



Australia's property industry
Creating for Generations

Property Council of Australia
ABN 13 00847 4422

Level 5, 19 Grenfell Street
Adelaide SA 5000

T. +61 422 608 804
E. tbrown@propertycouncil.com.au

propertycouncil.com.au
@propertycouncil

16 December 2022

Residential Tenancies Review
Consumer and Business Services
GPO Box 1719
ADELAIDE SA 5001

RESIDENTIAL TENANCIES REVIEW

To whom it may concern,

Please find below the Student Accommodation Council's submission into the Review of the *Residential Tenancies Act 1995 (SA)* (**RTA**).

The Student Accommodation Council is the peak industry group representing purpose-built student accommodation (**PBSA**), a unique asset class owned and operated by the private sector and currently providing 6,700 student-only beds in the Adelaide CBD.

The Student Accommodation Council is a newly established division of The Property Council of Australia, created to advocate on behalf of this growing sector. Our 10 founding members account for almost 50,000 of the 123,000 purpose-built student beds across Australia. At full capacity, the members of the Student Accommodation Council employ over 5,000 full time staff who provide mental health support, community building activities and services to our student residents.

PBSA buildings

PBSA is housing specifically designed and managed for students, usually by private, commercial developers and/or operators. PBSA buildings differ in numerous aspects to other categories of rental offerings, such as rooming houses and private residential premises. For example, PBSA buildings provide services and amenities which are catered to the student population occupying these buildings, including:

- Purpose-built facilities for students which are located close to universities and inner-city regions, with greater ability to scale beds compared to residential colleges.
- Furnished accommodation, with standard services usually included in the rental rate (for example, Wi-Fi, utilities, and security).
- Social events and study support networks.
- Communal amenity areas including kitchens, gymnasiums, music rooms, study rooms, cinemas, games rooms, transportation services, and cafes.
- Pastoral care including mental health and wellbeing services.
- Academic and career support including tutoring services, study groups, and career events.

A variety of room types are available across the PBSA sector, from 'cluster rooms' (which may contain numerous separate apartments with common areas shared by the residents of the cluster rooms), to individual studio rooms, twin rooms, etc.

In all cases, PBSA operators strive to ensure that their buildings and operations meet the high expectations of the student residents, aiming to provide students with quality, world-class accommodation in places they can feel valued, cared for, and safe.

PBSA as a solution to the rental crisis

South Australia, like many States and Territories across Australia, is currently experiencing an *"extraordinarily tight rental market"* as recently recognised by Nick Champion (Housing Minister for South Australia).¹ This is evidenced in PropTrack's most recent rental report, which showed that Adelaide has one of Australia's lowest rental vacancy rates at 0.9% in the year to September 2022.²

PBSA is in the unique position of being a property-led solution to this rental housing crisis in a two-fold manner – that is, through increased housing supply for students, which in turn reduces the pressure and demand on the private rental market. Importantly, PBSA buildings are built exclusively for students. This reduces the pressure on the overheated broader rental housing market by providing students with purpose-built housing choices. This provides non-students in South Australia with more opportunities to find appropriate housing in the general residential market. In essence, the more students in PBSA, the fewer are taking rooms from private renters.

Without PBSA buildings, we estimate that there would be around 123,000 extra students competing in the private rental market today. In Adelaide more specifically, without PBSA we would currently have nearly 7,000 extra renters competing in the rental market.

Accordingly, PBSA is evidently an important player in the rental market in South Australia and it is our position that this sector requires careful consideration and recognition in the context of any review of the RTA.

PBSA and the RTA

PBSA is currently covered by the RTA under the definition of 'rooming house' and/or more generally by the definition of 'residential tenancy agreement'.

While private sector owned and operated student accommodation is covered by the RTA, student accommodation that is located on university campuses is exempt under Part 1(3:5) of the RTA.

