

13 July 2021

Community Support and Services Committee
Parliament House
George Street
Brisbane QLD 4000

By email: CSSC@parliament.qld.gov.au

Dear Committee Members,

Housing Legislation Amendment Bill 2021 ('the Bill')

Thank you for the opportunity to provide feedback on the Bill.

About QCOSS

Queensland Council of Social Service (QCOSS) is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person, in every community.

Our submission has been developed in consultation with our member organisations represented on our Housing and Homelessness Policy network.

QCOSS' position

The Bill makes detailed amendments to both the *Residential Tenancies and Rooming Accommodation Act 2008* ("RTRA Act") and the *Retirement Villages Act 1999*. Our submission focuses on the amendments to the RTRA Act.

As a member of the Make Renting Fair campaign, QCOSS endorses Tenants Queensland's submission.

We support many aspects of the Bill, including removing the ability for lessors to evict tenants without grounds during a tenancy, introducing minimum housing standards for safety, security and reasonable functionality, improving protections for people at risk of domestic and family violence, and enhancing opportunities for tenants to have a pet. We also support the provisions to improve access to emergency repairs, extend the time given to complete entry condition reports and give tenants the right to end a tenancy where they were given misleading information or where the property fails to meet minimum standards.

However, the Bill falls short of adequately addressing the significant power imbalance between tenants and lessors in the private rental market in Queensland and represents a

significant departure from the tenancy protections proposed in the government's 2019 Consultation Regulatory Impact Statement (C-RIS).¹

The Bill does not adequately protect the human rights of tenants. Without the necessary amendments, which we have recommended in this submission, tenants' rights to equal treatment and equality before the law, right to privacy and reputation, property rights, cultural rights and the right to family are not adequately protected by this law reform.

In the context of COVID-19 when many people are spending more time at home due to formal restrictions or changes in work and study arrangements, the need for protection of tenants' rights has been highlighted.

The Bill should be amended to meet its objective of improving housing stability for people renting in the private market.

Necessary amendments

Our view is that the following amendments to the Bill are necessary to preserve the intent of the legislation:

- Remove the ability for lessors to evict tenants at the end of a fixed term agreement.
- Permit tenants to make minor modifications to their home without prior approval.
- Prescribe minimum standards for accessibility, ventilation, lighting and energy efficiency.
- Strengthen protections for people experiencing domestic and family violence.
- Require lessors to pass water bills onto tenants within a reasonable timeframe.

We have set out further information about these amendments below.

Removing eviction without grounds

We commend the Queensland government for removing the ability for lessors to evict a tenant 'without grounds' during a tenancy.

However, by introducing new grounds for eviction, including allowing lessors to evict a tenant upon the expiry of fixed term agreement, the Bill does not improve the current laws. The new grounds provide an incentive for lessors to enter into short-term tenancy agreements.

The incentive to offer short-term tenancies is compounded by the significant increases in rental prices, which has been experienced throughout Queensland in the last 12 months.²

Following the example of laws recently introduced in Victoria, tenants should be given the option to stay in their home beyond the end of a fixed term agreement, if they have complied with the terms of their lease and the lessor has no 'reasonable grounds' to evict them.³

Permitting minor modifications

Tenants are currently unable to make minor modifications to their home without the lessor's permission. The Bill fails to address this problem.

¹ Queensland government, 2019. *A better renting future - Safety, security and certainty, Consultation Regulatory Impact Statement, Review of the Residential Tenancies and Rooming Accommodation Act 2008.*

² An overview of median weekly rental prices for houses by region, March 2020 and 2021 is at page 13 of Deloitte Access Economics *Updated economic analysis of Queensland residential renting reforms* Department of Communities, Housing and Digital Economy, July 2021.

³ The Victorian *Residential Tenancies Amendment Act 2018* allows for an 'end of fixed term' notice to vacate at the end of the first fixed term of a residential rental agreement, but not for any subsequent fixed terms. See Section 91ZZD of the Residential Tenancies Act 1997. <https://content.legislation.vic.gov.au/sites/default/files/2021-07/97-109aa100%20authorised.pdf>

The C-RIS recommended that tenants be able to undertake minor health, safety, accessibility and security modifications without prior approval, and additional modifications for amenity and personalisation with short prior notice.

Minor modifications can include securing furniture or televisions to the wall for safety, installing telecommunications ports to ensure access to emergency services and installing rails and ramps for accessibility, or security devices to safeguard against intrusion.

