Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022

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31 October 2022

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

By Email: cssc@parliament.qld.gov.au

Dear Sir/Madam,

RE: RESIDENTIAL TENANCIES AND ROOMING ACCOMMODATION (RENT FREEZE) AMENDMENT BILL 2022

The Real Estate Institute of Queensland (**REIQ**) welcomes the opportunity to provide its views on the *Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022* (‘**Bill**’) introduced to the Queensland Parliament by the Member for South Brisbane on 31 August 2022.

The REIQ does not support the proposed amendments to the *Residential Tenancies and Rooming Accommodation Act 2008* (‘**RTRA Act**’). It is our view that the proposed amendments will:

- cause a further and immediate decline in rental properties available to the Queensland rental community as some property owners will dispose of their properties or otherwise move them to the short-term rental market;
- discourage new investment in Queensland which is critically needed to ease supply issues and help get Queensland tenants into suitable properties; and
- divert resources away from other solutions which will be more effective in stabilising the rental market in Queensland.

If you have any queries in respect of the above matters, please do not hesitate to contact Katrina Beavon, General Counsel on [redacted].

Yours Sincerely

[redacted]

Antonia Mercorella
Chief Executive Officer

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RESIDENTIAL TENANCIES AND ROOMING ACCOMMODATION (RENT FREEZE) AMENDMENT BILL 2022

Submission to
Community Support and Services Committee

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The Real Estate Institute of Queensland (REIQ)

The REIQ is the peak body representing real estate professionals across Queensland. As the State's most trusted and influential advocate for real estate business interests and private property investor rights for more than 104 years, the REIQ remains committed to ensuring the highest levels of professionalism and good governance are achieved through regulatory compliance and the advancement of best practice standards of professional conduct.

The REIQ's enduring purpose is to lead a sustainable industry which continues to make significant contributions to the Queensland economy and to strengthen conditions for those working within the industry. Above all, the peak body aims to:

- Make important contributions to government legislation and policy settings;
- Advocate for balanced regulations for the benefit of all stakeholders;
- Provide industry-leading training for real estate professionals;
- Deliver timely, innovative and market-driven education programs;
- Promote risk management and increase professional competence;
- Implement effective and compliant professional standards; and,
- Contribute to substantial industry research and development.

The REIQ Membership and customer base representation includes over 30,000 property professionals. This includes principal licensees, salespeople, property managers, auctioneers, business brokers, buyers' agents, residential complex managers, and commercial and industrial agents in Queensland.

Collectively, Queensland's real estate sector directly employs over 46,000 people (the State's second largest employer), is one of the top four industries which comprises over 50% of Queensland's small business landscape, and pays the second highest amount of State tax each year (2018/19: $20 billion).

WE HELP MORE THAN OUR MEMBERS

The REIQ's vision statement, for the real estate profession, extends our support and expertise beyond our membership to the broader real estate profession and community. We believe everyone should be able to make educated, informed decisions about buying, selling or renting property and business in Queensland.

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1. SCOPE AND CONTEXT OF THE AMENDMENT BILL

In mid-2021, at the time that the Queensland Government was considering the *Housing Legislation Amendment Bill 2021*, the Greens introduced into the Queensland Parliament the *RTRA (Tenants Rights) Amendment Bill 2021*. The Green's Bill sought to introduce a number of extreme measures into the RTRA Act including restrictions on rent increases, but ultimately was not supported and failed to pass.

The current Bill introduced on 31 August 2022, proposes to amend the RTRA Act to implement a 2-year freeze on rents in Queensland. The Bill contains provisions which, if enacted, will:

- cause rents to be frozen at no more than the amount advertised by the lessor, or agreed by a lessor and lessee, on or before 1 August 2022;
- apply a 50-penalty unit fine to lessors who fail to observe the rent freeze or who move a property from the private rental market to the short-term accommodation market during the rent freeze period;
- cap rental increases after the 2-year rent freeze period at no greater than 2% every 2 years;
- set rent for properties that have not been rented for over 12 months as the median rent for comparable properties in that postcode; and
- provide the power to the Residential Tenancy Authority (**RTA**) to compel lessors to provide information about the amount of rent payable with respect to a residential tenancy agreement for which a rental bond has not been lodged with the RTA, with a 50-penalty unit fine applying to lessors who fail to provide that information.

