# LEGISLATION SCRUTINY COMMITTEE

# RESPONSE BY THE DEPARTMENT OF THE ATTORNEY-GENERAL AND JUSTICE

# TO WRITTEN QUESTIONS FROM THE COMMITTEE

# INQUIRY INTO THE

# RESIDENTIAL TENANCIES LEGISLATION AMENDMENT BILL 2019

## *Clause 6 - Sections 65A and 65B – Keeping Pets - Applications to the Tribunal*

1. **The Real Estate Institute of the Northern Territory has expressed concerns that proposed sections 65A and 65B would adversely affect NTCAT's work load and potentially contribute to landlords leaving the property market with consequent impact on availability of rental property and an increase in rental prices.**

   a. ***What consideration has been given to the impact of the proposed amendments on NTCAT's work load?***

   b. ***What costs are landlords likely to incur when making an application to NTCAT to establish whether or not their objection to pets is reasonable?***

   c. ***What is the projected timeframe within which NTCAT would consider a landlord's objection to a tenant keeping a pet?***

   d. ***Do these proposed sections apply to periodic tenancies?***

AGD Response:

1.a. The Northern Territory Civil and Administrative Tribunal (NTCAT) was consulted during development of proposed sections 65A and 65B, which included possible impact on workload.

It was considered that there may be an initial uptake in applications to refuse, however with the test being based on reasonableness, and with non-exhaustive criteria set out in proposed section 65B(2), it was determined that the workload of the NTCAT will not be adversely impacted.

1.b. NTCAT fees to commence a proceeding under the *Residential Tenancies Act 1999* are currently $68 for an individual and $85 for a body corporate.

Should a matter proceed to hearing, hearing fees are:

- free for day 1 of the hearing,
- $141 per day or part day for days 2-4 of the hearing,
- $294 per day or part day for days 5-9 of the hearing and
- $359 per day or part day for any days more than 9 days.

Hearing fees are payable by the applicant. NTCAT's experience in residential tenancy matters is that hearings generally do not run for more than a day.

It is therefore expected that a landlord who seeks to object to an application for a pet would pay the cost of the filing fee. Should a landlord be successful in an application (i.e. the objection was reasonable), the landlord is entitled to recover the application fee under section 132(2)(ba) of the *Northern Territory Civil and Administrative Tribunal Act 2004*.

1.c. NTCAT sets timeframes to progress matters based on the application and the legislative regime to which it relates. Given proposed section 65A(4), the NTCAT would likely hear and determine an application within 14 days.

1.d. Yes.

**2. The NT Legal Aid Commission, NT Shelter and Darwin Community Legal Service (DCLS) commented that if 'no cause evictions' are not addressed, then tenants who serve a notice to keep a pet may find that their tenancy is terminated by the landlord under sections 89 or 90.**

***a. What recourse, if any, would tenants have if they considered that their tenancy had been terminated because they had exercised their rights under proposed 65A?***

***b. What consideration has been given to amending sections 89 and 90 in a way that would prevent the landlord from terminating the tenancy in response to a tenant exercising their rights to have a pet under proposed section 65A?***

***c. What would be the effect on the operation of the Bill of amending proposed s 90 to restrict the landlord's ability to terminate a lease to circumstances where the premises are to be sold, renovated, or are to be used by either a member of the landlord's family or for a purpose other than a rental?***

AGD Response:

2.a. Under proposed section 175, proposed sections 65A and 65B will be available to new leases entered after commencement of the amendments and would not apply to existing leases.

There is, however, nothing preventing a tenant and landlord discussing the option of permitting a pet under an existing tenancy agreement.

In respect of tenancy agreements entered into after commencement, there is scope for a landlord to seek to terminate the agreement without reason where a tenant seeks to keep a pet under section 65A. However, the landlord is constrained by the notice periods for termination, and those periods well exceed the period in which the landlord is required to either consent to the pet, or apply to the NTCAT. The practical effect is that if an application is approved the tenant will be permitted to keep the pet until the tenancy runs its course, and the landlord will be faced with the process of seeking new tenants at the conclusion of the terminated tenancy. From a business continuity perspective, it would be in the landlord's long-term interest to seek to retain the tenant in the tenancy.

