



# Positioning Paper

## Marginal rental housing in Australia

authored by

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## ACRONYMS

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
ADHC	Aging, Disability and Home Care
B&B	Bed and Breakfast
BHOP	Boarding House Outreach Project
DHS	Department of Human Services
FACS	Family and Community Services
HPIC	Homeless Persons Information Centre
IDC	Inter-Departmental Committee
LGA	Local Government Area
NGO	Non-government organisation
NRAS	National Rental Affordability Scheme
NSW	New South Wales
NSWLEC	New South Wales Land and Environment Court
NT	Northern Territory
NZ	New Zealand
PAVS	Park and Village Service
QLD	Queensland
RHST	Rooming House Standards Taskforce
RTA	Residential Tenancies Acts
SA	South Australia
SEPP	State Environmental Planning Policy
TAFE	Technical and Further Education
UK	United Kingdom
UNSW	University of New South Wales
US	United States
VIC	Victoria
WA	Western Australia

# EXECUTIVE SUMMARY

## Introduction

The aims of this project are: to present a clearer picture of the experiences of low-income renters residing in marginal housing; to understand the weaknesses and strengths of legislation and regulations in different states, territories and local government areas; and to establish a typology of marginal renters that has utility for policy-makers. What constitutes marginal rental housing is subject to competing definitions, but for the purposes of this project marginal rental housing encompasses buildings such as motels, boarding rooms and hostels and also caravan parks that cater for long-term residents. While the quality of marginal rental housing is variable from satisfactory to very poor, this project focuses specifically on the poor end of this continuum, which is usually occupied by low-income households.

The renters who reside in boarding houses, hostels and caravan parks include not only vulnerable people on limited incomes, but also students and seasonal workers and retirees. In this Positioning Paper, we: review recent research on marginal renting in the Australian and international contexts; summarise the issues associated with definition and measurement; and examine the Australian state and territory legislation and policy context.

## Key themes in Australian literature on marginal rental housing

Much of the research on marginal housing in Australia has focused on two distinct types of accommodation: a room in a fixed building, such as a boarding house; and extended or permanent residence in a caravan park. Marginal renters in these two types of accommodation are often in housing that is inferior to regular public or private tenancy accommodation. Occupants of marginal rental housing share facilities with other residents, such as bathrooms, kitchens, laundries, living rooms and recreation spaces, and even bedrooms. Marginal renters agree to the rules of conduct set by the management which may limit their everyday behaviour, access to facilities and visitors. The operation and management of marginal rental housing differs fundamentally from mainstream housing, with occupants experiencing considerably less control over their living environment. The amenity of boarding houses and hostels has varied historically (O'Hanlon 2009) and today there are some upmarket establishments in some cities with added facilities, privacy and security. However, many boarding houses offer poor security (Adler & Barry-Macaulay 2009; Archer 2009).

While it might be perceived as a cheap option, marginal renters can pay similar rates to private renters who have greater legislative protections, rights, privacy and amenities. Marginal renters may have found it difficult to enter the private rental market because of the competition brought about by rental scarcity; for example, the lack of appropriate references, or a poor housing or financial history might jeopardised their application (Chamberlain & MacKenzie 2008, p.42; Housing NSW 2009, p.32). People living in both boarding houses and caravan parks fear potential closure and associated homelessness (Bostock 2001; Wensing et al. 2003; Greenhalgh et al. 2004). In many areas, the closure of establishments and parks have resulted from more profitable land uses in competitive property markets (O'Flynn 2011, p.5). Gentrification has impacted on both boarding houses and park sectors, in different ways. The closure of established boarding houses in inner city areas has precipitated the need for significant community and government intervention in the re-housing of often vulnerable and elderly residents. These residents have required support to exit

the sector and to move into more secure medium to long-term accommodation (Harris 2009; Shanahan & Coutts 2009).

## **Renters in marginal housing, marginal rental stock and policy**

The various Australian states and territories differ in their approach to regulating the stock of marginal housing. For example, currently in Victoria and NSW renters are not required to sign a tenancy agreement, which in practice means that they lack effective legal rights. In recent years, some states have introduced legislation to address this problem. In the ACT and Queensland, rooming house residents are now required to sign accommodation agreements and managers must provide residents with a prescribed list of rules. Recent reforms in NT have enabled park residents to have the same rights as tenants living in rented accommodation. We have drawn on the work of Eastgate et al. (2011, p.2) who have recently researched Australian marginal rental housing provision and policy responses. They conclude that while there are some good 'models of regulation ... in much of the country regulatory systems are weak and residents receive little legal protection'.

The rights of marginal renters are specified predominantly in Residential Tenancy Legislation, and associated Rooming Accommodation Acts and Residential Parks Acts. Legislated protections for tenants in rooming houses and caravan parks have improved in most states and territories in recent years. Legislative and regulatory protection for caravan park tenants is relatively new and more uneven across the states and territories. Both Queensland and Victoria have introduced comprehensive reforms in relation to boarding house standards. Victoria's recent reforms to boarding house standards also include a state-wide register and the enforcement of new health and safety standards.

## **International research on marginal housing**

In Europe, investment in social housing over the post-war period has been much more substantial than in the United States (US) and Australia, and consequently caravan park and hostel accommodation services a relatively small population. However, there appears to be an increase in permanent residents in residential parks and on houseboats in Britain. There have been recent changes in policy to accommodate these changes. In the US, where mobile and manufactured housing has long been recognised as an alternative form of home ownership, we examine the contemporary experience of mobile home living. Marginal renting has become the subject of government attention recently in New Zealand (NZ) due to growing recognition of its importance as a form of permanent housing for some. The Residential Tenancies Act was extended in 2010 to cover boarding house tenants and landlords. Following this the Social Services Committee of the New Zealand Parliament embarked on an enquiry into boarding houses. The committee's Interim Report noted that the definitions of a boarding houses varied and that as there was no form of registration or licensing required it was difficult to estimate how many were operating. It identified the great variety of Acts, which apply to boarding houses in NZ at the present time (House of Representatives Social Services Committee 2011, p.2). The Interim Report noted that while many boarding houses at the more expensive end of the market might be of a good standard, at the lower end there were commonly building and health and safety problems, including dangerous and insanitary conditions.

## **Conclusions**

While governments across Australia have adopted a range of responses to marginal housing, there is growing recognition that the demand for marginal housing will intensify over the coming years because of the lack of affordable housing. The

quandary for policy-makers is clear; marginal housing, whilst far from ideal is a stop-gap for households who might otherwise be homeless. Any attempt to reduce the supply of marginal housing in the current context is likely to exacerbate incidences of homelessness and place further strain on the affordable private rental market sector.

The next stage of the project will collect primary and secondary data for case study areas. It will include updated quantitative data from the 2011 census. The six to eight case study areas will cover all major forms of and major geographic differences in marginal rental, involving 60–80 semi-structured interviews. Finally, based on the analysis undertaken the project team will develop a 'marginal renters typology' based on detailed marginal renter profiles.

# **1 MARGINAL RENTAL HOUSING AND MARGINAL RENTERS: KEY THEMES**

## **1.1 Introduction**

Increasing numbers of low-income Australian households have difficulty purchasing a home or finding suitable accommodation in the private rental market. The decline in public housing and the lack of government and community sector emergency shelter means that some low-income households have little choice but to seek accommodation in rooming or boarding houses, hostels, hotels or motels, or in caravan or residential parks in a permanent van, cabin or manufactured house. In the latter instances, they might own rather than rent their abode, but still rent the site upon which it is located. Although the move into such accommodation might be considered a stopgap, many get 'stuck' or settle into such 'marginal rental housing' (Marks 2008). They become 'marginal renters' that is someone who has stayed in marginal housing for more than one to three months, depending on the specific criteria in the definition marginal renter followed.

This Positioning Paper is the first output from a research project that aims to: identify trends in different forms of marginal rental housing across Australia; capture the experiences of renters; and understand the efficacy of regulations in different states and territories. The Positioning Paper is divided into five chapters: Chapter 1 provides an introduction by setting out the scope of the project and the key themes in the literature; Chapter 2 considers the issues associated with defining marginal rental housing, the experiences of marginal renters and the management of accommodation; Chapter 3 examines the Australian state and territory legislation and policy context, including recent reforms; Chapter 4 provides a review of international research on marginal housing and identifies models of legislative reform for Australia; and in conclusion, Chapter 5 sets out the gaps in knowledge and the remaining tasks of the research project.

## **1.2 Project scope**

While the majority of marginal renters (the tertiary homeless) reside in private rental accommodation, the study scope is specifically focused on the boarding houses and caravan and manufactured home parks. While there has been large body of research that has examined vulnerable households who are homeless or residing in the public and private rental market, there is a gap in knowledge about these forms of housing and the experiences of marginal renters. This noted, the project has been designed to see the problems within marginal housing in the context of a broader set of issues that confront lower income Australians.

It should be stated that not all households residing in marginal rental housing are experiencing stress. Many may be happy with their accommodation because it fulfils a short-term solution or they have a home somewhere elsewhere. It is evident that marginal renters include a range of people from a variety of backgrounds and of different ages. These include not only vulnerable people on limited incomes, such as those managing mental illness, physical disabilities, gambling and drug addiction, separation, release from jail or fleeing domestic violence reside in marginal rental housing, but also groups such as students and apprentices, and workers seeking or having found jobs in a new location, including seasonal workers and workers in construction and mining (although the ABS does not include as marginal renters those who have another 'main' place of residence). Growing numbers of those on low incomes, especially retirees, consider owning a van or manufactured house as cheap

form of quasi-home ownership, even though their rights to a site are limited and moving on is costly.

Prior to the 2008 'global financial crisis', it was assumed that the numbers of boarding and rooming houses and residential caravan parks were in long-term decline as these sites were typically sold and redeveloped for other more valuable land uses. It seemed that marginal rental housing and marginal renters might disappear and research and policy interest waned (Carmody 2008). However, in the latter half of the 2000s, as unemployment and other financial pressures led to greater evictions, as rising interest rates attracted some owners to taking in boarders, and as workers were attracted to new locations to find jobs, opportunities and demand for marginal rental housing increased, at least in certain areas.

Marginal rental accommodation is often seen by policy-makers as preferable to emergency night shelters and social welfare officers regularly refer those in desperate need to consider such options. Extensive bushfires in Victoria early in 2008 and floods in Queensland also led to immediate and longer term reliance on marginal housing by people waiting to rebuild their homes or relocate. Therefore, there has been renewed interest in the precarious state of marginal renters, the need for improving their occupancy rights and conditions, and concerns about the affordability, safety and security of such housing. There is also growing recognition that economic cycles and cyclical demand and supply present extra challenges to managers in improving marginal housing.

### **1.3 Key characteristics of marginal rental accommodation**

Boarding houses and caravan parks share common characteristics. Generally, private operators supply marginal rental housing, although some is managed by community not-for-profit organisations and, occasionally, government agencies. Renters who reside in marginal housing have tenuous, and often unclear, occupancy rights. Just as significantly for their everyday lives, marginal renters' accommodation is shared (FACS ADHC 2011, p.4).

#### *1.3.1 Boarding houses*

Some establishments provide meals and they might be called 'boarding houses' or 'rooming houses', depending on the region and sometimes according to whether they are lodgers or 'boarders' who receive meals. In this Positioning Paper we refer to all such shared accommodation as 'boarding houses' and occupants as 'boarders'. Licensed boarding houses offering accommodation for people with special needs offer other assistance.

#### *1.3.2 Caravan parks*

These parks may provide a mix of sites for residents who own their own caravans and/or manufactured homes, sites for tourists, and park owned accommodation for rental by permanent residents and/or tourists.

