



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

**Report No. 29, 57th Parliament
Community Support and Services Committee
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Community Support and Services Committee

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Community Support and Services Committee's examination of the Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022.

The Australian Bureau of Statistics consumer price index for the December Quarter 2022 shows that all capital cities contributed to a 1.2 per cent rent rise in the quarter, with the annual rise of 4.0 per cent, the highest since 2012.¹ In Queensland, there has been an unprecedented decline in rental stocks since 2020 — as indicated by an average vacancy rate of 0.5 per cent across the state.² Queensland, like the rest of Australia, is facing a chronic shortage of supply in rental properties.

The Bill's proposed rent freeze, intended to alleviate housing stress for many renters in the short term, will not alleviate a key underlying cause of Queensland's high rent prices—the supply shortage.

Studies generally show that rent controls are not effective in improving housing affordability for renters and can lead to distortions in the rental market, which result in poor outcomes for tenants including reducing the stock of rental properties. While some incumbent tenants may experience benefits in the short term, they do so at the expense of new tenants, as landlords set initial rents higher to compensate for the erosion of real rents suffered during occupancy.³ That is, rental caps can result in a redistribution from new tenants to incumbent tenants. Additionally, rent controls may be poorly targeted and the costs likely to disproportionately affect young and low-income earners.⁴

The Bill would freeze rents but affect recurring costs on homeowners and landlords, and doesn't plan for the decline in housing stock a freeze would inevitably bring. The Bill will discourage investment in an already competitive private rental market. It will confine and penalise lessors who are investing in that tight market by limiting their ability to set or increase the rental price for their investment properties aligned to the private rental market conditions. A price cap set below efficient levels will generally result in using alternative measures to increase price, or by reducing quantity or quality, or both. In terms of housing, the Productivity Commission reports that rent controls:

- reduce incentives for landlords to maintain and upgrade property
- reduce labour mobility and efficient use of housing stock, as renters remain in a wrong-sized property, or too far from work so they do not lose access to their rent controlled or capped property.⁵

Data from the Australian Tax Office shows 20 per cent of Australia's 14.9 million taxpayers owned an investment property in 2019-20. The vast majority of these, or 89.5 per cent, were 'mum and dad investors' owning one or 2 investment properties.⁶ The Bill will only increase existing pressures and potentially force these investors to sell their properties and consequently displace even more tenants.

The current supply shortage is being addressed. The Queensland Government's discussions and engagement with the housing sector accelerated during the recent Housing Summit, where a range of views, ideas, and solutions led to an increase in investment, outcomes, and opportunity for

¹ Australian Bureau of Statistics, *Consumer Price Index*, Australia, December Quarter 2022.

² Real Estate Institute of Queensland, submission 94, p 5.

³ Dan Andrews, Aida Caldera Sánchez and Åsa Johansson, 'Housing Markets and Structural Policies in OECD Countries', *OECD Economics Department Working Papers*, No. 836, 2011.

⁴ Bengt Turner and Stephen Malpezzi, 'A Review of Empirical Evidence on the Costs and Benefits of Rent Control', *Swedish Economic Policy Review*, v.10, 2003; Tore Ellingsen and Peter Englund, 'Rent Regulation: An Introduction', *Swedish Economic Policy Review*, v.10, 2003.

⁵ Productivity Commission, *In need of repair: The National Housing and Homelessness Agreement*, Study Report, August 2022, Canberra.

⁶ Australian Tax Office, *Taxation statistics 2019-20*, <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2019-20/?anchor=IndividualsStatistics>

Queensland. The Queensland Housing Summit Outcomes Report outlined a way forward that addresses Queensland's housing challenges through boosting both housing supply and housing support service providers.

Solutions are needed to alleviate pressure on Queenslanders, equally including renters, landlords, and homeowners, that builds on the Queensland Government's \$3.9 billion investment in social and affordable housing, such as the Commonwealth Government's Housing Australia Future Fund and Housing Accord. The Queensland Government is partnering with the construction industry to deliver affordable housing through the build-to-rent developments. Two projects are progressing in Fortitude Valley and Newstead, and will offer almost 750 apartments in total with up to 240 dwellings to be marketed at an affordable price for the purpose of long-term rental. The Queensland Government has also boosted the Housing Investment Fund (HIF) to drive investment in social and affordable housing. The HIF will encourage a greater segment of the market to participate in bringing forward new housing and supporting the state's commitments under the National Housing Accord.

With the expected opportunity emerging from a second round of rental law reform that builds on the achievements of the Housing Legislation Amendment Bill 2021, it is clear that work is already underway to address the challenging ecosystem we're facing together.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank the Member for South Brisbane for her assistance during the course of the committee's Inquiry, and our Parliamentary Service staff.

I commend this report to the House.



Ms Corrine McMillan MP

Chair

Recommendations

Recommendation 1

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The committee recommends the Bill not be passed.

Report Summary

On 31 August 2022, the Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022 (Bill) was introduced into the Legislative Assembly by the Member for South Brisbane, and referred to the Community Support and Services Committee.

The Bill's stated purpose is to prevent excessive rent rises by imposing a 2-year residential rent freeze. After the 2-year period, rental increases would be capped at no greater than 2 per cent every 2 years.⁷

Submitters to the Bill attested to Queensland currently experiencing a housing crisis characterised by a shortage of supply, and compounded by financial pressures including increasing rents and the rising cost of living. Families and individuals reported that rent increases are having a significant impact on household budgets, and placing Queenslanders at risk of homelessness.

Submitters also broadly acknowledged that the rising cost of living has significant financial implications for lessors, particularly as interest rates and property maintenance costs continue to increase.

While stakeholder response to the proposed amendments was mixed, many submitters considered that the Bill's intent would not address Queensland's housing crisis and advocated for more holistic strategies that might offer more sustainable, long-term solutions to housing supply and rental affordability.

The committee identified and considered issues of fundamental legislative principle (FLP) in the Bill, and is not satisfied that sufficient regard has been given to the rights and liberties of individuals.

Having considered the issues raised by submitters and the explanations provided in the statement of compatibility, the committee is satisfied that the Bill is compatible with human rights in accordance with the *Human Rights Act 2019* (HRA).

The committee makes one recommendation, being that the Bill not be passed by the Legislative Assembly.

⁷ Explanatory notes, p 1.

