

Report

Rooming house futures: governing for growth, transparency and fairness

New South Wales Discussion Paper

authored by

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ACRONYMS

ABHs	Assisted Boarding Houses
ADHC	Division of Ageing, Disability and Homecare (Part of The Department of Family and Community Services—FACS)
CTTT	Consumer, Trader and Tenancy Tribunal
FACS	Department of Family and Community Services
FT	Fair Trading
GBHs	General Boarding Houses
LGAs	Local Government Areas
LRCs	Licensed Residential Centres
NCAT	NSW Civil and Administrative Tribunal
NGO	Non-Government Organisation
NSW	New South Wales
NRAS	National Rental Affordability Scheme
SEPP	State Environmental Planning Policy
TUNSW	Tenants Union of New South Wales
YACS	Youth and Community Services Act 1973

EXECUTIVE SUMMARY

Background and purpose

While having experienced a long decline, the rooming/boarding house sector¹ recently appears to have been undergoing a period of restructuring and growth. This component of the housing market is of particular concern to policy-makers especially because it houses some of society's most vulnerable people, because residents have traditionally enjoyed little legal security, and because multi-occupied buildings of this kind potentially expose residents to safety risks.

Since 2008, new systems for regulating the rooming/boarding house sector have been introduced in both New South Wales (NSW) and Victoria. Oversight systems for this part of the housing market must confront a number of challenges. These include clearly defining which types of premises are subject to regulation, devising means for identifying and registering relevant establishments, and systems for ensuring ongoing proprietor compliance with basic requirements.

This research therefore seeks to identify and analyse the policy and regulatory challenges for government in facilitating the operation of a legitimate and viable rooming/boarding house sector. Informed by a limited amount of primary fieldwork to tap into the expert knowledge of key stakeholders, together with Investigative Panel meetings to review and hone research findings, this study aims to help inform the ongoing development of the recently reformed regulatory systems being bedded down in both NSW and Victoria.

Drawing on our primary research focusing on NSW, this paper highlights provisional research findings for discussion at the project's NSW-specific Investigative Panel meeting. A similar Victoria-specific paper is being drawn up for a similar purpose.

The boarding house market

According to ABS census figures, NSW accommodates more than a third of all boarding house residents in Australia. According to the NSW Fair Trading register, there were 774 boarding houses operating across the state in August 2014. In their distribution, these premises are strongly concentrated within the City of Sydney and its surrounding inner suburban areas. This pattern contrasts with Melbourne where the largest numbers of rooming houses are in middle and outer suburbs.

The NSW 'boarding house sector' contains distinct sub-categories. From a regulatory perspective there is an important distinction between 'assisted boarding houses' or ABHs (that very small minority of establishments accommodating people with 'additional needs') and the remainder—'general boarding houses'. Beyond this, four main groupings can be discerned: traditional unmodernised, traditional modernised, student housing, and 'New Generation' boarding houses. The latter cohort mainly involves custom-designed blocks, newly constructed since 2009 under planning regulations allowing significant relaxation of standard rules—such as on car parking and minimum room size requirements. However, while termed 'boarding houses' for planning purposes, such blocks may be technically outside the scope of subsequent regulation if, as is often the case, they are let unfurnished (i.e. where a bed is not provided).

The boarding house population has been changing. The profile is perceived to have been shifting towards a generally younger demographic in all sub-categories other

¹ Termed 'rooming houses' in Victoria, 'boarding houses' in NSW.

than assisted boarding houses. New Generation boarding house residents differ markedly from the traditional norm, with many being key workers or young professionals.

Boarding house regulatory reform

A new regulatory regime was introduced in NSW under the *Boarding Houses Act 2012*. This formalised powers to underpin ABH oversight, created a requirement for 'registrable' boarding houses to be registered with the Department of Fair Trading, and established occupancy rights for residents of registrable premises. The new framework called for inputs from several state government departments, as well as collaboration between state and local government tiers. Unlike the new Victorian regulatory regime, these reforms did not include specification of minimum standards for boarding houses other than general building and public/environmental health standards applying to residential accommodation.

Stakeholder observations on regime rules and structure

Several components of the new regime were widely welcomed; in particular, the acquisition of occupancy rights for boarding house residents, the creation of clear rules around the management of bond payments, and the increased scope for advocate leverage over 'unapproved boarding house' proprietors where appropriate.

Critical comment on regime rules and structure focused primarily on five issues. First, what some saw as an ongoing ambiguity around what is a 'registrable boarding house', especially in terms of dividing lines as regards hotels, motels and student accommodation. Second, the lack of clearly stated physical and management standards, a situation which necessitated ongoing reliance on individual local authorities to interpret broadly defined legislation as each individual council sees fit. Third, the resource costs and complexity of running a state-wide register alongside local registers. Fourth, the extent to which expectations of local government under the new regime could be regarded as realistic. And finally, the absence of dedicated 'implementation funding' or state-level oversight of local authority regulatory practices.

Stakeholder observations on regime implementation

Concerns were expressed about both the coverage mismatch between state-wide and locally administered boarding house registers, and the extent to which entirely unauthorised establishments continued to operate without penalty. In the absence of any associated minimum standards of provision, some local authorities saw the Fair Trading register as of little relevance and perceived little incentive to levy non-registration penalties where potentially applicable.

Working relations between local councils and Fair Trading were also marred by council frustration at the (albeit occasional) state-wide registration of premises lacking local consents and by the absence of an automatic registration notification procedure.

Perceived regime impacts

Although the regime had been in place for less than two years at the time of the fieldwork, a number of research participants saw it as already having made a significant positive impact. This included Non-Government Organisations' (NGO) testimony that the Act's provisions had helped in securing improved management of unregistered premises, and that disputes over security deposits (bonds) could now be more readily resolved. At the same time, while this was generally welcomed, it was argued that the establishment of occupancy rights for boarding house residents had impaired residents' priority for public housing.

1 INTRODUCTION

1.1 Change in the rooming/boarding house sector

There are signs of recent significant growth in Australia's rooming house ('boarding house' in New South Wales) sector, within the context of structural change in the wider private rental market. Demand for low cost rental has grown, affordability has declined and there has been a rising incidence of family households renting from private landlords. On the supply side, investment by small-scale investors has surged, and professional management of rental housing has become more widespread. Of particular significance is the increasing number of larger, suburban houses in the rental stock, some of which are used for multiple occupancy.

The rooming/boarding house sector is of particular concern to policy-makers at all levels of government for several reasons. First, it houses some of society's most excluded and vulnerable individuals, often on a legally insecure or 'non-tenured' basis. Second, conditions of occupancy can heighten resident safety risks—especially in relation to fire. And third, it is often high turnover accommodation, and sometimes associated with neighbourhood disturbance and complaints to local councils.

Developments in the sector have been market-led with increasing growth in segments in the rooming/boarding house sector that appear to have outpaced policy and regulatory settings. The types of rooming houses described in terms of their built form include old large many-roomed late 19th and early 20th century houses, buildings that were previously used as hotels and motels, new purpose-built rooming houses, apartments in new apartment blocks, and suburban residential houses of various ages and styles.

