

## ENDING A TENANCY POLICY

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### 1.1 PURPOSE

Woomera Aboriginal Corporation (WAC) is a social housing provider that aims to provide affordable tenancy options for Aboriginal people in the Albury and surrounding areas. WAC understands, that at times, a tenancy must come to an end for a number of reasons either initiated by the tenant or WAC. This policy will set out clear guidelines and expectations when ending a tenancy.

### 1.2 SCOPE

This policy applies to all WAC Housing employees and WAC/Aboriginal Housing Office (AHO) tenants who accept a lease agreement in properties owned or managed by WAC.

### 1.3 POLICY

Tenants can expect WAC to comply with the rights and obligations of a landlord under *the Residential Tenancies Act 2010*. WAC expects tenants to comply with the terms of their tenancy agreement given to them at their initial sign up

*The Residential Tenancies Act 2010 (NSW) (the RT Act 2010)* defines a residential tenancy agreement as 'an agreement under which a person grants to another person for value a right of occupation of residential premises for the purpose of use as a residence' (section 13(1)).

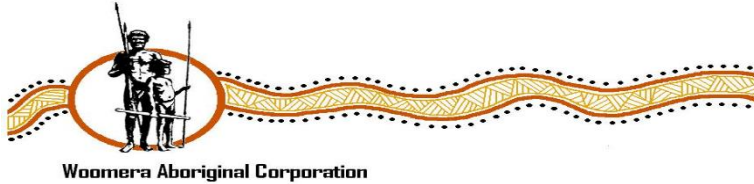
There are two types of lease agreements:

- a fixed term lease (for a specific term i.e. 12 months)
- a periodic lease (ongoing) the fixed term lease has expired or is not specified.

### 1.4 REASONS FOR ENDING A TENANCY

Legally a tenancy may be ended for a number of reasons.

TENANT INITIATED	<ul style="list-style-type: none"> <li>• WAC has 'breached' the tenancy agreement – failed to meet our obligations under the agreement.</li> <li>• The premises have become unusable.</li> <li>• WAC has increased the rent during a fixed-term tenancy agreement of 2 years or more.</li> </ul>
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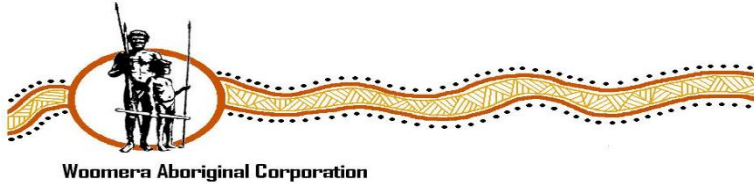
	<ul style="list-style-type: none"> <li>• On a prescribed 'extraordinary' ground (such as because of domestic violence).</li> <li>• The tenant would suffer undue hardship if the tenancy continued.</li> </ul>
WAC INITIATED	<ul style="list-style-type: none"> <li>• The tenant has breached their tenancy agreement and WAC has obtained an Order for Termination of the tenancy and possession of the property.</li> <li>• The tenant abandons the property.</li> <li>• The tenant has passed away and WAC has obtained vacant possession.</li> <li>• The tenant receives a final Apprehended Violence Order prohibiting them from access to their WAC dwelling.</li> <li>• A fixed term lease has ended.</li> <li>• The tenant is no longer eligible to live in an affordable housing property following a lease review.</li> <li>• The tenant is on a periodic lease and they or their partner/spouse owns a property that they could live in or sell.</li> <li>• The property is to be sold.</li> </ul>

### 1.5 HOW MUCH NOTICE MUST WAC GIVE A TENANT WHEN ENDING A LEASE

This depends on the type of tenancy agreement and the grounds for termination (if any) – see table below.

#### i) Minimum notice periods

Grounds	Fixed-term agreement	Periodic agreement
No grounds	30 days at end (see below)	90 days
Sale of premises	not valid	30 days



Grounds	Fixed-term agreement	Periodic agreement
Breach of agreement	14 days	14 days

**ii) Immediate notice if premises unusable**

The landlord/agent can give immediate notice if the premises are destroyed or become wholly or partly unliveable (e.g. due to fire or flood, not due to a breach of the Agreement); or if the premises become no longer lawfully usable as a residence; or the premises are acquired by an authority by compulsory process (such as resuming them to build a road).

**1.6 WAC'S OBLIGATIONS WHEN ENDING A TENANCY**

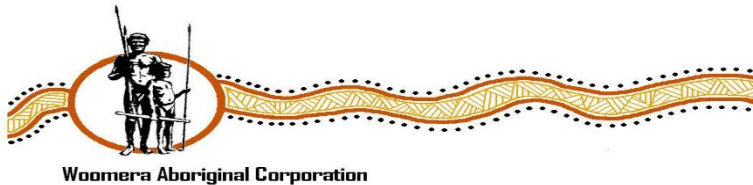
WAC can issue a Notice of Termination when it decides to recover a property because:

- a) The tenant has breached their tenancy agreement.
- b) A fixed term lease has ended.
- c) The sole tenant has passed away.
- d) The tenant is no longer eligible to live in an affordable housing property following a lease review.
- e) The tenant receives a final Apprehended Violence Order prohibiting them from access to their WAC dwelling.
- f) The tenant abandons the property.
- g) The property is to be sold.