The REIQ is not supportive of the reforms proposed in this Bill. The Bill appears to have been developed with limited appreciation for the commercial realities of residential tenancy relationships and their link to Queensland's social and economic wellbeing.

Although the REIQ agrees that urgent measures need to be taken by the Queensland Government to ease supply issues in the current rental market and ensure Queenslanders are housed, we do not agree that implementing rent freeze and control measures will achieve the desired outcome. It is our view that the proposed legislative reforms may cause even further harm to the housing market by decreasing the number of permanent rental properties in Queensland.

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2. UNINTENDED CONSEQUENCES

2.1 Exacerbating current market conditions

The worsening state of the rental market in Queensland is highly publicised and felt across all regional and metropolitan areas of Queensland. In 2022, Queensland consistently broke its own rental market vacancy rate records and currently has the tightest rental market in history with 0.5% vacancy rate across the State. The regional centres are particularly facing duress with Sunshine Coast (0.6%), Gold Coast (0.5%), Cairns (0.5%), Bundaberg (0.4%) Toowoomba (0.3%) all at record vacancy rate lows (source REIQ Rental Vacancy Report June 2022).

Tenants in Queensland are facing a highly competitive landscape and stories of desperation and homelessness are becoming increasingly commonplace.

Data shows that current market conditions have been directly caused by a declining supply of available permanent rental properties. At the recent Housing Summit, the Treasurer noted that Queensland is facing a forecasted rental housing undersupply of around 55,000 properties.

Whilst it is difficult to precisely define the reasons for the shortage and decline in permanent rental properties, we submit that the key factors include:

- the high volume of sales of residential property by investors over the past 5 years, contributing to a decline in rental listings of 48.2% in September 2022 compared to the previous 5-year average[1];
- the increased prevalence of properties on the short-term rental market[2];
- severe weather events experienced in Queensland in March 2022 leading to over 4,500 properties being severely or moderately damaged displacing both owner-occupiers and tenants[3];
- over 30,000 persons migrating from other states to Queensland in the 2020/21 financial year[4]
- a reduction in the average household population to 2.4 persons per household (Treasurer, Housing Summit 2022) and a higher level of sole tenancy tenancies due to COVID-19 influences;
- cost of living pressures and a rise in inflation in Brisbane of 7.9% in the 12 months leading to September 2022[5]; and
- legislative changes being introduced which disadvantage and constrain property owners and make investing in Queensland undesirable[6].

[1] 'The Brisbane rental crisis in five charts' CoreLogic, 7 September 2022 https://www.corelogic.com.au/news-research/news/2022/the-brisbane-rental-crisis-in-five-charts
[2] 2019 Australian Short Term Rental Report
[3] QRA Reference: Report by Deloitte Access Economics. Last updated July 2022
[4] Financial Review, 'Aussies flock to Queensland at fastest pace in 20 years', Mark Ludlow 5 January 2022, https://www.afr.com/policy/economy/aussies-flock-to-queensland-at-fastest-pace-in-20-years-20211221-p59jdt#:~:text=Net%20interstate%20migration%20to%20Queensland,quarterly%20basis%20since%20December%202003
[5] C Consumer Price Index, September quarter 2022 | Queensland Government Statistician's Office (qgso.qld.gov.au)
[6] COVID-19 Emergency Response Act 2020, Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020, Housing Legislation Amendment Act 2021

In response to the deteriorating conditions of the housing market, the Queensland Government recently hosted a Housing Summit on 20 October 2022 with Parliamentary members, Local Government representatives and key stakeholders across all aspects of the housing sector. Although the parties represented different areas of the sector, a common theme was that urgent action needed to be taken and each party with an interest in the property sector (whether it be developers, lessors, tenants or real estate professionals) are essential contributors to a healthy and sustainable market.