#### *1.3.3 Other sites*

Some mention should be made of manufactured home sites that are usually for permanent residents. Many manufactured homes, particularly those in purpose built manufactured home residential parks, have a high level of amenity—being self-contained with separate living, sleeping, bathroom and kitchen areas. There are also purpose-built or converted caravan and cabin parks now being used for worker accommodation in mining areas of Australia.

As stated earlier, for the purposes of this project, marginal housing is categorised as encompassing two types of accommodation that are occupied by low-income households.

1. A small room in a fixed building, such as a rooming or boarding house, hostel, hotel or motel prepared to accept long-term occupants.
2. Extended or permanent residence in a caravan park, which includes vans, cabins and manufactured houses.

## **1.4 Operation and management of marginal rental housing**

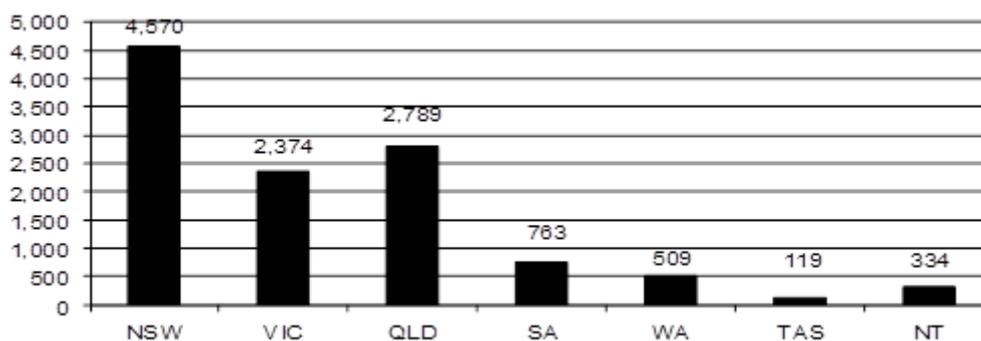
The operation and management of marginal rental housing, which accommodates low-income households differs in many respects from mainstream housing. These occupants experience considerably less control over their living environment. Instead, the operators and managers of a boarding house or park can enforce protocols that limit, monitor and constrain marginal renters' lives (Brooks et al. 2005). Newton (2005, p.22) refers to managers' 'custodial approach' to interrelationships within the park and between residents and the world beyond the park. Both Newton (2006) and Rogers et al. (2009) identify the discretionary power of management as a key concern for residents, who risk being named. The NSW Ombudsman has repeatedly voiced concerns over management of both licensed and unlicensed boarding houses in his state.

### *1.4.1 Boarding houses*

While the Final Report will provide new data from the 2011 census, an indication of the use of boarding house accommodation at the last census (2006) is provided in Figure 1 below. Of a total 11 500 residents across Australia, New South Wales (NSW) had the highest number of boarding house residents, followed by Queensland (QLD) and Victoria (Vic). The Australian Capital Territory (ACT) had no boarding house residents recorded. The boarding houses were concentrated in the capital cities of NSW, Vic and QLD, and in major regional cities. The location of boarding houses in the Sydney region, are primarily in inner city Local Government Areas (LGAs) such as Sydney, Marrickville and Ashfield, and in the regional centres of Newcastle and Wollongong. Boarding houses in the Melbourne region are concentrated in the inner city LGAs of Port Phillip and Yarra, and in the sub-regional centre of Dandenong. In Queensland, boarding houses are mainly located in Brisbane and in the major regional centres of Toowoomba and the Gold Coast.

The 2006 data indicates that marginal renters have declined. Between 2001 and 2006, the number of people in boarding houses in Australia decreased by 1281 to 21 596 (Chamberlain & MacKenzie 2008) and marginal residents in caravan parks dropped from 22 868 in 2001 to 17 497 in 2006 (Chamberlain & MacKenzie 2008). Recent research by Chamberlain (2012), however, indicates that these census figures may be seriously under reporting the numbers of people currently living in boarding houses. His investigations find that in 2011 there were 12 500 people living in boarding houses in Melbourne alone. The 2006 census figure had 2946 people living in boarding houses in Melbourne. This shows that either there has been a four-fold increase in the boarding house population, or that the 2006 census figures under counted. This issue will be investigated further in the Final Report for this project when the 2011 census figures will be available.

**Figure 1: Boarding house as usual address, Australia, from 2006 ABS census**



Tragic boarding house fires, some resulting in the loss of lives and at least partly due to lack of fire precautions, devices and planning measures, have provided the impetus for increased regulation of the boarding house sector (ABC News 2004, 2005, 2007). For example, in Footscray in 2011, a shop fire was later discovered to be an illegal boarding house with no fire alarms (ABC TV 2011). While there has been some progress in the regulation of boarding house sector in Australia, the problem of compliance remains substantial (Fonzi 2009; Mohummadally 2009). In 2004, the ABC TV Stateline South Australia covered a case where 37 otherwise homeless men were sheltered in 12 caravans and two converted sheds, which failed to comply with council standards for building and fire safety, among other regulations. One of the residents interviewed referred to the owners as 'all for helping the battlers' (Badger 2004, p.1).

Like policy-makers and other agencies, local councils are caught between competing pressures: 'fire safety compliance levels are relatively low and historically the amenity of boarding houses has not been a priority as it is believed this would jeopardise their financial ability and lead to closures' (Marrickville Council 2011, p.11). Exploitative unregulated sectors exist (Eastgate et al. 2011) and policy-makers are keen to know more about them before deciding on reforms. Complementing a Department of Human Services (DHS) state register of rooming houses developed through local council input, Consumer Affairs Victoria (2010) introduced a Rooming House Compliance Program. The Program entailed inspections of over 500 rooming houses (2009–10 financial year). Of the 51 inspections undertaken in Brimbank, 16 premises were unregistered. The Rooming House Standards Taskforce (RHST 2009, p.44) estimates there are 1000 Victorian rooming houses. While the register aims to facilitate compliance checks, lack of resources has restricted the number of anticipated inspections (Moreland City Council 2007).

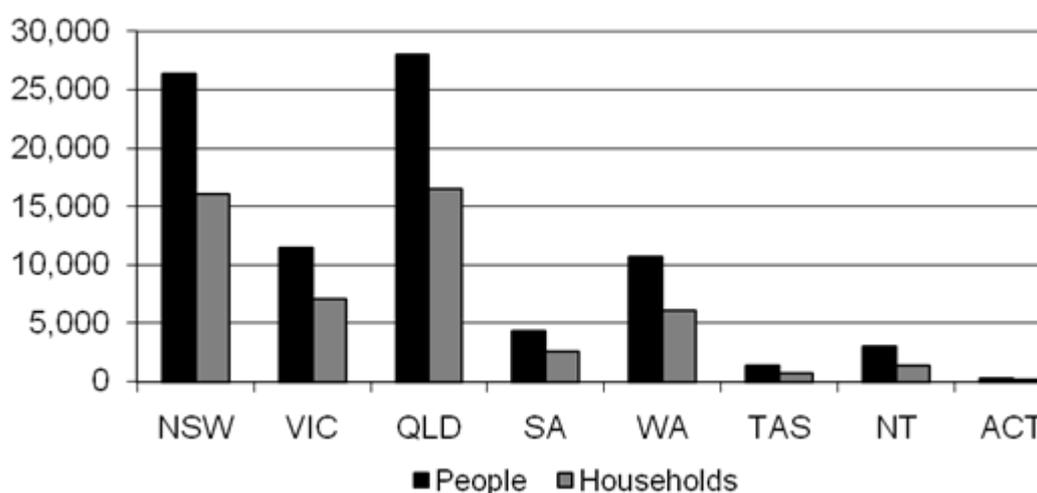
Improvement in the operation and management of marginal rental housing is constrained by limited resources, as operators must set rates achievable by low-income residents, which in turn impacts on profits. Uncertainties around occupancy rights in NSW might suit some managers, but constant movement of semi-permanent boarders causes financial instability for others (FACS ADHC 2011, p.4). In a climate of strong demand for a shrinking supply of marginal housing, some operators of parks and boarding houses have exploited low-income occupants. For instance, Marks (2008, p.vi) reported that 'average "takings from accommodation" per caravan park in the Sydney region alone rose from \$143 071 in the June quarter 2006, to \$256 320 in the corresponding 2007 quarter'. Overcrowding of low quality student accommodation has earned some boarding house operators considerable profits.

Boarding house management is often of a poor standard. Housing NSW (2009, p.29) notes that real estate agents manage a lot of private boarding establishments and that the level of management necessary diminishes with improvements in self-containment

of the accommodation. In the Marrickville study, the Newtown Neighbourhood Centre (2003, p.7) found that most operators were interested in facilitating social welfare services in their boarding houses. Marrickville Council (2011, p.22) is keen to encourage collaborative partnership between service providers and boarding house managers. In Sydney, a Boarding House Assistance Group facilitated operator/manager forums to raise awareness about residents' rights and to improve residents' access to local services, as well as support operator/managers in building good relationships with their residents (Connell 2009), a role also taken on by the Newtown Neighbourhood Centre's Boarding House Outreach Project (BHOP). For councils, proper management is not only a concern for residents, but also surrounding neighbours, whose amenity can be affected by 'noise levels, privacy, cleanliness and community safety' (Marrickville Council 2011, p.7).

### 1.4.2 Caravan parks

**Figure 2: Caravan residents by state, 2006**



Source: ABS 2006

Figure 2 shows the number of people resident in caravans in 2006, by people and households according to the 2006 ABS census. It highlights that QLD and NSW have a high number of caravan park residents compared with the ACT and TAS. As previously mentioned, these figures will be updated with the 2011 census data in the Final Report.

The NSW government has recently released a preparatory review aimed at reforming the caravan park sector and encouraging better management practices. One option raised in the paper is to introduce legislative clauses prohibiting anyone who has committed a criminal or fraudulent act, or gone bankrupt or insolvent, within the previous five years to operate a caravan park. The importance of licensing is made clear by reference to a Victorian appeal, *Faure v The Queen* [2011] VSCA 115 (20 April 2011), heard in the Supreme Court of Victoria. This case focused on one of the murderers of Lewis Moran, in the infamous gangland murders of the Moran family. The appellant, now in his mid-50s had an extended and intimate family background of crime and had been involved in criminal activity for many years before committing the murder. According to the proceedings, during this period, after going bankrupt and release from jail due to armed robbery, he had 'conducted a caravan park'.

The recent development of accredited training courses in caravan park operations indicates the level of knowledge and range of skills required in park management

(Newton 2006). However, the NSW advisory and advocacy Parks and Villages Service, funded by NSW Fair Trading under the auspices of the Combined Pensioners & Superannuants Association of NSW, contends that independent government bodies such as TAFE are more reliable training providers than the industry-organized Australian Caravan Park Training School (<http://www.caravanparktraining.com.au/>). This issue of mandatory entry and ongoing training is a key one identified in the NSW Fair Trading (2011) discussion paper.

## **1.5 Supply of marginal rental housing**

Insufficient government investment in public housing combined with growing problems of housing affordability have constrained housing options for low-income households, particularly within inner urban areas or other regions of growing employment (e.g. new mines). Against this backdrop, the supply of marginal rental housing has been variable with ongoing closures of both parks and establishments. For instance, Marks (2008, p.vi) has reported that families seeking caravan park accommodation are sleeping in cars on its boundaries. In a recent review, NSW FACS ADHC (2011, p.6) identified the need to expand supply as a key issue for the boarding house sector, calling specific attention to the supply of licensed boarding houses in a sector, which, by late in 2010, had reduced to around a third of its size in 1998.