This gives rise to a number of issues as the RTA fails to define PBSA as its own specific housing type, and operators must instead work to make themselves fit within the definition of a 'rooming house' or a private 'residential premises', despite neither of these classifications being fit for purpose in the PBSA context.

It is therefore our submission that the current form of the RTA is completely unfit for the requirements of student residents in large scale PBSA. My members and I believe that the

¹ "Housing affordability crisis continues as strong demand pushes up Adelaide rents", Ethan Rix, 30 October 2022, ABC News, <https://www.abc.net.au/news/2022-10-30/rental-crisis-continues-in-adelaide/101593994>

² "PropTrack Rental Report – September 2022 quarter", Cameron Kusher, Director of Economic Research, 27 October 2022, <https://www.realestate.com.au/insights/proptrack-rental-report-september-2022-quarter/>

review of the RTA offers a unique opportunity to either define student accommodation that is operated off campus as a housing choice with its own specific regulations, or to exempt PBSA entirely from the RTA – in the same manner as university owned accommodation and colleges are. This would provide not only a substantial competitive advantage in attracting international students to live and study in South Australia, but a clearer legal framework for PBSA to operate under.

Response to Discussion Paper

1. Longer Tenancies

While we think longer, fixed term leases with greater protections for residential tenants are an important part of protecting renters in the private market, they do not and should not apply to commercial leases within the PBSA sector for the reasons set out below.

Question: *Should the RTA include a requirement for landlords to provide a prescribed reason for the termination of a periodic lease or the non-renewal of a fixed term tenancy agreement, and if so, what should these prescribed reasons be?*

The PBSA business model caters to student residents who are predominantly from overseas and who, at the end of the term of their agreement, will generally return home or move into other accommodation. Unlike other commercial and residential buildings, these student residents tend to enter into short-term leases which are tied to university/higher education institution semesters, as well as visa requirements. Accordingly, any changes to the RTA should take into consideration the unique cohort of student residents within PBSA, the already large administrative burden placed on PBSA operators in complying with lease agreement regulations throughout Australia, and the predictable nature of lease terms for students living within PBSA buildings.

More specifically, due to the nature of the types of lessees occupying PBSA buildings, operators tend to deal with frequent turn-over of short-term leases across hundreds (if not thousands) of student residents. It is our view that to introduce regulation requiring reasoning for the termination of a periodic lease or non-renewal of a fixed term tenancy agreement would be administratively burdensome (in particular, considering the large number of PBSA beds across South Australia) and greatly interfere with the ability of PBSA operators to operate and manage their relevant assets, including with respect to ensuring the accommodation of incoming cohorts of international students who have booked, and are expecting to receive, accommodation at the relevant PBSA buildings.

Question: *Should the RTA be amended to accommodate longer fixed term tenancy agreements?*

The RTA should not be amended to accommodate longer term fixed leases for PBSA operators, as there is no demand for longer term fixed leases for students who live in this housing class.

In virtually all cases, PBSA operators offer existing student residents the opportunity to re-sign for a further period of 6 or 12 months depending upon their future study requirements.

As such, should any such amendment be introduced, PBSA should be exempt from the relevant amendment.

Question: *Should the minimum notice period required prior to the non-renewal of a fixed term tenancy agreement be extended to 60-days?*

PBSA operators already provide the 28-day notice required to let students know that a lease term is about to end. This is a huge administrative undertaking for PBSA operators who have thousands of residents Australia wide.

Students are also acutely aware of when their lease agreement is approaching its end, as it tends to align with their academic calendar and/or visa-grant conditions.

Residents within PBSA are also far more mobile than the average residential renter – they have no furniture because the rooms are fully furnished, they do not have dependents or pets, and the beds are usually leased to a single person. As such, a 28- day notice period is an appropriate time-frame and any introduced amendment should not apply to the PBSA sector.

2. Residential Bonds

The appropriate regulation of residential bonds by the RTA is an important part of protecting the rights of renters within the private rental market.

