

25 June 2024

Select Committee on the Residential Tenancies Amendment (Prohibiting No Grounds Eviction) Bill 2024

Legislative Assembly

Parliament of New South Wales

Parliament House

Macquarie Street

Sydney, NSW 2000

Delivered by email to: [nogroundsevictionsbill@parliament.nsw.gov.au](mailto:nogroundsevictionsbill@parliament.nsw.gov.au)

Dear Select Committee

## Ending no grounds evictions in NSW

People with Disability Australia (PWDA) welcomes this opportunity to provide feedback on the **Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024 (the Bill)**.

PWDA is Australia's peak cross-disability Disability Representative Organisation and is funded to provide cross-disability systemic advocacy on behalf of people with disability in New South Wales under the Department of Communities and Justice's *Disability Advocacy Futures Program*. Nationally 4.4 million Australians have a disability, approximately 18% of the population.<sup>1</sup> In NSW 1,346,200 individuals have a disability, representing 16.9% of all NSW residents.<sup>2</sup>

<sup>1</sup> Australian Institute of Health and Welfare, 2024, *People with Disability in Australia 2024*. Accessed 18 June 2024 <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/about>; Australian Bureau of Statistics, 2019, *Disability, Ageing and Carers, Australia: Summary of Findings*. Accessed 18 June 2024 <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release#disability>.

<sup>2</sup> Australian Bureau of Statistics (n 1).

People with disability experience discrimination and poorer life outcomes across all life domains when compared with those without disability.<sup>3</sup> For example, people with disability are at greater risk of becoming homeless as they receive lower incomes and have less engagement with the private housing market when compared with those without disability.<sup>4</sup>

People with disability may also have specific housing and support needs. Houses are often not designed to be accessible and can be difficult and expensive to adapt to suit individual accessibility requirements. Finding a home that is accessible is a particular challenge facing people with disability seeking to rent in the private market.<sup>5</sup> This cannot be done quickly. There is an acute need in NSW for an increase in the supply of affordable housing that is constructed to comply with accessibility standards.<sup>6</sup> This is why PWDA is advocating for the NSW government, through our Building Better Homes campaign, to sign onto the livability standards within the National Construction Code, to deliver more accessible homes to those who need it.

We note that the National Disability Insurance Scheme (NDIS) does not include rental support in the private market, and the NDIS itself does not provide housing except for the extremely limited number of people with disability eligible for Specialist Disability Accommodation (SDA).

Uncertainty about eviction creates significant psychological and emotional harm amongst renters.<sup>7</sup> People with disability are especially vulnerable to exploitation and require a high degree of stability in their housing.

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<sup>3</sup> Kayess, R and Sands, T, 2020. *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre; Australian Bureau of Statistics, 2019, *Disability, Ageing and Carers, Australia: Summary of Findings*. Accessed 19 June 2024. <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release#disability>; Australian Institute of Health and Welfare (n 1).

<sup>4</sup> Australian Institute of Health and Welfare (n 1).

<sup>5</sup> See e.g., Maryam, G, Murphy, C, Valenta, L, Bertram, N and Maxwell, D, 2021, *Adaptable Housing for People with Disability in Australia: A Scoping Study*. Sydney. Australian Human Rights Commission, Sydney. <https://humanrights.gov.au/our-work/disability-rights/publications/adaptable-housing-people-disability-australia-scoping-study>

<sup>6</sup> See e.g., Ibid; *The National Construction Code 2022; Disability (Access to premises – Buildings) Standards 2010* (Cth).

<sup>7</sup> Tenants' Union of NSW, 2024. *A Constant Worry. Renters confront the impact of unfair evictions* (April 2024). Accessed 19 June 2024. <https://www.tenants.org.au/reports/constant-worry#:~:text=It%20draws%20on%20and%20centres,persistent%20threat%20throughout%20their%20tenancy>.

# The provisions of the Bill

## Clauses 84 and 85

Consistent with recommendations made by the Tenants' Union of NSW,<sup>8</sup> PWDA believes no-grounds evictions should be abolished for all NSW renters for periodic *and* fixed-term leases. Such a measure would provide some certainty and protection to those most vulnerable in our community, including people with disability. PWDA supports clauses 84 and 85 of this Bill to amend the *Residential Tenancies Act 2010* (NSW) to abolish no grounds evictions for fixed *and* periodic leases.

We note research has found that in other Australian jurisdictions where no grounds eviction protections have only been applied to periodic leases and not all fixed term leases, landlords have found new ways to exploit renters through loopholes to ensure that they continue to exert significant control, in most cases making the rental situation worse.<sup>9</sup>

Thus, all renters must be provided with a valid reason for ending a periodic *or* fixed term lease to provide proper protection.