The REIQ agrees with this position and notes that it is critical that tenants and lessors have access to a fair and balanced legislative framework that provides sufficient support and protection to both parties. We support reforms that are designed to create better security, safety and certainty for both tenants and lessors. This is vital to the well-being and ongoing sustainability of our community and the rental sector.

Although the Greens' efforts to introduce a solution to rental crisis is commendable, it is our view that the Bill's proposal to introduce onerous and unreasonable requirements on property owners would erode their legal and contractual rights and undoubtedly lead to a further sell-off of rental properties in Queensland.

2.2 Exodus of investors in the Queensland property market

Based on the events of 2022, we expect that placing further restraints on lessors will only escalate the decline of supply of rental properties in the housing market.

Data supports that over the course of 2021 and 2022, investors, either local or from interstate, have sold their investment properties due to a number of factors including, legislative changes and the rising costs associated with owning a rental property in Queensland.

In Queensland, the rental market comprises 34% of all housing across the State which approximates to 653,612 properties[7]. It is widely reported both in the media, by related stakeholders and through the REIQ membership channels, that investors have been selling their Queensland properties over the past two years for several reasons including the strong sales market and avoidance of strict new legislation affecting residential properties which commenced on 1 October 2022.

This has contributed to a strong decline in rental listings, with the September 2022 listings being 48.2% lower than the preceding 5-year average[8]. Additionally, there has also been a 61.5% reduction in rental listings since the commencement of the pandemic in Brisbane.[9]

If this radical and restrictive reform was introduced into law, at least some of the remaining portion of existing property owners are likely to exit the permanent rental market and move into less restrictive investments.

Even a modest decrease in rental housing supply of 5% would result in more than 32,000 properties being lost from the long-term rental market. In the current market, this is an unacceptable loss and would affect tens of thousands of Queenslanders across the State.

In addition, future property investment would most certainly be negatively impacted.

7 Australian Bureau of Statistics, https://statistics.qgso.qld.gov.au/hpw/profiles

8 'The Brisbane rental crisis in five charts' CoreLogic, 7 September 2022 https://www.corelogic.com.au/news-research/news/2022/the-brisbane-rental-crisis-in-five-charts

9 Financial Review, 'Residential rental listings plunge as landlords sell up', Nila Sweeney, 25 September 2022, Queensland real estate: land tax incoming, as national residential listings plunge (afr.com)

By way of example, during the REIQ's campaign to repeal the *Revenue Legislation Amendment Act 2022* over the course of 2022, we received significant direct feedback from investors and real estate professionals that existing investors were intending to sell their investment properties due to the land tax regime changes. Similarly, we received many reports that existing investors and new investors were being advised to by their financial and legal advisors not to hold their investments in Queensland, due to the proposed laws being introduced. By way of example, we received various correspondence from affected individuals. Their stories are summarised below:

A. A front-line health worker who resides in another State owns a Queensland investment property. The health worker already pays land tax on their property in Queensland and on their property in the other State. A young family has resided in the Queensland property for six years. This individual was extremely concerned about the land tax regime affecting their property.

B. A property investor owns two properties, one in Queensland and one in another State under a family trust. This trust was created to be the property investor's retirement fund and they have spent their life working, saving money and forgoing holidays and other material things to pay off these properties. They already pay several thousands of dollars in land tax each year.

C. An agency reported that within months of the land tax regime being announced, they were instructed to terminate 11 tenancy agreements to prepare properties for sale as investors did not want to hold property in Queensland once the regime came into effect.

In addition to this, we continue to receive feedback from property owners who are opposed to the rental reforms introduced pursuant to the *Housing Legislation Amendment Act 2021* and have either sold their investment properties due to the onerous laws or potentially plan to do so.

Past legislative changes have shown that some lessors are unwilling to continue to hold and supply permanent rental properties if their contractual abilities are severely constrained and their rights are overlooked. As noted above, private lessors are an essential party to the housing market. Put simply, if more investors leave the market, the fewer rental properties there will be for tenants to live in.