However, major commercial and sophisticated players such as PBSA operators who are backed by large institutional investors do not pose the same risk to bond security as private, non-commercial landlords. It is also important to differentiate between large and well capitalised PBSA operators who have well-resourced finance teams dedicated to the correct handling of bonds and deposits, and a smaller residential landlord who may be self-managing an individual investment property.

Noting the above, it is our submission that the bond/security regime currently contained in the RTA requires further consideration in the PBSA context. The PBSA sector is capable of independently and efficiently managing the collection, holding, and return of bond/security monies without the need to lodge such bonds/securities with a third party or bond authority. The PBSA industry is a large commercial sector which functions in a professional and streamlined manner, with a view to safeguarding its broader reputation in the market. The mishandling of a student's bond would not be tolerated in this commercially operated market. Further, it is our submission that the PBSA sector could manage the handling of bonds in a more streamlined manner than the bond authority. This would also reduce the significant burden on the bond authority.

Question: *Should the relevant limit be increased to \$800 to allow most tenants in SA to pay a bond of no more than the equivalent of 4 weeks' rent?*

The members of the SAC have no issue with this proposal.

Question: *Should the RBO be made mandatory and require additional tenant contact details upon registration to minimise unclaimed bonds?*

The members of the SAC would ask that if implemented, this change be exempt for PBSA operators.

As noted above, the PBSA sector already operates with a high degree of commercial sophistication, including with respect to the handling of bonds. It does not require further restrictive regulation that simply places a larger administrative burden on PBSA operators with thousands of beds in Adelaide.

Further, the implementation of such regulation would not align with the commercial process of how and when PBSA operators take bookings for rooms. Many student residents apply for leases while overseas, and PBSA operators have their own streamlined online forms that allow students to reserve a room at a PBSA building very promptly. The proposed change would slow this booking process and add complexity for students, particularly those from overseas who are wishing to live in Adelaide when compared to other interstate jurisdictions.

3. Rent bidding

PBSA operators are leaders within the commercial residential sector and rent bidding does not occur. As a result, amendments around rent bidding do not concern or apply to PBSA operators, who advertise prices for all room types across their actively managed websites and third-party sites.

4. Rooming houses and shared accommodation

As discussed earlier in this submission, various PBSA operators fall under the category of 'rooming houses' in the RTA, despite the discussion paper stating "*rooming houses often provide a home to vulnerable people, including those living with poor mental health, alcohol or substance abuse issues, or an illness or disability,*" which does not reflect the student residents of PBSA.

The SAC would welcome the opportunity to discuss how PBSA differs from a traditional rooming house definition. Where a rooming house could be a residential home with four leased bedrooms and a granny flat managed by a private citizen, PBSA operators often have hundreds of beds in the one facility and are managed by a team of professionals who are available 24 hours a day, 7 days a week.

Due to the competitive nature of the market in Australia, PBSA operators must uphold the highest professional standards, levels of cleanliness and facilities for their residents to attract and retain students. It is, quite simply, an entirely different proposition to a traditional rooming house arrangement.

Question: *Should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?*

Without an amendment to specifically exclude or define PBSA, this amendment would have no impact on the sector as they are captured regardless due to the size of their operations (generally above 100 beds per building).

Question: *Should the RTA establish a registration scheme for rooming houses that have 5 or more residents and require 'fit and proper' person checks for proprietors?*

We understand that the purpose of this amendment is not to start a registration scheme for student accommodation providers, but rather for traditional rooming house landlords. As such, we would ask that PBSA (as a sophisticated, commercial sector) be exempt from this amendment.

5. Renting with pets

PBSA operators do not allow pets within their buildings (with the exception of service animals) as the nature and character of PBSA buildings are unsuitable to house pets such as a dog.

