



**RESPONSE OF  
THE TENANTS ADVICE SERVICE  
TO  
HOUSING STRATEGY WA  
DISCUSSION DRAFT**

**February 2006**

## **THE TENANTS ADVICE SERVICE INC.:**

The Tenants Advice Service (TAS) is the oldest specialist community legal centre in Western Australia and currently functions as a specialist community legal centre and as the central resource unit for the W.A. Tenancy Network. TAS provides a state-wide residential tenancy telephone advice service for tenants, advice and assistance for tenancy workers as well as education and training to people working with or assisting tenants.

TAS undertakes proactive lobbying for law and policy reform on residential tenancy matters, the provision of advice to Government on tenancy related matters and direct assistance to tenants where casework may result in policy and/or law reform.

## **INTRODUCTION:**

In considering the Discussion Draft of the Housing Strategy WA, the Tenants Advice Service (TAS) concludes that the document provides a set of highly laudable aims that, should they be achieved would offer some solutions to many of Western Australia's existing housing problems. However the Strategy makes many assumptions and in purporting to be a policy to solve the housing problems in the State for the next 25 to 30 years, it suggests it can foresee what these problems may be and how they can be solved. Furthermore the Strategy starts from an ethnocentric view of solving housing problems, suggesting all people with housing difficulties are similar. They are not and the diversity of people, even within single cultural or ethnic groups, needs to be acknowledged.

The document lacks detail on the projected cost of these strategies, lacks prioritization and specific detail as to how each strategy will be achieved. It is the belief of our organization that the overall costs of the proposals within the document are beyond the reach of the State's budgetary restraints and furthermore would take decades to implement. In the interim, the same housing problems facing Western Australia's population today will continue unabated and are likely to be exacerbated. TAS does not believe that the increasing involvement of the private sector in the development of low cost rental housing in the guise of ethical investment will benefit current or future Western Australian tenants. While TAS accepts that the private rental market will continue to provide accommodation to many low income tenants who do not meet the targeted eligibility criteria of public housing, it is not a policy path supported by this organization.

The concerns of TAS about the document's use of overall generalizations are further compounded by the frequent suggestion of undertaking further reviews of current programs. A number of the Strategies conclude that reviews will be undertaken within a period after the adoption of the Housing Strategy, leading to the likelihood of multiple reviews and reports being required before any positive action to improve the housing problems of tenants occurs. One such example is in assisting priority need households: whilst the document acknowledges that those with greatest need in our community must be given priority assistance, Strategy 5.1 offers only that the government will "consider strengthening the regulatory framework for rental housing to minimize discrimination". Whilst reviews of existing programs and policies are proposed, the Strategy provides no

such review of itself and this needs to be rectified. The Housing Strategy has a proposed lifespan of some 25 to 30 years which TAS believes requires regular review to ensure it maintains relevancy in the housing market of the day as well as ensuring it is meeting its objectives and aims.

The most significant issues raised in the Strategy for the Tenants Advice Service are the resourcing ramifications for the strategy, the apparent downgrading of the delivery of government supported housing, and the failure to provide any consideration of increased consumer protection for tenants despite the increasing reliance on private investment in the provision of low income rental housing.

The significance of accessing sufficient funding to meet identified housing demands in Western Australia is clear. Given the vast current demands on the budget illustrated by existing waiting lists as well as the various aims of the strategy including the identified necessity for support for high needs tenants, the cost of the proposed private rental incentives and the plan to build more housing to meet Indigenous needs, it is highly feasible that the housing budget will require a two- or three-fold increase to achieve these strategies. The current view expressed by people experienced in the housing field and given forum during the 2005 Housing Conference in Perth is that the possibility of any increase to the 2008 Commonwealth State Housing Agreement (CSHA) is minimal. With this in mind resourcing the proposed objectives and strategies should be considered a primary overarching strategy of the document and given priority.

The Housing Strategy appears to support the downgrading of government supported housing rather than working to develop it as a tenure that can grow to meet the demand of society for low cost housing with access to associated support services. This is illustrated both in the overall policy of encouraging and promoting private investment through financial incentive and by the placement of government supported housing and supporting priority need as Strategic Areas 4 and 5 of a 5 Strategic Area document. The document focuses on merely sustaining the current stock of public housing while placing a significant reliance on private investment to develop rental accommodation to meet this expanding market for low cost housing. In failing to promote government as the main provider of social housing in the community the document suggests the government is seeking to abrogate its social responsibilities rather than embrace them.

While TAS acknowledges that the *Residential Tenancies Act* is under review, tenants must be ensured greater rights to protect themselves and their families when in private rental as this tenure is now becoming the tenure of necessity for many and will remain so for many years.

Community housing tenants must also be extended greater consumer protection if the government intends to invest more funds into this sector as a viable alternative to public housing. Unlike tenants in public housing, community housing tenants have no right of appeal against decisions made against them. This area will need to be rectified if this tenure is to be developed further. Additionally, TAS believes the community housing sector requires regulation to ensure the rights of the tenants are best served by the

operation of this tenure. This could be achieved through the development of an independent governing body, implementation of existing National Standards or increased development of the WA Code of Practice.

TAS is concerned by the document's neglect of three significant housing tenures for low income people – boarding and lodging houses, long-stay residential parks and Indigenous community housing. All three tenures are discussed in greater detail within the body of our response, but it is important to draw the attention of the government to the valuable source of accommodation offered to specific sections of our community by these tenures. As such they should be included within any policy document that purports to deal with the housing future of the Western Australian community.

## **GUIDING THE SYSTEM:**

The Tenants Advice Service provides the following comments on eight of the seventeen specific strategies outlined in Strategic Area 1: Guiding the System.

### ***Strategy 1.1 Housing Advisory Committee***

The Housing Advisory Committee appears to be a useful mechanism in advising the Minister for Housing and Works on housing policy and needs within the community and Tenants Advice Service would support the continuation of this Committee.

However a number of operational issues regarding the Homeswest Operational Standing Committee do need to be addressed to enhance this Committee's effectiveness. TAS would suggest that the following issues need to be considered:

- the terms of reference be upgraded to provide clarity in regard to its powers and relationship/interaction with Department of Housing and Works' Executive, the Minister responsible and the Housing Advisory Committee;
- the issue of membership to be addressed. For more than two years HOSC has had numerous vacancies and successive Ministers have failed to appoint additional members despite applications being received;
- a requirement for increased secretariat support to allow HOSC to take on a more active role.

### ***Strategy 1.2 Housing Strategy WA Unit***

TAS supports the proposal to establish and fund a Housing Strategy Unit in order to implement the Housing Strategy WA and to ensure progress is achieved and monitored. However it is TAS' opinion that this Unit should not operate within the Department of Housing and Works but rather at a distance to ensure sufficient independence is maintained between the two bodies and that it be directly answerable to the Minister.

### ***Strategy 1.3 Regional Housing Strategies***

The development of Regional Housing Strategies to address issues of supply and demand within various regional areas and to assist with implementing the Housing Strategy WA is supported by TAS. The organization is aware that many issues impacting on housing are peculiar to a particular area and cannot possibly be addressed by overarching policies with a one-size-fits-all application. These issues currently include supply of rental accommodation, affordability and maintenance in remote mining towns, tourism related pressures in south-west tourist towns including the sea change phenomenon causing significant price increases in popular seaside towns. There is similarly the requirement

that people living in all regional areas receive or have access to adequate service provision.

The government would be aware that very high housing costs particularly in mining areas such as Karratha and Kalgoorlie cause significant hardship for long term residents of these towns not earning the sometimes inflated salaries of those employed by the various resource companies. TAS is aware that the Government has, in Strategy 3.4, proposed that businesses currently or potentially involved in such areas will be required “to give adequate consideration to the housing needs of future employees as part of any State agreements that may be entered into” and comments on this Strategy are made in the section below. However Regional Housing Strategies would be able to work in harmony with other strategies to achieve the best possible result for residents of these towns.

The sea change phenomenon is placing increasing pressures on South West house prices and infrastructure and this problem has been considered in the paper written by Shelter WA, *But Where Will The Cleaner Live?* This research provides data and opinions from current residents of Busselton and Margaret River, which express concern about the declining affordability of housing in these two towns. For example in Busselton in 2001, 32% of renters fell below the income level required to affordably rent accommodation in the town, while in Augusta-Margaret River the figure was 38%.

Security of tenure for tenants in tourist locations such as Busselton, Dunsborough, and Margaret River is similarly highlighted as an area for considerable concern in Shelter’s paper. Research indicated that these tourist towns lose much of their rental accommodation to tourists and therefore accommodation is simply not available to local residents. During the summer months of high demand many local people renting accommodation, particularly those paying lower rents, are being forced to vacate premises for tourists as owners and landlords increase rents to take advantage of the tourist dollar.

A further problem to be acknowledged and included within government policy is that property in many regional areas is purchased as investment by wealthier households looking to use them as holiday properties or as rental investments. The owners do not contribute to the community nor do they put pressure on the councils, as rate payers, to provide appropriate infrastructure and services. Tenants or holidaymakers have little if any power to force councils and governments to provide amenities to better service these areas.

Accordingly due care must be given to the proposed Regional Housing Strategies to ensure that they acknowledge the realities of people living in newly established areas. Currently in Bunbury, for example, many households are being encouraged to move into new housing estates but these lack infrastructure and social services, essentially cutting people off from every day needs and assistance.

#### ***Strategy 1.4 Housing Officer/s***

TAS supports the suggested appointment of appropriately resourced housing officers in the Regional Development Commissions to assist in the implementation of the Regional Housing Strategies.

#### ***Strategy 1.6 Development of State Affordable Housing Policy***

The issue of affordability of housing for rental or purchase for many Western Australians is a critical issue which requires innovative approaches to providing solutions. The development of a State Affordable Housing Strategy as one way in which to assist low income households into affordable and appropriate long term housing is fully supported by TAS. Housing however is a dynamic entity which will change even while the Government is discussing and reviewing the Housing Strategy, therefore solutions need to be proactive and operate within relatively brief time frames.

TAS would suggest that the ‘relevant stakeholders’ proposed in the strategy include a strong mix of those groups currently involved in providing accommodation to low income households and who would be conversant on all the current issues affecting the provision of housing in this State. TAS would further recommend that the State Affordable Housing Policy take into consideration the findings of research documents such as the Equal Opportunity Commission’s Finding a Place report which provide proposed solutions to detailed and specific problems with different groups in our community.

