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STAGE 2 RENTAL LAW REFORMS

Please find below the Student Accommodation Council's submission regarding the *Stage 2 Rental Law Reforms* discussion paper currently out for consultation.

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 16,000 student-only beds in the Brisbane CBD and surrounds.

There are currently 40 PBSA buildings in and around Brisbane, all of which have experienced zero vacancies since February 2023.

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 65,000 of the 76,500 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 included in the rental rate (for example, Wi-Fi, all 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

Queensland, like many States and Territories across Australia, is currently experiencing an extraordinarily tight rental market. This is evidenced in Domain.com's most recent rental report, which showed that Brisbane has one of Australia's lowest rental vacancy rates at 0.7% in the year to April 2023.¹

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 Queensland 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 800,000 extra students competing in the private rental market today. In Brisbane more specifically, without PBSA we would currently have nearly 16,000 extra renters competing in the rental market.

Accordingly, PBSA is evidently an important player in the rental market in Brisbane and Queensland more broadly and it is our position that this sector requires careful consideration and recognition in the context of any reforms of rental laws.

PBSA and the RTA

PBSA is currently covered by the *Residential Tenancies and Rooming Accommodation Act 2008* – which means that any changes aimed at the private residential market through rental law reforms will also capture PBSA providers and the leases their student residents sign.

Where "accommodation for students within the external boundary of a registered higher education provider's campus" is not covered by the RTA (which means university colleges, school boarding houses and on campus accommodation are exempt), PBSA providers are majority located off-campus which means they are captured by the RTA.

This gives rise to a number of issues as the RTA fails to define PBSA as its own specific housing type, and instead has a catch all definition of "student accommodation means premises primarily used to provide accommodation to students," with this definition only used to provide for the breaking of leases when a student ends their enrollment at an educational institution.

¹ <https://www.domain.com.au/research/vacancy-rates-april-2023-1210395/>

For all other intents and purposes, PBSA providers are captured by the entirety of the RTA and treated as residential landlords.

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 review of the rental laws 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 Queensland, but a clearer legal framework for PBSA to operate under.

Response to Discussion Paper

1. Installing modifications

Purpose-built student accommodation is a fully furnished living option, with residential rooms and communal areas designed around the needs of students.

The rooms have fixed furniture (built-in desks, kitchenettes, beds etc) and students do not bring their own hard furnishings into PBSA when they start their leases. This suits the residents, who are 80 per cent international and often arrive in Australia with only a suitcase and allows the rooms to be re-let quickly and efficiently when a resident moves out.

Each PBSA building has some rooms designed to code for residents with a disability, and these are already modified to suit the needs of students with accessibility issues. Student Accommodation operators provide rooms designed for residents with sight and hearing impairments and to facilitate and accommodate wheelchair use. The stock of accessible rooms within PBSA is appropriate for the demand, and there are not requests to retrofit non-accessible rooms for residents with higher needs.

Similarly, PBSA buildings already have monitored security throughout the building common areas, exits and entrances, as well as staff which are available on site 24/7. Where a private residential residence may require modification to keep a resident safe, PBSA is already designed with safety and security of residents in mind – meaning there is no need for further security modifications.

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 the regular turnover of rooms, allowing modifications for each room and then

returning them to pre-lease condition will add significant costs to operators, which will only be able to recouped through increasing rents.

It is therefore not appropriate or necessary for there to be greater ability to modify resident rooms for this specific asset class. While we understand and support the need for simple modifications to be made to suit residents in a private residential setting, our rooms are already designed to the specific needs of our student cohort.

Any reforms in the laws surrounding modifications in tenancies should not be applied to PBSA.

2. Making minor personalisation changes

The discussion paper highlights the importance of making your 'house a home' for long-term renters, who may wish to plant a garden, paint a wall or install energy efficiency technologies to lower their utility costs.

The difference between private residential homes and PBSA rooms here is marked – primarily because student residents are not 'long term renters', with the vast majority only living in a building for twelve months. Often, their length of stay will align with the length of the course they are studying, which can be anywhere from a couple of weeks to full university semesters.

Resident rooms are designed with 'personalisation' elements built in – study nooks, display pinboards and shelving allow for students to add their own 'flair' to a room without damaging internal walls or fixtures. Again, given the high turnover of the rooms (and the sheer scale of the buildings, which can house over 1,000 residents), the make-good costs of returning each room to pre-lease conditions would be immense.

All apartments come with the fittings and fixtures needed to provide a pre-existing home – all a student needs to do is bring in their personal belongings. This is different to the private residential market, where tenants move into an empty home or 'shell', in PBSA the rooms are already fully fitted out.

As students typically utilize their room for sleeping and studying only, and all rooms are fully furnished, there is not generally a request to personalise the space. PBSA buildings have large communal areas that are used by students for gathering, eating together and socializing, and operators often leave these spaces quite organic with students having the ability to move furniture around to suit their needs in the shared spaces.