In many areas the closure of establishments and parks have resulted from more profitable land uses in competitive property markets (O'Flynn 2011, p.5). The Newtown Neighbourhood Centre (2003, p.36) Marrickville LGA survey examined 110 cases of boarding house closures and found that three in five had turned into private residences, one in five had become flats and many of the others 'rooms with leases'. The same survey (Newtown Neighbourhood Centre 2003, p.8) found owners raising issues of financial viability, including insurance and related expenses of improving fire safety to new standards.

Gentrification processes have affected both the boarding house and caravan park sectors. Within inner city areas, new shared accommodation has been established for people on comfortable incomes seeking assistance with meals and some domestic services. In addition, there has been some growth in up-market manufactured housing estates for retirees (UNSW Social Policy Research Centre 2010). While the scope of the project excludes these establishments, such gentrification can impact on the supply of marginal housing at the lower end. For example, managers can follow a strategy of progressively limiting long stay visitors or permanent residents, or improve the property so it becomes one of the growing number of up-market inner suburban old-style boarding establishments for low to middle-income earners (Eastgate et al. 2011). Further gentrifying strategies currently being pursued by park operators include: converting mixed holiday and permanent parks into reserves for only those over 55 years of age and prioritising incoming residents who are willing to purchase new or pre-loved manufactured homes as part of a package (NSW Fair Trading 2011, p.27).

### *1.5.1 Boarding and rooming houses, hostels and hotel accommodation*

In 2004, Greenhalgh et al. (2004) examined the costs of declining boarding houses, as well as the costs, benefits and results of government strategies aimed at arresting closures. The costs to governments have included: investing in new low-cost replacement housing stock; investing in support services; supporting existing operators to improve, expand and continue their operations; and encouraging new entrants. The range of support offered by governments to existing and potential operators has included: providing time, financial and technical assistance to achieve new regulatory standards; offering land and other tax exemptions; reducing taxes and

charges; and, establishing partnerships to provide new stock with special planning assessment supports and efficiencies. In addition, governments have required social (and environmental) impact studies of boarding house closures and placed controls on demolition.

While Greenalgh et al. (2004) identified some evidence of concrete results, in general they argued that government measures had made little progress due to: lack of awareness of support programs; little success in pursuing partnerships; unsophisticated business practices; privacy issues, meaning that key financial data was unavailable for analysis; and difficulties in realising processes for retaining boarding house use. Therefore, they recommended the following policy responses:

- Help and support for owners and managers, possibly through supporting private sector consulting companies to help owners through application and compliance processes.
- Reviewing and modifying criteria for loans and support when experience shows the criteria are too onerous.
- Better and more targeted educational and information campaigns.
- Reviewing local town planning regulations—for example, addressing the problems inherent in boarding houses being a 'non-conforming use' when constructed before schemes came into force, and through the possibility of development approval concessions for new stock.
- Recognition of the need to balance tenants' rights against the ability of landlords to be able to evict high impact residents (and recognition of the need for non-housing support for such residents). (Greenhalgh et al. 2004)

Greenhalgh et al. (2004) also outlined ongoing challenges for the sector including: the high costs for operators associated with insuring facilities, as well as renovating and/or building new establishments with improved space and facilities for boarders; and the high costs for government associated with improving the auditing and monitoring of the sector. The assessments made in their report remain relevant, although governments have incorporated some of these suggestions into recent policy and legislative reforms.

In NSW, the *State Environment Planning Policy 10—Retention of Low Cost Rental Accommodation* (SEPP 10) was brought in over 25 years ago to prohibit or limit alternative purposes for which properties that house marginal renters could be used. A few years ago, SEPP 10 was repealed in favour of the *Affordable Rental Housing State Environmental Planning Policy 2009*, which required developers who were converting their properties to a use other than low cost accommodation to provide monetary contributions to a Boarding House Financial Assistance Program. This program funds boarding house owners and operators to improve fire safety in existing establishments and to invest in new boarding houses or extensions with self-contained facilities (HPIC 2010, pp.11–12). In the following year, development applications increased, but the affordability of such premises is not covered by any regulations, including city planning ones, and attempts to do so risk being counterproductive, that is restricting supply (HPIC 2012, pp.12,14). Nevertheless, it is hoped that these 'new generation boarding houses' will meet the demand for affordable accommodation of a reasonable community standard for 'a wide range of tenants, particularly single retirees, homeless, working singles, students and young couples' (FACS ADHC 2011, p.1). Yet the recent Marrickville survey (2011, p.21) has indicated that: most rooms with en suites were rented out for over \$200 per week (compared with the average \$150); renting a room in over 31 per cent of renovated

and 12 per cent of new boarding houses cost over \$200 per week; and, one self-contained room in a renovated boarding house had a rental of over \$400 per week.

Given that numerous and diverse boarding houses reduce primary homelessness in the LGA, Marrickville Council (2011, p.11) has expressed a vested interest assisting in cultural change and a 'new model' in boarding house management, with the following characteristics:

- The boarding house must be in good condition and be well maintained.
- Women and children should be safely housed in self-contained rooms with en-suites and kitchenette facilities.
- Management accountability mechanisms are important and include tenancy agreements, policies and procedures, house meetings and complaints procedures.
- Access to service supports both on-site and off-site is critical, and includes ongoing access to mental health support, counselors, mentors, financial education, employment and training opportunities, social interaction opportunities, social skills and communication skills education.
- The specific needs of single women, women with children and young people need to be prioritized.
- A mixed community of boarding house residents created through selection criteria is more effective than concentrating people with similar issues together.
- Community engagement projects are needed to promote boarding house residents' interaction with the wider community and therefore greater acceptance of homeless people in society. (Marrickville Council 2011, p. 22)

Many councils offer rate rebates for low-cost boarding accommodation (e.g. by classifying them residential rather than commercial) and have specific development control plans to improve the quality of boarding houses (Housing NSW 2009, p.30). The NSW government offers boarding house operators financial and technical assistance program and land tax exemptions, provided they offer at least 80 per cent of their rooms under a set tariff (Marrickville Council 2011, p.21). The Victorian City of Port Phillip (2012 p.1) has developed a pro-active program around encouraging not-for-profit, community-based rooming house, which can provide stable, longer-term tenancies for residents. These providers do not use on-site managers and they are more careful with tenant selection. The Council has established partnerships with four such organizations, which manage 43 rooming houses. Following a similar model, the Victorian Department of Human Services has refurbished and converted an inner city hotel into 64 self-contained units, all with either intensive or low-level support from Sacred Heart Mission and managed by Community Housing Ltd.

While media has focused on the exploitative conditions of some housing for international students, the student and backpacking sector seems to offer better prospects for appropriate development. There is a steady demand for student accommodation in the medium to long term. While international student numbers may fluctuate, domestic enrolments in tertiary institutions are set to rise. Partnerships between private housing providers and universities are well-established in this sector. For example UniLodge (<http://www.unilodge.com.au/>).

### *1.5.2 Residential parks: caravans, cabins and manufactured (mobile) homes*

The supply of permanent caravan park accommodation has only recently emerged as a policy concern. As Wensing et al. (2004) note, 'It was not until the mid-1980s that there was official recognition that people lived in caravans as a housing solution: prior

to 1986 it was illegal to live permanently in caravan park.' While governments responded with new measures aimed at regulating the sector and ensuring adequate provision of basic infrastructure and services (Newton 2006), by the 1990s, the impact of caravan park closures, particularly in Queensland and NSW, on these permanent residents was recognised as a substantial problem.

The consequences of park closure are often significant for residents. A report by Connor and Fern (2002) identified the reasons for a marked rise in the rate of NSW caravan park closures including: rising land prices, especially in the Sydney basin; demographic changes, such as retiree holiday makers preferring short-term stays; and, regulatory policy changes to state government and local council zoning and redevelopment areas. In the mid-2000s, Wedgwood (2006) suggested that many urban parks, which had been established by entrepreneurs with the intent to profit once land values appreciated, were at the end of their 'lifecycle'. Most recently, O'Flynn (2011, p.5) has pointed to excessive insurance costs and highway construction as additional factors contributing to park closures in NSW.

The closure or upgrading of caravan parks has been a significant issue in coastal areas where investors seek to redevelop and upgrade dilapidated tourism facilities, which also cater for permanent residents and in urban areas where redevelopment that involves a change in use has often proved more attractive than upgrades (Marks 2008). While upgrading often forces permanent residents to consider relocation, if the resident is an owner-renter, his/her position is particularly invidious because it might cost perhaps \$20 000 to \$30 000 to relocate (Evans 2011, p.26).

In NSW, the *Residential Park Act 1998* has made the approval of a future development a condition of serving a notice of termination to a park resident due to closure for changed land use. This clause has given residents some influence. The NSW Department of Housing, Office of Fair Trading and a peak industry body have jointly developed an *Assistance Protocol for Residential Park Closures* to facilitate coordination between private park operators and government agencies to support residents in relocating and accessing services (Housing NSW 2009, p.35). Redevelopment of several parks in the Gosford area also prompted Housing NSW (2009, pp.34–5) to fund Gosford Council to investigate cooperative ownership models for several forms of housing, including parks. Equilibrium Community Ecology Inc. (2004, pp.6, 11) recommended that the Council amend its planning scheme to allow for cooperative developments and to assist in overcoming financial barriers to such developments, while acknowledging that self-managed and cooperatively-owned enterprises require special skills acquisition for residents.

Gibbings (2005) draws attention to the differential treatment of Queensland residents living in extended caravans and those living in manufactured homes at the point of park closure. The former fall under the Queensland Residential Tenancies Act and, therefore, are ineligible for compensation in the event of closure, despite many years of investing in and extending their once-mobile caravan. In contrast, the Manufactured Homes Act requires that owners be relocated to a suitable park or adequately compensated if the park closes. Similar distinctions exist in other states, for example, in NSW there are three classifications with differing regulations. The Queensland Department of Communities has established protocols for dealing with both boarding house and caravan park closures, and has acquired three caravan parks which were at risk of closure.

While abating and managing closures have both been overarching challenges in addressing the supply of park accommodation, policy-makers must also attend to shifts in the type of housing provided and in the profile of park residents. Housing NSW (2009, p.32) has classified caravan parks into: an upmarket sector without any

'marginal renters'; parks with summer tourists and in winter 'poor people'; mixed parks with tourists, owner-renters and renter-renters; and, finally, low quality parks overcrowded with the disadvantaged, including those seeking crisis accommodation. Both the literature review and our preliminary primary research suggest that the use of parks as crisis accommodation and exploitative practices are more pervasive than this simple classification suggests, affecting affordability and security across the sector. It is possible that this shift is due partly to the extra demand on existing facilities resulting from the widely recognised decrease in marginal rental housing.

## **2 CATEGORISING MARGINAL RENTERS**

### **2.1 Introduction**

In the introductory chapter, we discussed the main types of marginal and some of their characteristics. In this chapter our focus is on the marginal low-income households who reside in these forms of accommodation. One of the most insightful ways to categorise marginal renters is provided by Chamberlain and MacKenzie (1992, p.274). They situate marginal renters in terms of 'tertiary homelessness', that is as occupying housing 'below the minimum community standard' despite sharing some characteristics 'consistent with the community norm'. Their minimum standard reference point is a self-contained flat with separate living, sleeping, bathroom and kitchen areas. In terms of park residency their definition of a marginal renter specifies insecurity of tenure and lack of full-time employment. Although the Chamberlain and MacKenzie definition was established two decades ago, conditions have not changed markedly. For instance, housing support workers report inadequate housing standards across the boarding house sector (Gallagher & Gove 2007). Similarly, Wensing et al. (2004) have pointed out that:

The issues and risk confronting all residents in caravan parks are much the same today as they were more than a decade ago. They include lack of security of tenure, inadequate housing standards, risk of homelessness, minimal access to community, health and education services and a lack of knowledge about, and lack of support in, asserting tenancy rights.

