low-income renters (Ong et al 2020).

The research found that changing the CRA eligibility criteria to reflect housing need, defined as low-income private renters paying rents exceeding 30% of their income, produced the best outcomes. This reform would mean CRA is best targeted at those who need it most, reducing the number of low-income private rental households in housing stress by approximately 370,000 (including some currently ineligible for CRA; Ong et al 2020).

In comparison with comparator countries (Germany, Ireland, the United Kingdom, the United States and New Zealand), Australia's CRA regime is distinctive in terms of being (a) restricted to certain categories of renters and generally excluding low waged employees; (b) regionally invariant; and (c) available by right, rather than cash limited (Ong et al 2020).

Head leasing

Head leasing is primarily used to increase the supply of housing for social housing providers, provide affordable rental housing in high cost or under supplied areas, and to provide transitional housing for vulnerable households and those exiting homelessness. A common head leasing arrangement in Australia is the head-leasing of private sector and state and territory government housing stock by community housing providers, who sublease directly to the tenants. Head leasing involves at least two leases. One lease exists between the dwelling owner and the lessee, and another between the provider and the tenant. The Residential Tenancies Act applies to both leases.

The tenant may pay a reduced rent if the housing agency has agreed to subsidise the tenant's rent for some or all of the lease period. Other benefits for low-income tenants are that housing agencies use tenant selection criteria sympathetic to tenants who may rely on government benefits, have health issues, not have a positive history of renting, or may suffer discrimination in the mainstream market. The housing agency may (or may not) provide some level of services to the tenant such as health or education services. If the landlord chooses not to renew a lease, the housing agency may also support the tenant in finding and moving to a new dwelling.

The advantages of head leasing for landlords are that they have a guaranteed income for the length of the lease; that maintenance and any damage caused by tenants will be repaired by the housing agency; and that they don't need to use (and pay for) the services of a real estate agent to manage the property. This means the CHP may be able to negotiate a lower rent than might otherwise be the case.

A number of head-leasing programs operate in Australia. Some of these are focused on specific needs cohorts. For example, in response to the Royal Commission into Family Violence, the Victorian Government developed a Rapid Housing Assistance Fund-Family Violence program in 2016 to fund housing for women and families fleeing domestic violence, including funding head leasing arrangements for people at risk or experiencing homelessness and impacted by family violence.

The Queensland Government operates the Helping Hand Headlease scheme which is targeted at households who can afford and sustain a private rental tenancy but cannot access the private rental market for various reasons, such as having a limited rental history.

In NSW the Department of Communities and Justice (DCJ) undertakes head leasing arrangements with private rental market landlords and then sub-leases properties to clients that have been approved for social housing (DCJ 2021). The Department sees head leasing as a way 'to meet excess housing needs that ordinarily would be met with existing housing stock levels' and a way 'to meet immediate needs without requiring additional capital funds, particularly in areas where long-term investment is not warranted.'

The Tasmanian Government operates the Private Rental Incentives Program, a head leasing scheme to encourage private landlords to make available and affordable homes for rent to eligible people on low incomes. The head leasing arrangement is signed between the landlord and Centacare Evolve Housing, a registered CHP, which then signs a sub-lease directly with the tenant.

More recently, head leasing programs have been an important component in several states, transitioning formerly homeless people, who were accommodated in hotels during the lockdown period of the COVID-19 pandemic, into more suitable longer-term housing.

Rental brokerage

Private Rental Brokerage Programs are found across Australia's system of housing supports and share similar aims (to assist low income, vulnerable clients to access and sustain private rental market tenancies) and have common, key characteristics: adaptability and responsiveness to local client and market needs.

Currently, private rental brokerage is not identified as a housing assistance measure in national data or research collections, including those managed by the Australian Institute of Health and Welfare.