1 Introduction

1.1 Policy objectives of the Bill



The main objective of the Bill is to enact a 2-year residential rent freeze in Queensland and to subsequently cap rental increases by 2 per cent, biennially.⁸

To achieve this, the Bill proposes to amend the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act), for particular purposes including:

- freezing of rents at no more than the amount advertised by the lessor, or agreed by a lessor and lessee, on or before 1 August 2022
- applying a 50 penalty unit fine⁹ 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
- setting rent for properties that have not been rented for over 12 months as the median rent for comparable properties in that postcode, including newly built properties
- capping rental increases after the 2-year rent freeze period at no greater than 2 per cent every 2 years
- requiring the Residential Tenancy Authority (RTA) to maintain a register of residential property rents informed by rental bond lodgements it administers
- where a rental bond has not been lodged, the RTA may compel lessors to provide information about the rent payable with respect to a residential tenancy agreement, with a 50 penalty unit fine applied to lessors who fail to comply.¹⁰

1.2 Background

1.2.1 Operation of rent increases under the *Residential Tenancies and Rooming Accommodation Act 2008*

Currently under the RTRA Act:

- if the lessor proposes to increase a tenant's rent, the lessor must give the tenant 2 months written notice before the increased rent is payable
- for periodic or fixed term tenancy agreements, the rent may not be increased before the term ends unless the agreement provides for an increase, or states the amount of the increase or how the amount is calculated
- a lessor must not increase the existing rent less than 6 months since the date on which the existing rent became payable by the tenant
- if a tenant considers the rent increase excessive, the tenant may apply to the Queensland Civil and Administrative Tribunal (QCAT) for an order reducing the amount of the increase to a stated amount, or setting aside the amount of the proposed increase.¹¹

⁸ Explanatory notes, p 1.

⁹ Penalty unit value \$143.75, current from 1 July 2022; 50 penalty units = \$7,187.50.

¹⁰ Explanatory notes, pp 1-2.

¹¹ *Residential Tenancies and Rooming Accommodation Act 2008*, ss 92-93.

1.2.2 Proposal to freeze residential rents in Queensland

The Member for South Brisbane stated that a 2-year rent freeze and subsequent 2 per cent biennial cap on rental increases is required to prevent rampant rent rises currently occurring in Queensland.¹²

In the explanatory notes, the Member cited research which found:

- in 2022 rents in Brisbane saw the steepest annual increase on record at more than 20 per cent
- rent increases are also being observed in regional Queensland, for example:
 - in the last year house rents reportedly rose more than 15 per cent and 22 per cent in Toowoomba and Bundaberg, respectively
 - five-year data suggests that rents in the Central Highlands have risen by more than 50 per cent, and have nearly doubled in Gladstone.¹³

The Member for South Brisbane advised the committee that the rent freeze period would allow people to maintain their tenancies, assist people to find affordable tenancies, and allow the government more time to put in place other measures to address housing affordability. The Member stated this might include building more social housing, or other initiatives to boost housing supply.¹⁴

1.2.3 Consultation

Since 2020, the Member for South Brisbane reports having liaised with thousands of renters in Queensland's private rental market residing both in her electorate and others.¹⁵ This consultation has occurred through forums, surveys, personal advocacy, casework, social media and email. The Member for South Brisbane stated that the personal stories she has heard about the impact of steep rent increases are the reason for introducing this Bill.¹⁶

... Queensland is in a cost-of-living crisis like we have not seen for decades. Families across Queensland are struggling to make ends meet with the rising cost of rent, fuel and groceries, and this is hitting renters the hardest. We know that 33.1 per cent of people across the state are renters, which has pretty much remained steady since 2016. What has changed significantly is the number of people in rental stress who are paying more than 30 per cent of their household income on rent. Some 32.3 per cent of renting households across Queensland are in rental stress, up from 12.8 per cent in 2016.

Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022.

The explanatory notes provide that the Bill is consistent with legislation of other jurisdictions where rent freezes have been implemented, such as Cherbourg in Queensland, British Columbia and New York. However, the committee noted that limited detail is provided about how these schemes operate relative to the policy proposed in the Bill.¹⁷

¹² Explanatory notes, p 1; Queensland Parliament, Record of Proceedings, 31 August 2022, p 2,355.

¹³ Explanatory notes, p 3.

¹⁴ Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022, p 3.

¹⁵ Explanatory notes, p 3.

¹⁶ Explanatory notes, p 3.

¹⁷ Explanatory notes, pp 3-4.

1.3 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Bill not be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 Implementing a 2-year rent freeze and 2 per cent biennial cap on increases

As outlined above at section 1.1, the Bill proposes to address rental affordability by amending the RTRA Act to enact a 2-year rent freeze and subsequent 2 per cent biennial cap on increases. Key issues raised by submitters are addressed below.

2.1.1 Cost of living pressures in Queensland

Submissions to the committee consistently described rental affordability as a growing issue in Queensland, often detailing personal experiences of rental stress, compounded by the increasing cost of living.¹⁸

Some of the key issues raised by submitters in support of the Bill include:

- Queensland is experiencing a housing crisis reflected in near zero vacancy rates, demand that outstrips supply across all housing types and rent increases that, in some cases, substantially exceed cost of living pressures¹⁹
- wealthy property investors are increasing rents beyond what working Queenslanders can afford, with increases of median rent prices up more than 20 per cent annually in Brisbane, and in some regional areas up more than 30 per cent annually²⁰
- the rental market is in crisis and tenants should not be responsible for covering the cost of the lessor's mortgage for their investment property²¹
- increasing rents will prevent renters from being able to save for their own home and contribute to homelessness.²²

¹⁸ Submissions 40, 63 and 88.

¹⁹ Submission 88, p 4.

²⁰ Form Submission A (submissions 26, and 122-128).

²¹ Submission 12, p 1.

²² Submissions 12, 31, and 40.

Submitters described the impact of rent increases when the cost of living is also increasing.

I moved in to my current residence in East Brisbane in 2018. I have been on 6 months leases since this time. The rent remained at a steady rate for 3 years. Since 2021 however, the rent has increased 4 times in my last 4 lease renewals. This amounts to an increase of nearly 30 per cent (\$220-\$280) in 18 months. I live alone and currently earn around \$500-\$550 a week. My rent amounts to well over 50 per cent of my take home income and with the increase in cost of living (groceries, fuel etc) these constant rent increases are becoming extremely hard to deal with. I have looked in to public housing and housing through NRAS [National Rental Affordability Scheme] but there is nothing available at this time. Further rent increases would leave me in a very tough situation and very much at risk of homelessness.

Name withheld, submission 31.

2.2 Potential impacts of a rent freeze and cap on future increases

Submitters raised a number of concerns about the implementation of a rent freeze, and the subsequent 2 per cent biennial cap on rental increases.

According to submitters opposed to the Bill, the policy to be implemented:

- makes the incorrect assumption that all landlords are wealthy and making large profits off their tenants²³
- attempts to make private landlords responsible for providing social housing, a responsibility of the government²⁴
- positions the government to be restricting the free market economy²⁵
- 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 wellbeing²⁶
- disincentivises investors and could exacerbate the current homelessness and housing crisis as rental stock may be removed from the market²⁷
- does not address the root cause of Queensland's housing crisis which is due to a lack of housing supply²⁸
- will have a negative impact on the quality and quantity of rentals in the market, particularly when investors are being met with substantial cost increases in the form of property maintenance, insurance, finance, land tax and council rates.²⁹

²³ Submissions 50 and 83.

²⁴ Submissions 17 and 22.

²⁵ Submissions 2, 8, and 18.

²⁶ Real Estate Institute of Queensland (REIQ), submission 94, p 4.

²⁷ Submissions 25, 71, 74, 76, and 97.

²⁸ Submissions 15, 56, and 36.

²⁹ Submissions 9, 20, and 80.