2.b. Amendment to grounds and notice periods in sections 89 and 90 did not form part of the proposed amendments for this Bill. It is acknowledged that this is an area requiring consideration, however due to a lack of consensus amongst stakeholders, this topic requires further consultation and consideration as part of ongoing reform work, which is beyond the scope of this Bill.

2.c. As noted above in answer 2.b., the topic is far from settled amongst stakeholders and is subject to ongoing consultation before any proposed amendments could be determined for inclusion in a later amendment Bill.

**3. DCLS, TEWLs, and NT Shelter commented that proposed s 65A could be interpreted to mean that a tenant 'could be breached for having a pet on their property temporarily' (DCLS), for example, someone who visits with a pet or who looks after a pet for a short period.**

***a. Please clarify whether this is the case.***

AGD Response:

3.a. The general interpretation of the word 'keep', in relation to a pet, is one of retention of the pet at the premises on an ongoing basis, rather than a temporary one.

**4. Proposed s 65A(7) states that a tenant may give a notice under subsection (2) in respect of more than one pet, and gives as an example an aquarium with multiple species of tropical fish. TEWLS has commented that the Bill is unnecessarily restrictive and burdensome in capturing all pets and questions the usefulness of using an aquarium as an example. The Committee notes that equivalent provisions on pets in the Victorian and ACT legislation do not specify that a tenant may give notice in respect of more than one pet nor do they clarify what types of pets are covered under the legislation.**

***a. What is the purpose of clarifying that a tenant may give notice under subsection (2) in respect of more than one pet – is this section really necessary?***

***b. Is it the intent of the Bill for the provisions to apply to all types of 'pets' including, for example, ant farms and aquariums?***

***c. If this is not the intention of the Bill, what would be the effect on the operation of the Bill of providing clarification regarding the types of pets to which the provisions apply?***

AGD Response:

4.a. The purpose of proposed section 65B(2) is to assist the NTCAT in determining whether or not consent is reasonably withheld. Under proposed section 65B, considerations include the type of pet, nature of the premises, and whether there are any legal restrictions. The consideration relates to the specific premises, so a premises may be suitable for 1 medium size dog, but not 3 large dogs, a goat and an elephant. The section also factors in circumstances where during the tenancy a tenant might have a gold fish that the landlord agreed to, and later wishes to have a cat.

4.b. The general definition of pet is that of a domesticated or tamed animal kept for companionship or pleasure. It is unlikely that insects would meet this definition. The provision does intend to capture aquatic animals (as the example for proposed section 65A(7) provides). As noted above, the reasonableness is premises specific so it is appropriate that the provision enables NTCAT to consider all types of pets in the context of the premises in which they are proposed to be kept.

4.c. The intention is to enable consideration of all types of pets in the context of the premises in which they are proposed to be kept. In this setting, specifying specific types of pets may result in an unnecessarily restrictive list.

**5. Proposed s 175 limits the application of proposed sections 65A and 65B to tenancy agreements entered into after commencement. DCLS considered there to be no reason for this restriction and recommended that proposed s 175 be removed.**

***a. What is the rationale for limiting the application of proposed s 65 to tenants who have entered into an agreement after commencement?***

AGD Response:

5.a. The purpose of proposed section 175 is to maintain the status quo for existing tenancies as the purpose of proposed sections 65A and 65B is to provide a presumption in favour of keeping pets, unless unreasonable. As noted in response to question 2a, there is nothing preventing negotiations between a tenant and landlord under existing agreements in relation to keeping a pet.

