



Redfern Waterloo Authority  
PO Box 3332  
Redfern NSW 2016

28 February 2011

Attention: Redfern- Waterloo BEP 2

## **Submission on the draft Redfern-Waterloo Built Environment Plan Stage 2**

### **1. Introduction**

Redfern Legal Centre (RLC) is an independent non-profit community-based organisation with a prominent profile in the Redfern area of over 25 years' standing. We provide free legal advice and assistance, case work, community education and advocacy on systemic law and policy issues. We have a focus on human rights and social justice. We prioritise the needs of Aboriginal, Non-English speaking, and people with disabilities.

RLC has a long history of providing legal advice to our local community with one of our keys areas of advice being for public and private tenants. Since 1995 Redfern Legal Centre has been funded by the NSW Office of Fair Trading to run the Inner Sydney Tenants' Advice & Advocacy Service ('RLC ISTAAS').

RLC ISTAAS contributed to the submission by Shelter NSW and we share the same questions and concerns that Shelter NSW raised in that submission. We are particularly concerned that public housing should not be reduced, and that the area should not increase in density in the numbers suggested by BEP 2 plan. We also share the concerns that the area will remain as having large pockets of densely built public and social housing, rather than a true mix of housing types as suggested.

This submission will focus on two issues of concern in relation to BEP 2: the privatisation of public housing and the absence of proscription in relation to disability access.

### **2. Concerns about the Privatisation of Public Housing**

BEP 2 defines 'affordable housing' as housing that is usually managed by a community housing provider. At the same time, the term 'social housing' is used to describe the 40% of housing which is to be a reduction in the current amount of 'public housing'.

While BEP 2 does not make it clear, it is a current trend for public housing to be given over to community housing providers to manage. This has led to the new term 'social housing', which for example, in the *Residential Tenancies Act 2010* is distinguished from the term 'public housing' as including both public and community housing.

At the same time, community housing providers are not government departments in the same way that the NSW Land and Housing Corporation is. This causes a big difference in the rights of public tenants as compared to community housing tenants. It is this transfer of stock (or reallocation of current amounts of housing), from public to social housing, and the ensuing loss of rights of tenants that concerns our service.

### **2.1 Right of review**

A tenant of Housing NSW has a right of review and procedural fairness under administrative law that governs all government department decisions. In Housing NSW there is a clear two-tier appeal process which involves an internal review and then a review by the Housing Appeals Committee. Policies and procedures are clear and accessible on request or on their website and there are clear time limits for appeals of different decisions.

While community housing tenants do have access to the Housing Appeals Committee this is not always known by tenants, or indeed even by Community Housing Providers themselves. In addition, it is often very difficult to obtain a copy of policies from a community housing provider or an outline of their internal appeal process. In more than one case a housing provider has said they would not release a copy of a policy, or they did not have one. In other cases housing providers have been unclear about their internal appeal process. Once clarified the process was unnecessarily lengthy, involving two internal appeal levels before proceeding to the Housing Appeals Committee. As such, there is a lack of transparency and consistency within community housing providers.

### **2.2 Access to Information**

Another example is the right to information under the *Government Information (Public Access) Act 2009 (GIPA)*. Although the Office of Community Housing governs registration of community housing providers, it is our experience that tenants in community housing do not have the same access to information as public housing tenants.

Housing NSW tenants can ask to either view their file or get a copy of their file under GIPA. This is especially useful when they are going to appeal a decision made by Housing NSW. Community housing tenants do not have the same right of access to their files. Some community housing providers may have a policy to grant a tenant access to their file while others may not.

This again shows complexity and inconsistency between rights of public and community housing tenants.

### **2.3 Right to Complain to the NSW Ombudsman's Office**

As a tenant in community housing you are not able to complain about your housing provider to the Ombudsman's Office in the same way as a public housing tenant.

A recent case study from our service illustrates why it is necessary to have this avenue of complaint.

