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GOVERNMENT-HOUSING

GOVERNING CRIME AND DISORDER IN PUBLIC HOUSING IN NEW SOUTH WALES

Christopher Martin

BEC(SocSc)(Hon), LLB(Hon) (University of Sydney)

Thesis submitted to fulfil the requirements for the award of

Doctor of Philosophy

Faculty of Law

University of Sydney

2010
Crime and disorder are prominent problems for social housing authorities. Housing NSW attempts to address problems of crime and disorder in public housing in New South Wales through a diversity of practices that constitute an extensive 'government' of tenants' conduct. In this thesis, I call them practices of 'government-housing'.

The historical development of government-housing practices reflects developments in the government of crime and disorder and, more generally, in liberal governmentality. In the nineteenth century, classical liberal reformers first formulated 'the housing question' in terms of the physical and moral improvement of urban workers and the poor; then, in the social liberal governmentality of twentieth century, social housing was built to secure and normalise vulnerable but worthy working class households. From the 1970s to the present, social housing has been problematised, reduced and transformed by advanced liberal governmentality, so that it now houses very poor and needy persons and is continuously engaged in their government as individual subjects and collectively as communities. Advanced liberal government-housing practices reflect the cleavage in contemporary strategies for governing crime and disorder: on one hand, an adaptive strategy that seeks to responsibilise individuals, communities and agencies in new ways, including through reformed techniques of social security, to ameliorate and prevent crime and disorder; and on the other, a strategy of sovereign reaction that denies and reacts against the limits of government through punitive, exclusionary displays.

These strategies are confused in Housing NSW's practices of government-housing, and housing officers can switch quickly from the first to the second. The crucial point on which they turn is the subject of the public housing – the 'client'. Housing NSW is committed to 'working with the client' as a subject of qualified agency; however, the operation of the eligibility process constitutes the client differently, as an alternately incapable and crime-prone, then selfishly agentive and blameworthy subject, and this elicits pessimistic, cynical reactionary responses from some housing officers.

This pattern is evident in Housing NSW's neighbourhood-level practices of government-housing. Housing NSW conducts projects to 'renew' the built form of estates according to principles of crime prevention through environmental design (CPTED) and engage tenants
as the 'capable guardians' of their neighbourhoods; the 'CPTED lens', however, can also magnify anxieties and complaints about myriad signs of disorder. Housing NSW also works to 'renew' or fabricate community relations through tenant participation projects and partnerships with other agencies to improve services, but these are difficult projects that may falter on the problematic subjectivity of the client or on unhealthy partnerships. As another means of fabricating community relations, Housing NSW also invokes tenants' contractual obligations under their residential tenancy agreements — inducing expectations of strict liability and enforcement by eviction.

Housing NSW is a heavy user of proceedings in relation to all manner of complaints and disputes, and this presents particular risks for its 'working with the client' approach. It responds to some complaints of breach — particularly nuisance and annoyance — with an investigation of the client's support needs that is simultaneously a preparation for proceedings, and housing officers' efforts often end up going in that direction. In relation to other breaches — particularly 'illegal use of premises', and even more particularly involvement in drug offences — Housing NSW seeks nothing less than termination and eviction in proceedings that parallel, and even run ahead of, a criminal prosecution.

The confusion of strategies is starkest in a number of innovations on the public housing landlord-tenant legal relationship, such as 'acceptable behaviour agreements', introduced by the State Government over the last decade. These 'new tools' against crime and disorder take a contractual form that appears to further responsibilise tenants, but in substance they empower Housing NSW to 'get tough', impose more rules and evict more readily. These 'new tools', however, have presented such a strain to Housing NSW's ameliorative practices that it has hardly used them at all.

The thesis also considers the local level of government-housing and the complications it poses for practice. Here this dimension is presented in an account of the local construction of problems of crime and disorder by tenants and workers on the public housing estate at Riverwood, in southwest Sydney, New South Wales. The 'crime talk' of these tenants and workers speaks to their sense of the estate's place — between middle suburbia and an imaginary geography of poverty, and between local narratives of reinvention and decline — and how they are habituated to the propositions of government-housing at the higher level. Most tenants said they felt safe on the estate, but they also worried over signs of disorder.
They reacted against the subjectivity of the client by asserting a sharpened sense of liability, but they also strongly supported community development activities and associated them with their sense of security. Some wished for more conformity, backed by authoritative policing and enforcement of tenancy contracts, but they also doubted whether these approaches could actually work.

Public housing, therefore, is distinctively and densely governed, and beset by the tensions and hazards of confused governmental strategies. By identifying these hazards, however, the thesis indicates how Housing NSW might make a clearer strategic commitment to prevention and amelioration, rather than reaction and punitive exclusion.
DECLARATION

I hereby certify that this thesis is my own work and that any material written by another person has been duly acknowledged in the text.

No part of this thesis has been accepted for the award of any degree at the University of Sydney or any other institution.

The fieldwork for this thesis was approved by the Human Research Ethics Committee of the University of Sydney, and conducted in accordance with that approval.
ACKNOWLEDGEMENTS

In the long course of the production of this thesis, I have incurred numerous debts of gratitude.

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The National Social Sciences Data Archive compiled the historical census data for me, and answered my numerous questions. Thanks particularly to the archive’s Rebecca Graham.

Thanks to the University of Sydney for allowing my candidature and supporting it with an Australian Postgraduate Award. Sydney’s unaffordable housing required that I also worked part-time throughout my candidature, and my employer, the Tenants’ Union of NSW, has been generous with study leave and other adjustments.

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Closer to home, thanks to my parents, Colleen and Brian, especially for the recent child-care and proof-reading, but also for all the encouragement before that.

Above all, thanks to my partner, Vanessa Crawford. In the time that I have been working on this thesis, we have moved in together, married, had a child, Felix, and now expect a second; meanwhile, the thesis has gone from a welcome and interesting guest in our household to an odious, intransigent lodger. It is good that it is at last being put out. This thesis is for her.
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<tbody>
<tr>
<td>ABA</td>
<td>Acceptable behaviour agreement</td>
</tr>
<tr>
<td>ABS</td>
<td>Australian Bureau of Statistics</td>
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<td>ACOSS</td>
<td>Australian Council of Social Service</td>
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<td>AHURI</td>
<td>Australian Housing and Urban Research Institute</td>
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<tr>
<td>AIC</td>
<td>Australian Institute of Criminology</td>
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<tr>
<td>AIHW</td>
<td>Australian Institute of Health and Welfare</td>
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<tr>
<td>ASB</td>
<td>Anti-social behaviour</td>
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<tr>
<td>ASBO</td>
<td>Anti-social behaviour order</td>
</tr>
<tr>
<td>BOCSAR</td>
<td>Bureau of Crime Statistics and Research</td>
</tr>
<tr>
<td>CD</td>
<td>Collector district</td>
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<tr>
<td>CPTED</td>
<td>Crime prevention through environmental design</td>
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<tr>
<td>CHAC</td>
<td>Central Housing Advisory Committee</td>
</tr>
<tr>
<td>CHC</td>
<td>Commonwealth Housing Commission</td>
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<tr>
<td>CRS</td>
<td>Community Renewal Strategy</td>
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<td>CSHA</td>
<td>Commonwealth-State Housing Agreement</td>
</tr>
<tr>
<td>CSO</td>
<td>Client Service Officer</td>
</tr>
<tr>
<td>Cth</td>
<td>Commonwealth of Australia</td>
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<tr>
<td>CTIT</td>
<td>Consumer, Trader and Tenancy Tribunal</td>
</tr>
<tr>
<td>DOCS</td>
<td>Department of Community Services</td>
</tr>
<tr>
<td>DOH</td>
<td>Department of Housing</td>
</tr>
<tr>
<td>EAB</td>
<td>Estate Advisory Board</td>
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<td>EIP</td>
<td>Estate Improvement Program</td>
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<tr>
<td>HCAP</td>
<td>Housing Communities Assistance Program</td>
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<tr>
<td>HCP</td>
<td>Housing Communities Program</td>
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<tr>
<td>JGOS</td>
<td>Joint Guarantee of Service</td>
</tr>
<tr>
<td>LAC</td>
<td>Local Area Command</td>
</tr>
<tr>
<td>LGA</td>
<td>Local Government Area</td>
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<td>NAB</td>
<td>Neighbourhood Advisory Board</td>
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<tr>
<td>NGO</td>
<td>Non-government organisation</td>
</tr>
<tr>
<td>NIP</td>
<td>Neighbourhood Improvement Program</td>
</tr>
<tr>
<td>NoT</td>
<td>Notice of termination</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>NSSDA</td>
<td>National Social Sciences Data Archive</td>
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<tr>
<td>NSW</td>
<td>New South Wales</td>
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<tr>
<td>NSWDOH</td>
<td>NSW Department of Housing</td>
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<tr>
<td>NSWHC</td>
<td>NSW Housing Commission</td>
</tr>
<tr>
<td>RCC</td>
<td>Riverwood Community Centre</td>
</tr>
<tr>
<td>SCCWCM</td>
<td>Select Committee on the Condition of the Working Classes of the Metropolis</td>
</tr>
<tr>
<td>SCSO</td>
<td>Senior Client Service Officer</td>
</tr>
<tr>
<td>SCSO(ASB)</td>
<td>Senior Client Service Officer (Anti-Social Behaviour)</td>
</tr>
<tr>
<td>SCSSSHB</td>
<td>Sydney City and Suburban Sewerage and Health Board</td>
</tr>
<tr>
<td>SPO</td>
<td>Specific performance order</td>
</tr>
<tr>
<td>SSTAAAS</td>
<td>Southern Sydney Tenants Advice and Advocacy Service</td>
</tr>
<tr>
<td>TCIP</td>
<td>Tenant and Community Initiatives Program</td>
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PART 1
INTRODUCTION