## The grounds for which an eviction is reasonable

We agree with the Tenants' Union of NSW that 'reasonable grounds for termination should be based on the principle that a tenancy terminated for 'no fault' should only occur where the landlord genuinely no longer intends to rent the property in the private rental market.'<sup>10</sup>

PWDA believes the grounds for termination provided in clauses 84(1)(a)-(d) and 85(1)(a)-(d) of this Bill strike the proper balance for all parties. PWDA believes that clause 85A adding a penalty to landlords who provide a false reason for eviction is appropriate considering the importance of housing to community wellbeing and the significant power imbalances that currently exist between landlords and tenants.

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<sup>8</sup> Tenants' Union of NSW, 2024. *Ending no-grounds evictions for all NSW renters: briefings*. Accessed 20 June 2024. <https://www.tenants.org.au/reports/ending-no-grounds-evictions-all-nsw-renters-briefings>

<sup>9</sup> Tenants' Union of NSW, 2024. *Ending no-grounds evictions for all NSW renters: briefings*. Accessed 20 June 2024. <https://www.tenants.org.au/reports/ending-no-grounds-evictions-all-nsw-renters-briefings>

<sup>10</sup> Tenants' Union of NSW, 2024. *Ending 'no grounds' evictions in NSW. Tenants' Union of NSW Briefing* (January 2024). Accessed 20 June 2024. <https://files.tenants.org.au/policy/2401-Reasonable-grounds-reforms-TUNSW-briefing.pdf>

## Notice period for eviction

PWDA supports the notice period for periodic *and* fixed term lease termination of 90 days. However, we submit that this still may not be sufficient in all cases for people with disability and as such does not fully recognise diversity and fundamental human rights.

For example, people with disability may have specific needs related to housing, such as a disability-related need to live in a specific location. They may need to live near informal supporters such as family members, friends, and other informal care givers. They may also need to live close to certain service providers, or to other forms of social and community support that they require to live independently in the community. People with disability tend to be on fixed incomes (for example, as a recipient of the disability support pension) and therefore, may also have a specific budget. Therefore, finding housing in a specific location for disability-related reasons generally takes longer than a general search a person without disability would undertake.

Furthermore, some people with disability may require modifications to their housing to make it accessible. It can take a significant period to find suitable accommodation with existing modifications, or to have modifications carried out to new premises prior to moving in. The costs can also be prohibitive. Critically, any home modification in the private rental market requires the approval of the landlord. A landlord may not want to allow modifications for various financial reasons. While there are some protections - a landlord cannot unreasonably refuse a minor modification during the tenancy<sup>11</sup> - these are insufficient and provide little certainty, particularly before entering an agreement. The need to make modifications may be a reason a landlord refuses a tenancy application causing further delay in finding a home. This should be reviewed.

## Consequences on housing affordability and availability

In 2022 the Australian Housing and Urban Research Institute (AHURI) released the report *Regulation of residential tenancies and impacts on investment*.<sup>12</sup> It examined the impact of rental law regulation on landlord market participation. This included the effect of changes

<sup>11</sup> *Residential Tenancies Act 2010 (NSW)*, s 66(2).

<sup>12</sup> Martin, C, Hulse, K, Ghasri, M, Ralston, L, Crommelin, L, Goodall, Z., Parkinson, S, and O'Brien Webb, E. 2022. *Regulation of residential tenancies and impacts on investment*, AHURI Final Report No. 391. Accessed 20 June 2024.

<https://www.ahuri.edu.au/sites/default/files/documents/2022-11/AHURI-Final-Report-391-Regulation-of-residential-tenancies-and-impacts-on-investment.pdf>; AHURI 2022. *News: Improving tenancy laws hasn't stopped rental investment*. Accessed 20 June 2024 <https://www.ahuri.edu.au/analysis/news/improving-tenancy-laws-hasnt-stopped-rental-investment>

in NSW and Victorian tenancy laws, including the Victorian reforms that removed no reason evictions.

The Report analysis found that Australian residential tenancy law reform, far from leading to disinvestment and an exiting of the market, accommodated - 'even facilitated,' the long-term growth of the private rental sector.<sup>13</sup>

If you wish to discuss this letter, please contact Mr Julian Laurens, Senior Policy Officer at [julianl@pwd.org.au](mailto:julianl@pwd.org.au) or via telephone on 0490 534 059.

Yours sincerely

Joanne Yates  
NSW Senior Manager  
People with Disability Australia

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<sup>13</sup> ibid.