## *Clause 7 – Proposed s 77 – Tribunal may order tenant to let landlord enter premises*

**6. NT Shelter and DCLS have expressed concerns regarding proposed s 77(3) as they deem this to have potential for conflict, injury or damage. They also expressed concern that landlords or agents would be excluded from civil or criminal responsibility (subsection 77(6)).**

***a. Please clarify what is meant by 'reasonable means to enter the premises or ancillary property'.***

AGD Response:

6.a. The purpose of the amendment is to make it clear to a landlord and tenant how the landlord may gain entry to their premises when the tenant has denied them entry.

For an order under section 77, a landlord must have first tried to exercise a legal right to enter the premises, and the tenant must have denied that right.

An application to NTCAT under section 77 for an order to permit that entry, requires the landlord to outline the legal right they wished to exercise, along with the actions taken by the tenant to prevent the landlord from exercising their legal right, and any efforts the landlord undertook to ameliorate the situation.

The NTCAT is obliged to consider all the relevant matters, including the tenant's view, before deciding whether or not to issue an order. To make an order permitting the landlord entry, the NTCAT must be satisfied that the landlord had a legal right to enter the premises, and that the tenant unreasonably impeded or failed to permit that entry.

'Reasonable means' to enter the premises requires consideration of the circumstances, based on the nature of the impediment or failure by the tenant preventing access, to determine the most reasonable response to address that impediment or failure. For example, a tenant may be directed to remove a lock on the front door that the tenant has installed, within a certain period of time, with a further order that if the tenant fails to

comply within that timeframe, the landlord is authorised to engage a locksmith to open, and remove, the lock to gain entry.

The provision providing an exclusion from civil or criminal liability, confirms the general position under the Criminal Code and the common law, that an action authorised by, and undertaken in accordance with, an order of a competent authority is lawful to the extent the order is lawful and the actions accord with that order. Using the example in the paragraph above, if the tenant does not comply with the order to remove the lock and permit entry, and the landlord subsequently engages a locksmith to open and remove the tenant's lock, the landlord is not civilly or criminally liable for wilful interference or damage of the tenant's property (i.e. the lock).

7. **Section 77 provides for two separate occurrences as set out in subsections (1) and (2). Subsection (1) provides for the landlord's entry under an order from the Tribunal due to tenant unreasonably impeding or refusing entry while subsection (2) provides that where a landlord has already entered premises in accordance with the Act, the tenant must not unreasonably impede the landlord in carrying out the purpose for which entry lawfully occurred. New subsections (3) to (6) appear to predominantly relate to subsection (1) although subsection (4) appears to relate to both subsections (1) and (2) as it refers to entry 'under this section'. Some ambiguity is created in subsections (5) and (6) both of which provide for requirements relating to entry to a premises that occurs 'under the order' (subsection 5) or 'in accordance with the order' (subsection 6).**

   a. ***Does subsection (2) only relate to entry under an order under subsection (1) or does 'entered ... in accordance with this Act' include entry without an order, for example, a landlord entering to carry out repairs under s 71? If it does only relate to entry under an order, what prevents it applying to other entries under the Act?***

   b. ***Does subsection (4), which applies to a landlord entering premises 'under this section', relate only to entry under an order under subsection (1) or does it also apply to landlords who have entered premises under the Act without an order, such as entering with consent to carry out repairs?***

   c. ***If the section may apply to entry, or having entered, premises under the Act without an order, would it be more appropriate to replace 'the order' in subsection (5) with 'an order made under subsection (1)', and 'the order' in subsection (6) with 'an order made under subsection (1)'?***

AGD Response:

7.a. Ssection 77(2) provides a prohibition on the tenant from unreasonably impeding the landlord or authorised person after they have gained lawful access. It is a general prohibition which applies to access gained under section 77(1) or as otherwise authorised under the Act. Proposed new section 77(4) only relates to the entering of the premises under an order issued under section 77(1).