CHAPTER 1
GOVERNMENT-HOUSING: THE GOVERNMENT OF CRIME, DISORDER AND PUBLIC HOUSING

Social housing is often associated with crime, anti-social behaviour and other sorts of disorder. This association is made in relation to social housing systems throughout the world; it is certainly made in relation to the public housing provided by Housing NSW, which is the dominant form of social housing in New South Wales.¹

The relationship between social housing and crime and disorder has been examined by researchers both in criminology and in housing studies. They have measured the incidence of crime and disorder in social housing (Newman, 1973; Coleman, 1985; Bottoms and Wiles, 1986; Bottoms, Claytor and Wiles, 1992; Matka, 1997; Weatherburn, Lind and Ku, 1999;...

¹ It is necessary to clarify what is meant by the terms 'public housing' and 'social housing', both of which appear in the thesis. 'Public housing' is generally used to refer to rental housing that is owned (or headleased) and managed by the state, and let to eligible persons. In New South Wales, public housing is provided by Housing NSW. Public housing represents a relatively small proportion of all housing in New South Wales: about five per cent (Australian Bureau of Statistics, 2009: Table 22).

The term 'social housing' is broader. It is generally used to refer to public housing as well as rental housing provided by non-profit or limited-profit landlords, let to eligible persons, and subject to some degree of direction by the state (Harloe, 1995: 13, n5). This broad term is used internationally in order to encompass the considerable variation between countries in the way states are involved in the provision of rental housing. It is also used to encompass variation in the provision of housing within countries. In New South Wales, there are several social housing providers other than Housing NSW: for example, community housing associations, and the Aboriginal Housing Office. These other social housing providers are, however, small relative to Housing NSW (public housing represents about 82 per cent of social housing in New South Wales (Housing NSW, 2009a: 10), and hence are tiny relative to the total housing system. They are also more recently established than the public housing sector, and are dominated by Housing NSW in terms of policy.

In this thesis, I will refer to 'social housing' where the discussion is at a general level, and 'public housing' where the discussion relates to the specific object of study in the thesis: that is, public housing in New South Wales. I do not use the terms to oppose or contrast social housing and public housing.
Ireland, Thornberry and Loeber, 2003; Samuels, et al, 2004; Flint, 2006). They have also sought to explain crime and disorder in terms of various aspects of social housing. Some have looked to the design and architecture of social housing, and found that it fails to control against crime and disorder (Newman, 1973; Coleman, 1985). Others have emphasised the eligibility criteria of social housing, which operate so as to concentrate disadvantaged and hence ‘crime-prone’ persons within social housing neighbourhoods (Matka, 1997; Weatherburn, Lind and Ku, 1999; Weatherburn and Lind, 2001). Yet others have looked at the effects of social housing on an area’s reputation and, in turn, a range of ‘resident dynamics’, undermining the effectiveness of community organisation and control against crime and disorder (Bottoms and Wiles, 1986; Bottoms, Claytor and Wiles, 1992).

The association between social housing and crime and disorder is made at least as strongly in the popular media. In media reports the world over, social housing neighbourhoods and social housing systems are described as ‘synonymous with crime’ (Narvaez, 1987; Morgan, 2003; Morgan, 2006; Clout, 2007). Crime is a major theme in reporting about public housing in New South Wales (Mee, 2004: 128). It is also a major theme of references to social housing in popular culture and entertainment: think, in particular, of The Bill, or Harry Brown, or The Wire. In the media and in popular culture, the characteristic spaces of social housing—the large estates, the high-rise towers—often appear to be spaces of lawlessness and disorder.

It is my thesis that, on the contrary, social housing represents a concentration of law and order, and that the conduct of social housing tenants is, in fact, subject to a distinctive and unusually dense regime of government. Social housing authorities are involved in a range of practices of government directed at problems of crime and disorder—in large part because there is such a strong association, both in considered research and in the popular imagination, between social housing and problems of crime and disorder. The design and redesign of social housing built environments, social housing management practices, social housing tenancy agreements—these and other aspects of the practices of social housing authorities are directed to governing crime and disorder. In this thesis, I will examine the variety of practices that are directed at crime and disorder specifically in public housing in New South Wales. Throughout the thesis I will refer to these practices as practices of ‘government-housing’.
My thesis is that the bases of these practices are in an ongoing, dynamic and multi-level relation between ideas and practices for the government of crime and disorder, and ideas and practices of housing. The different levels of this ‘government-housing relation’ can be considered in terms of ‘macro’ and ‘micro’ levels. At the macro level, I will consider the government-housing relation as it is formulated in terms of governmental rationalities and programs – particularly of liberal governmentality – and hence housing policies and institutions, the prescriptions of experts for its design and management, and the law of landlord and tenant. The government-housing relation at this macro level has a history, and in this thesis, I will examine the development of the government-housing relation over a period of two centuries, from the early formulations of ‘the housing question’ by nineteenth-century reformers, through the first experiments in social housing in the early twentieth-century and social housing’s ‘golden age’ in the post-war period, to the present period of social housing’s decline and reform. By examining the history of these developments, I will consider how public housing practice in New South Wales reflects current ‘advanced liberal’ governmental rationalities, as well as the history of older ‘social liberal’ and ‘classical liberal’ rationalities – both in the persistence of practices based on these older rationalities, and in reactions away from them.

As well as looking at the macro-level of government-housing, I will also consider its micro-level: that is, the relation of public housing to crime and disorder as formulated by residents and workers on a public housing estate in their local, everyday talk about crime and place. In this thesis, I will present fieldwork undertaken at the public housing estate at Riverwood, a suburb in southwest Sydney, New South Wales, that recorded the ‘crime talk’ of tenants and workers on the estate. This local discourse folds together concerns about crime and disorder with wider concerns about the estate’s place in the world, and constructs crime and disorder as problems for local action, including through practices of public housing.

For Housing NSW and its tenants, the result of these formulations of the government-housing relation is a dense regime of government that is beset with tensions and contradictions. In some respects Housing NSW’s practice is preventative and ameliorative, being directed at the provision of individual support, improvements in physical-spatial defences, and the development of informal relations of neighbourliness; in other respects it is reactive, exclusionary and punitive, with a sense of strict contractual liability for breaches
of order, and directed at the termination of tenancies and evictions. These approaches are confused in practice, and may switch from the former to the latter rapidly.

This thesis is a work of criminology, based in historical and contemporary research. In this introductory Chapter, I will discuss what I mean by each of these three descriptors. First, though, it may be useful to give a little more background to the thesis itself, by setting out its origins.

**Origins**

The origins of this thesis are in observations I made, in the course of working as a tenants advocate, of the distinctive way in which tenants of Housing NSW were concerned with matters of crime and disorder. In the course of my work I took inquiries from tenants of private and public housing about any number of tenancy legal issues, but it was predominantly public housing tenants who made inquiries that framed matters of crime and disorder as tenancy matters. Some sought advice as to what action they could take in relation to a neighbouring tenant’s conduct. These tenants were concerned particularly with how to make Housing NSW do something about a neighbouring tenant’s conduct – and to be even more particular, often they were concerned with how to make Housing NSW evict the neighbouring tenant. The matters with which these inquiries were concerned ranged from criminal conduct to non-criminal anti-social behaviour, incivilities and disagreements. In ways that other inquiries did not, these inquiries also often involved long narratives that touched upon tenants’ concerns about disorder in the conduct of life generally: concerns about breakdowns in the established orders of work and unemployment, youth and their elders, community and nation.

On the other hand, I also took inquiries from tenants who were the subject of complaints or proceedings about alleged criminal or disorderly conduct. Again, these were mostly tenants of Housing NSW – it appeared that private landlords were not as interested in prosecuting matters of crime and anti-social behaviour this way. Sometimes the objective of Housing NSW was to achieve nothing less than the termination of the tenancy and the eviction of the tenant: these cases often ended up in the NSW Consumer, Trader and Tenancy Tribunal (CITTI), with Housing NSW arguing that the tenant had broken particular terms of their
tenancy agreement – particularly the terms proscribing ‘use of the premises for an illegal purpose’ and nuisance and annoyance – and tendering evidence from neighbours, police and other sources, and with the tenant arguing their case. Sometimes, however, Housing NSW pursued these proceedings in an attempt to effect a change in the tenant’s conduct, through either negotiation and agreement with the tenant, or threat of proceeding to eviction. Both for complainants, and for the subjects of complaints, the particular circumstances of their housing – who their landlord was, and who their neighbours were – had the potential to have a remarkable effect on their lives and their conduct.