#### ***Strategy 1.9 Measures to Better Match Households with Dwelling Type***

TAS believes that the government’s aim of achieving a better match of household size with dwelling size and type has the potential to assist many households in the property market. Currently there is a significant section of the community living in houses too large for their needs but unable or unwilling to move due to the costs and similarly a large number of families living in dwellings too small for their needs but unable to afford the cost of buying something bigger. We are aware that Homeswest is working to address the problems of both overcrowding and under-occupancy within its own properties.

While the overall intention is positive, the document fails to provide specific details of how this matching of household and dwelling size will be achieved. Rather it suggests possible scenarios. Until a specific path of action is given a change in housing mismatch cannot be foreseen in the near future. It also makes no mention of consideration being given to the cultural obligations of Indigenous and migrant families to provide accommodation to family members as required. Such obligations must be acknowledged in the policy and the proposed solution made clear.

Furthermore TAS would suggest that not only low-income households be targeted by this strategy but all households. We would contend that there are many mismatched households in WA, regardless of their income, and any incentive to encourage older couples to move out of the large family home, where appropriate and relevant, and into a more appropriately sized dwelling would benefit the entire community. However we would question whether it is appropriate for the government to be giving planning permission to the construction of larger and larger homes while the size of households is said to be falling. Is this not simply contributing to the problem at the source.

TAS would seek greater clarification from the government as to who will decide “better fit for each household” and how this better fit will be measured?

### ***Strategy 1.10 Review of New Living Program***

TAS agrees that the New Living Program requires a critical review of its operation and achievements to date. We have general concerns about the Program largely related to moving families from older more established suburbs with infrastructure to new fringe suburbs with limited infrastructure. Such a move is likely to result in social exclusion through particular problems such as increased transport costs, longer journeys to work or restricted ability to find work due to distances, difficulty accessing schools and health services. In turn social exclusion impacts on long term poverty and all the associated social problems poverty causes.

We can foresee similar problems arising from the development of new large-scale low cost affordable housing estates by private developers proposed in the Strategy as part of the solution to the housing crisis. In order to produce large-scale affordable accommodation these developments are likely to be in the outer suburbs of Perth, in areas similar to those being used as part of the New Living Program, and will undoubtedly experience similar problems being reviewed under Strategy 1.10.

We would encourage the involvement of relevant departments including the Department of Community Development as well as stakeholder groups including TAS, WACOSS and Shelter WA in the review.

### ***Strategy 1.12 Affordable and Sustainable House and Land Packages***

While this strategy is beyond the business scope of the Tenants Advice Service, the aim of improving design and structure of houses to ensure their longevity and sustainability would appear to be a fundamental issue worthy of significant emphasis. TAS is therefore supportive of this strategy aim.

**Recommended changes to the Strategy:**

- TAS recommends that the Housing Strategy outline suitable measures to increase the effectiveness of the HOSC as outlined in our response to Strategy 1.1;
- TAS supports the creation of a Housing Strategy WA Unit, as per our response to Strategy 1.2, but would seek to have it answerable directly to the Minister;
- Strategy 1.9 offers one path to possibly better meeting the housing needs of many people and to ensure the best possible outcome is achieved. TAS acknowledges that HOSC is working toward an amended policy for the under occupancy of Homeswest accommodation and believes that where better matching can be achieved without undue disruption of long term tenants then this should be aimed for. This should hopefully assist more households to be housed in shorter time periods;
- There is a recognized need for the New Living Program to be reviewed and TAS recommends that the Government ensures a range of stakeholders provide input to this process. In so doing the Government should be aware of similar problems arising from the rapid development of new affordable housing estates in the outer suburbs and the associated problems arising from a lack of access to infrastructure and services.

## **HOME OWNERSHIP**

The Tenants Advice Service provides the following comments on three of the five specific strategies outlined in Strategic Area 2: Home Ownership.

### ***Strategy 2.1 Providing Affordable Alternatives***

TAS supports the development of alternative opportunities for affordable home ownership through consultation with other appropriate Government departments, particularly where this can be achieved in a setting that provides a diverse mix of residents across residential areas. Such a social mix promotes social inclusion of all members of the community which proves beneficial to households in increasing their participation in the wider community. Home ownership offers a variety of benefits to households and where it is possible to assist households into this tenure without placing them in possible financial strain this should be actively investigated.

### ***Strategy 2.4 Product Innovation in the Housing and Finance Markets***

While TAS offers in-principle support for the creation of innovative measures to assist low income households into home ownership, one concern we hold is that the products do not place target groups under undue financial strain or lead to other related unintended outcomes, such as inflationary pressure on the market. There are many households who aspire to home ownership but whose financial circumstances mean this may not be feasible in the long term and these situations should be carefully screened. Additionally, encouraging more and more households into the home ownership market could see market prices rise and so further reduce affordability for other households.

Current measures may be made more accessible for many if mortgage assistance was made available to purchasers in the same way rent assistance is made available to low income private tenants. This scheme could offer both government assistance for new home buyers, but may also assist people already buying their homes who unexpectedly experience financial problems. A form of mortgage assistance could see many households remain in their home and continue to enjoy the long term financial and social benefits of home purchase rather than being forced to sell or have their home repossessed and ultimately have to start at the bottom of the housing ladder again.

### ***Strategy 2.5 Provide an Educational and Information Service for First Home Buyers***

TAS offers conditional support for the provision of information on home purchase to consumers through the 'Home Buyer' Magazine. It is important that first-time home buyers are made fully aware of all the financial liabilities associated with home purchase and the long-term financial impact of purchase on their lives. TAS therefore supports the strategy if the service is primarily educational and is not used as a sales platform. Further

to TAS' concern for first-time buyers overextending their finances solely to achieve home ownership, TAS suggests that one additional service is to objectively assess potential first home buyers' ability to meet their commitments as well as maintaining a reasonable lifestyle.

***Other current issues relevant to this Strategy:***

Park home ownership is a legitimate and increasingly popular form of tenure. As this is a combination of rental (land) and ownership (the portable home) it is discussed in the section responding to Strategic Area 3: Private Rental, however this form of ownership should not be overlooked by the Housing Strategy.

***Recommended changes to the Strategy:***

- In response to strategy 2.1 TAS recommends the inclusion of a requirement to work towards a demographic mix in residential areas that reflects the regional demographic profile of Western Australia;
- Whilst TAS offers its in-principle support for the provision of innovative housing and finance products as outlined in strategy 2.4, TAS would seek assurances that the strategies be tested for any unintended negative outcomes prior to implementation;
- Similarly TAS supports the provision of home purchase information to potential first-time buyers but suggest that it include a service to assist these households objectively forecast their financial situation before they commit to home purchase;
- TAS recommends that the strategy on home ownership is enlarged to include park home ownership with strong consumer protection mechanisms as a viable home ownership option.

## **PRIVATE RENTAL**

The Tenants Advice Service provides the following comments on four of the five specific strategies outlined in Strategic Area 3: Private Rental.

The two objectives for private rental, that of promoting and maintaining the private rental sector as a viable investment alternative and as a way of ensuring an adequate supply of low cost private rental accommodation is available in the State, suggest that the main thrust of the State Government's housing policy is to focus on this tenure as the main provider of housing to low income households. TAS is concerned that the Housing Strategy places too high an emphasis on the private sector as provider of accommodation both for home purchase and rental. In so doing it is being used to shoulder the government's responsibility for supplying affordable and appropriate housing to people on low incomes and/or with special needs. The role of the government has been, and should continue to be, to take responsibility for those in society needing added support and assistance to secure housing and to provide it.

### ***Strategy 3.1 Maintaining Private Rental as an Attractive Investment***

Whilst maintaining private rental as an attractive investment for small investors may be proposed as a strategy to develop the supply of affordable housing in the State, it highlights the inherent tension between the commercial needs of investors to make a profit and disadvantaged families needing to satisfy one of their most basic human rights, housing.

TAS does not support this strategy of encouraging private investment to increase the level of affordable private rental housing for numerous reasons. The traditional role of the post war government has been to provide accommodation to those in society unable to actively participate in society and unable to adequately and appropriately house themselves. Public housing has the potential to provide far greater benefits to its tenants than private rental can. While it does offer a secure and affordable tenure to those on low incomes or high needs, if the public housing is located in an area with strong social, economic and community infrastructure it offers tenants a starting point from which they can access a wide range of other social and health services vital to assisting them to remain in their homes. It is impossible to imagine how private rental will offer the same level of protection to clients who can require a high level of external assistance in their day to day lives. If the government continues to follow the path to greater reliance on private rental for housing low income and high needs households, it will need to ensure a clear policy of support structures is in place to support these households.

TAS strongly supports increased financial commitment by State and Commonwealth governments to increasing the stock of public rental available to those who require it. TAS believes housing low income and vulnerable people in society should be a social policy of government, not an issue of investment and financial return for individuals and groups.

All of the outlined housing strategies discuss the ways in which greater investment by individuals and groups in affordable private rental can be encouraged but not one discusses how the rights of vulnerable tenants can and will be protected against landlords seeking to make more from their investments.

A further issue of considerable concern for TAS is the inability of legislation to protect tenants against discrimination by landlords/owners as to who they will rent to. TAS believes that no form or quantity of legislation will guarantee that tenants will not face discrimination in the private market. This issue is dealt with in Strategy 5.1 of the Housing Strategy and further discussed in this response, however TAS reiterates its disquiet that while private investment in low cost rental housing is being strongly promoted, the government will be unable to ensure that this housing will be guaranteed to be rented to low income households who need it.

TAS' view is supported by data outlined in the Resource Paper of the 2004 National Summit on Housing Affordability in which it is stated that only around "40 per cent of households living in low rent stock actually have a low income"<sup>1</sup>. The relevant data shows a consistent pattern in both metropolitan and non-metropolitan areas of higher income households paying low rents tending to be aged under 35 years, headed by a couple and most likely to have two working adults in the household. This is not consistent with households on low incomes, often with children, in need of this low cost housing. The Resource Paper suggests this is the result of "estate agent/landlord gate-keeping" whereby they seek to minimize their risk of problems and rent loss by choosing employed tenants over ones "outside the paid workforce"<sup>2</sup>. TAS believes that private rental housing cannot be regulated to a point that discrimination will not become a factor influencing which households can access the tenure with greater ease than others.