PBSA assets generally house hundreds of student residents, with a vast majority of such residents usually being international students. The average room size in PBSA buildings is smaller than normal residential homes (generally the same size as, or smaller than, a hotel room) given the shared communal facilities, and the rooms are usually carpeted. Studio rooms tend to comprise of a bed, desk and bathroom. Many student residents also share living spaces in twin rooms or apartment/cluster-style rooms. General communal facilities (such as games rooms, cinema, kitchen and study zones) are shared amongst all student residents. A mandatory requirement for PBSA operators to allow pets in PBSA buildings does not account for situations where one student resident wants to keep a pet in a shared living space, while the other student resident does not, which places the PBSA operator in the difficult position of needing to mediate this position between student residents. Additionally, given the nature of PBSA buildings and the small size of the rooms at such buildings, the rooms are unlikely to be suitable for an animal to live in. Pets in PBSA buildings will have no access to outdoor bathroom facilities unless and until they are specifically taken outdoors via common areas shared with numerous other students.

The rooms in PBSA buildings are also usually located adjacently, with rooms placed in a row next to each other (similar to a hotel). Complete sound barriers between such rooms cannot be guaranteed, and therefore concerns arise that a pet housed in one of these rooms may cause noise and disturbance to other residents in PBSA buildings. PBSA operators have legal obligations to provide peaceful enjoyment with respect to the student residents of such adjacent rooms pursuant to leases entered into with these lessees, and therefore concerns arise that PBSA operators will not be able to satisfy this contractual obligation should a pet be housed in PBSA buildings.

Secondly, the majority of student residents within PBSA buildings are young, international students who (in many cases) are experiencing time away from home in a foreign country for the first time. In recognising this, PBSA operators generally provide numerous support facilities and pastoral care to the student residents of such buildings, including providing a safe and secure environment for the students to occupy whilst completing their studies. However, the provision of these services may be compromised, or become more difficult to ensure, by the presence of a pet such as a dog in PBSA buildings. For example, student residents will likely need to carry the pet in and out of the relevant PBSA building, via common areas – thereby providing various opportunities for other student residents to come into contact with the pet. In addition to the safety of the student residents, there are also health concerns that can be caused by pet allergies. If pets are allowed to stay in PBSA buildings, PBSA operators would no longer be able to guarantee that the building will be free of pet dander (which is the predominate cause of severe allergies).

Lastly, it is noted that PBSA buildings are predominantly occupied by international students who are visiting Australia on temporary visas. This calls into question the longevity of and commitment to pet ownership amongst the student residents of PBSA buildings. Accordingly, animal welfare concerns arise with respect to housing pets in PBSA buildings.

Question: *Should the RTA include the presumption that a tenant who applies to keep a pet in a rental property cannot have their request unreasonably refused, provided the tenant agrees to comply with any reasonable conditions imposed by the landlord?*

Not in the PBSA sector. If this proposed amendment is adopted, then PBSA as an asset class should be explicitly exempt (as university colleges are via the RTA) for the reasons set out above.

Question: *Should a pet bond scheme be introduced in SA?*

As pets should not be allowed in PBSA buildings, the PBSA sector should be exempt from any such amendment to the RTA.

6. Housing Standards and retaliatory evictions

PBSA operators already lead the market when it comes to the professional management of leases and residents' rights. Retaliatory evictions as outlined in the paper do not occur within the student accommodation sector, as PBSA buildings are professionally and commercially operated buildings on a large scale, run by full-time staff dedicated to maintaining high standards of operational and reputational excellence across these buildings. There is no appetite in a commercially run sector such as the PBSA industry for retaliatory evictions to occur. As such, we submit that there is no need to further regulate PBSA operators with respect to lessee evictions.

In terms of housing standards, the buildings owned and developed by PBSA members are also usually brand new, built to the latest building standards, energy efficient, and designed with student safety in mind. The socially conscious residential cohort, paired with the ESG requirements of the financial backers behind these projects, mean that PBSA assets are built with the highest levels of environmental sustainability at their core.