Within the remit of this research—NSW and Victoria—recent expansion within the wider rooming/boarding house sector has reportedly tended to involve somewhat novel forms of such accommodation. In NSW, this has particularly comprised so-called 'New Generation boarding houses', mainly custom-designed premises being newly constructed under recently enacted planning rules. In Victoria, meanwhile, research evidence has pointed to sector growth involving 'new model' or 'mini' rooming houses—suburban houses converted into rooming houses and where the owner/manager lets the bedrooms on a room-by-room basis. Within Melbourne, therefore, the spatial distribution of boarding house-style accommodation is moving away from its historic inner city focus.

1.2 Regulatory challenges

All states and territories have legislation governing registered rooming houses. In NSW and Victoria recently enacted reforms seek to provide a stronger framework for the delivery of rooming/boarding house accommodation and clearer statements about owners/manager and resident rights and responsibilities. Under these new regimes, each introduced since 2008, regulations require that premises being used as such should be registered with the relevant state government.

There are acknowledged challenges identified by those who have developed these new regulatory regimes. These include identifying and registering rooming/boarding houses; understanding diversity within the sector; assessing the capacity of local government to regulate; the application of disability anti-discrimination requirements to the creation of new rooming houses in existing residential dwellings; encouraging best practice in the day-to-day management of rooming houses that are in line with resident and operator rights and responsibilities; and linking residents to support services.

This is the context for the principal question framing this project which asks:

What are the policy and practical challenges being encountered in the development of a legitimate and viable rooming house/boarding house sector and how might these best be overcome through an improved regulatory regime and other measures to address a range of housing needs?

This question is relevant to governments seeking to increase the supply of safe and affordable housing and prevent homelessness, particularly among low-income single people, and for state government housing and consumer affairs agencies responding to growth in rooming/boarding houses. It is also relevant to industry and community strategies to improve the profile and legitimacy of the rooming house industry.

Governance of the rooming sector involves different stakeholders with key policy development roles. The key actor groups forming the rooming house 'policy community' are: Consumer Affairs/Fair Trading Departments, housing, health and disability agencies; regulatory agencies including ombudsmen, auditor-general, guardianship board and planning; local government; rooming/boarding house providers; tenancy advice services, housing referral services, health and disability service providers and community housing providers. Further, Federal Government agencies have policy interests in homelessness, overseas student welfare and disability and human rights.

1.3 This project

The research being undertaken for this project has two elements.

The first element is research on the current state of play (in late 2014) in the implementation of the new regulatory systems in NSW and Victoria. This has been undertaken through a modest program of interviews and a focus group discussion involving relevant State Government departments, local government officers, boarding house owners and operators, and NGO advocates and service providers who assist low-income and marginally-housed people find and maintain housing.

In the NSW case, the Government interviews included staff in the Department of Fair Trading and in Family and Community Services (Ageing, Disability and Home Care (ADHC), and Centre for Affordable Housing). The local government interviews involved environmental health specialist staff in four municipalities in inner Sydney containing (according to the state-wide register), 52 per cent of all NSW boarding houses. The NGOs included the Tenants Union of NSW, Homelessness NSW, Sydney University Postgraduate Students Association and Marrickville Law Centre.

The second element is research through two facilitated panel discussions with representatives of the key stakeholders in Victoria and NSW. The current document is one of two state-specific discussion papers prepared to provide a common understanding of what is known about rooming/boarding houses and to highlight key issues that have emerged from the research to date.

The purpose of the panels is to:

1. Clarify policy objectives for the further development of the regulatory regime that strengthens the profile and legitimacy of the rooming house industry.
2. Guide responses to challenges facing the development of the regulatory regime including unregistered rooming houses, local government regulatory capacity and proprietor and manager capacities to observe regulations.
3. Propose potential adjustments to the regulatory regime that supports the development of a viable and legitimate rooming house industry.

In relation to the NSW component of the research, it is important to acknowledge that our study is being undertaken in parallel with a much larger and more in-depth evaluation of the *Boarding Houses Act 2012*. That study, commissioned by the NSW Government and being undertaken by the University of Western Sydney, will provide a more definitive assessment of regime impacts, especially as regards boarding house residents themselves.

2 THE NSW BOARDING HOUSE MARKET

2.1 The registered boarding house market

According to census estimates, boarding houses in NSW were accommodating 6507 persons in 2011, just over a third (37%) of the national total, and a number considerably larger than in any other state or territory.² Four-fifths of state-wide boarding house residents (80%) were enumerated in Sydney, with over half of the NSW total (51%) in the city, inner west and inner south districts of Sydney.

In August 2014 there were 774 boarding house establishments in NSW registered as such with the NSW Department of Fair Trading. Of these, 750 were 'general boarding houses' (GBHs). The remaining 24 were 'assisted boarding houses' (ABHs), that is establishments specifically catering for 'people with additional needs'.³ Formerly known as Licensed Residential Centres, these premises are also licensed by the NSW Department of Family and Community Services (Ageing, Disability and Homecare division—ADHC). Although there are strong grounds for believing that the actual scale of NSW boarding house provision is understated by the Fair Trading register, even that total is 70 per cent larger than the 2011 government state-wide estimate of 455 establishments⁴.

While the term 'registered boarding houses' is cited here, it is important to recognise that this refers specifically to registration with NSW Fair Trading. Our research suggests that there are, in practice, significant numbers of boarding houses registered with the relevant local authority but not (yet) entered on the state-wide database. Determining the exact number of such locally-registered-only establishments is unfortunately beyond the scope of this research. However, in four local authorities in Sydney the numbers registered with Fair Trading as at August 2014 were considerably fewer than those formally approved to operate as boarding houses by the council concerned. The number of establishments being operated as boarding houses but unregistered at either the state or local authority level is also believed to be substantial (see Section 4.1).

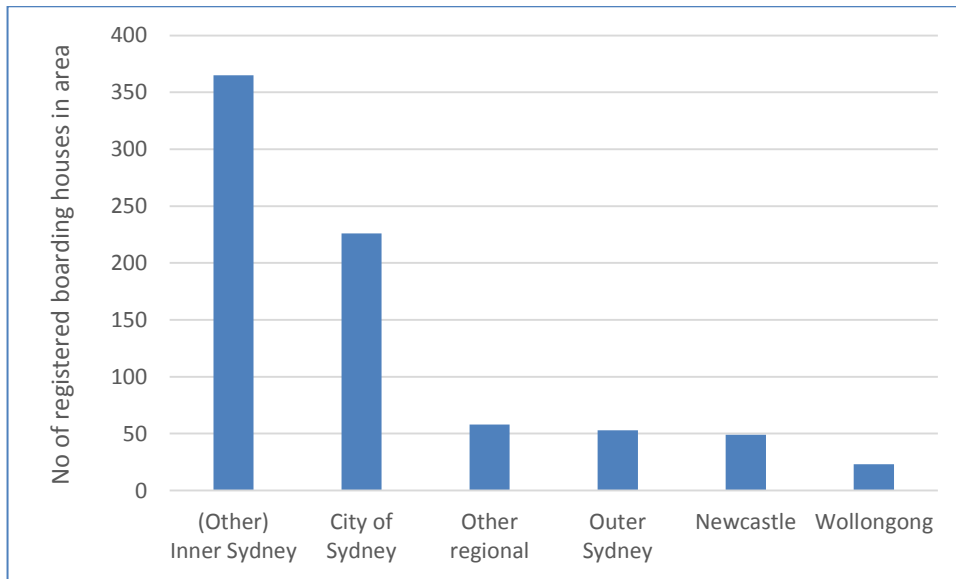
The broad geographic distribution of boarding houses registered with NSW Fair Trading as at August 2014 is shown in Figure 1 below. Collectively, those located within Greater Sydney (82%) accounted for the vast majority of the state-wide total. The City of Sydney municipality itself accounted for more than a quarter (27%) of the entire register.