The C-RIS states that benefits to tenants in being able to make modifications to their rental property would outweigh the potential costs to property owners. The benefits of permitting tenants to make minor modifications to their property contained in the C-RIS are significant, and include:

- Protection of life (particularly of children, the elderly and people with a disability who are at risk of serious injury or fatality by toppling furniture or falls).
- Reduced impacts on the health system through the avoided potential cost of falls and injuries and subsequent hospital visits.
- Reduced discrimination against people with a disability as they will be able to install accessibility features in their home.
- Improved wellbeing outcomes by enabling tenants to feel more secure in their home.
- Improved connectedness by enabling tenants to install telecommunications.
- Improved energy and water efficiency (which are important modifications given there are no energy or water efficiency requirements in the Bill's proposed minimum housing standards).

Not enabling tenants to make minor modifications to secure furniture and appliances to the wall presents a significant safety risk. The Queensland government advises families to secure unstable furniture and televisions to the wall as an important safety measure, however this is not an action that families who rent can take.⁴

Annually approximately 2,600 Australians receive hospital treatment for injuries caused by toppling furniture and televisions, with injuries including broken bones, brain injuries, blunt force trauma, crushed chest cavities or death by asphyxiation. At least one child dies each year in Australia from toppling furniture.⁵

In 2017, the Western Australian Coroner recommended tenancy laws be amended to make it easier for tenants to make modifications after a 21-month-old was killed by an unsecured chest of drawers in his family's rental home.⁶ Unfortunately, this important recommendation has not been adopted in Queensland and has not been included in the Bill.

QCROSS recommends the Bill be amended to reflect the proposal for minor modifications contained within the C-RIS.

Improving minimum housing standards

QCROSS supports the introduction of minimum housing standards for safety, security and reasonable functionality in the Bill.

Improving minimum housing standards is particularly important given that 12 per cent of

⁴ Queensland Government. Furniture stability. <https://www.qld.gov.au/law/your-rights/consumer-rights-complaints-and-scams/product-safety-for-consumers/safety-advice-and-warnings/around-the-home/furniture-stability>

⁵ Government of Western Australia. Home safety for rental properties. <https://www.commerce.wa.gov.au/consumer-protection/home-safety-rental-properties>

⁶ Coroner's Court of Western Australia. Inquest into the death of Reef Jason Bruce Kite. <https://www.coronerscourt.wa.gov.au/inquest-into-the-death-of-reef-jason-bruce-kite.aspx?uid=4250-6303-1009-9595>

Queensland's rental properties need repairs and maintenance and structural problems with rental properties tend to be higher among low-income households.⁷

We are disappointed there are no prescribed minimum standards introduced for accessibility, ventilation, lighting or energy efficiency. This represents a significant step backwards from the government's reform agenda as outlined in the C-RIS, which was based on the Open Doors consultation. The consultation identified majority support for comprehensive minimum standards. Minimum standards for ventilation and insulation were supported by 88 per cent of tenants, 75 per cent of property owners and 73 per cent of property managers. Minimum lighting standards were also considered important by all parties including 79 per cent of tenants and 75 per cent of property owners and managers. Given the strong support for these measures from all stakeholders, their absence from the Bill means that Queensland's tenancy laws will continue to fail to meet community expectations.

The lack of minimum standards for accessibility is particularly concerning given the Bill does not improve the ability for tenants to make minor modifications to improve the accessibility of their home. This leaves elderly people and people with a disability without any options to ensure the accessibility of their home, putting their safety and wellbeing at risk.

Additionally, the Queensland government should prioritise the introduction of prescribed minimum standards for energy efficiency. In 2019, all Australian energy ministers committed to developing a 'national framework for minimum energy efficiency requirements for rental properties'.⁸ However, there has been little meaningful action since then to implement this in Queensland. As we experience more extreme weather conditions, the thermal safety of tenants is becoming even more important. It is essential that simple measures, such as draught seals on doors and windows and security screens for natural ventilation be prescribed in minimum standards to improve the thermal safety of rental properties for Queenslanders.

QCOSS recommends that the Bill prescribe minimum standards for accessibility, ventilation, lighting and energy efficiency.

Domestic and family violence

QCOSS supports the Bill's provisions that improve the ability for people impacted by domestic and family violence to end their tenancy, access bond payments and install locks in their home without prior approval. However, we are concerned that gaps in the prescribed minimum housing standards and the lack of provision for tenants to make minor modifications puts people experiencing domestic and family violence at unnecessary risk.