The cost of energy is also usually covered in a student's rent in the PBSA sector, which means it is in the best interest of the developers and owners of PBSA to have environmentally friendly buildings to lower their energy costs and thereby offer competitive rental rates to students. This contrasts with the private residential market, where tenants are required to pay separately for energy bills.

Question: *Should the RTA include further complimentary provisions to those proposed under Section 1 of this paper to ensure tenants can exercise their rights without the risk of a retaliatory eviction or rent increase?*

The PBSA sector should be exempt from any such amendments, as there is no need to further regulate this industry for the reasons set out above.

Question: *Should the RTA impose minimum energy efficiency standards in rental properties?*

The SAC understands that the intent of this potential amendment is to lift the environmental standard of private residential homes in the market, which is a worthy cause. However, it is our submission that this would be an unnecessary and commercially impractical amendment to impose on the PBSA sector and, accordingly, it is imperative that PBSA assets are treated as exempt from any such amendment to the RTA.

As discussed above, it is also already in the best interest of PBSA providers to lower their energy costs via energy efficient technologies.

Further, given the scale of PBSA buildings, it is imperative that large student accommodation providers are explicitly exempt from any such amendment. This is to avoid a large administrative burden in proving energy efficiency standards across buildings that have already been constructed to comply with the latest codes across the country, and to ensure that changes which would be minor in expense for a small residential house (for example, upgrading light fittings) but would be hugely expensive for a large commercial building are not imposed unnecessarily.

7. Safety modifications and minor changes

Question: *Should the RTA be amended to prevent the unreasonable refusal of safety modifications and minor changes including the installation of wall anchors, child safety gates, childproof latches, wireless outdoor cameras, showerheads, and internal window coverings?*

PBSA operators build assets to the highest safety specifications and the rooms are fully furnished. As a result, there is no need for residents to affix furniture or change other elements in their rooms. There are also generally no young children living in PBSA. As a result, these proposed amendments should not apply to PBSA operators as they are irrelevant to these property types.

Additionally, PBSA buildings are created to be uniform in design, fittings, style and layout. This is both for branding reasons, as well as to ensure that student residents at PBSA buildings have commensurate, equal offerings in each room. Additionally, student residents frequently share room and living space with other students – for example, in twin rooms, or apartment/cluster style rooms. To allow individual student residents in these shared living spaces to make modifications to their rooms may lead to disagreement between the other student residents.

Moreover, to allow the student residents to make modifications to their rooms will cause major expense to PBSA operators, as they will be required to ‘make good’ the relevant room to the pre-leasing condition each time the relevant student resident vacates the room (and it is noted there is an intrinsic high turn-over of occupants in PBSA buildings, thereby leading to an increase in the number of times PBSA operators may need to conduct such make good works). Given regular turnover of rooms, this will increase rents to cover make-good costs.

For these reasons, this proposed amendment should not apply to owners or operators of PBSA buildings.

8. Start of tenancy requirements

Question: *Should the RTA require prospective tenants to use a standardised application form in any application for a rental property that has questions that restrict the amount of personal information a landlord or land agent can gather about a prospective tenant?*

As stated earlier, PBSA operators already have streamlined online forms or online bookings processes which allow quick processing of the thousands of new student residents applying for a lease in PBSA on an annual basis. These forms/processes allow for accessible and easy applications, which are at odds with the different and cumbersome requirements sometimes asked for in the private residential market. It is easier and faster for a student to apply for a bed in a PBSA building directly from the operator’s website than in a private rental.

Residents hoping to live in PBSA also often have less points of Australian ID than the average residential renter, because many are international students applying for a lease before they have arrived in Australia. As a result, any changes to the RTA that could impact these processes and slow down the applications of students must be avoided for PBSA operators.