² ABS Census of Population and Housing Table 2049.0.

³ Such as an age-related frailty; a mental illness and/or an intellectual, psychiatric, sensory or physical disability, and needs support or supervision with daily tasks and personal care such as showering, preparing meals or managing medication (NSW Fair Trading website: http://www.fairtrading.nsw.gov.au/ftw/Tenants_and_home_owners/Boarding_houses.page)

⁴ NSW Interdepartmental Committee on Reform of Shared Private Residential Services (2011) *Boarding House Reform Discussion Paper*. https://www.adhc.nsw.gov.au/_data/assets/file/0019/250417/Boarding_House_Reform_Discussion_Paper_Nov2011.pdf

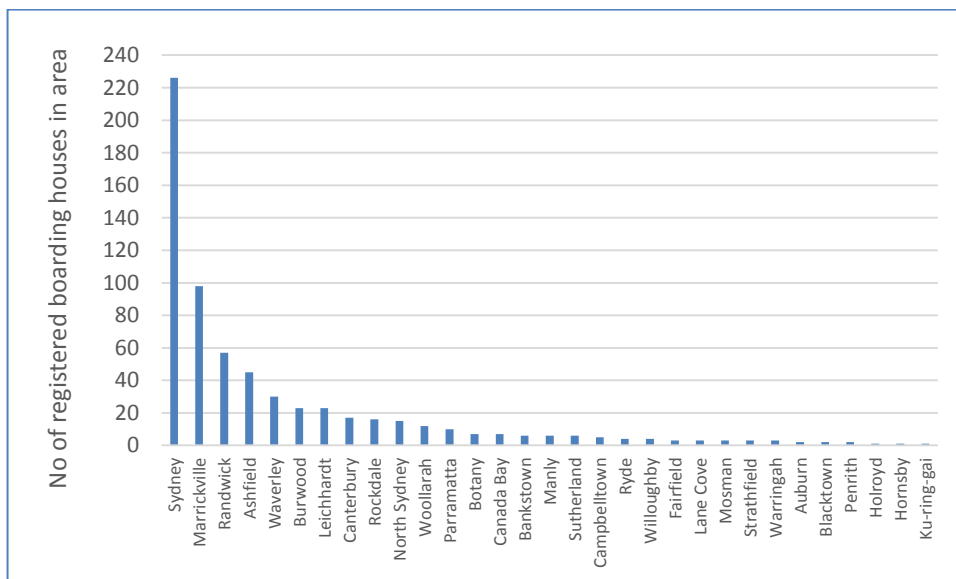
Figure 1: Distribution of boarding houses across NSW



Source: NSW Fair Trading boarding house register dataset (as at August 2014)

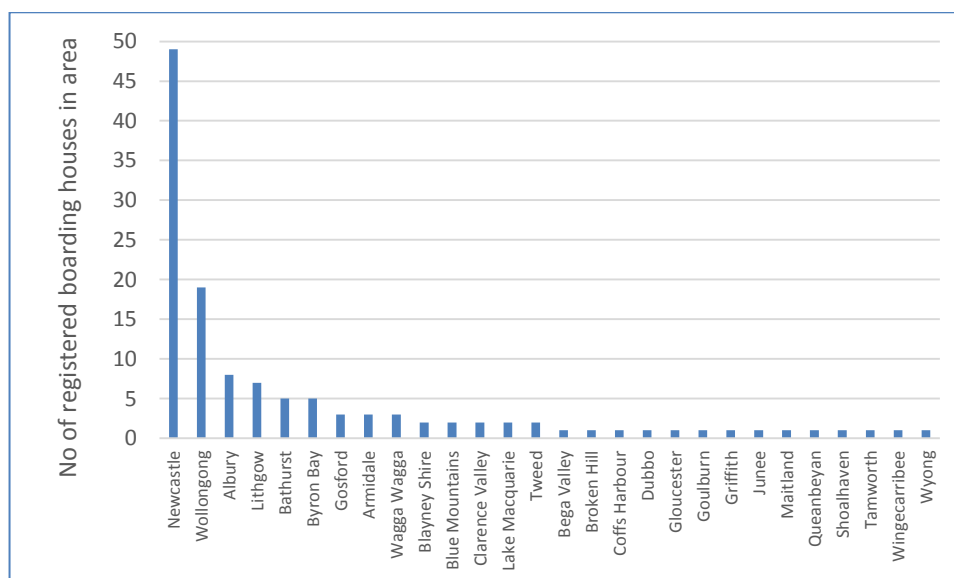
As shown in Figure 2 below, the vast majority of Greater Sydney registered boarding houses were concentrated in a small proportion of local authorities bordering on or close to the City of Sydney itself. This pattern differs quite sharply from that in Greater Melbourne, where the largest concentrations tend to be in middle and outer suburbs.

Figure 2: Distribution of registered boarding houses: Greater Sydney LGAs



Source: NSW Fair Trading boarding house register dataset (as at August 2014)

Figure 3: Distribution of registered boarding houses: regional NSW LGAs



Source: NSW Fair Trading boarding house register dataset (as at August 2014).

While registered boarding houses outside of Greater Sydney accounted for less than a fifth of the state-wide total (see above) the distribution of these establishments was again highly concentrated. Over half (54%) were in Newcastle or Wollongong—see Figure 3 above.

2.2 The boarding house stock

The Fair Trading registration criteria emphasise the distinction between ABHs and GBHs (as explained above). Beyond this, research participants with in-depth knowledge of the sector in Sydney tended to differentiate between a number of sub-categories within the ‘general boarding house’ cohort. These were distinguished partly by their client group, partly by their building type and partly by their physical condition, quality and facilities.

2.2.1 Traditional boarding houses

First, there was the ‘traditional boarding house’ sector. As implicit in the name, these were establishments that had been trading for many years—in some cases since the immediate post-war housing shortage when, following a lengthy lapse in housing construction, Australia’s cities needed to accommodate large numbers of returning servicemen, as well as an influx of domestic and international migrants. In one of our inner Sydney case study local authorities, for example, it was estimated that about 70 per cent of all locally approved boarding houses were continuing to operate under ‘Ordinance 42 licences’, a reference to the governance framework prevailing prior to the introduction of the ‘modern’ planning regime around 1990. Defined as such, therefore, traditional boarding houses had been operating for at least 20 years. Many of these were medium to large establishments catering largely for the ‘traditional boarding house’ clientele—single men on low incomes. Having experienced relatively little modernisation investment, such buildings provided mainly shared facilities. Inner Sydney weekly rents for such accommodation were estimated by one local government officer as typically around \$150–\$200.