7.b. Section 77(2) is a prohibition on the tenant that applies once a premises has been lawfully entered, whether the lawful access is under an order made under section 77(1) or otherwise in accordance with the Act. Section 77(4) relates to contact with the tenant or other person during the entry to the premises under an order issued under section 77(1).

If further clarity is deemed necessary, a consideration in detail stage amendment to sections 77(4) to (6) to clarify that the order referred to in those subsections is the order made under section 77(1) could be considered.

7.c. Please refer to answer 7.b. above.

## *Clauses 9 and 10 – Section 90 replaced and Section 91 amended – notice of intention to terminate*

**8. A number of submitters, while supporting the change in terminology regarding notices to terminate a tenancy, have noted that time frames for notifying tenants of termination are much shorter than in other Australian jurisdictions and have recommended that notice periods be lengthened and brought into line with national standards.**

***a. What consideration was given to lengthening the notice periods to bring them into line with other Australian jurisdictions?***

***b. What is the rationale for not amending notice times and will future reforms to the Act include such amendments?***

AGD Response:

8.a. Extending notice periods was canvassed in the 2019 Discussion Paper: Review of the *Residential Tenancies Act 1999*. That Discussion Paper noted the lack of uniform approach to notice periods across Australia. For fixed term tenancies, the notice periods for landlords range from 28 days in South Australia to 26 weeks in the Australian Capital Territory. For periodic tenancies, the notice periods for landlords range from 60 days in South Australia to 120 days in Victoria.

For notice periods by tenants, the shortest period is 14 days for both fixed and periodic tenancies in the Territory, Tasmania and Queensland. The longest notification period required by a tenant is 28 days in Victoria.

8.b. As noted above in answer 2.b., as there is not a consensus amongst stakeholders on this topic, further consultation and consideration of the issue is required before any amendment to the notice periods could be developed.

**9. In the second reading speech for the Bill the Minister stated that the notice of intention to terminate does not actually terminate a tenancy but that termination of the tenancy agreement is contingent on agreement between the parties or by an order from NTCAT: 'Rather, it gives notice of a person's intention to terminate the tenancy in accordance with the actual termination process that the notice is engaging, acknowledging that a tenancy agreement will only be terminated where the parties agree, or the NTCAT so orders'. However, proposed section 90 clearly states that 'A landlord may terminate a fixed term tenancy that is due under the tenancy agreement to terminate on a particular day by giving the tenant a notice of intention to terminate...'**

***a. Please clarify whether the intent of the Bill is best represented by the statement made by the Minister or with what is stated in proposed s 90.***

AGD Response:

9.a. The Minister's statement is accurate.

A tenancy does not terminate simply through the issuing of a notice of intention to terminate. Termination of a tenancy is not achieved through a single provision in isolation. Termination is a process governed by a number of provisions operating together. It starts with section 82, which sets out the preconditions required for effective termination.

Section 90, as currently drafted, and as drafted in the proposed amendment, and likewise section 95, sets out a two-step process in order to meet the preconditions required by section 82:

(1) the landlord (or tenant under section 95) may terminate the tenancy on the day it is due to terminate under the agreement;

(2) for termination to occur on the specified date, the landlord must give a notice of intention to so terminate the agreement on that date at least 14 days before the date of termination.

The notice may be withdrawn at any time, or declared to be of no effect. As such, the notice simply gives notice of an intention for the tenancy to terminate on a given date, subject to operation of the Act. This is supported by the options open to a tenant on receipt of a notice under section 90:

(1) the tenant accepts the notice as being valid and agrees to give vacant possession on that date (or before); or

(2) the tenant disputes the notice and holds over, section 103 activates (tenant ceases to be entitled to possession), the landlord applies to NTCAT under section 104 for an order of possession, and NTCAT determines that the tenancy has in fact been terminated, and orders vacant possession (provided the landlord has complied with the processes of the Act to effect termination, such as proper service of notices in the required timeframes).