These sorts of legal proceedings do not, however, represent the only ways in which public housing is involved in the government of crime and other sorts of disorder. Aside from actions taken in relation to individual tenants, I also observed Housing NSW attempting to address crime and disorder through policies that operate at the level of the populations and the built environments of public housing. To give another example from my own experience, at an early stage in the present research a conference titled ‘Housing, Crime and Building Stronger Communities’ was jointly convened by the Australian Housing and Urban Research Institute (AHURI) and the Australian Institute of Criminology (AIC). Crime in public housing was a major focus of the conference. I attended and gave, on behalf of a number of tenants advocates, a paper on Housing NSW’s use of tenancy agreements to deal punitively with disputes between public housing tenants (Martin, Mott and Landles, 2002). This critique was somewhat out of step with the papers of other attendees, many of whom focused on policies for public housing ‘renewal’ or ‘regeneration’, which have been adopted prominently by Housing NSW and many other social housing authorities with the objective of preventing crime and anti-social behaviour.

Since the 1980s, renewal policies have been adopted by social housing authorities around the world, and as a result ‘renewal’ encompasses a very wide range of policies and practices. Housing NSW, like its counterparts in other jurisdictions, has a variety of policies relating to the ‘renewal’ of public housing estates, including extensive work on estates’ buildings and layout, the development of community activities and facilities, and new arrangements for tenancy management and administration. Despite the variety of policies under the ‘renewal’ banner, there are some strong common themes: renewal is concerned to address problems
of crime and disorder at the level of 'the community'; it is generally oriented to prevention; it calls for partnerships between government and non-government agencies.

The original question from which the present thesis arises is how it is that these two apparently very different approaches to dealing with crime and disorder – termination proceedings, and community renewal – should come to co-exist. The answer, which is elaborated throughout the thesis, is that despite the differences and tensions between them, these approaches also share some common reference points in contemporary rationalities and strategies for the government of crime and disorder.

**Criminology and Governmentality**

This thesis is about the practices adopted by Housing NSW and its tenants in dealing with problems of crime and disorder. It is not an attempt to measure the incidence of crime and disorder in public housing; nor does it theorise about whether any of the causes of crime and disorder lie in the conditions of people's housing or in public housing policy. The thesis is interested in these sorts of observations and theories, inasmuch as they shape practices directed at governing crime and disorder.

The approach I have taken is not to regard problems of crime and disorder as things that have an independent existence in the world, that await to be discovered and have their correct measure taken, and then to be acted upon according to their essential qualities. Instead, I have taken the approach of regarding problems of crime and disorder as just that – problems, which exist in thought and discourse, and are conceived of in terms furnished by the rationalities, technologies and institutions of the time, and may be acted upon according to these terms. It is, then, a thesis less about the bases of crime and disorder in public housing than it is about the bases – the intellectual, technical and institutional bases – of governing crime and disorder in public housing.

This approach is informed by the work of Foucault and others on governmental rationality, or 'governmentality' (2007; Gordon, 1991). Some housing researchers have employed this approach in studies of contemporary housing policy, including social housing and, specifically, the practices of social housing authorities in relation to crime and disorder (Flint,
2006). I will explain here what this approach means for the present thesis as a work of criminology or, to use O'Malley's term, 'governmental criminology' (O'Malley, 2007).

For Foucault, government is the 'conduct of conduct' (Gordon, 1991: 2; Foucault, 1983: 220-221). The word 'government' here is to be taken in a broad sense, which Foucault says can be retrieved from the word's sixteenth century usage:

'Government' did not refer only to political structures or to the management of states; rather it designated the way in which the conduct of individuals or of groups might be directed, of families, of the sick. It did not only cover the legitimately constituted forms of political or economic subjection, but also modes of action, more or less considered and calculated, which were destined to act upon the possibilities of action of other people. To govern, in this sense, is to structure the possible field of action of others (Foucault, 1983: 221).

Dean elaborates:

Government is any more or less calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge, that seeks to shape conduct by working through our desires, aspirations, interests and beliefs, for definite but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes (1999: 11).

As Dean concedes, this is a 'wide, if precise' definition (1991: 11). For criminology, the significance of the governmentality approach is that criminology should expand its range of explanatory frameworks, 'decentre' its analysis from the formal, traditional figures of criminal justice system – the law, the police, the courts and the prisons – and 'relocate the problem of crime and its control within a broader field of rationalities and technologies for the conduct of conduct' (Rose, 2000: 324; see also Garland, 1999; O'Malley, 2007). The present thesis is a work of such a 'decentred' criminology, both in that it considers how rationalities and technologies of housing are brought to bear on problems of crime, and in that it takes the conduct that is targeted by these practices as being wider than strictly that which is proscribed by the criminal laws of the state.
Of course, it might also be pointed out that this thesis, being focused on public housing—that is, housing provided by the state—has not moved so very far from that traditionally central figure of criminology. It is not just this thesis: many other studies of governmental criminology retain a focus on state agencies and instruments. However—and this is another insight from the governmentality perspective—the persistent presence of the state in this and other governmental criminologies does not indicate a concept of the state as some sort of colonising subject that is always expanding into new areas of human activity and ordering their affairs according to some sort of immanent logic of state control. Foucault suggests, 'what is important for our modernity, that is to say, for our present, is not then the state's takeover of society, so much as what I would call the “governmentalisation” of the state' (2007: 109). With this somewhat cryptic phrase the governmentality literature proposes an analysis of the modern state as if it is a 'support', or even an 'effect', of diverse projects of government that articulate the sovereign power of the state with other modes of power to create elaborate regimes of regulation (Donzelot, 1979, cited at Rose, O'Malley and Valverde, 2006: 87). For the present thesis, which asserts that there is something distinctive about housing practices where that housing is provided by the state, the idea of the governmentalisation of the state means that this distinction is not explained simply by state power or some sort of essential state function, but by a more complex process of succeeding programs for the reform of the conduct of human life.

Foucault describes the examination of this process as 'a question of forming a different grid of historical decipherment by starting from a different theory of power; and, at the same time, of advancing little by little a different conception of power through a closer examination of the entire historical material' (1979: 90-91). Along these lines, the governmentality literature furnishes two related historical 'grids' or frameworks: the 'sovereignty-discipline-government' framework, and the 'liberal government-social government-advanced liberal government' framework. Foucault's analysis also calls attention to what he calls 'subjugated knowledges... what people know at a local level' and the role of local knowledges and discourses in the operation of power (2003: 8). I take as a framework for this aspect of the analysis Girling, Loader and Sparks' concept of 'crime talk' (2000). I will discuss each of these frameworks in turn.
Sovereignty--discipline--government

For Foucault, questions of power, authority and rule have, from the era of the great monarchical administrations of Europe, been understood primarily in terms of sovereignty. Sovereignty is power represented juridically, as law and right; and negatively, as interdiction, prohibition and repression -- or, more colourfully, as 'the law that says no' (1980: 119), 'the right of the sword', 'the right of life and death... to take life or let live' (2003: 240-41). It is also sovereignty that is theorised, again juridically and negatively, against the absolute power of the monarch through philosophical figures such as social contracts, which divide up and apportion sovereign power, and which is eventually democratised through legal institutions such as parliaments and constitutions. The preoccupation of political thought with sovereignty Foucault criticises in his famous line, 'in political thought and analysis, we still have not cut off the head of the king' (1979: 88-89). An analysis of power only in juridical and negative terms is to neglect the historical development of 'new methods of power'.

Foucault's analysis identifies two non-sovereign powers -- both 'positive', 'productive' powers, 'powers over life' (1979: 139). The first is disciplinary power: the power of shaping individuals so as to produce 'docile bodies' of utility and obedience (Foucault, 1977: 135-138). Discipline was produced in diverse sites, such as the monasteries, schools, armies and workshops, each with its own particular history, but from around the seventeenth and eighteenth centuries, it has circulated and multiplied into an overlapping, general method (Foucault, 1977: 138, 224). In contrast to sovereign power, which is represented in the assertion of right, disciplinary power subsists in 'techniques' and 'mechanics' centred on the individual body and 'soul': techniques of training, drill, serialisation, separation, surveillance, and, if need be, punishment (Foucault, 1977: 29; 2003: 242). Also in contrast to the jurisprudence of sovereign power, disciplinary power depends on a body of clinical knowledges and norms, themselves the products of particular techniques of observation (Foucault, 2003: 38). Beyond the immediate context of the docile body, the concern of discipline to bring attention to the smallest detail, to describe its individuality, and take charge of it, is generalised in the organisation of state bureaucracies, corporate administrations, the professions and human sciences.

