



# Top End Women's Legal Service Inc.

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Director Legal Policy  
Department of the Attorney-General and Justice  
GPO Box 1722  
Darwin NT 0801

*Via email:* Policy.AGD@nt.gov.au

26 May 2015

To the Director of Legal Policy,

## **Submission to issues paper – Development of a Central Bond Holding Scheme in the Northern Territory**

Thank you for providing TEWLS with the opportunity to make a submission to the issues paper regarding the development of a central bond holding scheme in the Northern Territory ('NT').

### About TEWLS

Top End Women's Legal Service ('TEWLS') is a community legal centre focused on the advancement of the rights of all women. We are funded by the Commonwealth Attorney General's Department to provide legal advice, casework and community legal education to women living in the Top End of the Northern Territory. We provide advice, information and assistance to women who reside in private rental and public housing and are experiencing issues with their tenancy.

### Our submission

TEWLS would support option 4, as outlined in the issues paper, which would establish a Residential Bond Holding Authority ('RBHA').

TEWLS agrees with the summary of the issues with the current system, as outlined in chapter 5 of the issues paper, and wishes to add the below points:

- The establishment of a RBHA is preferable to option 3, as the regulatory system, even when strengthened, will not overcome the power imbalance inherent in tenant/landlord relationships. This power imbalance means that broadly speaking, even where tenants have a right enshrined in legislation, in practice, they will not assert this right for fear of a poor rental reference or retaliatory eviction and the ostensible legislative protection is rendered void. Further, strengthening of the regulatory system via legislative reform would need to be coupled with a widespread education campaign informing both tenants and landlords of their new obligations or rights. This would be a costly and time-consuming exercise.
- Interest accrued on bonds should be channelled into establishing and providing ongoing funding to a territory wide tenants advisory service, similar to the Tenants Advice and Advocacy Program that operates in New South Wales, where 19 individual services are funded by just 9% of interest generated on bonds held with the central bond authority. Given that the bond

is tenants' money, it is far preferable that tenants reap the benefit of the interest in the form of being able to receive free advice and advocacy relating to their rights and responsibilities as tenants. This will save costs to the system more broadly and avoid use of Northern Territory Civil and Administrative Tribunal as a dispute resolution body.

- In relation to the objective 3 of the proposed legislation, rather than focusing exclusively on the obligations set out in the RTA, it should read "to education the public about the rights created and obligations imposed by the Residential Tenancies Act".
- In light of subsequent amendment to the RTA as part of the creation of a RBHA, we submit that provision should also be made to amend the RTA to allow bond refunds to former co-tenants, similar to s174 of *Residential Tenancies Act 2010* (NSW). There is no equivalent provision in the RTA, and disputes between former co-tenants are currently dealt with as a common law claim in the Small Claims Court. It would be preferable for all disputes in relation to residential tenancies to be dealt with under the RTA.

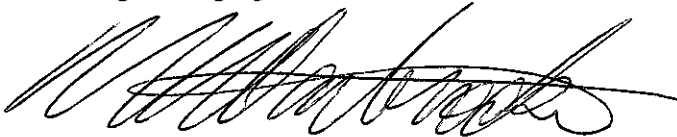
Please also note that we have had the opportunity to view the submission of the Darwin Community Legal Service and endorse their submission.

We thank you for providing the opportunity to comment and would be pleased to be contacted should you wish to discuss this submission further.

Yours sincerely

**TOP END WOMEN'S LEGAL SERVICE INC**

Melanie Warbrooke  
Acting Managing Solicitor

A handwritten signature in black ink, appearing to read 'Melanie Warbrooke', written over a horizontal line.