Private Rental Brokerage Programs appear to be successful in assisting 'rental ready' clients to access tenancies in the private rental market. Assessing a client’s rental readiness is a key professional skill for Private Rental Brokerage Program workers, critical both to successful tenancy outcomes and the ongoing cooperation of market stakeholders (Tually et al 2016).

PRBPs are found across Australia's system of housing supports, with funding provided directly by state government departments. These include the RentConnect service in Queensland, the Private Rental Brokerage Service in NSW, the Private Rental Liaison Program in South Australia, and the government/community partnerships underpinning Housing Connect in Tasmania and the Housing Establishment Fund in Victoria (Tually et al 2016).

Other state government rental supports

In late 2022 AHURI provided a brief summary of state government rental support schemes (AHURI 2022c). All Australian states and territories offer a number of different Rent Assistance schemes to help low-income households in the private rental market. This assistance may help with affordability directly, such as through relocation assistance, or with helping households to find, apply for, move into, and maintain a rental tenancy (Stone et al 2016).

Programs to assist eligible tenants to secure a private rental tenancy include:

- Bond loan and advance rent are interest-free loans for part or full rental bond and advance rent. Some states require fortnightly repayments starting immediately, others only require that the bond be repaid at the end of the tenancy.

- Tenancy guarantees help eligible tenants into private rental. State housing authorities provide private landlords or real estate agents with a formal guarantee to cover potential future rent arrears or property damage over and above the rental bond.

- Relocation assistance provides a loan to assist eligible tenants to cover the costs of establishing a new private rental tenancy, such as removalist expenses and electricity/gas connection.

- Private tenancy facilitation is short-term assistance to help people understand private renting, including property searches, collecting appropriate documentation, and dealing with landlords and real estate agents.

Programs to assist tenants to maintain their current private rental tenancies include:

- Private rental subsidies are ongoing or time-limited, and are targeted at priority applicants (such as women escaping family/domestic violence) who are waiting for a suitable social housing vacancy.
- Private rental brokerage is assistance to access and sustain private rental tenancies, including monitoring of tenancies, through a mix of supports tailored to individual needs.
- Arrears assistance is an interest-free loan or grant provided to eligible tenants at risk of eviction due to rent arrears.

Inquiry Term h:
Related matters

There are a couple of housing regulation developments not yet considered in this submission that reflect opportunities for rental regulation.

The National Regulatory System for Community Housing

In 2012, the Commonwealth and all states and territories except Victoria and Western Australia signed an Inter-Government Agreement to establish the National Regulatory System for Community Housing (NRSCH). The purpose of the NRSCH is to ensure a well governed, well managed and viable community housing sector that meets the housing needs of tenants and provides assurance for governments and investors.

The National Regulatory System for Community Housing (NRSCH) regulates a complex national market. Despite clear intentions with the creation of the NRSCH, it has failed to become nationally consistent. The initiative legislation was developed in NSW, and most states and territories have adopted the NSW legislation. One exception is Western Australia, where a policy framework is implemented rather than a legislative framework, but otherwise operates in broadly consistent ways as the NRSCH, including Tier structures, areas of focus and most reporting requirements. The other exception is Victoria, where an entirely separate system operates, with different emphasis in regulatory activities, tier structure, registrar powers and wind-up provisions. The implementation and interpretation of the NRSCH across jurisdictions is also inconsistent.

Even amongst the legislated NRSCH jurisdiction there is substantial variation in the reporting requirements amongst the NRSCH jurisdictions, and particularly in the separate Victorian Regulatory System (VRS). Accountability of NRSCH to a Housing Ministers' Council was part of the original NRSCH design but was not implemented due to the disbanding of this council under the Council of Australian Governments (COAG) by the Abbot government.

The organisational alignment of registrars varies in different jurisdictions. In some cases, registrars are part of housing departments, reporting through to the Minister of Housing (sometimes through the Director of Housing, creating a potential conflict of interest). Broad consensus within the community housing sector is that registrars should not be based in housing departments or reporting to the same Minister, due to potential or perceived conflicts of interest. Structures where the registrar is in an entirely different department to the Director of Housing, are generally considered most appropriate (Fotheringham 2019).