Rather like the way the analysis of sovereign power once diverted attention from non-sovereign powers, Foucault's well-known analysis of discipline has, until relatively recently,
overshadowed the second new type of power he identifies. This second new type of power is government. As indicated in the initial definition, above, this type of power is first identified in the emerging administrative states of the sixteenth century, and particularly in the various discourses and treatises that instructed the sovereign in the art of ‘ceconomic’ government: that is, government of the sovereign’s territory as if it were the sovereign’s household (Foucault, 2007: 94-95), modelling the various activities of households — work, trade, and caring for the poor — into state policies for the augmentation of the national estate. The administrative counterpart to these early governmental rationalities was ‘police’ (to use the broader meaning that the word had in the seventeenth and eighteenth centuries), which sought to promote general prosperity through a plethora of more or less minute regulations and prescriptions for keeping things — objects and persons — in their rightful place (Pasquino, 1991; Foucault, 2007: 94, 313-328).

Nonetheless, Foucault characterises the art of government, at this stage, as ‘blocked’: by the pre-eminence of the sovereign, on one hand, and the narrowness of the model of the household on the other (2007: 101-103). It became ‘unblocked’ on the emergence of two new objects, superseding the household and ceconomy respectively: the population, which was revealed by the development of statistics to have its own regularities (for example, in births, deaths, diseases and crimes) that were not reducible to those of the household nor to the wills of individual persons (Foucault, 2007: 105; Hacking, 1991: 187; Rose, O’Malley and Valverde, 2006: 84); and ‘the economy’, which was appreciated as a quasi-natural entity, with

2 There is some inconsistency in the terminology of this second type of ‘power of life’. For example, in Foucault’s early lectures after his work on disciplinary power in Discipline and Punish, the new type of power is distinguished from discipline as ‘this biopolitics, this biopower’ (Foucault, 2003: 243-45). It is also called ‘regularisation’ (Foucault, 2003: 247). In later lectures, the focus is on tracing the longer development of this second type of power and distinguishing it from sovereign power, and here it is termed ‘government’ (Foucault, 2007). It is well to keep in mind that Foucault’s own work in this regard was preliminary and suggestive. The inconsistency has persisted into the governmentality literature and commentaries on Foucault, to confusing results (Garland, 1999: 26). For example, Ransom directly equates ‘biopolitics’ and ‘governmentality’ (1997: 60-61), whereas Dean uses ‘governmentality’ as a larger working category of analysis, in which ‘biopolitics’ figures as a recurring aspect of government (1999). I prefer Dean’s reading, and the relation of the terms (and concepts) will be made clearer below.

3 I follow Dean’s (1991) practice of using ‘ceconomy’ and ‘political ceconomy’ to distinguish these concepts in the early phase in governmentality from those of ‘the economy’ and ‘political economy’ in its liberal and subsequent phases. “‘Economy,” “political economy”, has a completely new meaning that can no longer be reduced to the model of the family’ (Foucault, 2007: 107).
cycles of abundance and scarcity and laws of motion – 'hidden hands' – rather than simply a form of diligent government. Together, these revelations permitted a 'liberal break' with the police of political economy (Dean, 1992: 228), whereby government was confronted with 'realities – market, civil society, citizens – who have their own internal logics... subjects equipped with rights and interests that should not be interdicted by politics... [and] a realm of processes that [rulers] cannot govern by sovereign will because they lack the necessary knowledge and capacities' (Rose, 1996a: 43-44, original emphasis). Henceforth, government would proceed primarily on the development of the subjective conditions necessary for individuals' self-regulation, and programs for supporting and guiding bio-economic processes to desirable objectives (Rose, 1996a: 44).

Over the two centuries since that point, governmentality has developed through three phases: the 'classical liberal governmentality' of the nineteenth century, the 'social liberal governmentality' of the first three-quarters of the twentieth century, and the 'advanced liberal governmentality' of the late-modern period of the 1970s through to the present. Before sketching that second historical framework, however, it is worth observing how the framework of sovereign, disciplinary and governmental powers does not mean that they are considered only successively. While asserting that governmental power has risen to a position of 'pre-eminence' over the other powers, Foucault urges that 'we should not see things as the replacement of a society of sovereignty by a society of discipline, and then of a society of discipline by, say, a society of government. In fact we have a triangle: sovereignty, discipline and governmental management' (2007: 107). Perhaps a better metaphor is that used by Dean (1999: 102): three persistent 'lineages' of power, the features of each remaining recognisable in contemporary governmentality. In this thesis, as in other works of governmental criminology and studies of governmentality, the use of the terms 'government' and 'governmentality' is not to exclude sovereignty and discipline from consideration, but instead to see them as relocated and reorganised within the programs of government (Rose, 1999a: 23; Stenson, 1999). In particular, characteristically disciplinary processes for 'making up' subjects are an important part of Housing NSW's practices of government-housing, especially in the creation of a typical public housing subject through the administration of eligibility, and in the engagement of various capacities on the part of tenants in Housing NSW's community renewal programs. Also, in some circumstances Housing NSW operates in what might be called 'sovereign mode': specifically, where government by other means
appears too difficult and a show of force gives the appearance of effective action, if nothing more.

**Classical liberal–social liberal–advanced liberal governmentality**

This second framework of the governmentality literature is an historically successive one, not of distinct epochs in government, but rather of 'resemblances in ways of thinking and acting' (Miller and Rose, 2008: 17). The elements of this framework, as 'governmentalities', are not merely theories or philosophies about rule but instead are rationalities that make rule operable through the problematisations, knowledges, techniques and institutions of the time (Rose, 1996a: 39), and each has changed as its own practitioners investigate the work of their projects, as criticisms and failures mount, and as new problems are conceived (Miller and Rose, 2008: 17).

Classical liberal governmentality, emerging around the beginning of the nineteenth century, was, so to speak, the original police reform: it insisted that the processes of population and economy worked optimally without administration by decree or other interference, and that individual persons would conduct themselves best – that is, with foresight, diligence, prudence and self-restraint – when they were the subjects of this liberty (O'Malley, 2004: 30-33). A particular problem for classical liberal governmentality was that of the 'dangerous classes' of the poor, who subsisted on the criminal proceeds of depredations on property or – perhaps the greater part of the problem – the 'demoralising' proceeds of poor relief and charitable giving. Over the course of the nineteenth century, classical liberal governmentality produced numerous schemes for working on the health, morals, habits and 'character' of the poor, starting with disciplinary institutions such as the workhouse, then various philanthropic societies and schemes for municipal improvement, including the first housing associations. They were designed and to be operated by the experts of the age: 'economists, philanthropists, humanitarians, improvers of the condition of the working class, members of societies for the prevention of cruelty to animals, temperance fanatics, hole and corner reformers of every imaginable kind' (Marx and Engels, 2002: 252). By the end of the nineteenth century, however, classical liberal governmentality was under challenge: its concern for the 'moral' state of the individual liberal subject did not adequately address the
social insecurity caused by enduring economic depression, nor the further discovery by scientific inquiry of statistical predictors of abnormalities in populations and persons. Social liberal governmentality, emerging around the turn of nineteenth and twentieth centuries, took a much more interventionist approach to the bio-economic processes held sacrosanct by nineteenth century liberalism; state agencies, administered scientifically by a new professional class of experts, would make these processes operate, through planning and redistribution, in accordance with social norms and against socially malign effects. A key technology was insurance: not just for prudent individuals, but social insurance for all contributing members of society, provided as welfare payments and as services. These services included social housing, which first appeared in significant numbers in the early decades of the century. Social scientific inquiry into 'deviance' from social norms shifted explanations of crime and disorder from demoralisation to more heavily determinist pathologies in the physical environment, in inadequately socialised families and neighbourhoods, and in the constitutions of individual persons. Accordingly, social liberal government proposed to address these pathologies through practices ranging from the creation of new urban forms to new clinical interventions. Social liberal government enjoyed its 'golden age' in the period after the Second World War, when states, with their instruments and expertise enlarged by the war, joined social actuarial programs of tax and welfare with Keynesian techniques for managing aggregate demand, and joined these in turn with Fordist techniques of mass production to create societies of mass consumption, full employment and social security. Even at the height of this prosperity, however, there was discontent, because of the numerous persons still left untouched by government programs, and because many of the persons and places that had been touched by them had been damaged by them — a charge particularly directed at social housing. When in the 1970s the prosperity ended, and states' Fordist-Keynesian economic strategies appeared to be part of the problem, social liberal governmentality also went into recession.

The governmentality of the period from the 1970s to the present is characterised by Rose (1999a) and Dean (1999) as 'advanced liberal', to encompass several apparently divergent,  

4 Another terminological clarification: as will be shortly discussed, Rose and Dean refer to one of these several rationalities as 'neo-liberalism'. O'Malley (2004: 76), however, considers that 'neo-liberalism' would be a suitable label for these rationalities collectively — so emphasising their
but actually familiar, post-social rationalities of government. Neo-liberal economic reforms have 'deregulated' the socially-governed economy to increase competition and demand greater flexibility, but not by simply returning to classical liberal *laissez-faire*, but rather by deliberately constructing 'simulacra of markets' and other market-based technologies, such as contracts and the discourse of customer/client service, including areas where they had not previously existed, such as welfare, so as to spark an enterprising, self-fulfilling subjectivity (Rose, 1999a: 146; Dean, 1995). Meanwhile, 'the community' has assumed a new prominence in governmental discourse, supplanting 'the social' as the most natural and relevant level of human collective experience, and offering the possibility of effective government through bonds of emotional affinity and allegiance (Rose, 1996a: 333-336). Crime and disorder have been the objects of various advanced liberal innovations, especially on the theme of 'risk': with some seeking to eliminate risky situations, others seeking to make strategic interventions in the development of 'at risk' individuals and communities, and yet others who seek to exclude, segregate and condemn irretrievably risky offenders (O'Malley, 2004: 136). For this thesis, a key insight into the advanced liberal government of crime and disorder is its distinction by Garland (1996; 2001) into strategies of adaptation and of 'denial and acting out': the former attempting to prevent crime and disorder by effecting new divisions of responsibility between organisations, communities and individuals, including through reformed welfare techniques that empower and engage the agency of the subject; the latter reacting to crime and disorder with punitive displays of sovereign power that invoke the moral authority of community values and individual blameworthiness.

