



# Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

---

*Systems and Legal Advocacy for vulnerable people with Disability*

30 Nov 2018

The Honourable Mick de Brenni

PO Box 2457  
BRISBANE QLD 4001

Dear Minister

Please accept our submission to the Opening Doors to Renting Reform consultation.

Yours sincerely,

Michelle O'Flynn, Director

**Ph (07) 3844 4200 or 1300 130 582 Fax (07) 3844 4220 Email [qai@qai.org.au](mailto:qai@qai.org.au) Web [www.qai.org.au](http://www.qai.org.au)**

2nd Floor, South Central, 43 Peel Street, STH BRISBANE QLD 4101

QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honourable Paul de Jersey AC

## **About QAI**

Queensland Advocacy Incorporated (QAI) is a member-driven and non-profit advocacy NGO for people with disability. Our mission is to promote, protect and defend through advocacy, the fundamental needs, rights and lives of the most vulnerable people with disability in Queensland.

Our Human Rights and Mental Health services offer legal advice and representation in guardianship, administration and mental health matters. Our Justice Support and NDIS Appeals programs provide non-legal advice and support to people with disability in the criminal justice system and to participants in NDIS Appeals. This individual advocacy informs our campaigns at state and federal levels for changes in attitudes, laws and policies, and it assists us to understand the challenges, needs and concerns of people who are the focus of this submission.

QAI's constitution holds that every person is unique and valuable, and diversity is intrinsic to community. People with disability comprise the majority of our Board and their lived experience of disability is our foundation and guide.

## Recommendations

- Lessors must provide a statutorily mandated reason to end a tenancy.
- Prohibit the use of 'end of fixed term' notices to leave except for statutorily mandated reasons.
- Prohibit false, misleading or deceptive representations by lessors or agents.
- Stipulate pre-contractual disclosure of-
  - plans to sell
  - asbestos.
- Limit bond maximum to four weeks' rent.
- Limit rent increases to no more than one per year.
- Pets less unwelcome in rental properties.
- No additional bond should be required or permitted, should the tenant keep a pet.
- Extend the jurisdiction of the Housing Appeals and Review Unit (HARU) to include community housing tenants.
- Social and affordable housing providers should be required to give their tenants grounds for all evictions.
- Extend the administrative appeals process to community housing tenants.
- Termination clauses inserted into RTRAA in 2013 that target social and affordable housing tenants are onerous and unnecessary and should be removed.
- Remove the provisions that separate the termination provisions for social housing tenants from those in the private rental market and extend responsibilities for social housing tenants. In particular, remove section 290A which unreasonably extends responsibilities to social housing tenants and reverses the onus.

- Remove the anti-social behaviour agreements (at s 527D) from the legislation. They are a form of indirect discrimination, in effect, if not in law, against tenants whose behaviour is a result of their disability.
- Where a tenant has since rectified arrears in full, a Warrant of Possession issued for rent arrears should be withdrawn.
- Remove provisions for immediate eviction and self-eviction in rooming house premises.
- A disputed rooming house eviction must be settled by the Tribunal.
- Extend the grounds for a tenant to end a tenancy agreement early.
- Tenants should be able to end a fixed term agreement with the prescribed notice of two weeks' if the premises are put on the market or entry is made to show prospective purchasers during a fixed term agreement.
- Tenancy agreements should not be able to unreasonably limit the number of people who can occupy premises.
- The assumption in tenancy agreements should be that renters are able to keep pets as long as they are not in breach of any law or by-law.

## Contents

Recommendations.....	3
Introduction .....	6
Length of Leases.....	10
Termination by Tenant.....	11
Termination by Lessor .....	11
Eviction for Rent Arrears .....	13
Eviction in Rooming Accommodation.....	13
Social Housing Terminations .....	14
Administrative Appeals .....	15
Early termination without compensation to lessor .....	15
Premises goes on the market .....	15
Disclosure of key material facts about tenancies .....	16
Removing unreasonable restrictions in tenancy agreements .....	17
Terms restricting pets and assistance animals .....	17
Bonds.....	18
Fairer rent and rent increase provisions.....	19
Minimum Standards.....	20
Home Modifications .....	21
Coverage.....	21