Should the Government see fit to continue to encourage private rental as an attractive investment alternative, then TAS would argue strongly that investors be required to contribute to the Rental Accommodation Fund. Private investors make considerable use of the Magistrate's Court in relation to tenancy disputes yet, like Homeswest, do not contribute to the operation of the system. If investors are to profit from financial incentives for buying rental properties, they should contribute fairly to the operation of the system that settles tenancy disputes.

Private investors will furthermore seek to benefit from towns such as Kalgoorlie where large resource projects are creating a boom in rental prices. It has been estimated by the Goldfields Community Legal Centre that as many as 50 per cent of properties purchased in Kalgoorlie are by investors. While this does mean these will be available to rent, the prices being demanded due to the booming resource economy are beyond the scope for many. A house in Kalgoorlie worth \$300,000 is rented out for between \$250 and \$300

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<sup>1</sup> Powall, M & Withers, G, *National Summit on Housing Affordability Resource Paper Canberra 27-29 June 2004*, @ [www.housingsummit.org.au](http://www.housingsummit.org.au), p.17

<sup>2</sup> Powall, M & Withers, G, *National Summit on Housing Affordability Resource Paper Canberra 27-29 June 2004*, @ [www.housingsummit.org.au](http://www.housingsummit.org.au), p.17

per week, in excess of what a tenant would pay in Perth. Thus while the booming economy is good news for investors it is not so for tenants without employer subsidies or high incomes.

### ***Strategy 3.3 Facilitate the Numbers of Long Term Private Rental Leases***

The Tenants Advice Service agrees that it is important that tenants in the private rental market be given the same or similar security as offered to tenants in public housing where possible. While private rental tenants would benefit from the security of tenure offered by a lease for at least five years, they may similarly be unwilling to commit to a lease for such a term for fear of not being able to break the lease should problems arise between them and the landlord/agent. While TAS acknowledges the fact the *Residential Tenancies Act (1987)* is currently under review, the existing legislation is strict on how leases may be terminated. The tenant can seek to have the lease terminated early by mutual consent with the owner but is then faced with meeting the financial costs associated with early termination including possibly continue to pay rent on two homes until a new tenant is found, or, if the owner is in breach of the lease the tenant can apply to end the tenancy. In this case the breach must be proved and must justify the termination of the lease. For many tenants an early termination may result in debt, possible listing on tenancy databases and subsequent difficulties gaining a lease in the private sector.

The issue of extended leases has already been raised in New South Wales where, as part of the review of the New South Wales' *Residential Tenancies Act (1987)*, the government of that State has sought to introduce private rental market leases for up to a period of ten years as is common in many parts of Europe. The government has based its proposition on the fact that some 40% of private market tenants in New South Wales have lived in that tenure for more than ten years and that such long term leases would provide greater security to tenants while reducing the potential for landlords to lose rental income through regular changes in tenancies (*NSW surprises with long-lease idea*, The Australian Financial Review, Friday 8 July 2005 @ p.21).

In its submission in response to the review, the Tenants' Union of NSW (Tenants' Union of NSW, *Submission in Response to the NSW Office of Fair Trading Residential Tenancy Law Reform Options Paper*, August 2005) argued that although security of tenure is extremely important for tenants, reform of the law in relation to fixed term agreements has a very limited potential to increase this security and that law reform in relation to the circumstances in which tenancies may be terminated would offer greater security to tenants. Shelter NSW stated in its submission that a change to the introduction of more European-style long term leases in Australia will not be driven by legislation but rather by economic policies that lead to a change in the structure of the private rental market.

As with the Western Australia legislation, the *Residential Tenancies Act* of NSW does not discourage long term leases in the private market. According to the Tenants' Union of NSW the reason landlords seek shorter term leases is related directly to the property

market. A majority of private rental properties are owned by a landlord with one or two investment properties whose main aim is to realize capital gains through selling rather than any intention of making money on the rental income. Many investors seek to sell the property without a sitting tenant and may sell it to either another investor or an owner/occupier. This situation is similar to that of WA, where most private landlords own one or two investment properties as a short to medium term investment. It is the view of TAS that any attempt to legislate to force investors to retain the property for any significant length of time will be unproductive. Similarly long fixed term leases on private rental properties may discourage investors as they will be concerned about trying to sell the property with a sitting tenant holding such a lease.

TAS argues that whilst long term leases may grant tenants in private rental tenure security, they also place tenants at risk of financial problems in the long term and this needs to be taken into consideration by the government. While the issue of rent increases during a fixed term tenancy is a matter for each contract, where increases are included in the contract they are allowed to occur, at most, every 6 months<sup>3</sup>. Thus a tenant in a five year tenancy may face in excess of eight increases of rent during a five year lease. However if rents have increased dramatically due to increasing demand, as we are seeing presently and part of the reason for the need for this Housing Strategy, the rent increase may then place the tenant in financial stress as they cannot afford the increase. Similarly where the rent is increased on a fixed term tenancy, the bond may also be increased although this is allowed to occur only once every twelve months. However an increase in both rent and bond will possibly place the tenant in further financial difficulty. With the worst case scenario being considered, a tenant may still have four years still to run on their lease and little option but to struggle to continue to meet the rent, facing at the most an increase in another 6 months where the contract so allows. We believe that real security of tenure for private tenants could be offered by amending the Residential Tenancies Act to cap rental increases. Such restrictions on increases would allow tenants to better calculate the possible increases to be made during the life of the tenancy and accordingly calculate their budget, offering them peace of mind and greater security of tenure. Further amendment of the RTA to offer protection to tenants needing to break their lease for reasons beyond their control would similarly provide private tenants with a greater sense of security in their tenure.

For tenants waiting on Homeswest waiting lists, long term tenancies could be a double edged sword. While offering a sense of security, if offered a public housing property during their long term lease, many would be faced with the decision of taking the property yet meeting the costs of breaking a fixed term tenancy or refusing the public housing offer due to a lease and thus being ruled ineligible as they have secure tenure. The fact the tenant may have placed themselves in financial stress simply to gain the rental property would not be taken into account by Homeswest.

As is further discussed below regarding Supporting Priority Need, TAS urges the government to offer greater support to the many low income tenants within the private rental market through increased provision of SAS workers and related support services.

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<sup>3</sup> s.30(1)(b) *Residential Tenancies Act 1987*

Furthermore TAS would seek a change in the calculation of Commonwealth rent increase by the Commonwealth Government to better reflect the differences in rent costs around Australia rather than the reliance on a flat fixed equation.

Thus while tenants certainly seek security tenure, the many problems possible associated with such a lease need to be considered and allowed for in any subsequent policies.

### ***Strategy 3.4 Employer Provision of Housing***

TAS would fully support the requirement that businesses embarking on large resource development projects and other ventures likely to increase demand for housing in regional Western Australia be obliged to build sufficient accommodation for their employees. It is the opinion of TAS that the wording used in this strategy, “to give adequate consideration to the housing needs of future employees” is not satisfactory as it will not make housing provision mandatory, thereby failing to adequately address housing needs in such areas of the State. As will be seen from the situation in Port and South Hedland, Ravensthorpe and Kalgoorlie, discussed below, the Government will need to ensure many aspects of housing provision are taken into consideration when attempting to rectify this situation.

TAS would urge the government to require large resource developments to provide sufficient accommodation for their employees in remote areas where their presence will negatively impact upon the existing housing situation for residents. Housing in regional and remote areas of Western Australia is both scarce and very expensive. When resource development in one of these areas places increased demand on housing the prices are likely to increase accordingly and force many long term residents out of their rental properties. It similarly prices residents out of home purchase by inflating house prices beyond their financial means. However it is not simply the cost and availability of housing stock that is affected by these large resource projects, but issues that affect all aspects of life in these towns.

The situation in Port and South Hedland provides a vivid illustration of the problems facing towns in remote areas of the State influenced by large resource development projects. The housing market in Hedland is heavily influenced by the economic cycles of the mining industry and thus its housing requirements fluctuate, unlike that seen in towns not reliant directly on resource companies for employment. The result is accommodation characterized by very high prices, often poor maintenance, a lack of diverse housing stock, over crowding in cheap accommodation and yet under-occupancy in more expensive or industry-owned accommodation. Additionally, due to the incentives offered to these large resource companies by the State Government, local governments miss out on their proper share of rates which in turn impacts on the level of services they can then offer residents.

Accommodation in Hedland is either very expensive (\$750 per week or more) or less expensive, but with the lowest rent still starting at \$200 plus per week. For middle

income earners the only affordable housing option is employer sponsored housing but this is only available to either Government employees or those working for large resource companies. For those with no employer sponsored housing and earning between \$30,000 and \$60,000 per year affordable housing is very difficult to find and as a result such towns have difficulty attracting and keeping key workers such as dentists, shopkeepers and similar workers.

This shortage of housing for middle income earners places upward pressure on rents with prices increasing rapidly during economic boom times. Similarly high living costs add to the pressure on middle and low income earners in towns like Hedland, with air conditioning costs, water rates and shire rates all very expensive.

The shortage of housing for low income households leads to over crowding, particularly for Indigenous households, who live with family as they cannot afford anywhere of their own. Indigenous households are the dominant cultural group in regional and remote areas and the flow on effects of overcrowding create risks that impact on future housing options for Indigenous people. Such risks include debt and breaches of tenancy agreements leading to eviction, cultural separation and associated family problems.

While mining companies in Hedland already own many houses, the result of this ownership causes problems for those not employed by such companies or the Government. These issues need to be taken into consideration by the government when looking to resolve the overall housing problems in resource-based towns. Such issues include the high requirement for tradespeople in the industry which in turn increases the service prices charged by tradespeople and thus makes constructing and maintaining property for individuals very expensive. Secondly, mining companies lease out excess housing stock during economic downturns but when there is a boom they compete against Government and individuals for the limited private housing stock, causing fluctuations in the market. All of these leads to a difficult housing market for many within resource towns.

The BHP Billiton nickel operation in Ravensthorpe will see an estimated influx of more than 500 households into this town but the failure of the company to commit to building accommodation for their employees has led to a number of problems. Firstly it is suggested that the project has been delayed by this lack of accommodation, but further and more importantly for the long term residents of Ravensthorpe, it has led to an increase in rents, housing costs and living costs which many cannot afford. In turn such increases place strain on the community as a whole, forcing many to leave their homes for somewhere more affordable.