WAC will give tenants:

- a) Notice in writing.
- b) Notice in the required time period, as stated in the *Residential Tenancies Act 2010*.
- c) The reasons for ending the agreement.
- d) A reasonable opportunity to be present at the final property inspection.

If the tenant does not move out, WAC will seek an Order for Termination and Possession from the NSW Civil and Administrative Tribunal. This order compels the tenant to move out and sets a date for WAC to take possession of the property.



## **1.7 APPEALS PROCESS**

Tenants have rights under the *Residential Tenancies Act 2010* to appeal a termination. Tenants can apply through the NSW Civil and Administrative Tribunal (NCAT) to have their situation heard. NCAT is an independent body which deals with certain kinds of disputes between landlords and tenants. It is not a formal court, but its decisions are legally binding.

A tenant has 3 months after becoming aware of a breach for terminating a lease agreement to make an application to NCAT. NCAT has a small fee to make an application which the tenant must pay when submitting the application.

## **1.8 HOW MUCH NOTICE MUST A TENANT GIVE?**

Tenants may end a fixed term lease before it is due to end, if they give WAC sufficient notice. The tenant must give WAC the following notice:

- a) 14 days notice for a fixed-term lease, or
- b) 21 days for a periodic lease.

## **1.9 TENANTS OBLIGATIONS WHEN ENDING THEIR TENANCY**

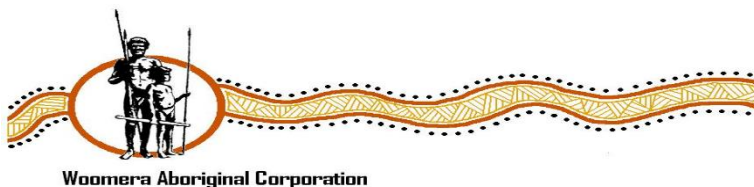
The tenant must give written notice of their intention to vacate, specifying the date they want the tenancy to end and allowing for the correct number of days for giving notice. WAC will always agree to end a lease early if a tenant wishes to move out before the end of their fixed term. The tenant must remove all of their belongings and any rubbish from the property and leave the property in a clean and tidy condition that is as near as possible to the condition it was in at the beginning of the tenancy, apart from fair wear and tear.

“Fair wear and tear” means deterioration over time as a result of reasonable use and the action of natural elements, even though the property receives reasonable care and maintenance. Tenants are responsible for locking the property and returning all the keys given to them at the start of the tenancy to WAC, as well as any additional keys that were issued or cut during the tenancy. If keys are not returned to WAC at the end of tenancy, WAC may charge the tenant to rekey the property.

## **1.10 PROPERTY INSPECTION WHEN A TENANCY ENDS**

Close to the time the tenant will be vacating, WAC will try to arrange an inspection of the property with the tenant. During this inspection, WAC will complete the original property condition report by comparing the current condition of the property with its condition at the start of the tenancy. If there is any damage to the property beyond fair wear and tear, or cleaning is required, WAC will advise the tenant of any expenses they may incur to repair the damage, or have the premises cleaned.

WAC will carry out another inspection within five working days after the tenancy has ended. WAC will tell the tenant when this is happening so that they can attend the inspection if they wish. WAC will document any



damage beyond fair wear and tear, and any cleaning that is required. The tenant must pay the costs to repair any damage beyond fair wear and tear, and to have the required cleaning completed. If the tenant does not take the opportunity to attend the inspection, WAC will complete the property condition report in the tenant's absence. Once the final inspection is completed, a copy of the condition report will be provided to the tenant within a reasonable timeframe.

### **1.11 MANAGEMENT INITIATED TRANSFER**

WAC may transfer a tenant to another WAC property for Management reasons including:

- a) Under Occupancy
- b) Over Occupancy
- c) Utilisation of a modified dwelling
- d) Property upgrade or site redevelopment

In all circumstances WAC will consult with the tenant to negotiate a tenancy transfer to a suitable dwelling in the tenant's preferred location, where possible. Under exceptional circumstances, WAC may use a 90 day no cause Notice to Terminate or the Tribunal to force the move.

### **1.12 RELATED POLICIES AND PROCEDURES**

Housing Policy  
 Absences and Abandonment of Properties procedure  
 Antisocial Behaviour Management Policy  
 Debt Recovery Policy and Procedure  
 Housing Complaints and Appeals Policy and Procedure

### **1.13 RELATED LEGISLATION**

*Residential Tenancies Act 2010*

*NSW Housing Act 2001*

Policy Area: Social Programs - Housing		
Policy Number:	Version: 1	Pages: 5
Updated by: Angela Macfarlane		
Approved by: Management Board		
Date: Dec 2023	For Review: Dec 2024	