## Introduction

A significant proportion of residential tenants in Queensland are people with disability and this must frame the state government's approach to tenancy law: 18.3% of the Queensland population or just less than 1 in every 5 Queenslanders has a disability,<sup>1</sup> and the vast majority of people with disability live in households (95.5%).<sup>2</sup> Households where a disability is present are less likely to be home purchasers and more likely to be tenants.<sup>3</sup>

---

*42 per cent [of respondents] reported that health or disability concerns had played a very important role in shaping their lifetime housing decisions. This represents a significant minority of households and the rate of disability is expected to grow as the population ages.<sup>4</sup>*

---

The Australian Government, and, through our federal arrangements, Queensland, must take steps to enable people with disabilities to live independently and participate fully in all aspects of life, including measures to ensure people with disabilities can access housing on an equal basis with others.<sup>5</sup> Recent surveys show that many people with disability aspire to live in the community with friends and peers and where they have autonomy, but people with disability experience substantial barriers in finding a place to live. More than 32 per cent of submissions to the National Disability Strategy consultation identified difficulties with housing and accommodation, including a lack of support for people in private dwellings (owned or rented) and in a range of publicly funded models of accommodation.<sup>6</sup>

---

<sup>1</sup> An estimated 261,300 Queenslanders of all ages have a profound or severe disability. People with a profound or severe disability require assistance in everyday activities, including core activities such as self-care, mobility and communication. 2015 Survey of Disability, Ageing and Carers (SDAC) (ABS 4430.0 2015)

<sup>2</sup> with the other 4.5% living in cared accommodation such as hospitals, nursing homes and aged care hostels. For those with profound limitation, almost one in four (23.5%) lived in cared accommodation.

<sup>3</sup> Australian Housing and Urban Research Institute. 2009. Research and Policy Bulletin, no. 107: 'The housing careers of people with disability and their carers' 2009, p. 1.

<sup>4</sup> Australian Housing and Urban Research Institute. 2009. Research and Policy Bulletin, no. 107: 'The housing careers of people with disability and their carers'

<sup>5</sup> Article 9, the *Convention on the Rights of Persons with Disabilities*.

<sup>6</sup> National people with Disabilities and Carer Council, 2009, *Shut Out*. p. 28.

The National Disability Insurance Scheme (NDIS) means that many people with disability will be able to exercise more choice and control around housing, but the Scheme itself does not provide housing except to a small minority of people who because of the nature of their disabilities are not able to access housing in the mainstream market. The Disability Support Pension is still the default income for many people with disability, and their only means to get into housing. The pension alone is far from sufficient income to secure a mortgage, so purchasing a home is not a realistic option for the majority of people with disability.

For the same reason, people with disability who rent are at a disadvantage. The 2016 Rental Affordability snapshot found that just 0.5% of rental properties advertised on the weekend of April 2 and 3 were affordable for single people living on a Disability Support Pension anywhere in Australia. On that weekend, not one rental property was affordable for a DSP recipient in Brisbane.<sup>7</sup>

---

*0.1% of properties affordable for singles on a Disability Support Pension. To put that into perspective, that is just 5 of the 57,307 properties advertised in every Australian city, assuming they were even accessible.<sup>8</sup>*

---

Many people with disability have what are known as 'complex needs', a label that encompasses combinations of intellectual, sensory, physical and psycho-social disabilities, together with addictions, involvement in the psychiatric and criminal justice systems, marginal attachment to the labor force and problems finding and maintaining housing, cycling between institutions, rough sleeping, boarding houses, hostels and other forms of rental accommodation. People with complex needs experience greater homelessness and housing disadvantage than people with only one diagnosis, or none; have higher rates of police contact, higher rates of episodes of custody, and lower average days in custody. Some receive housing assistance, but many are evicted due to imprisonment and re-imprisonment.

---

<sup>7</sup> Anglicare. 2016. Rental Affordability Snapshot.

<sup>8</sup> Anglicare. 2016. Rental Affordability Snapshot.