Aside from ABHs, it was this element of the boarding house sector on which local council attention was mainly focused:

The ones at the lower end of the market it's very hard to motivate the owners to do anything. You have to be constantly at them [because] tenants don't complain. If they leave or get kicked out, where do they go? ... they're stuck. (Local government officer)

2.2.2 Upgraded traditional boarding houses

Distinct from the main body of 'traditional' boarding houses, but originating from it, was the cohort of establishments long serving this function but in which owners had made significant modernisation investment in the relatively recent past (i.e. the last 10–20 years). In these buildings there were sometimes new floors and kitchenettes. There was less sharing of facilities. Since somewhat higher standards commanded significantly higher rents, the clientele for this sub-group was also slightly different—for example, including some students. At Inner Sydney values, a room in such an establishment might cost a tenant \$200–\$250 per week.

2.2.3 Student boarding houses

A third subgroup covered boarding houses specifically catering for (mainly international) students. This expanding sector, however, also contained substantial internal diversity. On the one hand, there were the mainstream houses and flats being effectively used as boarding houses for this client group, but usually without official approval. This arrangement sometimes involved a head tenant subletting rooms or bed spaces to others, possibly members of the head tenant's ethnic or national group. Some regulatory challenges associated with this group are discussed in Sections 3.3.2 and 4.1. On the other hand, there was the growing body of custom-developed (or converted) premises specifically designed as student accommodation and in which owners had sometimes invested significant sums.

2.2.4 New Generation boarding houses

Finally, there was the new build element of the sector recently expanding fast in certain parts of Sydney, and catering largely for low to moderate income working adults. This concerns the 'New Generation boarding houses' facilitated by the planning relaxations introduced under the 2009 NSW Affordable Housing SEPP (State Environmental Planning Policy). Providing insight into the NG boarding house concept and housing market role, as originally envisaged, is the following passage:

New Generation boarding houses offer a business investment opportunity in development of stock for a wide clientele including students, single women, young working singles and couples ... many of the occupants of [such] boarding houses have jobs, often key workers ... looking for accommodation close to the place where they work. The new generation boarding house model commonly includes private bathrooms and/or food preparation facilities within some or all of the boarding rooms and the self-contained rooms are often of a similar nature to a small studio apartment⁵.

Local council interviewees reported NG boarding houses as proliferating in the City of Sydney and in neighbouring localities:

New Generation boarding houses] are being built all over the place ... I'll give you an example of one. About five years ago a developer put up a two-storey boarding house. As soon as the new legislation came in, he knocked down that development to put on another couple of storeys...it's a goldmine. (Local government officer)

⁵ NSW Planning (2010) Affordable Rental Housing SEPP Review Technical paper <http://www.planning.nsw.gov.au/Portals/0/StrategicPlanning/4.%20Boarding%20Houses.pdf>.

We've got an application in for an eight-storey boarding house with 48 units ...
And there are four or five others [in the pipeline]—all for fairly large places.
(local government officer)

However, the designation of these buildings as 'boarding houses' is somewhat debatable. They bear the 'boarding house' title for the purposes of development approval, since this enables their exemption from standard requirements such as in relation to room size and car parking provision. In practice, however, they are quite different from traditional 'boarding house' accommodation because dwelling units are generally fully self-contained. Hence, there are no shared facilities. Effectively, they are blocks of small 'studio apartments' or in some cases one-bedroom apartments with separate bathroom and kitchenette.

They call them boarding houses, but they're basically bedsits, fully self-contained and advertised as 'luxury apartments'. (Local government officer)

From a regulatory viewpoint, they are technically exempt from the requirement to be registered with Fair Trading if—as was reportedly often the case—they were let unfurnished (or, otherwise, where no bed was provided by the landlord). However, it is understood that, in drafting the legislation, it was never intended that the status of a premises in terms of being 'registrable' should be dependent on the provision of beds.

While New Generation boarding house developers benefit from having their schemes termed in this way and the resulting planning concessions, the designation can also inflame local resistance to proposed projects:

When [the local council] has the notification period ... all hell breaks loose. There's a residents' action group that's formed, there's agitation from them, you'll have 40 people come to the Council meeting, all throw their arms up, 'there'll be derelict alcoholics here, there'll be drug dependents, etc., not in our back yard, get rid of it. Make sure you refuse Mr Council and Mr Mayor and make sure it goes away'. (New Generation boarding house proprietor)

However, efforts to get around the arguably misleading terminology which inflames this issue had yet to bear fruit:

[In discussions with] the Department of Planning, we tried to workshop a new name because of this stereotyping ... we came up with micro-apartment ... but they were still saying, oh there'll be the apartment connotation when it goes to [local authority] planners, they then say OK, if it's an apartment you need parking, you need to make sure that you have less density, less rooms
(New Generation boarding house developer)

Tenants of New Generation boarding houses paid substantially higher rents than the norm for traditional boarding house accommodation. One local government officer interviewee estimated these as often above \$300 per week, sometimes as high as \$400. A new generation boarding house owner put the figure for one of his own blocks at \$280 minus 20 per cent (\$244)—in this case reflecting an obligation to charge 'discounted market rent' arising from having financed construction with the aid of National Rental Affordability Scheme (NRAS) funding. While paying some level of premium, however, New Generation boarding house tenants were typically benefiting from professional management and custom-designed dwellings in good condition thanks to their recent construction.

Figure 4: Registered boarding houses in metropolitan Sydney



Source: images from Google street view

2.3 Boarding house ownership

According to local government officer testimony, the distribution of ownership in the traditional boarding house sector largely resembles the fragmented structure which characterises the private rental sector more broadly. Most establishments are in the possession of an operator who owns only one boarding house, although this may be a remnant of a larger enterprise from which other premises have been sold in the past. A minority of boarding houses, however, were owned by operators with two or more buildings, not necessarily in the same local authority area.

The traditional boarding house sector was reported to have been experiencing a 'cohort effect' with the ageing of longstanding owners, and some establishments being handed down from one generation to the next within a family. A key trigger for boarding house sale (possibly precipitating closure), therefore, was the retirement of an owner without a willing heir to take over.

As perceived by local government officers, the expanding part of the sector—that is purpose-built multi-unit student accommodation and other New Generation boarding houses—involved a new set of players. These include property companies with an interest in the wider apartment market and who see this niche of the housing market as providing the basis for a good business proposition.