For this thesis's study of public housing in New South Wales, the significance of this framework is twofold. First, the characteristics of advanced liberal governmentality help explain Housing NSW's present various practices of government-housing, and the tensions between them: in particular, its work on the subject of public housing as the subject of 'client service'; its use of situational crime prevention and community renewal strategies; and, above all, the prominence of the tenancy contract as an instrument against crime and disorder. Secondly, those preceding stages in the framework are relevant too, because many of the familiarity – and suggests that if they are to be given a different collective label, his preference would be 'enterprise liberalism' (2004: 76, fn 14). But, says O'Malley, 'it is not matter over which I want to spill much ink', and 'yet another neologism would be hard to bear' (2006: 76, fn 14). I will follow Rose and Dean's terminology too.
problems to which Housing NSW's advanced liberal reforms are addressed, and indeed many of the techniques and legal instruments to which they resort in implementing new solutions, come from public housing's historical purpose in social liberal governmentality’s reordering of urban environments and allocation of security to necessitous citizens — and before that, the first formulations of sanitary housing and moralising tenancy management in classical liberal governmentality. Rose puts it poetically: 'what we inhabit as the present is a "virtual" space composed where the residues of past rationalities intersect with the phantasms that prefigure the future' (Rose, 1993: 285-286).

Local discourse: crime talk

A final piece of the analytical framework for this thesis: local discourse, and in particular local 'crime talk'. Because government is a considered, calculated activity, and an activity that consists in the terms of the problems it is addressing, we should acknowledge that problems for government — and specifically, those relating to crime and housing — are thought of and talked about at the macro-level of rationality, law and policy differently from the micro-level of local, everyday discourse. As Girling, Loader and Sparks put it in their analysis of local, everyday crime talk, 'people often talk about “the weather”; less frequently do they discuss “climate”. Similarly, people often speak about “the way things are these days” but only rarely about “order”' (2000: 5). I might add: people more often talk about 'the way things are these days here, in the place I call home', and less often about 'housing'.

To observe this difference is not to assume that it entails a disjunction or opposition between local and general levels of governmental thought, discourse and practice: rather, there is an interaction or articulation between received abstractions and authoritative explanations, and personal stories and direct experience. Girling, Loader and Sparks locate this interaction in people’s ‘sense of place’:

[I]n their discussions of crime, and of other matters of concern to them, those people develop their accounts of the past, present and possible futures of that place. Such accounts inevitably inhabit different registers of language and kinds of diction. They move from intimate, personal and particular stories and histories to larger observations and speculations, thereby dipping into those more generically available cultural resources that seem in some way to frame or lend sense to their own
experiences—or on occasion to assert the dismaying feeling that such experiences lack sense, direction or hope of betterment. In such ways, we argue, people’s responses to crime (in association with other matters of concern to them) are both informed by, and in turn inform, their sense of place; their sense, that is, of both the place they inhabit (its histories, divisions, trajectories and so forth), and of their place within a wider world of hierarchies, troubles, opportunities and insecurities. Crime figures in people’s efforts to render an account of their own and their town’s journey through modernity (Girling, Loader and Sparks, 2000: 16-17, original emphasis).

The theory of this interaction is developed further by Karn in her analysis of the local narratives of residents and workers on a British public housing estate (2007). Their accounts of their estate’s ‘journey through modernity’ to the advanced liberal present are almost invariably ‘narratives of decline’, and they involve ‘significant characters, dramatic episodes, a moral to the tale and, most importantly, use causal logics and shared cultural assumptions about the world to create meaningful accounts’ of problems such as crime and disorder (2007: 42). These ‘causal narratives… are formed and reinforced by experiences of social position’, such as to “habituate” people to and within entrenched interpretations of the world and practices (2007: 43). In a similar way, this thesis will consider the narratives of the tenants and workers on the Riverwood estate and how they habituate tenants and workers to ideas and practices of contemporary government-housing. These narratives include one of decline, but also one of reinvention; and between them, they contribute to the construction of local problems of crime and disorder in ways that present both hazards and opportunities for the conduct of government according to an adaptive, rather than punitive, strategy.

The Research

As a work of governmental criminology, this thesis presents research into the present state of Housing NSW’s practices of government-housing by reference to its historical development and current tensions.

The historical research

A number of overlapping lines of historical inquiry are pursued here: the history of the government-housing relation, in the context of the historical development of
governmentalities, as outlined above; the history of public housing in New South Wales; and finally, the history of public housing in a particular place, the middle Sydney suburb of Riverwood. Each is a ‘history of the present’.

This term refers to both a particular theory of history and a particular methodology within the governmentality literature, each of which takes some direction from Foucault’s suggestions for a ‘genealogical’ analysis of knowledge and power. The theory of history rejects the idea that the history of government is hooked to a single subject (a great man, or the state, or capitalism), or that it expresses an immanent interest or essence, or that it ‘unfolds’ according to a particular philosophy, a single continuous narrative, or underlying laws (Miller and Rose, 2008: 16; O’Malley, Weir and Shearing, 1997: 502; Dreyfus and Rabinow, 1983: 106); it is instead ‘an action-centred, problem-solving one in which socially situated actors reproduce (or else transform) the structures that enable or constrain their actions’ (Garland, 2001: 77).

Methodologically, this means that the lines of historical inquiry in this thesis are consciously oriented to explaining the present general and local states of Housing NSW’s governmental practice. It is an ‘analytical rather than archival’ approach (Garland, 2001: 2), in that instead of attempting to provide a comprehensive history of public housing policy in New South Wales, or document ‘what actually happened’ or ‘how it really was’ in preceding phases of government-housing practice (Rose, 1993: 288), it sets out to trace the lines of problem-making and problem-solving that produce our present day practices and to identify the conditions upon which they have arisen (Garland, 2001: 2).

The histories of the present in this thesis comprise analyses of primary and secondary historical sources of housing policy, criminal justice policy and social policy more generally. Some work in specific collections of documents was involved: specifically, the archive of nineteenth century records of the Benevolent Asylum, held by the Mitchell Library; and the records of Housing NSW and its predecessor, the NSW Housing Commission. It must be said that the historical record of the profession of public housing management in New South Wales is scant, with little trace remaining of documents relating to such matters as the job descriptions, training and assessment of housing officers. The most important body of documents still available is Housing NSW’s CD-ROM archive of manuals, handbooks and instructions to housing officers.
Some local historical work was also undertaken, to complement the results of the fieldwork at the Riverwood public housing estate. The fieldwork itself provided important historical material, in the form of the oral history of the Riverwood estate, as told by long-term tenants and workers on the estate. I also undertook an analysis of demographic data relating to the Riverwood estate at each of the Censuses since 1971 (except the 1986 Census, from which the relevant data are not available). At the 1971 Census, a large part of the Riverwood estate was covered by two Census Collector Districts (CDs) that covered very few houses and households not on the estate, and at each of the subsequent Censuses, the whole of the Riverwood estate has been covered by a set of CDs that cover little else.\footnote{At the 2006 Census, these CDs were 1350101, 1350102, 1350108, 1350111, 1350112 and 1350113. The codes and some of the mutual boundaries of these CDs have changed from time to time, but taken as a set they are compatible for comparisons. Data from the 1976, 1981 and 1991 Censuses were compiled for the present thesis by the National Social Sciences Data Archive (NSSDA) and compatibility for comparison was confirmed by the NSSDA and the ABS Geography section.}

The contemporary research

Having approached the present by way of the governmentality literature's framework of successive rationalities of rule, this thesis proposes that Housing NSW's present practices of government-housing can be understood in terms of the characteristics of advanced liberal governmentality. I am conscious that some governmentality scholars have warned that because it conducts its analysis at the level of 'mentality of rule', some of the governmentality literature has tended to be 'insensitive to the multiplicity of voices and discourses subject to government but not aligned with it... [and] the multiplicity of voices within rule itself' (O'Malley, Weir and Shearing, 1997: 505). Similarly, Garland criticises governmentality studies that deal with governmental rationalities and technologies only as 'ideal types' instead of looking at the 'pragmatics of [their] use... the messy realm of practices and relations and the compromised, corrupted, partial ways in which these entities inhabit the real world. Ideal types – or reconstructed rationalities – are a basis for empirical analysis, not a substitute for it' (1999: 30-31).