Further, a large proportion of the residents occupying premises in PBSA assets are international students who are staying in Australia for a period of study. As part of the pastoral care services usually provided by PBSA providers, it is important for PBSA providers to understand the nationality of the students occupying the relevant PBSA assets. PBSA providers use this information, for example, to tailor cultural events that they organise and

host which are relevant to the nationality of the relevant students. PBSA operators should not be prohibited from requesting documentation from student residents which in fact help make the process of booking a room in a PBSA building simpler for those student residents, and which enable PBSA operators to provide the best possible living experience to the students residing in the PBSA buildings.

Moreover, PBSA buildings are also generally subject to planning restrictions which require the occupants of these buildings to be students enrolled in a higher education institution course. In order to ensure compliance with these planning restrictions, PBSA operators require the ability to ask for and check student identification documentation – which involves checking visa and nationality requirements with respect to international students.

For these reasons, any such amendment (if adopted) should explicitly exclude the PBSA sector.

Question: *Should the RTA be amended to prohibit landlords, land agents and database operators from charging a fee to a person who requests a copy of the personal information about themselves that is listed on a residential tenancy database?*

We have no comment on this proposed amendment.

9. Domestic violence provisions

Question: *Are further amendments required to strengthen financial protections for victims of DV who are renting?*

While domestic violence is rare in PBSA buildings due to the usual demographic of the residents in these buildings, as well as occupancy type (which is usually on a single-person basis) all PBSA operators train their staff in providing support for impacted people. They also provide 24-hour staffing within their buildings, and ensure their staff are appropriately trained in mental health and the de-escalation of potentially violent situations.

Issues relating to an abuser departing from a joint tenancy and leaving a victim with a financial penalty is exceedingly unlikely in the PBSA sector given most leases are for a single applicant.

Issues relating to the housing security of older women, while, critically important, are also not relevant to the student cohort who live in PBSA buildings.

As a result, we have no comments on any proposed amendments to the RTA to strengthen the financial protections of victims of domestic violence.

10. Water billing

PBSA residents do not receive individual water bills, as all utilities costs are covered under their rental amount as per each student's tenancy agreement. For this reason, this section of the paper is not relevant to SAC members.

11. Illegal drug activity

Given the size, design, and close proximity of other residents living within PBSA, the manufacturing and/or regular smoking of drugs in PBSA premises has not been identified as an issue within the SAC's membership. There are also regular inspections that occur under the lease agreements and energy usage in buildings is monitored to ensure residents are not

using unusual amounts of power, which make the manufacture of illegal drugs highly unlikely – if not entirely improbable.

Further, after a student resident has ended their lease, a thorough cleaning of the room occurs before a new student arrives.

For the reasons noted above, we have no comments on this proposed amendment to this RTA.

12. Third party payments

There is already federal legislation covering the receipt of payments for rent within PBSA's national operations. This proposed amendment does not apply to the PBSA sector and we therefore have no comments in this regard.

13. Modernisation of language

Question: *Should terms within the RTA be updated? If so, which terms should be revised and what should they be replaced with?*

The review of the RTA offers an opportunity to update this piece of legislation to reflect the professional size and scale of the PBSA sector, and to ensure that the rights of renters in the private residential market are upheld without adding expensive administrative burdens to a growing sector that is underpinning South Australia's largest export – being international education.

We therefore submit that the RTA should be updated to add a definition of 'purpose-built student accommodation providers'. This definition would be used to facilitate the carve out of the PBSA sector from various sections of the RTA that are either not relevant, or should not apply, to PBSA buildings. It would also reflect the role the PBSA sector plays in housing thousands of young people across South Australia, and to differentiate it from 'rooming houses' (which is an inappropriate 'catch-all' term that does not reflect the large commercial operations of PBSA).

Conclusion

PBSA operators should be recognised as providing a vital housing service to students in the same way as university owned accommodation (often managed by my members on behalf of the university) or colleges, who are exempt from the scope of the RTA.

The Student Accommodation Council would welcome the opportunity to brief the Government about how the purpose-built student accommodation operates and how it offers a professional and high-class housing choice for young people studying in Adelaide.

Yours sincerely



Torie Brown | Executive Director
Student Accommodation Council

