

Chairperson and Committee Members
STRATEGY AND POLICY COMMITTEE

18 OCTOBER 2018

Meeting Status: **Public**

Purpose of Report: For Decision

**SUBMISSION TO MBIE ON THE REFORM OF THE
RESIDENTIAL TENANCIES ACT 1986**

PURPOSE OF REPORT

- 1 This report requests approval of the submission to the Ministry of Business, Innovation and Employment (MBIE) on the reform of the Residential Tenancies Act 1986 (RTA) (Attachment 1).

DELEGATION

- 2 The Strategy and Policy Committee has the authority to consider this under section B.1 of the Governance Structure and Delegations.

BACKGROUND

- 3 On 27 August 2018, MBIE released a consultation document seeking feedback on reform of the RTA.¹
- 4 The impetus for reform is due to the increasing proportion of households living in rental homes since the RTA came into force in 1986.
- 5 The reform of the RTA aims to promote good-faith relationships in the renting environment, and to ensure there are appropriate protections in place for both tenants and landlords.
- 6 Submissions are due on Sunday, 21 October 2018.

ISSUES AND OPTIONS

Issues

- 7 Specifically, the reform seeks to:
 - 7.1 Improve tenants' security and stability, while maintaining adequate protection of landlords' interests;
 - 7.2 Ensure the appropriate balancing of the rights and responsibilities of tenants and landlords to promote good faith tenancy relationships and help renters feel at home;

¹ The consultation document is online at <https://www.mbie.govt.nz/info-services/housing-property/residential-tenancies/rta-reform/consultation>.

- 7.3 Modernise the legislation so it can respond to the changing trends in rental markets; and
 - 7.4 Improve quality standards of boarding houses and the accountability of boarding house operators.
- 8 The discussion document considers the following proposals:
- 8.1 Substituting the ability for landlords to terminate tenancies for any reason with specific and justifiable criteria for ending a tenancy;
 - 8.2 Setting the amount of notice a landlord needs to give to terminate a tenancy to 90 days under all circumstances;
 - 8.3 Limiting rent increases to once a year;
 - 8.4 Better equipping tenants and landlords to reach agreement about pets and minor alterations to the home;
 - 8.5 Whether further controls for boarding houses are needed to provide adequate protection for boarding house tenants; and
 - 8.6 Introducing new tools and processes into the compliance and enforcement system.
- 9 The Council submission to this discussion document focuses on those points which only relate to its particular role as a provider of social housing and those proposed changes which could impact on its operation of its rental properties.
- 10 The submission acknowledges the positive nature of changes suggested in the document to provide security and stability for tenants, but many of the proposed changes are targeted at investor landlords in standalone property situations.
- 11 However some of the proposed changes would adversely affect Council and these are:
- The proposal to remove no-cause tenancy terminations.
 - More scope in allowing residents to modify their properties.
 - Putting the onus on landlords to justify tenants not having pets.

CONSIDERATIONS

Policy considerations

- 12 There are no policy considerations for this submission.

Legal considerations

- 13 There are no legal considerations for this submission.

Financial considerations

- 14 There are no financial considerations for this submission.

Tāngata whenua considerations

- 15 There has been no direct discussion with iwi on the drafting of this Council submission. Due to the short time constraint Council is aware that the provision of housing – particularly papakāinga housing – is of interest to iwi. This submission focuses on Council's role as a Landlord.

Strategic considerations

- 16 This submission contributes to the long term goal of 'a resilient community that has support for basic needs and feels safe and connected'.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 17 This submission is considered to have a low level of significance under Council policy.

Consultation already undertaken

- 18 No consultation has been undertaken in the development of this submission.

Engagement planning

- 19 An engagement plan is not required for this submission.

Publicity

- 20 To inform the community, the completed submission will be posted to the submissions section of the Council's website.

RECOMMENDATIONS

- 21 That the Council approve the submission to the Ministry of Business, Innovation and Employment on the reform of the Residential Tenancies Act 1986.

Report prepared by	Approved for submission	Approved for submission
Crispin Mylne	Natasha Tod	Kevin Black
Manager Property Services	Group Manager Regulatory Services	Acting Group Manager Strategy and Planning

ATTACHMENT

- Appendix 1 Draft submission to the Ministry of Business, Innovation and Employment on the reform of the Residential Tenancies Act 1986.

Appendix 1

19 October 2018

Residential Tenancies Act Reform
Housing and Urban Branch
Ministry of Business, Innovation and Employment
PO Box 1473
WELLINGTON 6140

Email: RTAreform@mbie.govt.nz

Reform of the Residential Tenancies Act 1986

Thank you for the opportunity to submit on the discussion document on the Reform of the Residential Tenancies Act 1986.

The Kāpiti Coast District Council acts as a landlord for 118 flats, in 10 locations throughout the Kāpiti District, for low-income, older people. The criteria for being eligible for Council housing is that the person is on a Government, War or similar type of retirement pension and has limited financial assets (bank accounts, investments, shares, property and the like). Weekly rental currently ranges from \$100 up to \$146. The rental includes maintenance and administration of the one-bedroom units, interior and exterior painting and decoration, lawns, plumbing and electrical work.

This submission reflects the nature of the Kāpiti Coast District Council's role as a specialised social housing landlord and focuses on those provisions of the discussion document that might affect this role.