These warnings are worthwhile reminders of what should be strengths of the governmentality approach: its orientation to the operable and technical aspects of...
rationalities of government; its attention to ‘problems’ of government, their revision, and the contingent nature of proffered solutions; its awareness of local discourses and knowledges. The empirical research for the contemporary analysis presented in this thesis reflects these concerns, being largely in documents that structure or record the actual work of housing officers, and in interviews and focus groups with housing officers, their inter-agency colleagues and tenants. In particular, the contemporary evidence comprises:

* contemporary documents and other sources, including:
  * legislation, in particular the Residential Tenancies Act 1987 (NSW)
  * operational policies of Housing NSW
  * data from the CTTT relating to Tribunal applications and determinations, including those relating to Housing NSW, for the period January to October 2006
  * determinations of the CTTT and its predecessor Tribunals to December 2009
  * the register of complaints under Housing NSW’s ‘Good Neighbour Policy’ to the Riverwood office of Housing NSW.
  * interviews with six Housing NSW officers, selected because they had responsibilities relating to crime, anti-social behaviour, nuisance and annoyance, community regeneration and other general operational matters of Housing NSW. The methods employed in these interviews were the same as those employed in relation to the fieldwork at Riverwood, discussed below.

* results of fieldwork conducted at the Riverwood public housing estate.

The fieldwork component of the research was designed to record the crime talk of people living and working on the public housing estate at Riverwood. The fieldwork comprised a series of focus groups and interviews with stakeholders on the estate conducted over an 18-

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6 The 2006 data, which are presented in Chapter 6, were sourced by Housing NSW from the Tribunal and are reproduced here for the sole purpose of this thesis, with the permission of the Tribunal and Housing NSW.

7 There are 239 publicly available written determinations by the Tribunals, from 1989 to December 2009, in which Housing NSW is the applicant. I reviewed all of them in the course of the research.

8 The register was made available to me solely for the purpose of this thesis.
month period (November 2004 to May 2006). Table 1.1 shows the different types of participants in the research, their number, and the number of focus groups and interviews conducted with each. The table also includes focus groups and interviews conducted with participants not connected directly to Riverwood – that is, the officers from Housing NSW’s central office, and workers in the Tenants Advice and Advocacy Program Network – but whose insights and experience were relevant to the research generally.

Table 1.1. Focus groups and interviews

<table>
<thead>
<tr>
<th>Participants</th>
<th>Focus groups</th>
<th>Interviews</th>
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</thead>
<tbody>
<tr>
<td>Tenants and residents (T1-T48)</td>
<td>Tenants focus group 1 (T1-8)</td>
<td>T25, T26, T27,</td>
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<td></td>
<td>Tenants focus group 2 (T9-15)</td>
<td>T28, T29, T30,</td>
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<td></td>
<td>Tenants focus group 3 (T16-19)</td>
<td>T31, T40</td>
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<td>Tenants focus group 4 (T20-24)</td>
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<td>Tenants focus group 5 (T32-39)</td>
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<td></td>
<td>Tenants focus group 6 (T41-48)</td>
<td></td>
</tr>
<tr>
<td>Housing NSW, officers (H1-H20)</td>
<td>Housing officers focus group 1 (H1-9)</td>
<td>H12, H15, H16,</td>
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<tr>
<td></td>
<td>Housing officers focus group 2 (H10-11)</td>
<td>H17, H18, H19,</td>
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<tr>
<td></td>
<td>Housing officers focus group 3 (H13-14)</td>
<td>H20</td>
</tr>
<tr>
<td>Riverwood Community Centre, workers (C1-C19)</td>
<td>Community workers focus group 1 (C1-15)</td>
<td>C18, C19</td>
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<tr>
<td></td>
<td>Community workers focus group 2 (C16-17)</td>
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<tr>
<td>NSW Police Force, Campsie Local Area Command,</td>
<td>Police focus group (P1-3)</td>
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<tr>
<td>officers (P1-P3)</td>
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<td>Electorate Office,</td>
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<td>Electorate of Lakemba, worker (E1)</td>
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<tr>
<td>Tenants Advice and Advocacy Program Network,</td>
<td>Advocates focus group 1(A1-4)</td>
<td></td>
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<tr>
<td>workers (A1-12)</td>
<td>Advocates focus group 2 (A5-12)</td>
<td></td>
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</tbody>
</table>
Focus groups were convened separately for the different types of participants. Each interview was conducted with a single participant. Focus groups and interviews were conducted along similar lines. Each was designed to elicit qualitative data and was semi-structured: a brief of parameters and general questions was developed for each interview and focus group, but the order of questions and many specific questions were determined by the course of the interview or focus group. The focus group format was chosen as the best way of capturing the 'digressive' nature of crime talk and the way it 'slips from topic to topic' amongst its speakers (Girling, Loader and Sparks, 2000: 5). The interviews were intended as a supplement to the focus groups, particularly for participants who had sensitive information to divulge, or who simply could not make it to a focus group. In total, approximately 37 hours of focus group discussions and interviews were conducted, recorded and transcribed. I also attended meetings of the Estate Advisory Board (EAB) and several Area meetings, and observed other activities and functions at the Riverwood Community Centre (RCC) and the estate.

The fieldwork was approved by the Human Research Ethics Committee of the University of Sydney and conducted in accordance with the terms of the Committee's approval. Each participant was given an information sheet about the research prior to their participation, and participated voluntarily. Each gave written consent to the recording and transcription of their comments, and to the use of their comments in this thesis. Participants were informed that Riverwood would be identified as the location of the fieldwork, but assured that they would not be personally identified or identifiable in the thesis. The participation of employees or officers of stakeholder organisations was also authorised in writing by their respective employers.

In the fieldwork design, tenant participants were to be tenants or former tenants of the Riverwood estate, or household members of a tenant or former tenant, aged 16 and over, and they were to be recruited by the RCC or the Southern Sydney Tenants Advice and Advocacy Service (SSTAAS). In the event, all tenant participants were current tenants or

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9 There was one exception: one of the tenants focus groups, which was recruited from an Area meeting, included a worker from RCC who convened the Area meeting.
household members of current tenants (that is, none were former tenants or household members of former tenants), and all were recruited by the RCC (at the time of the research SSTAAS could not identify any clients who were eligible to participate). Most were recruited through their involvement in either one of the several Area meetings convened by the RCC; this convenience sampling was an efficient means of recruiting participants who were involved in activities that were relevant to the government of conduct on the Riverwood estate, particularly activities relating to community participation, partnerships and renewal projects and, in the case of a number of tenants, making complaints to Housing NSW about other tenants' conduct. The remainder of the tenant participants were young household members, recruited by the RCC from its youth programs specifically because they had 'something to say' about crime and disorder on the estate – mostly problems with the police. This convenience sample recruited participants from a group on the estate who were not involved in the same activities as those involved in the Area meetings, and who were referred to frequently in the comments of other participants. The use of these sampling methods means that the participants are not necessarily representative of all residents of the estate, but they are proximate to many of the practices under analysis in the thesis. Also, I did not collect data as to the age, language, ethnicity, employment status or household structure of participants, to better ensure that they would not be identifiable in the thesis; as a general observation, most of the tenants who participated were older, English-speaking, of Anglo or Celtic background, not in employment and living by themselves or as part of a couple; however, most of those who participated in interviews were young persons.

Housing NSW officers who participated came from both 'the field' (the local office at Riverwood) and Housing NSW's central office, and represented a wide range of positions in Housing NSW: the 'front-line' staff, their managers, legal officers, officers involved with special projects relating to anti-social behaviour and nuisance and annoyance, and officers involved with community renewal. Some officers were relatively new to Housing NSW; three of the officers interviewed each had more than 30 years experience in Housing NSW and its predecessor, the NSW Housing Commission. The officers from the central office were selected specifically because of their responsibilities in relation to the practices under

10 The Area meetings on the Riverwood estate are designated by number (Area 1, Area 2, etc). The numbering of the focus groups does not correspond to the numbering of the Area meetings.
research; this purposive sampling efficiently recruited participants with appropriate knowledge, experience and expertise (de Vaus, 1985: 68). In relation to the officers from the Riverwood office, I have not indicated any job titles or levels, in order to preserve anonymity. This limits consideration of the question of whether the responses of Client Service Officers (CSOs) are different from those of team leaders and, in turn, other superior officers of Housing NSW. That question is better left to research that does not look at one geographical area and the respective team specifically, but which instead surveys more widely through Housing NSW.

The two focus groups comprised of tenant advocates were used to assist in the development of questions for the focus groups and interviews with other participants; I have not cited their responses directly in the thesis.