**10. Sections 89 and 94 (periodic tenancy), and 90 and 95 (fixed term tenancy), all provide for the termination of a tenancy by the use of a notice of intention to terminate under section 101. However, sections 89 and 90 refer to the notice as 'notice to the tenant in accordance with section 101' while proposed section 90 and 95 refer to 'a notice of intention to terminate'.**

***a. Why are two different phrases used to refer to the same thing?***

AGD Response:

10.a. This is a matter of drafting that was considered by the Office of Parliamentary Counsel.

In drafting amendments to clarify terminology (from 'notice of termination' to 'notice of intention to terminate'), Parliamentary Counsel took the view that the current sections 90 and 95 would benefit from clarifying the application of the timeframes and application of language/terminology, including the use of the new definition ***notice of intention to terminate***, which means a notice given in accordance with section 101. The Office of the Parliamentary Counsel believes that section 89, which is not being amended, is consistent with the new definition of ***notice of intention to terminate***.

Sections 89 and 94 were not amended as they are relatively clear and straight forward and did not require the language to be changed.

## *Part 15 – Termination for purposes under the Housing Act 1982*

**11. Sections 139(1)(c); 139(4); 145(1)(b); and 145(3) refer to an undertaking the Department may make to a tenant in relation to entering into a new tenancy agreement as a result of renovation, replacement or demolition of current rental premises. The Top End Women's Legal Service (TEWLS) queried whether the Department would be able to withdraw and/or renege on this undertaking. They note that in typical civil proceedings, breach of an undertaking equates to contempt of court and query the enforceability of the undertaking proposed to be made by the Department.**

***a. How will any undertaking to enter into a new tenancy agreement as specified in these proposed sections be enforced?***

***b. What will be the consequences for the Department if they renege on an undertaking made to a tenant?***

***c. What, if any, recourse do tenants have if the Department reneges on their undertaking?***

AGD Response:

11.a. The Department of Local Government, Housing and Community Development (DLGHCD) has advised that the object of Part 15 is not to permanently end the landlord/tenant relationship. Rather, the object is to provide a mechanism to facilitate the provision of newly renovated premises or alternative premises to existing tenants in an effective and efficient manner as possible, given the legal challenges the Act raises when managing the complex logistics associated with the rollout of remote public housing programs.

The CEO (Housing) has no intention of, or interest in, withdrawing or reneging on an undertaking to enter a new tenancy agreement under proposed Part 15, Division 2 and 3. To put this beyond doubt, DLGHCD intends for the written undertaking to be a binding obligation on the CEO (Housing) as a model social landlord for public housing premises.

11.b. Aside from any adverse implications on the CEO (Housing) (and Government more generally) for failing to meet the social landlord's obligations of contributing to social welfare, tenant wellbeing and community vitality, an aggrieved tenant may seek enforcement of a binding written undertaking through NTCAT or the Local Court, which also have jurisdiction to award compensation where appropriate.

11.c. Please see 11.b. above.

**12. DCLS expressed concern regarding proposed s 140(3) which provides that transitional accommodation agreements will not be subject to the Act, meaning tenants in transitional accommodation will have no legal rights and the landlord will have no legal responsibility. DCLS commented that dealing with this issue through policy or operational guidelines would not be satisfactory as tenants would be unable to enforce their rights. They noted that this problem could be overcome by requiring tenants to pay a nominal rent thereby enabling transitional arrangements to be covered by the Act.**

***a. Please clarify why the Act does not cover agreements made between the tenant and the CEO (Housing) in relation to transitional accommodation.***

***b. What, if any, legal recourse will tenants have if the CEO (Housing) does not fulfil responsibilities normally covered by the Act, such as maintenance?***

***c. Please clarify whether transitional accommodation arrangements would be covered by the Act if tenants were charged a nominal rent.***

AGD Response:

12.a. DLGHCD advises that its existing Transitional Accommodation Policy provides that the CEO (Housing) will not charge rent (or bond) to tenants who are living in transitional accommodation. This policy decision was made in favour of tenants, recognising that transitional accommodation is temporary.