While classifications of rooming or boarding houses vary, they generally stipulate a specific number of occupants boarding or lodging in the one establishment, for example more than three in South Australia and four in Victoria. Boarding houses can also be distinguished according to occupancy too, for example in New South Wales, any boarding houses with more than two occupants with disabilities demanding supervision or intensive support must be licensed through Aging, Disability and Home Care (ADHC) as either licensed boarding houses or residential centres. However, there are numbers of establishments that should be licensed (Martin 2007, p.20). Sub-leased rooms in joint households are another grey area, for example student housing involving rooms with multiple bunks or temporary subdivisions. However, as becomes clear in the discussion of the experiences of marginal renters in Section 2.2, whatever the size of the establishment or however long occupants stay in them, marginal residents have fewer rights, they live in poorer conditions, and they have extra domestic challenges when compared with tenants in a private self-contained unit.

### **2.2 Australian Bureau of Statistics (ABS)**

The ABS census provides counts of those in boarding (or rooming) houses on a medium to long-term basis, that is for 13 weeks or more (Chamberlain & MacKenzie 2008) and those renting a caravan as their usual address who do not include a member with full-time work (i.e. 35 hours or more) (Chamberlain & MacKenzie 2008). With increasing casualisation, an occupant's work might not fulfil the strict definition of 35 hours and over per week yet still fulfil a low-income earning family classification rather than an under-employed or un-employed one. In other instances, an occupant of marginal housing might register another (home/family) address as permanent, yet more regularly experience marginal rental as a condition of their everyday life. Furthermore, because they have often entered this accommodation as a stopgap measure, marginal renters might not consider this an apt description of their status and are likely to fill in surveys in terms of temporary visitation. In other circumstances,

managers of marginal rental accommodation avoid regulatory measures by misclassifying occupants as short-stayers.

It is clear too that not all establishments catering for marginal renters are registered as such. Farmers with seasonal employees housed on site, construction workers on temporary projects, and those with casual and transient employment in the hospitality industry often spend longer than a couple of months in what is effectively marginal rental housing, but yet fall under the data collector's radar. In Melbourne and Sydney, for example, over the last decade a rising number of houses and terraces have been used as small boarding houses, which might only exist for a year or two while their landlords wait for a better market in which to sell the house. Local councils, let alone the five-yearly censuses, often fail to capture these arrangements in their data.

While definitions of rooming and boarding houses differ between states and territories, it is usual to distinguish between arrangements involving fewer than three to five boarders and those over. Clearly, it is easy for enterprises, which should be classified as boarding houses, to go unnoticed if, for instance, they have one more boarder than where that line is drawn. Given the domestic and fluid nature of such arrangements, it is possible that in a house converted to boarding quarters there are generally three occupants but sometimes four. Another example of 'hard to account' for realities, is the case of a man who reported, 'staying in a room above a local hotel ... for several years rent-free because I did some lead lighting for them', and leaving when he could not pay the rent that they had decided to charge him (Marks 2009, p. 24). Also, as Housing NSW (2009, p.32) points out, the ABS ignored counting caravans in parks with less than 40 sites until the 2006 Census, but now that they are incorporated, important distinctions between caravans in parks and on other forms of land are not made (Housing NSW 2009, pp.32–33).

Furthermore, a range of unconventional accommodation, such as those living in sea and river crafts (barges and riverboats) is poorly captured or neglected. The NSW Tenants Union has revealed associated inconsistencies and discrepancies that involve joint households and sub-tenancies (Ward S 2011). A general point made in most of the literature is that whatever arrangement an occupant has, their rights should be clear and consistently applied and legal redress available so that, in Chamberlain and MacKenzie's terms, a minimum community standard of housing is achieved universally. Until then, whatever the definitions and however extensive the collection, data is likely to be less reliable than for other forms of housing.

## **2.3 The experiences of marginal renters**

In this section of the chapter we outline what are the common experiences of low-income marginal renters.

### *2.3.1 Insecurity of tenure*

Currently, marginal rental occupants have fewer rights or protections than tenants in private rental and therefore occupancy is more precarious and less stable. With little or no legal recourse, they might be asked or forced to leave due to delays in paying rent, management questioning their behaviour, or due to closure of facilities. An illustration is provided by Newtown Neighbourhood Centre's study of Marrickville (2003, p.14). They reported that it was common for a hospitalized resident to lose their accommodation in the process. Their belongings might be disposed of, leaving them distraught as they sought new accommodation on release from hospital.

In NSW, residents in licensed and unlicensed boarding houses typically have no lease or occupancy agreement (see Chapter 3 for a detailed discussion) and so rents can be increased without any appeal mechanism, thereby giving operators considerable

power over residents (HPIC 2010, p.4). By contrast, in Victoria boarding house residents in principle are afforded the same tenancy rights as other renters. They are, however, less likely to be in a practical position to exercise these rights (based on discussions with Tenants Union Victoria).

A recent survey of boarders in an inner Sydney LGA (Marrickville Council 2011, p.21) estimated that almost three-quarters of residents paid a fortnight's rent in advance as a bond, which was usually withheld if they left within three months, and over half of them paid a bond for their room key. Only one in six residents had signed a tenancy agreement and they had usually signed up through a real estate agent and were paying higher rents. While almost half had signed occupancy or house rule agreements, typically these only outlined their responsibilities as tenants and did not address their tenancy rights. Four out of 10 residents had no copy of their occupancy documentation. Experiences for renters in the caravan sector are similar even though different sites fall under different legislation and regulations, associated with distinct residency rights.

Several researchers have investigated housing pathways of marginal renters before and beyond their residence (Connor & Ferns 2002; Wensing et al. 2003; Connor 2004). While there is a lack of systematic information about the pathways of people out of caravan park accommodation, it is assumed that many exit the sector with limited resources and options within the mainstream housing market.

### *2.3.2 Sharing of facilities and lack of privacy*

Occupants of marginal rental housing usually share numerous facilities with other residents, such as bathrooms, kitchens, laundries, living rooms and recreation spaces, and even bedrooms (dormitories). It is evident that the privacy of residents is undermined by having to share facilities with people who they have not chosen to live with. The Marickville study undertaken by the Newtown Neighbourhood Centre (2003, pp.8, 35) found an average of 4.7 residents sharing each bathroom and 4.5 sharing each toilet across all the unlicensed boarding houses. A more recent study of boarding house accommodation in the same LGA (Marrickville Council 2011, p.20) recorded that: only one in 10 bedrooms had en suites; just three in 10 units had kitchenettes; most residents shared common bathrooms and kitchens; and, only one in six boarding houses provided a common living area. Housing NSW (2009, p.29) reports that most conflicts between residents arise over food stored in shared facilities. The lack of dispute resolution processes (e.g. exist for mainstream tenants) has been identified in recent literature (see FACS ADHC 2011, p.4). Noisy behaviour is also recognised as a problem for some residents (Marks 2009). Housing NSW (2009, p.29) reports that there is 'growing recognition that tenants have a need for more personal space' and that the need for management diminishes as levels of self-containment in accommodation increases.

### *2.3.3 Manager-occupant relations and rules*

The experiences of marginal renters are to a large extent shaped by the rules of social conduct set by the management. Often rules operate to limit everyday behaviour, access to facilities, and visitors. Such rules can be restrictive and lead to internal conflicts between residents. At the same time, such rules protect the rights of residents to live without excessive noise or other domestic activities. However, most marginal renters do not receive a list of rules when they enter a boarding establishment or when they find others violating them.

While the Newtown Neighbourhood Centre (2003, p.6) estimated that over three-quarters of the boarding houses in their Marrickville survey had no on-site manager or caretaker, a more recent survey in the same area found that two out of five boarders

reported have on-site managers (Marrickville Council 2011, p.21). In recent court cases, in which developers have appealed council refusal of consent to boarding house development or redevelopments, local councils have identified poor management plans as a reason for blocking proposals (e.g. *Ma v Warringah Council* [2011] NSWLEC 1055; *Dhillon & Dhillon v Campbelltown City Council* [2011] NSWLEC 1354; *Berringer Road Pty Limited v Shoalhaven City Council* [2010] NSWLEC 1140 (25 June 2010).

In relation to caravan parks, it is not uncommon for residents to ignore rules because operators are reluctant to spend the time and money involved in taking legal action to ensure compliance (NSW Fair Trading 2011, p.18). The literature also reports that marginal renters are less likely to have intermittent or even regular contact with management. Marks (2008) reports that many park residents are not well informed regarding the few rights they do have and/or lack confidence in asserting them, especially because of their ongoing contact and reliance on management who they must confront to establish, or maintain, their rights.

#### *2.3.4 Security and safety*

Many boarding houses fail to provide adequate security. Interviews with residents of boarding houses highlight persistent problems with security and residents' fears of violence (Adler & Barry-Macaulay 2009; Archer 2009). The Marrickville Council survey (2011, p.20) found that one in 10 residents surveyed had no key with which to lock their door. Research by Murray (2009) on women revealed that informants suffered from 'a generalised sense of lack of safety' and 'inadequate security for their rooms', leaving them 'fearful and vulnerable to sexual violence'. Housing support workers report widespread fear among residents for personal safety, including enduring a 'sub-culture of drug and physical abuse which is frightening and inappropriate' (Gallagher & Gove 2007).

The Newtown Neighbourhood Centre (2003, p.35) Marrickville survey of boarding houses found that: one-quarter of houses lacked any fire equipment; one in six others had only a smoke detector or a fire extinguisher rather than both; and that two in five had general safety issues. The Land and Environment Court refused the respondents in *City of Botany Bay Council v. Zhou* [2011] NSWLEC 32 to use their premises as a boarding house or the like until it was properly fitted with smoke detection and alarm systems. This order followed the respondents' failure to act on two orders to this effect from the Council. Concerned about safety issues, such as fires, the National Association for Rural Student Accommodation has called on both state and Australian governments to insist on training for operators of boarding hostels where around 20 000 country school children stay (Vidot 2009). Stanley (2010, p.16) has pointed out that those in marginal housing, for example flimsy caravans or manufactured housing, are more likely to suffer the consequences of natural disasters, such as storms and tsunamis, which will see the impacts of climate change disproportionately impact on the disadvantaged too.

#### *2.3.5 Special needs*

Many marginal renters may be vulnerable having experienced abuse, separation or eviction, or having gambling or addictions to manage, or may have special needs due to physical or mental disabilities, are unemployed, or aged (Marks 2008; RHST 2009; Kissel 2010). Despite the high level of needs within the marginal rental population, many residents in boarding houses and parks struggle to access social and community support services (Newtown Neighbourhood Centre 2003, p.14). The Marrickville survey estimated that nine out of 10 residents received no support services while domestic help, food, nutrition, health care and transport were among

the highest observed and reported needs. Significantly, residents tended not to report their needs even when they had a visible disability; with the level of support in this population indicated by the fact that over half had been in hospital over the previous year (Newtown Neighbourhood Centre 2003, pp.10–12). In parks and rooming houses, all visitors, including community health workers, rely on the manager's discretion for access to clients (Marks 2008).

### 2.3.6 Costs

While it might be perceived as a cheap option, marginal renters can pay similar rates to private renters who have greater legislative protections, rights, privacy and amenities. Demand for marginal rental housing has pushed up rents and made it less affordable. HPIC (2010, p.3) reports that in Sydney, 'traditional boarding house tenants have also faced increased competition from students and other low-income earners for accommodation'. Marks (2008, p.44) refers to a couple paying \$290 per week as renters in a park in 'an outer Sydney metropolitan coastal area'. O'Flynn (2011, p.9) nominated 'declining affordability' as one of two key broad issues for all park residents.