Finally, I should reiterate that ‘Riverwood’ is the real name of a real place. Other recent research projects involving public housing estates in New South Wales have not identified the places in which research was conducted, at least in part to avoid ‘stigmatisation’ (Samuels, et al, 2004: ii). To do so in this thesis, however, would have been to lose an important dimension of the research. Notwithstanding that all participants took part in the research with the knowledge that Riverwood would be referred to in the thesis by its real name, the potential for research to stigmatise is something to take seriously – as one tenant participant said to me at the close of our interview, ‘yes, and only take good words back, otherwise I'll have to kill you [laughter]’ (T40 interview) – and I believe the approach I have taken guards against that outcome. The purpose of the fieldwork was not to assemble data in order to evaluate any particular project that Housing NSW may have been conducting at the Riverwood estate; nor was it to measure the performance of the Riverwood estate relative to some other standard. It was not my intention to show ‘why Riverwood works’ or ‘why Riverwood fails’ and I have not presented my data in such terms. The accounts of Riverwood referred to in this thesis are those of persons who live and work on the Riverwood estate. Consistent with the governmentality approach, I do not propose to nominate one of them as being ‘the truth’ about the Riverwood estate; nor do I presume to reveal, beneath the surface of these accounts, some hidden objective reality. Rather, I present these accounts as truths about the Riverwood estate: plural, varied and strategic truths. This is not to doubt the motives or credibility of the persons who gave these accounts, but to ask a
different set of questions of the Riverwood estate’s truths: from what practices of
government are these truths produced? What practices of government proceed on these
truths?

Outline of Chapters

The thesis is presented in five Parts, including the present introductory Part.

The second Part of the thesis, comprising Chapters 2 and 3, presents a history of the
government-housing relation, in particular through the changing institutions of public
housing in New South Wales. Chapter 2 begins with the prehistory of public housing in the
housing reform discourse of the nineteenth century, and continues through to the
international ‘golden age’ of social housing after the Second World War. Chapter 3 considers
social housing in the late modern period. Each of these Chapters pays particular attention to
how these developments relate to changing ideas and practices in the government of crime
and disorder.

The third Part, which comprises Chapters 4, 5, 6 and 7, presents an analysis of Housing
NSW’s contemporary practices of government-housing. Chapter 4 examines the formation
of the individual subject of public housing – the ‘client’ – particularly as a disorderly subject
in need of government. Chapter 5 continues the analysis of Housing NSW’s contemporary
practices, particularly as they operate at the level of ‘neighbourhood’ – that is, both the built
neighbourhood and the condition of being a neighbour in a public housing community.
Chapter 6 examines the law of landlord and tenant as it relates to public housing, and how
both Housing NSW and its tenants use the tenancy contract in their attempts to govern
conduct in public housing. Chapter 7 considers a number of recent attempts to furnish
Housing NSW with ‘new tools’ for the government of crime and disorder, each of which
seeks to combine different powers and techniques for greater leverage over tenants’ conduct,
but which appear instead to have faltered.

The fourth Part comprises Chapters 8 and 9, which present the results of the fieldwork at
the Riverwood public housing estate. Chapter 8 is a history of Riverwood, with special
attention to the role of public housing in shaping residents’ and workers’ sense of the place
today. Chapter 9 considers Riverwood's crime talk, and how it articulates with Housing NSW's practices of government-housing.

The fifth Part comprises Chapter 10, which is the conclusion of the thesis, and the bibliography.
PART 2
HISTORY

In this Part of the thesis, I will present a history of the relation, over the last two centuries, between ideas and practices for the government of crime and disorder, on the one hand, and ideas and practices in housing – particularly social housing – on the other. The purpose of this Part is to trace the long historical development of present practices and problematisations of government-housing in public housing in New South Wales.

There are two Chapters in this part. The first, Chapter 2, considers what might be called the 'prehistory' of social housing in the nineteenth century, through to its 'golden age' in the decades following the Second World War. The second Chapter in this part, Chapter 3, considers what I will call the late-modern period, from the early 1970s through to the present, in which the government-housing relation in social housing has been problematised through the emergence of 'advanced liberal' governmentality.

The scope of this account is wider than just the historical development of public housing in New South Wales. As an historical account of the government-housing relation, which consists as much in ideas and ways of framing problems as it does in the formal institutions and practices of housing, this account ranges widely in order to sketch the outlines and general characteristics of successive governmentalities – classical liberal, social liberal and advanced liberal – in the context of which the government-housing relation has been formulated, problematised and reformulated. The account also ranges internationally: in particular, many of the ideas and practices about housing and order, and about government more generally, considered in this Part – and especially in the first Chapter – are from Britain; I also refer, though to lesser extent, to developments in the United States, in Europe, and in other Australian States and Territories. This international governmental history of social housing is sketched in broad lines; as it proceeds, I will plot local instances of these broad developments, and note the emergence of variations between social housing systems, so as to present a picture of public housing in New South Wales.
CHAPTER 2

GOVERNMENT-HOUSING: PREHISTORY TO ‘GOLDEN AGE’

The long period from social housing’s ‘prehistory’ to its ‘golden age’ spans the first formulations of ‘the housing question’ by the nineteenth century’s classical liberal reformers; then the first sporadic programs of social housing by states as they began in the early twentieth century to govern from a ‘social point of view’ (Rose, 1999a: 117); then, finally, the entrenchment of social housing in the Keynesian-Fordist phase of social liberal government after the Second World War – during which phase the public housing system in New South Wales was built up by the NSW Housing Commission.

In the present Chapter, this history is presented specifically as a genealogy of social housing’s relation to the government of crime and disorder. The elements in this genealogy are diverse, ranging from administrative techniques that make up the individual subjects of government, to spatial and built forms, and to the law.

Prehistory: the nineteenth century

[1]The question of housing the poor is one of universal interest in this age of great cities.... (Sydney Morning Herald, 1884: 7)

The liberal reform of police

At the beginning of the nineteenth century, the magistrate and liberal reformer Patrick Colquhoun introduced his Treatise on the Police of the Metropolis by summarising the problem of governing crime and disorder in London into three basic elements:

[1] the enlarged state of Society, the vast extent of moving property, and the unexampled wealth of the Metropolis; [2] the depraved habits and loose conduct of a great proportion of the lower classes of the people; [3] and above all, the want of an appropriate Police applicable to the object of prevention. (Colquhoun, 1969: preface)
The first two of these elements – the wealth produced by industrial, urbanised capitalism, and the morality of the poor and working classes – are reflected in the third – ‘an appropriate Police’ – which Colquhoun and subsequent liberal reformers formulated in narrow and wider senses of the word. ‘Police reform’ in the narrow sense included Colquhoun’s now-familiar idea of an organised body of full-time officers who specialised in the detection of crime and the apprehension of criminals, and the establishment of the ‘new police’, first by Peel in 1829 in London and subsequently, though with considerable variations, throughout the Western world (Philips, 1994: 43; Finnane, 1994: Chapter 1). The new police operated in the manner of ‘domestic missionaries’ (Storch, 1976), emphasising crime prevention and the maintenance of peace through a powerfully symbolic presence amongst the public, especially the poor. Over the nineteenth century, the preventative function of the uniformed police receded in relation to their ‘crime-fighting’ and law enforcement functions (Crawford, 1997: 20), and prevention was increasingly left to police reform in the wider sense of the word.

Police reform in the wider sense was pursued through penal reform – specifically, the rationalisation of penalties according to utilitarian principles, and the reform of prisons on panoptic, penitential lines – and an even wider-ranging reform of the government of poverty – that is, of conducting poor and property-less persons to labour. How this varied movement of liberal reform related to housing is the focus of the rest of this section of the Chapter. As a part of a liberal system for the proper conduct of the poor and workers, the role played by housing was diffused throughout the variety of individual transactions and relationships that property-less people had to enter into in order to get and stay housed. Persons laboured for wages either to save for the cost of ownership, or to pay rent to a landlord – or they arranged to be part of another person’s household, through familial relations or service.\(^{11}\) For all of the nineteenth century, renting was by far the predominant

\(^{11}\) In the colony of New South Wales, even the convicts were responsible for building or paying for their own housing (Atkinson, 1988: 76; Troy, 1988: 21) – at least until they were assigned into the service of free settlers and housed in their households.
tenure in Britain; in the Australian colonies, there were greater opportunities for ownership, but renting was common, if not much more common than ownership (Byrne, 1993: 78). Two pre-liberal institutions were relevant to this scheme: the landlord-tenant legal relationship; and a special group of ‘houses’ – the disciplinary houses of the poor, such as the workhouse, the poorhouse and the asylum. The classical liberal reform of police attempted to operate on and through each of these institutions, but found each of them limited.

The sovereign landlord

Landlord-tenant law has its roots in the extension of the protections of the King’s courts to the villeins of the thirteenth century; its nineteenth century legal form, as part-contract and part-property, took shape in the fifteenth century (Bradbrook, 1989). At the time of its reception in New South Wales in 1828, landlord-tenant law made no distinction between residential and other leases, and did little other than protect a tenant’s possession of a property from interference by the landlord, and ensure the continued extraction of rent. (Bradbrook, 1989: 108; Plunkett, 1835: vii-x). To that end, the law gave landlords two main actions, both like those of an interposing sovereign: distress for rent, and ejectment. Distress for rent was the right of a landlord or their bailiff to enter premises where the rent was in arrears and seize a tenant’s personal belongings, to be returned on payment of the rent or sold; this was, according to Plunkett, ‘an effectual, speedy, and universal method of recovering rent arrears’ (1835: xxxiii). To eject or evict a tenant, a landlord could end the tenancy by serving a notice to quit, which terminated the tenancy, and, if the tenant did not move out, take proceedings before a court for a warrant of ejectment (Small Tenements Recovery Act 1838 (UK); Summary Ejectment Act 1853 (NSW)).