2.4 Boarding house residents

The characteristics of the distinct sub-groups living in Sydney boarding houses are implicit in the 'general boarding house' typology outlined in Section 2.2. The clientele housed in the ABH sector are generally a remaining fragment of the population of large state-run institutions closed down in the 1980s and 1990s. Boarding house owners and local government officers described some potentially significant trends within the cohort of 'traditional boarding house' residents. As seen by one interviewee, for example, there had been a gradual change over the past 10–20 years, with older single men being gradually replaced by a generally younger cohort of 'troubled folk':

When I first started [around 1990] it was all men, smokers, drinkers, war stories, retirees on low incomes. Now I'm seeing young people; no work, drug, alcohol issues (Local government officer)

Well it's usually, it's usually people that don't have a job ... And they get help from Centrelink. Although I don't like to put those people in because ... I usually find I have problems with them But it's normally people on low incomes, battlers that are trying to make ends meet. They may have a drinking problem, they may have a gambling problem, you know, or men who have divorced and got nowhere to go ... [But] I can tell you the calibre of people have changed ... It's always been the down and outers and the [pause], you know, the battlers that ... that have gone in there ... I'm finding that years ago when I was renting it although they were battlers and down and outers they, they had a bit of pride about themselves, they had, they were honest ... They were reliable ... I'm finding that what's coming through now are just trouble makers and I don't know if it's because drugs are rampant and on the increase ... or what it is, but yeah I'm just finding that I'm having a lot more problems with people these days than what I did before. (Boarding house owner)

In the new generation boarding house sector residents were quite different:

I've seen them with their ties ... They're all professional—you can't afford on a pension 400 bucks a week. (Local government officer)

Key workers is very common. So we have people, cleaners working in the city, we have a fireman that lives in that building, there's a nurse who lives in the building, we do have some students (Boarding house owner)

2.5 Trends in boarding house provision

Until fairly recently it had been generally perceived that the NSW boarding house sector was on a trajectory of steady decline. In particular, monitoring data covering LRC boarding houses showed that more than 80 per cent of such establishments had closed in the period 1994–2010—down from 187 to only 31. This decline was officially

attributed to growing compliance, operational and maintenance costs, the rising value of the underlying land, and the ageing of owners.⁶

According to our 2014 fieldwork, however, there are strong grounds for believing that—at least in Sydney—the broadly defined ‘boarding house sector’ is currently set on a growth path. Some of our research participants believed that net expansion reflected the fact that the scale of new development was sufficient to more than offset ongoing closures in the traditional (including ABH) sector. Others perceived that a historic trend of traditional sector contraction had levelled out in the past 5–10 years—perhaps reflecting a growing tendency for older establishments to be upgraded or redeveloped with new generation boarding houses rather than being closed without replacement. However, while these trends were resulting in rising standards of provision, such improvements came at the price of rising rents and a declining body of housing affordable to people on the lowest incomes.

Another recent trend identified by one local government officer was for owners to reduce the scale of their operations in response to regulatory expectations; specifically, the fire safety standards applicable to Class 3 premises under the Building Code of Australia. More assertive policing of these standards by the council concerned was believed to have prompted some owners to reduce building capacity to the 12-bedspace threshold below which an establishment is classed as a Class 1b property and is, as such, bound by less onerous fire safety requirements.

The component of the sector perceived as remaining clearly in decline was the ABH cohort. As seen by NGO research participants, this was a matter of market forces rather than regulatory pressure:

[Assisted boarding houses] close not because of regulation ... they close because owners get old and looking to flog the building, and buildings in Sydney especially are worth a mint ... what has driven most of the change over the last 10 years in the ... has been a rising property market, an ageing ownership, and a ... poor business model ... you can't on sell your license, so you actually have no interest, not like a corner shop where you build up goodwill and clientele (NGO focus group)

However, from a resident viewpoint, this trend was seen as one to be welcomed because of the state government commitment to take responsibility for rehousing those directly affected by closures—often involving placement in community housing, with floating support provided:

Interviewer: So the assisted boarding house sector is shrinking?

And will continue to shrink probably. And [former ABH residents] move into very much better situations, so we cheer it ... we cheer the loss of beds because there's always a good, a really good outcome for each one of those individuals ... The best thing I could say for any person with disability who's homeless is get into a boarding house that then closes. (NGO focus group)

⁶ NSW Interdepartmental Committee on Reform of Shared Private Residential Services (2011), Boarding House Reform Discussion Paper https://www.adhc.nsw.gov.au/data/assets/file/0019/250417/Boarding_House_Reform_Discussion_Paper_Nov2011.pdf

3 BOARDING HOUSE REGULATORY REFORM: THE POST-2012 REGIME

3.1 Renewal of the boarding house regulatory regime

Traditionally, oversight of boarding house standards and safety in NSW has been largely a local council responsibility, under powers deriving mainly from Local Government and Planning legislation. Recognising the relatively high risk status of boarding houses as multi-occupied buildings, many councils have had longstanding frameworks in place for the local registration and inspection of boarding house premises. Historically, the state government's principal direct interest in boarding houses has related to establishments accommodating people with disabilities, until recently known as Licensed Residential Centres (LRCs). Thus, this part of the sector has been overseen directly by the NSW Department of Family and Community Services (Ageing, Disability and Home Care division – ADHC)—until 2012, under the *Youth and Community Services (YACS) Act 1973*.

Across the diverse range of boarding house-type establishments, regulations governing physical conditions and management services developed incrementally and inconsistently over time. By the early 2000s, the resulting mass of regulations and oversight arrangements was acknowledged as complex and fragmented⁷ as well as problematically failing to provide occupancy rights for residents.

In 2008, the NSW Government established an interdepartmental committee 'to explore an overarching, centrally administered regulatory framework which would cover accommodation and standards, and occupancy protection'. Following on from these discussions and also prompted by Ombudsman and Coroner reports on boarding house management failings and fire tragedies,⁸ the government drew up new regulatory legislation in 2012. It is understood that particular concerns around ABHs were a key trigger for action here.

The *Boarding Houses Act 2012* took as its overarching definition of 'boarding house' the understanding of this term in common law. Coining the concept of 'registrable' boarding houses, the Act defined these under two headings:

- Assisted boarding houses: boarding premises that provide beds, for a fee or reward, for use by two or more residents who are persons with additional needs.
- General boarding houses: [other] boarding premises providing beds, for a fee or reward, for use by five or more residents.

These rather broad definitions were somewhat qualified by a list of accommodation types excepted from being 'registrable' premises. Such establishments included hotels, motels, backpacker hostels and serviced apartments, as well as buildings used as refuges or crisis accommodation and provided by a public or otherwise state-funded agency. These were referenced as 'premises that provide temporary accommodation or which are regulated in some other way'. Also relevant to some of these exclusions is the notion that a boarding house must be somewhere that 'provides a principal place of residence', as distinct from transitory housing.

⁷ NSW Interdepartmental Committee on Reform of Shared Private Residential Services (2011), *Boarding House Reform Discussion Paper* https://www.adhc.nsw.gov.au/_data/assets/file/0019/250417/Boarding_House_Reform_Discussion_Paper_Nov2011.pdf

⁸ NSW Ombudsman 2011, *More than board and lodging: the need for boarding house reform*, A special report to Parliament under clause 31 of the *Ombudsman Act 1974*, pp.6–10; State Coroner's Court of NSW (2012) Coronial findings: *Batts, Shaneen and Others*; <http://www.coroners.justice.nsw.gov.au/aqdbasev7wr/assets/coroners/m40160114/hostel%20findings.pdf>

The Act was structured around three main themes:

- Formal powers to underpin ongoing regulation of the former LRCs—now termed ABHs. This was to address the recognition that YACS powers provided an insufficient legal basis for licences issued to providers by ADHC, meaning that license clauses were technically unenforceable.
- Occupancy rights for boarding house residents including the right to have disputes with proprietors resolved by the NSW Civil and Administrative Tribunal (NCAT). Previously, with boarding houses excluded from standard residential tenancies legislation, occupants were subject only to common law protection.
- The creation of a single state-wide boarding house register and an obligation for boarding house establishments to be entered on this register. In part, this could be seen as a response to concern about the growth of 'informal' and unregulated boarding houses in certain parts of Sydney, especially those targeting foreign student demand.