2.2.1 Financial implications of a rent freeze

A number of submissions raised concerns about the potential financial implications of a rent freeze should the Bill be passed, including the ability of lessors to maintain their rental properties in the broader context of other cost of living pressures.³⁰

... my husband and I rent out a 2 bedroom unit in Fortitude Valley. ... The unit was purchased in 2013 for \$390 000. The price of the unit has not increased in this time due to the increase in unit blocks/rentals available in Fortitude Valley. The property was rented for \$445/ week when the property was initially rented out. We reduced the rent to \$420 during Covid-19 in line with the reduction in interest payments. Our current tenants have a lease until October 2023. For us to be required to maintain the rent at \$420 at the current interest rate would result in a loss of \$10 000 per year. We have always been attentive lessors. We have responded to all maintenance request [sic] promptly. We can not [sic] afford to maintain a loss of \$10,000 per year and therefore would need to look at other alternatives such as short-term rental arrangements instead. Thus further reducing the rental housing available.

Name withheld, submission 13.

When asked about the impact of the Bill on lessors should it be passed, the Member for South Brisbane raised the following points:

- lessors are people who already have a primary place of residence, and housing security themselves; and so ‘the impacts are really on their returns on an investment versus the rights to a tenant to have long-term housing security’³¹
- lessors receive a range of Australian Government housing benefits such as negative gearing and capital gains tax concessions; and investors would continue to enjoy these and increased house prices³²
- in the context of rising inflation, costs are hitting tenants the hardest, and ‘if you are a property investor or landlord in a lot of ways you are able to absorb those broader costs’³³
- while lessors are facing inflationary pressures, the increase in rent that has been observed in the last 12 months is beyond the cost of inflation and interest rate rises.³⁴

2.2.1.1 Rent control in other jurisdictions

Some submissions commented on the viability of rent control schemes in other jurisdictions. One submitter argued that many of the schemes referenced in the explanatory notes are very different to the policy proposed by the Bill. For example, some schemes include subsidies by governments to landlords, freezing taxes or other costs, or only relate to large corporate landlords. The submission argues that rent control schemes have generally been far from successful.³⁵

The Real Estate Institute of Queensland (REIQ) also argues that while the explanatory notes comment that rent freezes have occurred in Queensland at the beginning of World War II, the economic conditions of the current property market are not comparable. The REIQ adds that more contemporary examples of rent control mechanisms must be considered and cites research published

³⁰ Submissions 2, 13, 50, and 83.

³¹ Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022, p 5.

³² Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022, p 4.

³³ Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022, p 5.

³⁴ Dr Amy MacMahon MP, Member for South Brisbane, public briefing transcript, 10 October 2022, p 6.

³⁵ Tanya Graves, submission 80, pp 1-2.

in 2022 concerning a 3 per cent annual rent increase cap on properties introduced in St Pauls, Minnesota.³⁶

According to the REIQ, the research found:

- the introduction of rent control caused a 6-7 per cent decline in real estate values in St Pauls, and up to a 13 per cent decline in property values for rental properties specifically, compared to neighbouring jurisdictions
- the properties where the value declined in the higher percentage range (up to 8.5 per cent) were found to be those rented by wealthier tenants and owned by persons with a lower-than-average income
- the properties where the value declined the least (less than one per cent) were those owned by wealthier owners and tenants with a lower-than-average income.³⁷

In summary, the REIQ argued that the research found that the poorest tenants would derive fewer benefits from rent control.³⁸

Committee comment

The COVID-19 pandemic, interstate migration, rising interest rates, Queensland's housing shortage and the increasing cost of living have contributed to difficult rental market conditions.

The committee acknowledges the rental stress being experienced by tenants who are having to spend a greater proportion of their income on rent, putting pressure on already strained household budgets, and that for many renters, the increase in rent that has been observed in the last 12 months is higher than the cost of inflation and interest rate rises.

The committee acknowledges that cost of living pressures affect all Queenslanders, and that for lessors, costs associated with inflation and interest rates have inevitably contributed to increases in rent. Lessors are integral to a healthy rent ecosystem in Queensland. A rent freeze and cap on future rent increases may lead to less well-maintained properties, or lessors simply selling their rental property and exiting the rental market.

2.2.2 Compliance with the *Legislative Standards Act 1992*

Rights and liberties of individuals

Retrospectivity - Clauses 4 and 8

Clause 4 of the Bill inserts new ss 82B and 82C into the RTRA Act, which specify the maximum amount of rent payable for residential premises for the 2-year rent freeze period.

By setting the maximum rent payable to a date before commencement, the provisions would invalidate a rent increase after 1 August 2022 by retrospectively fixing the amount of rent payable as at 1 August 2022. This would have an adverse effect on a lessor who relied on the RTRA Act before commencement, and had a legitimate expectation of the rent increase. However, the retrospective effect on the tenant would be beneficial.

For a periodic or fixed term agreement, s 91 of the RTRA Act allows the lessor to give a notice of a proposed rent increase to the tenant. The Bill proposes to amend s 91 to specify that rent may not be increased by more than the maximum rent payable for the tenancy. The Bill also proposes to omit s 92 of the RTRA Act which currently provides, that in circumstances where a tenant considers a rent

³⁶ REIQ, submission 94, p 9.

³⁷ REIQ, submission 94, p 9.

³⁸ REIQ, submission 94, p 9.

increase excessive, the tenant may apply to QCAT for an order reducing the amount of the increase, or setting aside the proposed increase.

Due to those amendments, cl 8 of the Bill inserts 2 transitional provisions to specify that:

- a notice to increase rent given under s 91, as in force before commencement, that would have taken effect on or after 1 August 2022 is of no effect and the amount of rent payable is not increased (new s 575)
- a tenant's application to QCAT under s 92 is withdrawn, if not decided (new s 576).

Therefore, a lessor who gave a notice that would have taken effect on or after 1 August 2022, would be adversely affected, retrospectively, because the notice would have no effect and the amount of rent payable would not increase. On the other hand, the retrospective effect on the tenant who received the notice would be beneficial.

New s 576 would, retrospectively, withdraw a tenant's application to QCAT for an order in relation to a notice of a proposed rent increase. This would have an adverse effect on a lessor who would be denied the opportunity to present the lessor's case for the rent increase to QCAT. The tenant would not be adversely affected by the operation of new s 575.

The explanatory notes have not addressed the FLP of retrospectivity. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.³⁹ Changes in the law relating to past events are objectionable if they alter the legal nature of a past act or omission in itself.⁴⁰

Natural justice - Clause 8

Legislation should be consistent with the principles of natural justice.⁴¹ The principles of natural justice are principles developed by the common law and include the following:

- nothing should be done to a person that will deprive them of a right, interest, or legitimate expectation of a benefit without the person being given adequate opportunity to present their case to the decision-maker (a right to be heard)
- the decision maker must be unbiased
- procedural fairness should be afforded to the person, including fair procedures that are appropriate and adapted to the circumstances of the particular case.⁴²

As noted above, new s 576 will withdraw a tenant's application to QCAT. This would deny both the lessor and tenant the right to be heard and procedural fairness. The lessor would be denied the opportunity to present the lessor's case to QCAT in determining whether or not the rent increase is excessive. The explanatory notes do not address the FLP of natural justice.

