

# Submission



## ***Reform of the Residential Tenancies Act 1986: Discussion Document***

PREPARED BY: Ashburton District Council    SUBMITTED TO: Residential Tenancies Act Reform  
PO Box 94    Housing and Urban Branch  
ASHBURTON    MBIE  
PO Box 1473  
WELLINGTON

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### **Introduction**

Ashburton District Council welcomes the opportunity to submit on the Reform of the Residential Tenancies Act 1986. This submission is from the Ashburton District Council (Council) highlighting issues as they relate to this organisation.

Located between Selwyn and Timaru Districts respectively, more than 34,100<sup>1</sup> residents live in our district, with our main town of Ashburton accounting for 19,280 or 56% of residents. The rest of our residents live rurally or in smaller towns or villages.

Ashburton District is one of New Zealand's fastest growing rural districts with a population increase of 22% since 2006 (approximately 2% pa). This period of rapid but consistent growth follows an earlier period of little to moderate growth. Recent growth has occurred in both urban and rural parts of the district and is considered to have been driven primarily by strong growth in the local rural economy.

Ashburton District Council owns and manages a Commercial Property portfolio of over 1,400 industrial, commercial, residential and rural properties. Some of these are strategic investments held for our current or future activities, while non-strategic properties are continually reviewed for sale. New opportunities for purchasing high-yield commercial and industrial properties also occur from time to time.

Included as a part of this portfolio are properties that are classified as community services in that their purpose is to look after the wider community's wellbeing and help enhance social cohesion and community connectedness, such as the 112 Elderly People's Housing (EPH) Units. The provision of these units help to ensure that the most vulnerable members of our community (low income elderly residents with no secure accommodation) have a safe and affordable place to call home. Through the provision of these units Council is a landlord and therefore acting under the Residential Tenancies Act 1986.

Ashburton District Council wishes to make the following comments on the specific areas of reform outlined in the Residential Tenancies Act 1986 discussion document.

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<sup>1</sup> Source: Statistics New Zealand Population Estimates 30 June 2017

## **1. Termination provisions**

### ***Removal of no-cause terminations (page 11)***

Council opposes the removal of the 90 days 'no cause' notice and believes that these are a particularly useful mechanism to protect other tenants/neighbours from blame and retaliation, especially where the other party is 'vulnerable', which is a reality for some in our Elderly People's Housing.

2.1.1 Council believes that the requirement of landlords to provide 'evidence' if no-cause terminations were removed would almost certainly put others at risk. In the situation of Council's EPH, where housing units share common grounds, this could prevent the landlord ensuring the property provides for the quiet enjoyment of others.

A recent example illustrates this whereby a tenant was persistently asking for cigarettes and money from other tenants in one of Council's Elderly Persons complex. Council understands that one of the tenants approached is terminally ill and the situation caused them considerable distress.

### ***Fair Termination Grounds (page 13)***

Council believes that grounds for tenancy termination must be genuine and supports the continued ability for tenants to challenge the notices through the Tenancy Tribunal under the Residential Tenancies Act 1986 as it currently stands.

### ***Notice period for Landlords and Tenants (page 14)***

Council has no opinion about the proposal to extend the notice periods landlords must give tenants under a periodic agreement from 42 to 90 days. However, Council does believe if the notice period is extended for landlords to tenants, then the tenant to landlords notice period should be extended to 90 days also.

## **2. Tenancy Agreements**

Council operates all of its EPH tenancies under open-ended periodic tenancies and strongly believes that these are the best mechanism for our tenants. Often tenants move from EPH into care with little or no notice and these tenancy agreements allow the flexibility required for this to happen.

## **3. Tenant and Landlord Responsibilities**

### ***Landord Responsibilities (page 24)***

Council considers that landlord obligations are clear and understood under the current legislation, and does not believe that there should be other additional provisions included in the reforms that landlords should be responsible for.

## **4. Modifications to Rental Properties**

Council supports the current legislation that prevents a tenant from making modifications to a rental property unless they first get agreement from the landlord. The current legislation also places an expectation on landlords not to withhold agreement unreasonably, which Council considers fair and reasonable.

Council suggests that allowing tenants to undertake 'minor modifications' such as planting a vegetable garden and hanging pictures needs due consideration, and should remain at the landlords discretion. For example when planting a garden contamination issues, buried pipes/wiring, other hazards and constraints on where gardens are located due to the placement of fencing, paths and foundations need to be evaluated first. Likewise the hanging of pictures needs to ensure that no plumbing/wiring could be affected, that the wall can handle the object being hung and that there is not a proliferation of drawing/push pin holes created that can be costly to repair if the wall needs to be re-finished.

Council has formed this view based on its experiences as a landlord. The following highlights two examples of situations that have occurred in the Elderly People's Housing when tenants made, or attempted to make, modifications without landlord permission:

#### **Installation of a satellite dish.**

A contractor was approached by a tenant to install a satellite dish. The contractor drilled a hole through the timber window frame adjacent to the glass. This weakened the frame, and as the wire was simply poked through, and the hole not stopped/sealed, water was allowed to ingress into the frame and the interior space. The wiring has been allowed to fall through to the floor allowing a path for water.