In Kalgoorlie many resource and other companies include housing as part of the employment package for their managers or hard to find employees. This housing is rented rather than owned by the company. To ensure they have a ready supply of accommodation for when it is needed, many of these companies rent the houses on an ongoing basis, and do not always have someone living in them. The result is that companies often pay premium rents to keep the properties, which in turn drive up the

general rents prices asked by investors. It also ties up properties for years, with many sitting empty while other people are desperate for housing.

### ***Strategy 3.5 Private Investment in Affordable Rental***

Benevolent private investors may exist but TAS cannot sensibly support the idea of relying on their existence as a strategy for long term housing provision as a part of the State's housing system. Has the Government undertaken a study of how many such investors exist and the extent of their proposed financial investment in low cost housing? Affordable housing provision is a serious problem for our State and we should not be hoping for a few kind-hearted private investors to solve all these problems.

#### ***Other current issues relevant to this Strategy:***

- **Boarder lodger legislation**

Tenants Advice Service has long held concerns about the lack of any form of consumer protection for occupants of boarding and lodging houses in Western Australia and this is heightened by the failure of the State Government's Housing Strategy WA Discussion Draft to include any reference to this housing tenure. Although the Housing Strategy WA " outlines a series of proposed strategies to ensure the State's future housing is affordable, sustainable, diverse and accessible to all people"<sup>4</sup> it has failed to consider the importance of boarding and lodging houses as a viable tenure for people on low incomes. In so doing it has failed to consider all housing tenures available, or potentially available, to meet the diverse needs of all of Western Australia's citizens.

The terms 'boarding house' and 'lodging house' are frequently used interchangeably in reference to premises offering either only rooms or rooms with other services. Lodging houses generally offer only a room whereas boarding houses offer a room in addition to other shared facilities such as kitchen and living area as well as the possibility of laundry services.

Boarding and lodging houses have traditionally been viewed as providing short term accommodation for low income residents however in the current climate of rising accommodation costs they are increasingly being used as long term housing options for many who cannot afford any other tenure. While the sector has in the past been used largely by transient males, it is now attracting a wider range of resident, particularly those on very low incomes. Boarding house residents are increasingly people suffering from physical, psychiatric and intellectual disabilities in receipt of extremely low government transfer payments and as such are in need of some form of consumer protection.

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<sup>4</sup> Department of Housing and Works, Housing Strategy WA Discussion Draft, October 2005, p6

Shelter WA survey data<sup>5</sup> showed that men remain the predominant sex within this housing tenure (of 19 survey respondents, 14 were men), many of whom (33%) had lived in boarding or lodging houses for between 15 and 20 years. There is however also significant housing transience among residents, with some having lived in between two and seven boarding houses in three months, mainly due to alcohol and drug addiction and mental illness. Some mentally ill patients live within boarding houses funded by the Commonwealth and State Governments' Supported Accommodation Assistance Program (SAAP) and these are required to operate under specific standards, but many others are living in general privately operated boarding houses which operate under no set standards or guidelines.

Currently residents of non-SAAP boarding and lodging houses do not have the same levels of legislative protection available to them as tenants in the private and public rental market do and therefore face issues specific to their housing tenure. These residents are uncertain of their legal status and thus their rights and responsibilities, may face unreasonable house rules and/or house rules which are unfairly enforced, a lack of access to their rooms and/or facilities, inadequately maintained premises, unfair fees and charges or termination without fair notice and confiscation of their belongings.

TAS is aware of anecdotal evidence that the supply of privately owned and operated boarding and lodging houses in Perth is declining and there is some concern that any form of consumer protection legislation or associated regulation may exacerbate this decline. All boarding and lodging houses operate on very tight budgets due to their low income residents and any increase in operating budgets due to legislation may force many out of business. Additionally many are built on land which has become highly valuable and may be of greater value to the owners if sold off for redevelopment than if they continue to operate as low cost housing.

TAS' 2005 study of boarding and lodging houses provides evidence from research that much of the existing stock is being transformed into alternative use accommodation including for backpackers and students. Research indicates that the overall income for a five-room building being used for backpacker accommodation would likely be double the income received if used as a boarding or lodging house, despite the variable occupancy rates found in holiday accommodation.

Shelter WA research into SAAP-operated boarding and lodging houses provides support from both residents and boarding house managers for some form of legislative protection for residents of this housing tenure. Some 79 per cent of residents believed that legislation providing them with the right to a tenancy agreement would offer them the greatest benefit through clarifying the house rules, providing written evidence during a misunderstanding or even proof for Centrelink to access rent assistance. It was also seen as an incentive to residents to respect and uphold the rights of other residents and to be

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<sup>5</sup> Shelter WA, *The Boarding House System in Metropolitan Perth*, Shelter WA Occasional Paper 2005-2, December 2005, prepared by Jim Anthony

more responsible for their own actions as well as leading to an improvement in the physical conditions of boarding houses and increased legal independence for residents.

Similarly some SAAP-operated boarding house managers were of the opinion that legal consumer protection for boarding houses and their residents could potentially be mutually beneficial for both managers and residents. Managers believed that boarding and lodging houses should operate under a separate piece of relevant legislation which acknowledges the range of residents with various physical, psychiatric and intellectual problems in this tenure and the problems associated with operating housing for such a diverse group, rather than seeking to amend the Residential Tenancies Act.

Research then indicates that there is a difference of opinion and attitude between SAAP-operated boarding and lodging houses and those operated privately. As stated TAS research indicates that increased regulation of the sector is likely to lead to the sale of the privately owned and operated buildings for other use and thus result in a significant reduction in supply. The need to ensure a secure supply of this low cost accommodation is of great importance to preventing many people becoming homeless.

While TAS argues strongly for greater consumer protection for people living within this tenure, we are aware that any requirement for owners of private boarding and lodging houses to meet greater regulation or legislative demands may reduce supply. It is TAS' aim to see the supply of this tenure secured and for tenants to gain greater consumer protection rights.

- **Ongoing review of *Residential Parks (Long Stay Tenants) Bill 2005***

As with boarding and lodging houses, the tenants of long-term residential parks have been ignored by the draft Housing Strategy WA. This is unfortunate as this tenure also provides long-term accommodation to a distinct section of the community who may otherwise suffer housing problems associated with low and fixed income tenants.

The government has acknowledged the importance of providing legislative protection to tenants of this tenure through its *Residential Parks (Long-Stay Tenants) Bill 2005*. Under the Bill long-term residential park tenants renting caravans in caravan parks and people leasing the land on which to situate their own caravans are provided with similar protection as other tenants under the *Residential Tenancies Act*. Once the Bill has been proclaimed, TAS would support ongoing review of the legislation to ensure that the intent of the legislation is being met. As stated, the majority of long-term tenants of residential parks are retired and/or on low and/or fixed incomes and without this tenure many would doubtless suffer from severe housing affordability problems. TAS would seek to ensure that the rights of these residents as long-term tenants of residential parks continue to be well served by this legislation and that this can best be ensured through ongoing review.

- **Amendments to the *Residential Tenancies Act 1987 (WA)* to reflect changes in housing system**

The rental market is changing with more tenants remaining in private rental for longer periods than ever before. Unlike previous generations when renting in the private sector was viewed by the majority of people as a short term transitional housing option and a time to save a deposit to buy their own home, many people currently renting in the private market will never move into home purchase. Similarly the public housing system is now accommodating an increasing proportion of high needs tenants who are likely to remain in this tenure for life. It is therefore of great importance that the *Residential Tenancies Act 1987 (WA)* (the Act) be amended as soon as possible to reflect this change of emphasis in the housing system and to provide long-term tenants with greater consumer protection. Any current review of the RTA will not take into account the proposals in this Housing Strategy or any subsequent policy changes.

As stated, renting a private property in Australia has historically been viewed as a short-term solution for housing and the legislation as it currently stands reflects this fact. The Act worked to encourage private investment in rental housing largely by small investors and thus emphasized protecting the rights of the owner or landlord rather than the tenants. TAS believes that the Act must now be amended, as soon as possible, to reflect the changes to the way private rental is now viewed: that is, as a long-term housing option rather than as one of transition. The aim of the Act must be to now offer increased consumer protection to the tenants.

TAS has previously made a comprehensive submission to an earlier review of the Act in 2002 and highlights a number of key issues from that submission for consideration here. Underlying each of these issues is the preferment of the rights of landlords/owners over those of tenants and thus offering reduced consumer protection to those who most require it. Long term rental is foreseen as a growing phenomenon within not only this State but within the entire country and as a result the rights of tenants must be given greater protection.

The issues TAS would see immediately redressed by a review of the Act are:

- *“No just cause” evictions:* Section 64 is only able to be used for periodic tenancies. This arbitrary process of ‘no just cause’ evictions gives no consideration to the circumstances of each individual case. It is a fundamental breach of human rights and must be removed from the Act. Homeswest does utilize this section of the Act. They are, however as a government agency, required to conform to the rules of natural justice and thus must provide details to the tenant of the reason for the eviction. Private owners would be in a position to make use of Section 64 but are not required to conform to the rules of natural justice and thus private tenants are not given the same opportunity to know why they are being evicted and to respond. TAS argues that if private investors and owners are to be given greater responsibility by the government to accommodate low income and high needs tenants and receive financial incentives to do this,

then they should be required, as a bare minimum, to meet the same requirements as Homeswest when relying on a Section 64 notice of termination.

- *Termination on grounds of hardship:* owners can ask the Court to consider their circumstances and order a termination, but tenants do not have this right. This failure is particularly problematic for victims of domestic violence who find themselves trapped in tenancies with the perpetrator. TAS believes the lack of similar hardship provisions for tenants is fundamentally inequitable and the Act must be amended to provide tenants with the same rights as owners.
- *The right to representation in tenancy disputes:* owners routinely have experienced Real Estate Agents representing them in court while Homeswest is represented by Regional Recoveries Officers who are similarly experienced. In many hearings however tenants are regularly refused their request to have representation and TAS believes this is fundamentally unjust. The Act must be amended to allow tenants the same right to representation as private owners and Homeswest to ensure an equitable hearing in Court.
- *Letting Fees:* Real estate agents act for the owner with no contractual obligation to the tenant, yet the tenant must contribute to the agent's services through the letting fee. During an earlier review of the Act, both Houses of Parliament agreed to the abolition of letting fees however this decision was inexplicably reversed and the fee was reintroduced. A subsequent economic impact statement confirmed that letting fees should be abolished but they remain in place, making WA the only State in Australia to levy such a charge on residential tenants. TAS argues that WA should follow the lead of other States and Territories and abolish letting fees payable by tenants to ensure greater equity between tenants and owners.
- *Contracting Out:* Section 82 allows landlords to “exclude, modify or restrict” the operation of the Act and in so doing many tenants agree to tenancy agreements which effectively reduce or nullify their rights without realizing this is what they have done. The Act merely requires the landlord or agent list the sections of the Act they seek to modify or restrict without providing a clear description of what each section means for the tenant. TAS believes this section of the Act must either be removed from the Act entirely as it can, and does, frequently act to the detriment of tenants or the Act must at least require landlords or agents to provide clear descriptions of what each section means when they seek to contract out of that particular section.