The recent HPIC (2010, p.8) survey of boarding houses in inner Sydney found that the average rents charged were: a dorm bed, \$154 per week; a single room, \$182 per week; a double room, \$292; and \$574 for a family room. This means that those on a NewStart Allowance or Disability pension would need to expend 74 per cent or 52 per cent of their income on accommodation costs.

In recent years, there has been publicity about unscrupulous landlords squeezing international students in small flats and charging them almost as much money for far better accommodation. Unable to find suitable, low cost accommodation within the inner city, international students are opting for multi-occupancy houses and flats, including those that do not meet regulatory standards. Such arrangements are often exploitative; they are not as cheap as they could be and are far from achieving minimum community standards in terms of cleanliness, safety and security. By way of an example, in September 2009, Brisbane City Council raided a house with 37 occupants, mainly international students, which had Portaloos in the yard, and a garage subdivided into sleeping areas. The deputy mayor called for the public to report such illegal developments, wherein students paid 'top dollar to live in substandard accommodation' (ABC News 2009).

## 2.4 Summary

The focus of this chapter is two-fold: first, it provides a discussion as how best to categorise marginal renters; and, second, it provides a summary of the common problems experienced by marginal renters. It can be inferred from the evidence collected for this chapter that currently many marginal renters are vulnerable with high needs. Often they reside in accommodation that lacks privacy and furthermore they have limited options to exercise rights when problems arise. It is also evident that policy-makers struggle to provide sufficient support to those vulnerable individuals residing in marginal housing. In the next chapter we consider in greater detail the policy challenges for authorities and agencies seeking to regulate the sector and to provide support to vulnerable households.

## **3 MARGINAL RENTAL HOUSING POLICY**

### **3.1 Introduction**

The previous chapter provided insight into the experiences of marginal renters residing in boarding houses and caravan parks. It highlighted some of the difficulties of living in these forms of accommodation. In this chapter, we explore the options for policy-makers to intervene to ameliorate the problems in the marginal rental sector. The first part of the chapter sets out a broad typology of government intervention in housing markets. This is followed by a review of recent policy developments, including: legislative changes in tenancy, rooming accommodation and caravan parks; the regulation of quality and standards; and measures aimed at increasing supply or slowing the rate of decline of marginal rental housing supply. Finally, we report on how marginal rental housing has become a focus for ongoing policy advocacy work.

### **3.2 Government intervention**

In the last decade marginal rental housing and marginal renters have become areas of policy focus. This is evident in the history of academic research papers and reports, government reports, non-government advocacy reports and submissions, consultation processes, new legislation and regulation. Further, the research, advocacy, consultation and changes in legislation and regulation continue. Marginal renters and margin rental housing has become an established area of policy discourse and policy development.

#### *3.2.1 A framework for understanding policy interventions*

Governments shape housing provision through many interventions that both support the routine exchanges in markets and modify market outcomes. Governments intervene in many ways in marginal rental housing markets, which can include boarding houses, caravan parks, multi-tenanted housing, rooms in hotels, private boarding and supported housing. It is helpful in this context to establish a framework so that particular interventions can be related to the underlying structures of housing provision. In discussing how governments intervene, it is important to understand not only the detail of particular measures, but also to relate them to the broader operation of residential property markets and the interests that shape them.

A starting point is to make the concept of the market central and to identify how governments establish the pre-conditions for the operations of markets and the way in which they are shaped. Berry (1983, pp.110–11) suggests starting with the three broad categories of *market supporting*, *market supplementing* and *market replacing* as a way of ordering and making sense of particular interventions. Table 1 illustrates how extensive these interventions are and how this complexity is magnified through the involvement of all three levels of government in the Australian federal system.

**Table 1: Government interventions in housing markets and marginal rental housing**

<i>Forms of intervention</i>	<i>Categories of interventions in housing markets</i>	<i>Indicative housing and marginal rental examples</i>	<i>Responsibility within government</i>
<i>Market supporting</i>	Legal system	Property law	State
		Contract law	Com/state
		Currency	Com
	Spatial co-ordination	Land tenure system	State
		Land use planning	State
Measurement system		Com	
<i>Market supplementing</i>	Reproduces general conditions for production and reproduction	Tax expenditures—housing, land and property	Com/state/local
		Infrastructure pricing and cross subsidies	State
	Particularistic rules shaping exchanges in the housing market	Financial institution risk assessment regulation	Com
		Residential parks acts	Com/state
		Residential tenancies acts	Com
		Rooming accommodation acts	State
		Common law	State
		Local government acts	State/local
		Fair trading acts	State
		Consumer protection acts	
		Public health acts	State/local
		Equal opportunity acts	State
	Building code acts	Com/State	
	Support for particular groups	Purchase grants	State
Rent assistance		Com	
Bond assistance		State	
Advice and advocacy services		State	
<i>Market replacement</i>	Decommodification	Public housing	Com/state
		Social housing community based	Com/state
		Boarding houses	Com/state
		Crisis accommodation	Com/state
		Publicly owned caravan parks	Local

*Market-supporting* interventions establish the institutional pre-conditions necessary for commodity production and exchange in capitalist societies, including housing and serviced urban land. They constitute the most fundamental form of intervention for economies and societies as a whole. In housing systems based on private ownership,

three types of interventions facilitate the transfer of land and housing property rights. First, a formal rational legal system specifies an official currency, property rights and credit and exchange rules. Second, the state defines spatial arrangements in urban and housing systems through cadastral measurement, land title system and land use planning. These market-supporting interventions broadly constitute and support the operations of urban land and housing markets.

The main observation to be made about marginal rental housing and *market supporting* interventions relates to manufactured home parks and caravan parks. In these parks, most renters will own the caravan or the manufactured dwelling and its improvements. However, they do not own the land on which it sits. The park owner owns this land. The owner can be either a private owner or a public authority but is usually private. The level of security that the marginal renter has to keep their caravan or manufactured home on this land will be determined by other market exchange rules, market supplementing interventions, identified in the second category presented in Table 1. As Bunce (2010, p.279) notes: 'the majority of park residents have full equity in their homes but no equity in the land, or even long term lease over it'. Restricting the rights of owners to sell their land is not a prospect. For example, a NSW Government report (NSW Fair Trading 2011, p.21) states, 'Park owners from time to time may wish to realise the value of their asset by redeveloping the park or selling the land for a different use. The law cannot stop this from happening'. A key issue is the conversion of caravan park land to other land uses as land prices increase and land use planning enables change of use.

Governments also modify economic relations between actors in markets through *market supplementing* interventions by altering the status and power of various groups relative to others. In other words, governments leave actors free to interact in markets but modify the parameters. There are three ways in which governments modify these parameters. First, governments allocate resources that shape the institutional nature of a market. For example, negative gearing shapes the nature of the private rental market. Second, governments assist some groups of actors, relative to others, by establishing particularistic rules of exchange. For example, tenancy legislation sets a minimum notice period for vacant possession of rental properties. Third, governments provide support to groups such as: rental bonds and rent assistance to tenants; grants to first time purchasers; and bond assistance to low-income tenants.

The main observation about marginal rental housing and market supplementing interventions is the extensive number of rules shaping exchanges in the housing market. Ten types of legislation are listed in Table 1. However, in practice these types of legislation can translate into a larger number of individual pieces of legislation. For example, *The boarder's and lodger's legal information kit* (Redfern Legal Centre 2011) used by advice and advocacy services in NSW, lists 16 pieces of legislation<sup>1</sup>. Most of this legislation is state legislation and is the responsibility of state authorities. One piece of legislation is Commonwealth legislation, while two other pieces of legislation give local government a role in regulating the relationship between landlords and

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<sup>1</sup> Landlord and Tenant Act 1899 (NSW); Civil Liability Act 2002 (NSW); Consumer Claims Act 1998 (NSW); Consumer, Trader & Tenancy Tribunal Act 2001 (NSW); Contracts Review Act 1980 (NSW); Fair Trading Act 1987 (NSW); Local Court Act 2007 (NSW); Local Government Act 1993 (NSW); Local Government (General) Regulation 2005 (NSW); Public Health Act 1991 (NSW); Residential Tenancies Act 2010 (NSW); State Environmental Planning Policy (Affordable Rental Housing) 2009 (NSW); Supreme Court Act 1970 (NSW); The Australian Consumer Law [Competition and Consumer Act 2010 (Cth) Schedule 2]; Uncollected Goods Act 1995 (NSW); Youth and Community Services Act 1973 (NSW).

boarders and lodgers. Clearly the number of laws governing the market relationship between landlords and boarders and lodgers indicates considerable complexity in the rules. The NSW government has recognised this complexity as an issue and is seeking to simplify the rules (NSW IDC (Interdepartmental Committee on Reform of Shared Private Residential Services) 2011).

A second observation is that this complexity has been accompanied by the development in the number and diversity of advocacy groups and specialist Non-government organisations (NGOs). For example, in NSW there is PAVS (Park and Village Service: Advice and Advocacy for Residential Parks), Tenants Advice Network and Inner Sydney Tenants' Advice and Advocacy Service. These groups, often supported by government grants, employ advocates and organise volunteers who support marginal renters to claim or negotiate their rights within this complexity.

Government interventions can also *replace markets* and de-commodify economic relations by directly providing goods and services. Accordingly, administrative criteria replace market relations. In housing systems, this is done by directly providing housing either on a long-term basis, such as affordable housing provided through public or social housing, or on a temporary basis, such as through crisis accommodation. This can be done directly by government or through non-government, not-for-profit organisations. In addition, caravan parks or mobile home parks that are managed by local government and located on crown land fall outside market relations.

### *3.2.2 Recent policy developments*

As set out earlier (Chapter 2), there has been considerable recent policy development focusing on both marginal renters and the marginal housing they seek to rent. In this section, this policy development is described by focusing on particular policy measures found in legislation and in other research and policy documents discussing:

- Access to tenancy, rooming accommodation and caravan parks.
- The regulation of quality and standards.
- Measures aimed at increasing supply or slowing the rate of decline of marginal rental housing supply.

Much of the material in this chapter draws upon the work of Eastgate et al. (2011, p.2), who have recently researched marginal rental housing provision and policy responses in Australia. They conclude that while there are some good 'models of regulation ... in much of the country regulatory systems are weak and residents receive little legal protection'. They also highlight how this issue of protection intersects with the issue of the supply of marginal rental housing.

### *3.2.3 Tenancy, rooming accommodation and caravan parks*

Across states and territories the rights of rooming house tenants and caravan park residents are specified predominantly in Residential Tenancy Legislation and associated Rooming Accommodation Acts and Residential Parks Acts. Legislated protections for tenants in rooming houses and caravan parks have improved in most states and territories in response to housing advocacy campaigns over the past decade and rooming house fire fatalities. In Queensland, Victoria, Tasmania, South Australia and most recently the NT, tenant protections are available to boarders under Residential Tenancies Acts (RTA), with specific provisions for boarders living in accommodation where three or more rooms are available for rent (in Victoria it is four or more) (Eastgate et al. 2011, pp.23–30). In both NSW and WA, boarders are excluded from Residential Tenancies legislation and instead rely on common law

rights (Eastgate et al. 2011). Despite these protections available to tenants through law coverage, the degree of enforcement is reported to be minimal (Wensing et al. 2004).