Residents do not request to personalise large communal spaces, as they are shared with others. However, if a group of residents believe a space can be better utilised they will often work directly with operators to improve an area in consultation with other residents. For example, operators will convert communal living areas into study-zones during exam periods at the request of residents and provide additional support during stressful periods to ensure they feel at home, but the need for room-to-room personalisation or one-off changes to gardens, walls etc does not exist.

As the leases for student accommodation are all inclusive of utilities and the buildings are designed with energy saving technologies built in, there is also no need for residents to install further energy efficient technologies.

Again, any changes to rental laws surrounding the ability for tenants to make minor personalisation should not apply to PBSA providers.

For these reasons, we would support Option One in the discussion paper for PBSA providers.

3. Balancing privacy and access

Privacy concerns around data

Residents applying for leases in PBSA buildings are not subject to the same levels of pre-tenant screening as tenants in the private residential market.

Given the young age of the applicants, the fact that many have no prior rental history in Australia and are renting while they study rather than work fulltime, PBSA operators do not ask for the same level of financial and personal information as the private sector.

Most student residents who apply for a PBSA room have their application accepted within 24 hours and often before they have physically stepped foot in the country. While concerns around the level of information sought by real-estate agents may be applicable to that market, it does not apply to PBSA operators.

Student accommodation providers also have professional property management systems that are fully online, which is the preferred method of operation for our young student residents. It is also suitable given much of the transaction between future residents and providers is done while a student is still overseas. Having online platforms is non-negotiable and the industry-wide norm for PBSA. We have property management systems that are secure, work for international students and online is the preference for PBSA residents. PBSA operators utilise large-scale international companies who are experts in data protection and cyber security to secure the resident information they hold – this is a cornerstone of their business.

In fact, many of our PBSA operators utilize resident apps that include a helpline and 24hr chat function for students to receive support including how to report cyber-crime. In addition, these technologies provide advice and support on a range of student related issues, and specifically education around how to stay safe online.

Any reforms or moves to regulate that hard-copy documentation be used or held would pose a bigger risk to resident privacy and add burdensome paperwork storage to the operations of PBSA businesses. Any requirements for hardcopy notice or forms to be given to residents should not apply to PBSA – it does not match the requirements or current systems used by providers and their young, tech-savvy residents.

Access

Any proposed reforms which make it harder for PBSA operators to access the rooms, communal areas and check on the welfare of residents should be avoided. While general residential tenants may sign a lease for multiple years and expect a number of scheduled inspections during that time, students living in PBSA sign much shorter leases, have higher needs and require more intensive management and oversight than other residential tenants.

Any reforms that could have the unintended consequence of limiting access to students in need should be avoided.

Operators of PBSA conduct regular checks on the rooms of residents for multiple reasons, which include; to ensure cleanliness, teach valuable life skills, educate young people about hygiene and upkeep, to check on resident wellbeing, identify maintenance issues and to ensure that students living in shared apartments are respecting their fellow residents by maintaining standards.

Where private residential tenants allow access to their homes to ensure the property is being adequately maintained for the landlord, the many reasons that PBSA operators require access are more complex and varied. The unique cohort of the residents (young, culturally diverse and often living out of home for the first time) means a 'higher touch' level of support is required in these buildings.

While residents are always given prior notice before an inspection, this is usually a digital notification rather than hard-copy. Given the residents do not work full time and are often in the buildings during the day, there are not the same requirements to work around job schedules or the need to secure pets etc, meaning access can be granted much quicker than in the general residential sector. Staff are also already on site, which means there is no need to schedule an inspection that allows for travel time and geographic isolation.

Leases are also much shorter in nature than the general residential sector. Some of the proposed reforms to the rules governing when an agent/landlord can first access a property (i.e. not three months before their lease begins) would be unworkable in PBSA, where it is not unusual to have three month leases. In the case of a three-month lease, there would be one inspection during the middle of the three-month time frame. Any changes to the length of time frame before an initial inspection should exclude short term rental options like PBSA.

Further, due to the large amount of rooms in a PBSA facility, inspections are usually organised to allow for staff to spend a week conducting inspections across the property all in one go. As students tend to also sign up for leases at the same time of year (e.g. at the beginning of semester one) all their inspections come up at the same time, typically these inspections are scheduled outside of exam and assessment periods to minimise disruption during stressful times. This also simplifies communication with residents, with public area notices and mass virtual communications alerting the resident population when inspections blocks will be taking place.

Part of the inspection schedule is also to ensure staff outreach and support. Residents are given tips on how to keep rooms clean, welfare check-ins occur and disputes between flat mates are mediated. The staff who carry out these inspections are trained in mental health and community building and are doing much more than a simple residential asset check.