In opting to set up a centralised boarding house register, Government thinking was influenced by an awareness that, while maintained by many municipalities, local registers were not universal across the state. Neither was there a consistent and centralized source of information on the boarding house industry to inform the development of regulation or industry capacity building efforts. Among the anticipated benefits of a state-wide system was data on trends in provision—both in aggregate, and at varying spatial scales. Beyond this, a centralized register, linked with a website containing basic information about applicable standards, rights and responsibilities of residents and managers could be valuable to both proprietors and residents (or aspiring residents). The cost of operating the system was to be offset by a \$100 registration fee.

3.2 State and local government responsibilities

Under the 2012 Act, responsibility for ABH oversight remains with ADHC (in collaboration with relevant local authorities), while the Department of Fair Trading is charged with maintaining the state register. The logic of FT involvement follows partly from the Department's existing role as holder of state-wide registers relating to other regulated activities (e.g. the Rental Bond Board register). However, while it was at the time of the legislation, also responsible for the associated Consumer, Trader and Tenancy Tribunal (CTTT), this body was replaced in 2013 by the NSW Civil and Administrative Tribunal (NCAT) under the oversight of the Attorney-General's Department.

However, other than keeping the register, FT has no role in administering or policing boarding house regulation under the Act. This contrasts with Victoria where Consumer Affairs Victoria has an inspection and compliance role in relation to registered rooming (boarding) houses. With the exception of ABHs, where councils work in collaboration with ADHC (see above), the sole responsibility for practical oversight of boarding houses under the new regime in NSW remains with local government. Specifically, under the new framework, councils are charged with undertaking an 'initial compliance investigation' of boarding house premises entered onto the state-wide register. Additionally, they have the authority to issue penalty notices for non-registration.

Mainly because of its ongoing interest in ABHs, ADHC (now within the Department of Family and Community Services—FACS) was charged with responsibility for implementing the 2012 framework. To assist in this endeavour an ADHC-chaired Implementation Committee, bringing together a wide range of state government and NGO interested parties, was set up to monitor progress.

Other state government departments with an interest in the Act and therefore represented on the Implementation Committee are Local Government, Planning and the FACS team responsible for the promotion of affordable housing. Given the ongoing centrality of the local authority role in policing the sector, consideration was reportedly given to locating the state register within the Local Government Department, but this was not taken forward.

3.3 Stakeholder observations on the new regulatory regime

3.3.1 Positive aspects

Among informed NGO and local government participants in this research, several aspects of the Act were generally welcomed. First, with the establishment of occupancy principles it was seen that boarding house residents had acquired defined rights. While these were not on a par with those of mainstream private tenants, they were useful—such as in specifying a required eviction notice period. Second, in defining rules governing bond payments, the Act acknowledged that disputes around unreturned bonds (technically speaking, ‘security deposits’) tended to be the most common complaint raised with advice services by boarding house residents. Third, by creating a state-wide registration requirement (potentially enforceable through the threat of significant fines), the Act provided new scope for tenant advocates to exert leverage over proprietors of ‘informal’ establishments.

3.3.2 Critical perspectives

While acknowledging its strengths, many research participants stated that the Act represented only a limited step forward and, in its limited scope, represented something of a missed opportunity for more fundamental reform.

What is a ‘boarding house’?

Especially from the local government perspective, it was seen as disappointing that the Act had done little to assist in clarifying the interpretation of basic terminology:

... there’s nothing in the Act about the definition of a boarding house. Cos that’s the argument we have all the time. Is it a hotel? Is it a motel? Is it a boarding house? My team, we just see things as [in] the Building Code of Australia. A boarding house with up to 12 people—that’s a Class 1b building. Anything more than 12, it’s a Class 3 building. In terms of fire safety—bang. But in terms of building use, we’re having this argument all the time now. Traditional rooms over the top of a pub, separate entry. We’re saying ‘listen mate this is a boarding house’. They say ‘no, it’s a motel’. So I thought the Act was going to have a clear definition of what is a boarding house ... But they stayed away from it. (local government officer)

Thanks to the housing market and demographic changes, this fundamental issue was seen as having become increasingly problematic in recent years, especially as a result of the ongoing expansion of ‘student boarding houses’:

... the waters have become pretty muddy with student accommodation and boarding houses. Definitions which don’t help you very much. If you asked me 25 years ago what a boarding house was it would be clear cut. Now it’s not. The lawyers are involved. What evidence have you got? Who’s paying the rent? Who’s got the lease? Once upon a time you had a building that was being occupied by persons who were living there three or more months and it would be advertised as a boarding house and that was simple. Now you have places that people say are ‘apartments’ or ‘student houses’ or ‘private dwellings’ (Local government officer)

Property and management standards

The Act allows for ABH service and accommodation standards to be specified by Regulation. The aim here was ‘to bring [ABH] standards ... into line with community expectations and Australia’s commitment to the United Nations Convention on the Rights of Persons with Disabilities’.⁹ As regards general boarding houses, however, the Act was regarded as unambitious in this respect:

I also wanted to see standards. That’s what we were after. What sort of fittings must you have in a room of a boarding house? Bed, mattress, the bed can’t be more than, say, two years old. You need bed bug protectors, pest control. You must have a cupboard, sink, hot, cold. That’s what I wanted. So this was a missed opportunity to define what is required of an owner to run a compliant boarding house. In the absence of any further assistance from the Boarding Houses Act, [name of council] must continue to rely on the requirements specified in the *Local Government Act*, but the latter are very general and must be interpreted locally. (Local government officer)

I wanted more direction because [for example] when it refers to ‘compliance with the Environmental Planning and Assessment Act’ that’s 400 pages! (Local government officer)

Linked to this, some local government research participants saw the absence of general boarding house standards in the Act as a missed opportunity to endow them with greater powers to secure improved living circumstances for boarding house residents. In combination with the obligation to maintain registration, clearly specified requirements on management services and property conditions could have enhanced council leverage over proprietors reluctant to implement relevant council recommendations (where these are based solely on a local interpretation of the broadly drawn *Local Government Act* expectations):

... so we could say this is a condition of your registration and you’ve got 21 days [to fix the problem]; otherwise we’re going to pull your registration... They should have hung onto [the Act] requirements, conditions—like any kind of licence. (Local government officer)

Reportedly, in run-up to the legislation, some property owner spokespersons argued that the proposals would have significant negative impacts for the sector in increasing costs of provision. However, according to one NGO interviewee, the types of ‘additional costs’ cited tended to relate to fire safety and insurance—issues not directly affected by the Act (although they could potentially become applicable to previously ‘invisible’ boarding houses if the legislation had resulted in them needing to be registered).