The Council recognises the suggested reforms aim to provide for better security and quality of life for tenants through better control of their tenancy and enjoyment of their rented properties. While we fully support these goals we suggest a balance of rights for social housing landlords to be able to responsibly manage their properties. By doing this we can provide security and quality of life for all our tenants while protecting the value of our rental stock and preserving it for future beneficiaries without incurring costs that will affect the Council's other core responsibilities.

Included below are Council's responses to the consultation document questions.

Answers to questions posed in the Discussion Document.

Terminating Tenancies

2.1.1-2.1.2

These questions relate to the possible removal of no-cause terminations, where the landlord does not have to give a reason for the end of a tenancy, and what effect this removal might have on the ability of landlords to manage tenants.

The Council favours retaining the use of no-cause terminations as a discretionary management tool to allow for the protection of the rights of Council tenants and the protection of its property. In extreme cases no-cause terminations can reduce the risk of retribution against residents who may have complained about poor behaviour by other tenants or their visitors, and/or stop damage being done to the Council's property.

The Council does not want its properties un-let and does not end tenancies without very good cause. The no-cause exit can be the safest, most effective way of fixing an unsatisfactory tenancy.

Questions 2.1.4-2.1.6

These points relate to whether landlords should give tenants 90 days' notice instead of the current 42 if the property has been sold with a requirement for vacant possession, or is needed for a family or staff member. They also relate to whether vacant possession can only be required if the property is sold under specific circumstances or whether it should be allowable in the prelude to a sale.

The Council's rental accommodation is designed for very long term tenancies. Generally the tenancies of our elderly renters end with a move into higher-level care or death. As such these proposed changes do not impact on the Council's rental operations.

However we do support 90 days' notice as being fairer in allowing tenants to have more security with their accommodation.

Modifications to rental properties

2.3.2 – 2.3.7

These questions, relate to the grounds for granting or withholding permission for modifications, the reversal of modifications at the end of a tenancy and penalties for non-reversal.

The discussion document suggests two options for allowing minor modifications by tenants of their rental accommodation.

Option one would see a tenant requesting the right to make a minor modification. If the landlord does not object or respond in 21 days, it is deemed to be allowable.

Option two is to give tenants the statutory right to make specified modifications to the property. Modifications in both options are to be reversible on the completion of the tenancy if the landlord requests this.

The Kāpiti Coast District Council's default property management requirement is to not allow modifications to its rental stock by the tenants. This requirement is partly in place due to the elderly nature of almost all of the Council's tenants. As mentioned above, such tenancies usually end quickly without a chance for any modifications to be reversed as residents move into higher care facilities or pass on.

However the Council is aware of the need for tenants to feel comfortable. Many of our tenants are very long term with one person being a Council tenant for nearly 35 years. To such tenants their accommodation is rightly regarded as their home and there is always discretion on what the Council allows them to do. However the Council believes it is better for that to be granted rather than taken as of right. This

policy also gives the Council the chance to explain the reasons for its stance which is to safeguard the property and to ensure the quality of life for other tenants.

For minor modifications such as shelving, tenants are asked to refer work requests through the Council to ensure an adequate level of trades-skills quality which protects the safety of residents and protects Council buildings.

The current no-modification policy also puts the onus on tenants to justify changes which, in the past, have ranged from additions such as an un-notified conservatory, poorly placed permanent sheds and outdoor accessories blocking access for other tenants and contractors.

Of the two options suggested in the discussion document we believe neither would be useful for managing our social housing and prefer the status quo be kept in place for such accommodation providers.

Keeping of pets in rental properties.

The discussion document section on pets focuses on how pets provide companionship and enable tenants to feel more at home. It provides four options to help people keep pets in their rental accommodation.

Option one is to specify in law when landlords can decline a request to have a pet; option two puts the onus on the landlord to justify not allowing a tenant to have a pet; option three suggests a pet bond, such as two weeks' rent, to cover the costs of cleaning after a pet-owning tenant leaves the premises; and option four puts the onus on tenants to "remove any doubt their pet may not become a nuisance".

2.4.5, 2.4.7

These questions relate to reasonable grounds for refusing a pet, and what premises may be unsuitable for some types of pets.

The Council recognises the benefits of pets, particularly as companions for its elderly tenants.

While there is currently a general no-pets policy for its social housing accommodation, discretion is allowed on a case-by-case basis for single cats and birds. There are no dogs allowed due to many of the Council units being small and unfenced and also due to the risk of damage being done to the properties and common areas being fouled.

The Council supports the retention of the current regime to give it maximum discretion to make decisions which are best for all its tenants and which safeguard its rental stock.

2.4.8

What changes could be made to provide compensation for potential damage to properties by pets.

The discussion document offers the suggestion of a bond specifically designed to cover pet damage and cleaning, over and above the usual four-week bonds for properties. (Kāpiti Coast District Council's housing only requests two weeks'.)

As a landlord to low income tenants with rentals at the lower end of the market scale (with many rents being \$100 a week) it would be unlikely even a month's rental as a pet deposit would cover the cost of cleaning a flat and readying it for a new tenant.

That would make it unlikely the Council would consider additional bond as a negotiating factor in allowing anything other than a cat or a bird. It might also be financially challenging to some tenants.

3.3.1 Rent increases.

The Council has annual rent increases and supports the discussion document's proposal for a maximum of one annual rent increase per year, per tenant, for residential rental situations.

Thank you once again for the opportunity to submit on the reform of the Residential Tenancies Act 1986.

Yours sincerely,

Wayne Maxwell
CHIEF EXECUTIVE