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Thank you for the opportunity to comment on the discussion paper *Residential Tenancy Law Reform: A New Direction* (September 2007).

The Energy & Water Ombudsman NSW receives, investigates and resolves complaints from customers of all electricity and reticulated natural gas providers in NSW, and some water providers (Hunter Water, Sydney Water and Country Water).

In EWON's response to the Office of Fair Trading's 2005 options paper *Residential Tenancy Law Reform* we identified billing issues, repairs, water efficient fixtures and supply interruption payments as critical areas needing law reform. We are pleased to note that there are positive proposals in all of these areas. EWON notes that the proposed law reforms in the current discussion paper in respect to tenants' use and payment for energy and water supplied to rental properties.

We have provided some additional suggestions for your consideration regarding the billing of tenants for water usage and the responsibility of landlords to ensure their properties are fitted with energy and water efficient fittings and appliances.

For ease of reference we have adopted the same numbering as in the discussion paper.

3.3 Water usage

Universal charging of tenants for water usage

It is EWON's experience that the practice of landlords passing on water usage charges to tenants is common in the Hunter region and increasingly common in the greater Sydney area. EWON receives some calls from private tenants regarding this practice, particularly in relation to impending restriction of services.

EWON's water jurisdiction does not extend to water providers in other parts of NSW (such as regional local authorities) and therefore we are not in a position to comment on what affect the State-wide roll out of water usage billing to tenants living in regional NSW will have. EWON would look to any comments tenant representatives might have in this regard.

Leaks and repairs

In EWON's experience, some water leaks such as those from 'instantaneous' electric hot water services can, if not repaired within a few days of being discovered, result in the tenant receiving an unexpectedly high electricity bill at the end of the billing period during which the leak occurred. For this reason, EWON would support leaks from hot water services or hot water taps being included in the definition of urgent repairs as it appears in section 28 of the *Residential Tenancy Act 1987*.

Similarly, for those tenants who lease a house and pay for water usage as part of their residential tenancy agreement, an undetected water leak from an underground water pipe on the property can result in the tenant receiving an unexpectedly high water usage bill from their landlord. Such high bills are often the first trigger for having the 'concealed' leak investigated by a plumber and repaired. While these types of concealed leaks can be difficult to identify, water supply authorities advise customers that pooling of water in one section of a front or rear garden where an underground private water service line has developed a leak, or unusually green and healthy grass in one section of a lawn above a leak, are indications that a significant concealed leak is occurring. EWON suggests there would be merit in including these types of 'concealed' leaks in the category of urgent repairs if this contributed to a speedier rectification of such leaks and keeping a tenant's water bill to a minimum.

EWON agrees that with a shift to user pays comes a responsibility on the part of landlords to ensure their properties are installed with water efficient appliances and fittings, and that any new appliances and fittings used to replace old or damaged ones meet minimum standards of water efficiency. EWON suggests that rather than merely encouraging landlords in this regard through its publications, the Office of Fair Trading should consider ways of requiring landlords to install water efficient appliances and fittings whenever they replace an old or damaged appliance or fitting in a rental property.

EWON notes that in Victoria for example, landlords must ensure that any water fixture, appliance or fitting they use to replace an existing item has at least an 'A' water efficiency rating from Standards Australia, and that if they fail to meet this

requirement they are liable for all water charges until such time as the appliance, fitting or fixture is replaced with an 'A'-rated item.¹

Billing – copy of bill and time to pay

EWON supports the requirement for landlords to provide tenants with a copy of the relevant water supply authority's bill for the rental premises, and the 21-day period for tenants to pay. EWON notes that the successful implementation of the 21-day time to pay rule depends on the billing policies of the respective water supply authority. The time it takes for the landlord to receive, copy and forward a water bill originally issued by the water supply authority may result in a tenant having less than 21 days to pay.

It would be useful for the Office of Fair Trading to provide more details on how this proposal is to be implemented.

Supply interruption payments

EWON supports the proposed requirement for water supply authorities to pay any water supply interruption rebate directly to the tenant.

Tenants as account holders

While the present arrangement of property owners having the contractual arrangement with the water supplier continues, there remains the practical difficulty of ensuring that tenants who are suffering financial disadvantage are provided with relevant financial assistance. At present only property owners are entitled to a pensioner rebate, and the provision of payment assistance vouchers to tenants is limited. We suggest that OFT and other relevant stakeholders should further consider this issue.

As EWON noted in its response to the 2005 paper, consideration should be given to ensuring that water customers (including tenants) living in those parts of the State not supplied by Sydney Water or Hunter Water, have access to emergency payment vouchers similar to the schemes operated by Sydney Water and Hunter Water. This is important if low income and disadvantaged tenants are likely to find themselves responsible for water charges for the first time.

¹ *Renting a home: a guide for tenants and landlords*, Consumer Affairs Victoria, 2007.

5.3 Alteration by tenants

EWON believes that the proposed changes in this area are important in the context of the greater responsibility tenants will face for the payment of water usage. Sydney Water and other water supply authorities offer a range of water efficiency measures (often free for pensioners) that tenants should be able to access. In particular EWON supports recommendation 51 which provides that a landlord cannot unreasonably refuse permission for cosmetic improvements.

6.5 Other matters

Energy efficient appliances and light fittings

To achieve consistency with the proposed requirements for the fitting of water efficient appliances and fittings in rental properties, EWON suggests that it should be a requirement for landlords who are replacing an appliance such as a washing machine, dishwasher, clothes dryer or air conditioner in a rental property to install only appliances that meet an appropriate energy efficiency rating.

EWON supports the proposal to clarify in the prescribed tenancy agreement that tenants are responsible for electricity and reticulated natural gas charges only where a property can be demonstrated to be individually metered, and that charges for electricity and/or reticulated natural gas are based on metered consumption.

If you would like to discuss this submission further, please contact Chris Dodds, Policy Officer or Damien Sams, Investigations Policy Officer on 82185250.

Yours sincerely



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