



13 July 2021

Committee Secretary  
Community Support and Services Committee  
Parliament House  
George Street  
Brisbane Qld 4000

BY POST/EMAIL – [CSSC@parliament.qld.gov.au](mailto:CSSC@parliament.qld.gov.au)

Dear Committee Secretary,

**RE: Housing Legislation Amendment Bill 2021**

Thank you for the opportunity to comment on the Housing Legislation Amendment Bill 2021 (the bill) and for the previous consultation on this issue. The Urban Development Institute of Australia Queensland (the Institute) appreciates this opportunity and acknowledges the importance of providing safe, secure and affordable housing, improving the number of rental properties available, and delivering confidence in the rental market.

The Institute in general supports the government's bill including exempting freehold resident-operated retirement villages from the 18-month mandatory buyback requirements under the *Retirement Villages Act 1999*. Some significant concerns are however present and need to be addressed particularly regarding ending periodic tenancies. Also, changes are recommended for fairness and consistency to:

- allowances for allegation of retaliatory action
- planned demolition or redevelopment
- notices for end of the fixed term
- addressing interferences with other occupants
- preventing reletting the premises for at least six months in some circumstances
- transitional arrangements
- some minimum housing standards
- emergency repairs and orders.

The property industry is a major contributor to the Queensland economy. As the third largest industry of employment within the state, it directly employs 10 percent of the Queensland workforce, and indirectly supports a further 13 percent. Underlining its importance to the state's economy, the development industry directly contributed \$26 billion to the Queensland economy

in 2017, or 8 percent of Queensland's GSP, and a further \$35 billion through indirect economic impacts (11 percent of GSP).<sup>1</sup>

We also point to the significant challenge the property industry faces in meeting the challenge in providing affordable homes to meet a growing population. Using South East Queensland as an example, the South East Queensland Regional Plan 2017 (*ShapingSEQ*) sets the benchmark of needing to provide 793,700 homes for a population growth of 1,886,600 between 2016 and 2041.

Delivering on this challenge requires confidence and stability in the rental market to support continued investment. Overall, it requires an agile development industry working in concert with government to achieve investment in the housing market for affordable housing.

Substantial changes in the rental market such as to certainty of length of leases and the balance between rights of renters and lessors can reduce confidence in the new housing market. In the Institute's view, this will impinge on the supply of capital for housing and lessen the number of new dwellings developed which in turn increases pressure on rents. Reduced new housing numbers removes the flow through of existing housing to the groups in high need of housing in the community.

Specific comments on the bill for consideration include:

### **Ending periodic tenancies**

Clause 59 - Section 291

This will create difficulties for lessors that have agreements that have, over time become periodic agreements. This new "fixed term" ground will never be available to them, which leaves them with very limited options. It is strongly recommended that existing grounds for termination be available for periodic agreements.

Clause 59 - Section 291(4)

It is unclear when this notice is to be given, either only before the end of the fixed term or after and if so, how long after? The timeframe for this notice should be clarified and an option for review if any timeframe has been missed.

### **Retaliatory action**

Clause 52 - Section 246a(1)(A)(lii)

This encompasses not only orders obtained by a tenant against a landlord, but also orders obtained by a landlord against a tenant. In the latter situation, it would seem unfair for a landlord's further steps against a non-complying tenant to be open to an allegation of retaliatory action. Further protection for reasonable actions is recommended.

Clause 52 - Section 246a(1)(B)

These are very broad categories that could possibly encompass a variety of legitimate landlord actions against a non-complying tenant. This is likely to result in an increase of unnecessary disputes and burden on QCAT. Further protection for reasonable actions is recommended.

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<sup>1</sup> Urbis, The Contribution of The Development Industry to Queensland, March 2018

**Planned demolition or redevelopment**

Clause 58 - Section 290c

"Planned demolition or redevelopment" is too open ended. Further clarification is warranted to ensure demolition or redevelopment need not occur immediately upon termination, for example to allow for time for all consents and approvals to be obtained.

**Addressing interferences with other occupants**

Clause 61 - Section 297B(1)(b)(iii)

This needs to be extended to address interferences with other occupants, not just tenants. For example, tourists / holidaymakers staying in a mixed-use park should be able to be protected from such interferences.

**False or misleading information in notice to leave**

Clause 75 - Section 365A(2)

This may be problematic because it is unclear what satisfies each ground. For example, the relevant detail regarding a planned demolition / redevelopment could result in an offence unwittingly if not made clear.