Indigenous women with complex needs are significantly more likely to experience homelessness, have higher police contacts and higher episodes of custody than any other group. Many in this group with complex needs may never have lived in or had housing in mainstream community settings and may have, from an early age, have been cycling in a liminal marginal physical and personal space connected with social control agencies. Tenancies in social housing are an option for a few, but they primarily provide a pathway out of homelessness.

The Supported Accommodation Assistance Program (SAAP), for example, provides support to people who are homeless or at risk of being homeless, including transitional supported accommodation and other support services designed to help clients achieve a high level of self-reliance and independence, and many reduce housing stress with rental assistance provided through the Commonwealth Rent Assistance Program. Housing outcomes improve after receiving support, but SAAP clients with disabilities consistently are less likely to enter private rental and more likely to be revert to living in a car, tent, park, street or squat both before and after receiving SAAP assistance.<sup>9</sup>

---

*Seventy-one per cent of people with psychiatric disability rent their homes—often from a social housing landlord. Forty per cent of this group had moved five times or more over the past decade, compared with 20 per cent of households unaffected by disability.<sup>10</sup>*

---

Housing options for people with a disability have become increasingly restricted due to the reduced availability of public and private rental housing, the high cost of relocation, limited earning capacity and general housing inflation. Among sensory-impaired persons, for example, 80 per cent of those who were renting had fallen out of home ownership because of the

---

<sup>9</sup> AIHW media release, 11 Feb 2005, 'Report on homelessness compares those with and without a disability' <<https://www.aihw.gov.au/news-media/media-releases/2005/feb/report-on-homelessness-compares-those-with-and-wit>>

<sup>10</sup> Professor Andrew Beer and Dr Debbie Faulkner of the AHURI Southern Research Centre. 2009. 'The housing careers of people with disabilities and their carers'.

difficulty of meeting mortgage payments.<sup>11</sup> Social housing has become a default option for people with psychiatric and intellectual disabilities.

In Queensland, eligibility criteria have been tightened and the profile of social housing tenants is changing from that of a low income earner to a low income earner who experiences other disadvantages that make accessing or maintaining housing in the private sector difficult. The flow-on effect of these policies has been an increase in the concentration of disadvantage in the social and affordable housing sector.

Examples include the big social housing complexes in Kelvin Grove, Albion, and Fortitude Valley near Brisbane's CBD, owned by the Brisbane Housing Company (BHC) and managed by BHC or other social housing lessors. Complexes such as these are another form of congregate care, the 'ghettoization' of disability into often modern, even award-winning enclaves, but ones that cut people off from mainstream community.

Housing management practices in this context are mixed: some are respectful and effective in sustaining tenancies; others place unfair burdens on social housing tenants that in some cases, lead to homelessness. Social housing providers will use 'special behaviour agreements', for example, to deal with disputes about behaviour. They can lead to the eviction of families and households, creating profound hardship, including homelessness, and cycling through the welfare and justice systems.

People with disability face physical barriers, too. Most residential dwellings, for example, are not accessible to people with mobility impairments, particularly to people who use wheelchairs. The greater the take up of universal design features, the more open the community is to people with disability. It provides people with greater choice about where to live, and more social opportunities for visiting friends and family, but house designs commonly do not allow building structure to change without significant expense, and tenants cannot make alterations or attach fittings without first getting the lessor's permission.

There is more to access than dwelling design. The ability to move around the community underpins all aspects of life for people with disability and is essential to education, skilling, employment, entertainment, and to the enjoyment of rights. In order to move freely around the community, people with disability need access to private and public transport through modified

---

<sup>11</sup> Australian Housing and Urban Research Institute. 2009. Research and Policy Bulletin, no. 107: 'The housing careers of people with disability and their carers' 2009

motor vehicles and accessible parking, but people with disability are often still unable to make use of footpaths, cycle paths and local roads as many of these have not been designed to be fully accessible. A continuous accessible path of travel for people with disability needs to connect public transport nodes with local services and accessible housing.