Shared apartments, which see multiple residents living together with shared bathrooms, kitchens and lounge areas, also require higher access. This is to ensure the harmony within these housing options is maintained and any problems between residents can be worked through with a professionally trained member of staff.

If a welfare need arises suddenly, a staff member will attend to a resident's room quickly. In these circumstances there is no ability to give prior notice and is part of the duty-of-care PBSA operators have for their young residents. Any reforms around rights of access should be careful not to capture welfare checks and other necessary visits for PBSA providers.

There are many operators who have dedicated floors and rooms held for the under-18 market. These young people have much higher touch points than a normal residential

tenant, and it is part of the agreement between PBSA operators, educational institutions and parents that a close-eye and extra support will be provided to this cohort. Restrictions around access to rooms and communal zones inhabited by under-age residents would be particularly problematic.

Further, building common-areas are shared by hundreds of young residents and require regular upkeep. PBSA operators should not be hindered by rules surrounding the notification of all residents when ongoing maintenance needs to occur. It would be unworkable and unwieldy to communicate and be granted access by each resident just because an air-conditioning unit in a common area or an exhaust fan in a communal kitchen requires maintenance. Ongoing maintenance schedules are a part of the daily operation of all PBSA buildings, and any reforms to access should exclude PBSA buildings to avoid unnecessary administrative burden being placed upon operators – which would only lengthen the time to fix defaults or upgrade communal zones.

4. Improving the rental bonds process

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.

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.

Commercial bond products are not used by residents living in PBSA.

It is the opinion of Student Accommodation Council members that the bonds lodgment process in QLD runs well and is more efficient than in other jurisdictions.

Our only suggestion for reform is to allow a bond to be transferred if the student wants to move buildings owned by the same operator. Currently we expose ourselves by letting students leave one building, apply for their bond refund and then once received pay the bond again at the new property. Where a student is simply moving locations but maintaining the same PBSA landlord, the bond should be simply transferred from one building to the other.

5. Fairer fees and charges

It is critically important that any reforms to break-lease fees take into account the unintended consequences we have already seen interstate as a result of making it easier and cheaper for students to end leases at short notice.

In NSW, reforms were implemented that allowed students to break their leases with only two weeks notice and a two week rental equivalent break lease fee. What this meant for operators was students who had signed leases through to December or January all broke their leases in

late November so they could travel for the summer – leaving operators with hundreds of beds they couldn't fill in the student low-season and costs far above that which could be recouped from break lease fees.

Those same students then returned for the next university year and re-signed up for new leases, effectively skipping two months of rent at no cost to themselves, but at great cost to the operator. The communication channels between students is particularly robust, which meant that when students became aware of the loop hole they all broke their leases on mass, went on holidays, and then returned in the new year. Some even stored their belongings at facilities in the buildings, such was their intention to return and re-sign leases the next semester.

PBSA operators are restricted by their planning covenants to only rent to students – which means a fixed fee on re-letting does not work, particularly at the end of the university year when students return home or go travelling during the holidays. Students who break leases just before Christmas and at the end of semester will not have their rooms re-tenanted at this time, because it is the 'low season' for students. This leaves operators with rooms they cannot fill with short-term tenants (students do not take up short courses over the summer holidays) or other types of renters like general tourists, who are barred from staying in PBSA facilities because they are not enrolled in education courses.

While it makes sense that a resident on a longer term residential lease should not be made to pay unfair re-letting or break lease fees if they decide to move on half way through a long-term lease, when you are dealing with leases of 3, 6 and 12 months there is simply no financial disincentive to break a lease and leave operators with rooms that cannot be filled during student low-season if the penalty is only a few weeks of rent.

It is the recommendation of the Student Accommodation Council that any reforms to break-lease fees be limited to leases over 12 months, to ensure that gaming of the system for short-term rental products like PBSA does not occur.

For short-term leases, we believe a more balanced system would be a break lease fee of four weeks rent with two weeks notice – providing residents with enough incentive not to break leases and would help plug the gap left by residents who leave rooms prematurely that cannot be re-let in low-season.

In recent changes to notice periods for breaking a lease in QLD, a new reason to end a lease has been included as follows: '*end of student entitlement*'. This means that if a student ceases their study either through graduation or dropping out, they can break their lease with four weeks' notice and no further compensation is payable to the landlord. This is already proving a problem, as a lot of students will sign a 12-month lease to get a better rental rate (the longer the lease the lower rent rate offered), with the full intention of breaking their lease 7 months in when they graduate, using the '*end of student entitlement*' as grounds.

It is also important to note that PBSA rents are all inclusive, covering utilities, wifi, use of communal spaces, gym memberships and electricity. This means that residents do not receive individual water bills as per each student's tenancy agreement. For this reason, suggestions to improve the transparency of water charges are not relevant to SAC members and PBSA operators should not be captured in these reforms.

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 Brisbane.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Adina Cirson'.

Adina Cirson
A/g Executive Director
Student Accommodation Council