**Preventing reletting the premises for at least six months**

Clause 75 - Section 365B

prevents a lessor from reletting the premises for at least six months after issuing a notice to leave if premises are being sold (section 286). It is unreasonable to prevent an owner from reletting their property if a genuine attempt to sell the property has been made. It is recommended that the time limit should be abolished or amended to the period of a sales agency being a maximum of 90 days. The prevention for reletting for six months also is considered excessive and punitive for family occupation (section 365D) and change of use for holiday letting (section 365C) for similar reasons.

**Disputes about lessors' notices**

Clause 85 - Section 426(1)(c)

This is likely to give rise to a significant increase in QCAT's caseload. It is recommended that interim steps (for example, negotiation and/or mediation) be required in the first instance.

**Incomplete processes**

Clause 87 - Section 570(1)(b)

To avoid confusion, this should also address matters already before QCAT. These should also be dealt with under the law at the relevant time, being the pre-amended Act.

**Pets previously approved for premises**

Clause 87 - Section 571(2)

This section acknowledging previous approvals for the keeping of pets should also acknowledge, if relevant, if the conditions of that previous approval provide for when it is to end.

**Notice periods**

Clause 88 - Schedule 1, Part 1, Division 2, Notice period for section 291

There needs to be a viable option for old and new periodic agreements as mentioned for clause 59 above.

**Domestic violence**

Clause 22 – Section 308

The Institute supports the inclusion of arrangements to assist those affected by domestic violence but recommends issues around clean-up of the premises, bond refund, and transfer of the lease to another tenant be further resolved.

The Institute also seeks some changes to the proposed minimum housing standards for rental properties and its related provisions including:

**Changing locks**

The Institute recommends that sections 211(1)(c) and (2) be altered allowing lessors and tenants to change locks if they “reasonably believe” this to be necessary on account of the relevant matters mentioned in the above sub-sections of section 211.

**Vermin, damp and mould**

To seek to reduce the potential disputation regarding mould, the Institute recommends changes to acknowledge mould can be a tenant basic cleaning issue not requiring the emergency repairs provision and/or issue a notice to leave. For example, mould not representing a structural fault can be a significant issue in north Queensland. Clarification should be provided on what is meant by the property being “free of mould” to meet minimum housing standards.

**Plumbing and drainage**

further clarification is required around what is “adequate plumbing and drainage for the number of persons occupying the premises”.

**Disclosure of particular information**

Under section 57A of the Bill, a lessor (or lessor’s agent) must not advertise or offer a property for rent “unless the information prescribed by regulation is stated in, or otherwise disclosed with, the advertisement or offer”. It is not clear what “information” is to be advertised (or offered).

**Emergency repairs**

The Institute does not support the extension of the emergency repair limit from two weeks to four weeks. We consider this to be excessive in circumstances where the maximum amount for bonds for general tenancies is only four weeks. We recommend that section 216 of the bill and section 218 of the *Residential Tenancies and Rooming Accommodation Act 2008* be amended to implement the requirement that reasonable attempts to first notify the lessor or lessor’s agents of the emergency repairs before they can contact the nominated repairer in relation to the emergency repairs.

**Repair orders**

A tenant (or representative entity) may bring an application for a repair order in relation to emergency repairs. It is recommended that before an application for a repair order can be made under section 221(1)(c)(i) for emergency repairs, the tenant must first make reasonable attempts to contact the lessor or lessor’s agent. Further, that the application for a time extension be expressly included as a “reasonable excuse” under section 221C(1) as if the application is not successful, the penalties may commence following QCAT’s decision. Also, that “compensation for

loss of amenity" be removed from section 221A(4)(f), as QCAT can already order rent reduction (section 221(4)(e)).

### **Amendment of *Retirement Villages Act 1999***

Regarding the amendment of the *Retirement Villages Act 1999* the Institute has previously and continues to support the provision of an exemption for resident-operated retirement villages from mandatory buyback requirements, when certain criteria are met.

### **Conclusion**

The Institute in general supports the Housing Legislation Amendment Bill 2021. Given the imperative of ensuring a continuing supply of new affordable housing the Institute however recommends some significant concerns particularly regarding ending periodic tenancies are addressed. Also, changes are recommended to the reasons for retaliatory action, planned demolition or redevelopment, notice for end of the fixed term, addressing interferences with other occupants, preventing reletting the premises for at least six months, transitional arrangements, some minimum housing standards, and emergency repairs and orders for fairness and consistency.

Thank you for considering our letter. The Institute would welcome the opportunity to appear before the committee. If you have any questions relating to the material in this letter, please contact me at [REDACTED].

Yours sincerely,

**Urban Development Institute of Australia Queensland**



Kirsty Chessher-Brown  
**Chief Executive Officer**