2.3 Short-term and holiday letting

This proposed reform may also drive property owners away from the permanent rental market and towards short-term and holiday letting arrangements which are not governed by the RTRA Act.

According to the 2019 Australian Short Term Rental Report, as of September 2019, the Australian short-term rental industry grew a staggering 47% within the last year with approximately 30,000 more homes being leased on a short-term basis. We expect the market has more than doubled since. For example, in Byron Bay, 17.6% of the entire housing stock is listed on Airbnb – equivalent to nearly half the town's rental accommodation[10].

If the Bill is enacted, we submit that it would drive more lessors to transition their rental properties to the short-term and holiday letting market. This market provides:

- high levels of contract freedom for owners,
- offers potentially commercially lucrative rent due to our strong tourism appeal; and
- provides owners with the ability to use and holiday at property at the time of their choosing.

[10] Taking stock: how has 10 years of Airbnb changes Australia, The Guardian, Bronwyn Adcock (30 July 2022) https://www.theguardian.com/australia-news/2022/jul/30/taking-stock-how-has-10-years-of-airbnb-changed-australia

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2.4 The Bill's objective

The Bill seeks to 'cap' increases to protect against unjustified rent increases and to create rental affordability. It proposes permanent rent restrictions that attach to the rental property resulting in lessors being unable to negotiate 'new' rent with future tenants following the end of a tenancy agreement.

These rent related reforms ignore basic economic factors which underpin the setting of rents and the role of market forces. Rent prices reflect market conditions and fluctuate based on the level of rental supply and the demand at any given time.

As shown below, for over a decade, weekly median rent rates have been largely static (in some cases for 5 successive years) or have risen modestly[11]. These historical median rent figures (published by the RTA in their Annual Reports) do not reflect excessive rent increases requiring drastic legislative intervention.

Year	Median Rent
2008-09	$330
2009-10	$330
2010-11	$340
2011-12	$350
2012-13	$350
2013-14	$350
2014-15	$350
2015-16	$350
2016-17	$360
2017-18	$360
2018-19	$365
2019-20	$370
2020-21	$385
2021-22	$450

It is arguable that gradual increases in median rent over the past 10 years have been modest when considered against rising levels of inflation. This is particularly highlighted when comparing the average compounding annual growth in rent of 2.5% over the last 10 years to an average rate inflation of 2.6% per annum over the last 10 years. These figures demonstrate that gross rental returns have been declining in real terms before expenses are taken into consideration.

A rent freeze and 2% rent increase cap disregard the rise in expenses experienced by lessors which are not aligned to CPI.

These include mortgage repayments and rates (which are generally charged at higher rates than owner-occupiers), repairs and maintenance expenses and insurance payments. Under this reform, tenants would get the benefit of a rent freeze and capping rent at 2% increase, whilst lessors would be expected to meet free-market driven cost increases. Consequently, the level of income received from rental payments will not cover the costs associated with ownership. This would dramatically impact the sustainability and appeal of ownership of rental properties.

Rent controls would also limit a lessor's financial capacity to supply quality tenant services and to carry out property improvements as offered under free-market conditions.

[11] Residential Tenancies Authority Annual Report 2021-2022, https://www.rta.qld.gov.au/sites/default/files/2022-09/RTA-Annual-Report-2021-22-Full-Report.pdf

For the above reasons, we believe that the introduction of rent control would significantly deter property investment. Yields are limited and scope for improvement is also restricted. When rent is capped, investment in property becomes at best, unappealing and at worst, unsustainable. As discussed in other parts of this submission, private investors are fundamentally important to the permanent rental market in Queensland. Even a small percentage of owners of rental properties choosing to either sell their properties or withdraw them from the permanent rental market, would have a material impact on the Queensland rental sector.

Rent control also discourages the development of housing for investors. Australia's building industry relies heavily on investors. A downturn in residential housing construction would not only reduce the supply of rental housing available to renters, but have adverse consequences generally to the building industry.

2.5 Outcomes

The Explanatory Notes refer to other times in Australia where similar measures were introduced.