**Case Study- Right to Complain to NSW Ombudsman:**

In late 2009 Housing NSW started to 'streamline' their debts and write to many tenants asking them to pay off old debts. In all of the more than a dozen cases that came to our attention, Housing NSW did not give details of what those debts were for, even after our office requested details of specific debts. In many cases the debts were over six years old. In at least one case Housing NSW had previously agreed to waive the debt as the tenant had not caused the damage to the premises.

Housing NSW sent further warning letters to tenants and threatened to issue notices of termination if the debts were not paid. At the same time they were still unable or unwilling to provide details of what the debts were for or when they arose. In four cases the tenants were issued with notices of termination. This caused enormous stress for the tenants.

Due to the lack of procedural fairness in this case RLC ITSAAS lodged a complaint with the NSW Ombudsman's Office. After investigation by the NSW Ombudsman, it was resolved with details being given to all tenants. In one case the tenant paid the debt after being given the particulars, while in all other cases it was found that the tenants did not owe the money for various reasons.

As can be seen above, parts of the *Residential Tenancies Act* treat social housing tenants differently to private tenants. Many (but not all) parts of the Act treat public tenants and community housing tenants the same way, using the term 'social housing'. Yet community housing tenants do not have the same right to review and complain as public tenants. In many cases the Consumer, Trader & Tenancy Tribunal will not be able to look into the issues in the same way that the Ombudsman or the Housing Appeals Office can.

Considering that the new 'Housing Pathways' system has one waiting list and one intake process for all tenants that may then end up in either public or private housing simply by chance, the right to information, the policies, appeals and complaints procedures must be more consistent.

Accordingly, it is our position that public housing in the Redfern-Waterloo area not be given over to community housing in large numbers, or alternatively that social housing providers be subjected to the same appeals and complaints procedures as public housing tenants.

***Recommendation One: We recommend that public housing in the Redfern Waterloo area not be given over to community housing in large numbers, or alternatively that social housing providers be subjected to the same appeals and complaints procedures as public housing tenants.***

### **3. Concerns relating to Disability Access and Universal Housing**

Many of our clients have mental and/or physical disabilities and RLC ITSAAS is concerned that BEP 2 does not recognise the particular needs of this client group. In this regard we note that much of the current stock of public housing is inaccessible.

**Case Study- Inaccessible Housing**

We recently had a client who was virtually housebound when her health deteriorated and she had to use a wheelchair. She lived on the third floor in a building without a lift. It was only after two years of advocacy by a number of services, and eventually our service complaining to the NSW Ombudsman, that she was rehoused into accessible premises.

Another client with a spinal injury had to climb 40 steps to her unit. It took seven years, and again a complaint to the NSW Ombudsman. before Housing NSW eventually transferred her to accessible premises. A third client did have a lift in his building, but as he suffers from claustrophobia, he was forced to climb the stairs to his fourth floor unit. He also suffered from severe osteoarthritis, which made the climb not only painful, but also dangerous as he has had bad falls in the past and was told by his physician that another fall could be fatal.

The Convention on the Rights of People with Disability ('CRPD') entered into force in Australia on 16 August 2008, and Australian governments must act in accordance with the CRPD. Breach of the CRPD can result in a complaint to and investigation by the Australian Human Rights Commission under the *Australian Human Rights Commission Act 1998*.

Article of 9 of CRPD provides that a government is to ensure that community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

We note that the Federal government launched the Universal Housing Design standards in 2008, which set goals to ensure that housing is accessible to the community. We recommend that BEP 2 incorporate these principles.

**Recommendation Two: We recommend that BEP 2 incorporate the Universal Housing Design Standards endorsed by the Federal government.**

Thank you for the opportunity to contribute to this process. Please call Jacqui Swinburne or Joanna Shulman at this Centre on 9698 7277 if you wish to discuss this submission further.

Yours sincerely

**REDFERN LEGAL CENTRE**

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