Regulators from each of the states and territories meet regularly, while working largely independently within each jurisdiction's government system.

The NRSCH has yet to reach full national consistency, and serves as an example in the housing regulation arena of the complexity in attempting a nationally harmonised approach.

The important example provided by the NRSCH, however, is the development of a national set of guidelines or expectations does not necessarily mean transferring the regulatory responsibilities away from the states and territories to the Commonwealth Government, nor does it necessarily mean an identical set of regulations in every jurisdiction. The distinction here is the move toward broad national consistency in systems administered by the states and territories, not a singular national system.

Rental disputes and support mechanisms

Civil and Administrative Tribunals

Rental property disputes between renters and landlords (as well as residents and owners of caravan parks or rooming houses, public housing tenants and the Director of Housing in each state and territory, and specialist disability accommodation and supported residential services are handled through the states' civil and administrative tribunal.

These tribunal can make a range of findings, for example in NSW the NCAT can order:

- ending the tenancy agreement
- payment of the rental bond (up to $30,000)
- compensation be paid to the landlord or tenant (up to $15,000)
- that a rent increase is excessive
- a term of the agreement must be complied with (NCAT 2023).

The Civil and Administrative Tribunals experience significant caseloads, which have been heightened in the COVID-19 pandemic period.

Commissioners for Residential Tenancies

A more recent development in some states is the appointment of Commissioners for Residential Tenancies.

Victoria appointed the first Commissioner for Residential Tenancies in 2018, to provide independent advice to the Victorian Government and recommend changes to renting laws, programs and services to improve the renting rights, practices and tenant experiences across the state. The Commissioner is responsible for identifying community-issues and advocates for opportunities for change to Government. This may include exposing market practices and regulatory gaps that erode the rights of renters, working to increase renters' understanding and knowledge of their rights. The Commissioner is also responsible for development of improved dispute resolution processes and other mechanisms to better enable renters to exercise their rights, the implementation of the amendments to the Residential Tenancies Act to ensure the reforms improve renter experiences.

NSW has recently appointed a Rental Commissioner to work with the NSW government to design and implement changes that rebalance the rental market, making it fairer and more modern. The NSW Rental Commissioner is intended to be a voice for renters and work with the government and stakeholders on rental reforms, and will also be responsible for identifying and investigating other issues that are impacting the NSW rental market. The Commissioner will examine rental affordability and supply, encourage longer term rental agreements, investigate ways to improve energy efficiency for renters, develop educational resources for renters and owners, and monitor current tenancy laws.

In 2019 the Tasmanian Government developed guidelines for a Residential Tenancies Commissioner (Tasmanian Department of Justice 2019). The framing of this position was more closely aligned with the Civil and Administrative Tribunal roles in dispute resolution, and has not been progressed.

While the Commissioner roles are only recent innovations, they have been well received in Victoria and NSW, and early indications are that this is a model that could be implemented in each state and territory.

Like several of the Community Housing Registrars, the Commissioners are positioned in other parts of government from Departments of Housing (Homes Victoria and the NSW Department of Communities and Justice – anticipated to become Homes NSW through forthcoming machinery of government changes). The Victorian Commissioner is aligned to Consumer Affairs Victoria, while the NSW Commissioner is aligned to NSW Fair Trading.

There is potential for a collaborative national approach to these roles, establishing work programs and sharing reform ideas and research findings, in a similar manner to the regular workplans established by social housing regulators through the NRSCH.

This would require development of similar roles in each of the other states and territories, and resourcing for collaborative work, but suggest a possible way forward for ongoing rental system improvements across the nation in the context of Australia’s federated system of governments. AHURI would be willing to advise on the formation of this national group and provide administrative support as required.

