

Submission, 27th October 2023

About the Tenants' Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 35,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Renters' Organisations (NARO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

This submission is made on behalf of the Tenants' Union of NSW but we thank our sister CLC services in the National Association of Renters' Organisations for information they shared. Any conclusions are our own and we recommend any state or territory-based conversations occur with the relevant organisations.

About this submission

This is a brief submission to draw the Independent Review's attention to a particular aspect of the national framework of assistance that we would recommend is considered under future Partnerships.

We generally endorse the submissions of our dedicated peaks Community Legal Centres NSW and Community Legal Centres Australia and have contributed in their consultation processes.

We would welcome the opportunity to discuss this submission or the issues it raises further. To discuss or for more information about this submission please contact Leo Patterson Ross, Chief Executive Officer of the Tenants' Union of NSW at ceo@tenantsunion.org.au.

Tenant advocacy and the National Legal Assistance Partnership

Across Australia there are hundreds of dedicated workers assisting renters with disputes relating to their housing in private market, public and community housing, boarding or rooming houses, residential parks and other renting situations both formal and informal. These disputes range from ensuring repairs and maintenance are performed under the contract, preventing eviction which causes significant financial and emotional costs and making or defending compensation claims potentially of many thousands of dollars.

In most jurisdictions there is a specialist Community Legal Centre that specialises in residential law and utilises funding under the NLAP to meet these legal needs. Services range across a range of NLAP assistance from advice, representation services to

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community legal education, stakeholder engagement and law reform. The tenancy specialist CLC is often considered a key stakeholder by government in relation to the tenancy laws.

These specialist CLCs have nominated and proven this area of work as important to focus generalist NLAP funding towards but may not be able to seek or receive the funding that is required because of the limited funding available and the needs of other centres in the jurisdiction.

We have collated some funding information to help illustrate the variance that occurs across the country.

Table 1. NLAP contributions to renting specialist CLCs 2023-24

Jurisdiction ¹	Total NLAP funding	Commonwealth contribution to NLAP funding	Commonwealth % of NLAP	Renting population (2021 census)	NLAP funding per renting household
Northern Territory	\$0	\$0	n/a	33,599	\$0.00
New South Wales ²	\$298,682	\$102,280	34.24%	944,585	\$0.32
Queensland	\$366,956	\$157,542	42.93%	618,442	\$0.59
Tasmania	\$208,043	\$182,393	87.67%	57,762	\$3.60
Victoria	\$1,001,198	\$173,842	17.36%	681,419	\$1.47

Table 1 demonstrates a wide range of practice across the jurisdiction, with NLAP funding being used for renting specialist being unrelated to community need or demographics,

¹ The remaining jurisdictions should be noted as follows:

Australia Capital Territory: In 2019 the Community Legal Centre Tenants' Union of ACT was placed in a tender against the ACT's Legal Aid which subsequently received the funding to operate the Tenants' Advice Service. There is no independent tenants advice service for private tenants. In the Territory Canberra Community Law has for many years used NLAP funding to meet legal needs of public housing tenants but we were unable to obtain funding amounts for this submission.

South Australia: There are no community legal centres we are aware of that operate a specialist tenancy CLC. Generalist CLCs offer support to tenants in relation to their, and a non-legal advice service is funded by the State but we were unable to obtain funding amounts for this submission.

Western Australia: Circle Green Community Legal provides a specialist CLC service as well as being part of the statewide network. We were unable to obtain funding amounts for this submission.

² Tenants' Union of NSW and Tenants Queensland are currently receiving Commonwealth Flood and Fire funding to assist with recovery from disasters across 2021 and 2022. This funding has not been included in this table due to its limited scope and timeframe.

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and the proportionate contribution from the Commonwealth also demonstrating wide variance.

This variance is likely a combination of housing legal needs requiring a particular centre to seek to use generalist NLAP funds for the purpose, and the relative treatment of their applications, alongside the level of understanding and prioritisation from the assessing bodies.

There may be a belief amongst assessing bodies that programs funded outside the NLAP system are meeting this need. However in Table 2, we show there is also limited relationship to the non-NLAP funding in the jurisdiction. We recognise that the costs required to deliver services can vary widely, especially in meeting the needs of remote and regional communities. This means there may not be a simple amount per household that is appropriate to compare across jurisdictions. However, it is not clear that there is any strategy behind the current system.

Table 2. Jurisdiction-wide renting assistance

Jurisdiction*	Non-NLAP government provided tenancy funding	Jurisdiction tenancy funding	NLAP % of jurisdiction funding	Renting population (2021 census)	Total Funding per renting household
Northern Territory	\$549,028	\$549,028	0.00%	33,599	\$16.34
New South Wales	\$15,244,961	\$15,543,643	1.96%	944,585	\$16.46
Queensland	\$8,880,000	\$9,246,955	4.13%	618,442	\$14.95
Tasmania	\$244,514	\$452,557	45.97%	57,762	\$7.83
Victoria	\$12,000,000 ³	\$13,001,198	8.34%	681,419	\$19.08

Unmet need

In the Tenants' Union of NSW most recent memo on funding needs, analysis of calls to Tenants' Advice and Advocacy Services in March 2021 suggested that during the original COVID-19 funding boost there was still a level of unmet demand of about 27%, or one in four calls. On current baseline funding this would translate to an unmet demand of 52%. An increase in funding should seek to meet this level of unmet demand in the aggregate. Recurrent funding is required to ensure demand is met in an ongoing manner

³ This figure derived from limited information in Consumer Affairs Victoria annual report 2020-21. There appears to be limited transparency measures around the funding amount for the program in that state.

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and allow services to respond to changing environments in the most flexible and responsive manner.⁴

Applying a presumption of 27% unmet active demand to the NSW jurisdiction figure per household in Table 2, it may suggest that a figure of \$22.54 per renting household is required. Noting that not all jurisdictions will have the same figure, this still suggests a large unmet need across all jurisdictions that should be further explored.

Tenant Advocates in Community Legal Centres

In the 4 states with statewide networks of advocates there is a mix of CLC and non-CLC tenant advocates, tasked with performing the same role.

In many respects, tenant advocacy as with much of community law is a cross-disciplinary approach that takes on holistic and person-centred understandings of the client, as well as specialised knowledge of the legal and resolution processes surrounding them. We look for ways to resolve issues through negotiation, finding creative solutions as well as making the case in the Tribunal. As many social workers as lawyers have made successful advocates in our experience.

In Western Australia, the non-NLAP statewide network is held entirely by community legal centres while in both NSW and Victoria a mix of CLCs and other community organisations deliver the tenant advice and advocacy services.

In Queensland, the statewide network QSTARS, the funding and initial intake is managed centrally by the specialist CLC, Tenants Queensland. The delivery partners are generally non-CLC community organisations, but Tenants Queensland offers a level of management of the program that is not a feature of other states.

There is in some organisations and at some times a tension between the tenant advocates and the legal centre broadly. In part because advocates may not be legal practitioners there can be questions of the expertise. We strongly support workers being acknowledged, including financially, appropriately for their contribution, expertise and experience regardless of their particular discipline.

⁴ Tenants' Union of NSW (2023) *Briefing Paper: Tenants Advice and Advocacy Program Funding Needs* accessed at <https://www.tenants.org.au/reports/briefing-paper-tenants-advice-and-advocacy-program-funding-needs> 27th October 2023