- **Tenancy Database/Blacklisting**

Further to the need for the Housing Strategy to include increased consumer protection for tenants, this document should also include the government's response to the ongoing issue of tenancy databases. The databases are often used by real estate agents to assess

the credentials of potential tenants however their operation has lead to a number of problems for tenants such as an inability to gain another tenancy and lack of knowledge of how to correct incorrect information on the database.

The result of the inaccurate recording of information on these tenancy databases and the reliance on them by real estate agents is that they have the potential to cause significant and long-term detriment to the ability of people to access private rental accommodation without the tenant necessarily being at fault. The issue was highlighted in 2004 when the Federal Privacy Commissioner found one major database operator to be in breach of the Privacy Act on 13 separate occasions. The Commissioner ordered the operator to adopt a set of recommendations that would strengthen tenants' rights. The Real Estate Institute of Australia made a recommendation for the establishment of national guidelines for database operators in its Submission to the Review of the Private Sector Provisions of the Commonwealth Privacy Act 1988 of 17 December 2004.

TAS holds that consumer protection needs to be increased, particularly in light of the growing reliance of government on the private sector to provide accommodation for more and more of people in housing need. We would argue for WA regulation or legislation to control database listings. This has been introduced in some states such as the ACT and Queensland to regulate this industry and the Commonwealth is considering legislation. TAS is further concerned that under contract law it would be difficult for the tenant to seek legal redress through the Courts for inaccurate database listings as they are not a party to the contract (this is between the agent and the owner) and it is likely the tenant would need to take the matter to the Federal Magistrate's Court to deal with the issue. Tenants would probably find this a difficult action to pursue. Additionally there is no reference in the Residential Tenancies Act to tenant databases and their operation and we argue this should be amended, allowing for appropriate ways of dealing with listings and inaccuracies.

***Recommended changes to the Strategy:***

TAS strongly recommends that the Housing Strategy overall must downgrade its emphasis on a reliance on the private rental market to meet the housing needs of low income households and people with special needs.

- Strategy 3.1 should be modified to ensure it is not intended to replace the Government's responsibility as provider of housing to low income and/or special needs tenants. One of the roles of Government, TAS believes, should be to assist those in society unable to assist themselves and this should not be abrogated to the private sector for any reason. TAS foresees many problems associated with reliance on the private sector as provider of low cost housing and believes that legislation to ensure housing is kept for those on low incomes or with special needs for the long term will be viewed as overly prescriptive by many and will fail to achieve the accommodation aims intended. Investors should also be

- required to contribute to the Rental Accommodation Fund which in turn meets the costs of the Magistrate's Court sitting on tenancy disputes;
- While security of tenure for a private tenant may be achieved through the provision in legislation of long term (5 year) leases as proposed in strategy 3.3, the full implications of such tenancies and the possible effects on tenants, often with low incomes, must be thoroughly examined to ensure that unintended negative outcomes do not result;
  - TAS strongly encourages the government to require employers embarking on large resource development projects in regional Western Australia meet their obligations to the town and their employees in regard to both housing provision and local infrastructure. It is not sufficient to seek only the "adequate consideration" of these issues strategy 3.4 currently proposes from these resource companies;
  - While TAS does not object to the use of private investment in affordable rental proposed by strategy 3.5, TAS is skeptical that the outcomes will be substantial or sustainable and that any long term solution to affordable housing will be achieved;
  - TAS supports the introduction of specific consumer protection legislation for residents of boarding and lodging houses in Western Australia as soon as possible. It additionally seeks the inclusion of this tenure within the Housing Strategy WA Discussion Draft as a valuable housing tenure offering affordable accommodation to an increasing and diverse section of our community;
  - That the *Residential Parks (Long-Stay Tenants) Bill 2005*, once enacted, be reviewed on an ongoing basis to ensure tenants within this tenure are receiving the protection intended by the legislation;
  - In reviewing the *Residential Tenancies Act 1987 (WA)*, TAS is of the opinion that its purpose must be to reflect the change in the residential rental market whereby renting is now a long-term prospect for a significant number of tenants and that the Act now works to provide increased protection for tenants rights and tenure. Responses to a review of the Act have been made in the past and are contained within the Statutory Review of the *Residential Tenancies Act 1987 (WA)* Final Report<sup>6</sup>. These issues continue to be pertinent, if not more so, in the current market and the requirement for amendment is vital.

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<sup>6</sup> Stamfords Advisors Consultants, *Statutory Review of the Residential Tenancies Act 1987 (WA) Final Report*, August 2002.

## GOVERNMENT SUPPORTED HOUSING

The Tenants Advice Service provides the following comments on the nine specific strategies outlined in Strategic Area 4: Government Supported Housing.

The Tenants Advice Service supports the ongoing strategy of the State Government that it persist in its discussions with the Commonwealth Government to ensure continued and increased levels of funding through the Commonwealth State Housing Agreement for public housing. It is only through such investment that both levels of government can meet their social obligations to provide appropriate and affordable shelter for all members of the community.

It is TAS' opinion that government sponsored private investment in the provision of low cost rental housing is inappropriate and will not solve the problem of insufficient affordable and appropriate accommodation for those who need it most. Furthermore TAS holds that the purposes of the private and public sector are, by their very nature, disparate, and it is unlikely that a partnership between the two can lead to a successful provision of low cost housing for an ever increasing number of people. In fact, the National Summit on Housing Affordability Resource Paper states that public and community housing are "the most affordable tenure for tenants"<sup>7</sup>. It is questionable whether any attempt to control private rental through the application of restrictive legislation will not work to encourage private investors, even the so-called 'ethical investors'.

One concern related to the involvement of private investors in the provision of social housing is the development of housing estates in outlying inexpensive suburbs without appropriate infrastructure or the social support network available to Homeswest. If these dwellings are to be used to reduce Homeswest waiting lists, the tenants are likely to be high need households in need of more than simply low cost accommodation, and TAS is concerned this will not be available to people living in private-investor developed housing. The need for adequate economic and community infrastructure in these new high growth residential areas has similarly been emphasized following the 2004 National Summit on Housing Affordability<sup>8</sup>.

While one of the main aims of this document is to attract investment through financial incentives, the rights of tenants have been ignored and the document fails to offer any acknowledgement of the need to protect tenants in the proposed new private market or even in the community housing market.

Furthermore, this Strategic Area fails to acknowledge existing problems with Homeswest accommodation and the resulting impact on tenants. Much of current Homeswest stock

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<sup>7</sup> Powall, M & Withers, G, *National Summit on Housing Affordability Resource Paper Canberra 27-29 June 2004*, @ [www.housingsummit.org.au](http://www.housingsummit.org.au), p.19

<sup>8</sup> HIA, ACOSS, ACTU & NHA, 4 August 2005, *Key Directions for Affordable Housing*, Presentation to the Joint Meeting of Ministers for Housing, Planning and Local Government @ [www.housingsummit.org.au](http://www.housingsummit.org.au)

is old, leading to numerous maintenance problems with the accommodation such as chipped plaster, broken doors and disintegrating structures. Tenants are being held responsible for these problems which in fact are due simply to age and as a result are required to pay for the repairs, leading to tenancy debts and further difficulties in their relationship with Homeswest. To provide a better public housing service, Homeswest must be aware of such ongoing issues with their tenants and put strategies in place to solve these problems.

#### ***Strategy 4.1 Secure Commonwealth and State Funding for Social Housing***

TAS supports the aim of the State Government to work with other States and Territories to secure ongoing funding for the provision of social housing in the State. However the State Government must similarly increase investment of public monies into the provision of more public housing. While maintaining the current level of recurrent Commonwealth funding for social housing will continue to assist some of the high needs households on existing waiting lists, the sector is in desperate need for an increase in funding if all priority households are to be assisted into secure long-term accommodation. TAS would question what the document means by its statement that a level of funding must be achieved that will see “an adequate level of social housing” be secured and how it defines ‘adequate’?

#### ***Strategy 4.2 Provide Incentives to the Private Sector to Invest in and Provide Affordable Rental Housing***

TAS believes a clear cost analysis of the various financial incentives for private investors being proposed is necessary to enable an informed decision to be made on whether the use of this money for incentives would not be better spent by government directly to fund improved and increased public housing.

TAS would draw attention to its response in Strategy 3.3 in relation to the role the property market plays in the availability of accommodation and lease terms in the private market rental. While the government may seek, and succeed, in attracting a number of smaller investors into purchasing investment properties for private rental it will find it difficult, if not impossible to legislate to stop these investors selling off their properties for capital gains. Thus while investors reap the financial rewards of government inducements to purchase or build properties for rental, they will additionally seek to benefit from rises in the property market by selling when it suits them and not when it suits the tenant.

TAS questions whether a time limit has been set for how long investors must commit to providing rental housing to those who meet public housing income eligibility. How will landlords know that a tenant meets this criteria? Will potential tenants be found on Homeswest waiting lists only? The list of questions continues as long as the proposal lacks the necessary clarity and depth of detail.

It would seem questionable whether private investors would be willing to accept any number of financial incentives if they are required to re-invest proceeds from sales in similar housing in similar areas. The very nature of investors is to make money and to seek investment in whichever area is currently offering the best financial returns.

TAS would also seek the government definition of the phrase “appropriate management bodies” as used in this strategy.

Regardless of the source of funding for public housing, there is a mounting demand for a substantial increase in social housing stock. In particular, the increase in stock needs to better reflect the changing demographics of the Western Australian community to ensure a better match of households with dwelling. This will reinforce the government’s Strategy 1.9, ‘Measures to Better Match Households with Dwelling Type’ in the private owner-occupier market.