Necessity of a state-wide register

Not all research participants were convinced of the value of having a state-wide register. For example, noting that a number of municipalities have long held their own local registers, one interviewee suggested that a preferable approach might have been to mandate such an approach. There was also an owner perspective that the FT framework represented unnecessary duplication:

... the Council comes and inspects once or twice a year ... and I have to pay a fee for that ... For that pleasure of them coming out ... But then some other government body decided they wanted to make a bit of money so then I had to

⁹ NSW Government (2013) Regulatory Impact Statement Draft Boarding Houses Regulation 2013 http://www.adhc.nsw.gov.au/_data/assets/file/0020/265007/Boarding_House_Regulation_2013_RIS.pdf

register with them as well ... And I said I'm already registered with the Council, why do I have to register with somebody else, oh it's government regulations. And I said and what are they going to do for me. Oh they'll advertise. I said I don't need them to advertise, when a room's vacant I advertise. (Boarding house proprietor)

Practicability of local government role

A number of local government interviewees stressed that, with the advent of the Act, 'registration compliance inspections' had a broader scope than the primarily fire-safety-related agenda which had framed their traditional practice. In one authority this had called for staff training, including instruction on public health issues (e.g. on signage and hygiene) from the Council's Health Inspector. However, since this 'wasn't rocket science' it had been found unproblematic.

At another council it was considered that the Act was of little real significance:

We've been doing [boarding house regulation] for years anyway; it's just another piece of legislation we have to back us up if we need it ... I've seen the legislation, I've read it and I thought we're already doing most of this anyway (Local government officer)

In part, this may have reflected a local tradition of 'joint inspections' where environmental health officers worked in tandem with rangers.

However, other council interviewees took a different stance. For them the wider range of inspection competencies called for under the Act was highly problematic. Highlighted issues included the social considerations around resident support needs:

We made it quite clear we can't have Council officers making that call ... My officers ... aren't trained to spot such issues ... It's out of our expertise. (Local government officer)

[The Act] added ... components to inspections we were already doing, that I personally didn't think we were really qualified to be looking at. I didn't see how a Building Surveyor or Fire Safety officer could be expected to properly identify somebody with assisted needs ... In very obvious cases, yes, sure but I'm not a social worker and I've had great difficulty trying to apply that principle in regular inspections' ... 'Why couldn't the Act require that owners provide a clearance certificate that they've been inspected by a qualified social worker as well as a building surveyor?' (Local government officer)

In the boarding house inspections and investigations undertaken by this latter council there was never any involvement with 'management matters' such as residents' occupancy status or bond payments.

However, there may be an ambiguity in this area since the ADHC view is that, in their site inspections, local councils are *not* expected to identify people with 'additional needs'. Rather, as ADHC sees it, they should raise any associated concerns with the Department.

Absence of dedicated funding or oversight of local authority regulatory practice

A number of research participants drew attention to the mismatch between additional responsibilities placed on local authorities and the absence of any additional funding to underpin resulting costs.

Particularly for some of the NGO research participants, the ongoing reliance on local authorities to police the boarding house sector was also problematic in the absence of any regulatory oversight of local regulatory practice (other than through ADHC

involvement in ABH oversight). As a result, it was believed that council practice remained problematically variable. A related concern was that not all authorities were sufficiently pro-active in identifying unregistered boarding houses and ensuring that minimum standards were being met.

Other issues

One research participant noted that the Act had missed an opportunity to consolidate all existing legislation relating to boarding houses, something which would have beneficially simplified the regulatory task. Questions were also raised about where state-level responsibility for regime implementation and for ABH regulation would rest following on from the anticipated disbandment of ADHC.

4 BOARDING HOUSE REGULATORY REFORM: POST-2012 REGIME IMPLEMENTATION AND OUTCOMES

4.1 Fair Trading register coverage

As noted in Chapter 3, the defined legal status conferred on boarding house occupancy under the 2012 Act was broadly welcomed by research participants. For some NGOs, however, the new regime remained significantly flawed because of the lack of inbuilt mechanisms for ensuring comprehensive registration of boarding house establishments.

4.1.1 Registered with the local council only

One aspect of the 'register coverage' issue relates to the lack of consistency between local government and state government records on approved boarding houses. Albeit conducted on only a small scale, our own fieldwork confirmed that in late 2014 there remained a significant body of boarding houses known to and approved by the relevant local authority but unregistered with Fair Trading. At least in part, this could be a transitional issue, reflecting the relatively recent establishment of the state-wide register and the slow response of some proprietors to the new regime. In any event, with the properties concerned being known to, and permitted by, local government there might be relatively little cause for concern, assuming that the premises were therefore already subject to council oversight (e.g. included within cyclical 'authorised boarding house' inspection regimes).

A proprietor operating a registrable boarding house but failing to register with Fair Trading is theoretically liable for a \$7000 fine. However, while local government interviewees voiced anxiety about boarding houses being operated without the appropriate planning consents and associated 'inspection cover' (see below), some saw non-registration with Fair Trading as of little inherent concern:

The fact that there is now a [boarding house] register on the Fair Trading website is neither here nor there for us. (Local government officer)

I've never heard of anyone being fined [for non-registration]. And I speak to other councils and I ask them 'have you got anyone for not registering?' and they say, 'well no'. (Local government officer)

This lax attitude to registration with Fair Trading connects with the local government view of the Act as having disappointingly missed the opportunity to link registration with standards (see Section 3.3.2).

4.1.2 Registered with neither the local council nor Fair Trading

A second, more problematic aspect of the 'incomplete coverage' issue relates to premises being operated as boarding houses but both unapproved as such by local government and unregistered with Fair Trading. Irrespective of whether their building is actually registered, residents of a 'registrable' boarding house are—in theory—covered by the Act's provisions as regards their occupancy status (see Section 3.1). However, in a boarding house operating informally, the absence of any local government oversight of fire precautions and other physical standards may place residents' safety at risk. The new regulatory regime was criticised by NGO research participants as having done nothing to incentivise or mandate local councils to seek out and register (or close) boarding houses operating without consent.

By its nature, the scale of the ‘informal boarding house sector’ is difficult to estimate. However, in one of our inner Sydney case study local authorities the Council estimated that the real number of operating establishments was up to 170 per cent of the locally approved number:

Whether [unregistered boarding houses] have smoke alarms or not we don’t know, whether [residents are] on leases or short-term agreements we don’t know. We’re getting a list together now of all the ones that don’t have consent ... that we’re eventually going to get into and have a look ... at health and amenity and fire safety If they’re safe we give the owners an opportunity to put in a consent application. If it’s not safe they go. (Local government officer)

From the NGO perspective, one major advantage of the Fair Trading register was its status as a publicly accessible live listing of authorised establishments. In assisting ‘boarding house’ residents with accommodation problems, this made it easy to determine whether the resident’s ‘boarding house-type’ home was properly approved as such. Taking advantage of this facility, the Tenants Union of New South Wales (TUNSW) had undertaken a survey of shared accommodation adverts on the Gumtree website. Of 224 adverts analysed (in May 2014), 58 were judged as ‘very likely’ to fall within the boarding house definition as set out at Section 5 of the Act. Of the relevant addresses, however, only two were premises actually listed on the Fair Trading register. On this basis, TUNSW concluded that the roomshare sector constitutes a substantial part of the general boarding house sector, and ‘is hugely—almost completely—non-compliant with the requirement to register’.¹⁰

For many research participants there was a close association between student housing and unauthorised boarding houses. And these could be highly problematic:

[Connected with student housing provision] we do get a lot of illegal boarding houses. Fifteen or more people living [in a house], their garbage is always overflowing, people are coming and going at all times of day and night. (Local government officer)

4.2 Joint working between state and local government

In the specific instance of Assisted Boarding Houses, liaison between the two levels of government was reportedly good. Collaboration between ‘ABH host’ councils and ADHC was longstanding and largely unaffected by the new legislation.