#### **Fibre Installation**

A commercial fibre installer was approached by a tenant to connect fibre to a block of EPH units. They proposed to dig a shallow channel to lay the cables but did not have a solution for crossing a concrete path and had no plans to relay the turf. Fortunately Council were approached before work began and signalled to the contractor that these issues needed to be addressed. Their solution was that the tenant could dig a deeper ditch, which was entirely inappropriate and impractical given the tenant was elderly, did not know where existing pipes or cables were located and would have been undertaking work on our site for which we have responsibilities under the Health and Safety at Work Act.

***Should tenants be responsible for reversing modifications? (page 26)***

Council's primary concern with the reversal of modifications being the tenant's responsibility is with the tenant's ability to undertake and/or to afford to, put right modifications. For example the workmanship required to undertake a 'simple' paint job could, if poorly executed, cost the landlord a significant sum to rectify. As Council primarily houses elderly tenants, we would also hold concerns about responsibility for their health and safety in undertaking such work.

Council considers that in requiring tenants to seek the landlords' permission to undertake work, Council can act as a safeguard to the more vulnerable members of the community from being taken advantage of by more unscrupulous sales and trades persons.

Landlords are obliged to provide safe and healthy accommodation that complies with building codes, resource consents, electrical, building and plumbing compliance. If tenants were responsible for reversing modifications this compliance could be placed in jeopardy.

***Modification Options (page 27-28)***

Council opposes option one on the grounds that Council has primarily elderly tenants who are unlikely to be in a position to afford to remediate modifications.

Council opposes option two as compliance is complex and multi-faceted and is the responsibility of the landlord which cannot, and should not, be devolved to tenants.

**5. Keeping pets in rental properties**

Council considers that the issue of keeping of pets in rental properties is not the pets' full stop, but issues with the type, size and number of pets. For example, an officer (in their previous employment) faced a situation of a tenant who had 'adopted' a mouse without realising it was pregnant. The resulting population boom went unchecked and ended in an infestation that took to the walls of the property. The wall linings had to be removed to remove the mice. The end result for the landlord was unhygienic property that was expensive to remediate.

As Council we provide Animal Control services to the community to address public safety in relation to the control of dogs and to limit the potential for nuisance caused by animals. Council fundamentally believe that pets themselves need to be appropriately accommodated.

In the case of the EPH, where units are relatively small and share communal outdoor spaces that are not individually fenced, or site fenced it is not appropriate to have a dog in an Elderly Housing Complex. Accordingly Council has a 'no dogs policy' for tenants, but cats and other small pets are permitted, such as caged birds. Therefore the suitability of a property to keeping pets is highly relevant and Council would not support a 'blanket rule' approach to reforms that does not take this into consideration.

Council notes in the consultation document "many landlords do permit tenants to keep pets..." where practicable and at the discretion of the landlord. This seems to work and Council would support the status quo.

***Tenants will be liable for careless pet damage up to a cap (page 30)***

Council has faced situations where pets have caused significant damage to an EPH unit, and accordingly believes that it is not reasonable to expect landlords to pay for this damage. A recent example of an incontinent cat housed in by an EPH tenant resulted in Council having to replace the entire carpet in a unit. As the cat was also kept indoors (and sometimes in cupboards) it caused damaged to a significant amount of woodwork and wall coverings, which had to be repaired, painted or replaced. This unit was vacant for 15 months whilst remedial work was carried out.

In this instance when Council made an insurance claim, each room was considered to be an individual 'event' and therefore an excess was applied to each room of the claim by the insurance company. Therefore, the insurance solution proposed in 114 (page 30) could be problematic for landlords.

***Option four: Clarify the obligations on tenants to remove any doubt that pets may not cause nuisance.***

Council could support reforms that include duty or duties on tenants specifically in relation to pets, as outlined in point 131 (page 33). In Council's situation we seek clarification on how a tenant can remove any doubt that pets may not cause a nuisance. In our experience our tenants with pets often do cause a nuisance. Our tenants apply for EPH on the criteria of age, income and assets and often cannot give us that assurance such as not affording vets bills.

## **6. Setting and Increasing Rent**

Council understands that rental bidding is not an issue in our district but does acknowledge that it is an issue for other areas of New Zealand.

***How and when rents are increased (page 38)***

Council suggests that if the RTA were to include guidance on what constitutes a rent increase that 'substantially exceeded market rent' then the Tenancy Bond Data could be a benchmark source.

***How and when rents can be increased (page 38)***

Council currently conducts annual rent reviews of its properties and would support this approach being included in a reform.

## **7. Enforcing Tenancy Laws**

Council supports maintaining the Tenancy Tribunal powers and authority as they currently stand and would not like to see the maximum amount the Tribunal can order to be paid (\$50,000) be reduced.

Council notes that the '...majority of complaints to the Tenancy Tribunal are by landlords for non-payment of rent as outlined on page 48. Council believes that it is to the benefit of landlords to maintain tenancies as we suffer a loss when a property is not let and good tenants are highly valued.

**Ashburton District Council thanks MBIE for the opportunity to provide this feedback.**



HAMISH RIACH  
**Chief Executive**



DONNA FAVEL  
**Mayor**