#### ***Strategy 4.3 Review Homeswest Housing Service Levels and Standards***

TAS supports a joint review of existing Homeswest service levels and standards as it believes that Homeswest could seek to improve these areas of operation. TAS would seek more information as to how the standards will be measured and details on proposed performance indicators. We hold concerns about the lack of clarity as to which community groups will be invited to take part in this review. TAS would seek greater clarification as to which groups are being considered for involvement in this review.

Similarly will the review of service every two years as stated be undertaken by the Department alone or will the same community groups involved in the original review be included? TAS believes strongly that these subsequent reviews must include representation from those groups involved in the original review to ensure that service levels and standards have improved accordingly and continue to do so.

#### ***Strategy 4.4 Improve and Diversify Social Housing Management Skills***

The intention that staff working within the social housing sector of the Department of Housing and Works be given improved and more diversified skills and knowledge to enable them to better deal with the changing face of Homeswest tenants is strongly welcomed by TAS. The strategy does acknowledge that staff training and professional development programs must “address the growing number of social housing tenants with complex support needs”.

However, as stated above, there is a need also for wider cultural changes in the operation of Homeswest. While training of staff directly involved with tenants on a daily basis is a welcome step, TAS believes that there needs to be a greater acknowledgement at all levels of Homeswest that its role has changed from simply a provider of public housing

to that of a provider of social services for a much more challenging section of the community with a greater range of needs. Public housing provision is no longer similar to rental in the private sector and this must be acknowledged by Homeswest.

#### ***Strategy 4.5 Reform of the Community Housing Sector***

TAS supports the above strategy to reform the community housing sector. The sector has progressively improved its operational system over the past 14 years since its conception with an increase in awareness of the relevant legislation and better management practices.

There are a number of areas in which TAS would wish to see changes to the community housing sector to provide better protection for tenants. While many improvements have been made in the operation of the sector, further improvements are required in its management and organizational practices. It may be possible to apply existing National Standards and/or further develop the WA Code of Practice and/or establish an overarching governing body to provide regulation and to ensure the quality of community housing is maintained.

Despite the sector receiving public finance it is operated more like the private rental market than the public housing market. Tenants currently have no right of appeal against decisions of the various providers, unlike people within the public housing sector. It is vital that community housing tenants are given the right to appeal decisions in order to provide them with greater consumer protection.

Furthermore tenants are hampered by the lack of a single point of entry. There are currently about 250 community housing providers of varying sizes, each with its own application process and waiting list. This can make the process of trying to find accommodation within the community sector a daunting prospect for many, as well as a complicated and potentially expensive one if required to travel to each office to apply in person. TAS acknowledges that the issue of common waiting lists has been a matter of debate for some time, from the point of view of the potential tenant it would be of great assistance. It would similarly be of benefit if key providers undertake a strategy to reduce the numbers on the waiting lists.

#### ***Strategy 4.6 Establishment of Not-For-Profit Housing Companies***

TAS would support the pilot of a not-for-profit housing company in Western Australia if it could be demonstrated that such companies can deliver the intended outcomes of low cost housing.

***Strategy 4.7 Investigate Legislative Means of Setting Land Aside for Social Housing***

TAS supports the investigation of legislative means for setting aside suitable land for social housing. However the land in question must not be located in the outer suburbs or other areas which lack easy access to required infrastructure and services otherwise the flow on effects to residents could lead to many social problems this Strategy would seek to avoid.

***Strategy 4.8 Addressing Disincentives and Encouraging Incentives to Workforce Participation***

TAS supports the review of issues associated with addressing workforce disincentives as outlined in this strategy. A lack of social infrastructure and security of tenure as well as ever shrinking eligibility limits for assistance by Homeswest impact strongly on decision by many to participate in the workforce. Currently there is a significant gap between the upper level of the income eligibility requirement for Homeswest housing and the affordability for those families marginally over that limit to afford appropriate housing in the private market. By participating in the workforce the slight income increase that results is not sufficient to enable them to afford to live in the private market. Furthermore for such households a move from Homeswest accommodation to the private market often means moving to a different and outlying suburb, perhaps with minimal infrastructure and public transport links, leaving behind family and social supports and disrupting children settled in school. All similar social reasons impact on whether people willingly look to participate in the workforce or not and therefore must be acknowledged and included within relevant policy.

***Strategy 4.9 Government-Supported Housing for Employees in Regional Western Australia***

TAS supports the planning and supply of an adequate supply of good quality housing for Government employees providing essential services in regional and remote Western Australia. It is important that all communities have access to essential services and the provision of Government supported housing to ensure the retention of these workers in such areas is to be encouraged. However the Housing Strategy is once again relying on the attraction of private investment to assist in the provision of this form of housing as it has for public housing and TAS holds concerns as to the possible impact of the involvement of private investment in the provision of housing for public workers.

The amalgamation of three housing schemes into one in order to better provide suitable housing for a range of people in remote and regional areas of the State should provide a more efficient and financially viable program and TAS would support this action.

***Other current issues relevant to this Strategy:***

- **External appeals mechanism**

Two of the recommendations of the Equal Opportunity Commission's *Finding a Place* report<sup>9</sup> were based on the need to review the Homeswest Appeals Mechanism (HAM) while consideration was being given to developing an independent review mechanism which would hear appeals against Homeswest decisions. The interim review of the existing system would aim at establishing a method of appeal that was independent of the Department of Housing and Works, was informal "without prejudice to the principles of natural justice" and would resolve matters expeditiously.

TAS has argued for many years in favour of an external appeals mechanism for public housing tenants yet despite both the 1996 Donovan Research Report and the 2000 Shelter WA review of HAM nothing further has occurred. TAS would take this opportunity to reiterate the concerns with the system that previous reviews have highlighted and which need to be dealt with as a matter of priority to ensure public housing tenants are given access to a fair and equitable system of appeals.

The concerns raised by both reviews and supported by TAS include:

- access difficulties;
- potential conflict of interest;
- difficulty obtaining suitable hearing times;
- delays in decision making;
- lack of knowledge of policy and tenancy law;
- lack of understanding of domestic violence issues;
- lack of understanding of cultural issues;
- perceptions of bias;
- lack of independence.

TAS asserts that HAM fails to deliver on its primary objectives as asserted by Homeswest and that it fails to meet the fundamental principles of administrative decision review. It also fails to provide access to fairness and justice for Homeswest tenants.

- **Indigenous community housing**

The Housing Strategy has failed to mention under its strategic areas dealing with Government Supported Housing or Priority Housing the particular issue of government funded housing in remote discrete Indigenous communities. There are a number of remote Indigenous communities unable to access standard social housing through either Homeswest or community housing providers due to their distance from larger communities or towns and thus rely heavily on the provision of government funded

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<sup>9</sup> Equal Opportunity Commission, *Finding a Place: An Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia*, December 2004 - Recommendation Numbers 98 & 99, page 27.

community housing construction and upgrade programs. The failure of the Housing Strategy to acknowledge this important source of funding for housing for some of the most disadvantaged in our community is problematic. The support and strengthening of this service to continue to meet the needs of these Indigenous communities warrants a specific strategy statement and this should be rectified.

- **Good Neighbour Policy & Acceptable Behaviour Agreements**

The issue of the Good Neighbour Policy (the Policy) and associated Acceptable Behaviour Agreements (ABAs) is one that continues to cause some concern with TAS. While the stated intention of the Policy is to promote harmony between neighbours of Homeswest tenants, the underlying assumption is that any problems will be the fault of the public housing tenant. This assumption adds to the existing social division between Homeswest tenants and other residents. Additionally there are potential problems associated with the impact of these ABAs on already disadvantaged tenants. For example, public housing is accommodating a growing number of high needs households which include people with mental illness, psychological and learning problems and other special needs. Behaviour which may be a part of their illness, beyond their control and the very reason they have been given public housing could see them act contrary to the Policy and thus subject to penalties. It would be contrary to the aim of public housing in providing homes to those with the greatest need if such policies could act to render them homeless.

TAS acknowledges that the Policy does currently require the person to be acting “intentionally”, however it should acknowledge that where tenants suffer from or potentially suffer from illnesses or behavioural problems beyond their control and which may lead to potentially disruptive behaviour that this will be taken into consideration and assistance provided to the tenant to assist them.

The New South Wales public housing provider is currently piloting an Acceptable Behaviour Agreement scheme similar to WA’s but there are a number of important differences between the two. As a pilot, the NSW government has the opportunity to evaluate the practical achievements of the ABAs before seeking to introduce them as part of the ongoing housing program. The Agreements will be used selectively, involve a third party (the Tenancy Tribunal) before being implemented, and appear to have been structured as a support tool to remedy problematic tenancies. Unlike WA, tenants in NSW must have an ongoing pattern of anti-social behaviour before the Tenancy Tribunal may order the use of an ABA. Furthermore the ABAs in NSW have legislative basis under its *Residential Tenancies Amendment Act 2004* whilst WA’s ABAs are merely to be defined in Homeswest policy.

TAS believes it is important that the practical limits and achievements of ABAs are tested, through a pilot scheme, before a final decision is made as to their long term use for public housing tenants. If they are to be used, then ABAs should be given legislative base through inclusion in the *Residential Tenancies Act 1987*.

***Recommended changes to this Strategy:***

- Strategy 4.1, securing Commonwealth and State funding for social housing, should be elevated to the position of one of the underpinning objectives for the entire Housing Strategy WA. The provision of Government financed social housing is an intricate part of the provision of affordable and appropriate housing in this State and as such it should not be relegated to one of the final strategies, in the wake of reliance on private investment;
- Pursuant to strategy 4.2, the State Government must act to increase the provision of public housing within the State. In particular, housing stock needs to better reflect the change in society's demographics to ensure a better match of household with dwelling size;
- TAS recommends that in reviewing Homeswest's service levels as proposed by strategy 4.3, that attention is given to implementing a cultural shift from housing provision to the delivery of a housing related social service.;
- In implementing strategy 4.4 TAS recommends an improvement in Homeswest's social housing management skills to include knowledge of current legislation, appropriate training related to the required cultural shift as outlined in strategy 4.3 and ongoing cross-cultural training. These suggested training skills are not an exhaustive list and will need further consideration;
- TAS would recommend that strategy 4.5 be strengthened to include mechanisms to increase the standard of consumer protection available to tenants of community housing and the accessibility of housing via this sector.