The policy acknowledges that the need for a tenant to take up temporary accommodation while the CEO (Housing) upgrades or replaces a premises, can inconvenience public housing tenants and create a financial burden for them. DLGHCD intends to amend the existing policy to align with the proposed amendments under this Bill, and strengthen the CEO (Housing)'s commitment to reducing any financial burden tenants face by moving into transitional accommodation. This commitment includes not requiring the tenant to pay rent or a bond for the transitional accommodation, and covering the tenant's costs associated with moving and connection of utilities.

If the CEO (Housing) does not charge rent for the transitional accommodation, the Act will not apply to that agreement as section 6(1)(b) provides that the Act does not apply to an agreement that grants a right to occupy premises for the purpose of residence under which no rent is payable.

12.b. DLGHCD advises that tenants entering into transitional accommodation are required to sign a Transitional Accommodation Agreement. This agreement reflects many of the rights and obligations that exist under a residential tenancy agreement.

Under the Transitional Accommodation Agreement, the CEO (Housing) is contractually bound to follow many of the same obligations that a landlord has under the Act, including ensuring that the premises are:

- safe, secure and habitable;
- reasonably clean when the tenant enters; and
- maintained and repaired.

The Transitional Accommodation Agreement also includes other rights and responsibilities a tenant would have under the Act, including:

- the right to vacant possession and quiet enjoyment;
- the requirement to not engage in illegal conduct or create nuisance; and
- the obligation to notify the CEO (Housing) if the property has been damaged or requires repairs and maintenance.

If there were any dispute in relation to complying with the agreement, the tenant has recourse through DLGHCD's internal complaints and appeals mechanism, where the CEO (Housing) has committed to addressing disputes in a fair and equitable manner. The tenant will also have the ability to seek enforcement of a breach of the agreement by the CEO (Housing) through NTCAT or the Local Court.

12.c. Yes, the Act would apply to the transitional accommodation agreement if the tenant was required to pay nominal rent under that agreement.

DLGHCD advises that the transitional accommodation is not meant to be a long term living arrangement. Rather, its function is to provide tenants with safe, habitable, cost-free premises to reside in whilst their home is being renovated. Applying the Act under those circumstances would add unnecessary complications to the process that would be of no benefit to the tenant.

If the Act were to apply to the temporary accommodation, the CEO (Housing) would need certainty of the date on which tenants would move into, and move out of, the transitional accommodation, since a tenancy agreement requires a fixed start and end date, which the nature of the rollout of the refurbishment/replacement program is not able to provide. It would also mean that all of the Act's provisions apply, including the need for the completion of ingoing and outgoing condition reports for the premises; the requirement for tenants to pay bond; and for each party to abide by the termination notice periods.

The underlying intention of the amendments contained in proposed Part 15 is to facilitate delivery of large-scale programs of construction works to enhance remote tenants' lives, with flexibility and efficiency, while guaranteeing the tenant's right to safe, secure housing on an ongoing basis. Applying the Act to transitional accommodation would unnecessarily restrict the flexibility required to serve individual tenants' and communities' needs, as well as the broader community, through delivering these much needed housing works, and would divert scarce resources from focusing on program delivery to administration of transitional accommodation leases.

**13. Proposed s 141(b) states that if there is no agreement between the Department and the tenant about the length of time the tenant can remain in possession of the premises, the tenant must move out on the date that the transitional accommodation is available. TEWLs has recommended that greater flexibility should be provided for both tenants and the Department.**

***a. What would be the effect on the operation of the Bill of re-drafting subsection 141(b) with words to the effect: 'if there is no agreement – within 7 days of the date that the transitional accommodation is available'?***

AGD Response:

13.a. DLGHCD advises that under proposed Part 15, Division 2, the CEO (Housing) is to consult with the tenant on the entirety of the program, and the processes associated with it, well before the requirement to move out of the premises into the temporary accommodation occurs. In addition to this, the CEO (Housing) will also be required to advise the tenant of the expected date the tenant can move into the transitional accommodation (propsed section 139(3)(f)) after that consultation.