Accessibility, too, means different things according to the support needs of different people. Having space from neighbours, or proximity, having gardens and nearby safe park areas for walking and exercise, safe streets away from busy traffic areas, and accessible safe crossings for people with multiple sensory impairments are important to people with disability whose support needs may be determining factors regarding where they live and the type of dwelling.

**QAI provides the following specific comments on rental reform.**

**Length of Leases**

Real estate industry practice in Queensland is to offer short (6 – 12 months) residential lease agreements. The commercial average is longer (3 – 5 years).

The lessor tradition of offering short leases in Queensland may be linked to the perception that rental accommodation is a stepping-stone to home ownership. If this was so, it is no longer: according to the *Domain Property Research Report, 2015*<sup>12</sup> 36 per cent of Queensland residents over 18 are renting and 47 per cent of Queenslanders believe owning their own home is no longer attainable. For many Queenslanders, particularly those subsisting on the Disability Support Pension, renting is the only option, and always will be.

A succession of short agreements amounts to a *de facto* form of ‘periodic’ tenancy, and one that lessors can terminate without ground i.e. for no stated reason. The statutorily-mandated balance of contractual power tips too far in lessors’ favour. Tenants who rent as a stepping-stone to ownership may prefer the shorter agreements. Balancing the interests of ‘stepping-stone’ and lifelong tenants with the interests of lessors warrants no minimum duration of

---

<sup>12</sup> 2015.

agreements and more security for tenants at the end of leases. To protect that security, the Act should provide that lessor's only can terminate on grounds expressly set out in the Act.

### Termination by Tenant

People with disabilities who have complex needs have higher rates of terminations/evictions. According to one study, 42% of evictions were due to incarceration or re-incarceration.<sup>13</sup> An incarcerated person cannot seek a QCAT termination order from prison.<sup>14</sup> There needs to be a streamlined process to enable incarcerated people to terminate fixed term agreements without having to pay unreasonable costs, and without the risk of listing on a tenancy database.

The same applies to people who are the subject of domestic violence, provided that they can provide reasonable evidence.

### Termination by Lessor

Lessors must give a reason to end a tenancy, and the range of possible reasons should be set out in the legislation. This may seem unnecessarily prescriptive, but for tenants, the lessor's statutory entitlement to end a tenancy 'without ground' is the key to almost every other aspect of the contractual relationship.

The lessor's right to terminate without ground inhibits tenants from asserting their other contractual and statutory rights. Tenants will not insist on repairs, for example, because they know that a lessor can terminate 'without ground', when the actual reason is that the termination is for being an inconvenience and costing the lessor time and money. Tenants overlook unlawful intrusions on their privacy for the same reason.

---

<sup>13</sup> Eileen Baldry, Leanne Dowse and Melissa Clarence. 2012. 'People with mental and cognitive disabilities: pathways into prison' Background Paper for Outlaws to Inclusion Conference, February 2012.

<sup>14</sup> Eileen Baldry, Leanne Dowse and Melissa Clarence. 2012. 'People with mental and cognitive disabilities: pathways into prison' Background Paper for Outlaws to Inclusion Conference, February 2012.

The advantage that 'without ground' termination gives the lessor in a periodic agreement is likewise available to the lessor at the end of an agreement for a fixed term. The legislation should limit the use of the 'end of fixed term' notices to vacate.

The current ability to issue a 'without ground' notice to a tenant should be removed and replaced with the following with ground notices:

- The lessor requires the property for their own use or for the use of a member of their immediate family as a principle place of residence for a minimum of 12 months.
- Another purpose for which the premises cannot continue to be used as residential premises for a minimum of six months.

These grounds would not be effective during a fixed term agreement and three months' notice should be required on these termination notices.

A member of the lessor's immediate family should be described as:

- a) The owner's domestic partner, child or parent; or
- b) A parent of the owner's domestic partner; or
- c) Another person who ordinarily resides with the owner and is substantially dependent on the owner.

At all times, tenancies should only be terminated against tenant's wishes where:

- There are grounds as prescribed by residential tenancies legislation;
- When appropriate notice is given; and,
- In the case of a dispute, a Tribunal or Court determines that in all the circumstances of the case it is appropriate to end the tenancy. It should not fall to the tenant to apply to the Tribunal to stop a termination from proceeding.