## **SUPPORTING PRIORITY NEED:**

TAS supports the overall objectives outlined in the Housing Strategy WA Draft in relation to supporting priority need in our community. However we believe that this area should be given greater importance within the Housing Strategy as, together with those households requiring social housing, these represent the groups with the most pressing need for solutions to their housing problems. Rather than placing Supporting Priority Need as the final of five strategic areas TAS believes it should be one of the first, indicating our community's responsibility to solve these issues as a matter of urgency.

The Tenants Advice Service provides the following comments on eleven of the twelve specific strategies outlined in Strategic Area 5: Supporting Priority Need.

### ***Strategy 5.1 Addressing Discrimination***

TAS would urge the Department of Consumer and Employment Protection to not merely “consider strengthening the regulatory framework for rental housing to minimize discrimination...” but to act as soon as possible to protect the vulnerable people in society.

The matter of discriminatory practices within the Department of Housing and Works towards Indigenous people is clearly outlined in *Finding a Place*<sup>10</sup>, as a result of the inquiry by the Equal Opportunity Commission (EOC) into this matter. TAS supports the findings of this inquiry and believes that discrimination against Indigenous people in public housing could largely be erased if the Department of Housing and Works (DHW) and Homeswest accepted the document's recommendations and enacted them appropriately. TAS acknowledges that the DHW is working with the EOC to develop an implementation plan in response to the Report's findings. This is a positive step in the right direction.

### ***Strategy 5.2 Priorities in Policy Directions for Indigenous People***

TAS is fully supportive of the aim of the government to continue existing initiatives and to develop new initiatives to better assist Indigenous people in housing need. Concerns are raised however by some of the wide-ranging statements made in this strategy which advise that the DHW will “Build more houses in regional areas...to ensure accommodation needs are met” and “Provide appropriate houses, designed to accommodate multi-generational extended family members, visitors and people with disabilities”. As stated in the introduction to this response, this document needs to provide a clear explanation including timelines, priorities and costings of how the Government expects to achieve these aims. There is a very real need for more housing

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<sup>10</sup> Equal Opportunity Commission, *Finding a Place: An Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia*, December 2004.

and for housing that is culturally appropriate for Indigenous people, but TAS questions whether this is achievable given current budgetary restraints.

TAS welcomes the intention to build larger dwellings that can better meet the cultural needs and obligations of Indigenous tenants. As stated in *Finding a Place* Recommendation No. 41, the Department's policy of accepting people in need living with other family or friends as a viable housing option is causing many problems for Indigenous people, exacerbating housing problems and must no longer be accepted. Instead this should be acknowledged as secondary homelessness and as satisfying criteria for gaining a place on the priority waiting list. However the report also noted that it must not be assumed that all Indigenous people wish to live in large houses with extended family and friends and that this fact must be discovered by the housing officers dealing with each individual application.

The EOC report concluded that this current practice of encouraging extended family to live with tenants currently in rental housing leads to associated problems for tenants such as overcrowding, increased tenant liability due to wear and tear from the added people in the house, the increased likelihood of complaints of anti-social behaviour from neighbours, and a greater likelihood of eviction. All of these problems need to be dealt with to support the Indigenous tenants and should be clearly stated within this strategy.

TAS supports the idea of a life tenure model of housing tenure for Indigenous families however issues such as the cost of the scheme and maintenance arrangements are of concern. TAS is aware that the cost of property maintenance is beyond the financial capability of many Indigenous and non-Indigenous households living in Homeswest properties. With the introduction of a life tenure model of housing, would tenants be responsible for undertaking all property maintenance including the cost? If so, TAS believes this will negatively impact on the ability of many households to continue with such tenure.

Furthermore, in allowing public housing to be passed on from generation to generation, will this always ensure the household and the dwelling are compatible in size? If not, this will act in direct contravention of the government's aim to ensure households and their dwelling sizes are suitable.

As with other first time home buyers and as discussed previously in our response, TAS believes strongly that suitable and appropriate financial advice must be made available to Indigenous households considering home purchase. The Strategy refers to giving attention to increasing the number of Indigenous people purchasing homes, but the matter is far more complex than encouraging home ownership. Advice on all matters of financial planning and budgeting is required and the Strategy should show an awareness of this issue.

***Strategy 5.3 Linking Regional Housing Strategies and Regional Housing and Infrastructure Plans for Indigenous People***

It would seem to TAS that a link between housing and planning policies and Regional Housing and Infrastructure Plans would be explicit without a strategy to say as much.

***Strategy 5.4 Supporting Community Based Providers in Indigenous Communities***

As stated earlier in our response to strategy 4.4, TAS fully supports the need for greater training of social housing staff to improve their skills to help them better assist people with high needs. TAS assumes that strategy 5.4 refers to staff working in the general community housing sector and not specifically Indigenous community housing, and on this understanding supports this approach to increased and appropriate training. An important issue for groups and people assisting Indigenous households with housing is the need for sufficient and appropriate housing stock. Without accommodation Indigenous households cannot be helped regardless of the skills of the staff.

TAS acknowledges that this is partly the aim of strategy 5.2, to “Build more houses” for Indigenous people in the regions, but still the lack of appropriate housing in the metropolitan areas and the associated issues of overcrowding and behavioural issues is of concern.

***Strategy 5.5 Review Policies and Develop Housing and Disability Funding and Services Plan***

TAS supports the planning and provision of strategies to increase housing stock and required services to meet the needs of people with disabilities. However as with much of the Housing Strategy there is a lack of clear information as to where the funding for these plans will be found once capital and recurrent funding levels have been determined. Additionally what is the likely cost of expanding services and housing stock for disabled people and what is the likely time lag before the housing is available for people to live in? The Strategy states that the development of the Housing and Disability Funding & Services Plan will “commence as a priority” once the Housing Strategy is adopted, however it would appear that most of the matters discussed in this document are priorities.

***Strategy 5.7 Design Principles for Universal Access***

TAS supports the aim of constructing all new DHW dwelling stock to a minimum standard of accessibility, viability and adaptability to assist the disabled and aged access housing. It will enable more stock to be available to a greater range of the community and perhaps reduce waiting times for some groups.

### ***Strategy 5.8 Developing the Community Housing Sector for People with Disabilities***

TAS fully supports the consideration of new ventures to provide additional housing for people with disabilities, however we are concerned about the Government's recurrent reliance on "ethical investors" and other private individuals and corporations as the funding source for such schemes. As stated previously, the overarching intent of investors is very different to that of government in meeting the needs of the wider community.

### ***Strategy 5.9 Review the Provision of Crisis Housing***

TAS strongly supports a review of the provision of crisis housing which is unable to meet current demand. There is a severe lack of crisis housing and TAS believes a review would highlight this shortage and should lead to an increased capacity of the system to meet the needs of homelessness and impending homelessness.

Crisis housing is also part of the wider provision of social housing and as such should be given the same level of acknowledgement and resourcing as general social housing. As the Government would be aware and a review of the system will indicate, current crisis housing levels are inadequate to meet the demand. Additionally the rules of many, if not all, crisis housing restricts access to older male children, causing further distress to the mother and child. Issues such as these are important and need to be rectified as soon as possible to ensure people in need of crisis housing are assisted and supported.

### ***Strategy 5.10 Older Persons Housing Support and Advice***

As a growing section of the wider community, it is important that a wider range of housing options for older people are considered and implemented. TAS supports the aims of this strategy to meet this need but draws the government's attention to the fact that all older persons do not have the same needs and that this is acknowledged and taken into consideration.

### ***Strategy 5.11 Review of the Options for Supporting Youth Tenancies***

Young people in Western Australia currently face substantial difficulties in both accessing and maintaining tenancies within the public and private rental market, as a result of which many are forced into homelessness or to live in inappropriate accommodation. Homeswest defines 'youth' as being persons between 15 and 25 years of age.

TAS has long argued for a substantive change in the legal position of minors (under 18 years of age) in relation to their contractual rights and obligations in tenancy contracts.

TAS has previously sought legal opinion on this issue<sup>11</sup> due to considerable anecdotal evidence from community workers as to the difficulties faced by young people trying to access housing and has also assisted the Youth Affairs Council of Western Australia in preparing its publication and training program, *Rooves for Youths*.

The law in Western Australia in relation to minors' contracts is uncertain and inadequate and is reliant on the Common Law. Due to a general lack of understanding of the law and its uncertainty, many private real estate agents are reluctant to engage in tenancy agreements with people under 18 years of age believing that the contracts are not enforceable in law notwithstanding that if a minor enters into a contract for the necessities of life and pays a reasonable sum for that contract, it is enforceable in law. At Common Law such necessities include food, clothing and housing.

Homeswest's policy is that a minor (person under 18 years of age) has the legal ability to sign a contract for those items deemed the necessities of life and that as housing is one such necessity then such a tenancy agreement is legally binding. However its practice is that although people under 18 years of age may apply to be housed in public housing, they will not be granted accommodation in the mainstream public housing system until reaching 18 years of age<sup>12</sup>. Applicants aged between 16 and 18 years may be housed at the discretion of Regional Management, depending on their needs and circumstances. Such policy, like the law in general, is uncertain and does not assist minors in accessing secure accommodation.

Similarly the law relating to minors and their guarantors is unsatisfactory for the party contracting with a minor. As many minors seeking accommodation have probably severed all ties with their parents or guardians they will have difficulties in finding someone to stand guarantor for them.

The *Residential Tenancies Act 1987* does not assist minors who are refused accommodation due to their age although it does give minors standing at the Magistrates Court only if they are already a tenant. The 1998 report of the Law Reform Commission<sup>13</sup> provided recommendations on rectifying the law of minors' contracts including the current legal position of minors in relation to tenancies. TAS would urge the government, in its attempt to assist young people into long term and secure tenancies, to provide a clear legal decision on the enforcement of minors' contracts for accommodation which, once known to real estate agents and other in the industry, will benefit minors.

An additional issue associated with refusing minors tenancy agreements is discrimination. If an agent or owner refuses to provide accommodation to a young

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<sup>11</sup> L J Bawden, *Report to the Tenancy Advice Service of Western Australia (TASWA): Minors' Contracts (Tenancy)*, December 2000.

<sup>12</sup> Department of Housing and Works, Homeswest, *Youth Policy*, @ [www.dhw.wa.gov.au/homes/manuals/rental/rental\\_policy\\_YOUTH](http://www.dhw.wa.gov.au/homes/manuals/rental/rental_policy_YOUTH) accessed 4 January 2006.