³⁹ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook*, p 55.

⁴⁰ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 55.

⁴¹ *Legislative Standards Act 1992*, s 4(3)(b).

⁴² OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, pp 25-26.

Committee comment

It is the committee's view that strategies to address rental affordability in Queensland should consider tenants and lessors rights equitably.

In view of the issues cls 4 and 8 of the Bill raise in relation to retrospectivity and natural justice, the committee is not satisfied that sufficient regard has been given to the rights and liberties of individuals.

2.3 Alternative proposals to improve rental market conditions

A number of submitters proposed alternatives to a rent freeze and cap on future increases, advocating for more holistic strategies that might provide more sustainable, long-term solutions to the housing crisis currently being experienced in Queensland.⁴³ Key proposals are outlined below.

2.3.1 Reducing the frequency of rent increases

The Community Housing Industry Association Queensland (CHIAQ) submitted that instead of imposing a rent freeze that risks landlords withdrawing their properties from the market, the frequency of rent increases could be reduced. CHIAQ propose that for fixed term tenancy agreements longer than 6 months, rent could be fixed for the period of the agreement, or 12 months, whichever is longer.⁴⁴

CHIAQ acknowledge that less frequent rent increases may place some additional pressure on lessors who need to meet rising mortgage costs, increases in rates, utilities, insurance and maintenance, however it would also offer private renters a more stable rent outlook over a longer period.⁴⁵

2.3.1.1 Australian Capital Territory (ACT) model

Some submitters proposed that consideration should be given to implementing the ACT's rent increase model, where rent cannot be increased by more than 10 per cent above the Consumer Price Index (CPI), unless:

- the tenant agrees in writing
- the tenancy agreement specifies a different rent escalation mechanism, or
- the landlord has the ACT Civil and Administrative Tribunal's (ACT Tribunal) approval for a higher increase.⁴⁶

According to CHIAQ, the ACT Tribunal must consider the lessor's outgoings or costs in relation to the property, along with any services that the lessor provides the tenant. CHIAQ argues that the ACT approach balances the aim of protecting the tenant from excessive increases in rent and recognising that the costs incurred for lessors may sometimes exceed the CPI. CHIAQ submitted that the costs incurred by lessors would certainly exceed the cap of 2 per cent over a 2-year period as proposed by the Bill.⁴⁷

2.3.2 Increasing land and housing supply

The Mareeba Community Housing Company submitted that the Bill does nothing to address the housing crisis across Queensland and proposed that consideration be given to increasing the supply

⁴³ Submissions 51, 56, and 80.

⁴⁴ Submission 114, pp 2-3.

⁴⁵ Submission 114, pp 2-3.

⁴⁶ Submissions 23 and 114.

⁴⁷ Submission 114, p 3.

of developed land. The submission also proposes reducing development times to reduce costs for developers, and introducing incentives for developers to release land that is already developed.⁴⁸

One submitter argued that the Bill sends the wrong signal to the market, and a better idea would be to expand housing supply.⁴⁹ Another submitter stated that there is clearly a housing shortage which would be better met by investment from governments rather than targeting lessors.⁵⁰

Other submissions supported the need for investment to increase the overall supply of housing, including community and social housing.⁵¹ CHIAQ proposed the following strategies to increase supply:

- requiring local governments to ensure that the supply of developed land keeps pace with the demand for housing
- expanding the Queensland Government's *Growth Areas Team* and investment beyond South East Queensland
- planning reforms to:
 - reduce development approval times (to reduce holding costs for developers and thus prices for purchasers)
 - increase density in 'middle ring suburbs' and around transport nodes, including enabling more secondary dwellings and town house developments
 - ensure that at least 10 per cent of all new homes built each year are affordable to buy or rent through mechanisms such as inclusionary zoning on developments over a certain size.⁵²

CHIAQ also submitted that rental housing supply could be boosted by:

- facilitating more market build to rent products through planning reform and land tax concessions
- encouraging more affordable build to rent products, including sub-market rentals, and more diverse housing options such as co-living and new generation boarding houses (for example, short term rentals for up to 3 months to balance restrictions on short-stay accommodation)
- regulating the short-term accommodation market to return whole home rentals to the private rental market.⁵³

The committee notes the key features of the Queensland Housing Strategy, including the Queensland Housing Investment Growth Initiative, which is delivering social and affordable housing, building partnerships and providing capital investment to accelerate construction, redevelopment and purchase expenditure in Queensland.⁵⁴

⁴⁸ Submission 16, p 1.

⁴⁹ Donald Lynch, submission 50, p 2.

⁵⁰ Name withheld, submission 13, p 1.

⁵¹ Submissions 16 and 114.

⁵² Submission 114, p 3.

⁵³ Submission 114, p 3.

⁵⁴ Department of Communities, Housing and Digital Economy, 'Housing Strategy', <https://www.chde.qld.gov.au/about/strategy/housing/queensland-housing-investment-growth-initiative>

2.3.3 Incentives for lessors and rent subsidies

Some submitters argued that rental market conditions could improve if incentives were provided to lessors to offer affordable rentals, and the introduction of rent subsidies for tenants.⁵⁵

One submission noted that all 3 levels of government in Australia impose taxes on tenanted properties, including capital gains tax, stamp duty, land tax and council rates, which are in turn passed onto tenants. If tenants were provided some rent relief, it is argued that this could be met with tax concessions for lessors, as was the case during Victoria's COVID-19 lockdown where landlords who provided rent relief were entitled to equivalent relief in state taxes.⁵⁶ This was the case in Queensland too: lessors were able to claim tax relief.

In relation to rent subsidies, one submission argued that as an alternative to the Bill, tenants might be offered relief by introducing an affordable rental subsidy program delivered through community housing to meet the gap between social housing and private rental markets, which CHIAQ termed the 'missing middle of the housing market'.⁵⁷

2.4 Compliance with fundamental legislative principles and human rights

The committee has examined the Bill and considered the application of FLPs contained in Part 2 of the *Legislative Standards Act 1992* to the Bill. Section 2.2.2 above discusses potential issues of FLP.

Part 4 of the *Legislative Standards Act* requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill and examined for compliance by the committee.

Committee comment

The committee is satisfied the explanatory notes contain the information required by part 4 of the *Legislative Standards Act* and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

The committee has examined the Bill for human rights compatibility.

Committee comment

The committee notes that the Bill does not limit any human rights protected by the *Human Rights Act 2019*. It is therefore unnecessary to consider whether the limitations are justified under s 13 of the *Human Rights Act 2019*.

The HRA requires that a statement of compatibility must be tabled for a Bill.⁵⁸ The committee has examined the statement of compatibility tabled with the introduction of the Bill.

Committee comment

The committee is satisfied the statement of compatibility tabled with the introduction of the Bill provides a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

⁵⁵ Submissions 16, 80, and 114.

⁵⁶ Submission 80, p 3.

⁵⁷ Submissions 16 and 114.

⁵⁸ *Human Rights Act 2019*, s 38.