The notice period for termination of tenancies should be congruent with the urgency (or otherwise) of the related ground for termination.

## Eviction for Rent Arrears

Recent reforms to provisions around rent arrears in this country and in Europe save tenancies and prevent homelessness. They delay evictions for rent arrears and link tenants to payment plans and assistance. In the Netherlands, lessors cannot evict if the tenant is participating in a debt assistance program.

New South Wales tenancy laws prevent the enforcement of a Warrant of Possession if the tenant rectifies the arrears before the bailiff takes possession. The provision benefits both the lessor and tenant. The tenant does not have to decide whether to pay the rent or keep the monies they have for an inevitable move and the lessor receives the rent and avoids vacancy and additional agency costs.

## Eviction in Rooming Accommodation

The provisions for immediate eviction and self-eviction should be removed. Disputed evictions take place only when the Tribunal has heard the matter and issued a termination order.

For those in rooming accommodation the concerns regarding current eviction processes are even greater than general tenancies. The existing provisions, which allow for the housing provider to self-evict residents without due process or a tribunal order (s375), as well as immediately evict residents (s370), leave these renters in a particularly precarious housing situation.

The industry previously argued that such provisions are justified to protect other residents. TQ, however, draws attention to the range of existing laws that adequately deal with incidents involving residents in rooming accommodation, as they do with other kinds of domestic incidents. For this reason, QAI recommends that the provisions for immediate eviction and self-eviction are removed, and that all disputed evictions take place only when the Tribunal has heard the matter and issued a termination order. To put this into effect, for allegations of serious breaches, a short exclusion time might exist in order for the matter to be heard in the tribunal. This occurs in Victoria.

## Social Housing Terminations

The *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013* extended sections applying to public housing to the community housing sector, separating termination provisions for social housing tenants from those in the private rental market, and extending responsibilities for social housing tenants. These provisions should be withdrawn, and in particular, s 290A which unreasonably extends responsibilities to social housing tenants and reinstates the presumption of innocence removed by s 290A.

Section 290A includes:

- The extension of responsibilities for social housing tenants to adjoining properties, including the actions of their guests on those properties.
- The ability of the housing provider to give a Notice to Leave for a 'serious breach' without first giving a Notice to Remedy Breach.
- The ability of the housing provider to give the Notice to Leave for a 'serious breach' if they have [subsection (3)] *'a reasonable belief that premises or property has been used for an illegal activity whether or not anyone has been convicted or found guilty of an offence in relation to the activity.'*

Concerns over s349A:

- Removes the discretionary powers of the Tribunal.

We recommend the removal of the anti-social behaviour agreements (at s527D) from the legislation. The inclusion of such provisions is a form of indirect discrimination, in effect, if not in law, against tenants whose behaviour is a result of their disability.

## Administrative Appeals

The Housing Appeals and Review Unit (HARU) can make binding decisions about public housing tenancies. Social housing tenants who want to contest decisions about their housing currently cannot access this administrative appeals process available to public housing tenants. This could be rectified through extension of the Housing Appeals and Review Unit (HARU's) jurisdiction to include community housing tenants.

## Early termination without compensation to lessor

There are circumstances where it is unreasonable for a tenant to be bound by a fixed term agreement, and in specified circumstances tenants should be able to end their agreement with 2 weeks' notice and no further liability. The lessor would be unable to seek compensation for the loss of rent beyond the notice period, or other costs associated with the termination of the tenancy.

Early termination by notice should apply when:

- a. The tenant has been offered and accepted accommodation in social or affordable housing;
- b. The tenant has accepted a place in an aged care facility or requires care in such a facility;
- c. The lessor has notified the tenant of their intention to sell the residential premises and this was not disclosed prior to the agreement being signed;
- d. The tenant is admitted to long term medical care (such as a mental health facility).

## Premises goes on the market

Tenants should be able to end a fixed term agreement with the prescribed notice of two weeks' if the premises are put on the market or entry is made to show prospective purchasers during a fixed term agreement. Tenants often find the experience of having their home put on the market distressing, with their 'quiet enjoyment' constantly imposed upon by prospective buyers. In

particular, where a secondary agent whose only interest is the sale of the property is involved, the sales strategy may be aggressive.