Relations between local government and Fair Trading as regards general boarding houses seemed to be a rather different matter. As noted above, some local councils included in this research took relatively little interest in situations where a boarding house known and approved by them was unregistered with Fair Trading. Of more concern from their viewpoint were premises being entered on the Fair Trading register but not already known to themselves:

The last time we went through [the Fair Trading register] we found 15 places listed on the Register but which do not have [council] consent to operate as boarding houses. (Local government officer)

That Fair Trading would accept such registrations was irritating from the council perspective. While FT registered applicants were routinely requested to confirm that council consents were in place for the relevant premises (under the *Environmental Planning and Assessment Act*), it seemed that applications could be accepted even when such consents were lacking.

¹⁰ Tenants Union of NSW (2014), *Roomshare sector not complying with boarding house reforms*, <http://tunswblog.blogspot.com.au/2014/05/roomshare-sector-not-complying-with.html>.

Moreover, especially given the requirement that premises newly registered with Fair Trading should be subject to an initial local authority 'compliance inspection', the absence of any routine system for notifying (or checking with) the relevant council at the point of registration was seen by councils as unsatisfactory:

The undertakings that were given by state government in terms of co-ordinating that registration haven't been fulfilled. Council has never, to this day, received notification [of a new registration]. It's not automatic which, in my opinion, it should be. (Local government officer)

Generally, the level of communication between the two levels of government was reportedly low:

Interviewer: 'What's your contact with Fair Trading?' Response: 'Minimal, never. Neither before or now'. (Local government officer)

On a more technical level, the NSW council in which more than 100 boarding houses were registered with FT was unhappy with the limitation which made it impossible to view all of their establishments, and with the state government's apparent inability to remedy this shortcoming.

4.3 Boarding house inspection

As noted above, the *Boarding Houses Act* requires that councils undertake an 'initial compliance investigation' of all premises being newly registered with Fair Trading. Such inspections must be undertaken within 12 months of registration unless the relevant building has already been inspected within the previous year. Given that all of the councils participating in this research held their own registers of approved local boarding houses and operated cyclical inspections of all such premises on an annual basis, these requirements were mainly relevant as regards a 'previously unknown' establishment being entered on the state-wide register (see Section 4.1).

Beyond this, there were the concerns about how the Act had, as viewed by some local council staff, problematically sought to broaden the scope of inspections (see Section 3.3.2).

4.4 Regime outcomes

Since the new framework had been in place for less than two years at the time of our research it remained too early for conclusive judgements on regime impacts. As noted in Section 1.3, when completed in 2017, the much larger and more in-depth study being undertaken by the University of Western Sydney will provide such an assessment. Albeit on the basis of our limited fieldwork, however, we can report some interim observations voiced by informed stakeholders.

Notwithstanding its limitations, NGO research participants noted a number of respects in which the Act had already made a significant positive impact. First, in relation to resolving resident complaints about unregistered boarding house proprietor behaviour—such as in relation to unacceptable conditions:

... it can be something, the existence of the Boarding Houses Legislation is something we can threaten the person who's ultimately the head tenant ... by saying, 'You, you're running a boarding house ... You've got to go and get registered'. (NGO focus group)

Second, specifically related to bonds paid by boarding house residents, advocacy organisations had found the new regime as potentially beneficial.

I think the big positive is bonds, we're more successful. I think a lot of people still lose their bonds, but we're certainly more successful in getting bonds back than we used to be ... it's one aspect of the Boarding Houses Act that's quite clear, the limit on the amount of, on, and someone's entitlement to get it back (NGO focus group)

Third, albeit limited to those premises being managed on behalf of proprietors by professional real estate agencies, the specified rules on notice periods were often being observed:

... the one little difference I have observed is the ones that are managed under the real estate, they're actually using the legislation ... when it comes to eviction ... they are giving them the 14 days' notice, they are using the ... [Act as intended] The houses that are privately managed, that's a completely different [matter]. (NGO focus group)

From the local government perspective, the 'impacts' of the legislation tended to be viewed more sceptically. The dominant view among such research participants tended to be that the Act changed little for them and that it was unlikely to significantly impact on the sector, either in terms of pushing up standards or triggering closures.

Among NGO research participants it was also argued that the Act had resulted in some unintended negative impacts. First, there was the concern that, because the now-defined occupancy rights of a boarding house resident were inferior to those of a mainstream private tenant (covered by the *Residential Tenancies Act*), the new legislation had removed any doubt that a resident might be protected under the latter rules:

... actually I think it's done damage to people's security of tenure because prior to the boarding houses laws coming in, the first argument was always about was this person a tenant or not, and there was a lot of uncertainty amongst owners about whether in fact they had tenants or, or lodgers ... And the consequences for acting wrongly against tenants are quite severe, at least on paper. (NGO focus group)

Second, it was reported that being endowed with defined occupancy rights had been interpreted by (the former) Housing New South Wales as meaning that boarding house residents should no longer be classed as in any sense 'homeless'. This undermined their priority for a tenancy in public housing:

... the new legislation has made it hard for our guys who are on the boarding houses [because] Housing New South Wales think that boarding house [residents] now have rights. And so they are sending them back, 'Oh, you don't qualify for wait list or priority because ... you're now covered under Boarding Houses new legislation' ... very, very negative ... They also say with that that you know, when we apply they'll say, 'Well no, that person can resolve their housing issue by living in a boarding house' ... and they don't really class it as tertiary homelessness any more. (NGO focus group)

5 DISCUSSION QUESTIONS

5.1 2012 regulatory regime

1. How beneficial is it that boarding house residents now enjoy defined 'occupancy rights' and how appropriate is it that they enjoy lesser rights than mainstream private tenants covered by the *Residential Tenancies Act*?
2. Is the loose definition of 'registrable boarding house' in the *Boarding Houses Act* preferable to a more tightly defined formulation? What important ambiguities could be usefully addressed?
3. Is it preferable that 'acceptable provision standards' for boarding houses are substantially defined by individual local councils rather than more precisely defined standards being prescribed in legislation?
4. Is there a legitimate case that the registration requirements under the *Boarding Houses Act* creates unnecessary duplication?
5. Is the local government role in regulating boarding houses appropriate and what more assistance could be provided to local government to enhance performance in that role?

5.2 2012 regulatory reform implementation and impacts

6. How extensive are un-registered boarding houses, how much of a problem does this represent, and how can it be addressed?
7. What can be done to enhance joint working and coordination between local government and NSW Fair Trading in implementing boarding house regulation?
8. In what ways has the new regulatory regime impacted on boarding house residents?
9. How should the costs of boarding house regulation be counted and how should these costs be apportioned?

5.3 Future development

10. How far does the regulatory regime cover developments in the boarding house market and how could it be improved to reflect these without discouraging innovation and diversity?
11. Is there a role for regulation to be conducted in conjunction with the regulation of other types of housing for disadvantaged and marginalised people?
12. What other measures are required to improve management of rooming houses and support for residents and what would be the most effective means of achieving this?
13. What other measures could assist in the development of the sector, such as aspects of housing, planning and community welfare policies and programs?

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