Appendix A – Abbreviations

ACT	Australian Capital Territory
ACT Tribunal	ACT Civil and Administrative Tribunal
Bill	Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022
CHIAQ	Community Housing Industry Association Queensland
CPI	Consumer Price Index
FLP	Fundamental Legislative Principle
HRA	<i>Human Rights Act 2019</i>
NRAS	National Rental Affordability Scheme
OQPC	Office of the Queensland Parliamentary Counsel
QCAT	Queensland Civil and Administrative Tribunal
REIQ	Real Estate Institute of Queensland
RTA	Residential Tenancy Authority
RTRA Act	<i>Residential Tenancies and Rooming Accommodation Act 2008</i>

Appendix B – Submitters

001	Alexandra Dapontes	034	Robert Ridges
002	David Baker	035	Lindsay Roberts
003	Name Withheld	036	David and Chris Hobel
004	Confidential	037	Mahesh Punjabi
005	Alistair Macnaughton	038	Maria Gaudiello
006	Name Withheld	039	Confidential
007	Ian Findlay	040	Name Withheld
008	Name Withheld	041	Name Withheld
009	Name Withheld	042	Name Withheld
010	Name Withheld	043	David Wright
011	Chris Cantor	044	Name Withheld
012	Name Withheld	045	Confidential
013	Name Withheld	046	Geun Jung
014	Mitchell Jex	047	Joseph Austin
015	Robert Heron	048	Better Renting
016	Mareeba Community Housing Company	049	Confidential
017	Name Withheld	050	Donald Lynch
018	Name Withheld	051	Name Withheld
019	Name Withheld	052	Name Withheld
020	Name Withheld	053	Name Withheld
021	Confidential	054	Confidential
022	Name Withheld	055	Name Withheld
023	Name Withheld	056	Tanya Thompson
024	Wayne Rentoul	057	Confidential
025	Lesley Jane Vick	058	Confidential
026	Form A (refer 122 to 128)	059	Neil Li
027	Name Withheld	060	Name Withheld
028	Name Withheld	061	Name Withheld
029	Name Withheld	062	Name Withheld
030	Peter Burke	063	Tenants Queensland
031	Name Withheld	064	Carina Ng
032	Name Withheld	065	Confidential
033	Property Owners' Association of Queensland Inc	066	Bruce Kosky
		067	Name Withheld

068	Name Withheld	103	Student Accommodation Association
069	Name Withheld	104	Name Withheld
070	Patrick Chandler	105	Todd Hilton
071	Matt Lachlan	106	Name Withheld
072	Name Withheld	107	Kembridge Pty Ltd
073	Lanne Thomas	108	Tanya Thompson
074	Alexander Patience	109	Name Withheld
075	Yi Wang	110	Confidential
076	Leena Sunil	111	Saon Baidya
077	Confidential	112	Name Withheld
078	Name Withheld	113	E.A. Turner
079	Leyton Richards	114	Community Housing Industry Association Queensland
080	Tanya Graves and other landlords	115	Geoffrey and Margaret Smith
081	Margaret Davies	116	TASC National Limited
082	Stephen Farrugia	117	COTA Queensland
083	Mark Kierpal	118	Name Withheld
084	Jean Muller	119	Natalie Gerns
085	Rick Schafer	120	Josiah Padget
086	Melissa and Shane Cattle	121	Scott Thorncraft
087	Shan Song	122	Form A Part 2
088	Carers Qld	123	Form A Part 3
089	Confidential	124	Form A Part 4
090	Caravanning Qld	125	Form A Part 5
091	Ross Bliim	126	Form A Part 6
092	Confidential	127	Form A Part 7
093	Confidential	128	Form A Part 8
094	Real Estate Institute of Queensland		
095	Barb Kean-Williams		
096	John Whittingham		
097	Property Council		
098	Name Withheld		
099	Name Withheld		
100	Veerendra Maharshi		
101	Mark Ignativ		
102	Name Withheld		

Appendix C – Witnesses at public briefing and public hearing

Public briefing 10 October 2022

- Dr Amy MacMahon MP, Member for South Brisbane

Public hearing 5 December 2022

QShelter

- Mr Jackson Hills, Manager, Policy and Strategic Engagement

Community Housing Industry Association

- Ms Peta Winzar, Chief Executive Officer

Tenants Queensland

- Ms Penny Carr, Chief Executive Officer

Real Estate Institute of Queensland

- Ms Antonia Mercorella, Chief Executive Officer
- Ms Katrina Beavon, General Counsel and Company Secretary

Property Council of Australia

- Mr Bernard Armstrong, Chief Executive Officer, Cedar Pacific
- Ms Jen Williams, Queensland Executive Director

Property Owners Association of Queensland

- Mr Mark Ignativ, President
- Mrs Helen Roslyn Wallace, Secretary

Contributions from attendees

- Ms Harmonie Downes
- Ms Alexandra Dapontes, paralegal and landlord
- Mrs Maria Gaudiello, private landlord

Statement of Dissent



MICHAEL BERKMAN MP

Member for Maiwar ▲

17 February 2023

Dissenting report - CSSC Report No. 28 Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022

On 31 August 2022, my Queensland Greens colleague Dr Amy MacMahon, the Member for South Brisbane, introduced the Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022 (the bill) into Queensland Parliament.

Report No. 29 of the Community Support and Services Committee (the Report) recommends the Bill not be passed despite the overwhelming need for this legislation, as well as a suite of other measures proposed by experts and the Queensland Greens, to be adopted by the government to address rental housing affordability and supply in the midst of a housing emergency.

I provide this dissenting report primarily in relation to the Committee's recommendation that the bill not be passed. In fact, the need for this bill to be passed is now even more pressing than at the time of its introduction. The scale of Queensland's housing crisis, and skyrocketing cost-of-living pressures, mean that the measures proposed in this bill should be adopted as a matter of urgency.

Impact of rent freeze on the rental market and housing system

In the Report, the Committee gives significant airtime and consideration to the claims of landlords and the investor lobby regarding the effectiveness of rent controls and the likely impacts on the housing market.

Submitters such as the Real Estate Institute of Queensland (REIQ), the Property Council and the Property Owners' Association of Queensland claim that a rent freeze would drastically reduce the supply of residential property in Queensland.¹ **This is not supported by evidence.**

In fact, research commissioned by Tenants Queensland in 2018 found:

*'Very little research has focused specifically on the impacts of tenancy regulation on the performance of private rental markets, or, more specifically, on rental property investor behaviour in Australia or elsewhere. Those who have considered this question conclude that neither tightening nor easing of tenancy regulation has any significant impact on investor behavior or overall patterns of expansion in the PRS.'*²

This may be because, despite regulation to make housing more fair and equitable, housing markets still remain appealing to investors due to the peculiarities of the housing market, which overwhelmingly benefit housing investors financially, compared to consumers and firms in traditional markets. Taken as a whole, there is some understandable ambiguity in the literature on the effects of rent controls due to its susceptibility to political bias

¹ Submissions 94: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000094.pdf>, 97: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000097.pdf> and 33: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000033.pdf> respectively.