<sup>13</sup> The Law Reform Commission of Western Australia, *Report on Minors' Contracts – Project No. 25 – Part 11*, The Law Reform Commission of Western Australia, State Law Publishers, Perth, 1998.

person due to their age or alters the terms or conditions of the contract due to their age and if the contract would be enforceable at Common Law, that is likely to be considered discriminatory behaviour<sup>14</sup>.

As a step towards greater support for young people in accessing and maintaining secure and long term accommodation TAS supports the government's stated aim of reviewing existing programs of support to this group of people. The proposal for advice to be sought on a guarantee scheme for young people would also be strongly supported.

### ***Strategy 5.12 Partnership to Increase the Supply of Student Accommodation***

Tenants Advice Service has a long history of involvement with all universities in Perth regarding accommodation for students and TAS provides training and support to university housing workers. Through this involvement, TAS is aware of a very real need for long term planning as a solution to the lack of suitable student accommodation in Perth and would be supportive of the government's strategy to increase the supply of low cost housing options for students.

As with much of this Housing Strategy TAS would seek greater clarity on the practicalities of how these strategies are to be achieved and within a relatively short period of time to have some impact on housing issues affecting people today. This strategy refers to encouraging partnerships between educational institutions and community housing providers "to supply more low cost housing options" for students. However given that community housing providers already have waiting lists of those in housing need, TAS queries where this additional housing is to come from and, if it is to be built, how will it be funded and operated. What is proposed to assist students in the short term if this accommodation is to be built?

#### ***Other current issues relevant to this Strategy:***

- **Addressing the changing face of the tenure**

One of the most pressing tenancy related housing issues currently affecting public housing is the changing face of the tenure. Historically established to assist households on low incomes into affordable and appropriate housing and meet the housing needs of post war families, public housing is focusing more and more on housing ever increasing numbers of priority need tenants. The result is that Homeswest is required to deal, on a daily basis, with some of the most vulnerable people in our society and they are simply not equipped to meet the demand or provide the range of services this section of society requires. The result is increasing levels of anti-social behaviour and resulting evictions and terminations. Homeswest must undertake a cultural change whereby accommodation managers realize that as their clientele is largely special needs, they are providers of

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<sup>14</sup> *Equal Opportunity Act 1984 (WA)*, Part IVB, Section 66ZG; Section 66ZO

social services and not simply property managers. This matter is discussed further in the section above relating to training for housing officers.

This matter of priority need is, of course, not restricted to Homeswest and it is crucial that appropriate supports are in place for those with priority needs living in other tenures. This particular strategic area partially addresses this through strategies 5.4, 5.10 and 5.11.

- **Provision of housing to people in Indigenous communities**

Whilst strategy 5.2 provides an overview of the general aims the Housing Strategy intends for assisting Indigenous people with housing, it has omitted to consider in particular the very important issue of the provision of housing within discrete Indigenous communities. TAS believes this is a matter of considerable importance when seeking to assist the Indigenous community of our State and the omission must be rectified.

Indigenous people in remote areas are some of the most disadvantaged in terms to access to appropriate housing and face many issues specific to their locations. For this reason TAS believes the Housing Strategy should provide a particular strategy to deal with housing on Indigenous communities.

- **Increase the number of SAS workers**

The Housing Strategy notes on page 22 that in excess of 50% of private tenants in Western Australia are currently in receipt of Commonwealth Rent Assistance and, of these, some 95% are eligible for public housing. The document suggests some 60,000 households in the private rental market suffer financial stress on a regular basis. The result is that at any moment any number of these private tenants may face housing problems due to financial or other problems. The aim of the government to continue to promote private rental as a housing solution for many of the low income households within the State who are unlikely to ever gain public housing due to the greater targeting of scarce resources is indicated in the draft Housing Strategy.

While the Housing Strategy's Private Rental strategic area focuses on promoting investment by private developers and providing financial incentives to this group, it has failed to acknowledge that the tenants will require support to ensure their tenancies are successful. If low income tenants in the private market are unable to maintain long term successful tenancies, the result will be an increase in the number of households with greater debt and in need of accommodation but not able to meet it through the private market.

TAS urges the government to include within its Housing Strategy additional strategies that will allow for an increase in SAS workers to ensure sufficient support is available for these private tenants. Without adequate support services available many vulnerable tenants will find themselves unable to cope financially or otherwise with the demands of

a private rental and may find themselves homeless and seeking further services from the government.

- **Increase the number of tenant advocates**

From the overall intent of the Housing Strategy it is apparent that many more people in the State will be seeking and (hopefully) gaining rental accommodation through the private sector, due to both increasing house prices and the lack of social housing. Similarly the demand for public housing will continue to grow, with the sector demonstrating an increase in the number of high needs tenants and the possible associated increase in difficulties linked with maintaining these tenancies. Many tenants may require the assistance of qualified tenant advocates to assist them deal with tenancy issues.

TAS foresees the demand for tenant advocates will increase as more and more households rely on rental housing for long term accommodation with many not aware of their rights and responsibilities or aware of how they must respond to various issues that arise throughout their tenancies. In order to meet this demand and to ensure that all households are treated equitably in their role as tenant, TAS believes the Housing Strategy must acknowledge the requirement for an increase in tenant advocates in the metropolitan and regional areas of WA.

Tenant advocates are funded from the Rental Accommodation Fund (RAF). The Fund holds bond money paid by private rental tenants and uses the interest from this principal to meet the cost of advocates which provide advice to both public and private tenants. The money also funds the portion of the Magistrate's Court used for tenancy disputes. Despite making regular and frequent use of the Magistrate's Court for tenancy disputes and the reliance by public housing tenants on tenancy advocates Homeswest does not currently contribute to the RAF as it does not lodge public housing bond money with the Fund. TAS has been lobbying for many years for Homeswest to contribute to the RAF by lodging its bond money to ensure it meets at least some of the costs of its use of the Magistrate's Court. It would also enable more tenant advocates to be employed which assist many public housing tenants. TAS would argue that this should be an area for change that could assist many rental tenants in WA.

- **Housing New Arrivals**

While Objective 18 discusses the matter of Housing New Arrivals, Strategic Area 5 fails to particularly deal with the priority need of these people. It fails to demonstrate or discuss how those people arriving in the State without the ability to enter home ownership or even private rental will be assisted. Strategy 5.9 considers a review of crisis housing, it does not specifically consider the needs of new arrivals and this failure should be rectified.

It is important for the Strategy and subsequent proposals and plans for housing new arrivals to the country that all assistance offered is culturally appropriate. Experience with refugees to Australia has shown that language and cultural barriers need to be acknowledged and acted upon, as does the need for certain dwelling size.

***Recommended changes to the Strategy:***

- TAS recommends that strategy 5.1 be amended to indicate that stronger anti-discrimination regulation in rental housing will be implemented to protect the most vulnerable people as soon as possible. In order to act to remove discrimination from the rental tenure, Homewest and DHW accept and implement the recommendations of the EOC's report *Finding a Place*;
- TAS recommends that the government acts quickly to implement the planned reviews of various services to assist young people into long term and secure accommodation and employment including the suggested guarantee scheme as discussed in strategy 5.11. Furthermore TAS urges the government move to implement the recommendations of the Law Reform Commission's 1998 report to rectify the current legal position for minors seeking legally enforceable tenancy agreements;
- Although TAS is supportive of the intention of strategy 5.12 to encourage partnerships to increase the supply of student accommodation in Perth, we believe that the Housing Strategy needs to provide greater detail as to which community housing providers will be involved and how these new accommodation sources are to be funded and operated;
- While TAS reluctantly accepts that in the current economic climate the promotion of private rental is possibly the only way in which a significant proportion of non-priority low income households will find accommodation, we urge the government, through its Housing Strategy, to offer greater support services for these vulnerable tenants by the acknowledgement of a need and intention to fund more SAS workers and services;
- There is a growing need for tenancy advocates and the advice and assistance they are able to provide both private and public tenants. TAS argues for increased funding from the Rental Accommodation Fund to meet the costs of more tenant advocates and that to support this increase Homewest should be required to contribute to the Fund through deposit of public housing bond money. In this way Homewest would also contribute to the cost of tenancy issues taken to the Magistrate's Court;
- More in-depth consideration of, and provision for the housing of new arrivals to the State where they have no private means to house their families after a period.

## **CONCLUSION:**

The Discussion Draft of the Housing Strategy WA offers an all-encompassing document with many general solutions to problems in need of very specific and detailed solutions. For the Tenants Advice Service, the devil is in the detail: the document lacks specific information on the estimated costs of all of the proposals, fails to indicate where the finance for many of these projects will be found, lacks prioritization of strategies, lacks specific detail as to how and when each strategy will be achieved as part of the wider program, places increasing reliance on the private sector and consistently refers to the use of reviews prior to action. Such lack of clarity and detail all suggest that the Strategy as a whole is unachievable and unaffordable within the foreseeable future. Resourcing the proposed strategies and objectives should be considered a primary overarching strategy of the document and given priority.

The apparent downgrading of government supported housing by emphasizing the importance of private rental and private investment to house people rather than increasing government funding is of considerable concern to TAS. The document appears to indicate government priorities by placing home ownership and private rental as Strategic Areas 2 and 3 but government supported housing and priority need housing as Strategic Areas 4 and 5. TAS cannot support the mere sustaining of current public housing stock while placing significant reliance on private investment for low cost housing provision. Ongoing and increased funding by both State and Commonwealth governments is imperative to ensure a growing public housing system and TAS urges the State Government to continue to seek increased Commonwealth funding.

TAS argues for the Housing Strategy to include an acknowledgement of the need for tenants to have increased consumer protection and for the current review of the *Residential Tenancies Act 1987* to reflect this requirement. With the growing reliance on the private sector for rental housing, tenants must be ensured sufficient and appropriate protection to ensure they can maintain long and successful tenancies. Similarly community housing tenants must be offered similar protection if the government is to encourage people to enter this sector as a viable alternative to the public housing sector.

TAS is concerned by the document's neglect of three significant housing tenures for low income people – boarding and lodging houses, long-stay residential parks and Indigenous community housing. It is a significant failing that the document has ignored these three valuable sources of accommodation for low income households and inclusion of these tenures must be ensured in the Housing Strategy's final document.

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