As noted above in response to question 11.a., there are complex and challenging logistical issues associated with the rollout of the largest remote public housing program undertaken by the Territory, including coordination of the many contractors required to undertake the works, and factoring contingencies such as material availability. Consideration also needs to be given to seasonal factors that influence building activity, such as wet season flooding not just near the location of the weather event, but also further afield (for example, closure of the Stuart Highway at Katherine will significantly impact on the ability to deliver materials to areas outside of that zone that have not been directly impacted by the weather).

Given the nature of the program and the remoteness of communities, there are a limited number of transitional accommodation properties in each community where works are occurring. As a result, the CEO (Housing) needs to carefully manage transitional accommodation premises to ensure that construction works can continue smoothly, efficiently and cost effectively, while addressing tenant needs.

Due to the shortage of housing generally, and transitional housing in particular, having transitional properties sitting empty to allow for notice periods to be served by each set of tenants participating in works programs is likely to have a detrimental impact on delivery timeframes for individual houses, which has a flow on effect to the rollout of the overall program. Such delays are difficult to justify where individual tenants have been consulted and advised of expected dates well before they are asked to actually vacate their house to enable the provision of improvements.

**14. Proposed s 147 provides a seven-day timeframe for tenants to submit reasons to the Department for why they should not be relocated or the tenancy agreement should not terminated. TEWLs considers this to be too short a timeframe, noting that appeal periods are generally 28 days. They consider a longer time-frame would provide tenants with an opportunity seek legal advice and collate relevant information to facilitate effective discussion with the Department.**

***a. What would be the effect on the operation of the Bill of amending the timeframe from 7 days to 28 days?***

***b. If such a recommendation were to be considered what would the effect on the operation of the Bill of making an equivalent amendment in relation to proposed s 146(b) and (c)?***

AGD Response:

14.a. DLGHCD advises that it has noted stakeholder comments on timeframes, however is of the view that extending the 7 day timeframe would unnecessarily disadvantage the tenant by delaying the process.

Proposed section 144 is intended to provide a tenant who is at risk with alternative accommodation to reduce that risk faced by the tenant. Prior to considering whether to activate the provisions in proposed Part 15, Division 3, the CEO (Housing) would have undertaken significant engagement and consultation with the tenant, and where appropriate, other service providers, including the tenant's legal advocates, in an effort to identify and address the risks faced by the tenant. This is necessarily so, as without that prior engagement, the CEO (Housing) would not be in a position to be able to determine whether the tenant is at risk, let alone whether the premises is a factor, and whether alternative accommodation is available to assist in addressing the issue.

In this light, while consideration could be given to extending the period for submissions, it is DLGHCD's view that the detriment to the tenant may increase the further out that is extended.

14.b. DLGHCD advises that increasing the timeframes under proposed sections 146(b) and (c) of the Bill would lengthen the process of relocation of a tenant and/or process for review where a tenant or occupier has made a submission to the CEO (Housing) on relocation.

It is important to note, that the CEO (Housing)'s notice of intention to terminate under Division 3 is not a termination with intent to end the landlord/tenant relationship permanently. The purpose is to facilitate the relocation of the tenant under a new tenancy agreement in an alternative public housing premises. The notice of intention to terminate will be pursued only after the CEO (Housing) has worked with the tenant and occupiers and encouraged them to seek advice from legal advocates and interpreters have been used where required.

DLGHCD however notes that the 7 day timeframe may give rise to practical logistics issues associated with the tenant's actual relocation following a decision by the CEO (Housing). DLGHCD is of the view that while this may be addressed through increasing the timeframes set out in proposed section 146(b) and (c), its preference is to apply flexibility on enforcement of the timeframe on a case by case basis as a model social landlord.