² Tenants Queensland submission to the parliamentary inquiry on the *Housing Legislation Amendment Bill 2021*: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/HLAB2021-37A9/submissions/00000723.pdf>.

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(including from interest groups such as property-owner and real estate lobby groups), geographic variation and the variety of methodologies used to implement rent controls, as well as the economic circumstances in which rent controls have been implemented.

While some studies identify potential distortive side effects of rent controls that policy makers should be aware of, it is important that these are contrasted with the present housing crisis. The present housing crisis is an abject failure of the market: Brisbane, as an example, has seen a 25% increase in rent over 12 months and has 0.4% rental availability at present, with similar figures across the state.³ It is against this crisis that any potential risks of rent control need to be weighed. The Bill is an emergency response to a crisis. The risk of market failures predicted by doomsayers amongst the landlord and investor groups are not particularly manifest when the market is already failing, especially when it is these groups that are benefitting from a failed market that dramatically increases their bargaining power.

Much of the risk associated with rent controls are only apparent when rent controls are confined to certain areas, particular types of buildings, or to rental agreements that began during a certain period. For example, undesirable reduction in housing mobility can occur because of the aversion of renters to move from a lease under rent control, to one which is not controlled, due to increased price and instability. This wouldn't be an issue within Queensland if rent controls, like those proposed in the bill, are broad acting, covering the whole of Queensland, and all rental properties.

Regarding predictions of a loss of supply, a price cap impacting supply makes intuitive sense in markets with incremental cost increases to output because the marginal cost of production invariably rises above the price cap. For a number of reasons, the housing market does not operate like typical participants in a goods or service market. Rent controls do not reduce supply unless they reduce rents below the marginal cost of tenanting a property, compared to leaving it vacant. This would not occur in the case of existing rental properties where existing rental rates, especially after recent price hikes, are well above the marginal cost of tenanting, compared to leaving a property vacant.

The literature is ambiguous as to the effect of rent controls on construction in the long run, with the effect varying between the different instances of rent control introduction around the world. It is not necessarily the case that rent controls diminish the supply of new housing. Well designed rent controls do not result in a reduction in existing or new supply. A 2007 study of 76 New Jersey cities with rent stabilisation found there was little-to-no statistically significant effect of rent control on new construction after controlling for population, racial demographics, population change, income, the percentage of units that were renter-occupied, vacancy rates and unit age.⁴ Similarly, rent controls in Catalonia had no impact on rental supply, despite lowering rental prices.⁵

Where rent controls do impact the supply of rentals, this is typically due to landlords removing rent-controlled property from the rental market and moving them to the sale market - this results in lower property prices, and any loss in rental supply is coincidental with an equivalent reduction in rental demand as renters transition to owner-occupier status, as they take up the improved opportunity for to buy.

In addition, a critical shortage of housing is already manifest, irrespective of any proposed rent controls. The market, and current policy settings, are already catastrophically failing Queenslanders. It is because of this, and not the exaggerated claims of those profiteering from the present crisis, that boosting supply alongside rent controls should be an important consideration. A sustainable solution requires that we address the rental supply problem at the same time as tackling affordability, price-gouging and the massive power imbalance between tenants and investors.

³ <https://sqmresearch.com.au/weekly-rents.php?region=qld%3A%3ABrisbane&type=c&t=1>.

⁴ https://dornsife.usc.edu/assets/sites/242/docs/Rent_Matters_PERE_Report_Web.pdf.

⁵ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4159469.

To that end, it's worth considering why rental availability is already so low. Until the most recent supply shocks, construction costs relative to household income have been falling for decades. Despite this, less and less houses have been built relative to the need. The biggest barrier to housing construction is the value of land, which is over-inflated due to speculative investment in the land and housing markets, and investor incentives driving up demand and prices. This is because incentives, such as negative gearing, apply to land and existing stock, instead of being targeted just at construction or new builds. Speculative investment for capital gains also partially contributes to long-term vacant properties being taken off the market and land going unused. In fact, there are an estimated 87,000 long-term vacant properties going unused in Queensland according to the Australian Bureau of Statistics.⁶ Over-inflated land costs also lead to higher mortgages, the cost of which are passed on to renters, and locks people out of ownership. Thousands of homes have also been taken off the rental market and turned into short stays which are advertised on sites such as Airbnb.

The bill should be implemented along with other measures specifically addressing these broader issues. *The Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022* (the Empty Homes Levy) introduced by Dr Amy MacMahon is one such measure. The Empty Homes Levy would apply to long-term vacant properties, empty land, and homes used solely as short stays, which would otherwise be suitable for use as residential properties. This bill would bring an estimated 24,000 of the 87,000 long term vacant properties in Queensland back onto the rental market. Thousands of short-stay rentals would also be returned to use by long-term tenants. Because the levy would also apply to empty land suitable for new homes, it would have a deflationary effect on the investment bubble, lowering the cost barrier to new constructions on empty land, incentivising new constructions, and leading to greater opportunities for renters to buy their own home.

The Rent Freeze Bill and the Empty Homes Levy should also be combined with a reversal of the government's policy to sell off public housing and a significant boost to public housing investment to drastically boost supply. The government could directly invest the \$2 Billion Housing Investment Fund into new state-owned houses right now, which would dramatically increase supply, rather than waiting for the fund to drip-feed returns into the private sector.

⁶ <https://www.couriermail.com.au/property/rent-crisis-87000-properties-empty-waters-on-noones-home/news-story/3ca0caf5850f074335aac1999085f45c>.

Impact of cost-of-living pressures and the housing crisis on the public

In recommending against the bill being passed, the Committee has failed to properly appreciate the severity of cost-of-living pressures and the housing crisis.

The latest rental increase figures from SQM Research are presented below:

Locale	12 month change
Brisbane (inclusive)	24.80%
Beenleigh Corridor	24.40%
Brisbane CBD	27.40%
Cairns	12.10%
Central Queensland	8.00%
Eastern Brisbane	24.80%
Gold Coast Hinterland	27.30%
Gold Coast Main	31.20%
Gold Coast North	29.50%
Gold Coast South	28.60%
Gold Coast West	18.10%
Inner Brisbane	29.40%
Ipswich	22.60%
North Queensland	14.90%
Northern Brisbane	18.00%
Qld Central Coast	9.40%
Qld Far North Coast	11.50%
Qld North Coast	11.30%
South East Brisbane	18.10%
Southern Qld	27.40%
Sunshine Coast	8.20%
Toowoomba	18.70%
West Brisbane	25.20%
West Qld	13.30%

Table: summary of average rental price increase for the year to date - 14 February 2023 (source: *SQM Research*⁷)

⁷ <https://sqmresearch.com.au/weekly-rents.php?region=qld%3A%3ABrisbane&type=c&t=1>

According to *The 2022 Rental Affordability Index* (SGS Economics and Planning, National Shelter, Beyond Bank, and Brotherhood of St. Laurence) rental affordability in Queensland is at a historic low.⁸ Forty percent of low-income households are in housing stress with the following groups spending the following proportion of their income on rent:

Group	Income spent on rent
Single pensioners	53-56%
Single persons on JobSeeker payment	89-94%
Pensioner Couples	40-43%
Single, part-time worker parent on benefits	53-56%
Single, full-time working parents	22-24%
Students with sharehouse	31%
Minimum wage couple	27-29%
Hospitality workers	33%

Table: summary of different groups typical rental expenditure in Queensland (source: *The 2022 Rental Affordability Index*)

Numerous submitters, including peak bodies and front-line service providers, remarked on the crisis, the need to take action, and the flow-on effects of housing stress such as homelessness.