Whilst current laws allow a tenant to end the agreement if the property is placed on the market within two months' of the start of a new agreement. This right should extend throughout the contract, providing a fairer position for tenants to negotiate entries and protects against aggressive sales practices (particularly by secondary agents).

### Disclosure of key material facts about tenancies

The failure to provide key facts about premises often leaves tenants in an unhealthy or undesirable tenancy. They may also be stuck in a fixed term agreement, and if not, do not have the resources to move. The requirement to disclose material facts should include:

- a. A requirement not to make false misleading or deceptive representations about the property or concealing material facts of reasonable relevance to the tenancy;
- b. If there is a mortgage over the property, whether the mortgagee has given consent to the tenancy;
- c. Any proposal to sell the premises;
- d. Whether the lessor resides in close proximity;
- e. Whether there are any major urban developments approved in the area;
- f. The extent of any repairs and maintenance works undertaken at the property during the previous 24 months, and;
- g. Any other factors that may have a significant bearing on a household's enjoyment of the property were they to take up occupation.

## Removing unreasonable restrictions in tenancy agreements

Terms restricting the number of occupants who can reside at a property have caused problems for tenants and can affect rental affordability. There is no trigger in the Queensland tenancy legislation, but the RTA includes a question on their standard tenancy agreement (used by much of the Industry) about how many people may reside in the premises. This clause is sometimes used to restrict the number of people in the tenancy to a number less than the number of bedrooms, or affect the addition of a newborn baby.

Norms about how many people reside in the property are cultural and have changed over time in the Australian community. QAI believes that Queensland tenancy laws should merely limit numbers to that which is beyond reasonable.

This would allow families and households to determine the most effective use of their homes. Where lessors and tenants disagree as to the reasonable limits of a property's capacity, the matter should be referred to the Tribunal for determination.

Taking into account the amenity and available bedrooms, tenancy agreements should not be able to limit unreasonably the number of people who ordinarily can occupy a premises.

## Terms restricting pets and assistance animals

Such terms are included frequently in tenancy agreements and tenants have difficulty in finding premises that will accept pets. Often, the default position in a tenancy agreement is that pets are prohibited. The RTRAA makes no mention of pets, but the Residential Tenancies Authority's standard tenancy agreement has a question which asks if pets are allowed. The default response to the question appears to be 'no'.

Pets and assistance animals can provide a variety of support to alleviate the barriers people with disability experience in daily activities. Animals assist people who are blind or have low vision, but assistance animals can also provide support to other people with disabilities. For people who are Deaf or hard of hearing; people who require physical support for mobility or other functional tasks; people who are experience episodic and serious medical crisis (e.g. epilepsy, changes in blood pressure or blood sugar); and people who experience psychiatric

disorders such as Post-Traumatic Stress Disorder, anxiety, hallucinations, panic attacks or suicidal ideation, keeping a pet has enormous social and sometimes therapeutic benefit

Keeping pets should be a matter of personal choice and personal responsibility. People who rent should not be excluded from this choice. Owning or renting, adults should not be required to seek permission to keep a pet.

Tenants should be able to keep pets when there are no laws or by-laws prohibiting them from doing so. If the lessor has special circumstances for which they want to argue a pet exclusion, they should be required to argue this at QCAT (at periodic intervals) to prove special circumstances and receive a pet (or specific pet type exclusion order).

If a tenant damages the premises, whether caused by them, their pet, their child or otherwise, the tenant is already responsible for that damage and required to make good at the end of the tenancy or compensate the lessor. An additional bond should neither be required nor allowed in order for renters to keep pets. Tenants already have large amounts of money held in trust just in case they default at the end of the agreement and there is no evidence that a pet bond will encourage lessor to allow pets.

## Bonds

The current maximum bond is four weeks rent. This is appropriate and should be maintained. QAI does not support current provisions that allows increases in the bond payable (following rent increases) over the life of tenancies.