Concluding remarks

AHURI welcomes this opportunity to provide a submission to the Senate Inquiry into "the worsening rental crisis in Australia."

The submission demonstrates the breadth of issues influencing rental markets and rental housing conditions in Australia. The submission then suggests an array of actions that would be beneficial in seeking to improve the circumstances of renters – as well as noting the likely negative impacts of some simplistic reforms that are prominent in contemporary public debate in Australia.

Australia's rental markets have been experiencing increasing strain, as the result of a complex set of policy settings, market interventions, and market disruptions (notably including the COVID-19 pandemic and the proliferation of short-term rental accommodation).

It is important that policy makers avoid the temptation simplistic quick fixes to Australia's housing challenges which result in perverse outcomes. The allure of a national rent freeze as a solution to rental affordability is an illusion, which would discourage investment exacerbating already inadequate supply, and likely lead to poorer quality housing as maintenance and repairs become unaffordable for landlords whose financial return does not reflect changing costs.

What is required is diligent, coordinated efforts to address these challenges through a comprehensive range of policy reforms and programs with long-term funding stability. The ambitions of the National Housing Accord and the development of a National Housing and Homelessness plan are important frameworks for the actors and actions required.

Understanding and respecting the different roles and responsibilities of three tiers of government in Australia's federated system of government is an important underpinning. While there are overlaps, there are also distinct areas of clear responsibility. Agreement on these responsibilities is foundational.

There is a pressing need to increase supply, especially affordable supply and to target rental assistance more effectively. Long term reform agendas need to embrace taxation reform, addressing capital gains tax exemptions, reform to land tax and stamp duty, and the capacity for investors to offset losses on rental housing against income (negative gearing). Innovative or alternative investment models to drive increased rental supply need to be supported, including clarification of the relationship between build-to-rent mechanisms and affordable rental housing supply.

Planning reform to accelerate supply, prioritising or rewarding inclusion of affordable supply and infill developing increasing density in established suburbs, can also contribute constructively.

The submission identifies areas of priority reform for rental regulations. Enabling longer leases remains an area for further development. While current regulations to not actually prevent longer leases, their use is rare, and should be better supported. Better regulation of tenancy applications, including genuine barriers to rent bidding, limits on the data requirements associated with applying for a lease, and tight restrictions on data retention are necessary reforms. Reforms in these areas should also address unlawful discrimination.

No cause evictions should be eliminated from rental regulations, as is now the case in the ACT.

Minimum quality standards for rental housing need to consider thermal comfort and energy efficiency – again, the ACT regulatory reforms show promise. Quality standards need to consider the health implications of poor-quality housing. Aside from hot and cold, the presence of mould is a significant issue, and appropriate ventilation a key starting point.

Personal safety for tenants, particularly in relation to domestic and family violence, is an area of concern.

The submission acknowledges the impact of changing tenure distributions – the declines in home ownership and social housing, resulting in unmanaged growth of the private rental market. The disruptive impact of short term letting, displacing households from previous rental housing, remains an area in pressing need of regulatory intervention – Australia's regulation of short term rental markets is underdeveloped.

Government programs, both at state and territory level and nationally, can positively impact on renters' experiences. First and foremost, the increased supply of social and affordable housing, the targeting and scale of rental assistance programs, and the range of other programs including head leasing, rental brokerage, and other supports provided by state and territory governments.

The submission considers the National Regulatory System for Community Housing (NRSCH) as an exemplar of nationally coordinated state-based regulation of housing provision.

Finally, the submission examines arrangements for handling of rental disputes and associated support mechanisms, highlighting the recent appointment of Rental Commissioners in Victoria and NSW, and identifying the potential benefit of establishing similar roles in each state and territory to additionally form a national council (rather than Commonwealth owned) to progress rental reforms and improve the conditions experienced by renters across Australia. This approach can both reflect the policy and regulatory responsibility held by the states and territories, and provides a forum for national reforms.

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