The submission from Council on the Ageing Queensland (COTA) said that this bill should be given careful consideration.⁹ They said there is clear evidence that many older people are currently in uncertain housing situations. A third of Queensland households are in housing stress, and COTA submitted that nearly a third of these are aged 75 or older. Importantly, they pointed out that ‘[t]he number of older women who are becoming homeless or in precarious housing situations is of particular concern.’

TASC National, a provider of frontline legal and social justice services in Ipswich and South West Queensland, supported the bill.¹⁰ They stated that ‘[r]ental law changes effective from October 2021 ha[ve] given little protection to “inevitable evictees” from unreasonable rental increases, seemingly driven by a property market overseen by real estate agents and property management services, who benefit the most from an over-inflated rental market.’

Tenants Queensland stated that tenancy law must be urgently changed to stabilise rents in Queensland.¹¹ As Carers Queensland stated in its submission, ‘[t]he government has an ethical and moral obligation to act upon the rental crisis.’¹²

Individuals also told the inquiry about the impact of out-of-control rental increases on their lives. When governments allow landlords to charge renters whatever amount of rent they please, this will always make people vulnerable to rental increases that have no regard to their personal circumstances, and are not supported by the actual costs of property investment.

⁸ https://www.sgsep.com.au/assets/main/Rental-Affordability-Index_Nov_2022_low-resolution.pdf

⁹ Submission 117: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000117.pdf>.

¹⁰ Submission 116: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000116.pdf>.

¹¹ Submission 63: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000063.pdf>.

¹² Submission 88: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000088.pdf>.

One submitter said:

‘When our rent renewal c[a]me around late last year, our owner wanted to put the rent up \$100 a week. We negotiated a lower price, but we are terrified that at our next rent renewal we will not have that luxury due to the inflated rental prices and will be forced out of our rental. Our children go to BSHS, we absolutely love the school and for the children to remain at the school we have to remain in the catchment for the duration of their schooling. However, we are not sure with the current inflated rental prices if we will be able to afford to stay in catchment.’¹³

It is a clear failure of government policy when property investors can decide on a whim whether their tenants’ children will be able to enjoy continuity of schooling. To fix this, the government needs to regulate rental increases, starting with a two-year freeze on rents as proposed by this bill.

A submitter in the electorate of Greenslopes said:

‘My husband and I are expecting a baby in November. As the main income earner that will be going on maternity leave with ½ pay, I am extremely nervous about any rent increase that I know are likely to happen when our lease is due to be renewed in December. Things will already be financially tight for us, but with the added pressure of a rent increase, this will certainly lead to us not being able to afford health insurance (which we both need as we have chronic conditions).’

When considering the submissions of renters it is also important to consider the countless other people alienated and disengaged due to the effects of poverty who will not be heard by the Parliament - those most vulnerable and experiencing the most harm are the least able to engage with the political process and have their voices heard by this Committee.

The ongoing impacts of the housing crisis are homelessness, food insecurity, lack of access to education or secure work, increased violence and crime, and community upheaval, the trauma of which will be felt for generations through cyclical poverty. These outcomes are entirely preventable by strong government action.

The solution is clear. A submitter in the electorate of Murrumba said:

‘A rent freeze would mean I can afford to live, feed my family and [build] my house before more costs come at me, and it would mean that thousands of other Queenslanders, including my friends and family, could sleep easier knowing the roof over their head won’t be taken out from under them because of greedy landlords and property rental agents.’¹⁴

Rights and liberties of individuals

The committee incorrectly evaluated the rights of tenants and landlords in its conclusion that the Bill does not have sufficient regard to the rights and liberties of individuals.

When weighing up the interests of these two groups, consideration must be given to the disparity in their existing positions, the vulnerability of renters to a worsening of this crisis and the consequences of such, and how the existing status quo, which disproportionately benefits investors, has contributed to the present housing crisis.

¹³ Submission, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=165&id=4195>.

¹⁴ Submission, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=165&id=4195>.

There is an obvious gap in the present economic standing and welfare of investors compared to renters. Investor incentives and governments that act to ensure investors are guaranteed returns, irrespective of the prevailing economic conditions, not only generates further inequality, but results in less new housing builds, supply shortages, increased costs to renters, declining rates of home ownership, and redirection of investment from other parts of the economy into a housing bubble.

Much of the value of contemporary mortgages is not tied to the use value or cost of creating the asset, but is artificial value created by speculative demand, and is economic deadweight. This investment bubble distorts the market and contributes to an overvaluation of housing assets, and prevents construction of new housing. Overvalued land presents a barrier to new builds, while the overvaluation of existing stock means higher mortgages, which puts owner-occupiers in stress, as well as renters when these costs are invariably passed on by landlords.

The housing bubble is also driven by the exploitative nature of the housing market. The bargaining asymmetry between renters and investors is much greater than in typical markets. Renters who cannot outbid investors have no alternative to renting. Increases in rents can mean renters become displaced from their places of work, education, and communities, provided they can even find alternative housing and are not driven into homelessness.

One submitter said:

‘Rising rents mean I will have to move again for the 5th time in 3 years.’¹⁵

Another talked of uprooting their children from their community and placing them into a new school due to rising rents forcing relocation.¹⁶

It is clear that under the status quo, renters' most fundamental rights are threatened by circumstances out of their control, including extreme-profit seeking behaviours of those benefiting most from a laissez faire approach to rental increases.

In a tight market with next to zero rental availability, landlords can and do set rents well above the marginal cost of providing housing, as we have seen occur across Queensland. This means that those with the existing wealth to outbid renters for available housing have been able to charge rent above what it costs to maintain housing to such an extent that renters are paying for investors' over-valued mortgages or passive income. Instead of working people's incomes contributing to their own cost of living and home ownership, the wealth inequality and bargaining asymmetry inherent in our housing system means they will have their income syphoned into someone else's nest egg or vacation fund. By virtue of having less existing wealth, working people are locked out of the housing market and are economically coerced into paying more for housing than it costs to provide.

This system disproportionately benefits those with existing wealth and assets, and the banks. In addition to government incentives for investors, the peculiarities of the housing market, which disproportionately benefit investors compared to consumers and firms in typical markets, drives investor demand beyond the point where any other industry would see diminishing returns, leading to further overvaluation and inflation of the housing bubble, exacerbating existing bargaining asymmetry as higher prices lock more and more workers and families out of home ownership.

The disparity in rights that already exists is, on any fair assessment, unconscionable and cannot be maintained. Extreme profit-seeking, enabled by an imbalance of rights, is what has created the housing crisis. Regardless, the Bill does not significantly impact landlords' ability to profit or control their investments. **The Bill simply restricts price gouging**, not the ability for landlords to make profit within reason.