We do not agree that the economic conditions of the current property market are comparable. In addition, the legislative framework governing the rental market in Queensland is dramatically different since times of war when such changes were implemented in Australia. For example, a tenant in modern day has the benefit of a suite of consumer protection mechanisms under State and Commonwealth law, including strict requirements with respect to rent increases under the RTRA Act.

Instead, we suggest more contemporary examples of such measures in other comparable jurisdictions such as are considered. We suggest that the Committee take into consideration the actual outcomes of introducing rent control.

For example, after rent control measures to restrict rent increases to 3% annually were introduced in St Pauls, Minnesota, professors Kenneth Ahern and Marco Giacoletti at the University of South California Marshall School of Business published a paper in March 2022 examining the effects and benefits of rent control measures.

In their paper, the authors found that[12]:

- the introduction of rent control caused a 6-7% decline in real estate values in St Pauls, and up to a 13% decline in property values for rental properties specifically, compared to neighboring jurisdictions;
- the properties which values declined in the higher percentage range (up to 8.5%) were found to be those rented by wealthier tenants and owned by persons with a lower-than-average income; and
- the properties which values declined the least (less than 1%) were those owned by wealthier owners and tenants with a lower-than-average income.

Essentially, the analysis found that the poorest tenants would derive fewer benefits from rent controls and instead, the pattern of falling property values in St Pauls after the passage of rent control shows that wealthier tenants would reap the biggest gains from the law. Interestingly, property developers and financiers withdrew permit applications and projects after the law was passed and the city quickly acted to repeal the law due to the detrimental impact it had on the housing market.

We are concerned that similar events may unfold in Queensland if this Bill is passed.

[12] '*Robbing Peter To Pay Paul? The Redistribution Of Wealth Caused By Rent Control*' K R Ahern & M Giacoletti, 19 May 2022 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4061315

3. CONCLUSION

For the reasons outlined in this submission, we do not support the Bill.

The Bill ignores a fundamental issue – private investors provide more than 90% of the rental housing in Queensland and therefore, indispensable. These investors significantly contribute to our State economy and community.

These investors are, for the most part, everyday 'Mum and Dad' investors who have taken financial risks to acquire an investment property and must continue to fund the costs of ownership irrespective of whether a tenant can be procured. At the time of acquisition, they pay substantial investor stamp duty rates and they continue to pay rates and taxes throughout ownership. These monies allow State and Local Government to fund various services for the Queensland community. These same investors provide shelter for close to 2 million Queenslanders.

It is critical that the State Government consider the material impact regulatory changes have on private investors in Queensland, as well as encouraging and driving new investment in Queensland. At the time of writing this Submission, the Committee had received and published 26 Submissions in relation to the Bill.

Of those 26 Submissions:

- 14 were submitted by private investors and did **not support** the Bill and expressed strong views against the Bill;
- three were neutral and supported the intention of the Bill but not the proposed amendments;
- only three were in support of the Bill; and
- six were confidential, or otherwise could not be accessed publicly.

Importantly, the REIQ reiterates that:

1. if rent is frozen and all other costs associated with property ownership are still payable and continue to increase, then this will place many lessor's in financial hardship which will potentially lead to a further sell-off of rental properties in Queensland and less supply available to tenants.

2. the Queensland Government should, in our view, focus its attention on supply to relieve the current conditions rather than targeting remaining lessors who provide current rental housing. An increase in supply would provide tenants with greater choice and improved bargaining power in relation to rent.

3. the Bill should not presume that all lessors are wealthy and can afford to subsidise tenants. If lessors cannot generate sufficient income from a property, the sustainability of the investment will be eroded.

The above factors should be given serious consideration by the Committee. For every private investor that removes their investment property from the market, there is a Queensland family that has less housing security and could potentially face homelessness.

The negative impact of the proposed rent freezing and rent controls in the Bill cannot be overstated. The proposed reforms undermine the security and stability of the Queensland rental market for all Queenslanders.

We recommend this Bill is not passed.