People experiencing domestic and family violence must be able to live in rental properties with adequate lighting and must be able to take other reasonable steps to ensure their safety, such as installing security devices or telecommunication ports to ensure access to emergency services and vital information in an emergency. These measures were included in the C-RIS but are absent from the Bill.

QCOSS recommends the Bill be amended to improve the provisions related to minor modifications and minimum standards as outlined above to improve protections for people experiencing domestic and family violence.

Requiring timely passing on of water bills

QCOSS is disappointed the Bill does not resolve the current circumstances where lessors are able to issue tenants with a significant backlog of water charges that must be paid within

⁷ Deloitte Access Economics. *Updated economic analysis of Queensland residential renting reforms* Department of Communities, Housing and Digital Economy, July 2021, page 14.

⁸ COAG Energy Council, 2019. *Addendum to the Trajectory for Low Energy Buildings: Existing Buildings*. <https://energyministers.gov.au/publications/trajectory-low-energy-buildings>.

one month. This situation disempowers tenants by making it difficult for them to budget for incoming expenses. It also inhibits their ability to monitor their water usage and costs over time, which is a necessary action for improving water efficiency, adhering to water restrictions and identifying concealed leaks – all of which are important objectives for the Queensland government and/or water service providers, as well as tenants.

In a 2015 ruling, the Queensland Civil and Administrative Tribunal (QCAT) stated it is *'unreasonable for a lessor to withhold water charges and issue an invoice that covers a significant period and a significant amount'* and found that tenants are *'entitled to be made aware of the cost of water consumption as and when the invoices fall due.'*⁹

By not legislating a defined, reasonable timeframe, the Bill represents a missed opportunity to provide greater clarity for tenants and lessors in relation to a problem that remains *'a vexed issue for owners, tenants and the tribunal.'*¹⁰

QCROSS recommends that landlords be required to provide itemised water costs to tenants no later than one month from the date the bill was issued by the water service provider.

Application of Queensland's *Human Rights Act 2019*

The Statement of Compatibility to the Bill identifies freedom of movement, freedom of expression, property rights and the right to privacy and reputation as the human rights relevant to the Bill.

In addition to these rights, our view is that the Bill has the potential to engage other rights articulated in the *Human Rights Act 2019* ('the Act'), including the right to recognition and equality before the law,¹¹ the right to family,¹² right to liberty and security of person,¹³ cultural rights,¹⁴ and the cultural rights of Aboriginal and Torres Strait Islander peoples.¹⁵

As it stands, the Bill limits the rights of tenants. For example, the inability of people with disability to make modifications to a rental property to ensure it is accessible is likely to limit the right to recognition and equality before the law.

The Act protects Queenslanders from arbitrary deprivation of property. This right should not be viewed as a hurdle to the protection of tenants' rights. A clearly articulated limit on a lessor's property rights for the legitimate purpose of supporting the realisation of tenants' rights including the right to not have their home arbitrarily interfered with,¹⁶ is unlikely to be incompatible with the Act.

If the Bill is amended as we have recommended, it would provide better protections of the range of human rights that are relevant to this law reform.

Conclusion

The Bill does not provide tenants with adequate rights protections, is a significant departure from the tenancy protections proposed in the government's 2019 Consultation Regulatory Impact Statement and will not achieve the stated objects of the legislation.

To deliver on the potential of this historic opportunity to modernise Queensland's rental tenancy laws and ensure the human rights of tenants are protected, the Bill should be amended to prevent evictions at the end of a fixed-term lease, ensure properties are

⁹ *McGrath Property Management Bulimba v Christoe & Van Der Woude* [2015] Queensland Civil and Administrative Tribunal Archive 159
<https://archive.sclqld.org.au/qjudgment/2015/QCATA15-159.pdf>.

¹⁰ *Ibid.*

¹¹ Section 15.

¹² Section 26.

¹³ Section 29.

¹⁴ Section 27.

¹⁵ Section 28.

¹⁶ Section 25 of the Act.

maintained at an adequate minimum standard and allow for minor modifications without the lessor's permission. The Bill should also require timely passing on of water costs to tenants.

Thank you again for the opportunity to provide our submission to the Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Aimee McVeigh". The signature is written in a cursive, flowing style.

Aimee McVeigh
Chief Executive Officer