Legislative and regulatory protection for caravan park tenants is relatively new and more uneven across the states and territories. Prior to 1986, as Wensing et al. (2004, p.1) note, permanent residence in a caravan park was not legally permitted, with some jurisdictions imposing time limits of no more than six months. It was not until the mid-1990s, that long stay caravan park residents became legal in all states and territories. Subsequently, specific legislative protections for long-term caravan park tenants have remained under-developed. While some states including NSW, SA and WA have opted to introduce separate legislation that specifically addresses the rights and responsibilities of owners, managers and residents of caravan parks, the remaining states and territories have made specific provisions within existing residential tenancy legislation (Eastgate et al. 2011). It is an area of continuing review as indicated by the current NSW reviews (NSW Interdepartmental Committee on Reform of Shared Private Residential Services (IDC) 2011; NSW Fair Trading 2011).

The development of long stay caravan park legislation is relatively recent, as noted. The NSW government has introduced the most comprehensive reforms to date, which entails the introduction of the Residential Parks Act in 1998 and more recently a protocol for caravan park closures that aims to coordinate targeted assistance to residents displaced by park closure (Eastgate et al. 2011). Further, in SA the Residential Parks Act of 2007 covers residents in caravan parks, but protections fall short of those available to tenants in the private rental market (Eastgate et al. 2011). In WA, caravan park residents are covered by the Residential Parks (Long Stay Tenants) Act 2006 (Eastgate et al. 2011). Each of these Acts provide tenants with appeal rights over matters such as rent increases and evictions (Wensing et al. 2004). In addition, legislation in NSW and SA places new obligations on owners to provide residents with tenancy information, condition reports and copies of written agreements. In contrast, residents of caravan parks in Queensland, Victoria and the ACT are covered by specific provisions within existing residential tenancy legislation (Eastgate et al. 2011, pp.23–9). In Victoria, the RTA covers residents who occupy a site for 60 consecutive days (Eastgate et al. 2011). In the NT, caravan park tenants are covered by the new RTA 2008, but this is not yet in force (Eastgate et al. 2011).

### **3.3 The regulation of quality and standards**

Across states and territories the regulation of the quality and standards of rooming houses and caravan parks are managed through caravan park licensing, the Mobile Homes Act and various public health, safety and building acts. Both Queensland and Victoria have introduced comprehensive reforms in relation to boarding house standards. In Queensland, fatal fires at the Childers Palace Backpacker Hostel in 2000 and the Sea Breeze Boarding House in 2002 precipitated the reforms. Queensland's *Residential Services (Accreditation) Act 2002* in conjunction with the *Building and Other Legislative Amendment Act 2002* establishes a comprehensive state-wide registration and accreditation process that covers the 'physical condition of the premises, the suitability of the facility manager, the management and consumer protections arrangements in place for residents, and other aspects of health and safety' (Eastgate et al. 2011). The Act applies to residential facilities where at least four residents, other than the owner, live in one or more rooms and pay rent. The rights and responsibilities of tenants, and managers of residential tenancies and rooming accommodation are set out in the *Residential Tenancies and Rooming Accommodation Act 2008*. For caravan parks, the *Manufactured Homes (Residential Parks) Act 2003* provides a framework for the development and management of

manufactured homes, with disputes dealt with by the Queensland Civil and Administrative Tribunal (Eastgate et al. 2011). Victoria's recent reforms to boarding house standards also include a state-wide register and the enforcement of new health and safety standards. In contrast, regulation of caravan parks remains a local government responsibility (Eastgate et al. 2011).

In NSW, physical standards of boarding houses and caravan parks are covered by *Local Government (General) Regulation 2005* and standards of caravan parks are enforced through local government licensing regimes (Eastgate et al. 2011). In addition, boarding houses that accommodate two or more residents with a disability are required to be licensed under the Youth and Community Services Act 1973 (NSW Ombudsman 2011, p.1). Recent changes to the act in 2010 have been important in addressing concerns that license conditions within the act are unenforceable. The changes also include new requirements including: the obligation on licensees and managers to provide residents with support, advocacy and other service information, as well as to ensure that their staff are trained in medication management and first aid (NSW Ombudsman 2011, p.3). However, a recent report by the NSW Ombudsman highlights continuing inadequacies in the legislation, including the low standards in place for supporting people with disabilities residing in licensed boarding houses and the lack of coverage for people with disabilities living in unlicensed boarding houses (NSW Ombudsman 2011). It also calls for greater safeguards to ensure compliance.

In SA and WA, both rooming houses and caravan park standards are regulated by local government and subject to various regulations such as environmental health laws and the building code (Eastgate et al. 2011). The ACT manages rooming house and caravan park standards through various acts such as the Public Health Act, the Building code and the Parks and Camping Grounds Act (Eastgate et al. 2011). In the NT there is no licensing regime for caravan parks, but boarding houses are required to register with the NT Department of Health under the Public Health (Shops, Boarding houses, Hostels and Hotels) Regulations (Eastgate et al. 2011).

### **3.4 Boosting provision**

Increasingly, governments are recognising that rooming house and caravan park providers are important providers of affordable accommodation. As previously noted by Greenhalgh et al. (2004, pp.i-ii), there have been supply-side government responses in place to slow or reduce the decline of boarding house stock. These include: the provision of support to operators, including grants, loans and technical advice, in order to reach compliance within a limited timeframe; controls on the demolition of boarding houses and the introduction of compulsory impact studies; reductions or exemptions of taxes and charges (e.g. in NSW, boarding houses and caravan parks which house retirees receive land tax exemptions); support for the development of new boarding houses through local and state government planning considerations; and the development of partnership arrangements in the provision of new affordable housing. In NSW and Victoria, assistance is available for the establishment of 'new generation' affordable housing options and upgrades of existing accommodation (Eastgate et al. 2011). In Queensland, the Boarding House Program has been established to develop new boarding house stock in inner Brisbane (Greenhalgh et al. 2004, p.35). In 2009 the NSW government introduced the State Environmental Planning Policy (SEPP), which provides incentives (primarily floor area bonuses) to providers of 'new generation boarding houses'. This housing must meet appropriate standards and must be managed as social housing (Eastgate et al. 2011).

In contrast to boarding houses, governments have not traditionally viewed long-term caravan park living as an appropriate form of affordable housing for vulnerable

households. However, this is changing with state and local governments across Australia recognising the significant role caravan parks play in providing a suitable low cost form of housing for retirees, itinerant workers and those seeking marginal rental housing, as well as the significant social and economic costs associated with closure. Accordingly, state and local governments have introduced planning measures that support the retention of caravan parks. In NSW, these include: the establishment of special use 'caravan park' zoning which prevents the conversion of land to other uses; the need for applicants lodging a development application relating to a caravan park of manufactured to undertake a Social Impact Assessment; and the establishment of affordable housing strategies that recognise the role of caravan parks and manufactured home estates in the provision of affordable housing. In Queensland, the Department of Housing has ownership of three caravan parks under threat of closure, as previously noted, which are operated and managed via a trust (Connor 2004, p.20). Similarly, the NSW government is also examining the potential of a cooperative ownership model of caravan parks, which may entail the identification of new appropriate sites or the acquisition of an existing park (Housing NSW 2009).

As previously documented (Connor & Ferns 2002; Connor 2004; Wedgwood 2006), the consequences of caravan park closure are significant for park residents. Those who own their own dwelling face substantial costs associated with moving their dwelling. The process of relocation is not straightforward, with residents experiencing difficulties in finding alternative park accommodation that suits their needs. They may also struggle to afford the cost of relocation and their dwelling may be damaged in the process of being transported between parks. For marginal renters who reside in caravan parks, the effect of closure can be significant, with many unable to find suitable, alternative low cost accommodation. The impact for owners could be a substantial loss in the value of their asset and their sense of security, for both owners and renters the risk of homelessness is high. The NSW government has implemented comprehensive closure protocols to ensure that the process of park closure is transparent and that tenants are informed of their rights. The NSW Residential Parks Act 1998 specifies that 'Residents who rent from the park owner or live in a mobile home or caravan without a rigid annex are entitled to 60 days notice. Owners of manufactured homes or caravans with a rigid annex are entitled to 180 days notice and the cost of relocation of their dwellings' (Connor 2004, p.20). Compensation and assistance with relocation (including information, advice, support and assistance related to the resident's housing needs) is also available to site owners and tenants affected by park closure (Housing NSW 2009). While compensation for the relocation of residents in NSW is welcome, Connor (2004) notes that in practice site owners must cover the upfront costs of relocation. The Act also fails to provide any compensation for owners who cannot relocate their dwellings.

### **3.5 Summary**

This chapter has provided a typology to understand the ways that governments policy-makers intervene through legislation to regulate and manage the marginal rental housing. It summarised changes in legislation to improve the condition of properties and measures to safeguard and boost the supply of stock. In the next chapter we consider the policies undertaken overseas to manage the marginal rental sector and address problems that arise.

## **4 INTERNATIONAL RESEARCH ON MARGINAL HOUSING**

### **4.1 Introduction**

The previous chapter set out the legislative context in which policy-makers and agencies seeking to address the problems experienced by marginal renters operate. The purpose of this chapter is to further explore the options for effective policy intervention by drawing upon examples of relevant international experience with various forms of marginal rental housing. What becomes clear is that definitions of what is marginal are very context specific. Different cities, cultures and jurisdictions have varying norms and practices, and policy and regulations developed in one place may not be relevant elsewhere. In Europe, investment in social housing over the post-war period has been much more substantial than in the US and Australia, and consequently caravan park and hostel accommodation services a relatively small population. However, there appears to be an increase in permanent residents in residential parks (mobile homes) and on houseboats in Britain, which also has a long history of lodging (bed and breakfast) accommodation. There have been recent changes in policy to accommodate these changes. In the US, where mobile and manufactured housing has long been recognised as an alternative form of home ownership, we examine the contemporary experience of mobile home living.

### **4.2 Lodging and ‘bed and breakfast’ accommodation, Britain and Ireland**

In Victorian England, lodging houses in major cities and rural and coastal villages provided shared housing for a wide range of social groups, including young single workers, aged spinsters and poor families. In the mid-19th century, in response to concerns about the moral and sanitary conditions of these buildings, lodging houses became subject to increasing statutory control and model common lodging houses were established by charitable organisations (City of London 2011). By the late 20th century, many large-scale lodging houses within inner city districts have been demolished in order to make way for new urban infrastructure and commercial development. Today, lodging houses are more commonly described as ‘hostels’ or ‘bed and breakfast’ (B&B) accommodation. While the former typically provides dormitory type accommodation targeted at young travellers and students, the latter is associated with temporary tourist accommodation or, increasingly, longer term accommodation for low-income individuals and families, including recipients of housing benefits who have been unable to maintain tenancies within the private rental market. B&B accommodation in England, Wales and Ireland is increasingly being used as an emergency accommodation for people at risk of homelessness and, in addition, the length of stay of these residents is increasing in the absence of alternative forms of stable and affordable accommodation (Carter 1997; Houghton & Hickey 2000).

Carter’s (1997) research on the use of B&B accommodation in England and Wales by housing benefit recipients highlights some of the issues surrounding this phenomenon. Her research found that despite an increase in demand for low cost accommodation, self-placement by housing benefit recipients in B&B accommodation was in decline due to the gradual reduction in benefits available to pay for B&B (Carter 1997). She estimated that there were 67 665 households or 76 680 individuals, self-placed in B&B in England and Wales in 1997 (Carter 1997). Her study highlighted the lack of a national standard for defining B&B accommodation and adequate licensing and monitoring systems. Carter found that residents were often

vulnerable, experiencing financial hardship, and lacking in knowledge about their entitlement to housing under the homelessness legislation. Carter's work demonstrated that certain high-need social groups were overrepresented, including people with drug, alcohol and mental health problems, ex-prisoners, care leavers, young people and refugees (Carter 1997). Given the range of problems that beset B&B accommodation, the report recommended the provision of more suitable housing options in the long-term and improved regulation of the sector and improved access to financial support and health services more immediately. Perhaps in response a government target was set in March 2002 that no family with children would be accommodated in B&Bs except in exceptional circumstances. By March 2004 monitoring indicated that only 26 homeless families with children had spent more than six weeks in B&B accommodation across Britain, and from April 2004 legislation was introduced to prevent local authorities from placing homeless families in such accommodation for longer than that period (Communities and Local Government 2004).