Given that the bond is the tenant's money, held in trust, the lessor should not be able to increase the amount of bond held simply because the tenant has been required to pay a higher rent. The continuation of a tenancy is itself an indication that the tenant has proven him or herself, and additional bond money should not therefore be necessary. The current maximum bond of four weeks rent is appropriate and should be maintained, however we do not support current provisions that allows increases in the bond payable (following rent increases) over the life of tenancies.

We note that during the financial year 2013-14, 22.5% of bond lodgments were 'top ups' due to rent increases (RTA, 2015). This creates administrative work for the RTA which could be avoided if bond top ups were not allowed.

Given that the bond is the tenant's money, held in trust, the lessor should not be able to increase the amount of bond held simply because the tenant has been required to pay a higher rent. The continuation of a tenancy is itself an indication that the tenant has proven him or herself, and additional bond money should not therefore be necessary. Bond increases are not permitted in some other states.

### Fairer rent and rent increase provisions

Without greater protection, some renters will continue to face opportunistic rent increases or those which are a *de facto* method of ending the agreement unreasonably and against the tenant's will.

At present, excessive rent increase applications require the tenant to prove the increase is excessive, primarily relying on a market price test and the tenant's ability to gather market information. Issues around rent increases are a common concern for our clients but few make an application about excessive increases, often weighing up concerns about the cost of moving (should they receive a without ground notice to leave in retaliation) verse the cost of staying even if they consider the increase unreasonable.

Safeguards would be improved by introducing a definition of 'excessive rent increase' within the Act, that being, 20% greater than the Consumer Price Index, a definition currently in place in the Australian Capital Territory. If a proposed rent increase is above that amount, if challenged by the tenant the lessors would be required to prove circumstances that make it fair to excessively increase the rent

The lack of notice of a rent increase when a subsequent lease is being offered on the property presents another difficulty for tenants (notice periods do not apply if you agree to contract to a new fixed term agreement). To mitigate, if an excessive rent increase is upheld under s71

Significant Change, the tenant must then be able to terminate the tenancy with notice but without liability.

### Minimum Standards

We draw your attention to the recommendations arising from the 2012 coronial inquiry into the death of infant Deifenbach who died when the deck of a rental property in Yeppoon gave way., The issues with the deck had been raised by the Deifenbachs as well as the previous tenants.

QAI supports the Coroner's recommendations including:

- I. The introduction of mandatory building and pest inspections before a property is rented and at subsequent regular intervals.
- II. The introduction of 3 yearly licensed inspections for all properties with a verandah, deck or balcony.
- III. The introduction of a maintenance and repair register to record requests by a tenant or agent during a tenancy and the lessor's instructions in respect of each item.
- IV. The adoption of a clear and uniform system for recording complaints made by a tenant to a real estate or lessor and timeframes for a lessor to respond.
- V. The provision of access to the above proposed registers and reports for tenants and prospective tenants on request.

Introducing a regime of regular, independent inspections by a qualified third party is an issue where the real estate industry and tenant advocates often agree, citing their lack of specialist building knowledge when conducting routine inspections of properties. Such a regime would be aimed at ensuring the property is safe and 'fit to live in' as required currently under tenancy law.

It would also provide much needed transparency and information for tenants to assist them to make better choices and strengthen their negotiating position with agents and stop the churn. Currently a tenant who insists on repairs may not have their tenancy renewed and once evicted, the issues are inherited by a subsequent tenant who has no way to know what issues have previously been raised.

## Home Modifications

Housing for people with disability is more than adding ramps and accessible features to the home. Whilst some people do require modifications this does not necessarily mean specialist equipment. It could mean something as simple as a lever tap or a rail. Costs associated with home modifications will be included in people's NDIS support packages if required; therefore, these costs would be covered by the individual and not by the lessor.

## Coverage

A particular focus of the upcoming reviews of tenancy law should be on providing appropriate coverage for boarders and lodgers (as opposed to rooming house residents) who are at present effectively without any accessible rights. The threshold of four rooms available for rent for coverage under the rooming accommodation provisions should be reduced to two. Alternatively, 'occupancy agreements' which apply to those otherwise not covered should be considered.

.....