¹⁵ Submission 123: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000123.pdf>.

¹⁶ Submission, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=165&id=4195>.

Numerous landlords made submissions suggesting that a rent freeze might mean some landlords cannot make repayments on their mortgages. When rental income is above the cost of maintaining housing such that it goes towards landlords' mortgage repayments, and especially payments off the principal portion of the loan, renters are effectively paying for someone else to own the asset. In these situations, it is renters who provide landlords housing, not the other way round.

That a rent freeze might mean that some landlords could have to sell-up and, while disappointing to those investors, **these investors will not be made homeless**. This is particularly so given that, according to University of Tasmania research 'A typical rental housing investor is a high-income earner or family partnership, owning one or two dwellings as an extra income source'¹⁷. Furthermore, if investors do sell, this will mean a greater supply of housing for sale. This will have a deflationary effect on the housing bubble and provide more opportunities for renters to transition to home owners. This will have a cooling effect on the value of future mortgages such that they are more sustainable for home buyers than they otherwise would be. The rights of landlords and investors to operate in an unregulated environment can be a major contributor to economic collapses such as the 2008 GFC, and so must be weighed against the interest society has in functional and efficient housing markets, even if this demands curbing investors' ability to seek profits well above the cost of maintaining housing.

The individual rights of landlords to operate in a relatively regulation free environment, in which they have access to investor incentives under an economic paradigm that entrenches wealth inequality, must be weighed not only against the individual rights of tenants but also the health and stability of all of society when such an imbalanced market system necessarily fails, resulting in cyclical poverty, crime, and community upheaval.

Furthermore, these investors are on average much more capable of enduring the cost-of-living crunch and rate rises. Investors who cannot pay for the mortgages on their property portfolios without exploiting the incomes of working people, pensioners, and families, have the ability to sell their assets. Conversely, the outcomes are much more disastrous for those who are not able to afford record high rental increases.

Numerous landlords made submissions that a rent freeze would jeopardise their lifestyles or retirements, which are dependent on the passive income provided by tenants. This only highlights the issue with the present system. If rents are above the cost of maintaining housing such that landlords are earning passive income, this exemplifies how bargaining asymmetry and wealth inequality baked into the housing system funnels money from renters to those with existing wealth and assets. Landlords who earn a passive income from tenants are effectively living off the backs of hard working people, pensioners and families, and converting renters' incomes into landlords' nest eggs. Landlords do not have a right to these exploitative gains, and nor does the government have a duty to allow exploitative and economically irrational markets to remain unregulated. As one landlord, sympathetic to the position of renters despite his own interests, said

*'I would be happy for my rent to be frozen. We have done well with property price rises and those renting are doing it tough currently. The well off should not get even better off at the expense of the battlers.'*¹⁸

¹⁷ <https://theconversation.com/three-charts-on-who-is-the-typical-investor-in-the-australian-property-market-81319> .

¹⁸ Submission 11: <https://documents.parliament.qld.gov.au/com/CSSC-0A12/RTRARFAB20-6200/submissions/00000011.pdf>.

Property rights as human rights

This bill does engage the property rights of both lessors and lessees, but as the Human Rights Commissioner pointed out in 2021, 'For this right to be unreasonably limited, a person needs to be "arbitrarily deprived" of their property.' While restricting rental increases may amount to an indirect diminution of a lessor's property rights, it is not an arbitrary deprivation, particularly in the context of mass evictions and homelessness.

As the Commissioner said last year 'An estimated one in 100 Queenslanders is experiencing homelessness. In the private rental market, one in five moves are made by tenants involuntarily. Many of the 1.8 million Queensland tenants are facing constant moves, with the median tenancy lasting only 13.1 months for units and 17.9 months for houses. 43% of renting households include children for whom housing stability, connection to community and access to schools is vitally important - and families and children are also entitled to protection under Queensland's human rights legislation.' In 2023, the situation has become even worse.

To say that a lessor's right to profiteer from a housing crisis is more important than the human rights of tenants is a perversion of human rights law. There is no alternative proposal that can ensure housing justice for Queenslanders without limiting landlords' rights to make unprecedented profits.

In New Zealand, the Human Rights Commission has pointed out that a rent freeze is necessary to ensure citizens aren't 'sacrificing their fundamental human rights to pay the rent.'

We need a similar approach here, and this Bill provides a way to ensure tenants' human rights aren't trumped by the right to make unprecedented private profit.

Support for the real estate lobby at the expense of tenants

The Committee's recommendation reflects the government's ongoing favouring of wealthy investors and the real estate lobby, at the expense of tenants.

We know that 33.1% of people across the state are renters, which has remained largely steady since 2016. But what has changed significantly, is the number of people in rental stress, paying more than 30% of their household income on rent. 32.3% of renting housing holds across Queensland are in rental stress, up from 12.8% in 2016. I offer here a snapshot of the situation in just a few Queensland electorates:

- Mansfield - 31.7% of households are renting, with 29.9% in rental stress
- Burnett - 18.2% of households are renting, with 33.6% in rental stress
- Maiwar - 45.4% of households are renting, with 33.8% in rental stress
- Cook - 44.8% of households are renting, with 19.8% in rental stress
- Oodgeroo - 22.8% of households are renting, with 37.3% in rental stress
- Nicklin - 23.4% of households are renting, with 42.1% in rental stress
- South Brisbane - 62% of households are renting, with 31.4% in rental stress

Each of these figures represent thousands of Queenslanders - families, workers, teachers, nurses, baristas, pensioners and people with disabilities facing grave hardship.

Rather than the impact on investors - who constitute only about 10% of the population, and are largely relatively high income earners outside of their rental income, who are investing not for altruism, but for wealth accumulation - the committee should be focused on the 33.1% of renters, many of whom are in growing levels of rental stress.

Without implementing a rent freeze, the government will be willfully further entrenching inequality in Queensland.

Indeed, the bigger question is, **what is the outcome if we don't legislate an emergency rent freeze?** It will mean more families sleeping in tents and cars across the state. Greater pressure on our already overwhelmed housing and homelessness services. More pressure on our ballooning social housing register. Disrupted education for kids. Disruption to employment. Social isolation. Growing prevalence of mental health issues. Entrenched poverty.

Retrospectivity and natural justice

The Committee raised issues with retrospectivity and natural justice and the implications for individual rights within the bill, stating that the bill would retrospectively invalidate rent increases made after 1 August and deny landlords natural justice right to procedural fairness or opportunity to present their case.

The Bill does neither of these things to much greater extent than existing price caps legislated across other markets do. For the most part, the Bill merely sets a price cap going forward with the price being set by reference to a price existing at 1 August, 2022. To the extent that the bill does retroactively invalidate rent increases to the detriment of the position of landlords, for reasons examined above, it does not do so to any extent that would substantially impact the dominant position of landlords over tenants and does so only to bolster the much diminished rights of more vulnerable people.

Recommendation

Contrary to the Committee's recommendation, and consistent with the position of the Queensland Greens, I recommend that the bill be passed.



Michael Berkman MP