In Ireland, a 2000 study found that the use of B&B accommodation had risen over the previous two decades due to a lack of appropriate, alternative accommodation (Houghton & Hickey 2000). The profile of Ireland's B&B resident population was similar to England and Wales, and included people with complex support needs, such as: individuals and families escaping domestic violence and family conflict; people experiencing alcohol and drug addiction; people experiencing mental health problems; and ex-prisoners (Houghton & Hickey 2000). Houghton and Hickey's report highlighted the need for long-term investment in social housing and new building programmes to deliver social housing and emergency accommodation (Houghton & Hickey 2000). They also recommend two proposals based on the UK experience that would improve security and stabilize costs for residents, including private sector leasing of B&B by council and the leasing of housing by housing associations. Further, they identify the need for improvement in health and social support for B&B residents in order to enhance the quality of life of residents and to address the particular issues which undermined their capacity to sustain tenancies in the private rental market (Houghton & Hickey 2000).

### **4.3 Residential park homes and houseboats in Britain**

More recent work in Britain has focused on the increase in the population housed in accommodation traditionally regarded as non-permanent (Bevan 2007, 2009, 2011). This category includes people who live in caravan parks, mobile homes (known as park homes) and houseboats. Recent estimates indicate that there are 2050 park home sites in England and Wales providing around 89 500 homes for 170 000 residents (Communities and Local Government 2008). An estimation for Scotland gives a figure of 4121 residential mobile homes, but this is considered to be an underestimate (Bevan 2007). The figures on houseboats are less accurate but estimates are that there are between 20 000 and 45 000 people housed permanently on 10 000–15 000 boats across Britain (Office of the Deputy Prime Minister 2005).

Bevan (2009, 2011) conducted a study of two groups of residents—those in park homes and those living on boats—focusing in the residents' experience of their accommodation and its surrounds. The larger group, the park residents, were more likely to be older, and very likely to own their mobile home, but not the land it was located on. While these people are home owners, they are not land owners and face vulnerabilities from renting the site of their home. This form of housing is more likely to be utilised by people downsizing from owning their own home, rather than those with very little financial resources, as the homes are generally paid for outright. This is at least in part because of the attitude of mortgage lenders towards park homes. Only

two specialist agencies in Britain offer mortgages for park homes (Bevan 2009, p.4). Bevan (2009, p.3) indicates that the trend towards park homes as a housing option for older people has grown quite rapidly in the last couple of decades and he cites findings from Berkeley Hanover Consulting (2002) that two-thirds of park operators have minimum age restrictions, with the most common limit set at 50 or over. Park homes were previously a form of accommodation that allowed lower income groups to become home owners, or to live in areas they might not otherwise be able to afford. However, Bevan (2009, p.16) suggests that this may be changing as prices are increasing as the park home industry focuses increasingly on the retirement lifestyle market.

Bevan (2011, 2009) interviewed 40 park residents about their experience and found that they reported mixed experience, but were generally positive 'not only about their housing, but also the distinctive environments in which they lived' (2011, p.547). They could be divided into those who moved to residential parks as a retirement lifestyle choice, and those for whom it was a constrained choice—the best option they could afford, and preferable to renting or a small flat. Many expressed happiness in feeling that they felt they were permanently on holiday (2011, p.548).

The key issue this study highlighted, however, was that many residents reported conflict with park management and some unscrupulous park owner practices. The impact of disputes with park management meant that some residents 'experiences of home were marred by fear and anger' (Bevan 2011, p.553). There have been a number of changes to policy and regulations to address this problem. These include an amendment, passed in 2011 after a period of consultation, to the Mobile Homes Act 1983 to move dispute resolution out of the County Court to the Residential Property Tribunal in order to enable more affordable access and assistance for residents (Communities and Local Government 2008, 2009). However, the Mobile Homes Act 1983 does not apply to residents who rent their mobile homes, who may be covered by a variety of different acts. Residents who rent their homes from private site owners may be protected by the Rent Acts or the Housing Act 1988 depending on when they began to rent.

In Scotland, the proportion of residents who rent caravans, mobile homes and other temporary forms of accommodation from a private landlord was greater than in other parts of the UK—34 per cent compared with 18 per cent in England and Wales (Bevan 2007, p.2). Concern has been expressed that private renters of park homes may fall between two sets of legislation covering the rental sector or the mobile homes.

Residents on houseboats experience greater insecurity than do the mobile home residents. There are only 2000 officially recognised residential mooring in inland waterways in Britain despite there being an estimated 10 000–15 000 residential boats (Office of the Deputy Prime Minister 2005, p.7). Most boat owners must negotiate with landowners, farmers, marina owners or boatyards, 'or just hope for the best and moor somewhere as unobtrusive as possible' (Bevan 2011, p.544). Mooring agreements are short term of one to five years, so the agreements must be renegotiated or the boat must relocate. Boaters in the Bevan study reported that they had to 'tread very warily' in terms of their relations with the land owner' (Bevan 2011, p.550). Some boats cruise continuously but are expected to move on. The lack of permanency was a major problem for some boat residents, who without official addresses faced difficulties accessing banking, medical and other services (Bevan 2011, p.551).

Gypsies and Travellers constitute a separately counted category of non-permanent residents in Britain. An amendment to the Housing Act in 2004 requires all local

authorities with housing responsibilities to undertake separate accommodation assessments for this group of people (Greenfields 2007, p.80). This has been in part a consequence of anti-discrimination measures within the Race Relations Act (2000). There has been growth in the number of Gypsy and Traveller caravans in England, with an 18 per cent increase between the period 2005–11 from approximately 16 000 to 18 700. Of these, 35 per cent were located on socially-rented sites, 43 per cent on privately funded sites, 22 per cent on unauthorised encampments, half of which was on Gypsy owned land, (Communities and Local Government 2011).

#### **4.4 Mobile and manufactured homes, United States**

The reliance on make-shift, mobile homes for permanent housing among the poor has its roots in the Great Depression in the US, with continued expansion in the post-war period as a consequence of housing shortages and problems of housing affordability (Boise State University College of Social Sciences and Public Affairs 2007). The US differs from other nations in that the phenomenon of permanent mobile home living is well-established and a significant proportion of the population resides in mobile homes. According to the US Census, mobile homes comprise 6.6 per cent of total housing units in 2008. The concentration of mobile home units varies across the states, with the highest proportion of mobile homes units found mostly in southern states, including South Carolina (17.9%), New Mexico (16.4%), Mississippi (15.3%), Alabama (14.3%), North Carolina (14.3%) and West Virginia (14.0%), but also Wyoming (14.0%)<sup>2</sup>. While many occupiers of properties in mobile home parks are considered marginal renters, other properties are owner-occupied and of good quality. One study of residents in mobile homes suggests that they allow lower income and particularly rural families the possibility of a form of home ownership they might otherwise not be able to achieve (MacTavish & Salamon 2001).

While the term mobile home is widely used by residents, sellers and park operators, the legal term 'manufactured home' is used to extend the protection of the law to people who live in any pre-fabricated home built on a chassis at a factory and transported from there to a permanent site (Benjamin 2008). Mobile home residents have tenancy rights that include: the provision of information about park rules and tenancy rights at the point of lease; the provision and maintenance of basic utilities and infrastructure; and appropriate procedures for ending a tenancy agreement. In some cities, residents also benefit from the establishment of local mobile home rent control ordinances to ensure rent stability. In addition, in recognition of the fact that many of the rights of park residents are determined by the park's rules and regulations, the process of setting park rules is subject to regulation. For example, the Massachusetts Attorney General has issued regulations that define what a landlord may or may not include in rules, with the law prohibiting rules that are 'unreasonable, unfair and unconscionable' (Benjamin 2008).

Policy development and innovation within the mobile home sector is generally focused at the state level. States have facilitated the development of appropriately sited mobile home parks through the provision of zoning control. They have also introduced legislation to protect the tenancy rights of mobile home owners who are leasing sites and those renting mobile homes are covered in state-based legislation. In contrast, building and safety standards are regulated at a national level. In 1976, the US Department of Housing and Urban Development introduced a new building code for manufactured housing that applied improved construction and safety standards and consumer protections (Boise State University College of Social Sciences and Public Affairs 2007). In addition, mobile park residents who meet financial criteria are able to

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<sup>2</sup> See <http://www.census.gov/compendia/statab/2012/ranks/rank38.html>, viewed 21/11/2011.

access federal housing assistance. Another feature of the mobile home industry in the US is the presence of strong mobile home owner associations that represent the views of owners and operators within the policy arena. This is in contrast to the small-scale and disorganised development of the Australian mobile home industry.

The expansion of mobile home living over the past 50 years in the US has generated new problems associated with the closure of mobile home parks and the subsequent eviction of park residents. These problems have been compounded by the US's recent housing boom which peaked in 2004 and which saw an increase in park closure and the further displacement of affordable housing. While the housing bust linked to the global financial crisis of 2008 has led to an increase demand for low cost housing options, the trend towards park closure has not been arrested in many states. This has been coupled with rapid growth in condominium conversions of apartment developments and mobile home communities throughout the 1980s and again in the early 2000s (McCreight 2008).

In Boise, Idaho, the city council recently commissioned a comprehensive report into the decline of mobile home parks (Boise State University College of Social Sciences and Public Affairs 2007). This report outlines some of the key problems facing city councils and park resident and identifies some innovative policy responses. They found that Idaho cities have 'limited tools to arrest the national trend that closes the mobile home parks' as there is no provision in state law that 'explicitly allows a municipality to require a landowner, either buyer or seller, to maintain mobile home units of pay relocation expenses' (Boise State University College of Social Sciences and Public Affairs 2007). They also found that there are arguments for and against council support for mobile home development. They observe that mobile home parks are not the most cost-effective response to the need for low-income housing, and yet preserving mobile homes is considered important in ensuring that low-income seniors, who value the status of home ownership and hold a sense of attachment to place, are not uprooted (Boise State University College of Social Sciences and Public Affairs 2007).

The Boise report highlights the substantial problems residents, who are often aged, socially isolated and poor, face in managing the process of eviction and relocation. They found that for mobile home owners residing on leased land the costs of relocation more often than not exceed the worth of their home. Despite these impacts, most states provide 'little or no protection against homeowner eviction due to the closure of a mobile home park' (Boise State University College of Social Sciences and Public Affairs 2007). To date, Idaho mobile home residents have been able to access some limited support through private developers or through community block grants from the US Department of Housing and Community Development. Other states rely on regional housing trust funds (California and Minnesota), state income tax credits (Oregon) or centralized trusts to help the mobile home owners find relocation funds (Utah, Washington, Arizona, Nevada, Delaware and Hawaii) (Boise State University College of Social Sciences and Public Affairs 2007). Where mobile home communities are subject to condominium conversions, residents in some states are granted an extended notification period for the termination of a tenancy prior to eviction (elderly residents or those with a disability are entitled to two years' notice) (McCreight 2008).

The report provides insight into best practices in relation to managing mobile home park closure and eviction. The authors note that Sonoma County, California, has enacted important reforms, which make unfair rent hikes illegal and facilitate the purchase of lots within mobile home parks. However, such reforms have also been used in unintended ways by developers to bypass local rent controls and to force conversions of leased parks into condominium allotments against resident wishes

(Boise State University College of Social Sciences and Public Affairs 2007). More promisingly, New Hampshire and Massachusetts have introduced 'first-right' legislation which supports the establishment of mobile home owner cooperatives. In these states, the tenants have the right to make the first bid on the sale of their park and the owner selling the park must negotiate in good faith with the tenants should they wish to purchase. Importantly, these states also partner with lenders to guarantee low-interest loans for mobile home cooperatives (Boise State University College of Social Sciences and Public Affairs 2007). Tenant right of first refusal legislation has been enacted in 14 states.

States have also looked broadly at the problem of encouraging the development of affordable, low cost housing options within cities. One tool used by councils is inclusionary zoning which requires developers to provide a fixed percentage of affordable housing units within new residential development. This can be supplemented by fast-track planning approval to reduce costs associated with affordable housing development. This approach is contentious, with some economists arguing that planning controls can have the unintended effect of reducing the number of homes built (Boise State University College of Social Sciences and Public Affairs 2007).

In the US, consumer advocates have also identified ongoing problems associated with high pressure sales and predatory lending practices within the manufactured homes industry, combined with vulnerable buyers who are uninformed about financing instruments and the potential for appreciation and depreciation of their property (Jewell 2003). In response, the Community Reinvestment Association of North Carolina has developed a homebuyer education program focused specifically on the needs of buyers of manufactured homes (Jewell 2003). In addition, housing and credit counsellors are available to support buyers to located low cost financing as an alternative to the (often unscrupulous) financing arrangements recommended by the retailer (Jewell 2003).

#### *4.4.1 Boarding houses in New Zealand*

In New Zealand, the Residential Tenancies Act was extended to cover boarding house tenants and landlords through an Amendment Act passed in 2010. This enables tenants to access a range of services hitherto only available to other renters. Boarding house landlords will now generally be required to give tenants 28 days notice that a tenancy is being terminated. The Tenancy Tribunal will also be able to order boarding house landlords to carry out necessary repairs or maintenance.

A number of unlawful acts have been added which include:

- Exceeding the maximum number of people who may reside at the property.
- Landlord's failure to comply with their obligations regarding cleanliness, maintenance, relevant building, health and safety regulations.
- Interference with the supply of services, for example electricity. (Department of Building and Housing 2010)

Following these regulatory changes and a briefing from the New Zealand Coalition to End Homelessness, the Social Services Committee of the New Zealand Parliament recently embarked on an enquiry into boarding houses chaired by Member of Parliament Katrina Shanks. The terms of reference were to consider the legislative and regulatory frameworks that applied to boarding houses and to determine whether the existing frameworks provided adequate protection to boarding house tenants (House of Representatives Social Services Committee 2011, p.1). The Interim Report resulting from this enquiry noted that definitions of what constituted a boarding house

varied between different Acts and also with that of Statistics New Zealand. Further, as there was no form of registration or licensing required it was difficult to estimate exactly how many were operating. It noted that 'while the 2006 census identified 177 occupied boarding houses, the Department of Building and Housing has a database listing over 500' (House of Representatives Social Services Committee 2011, p.2).

The Interim Report identified the variety of Acts which apply to boarding houses in NZ at the present time.

- The Residential Tenancies Act defines the rights and obligations of residential landlords and tenants, sets out dispute resolution procedures, and establishes a fund in which bonds are held.
- The Building Act 2004 sets out the minimum performance standards for new or renovated buildings.
- The Local Government Act 2002 gives territorial authorities general bylaw—making powers to protect and maintain public health and safety.
- The Fire Service Act 1975 requires owners of boarding houses accommodating more than five people to have a fire evacuation scheme unless the building has a sprinkler system.
- The Health Act 1956 allows local authorities to issue cleansing and closure orders for properties that have become a health threat.
- The Housing Improvement Regulations 1947 include provisions to prevent overcrowding in boarding houses, and allow (but not require) local authorities to keep a register of boarding houses. (House of Representatives Social Services Committee 2011, p.3)

The Interim Report noted that while many boarding houses at the more expensive end of the market might be of a good standard, at the lower end there were commonly building and health and safety problems, including dangerous and insanitary conditions. Legislation, including the Building Act, the Health Act, and the Local Government Act, provide local authorities with adequate powers to monitor boarding house owners' compliance with building and health and safety standards, but they are not explicitly required to do so. Both the Building Act and the Health Act allow councils to inspect buildings for unsafe conditions, but councils' approaches to the issue vary, and the Local Government Act, enables local authorities to create bylaws for the licensing and inspection of boarding houses. The Report suggests that:

Compliance might be improved by the introduction of a compulsory registration system; however, local authorities already have the power to register boarding houses should they wish, and the costs of a compulsory registration system are difficult to estimate because the number of boarding houses is unknown. We consider that the merits of taking a more proactive approach to ensuring compliance or establishing a compulsory registration system could usefully be examined further. (House of Representatives Social Services Committee 2011, p.4)

## **4.5 Lessons for Australia**

The international experience has relevance for Australia. The high costs of home ownership and the lack of investment in social housing has contributed to more people residing in marginal forms of housing. Whilst in Europe there is less demand for marginal housing because of the greater availability of social housing stock, nonetheless more households are residing in parks, caravan sites and hostel accommodation. In the US, the high costs of home ownership and lack of social

housing has led to a rise in households living in mobile homes. New Zealand provides perhaps the most useful example for policy-makers. The 2010 Residential Tenancies Act specifically includes boarding houses in order to address poor standard accommodation at the lower end of the market and the lack of clarity in relation to licensing and registration.

## 5 CONCLUSIONS

### 5.1 Chapter summary

The introduction of this Positioning Paper provided definitions of both marginal housing and marginal renters. *Marginal housing* for this study includes rooming and boarding houses, and an extended residence in a caravan or manufactured home park. Marginal renters are categorised as vulnerable low-income households who reside in these forms of dwellings. The most appropriate definition of a *marginal renter* is a low-income person who stays more than 30–120 days in a rooming house with a landlord-manager of shared-facility accommodation (more than three in SA and four in Vic) or in various caravan park accommodations. Policy development in relation to these boarding houses and caravan parks can be viewed as a response to: the increase in demand for these properties, accentuated by the lack of affordable housing in the private and social rental sectors; and the fact that often marginal housing is of poorer quality and occupants have less security.

Chapter 2 provided examples from recent literature on the experiences of those who reside in marginal housing and the challenges that arise in the management of such housing. It is evident marginal renters in Australia often have to share amenities with other residents and in the case of boarding houses adhere to rules that often curbs visitor rights and access to facilities. In practice, the evidence suggests that marginal renters have less security than those residing in other tenures. Marginal renters living in boarding houses and caravan parks often face uncertainty because of the opportunities for the owners of these establishments to sell their assets for profit. In the major conurbations in Australia long-term residents of boarding houses are at increased risk of homelessness.

Chapters 3 considered recent policy development in Australia in order to provide a wider contextual setting. It is apparent that policy responses initiated by state and territory governments is variable. There are moves underway to shore up the legal rights of marginal renters by enforcing owners of marginal housing properties to provide tenancy agreements with renters. Currently, the problem is most acute in the states of Victoria and NSW. The general direction of policy making is to enshrine tenants living in marginal housing with greater legal protection. The vehicles to achieve this include residential tenancy, rooming accommodation and Residential Parks legislation in conjunction with new regulation to enforce standards within boarding houses. So for example, in ACT and Queensland's rooming house residents are now required to sign accommodation agreements and receive a prescribed list of rules. Recent reforms in the NT have enabled park residents to have the same rights as tenants living in rented accommodation.

Chapter 4 set out evidence from overseas to provide information on policy responses to the problems experienced by renters residing in marginal housing. The lack of investment in social housing has compounded the problems for marginal renters. It is also clear from the overseas literature review undertaken that many low-income marginal renters have less legal protection in tight rental markets where options are most limited. However, there is less emphasis in the US and NZ on support and out-reach social services than is often provided in Australia and the UK.

A key trend identified from the analysis is the emergence of private 'informal' operations in suburban areas. The new model emerging in the rooming house sector is characterised by small rooming houses, operated for profit. In many cases, this accommodation utilises suburban homes with multiple bedrooms—or commercial properties not designed as residential accommodation—which are often lawfully or

unlawfully modified to accommodate larger numbers of people. This is the segment of the rooming house market that is growing rapidly, particularly in suburban areas that have previously not been familiar rooming house territory. Much of this growth is difficult for enforcement agencies to monitor as these premises often appear indistinguishable from other forms of residential or commercial property.

## **5.2 Future challenges**

What conclusions can be drawn from the review set out in this Positioning Paper? The evidence collected illustrates that the marginal rental housing sector in Australia has a third tier status. Much of the accommodation, particularly in boarding houses, is poorly regulated and many residents reside in unsafe and badly managed accommodation. A similar set of problems are evident in caravan parks, although the situation is more complex because of the reliance by policy-makers on caravan parks as a form of temporary emergency accommodation following crises such as floods and bushfires.

There has been little substantive intervention in recent decades to address the shortfall in supply of affordable housing. Since the 1990s, there has been a decline in the public housing stock numbers (Hall & Berry 2004) albeit mitigated by the recent increase in public housing funding provide through The Nation Building – Economic Stimulus Plan 2008–11. There has also been some initial growth in social housing funding supported through the National Rental Affordability Scheme (NRAS). This affordable rental housing in its various forms remains in very high demand as indicated by waiting lists and the numbers of households turned away. It is in this context that households then seek other forms of housing, some of which fits into the category described in this report as marginal rental housing.

The only significant policy response to the group known as marginal renters has been considerable program development resulting in innovation and diversity in affordable rental housing. This has included the acquisition and building of boarding houses, group houses and emergency and crisis accommodation. Associated with these forms of affordable housing, considerable effort has been put into the development of service systems that support particular population groups within the broader marginal rental population. However, many of these initiatives continue to be constrained because the proportion of affordable housing as a proportion of the housing stock has continued to decline. In the area of caravan parks, there has been no expanded market replacement through the growth of caravan parks on crown land.

For these reasons, it is difficult to be optimistic that marginal housing problems can be addressed at a time when demand for low cost private rental market is so acute. In some respects, it appears that Australia is similar to recent developments in the US where homeless households have been forced to rely on mobile homes and caravan parks to avoid homelessness. The quandary for policy-makers is clear; marginal housing, whilst far from ideal is a stop-gap for households who might otherwise be homeless. Any attempt to reduce the supply of marginal housing in the current context is likely to exacerbate incidences of homeless and great further strain in the affordable private rental market sector.

## **5.3 Next stage of the project**

Whilst, the Positioning Paper has highlighted new configurations of marginal rental housing, there are gaps in knowledge that remain. In order to address these gaps in knowledge the next stage of the project will collect primary and secondary data for the case study areas. We will undertake triangulation of data collected from our contact organisations, new 2011 ABS data, and searches of accessible administrative and

public data. We will also convene roundtable focus groups with policy and service providers in Melbourne, Brisbane and Sydney.

The six to eight case study areas will cover all major forms of and major geographic differences in marginal rental housing drawing on data collected from referral agencies, councils, other administrative sources (e.g. police and Centrelink), and property advertisements and listings. It is envisaged that 60–80 semi-structured interviews will also be undertaken. The interviews will centre on questions: testing assumptions, claims and characterisations in the literature and suggested by data analysis; and detailing current experiences, economic circumstances, costs and housing backgrounds of marginal renters. Finally, based on the analysis undertaken the project team will develop a ‘marginal renters typology’ based on detailed marginal rental profiles, including household structure, housing careers, current income, age, employment sector/welfare status, special needs, length of stay and, similarly, marginal rental housing characteristics.

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