There are no aggregate data as to Australian housing tenure prior to the Census of 1911, when about 56 per cent of New South Wales households, and 59 per cent of Sydney households, rented (Troy, 1992: 220). Based on her research of land grants in Sydney in 1810-1830, Byrne concludes that ‘renting in Sydney was much more common than ownership’ (Byrne, 1999: 287).

Plunkett’s introduction to the law of landlord and tenant makes this connection directly: ‘the King is the universal Landlord’ (Plunkett, 1835: i).
As a legal instrument for governing the conduct of persons, the nineteenth century lease had, therefore, potentially forceful, drastic consequences for tenants. It was also, potentially, an instrument for increased obligations in relation to conduct, and over the course of the century, the law developed, albeit in ad hoc, contrary ways, to expand the content of leases. Bradbrook observes an increasing number of covenants implied by the courts and by statute (1989: 108, 113), but also that 'the principle of freedom of contract, the central theme of the laissez faire approach of the common law in the nineteenth century, was applied with full rigour to leases' (Bradbrook, 1989: 106), with courts insisting that the covenants of leases were subject to negotiation and the principle of caveat emptor. And as we will see further below, some landlords did avail themselves of this potential for new covenants, particularly addressed at 'nuisances'.

The operation of the law, however, was often moderated by other considerations of landlords, such as the cost of finding a new tenant, balanced against the cost of arrears or eviction (Daunton, 1983: 140), and looking ahead to the second half of the nineteenth century, we can see that new problems of government revealed limits to what the law alone could achieve. A landlord might enter premises and seize a tenant's personal goods, but often knew little about their properties or their tenants. The testimony of Richard Wynne Esq, JP, to a Committee of Inquiry convened in 1876 by the Sydney City and Suburbs Sewerage and Health Board (SCSSHB), provides an example of this problematisation:

[The Committee:] We have been told that you have had some experience in letting small tenements in Sydney, and that you have also experienced the difficulty of preserving proper decency among your tenants?

[Wynne:] Yes. Some years ago I entered Richardson and Wrench's auction room: there was a property in Castlereagh Street put up for sale.... I became the purchaser; I went to see it after I had bought it and found an agent in charge, who had looked after it for the former owner; I employed him to look after it for me. After a time I found that the tenants did not suit me, and I reprimanded the agent for allowing persons of improper character to get into the houses; he said he could not help it — it was impossible to prevent it. I got another person to take the agency, who felt confident that he would be able to carry out my instructions in letting the houses only to decent working people; in this he also signally failed. The last person who had charge of the property was Mr Glue, and I thought of all people he would be the one to keep the houses respectable; but he found the same difficulty, although he used all the precautions that could be suggested....
[The Committee:] You found that you could not control the tenants?
[ Wynne:] I could not control them....
[The Committee:] Do you think it would be better if greater powers were conferred on landlords?
[ Wynne:] Yes; under the Landlord and Tenants Act it takes three weeks to get a tenant out (let him be ever so bad) and may take more. (Wynne, 1876: 9)

Although Wynne and his questioners on the Committee turned to the law for familiar remedies such as faster evictions, the problems they identified—'preserving proper decency', keeping houses 'respectable'—required government by rather different means.

The disciplinary houses of the poor

In the pre-liberal police of the poor, the workhouse was one of the institutions of what Foucault calls the 'great confinement' of the poor, the idle, the itinerant and the insane (Foucault, 1988: 44-45). In the terms of political economy, the workhouse was a 'replica of the patriarchal household': it put the poor in their proper place, set them to work and thereby, at least notionally, increased the wealth of the state (Dean, 1992: 226-227). By the early nineteenth century, however, the state and function of the workhouse were deplored by liberal reformers:

The young are trained in idleness, ignorance and vice; the able-bodied maintained in sluggish sensual indolence; the aged and more respectable exposed to all the misery that is incident to dwelling in such a society, without government or classification. (Report of the Poor Law Commissioners, 1834, cited at Driver, 1993: 64)

A reformed workhouse, however, would have a crucial place in a reformed police, particularly in relation to the provision of relief to the poor. In order that the able-bodied should labour and maintain themselves and their dependents, 'public provision should appear less eligible to him than the provision resulting from his own labour' (Bentham, cited at Dean, 1991: 190). This principle was effected in England by the 1834 new Poor Law, which proscribed the provision of relief to the able-bodied and their dependents other than in a 'properly regulated workhouse' (Report of the Poor Law Commissioners, 1834, cited at Driver,
The first designs for a reformed workhouse, conceived by Bentham before the turn of the century, were ‘pauper Panopticons’, very closely on the lines of Bentham’s penitentiaries (Dean, 1991: 183; Foucault, 1977: 200-210). As they were actually built, the new Poor Law workhouses were less fantastically dreadful, but still quite capable of appearing as ‘a terror to the able-bodied population’ (Assistant Poor Law Commissioner, 1835, cited at Driver, 1993: 59).

New disciplinary houses were also built throughout North America and the Australian colonies, incorporating some of the features of the early English liberals’ reconceived workhouse (Rothman, 1971; Vale, 2000: Chapter 1; Piddock, 2001), such as in the Benevolent Asylum built in Sydney in 1821 for the colony’s ‘Poor, Blind, Aged and Infirm’ (Rathbone, 1994: 22). The Benevolent Asylum was not established as part of a formal program of poor law reform – in the colony, the English Poor Law was never implemented in the first place, a distinction that pleased liberal-minded settlers and administrators – but it did operate according to similar principles, simultaneously drawing persons in, through need for relief and the enforcement of vagrancy laws, and deterring persons, through ‘semio-techniques’ on the principle of less eligibility. So ‘by confinement in the Asylum’, claimed its administrators, ‘there is no allurement held out to improvidence and dissipation, as the food and clothing provided are of the plainest kind’ (Benevolent Society, 1833: 14); likewise its disciplinary rules, which routinised when to rise from bed, attend religious instruction, labour, eat, bath and return to bed (Benevolent Society, 1821: 17-18).

By the second half of the nineteenth century, the reformed disciplinary houses of the poor were themselves problematic institutions. The elaborate classifications they were supposed to impose broke down in the face of the austerity with which they had to operate; so did their hygiene. Through the second half of the nineteenth century and beyond, the disciplinary houses of the poor persisted, in some cases transformed into hospitals (for example, the Sydney Benevolent Asylum eventually became the Royal Hospital for Women (Rathbone, 1994; see also Hall, 1998: 683)), in other cases tending to specific marginalised...

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14 The limits of the Benevolent Asylum’s use of disciplinary techniques are, perhaps, indicated by its refusal of a proposal, by the Society’s House Committee, to shave the heads of unmarried pregnant inmates ‘to distinguish them from persons of good character and to produce in some degree a sense of disgrace’ (Benevolent Society of NSW House Committee, 1856), and the dismissal of a wardsman who used a whip upon inmates (Benevolent Society of NSW House Committee, 1857).
groups (for example, asylums for the insane, the missions for Aboriginal persons, and the Industrial Schools for juveniles) (van Krieken, 1989). The disciplinary houses of the poor were not, therefore, the direct antecedents of social housing, but they developed techniques and projects that were passed on to future reformers. They were a key site in the development of practices for documenting the lives of poor persons as individuals – and hence for ‘making up’ these individuals as the objects and subjects of government (Foucault, 1977: 191; Rose, 1999b: 135-7). More particularly, they made ‘need’ a crucial factor in this procedure, and organised around it a range of techniques for generating truths about persons as subjects, such as interviews as to needs and deserts, and advice and instruction from asylum ‘visitors’. And finally, the disciplinary houses of the poor fostered the idea that ‘moral improvement and social control could be achieved through the manipulation of space.... No detail of design, however small, could be ignored; to each environment there was a corresponding form of life’ (Driver, 1993: 13-14). Classical liberalism’s next great breakthrough was applying this idea outside the confines of the disciplinary houses of the poor, to the spaces of the city.

**Classical liberal governmentality and ‘the housing question’**

By the 1830s, the classical liberal concern for ‘an appropriate police’ of poverty had begun to look beyond the problem of the provision of poor relief to the new urban-industrial organisation of the labouring population (Dean, 1991: 199). For the early liberal reformers, labour was unproblematic: it was ‘the lot of man’ to work to avoid poverty and indigence (Colquhoun, 1806, cited at Dean, 1991: 145). From the 1830s, however, it was observed that a life of labour – specifically in the conditions of industrial, urban capitalism – might itself be demoralising. Whereas liberal government originally made its breakthrough on a concept of population with its own natural, bio-economic regulation, it appeared increasingly to liberal reformers that population could not be considered apart from the effects of its historical development and circumstances.15 This shift is exemplified in the work of Chadwick who, having dealt with demoralising poor relief in his work on the 1834 Report of the Poor Law

15 This appeared even more strongly to critics like Marx and Engels and other ‘socialists’ – the word adopted by workers’ movements in Britain and Europe from around the 1830s (Rose, 1999a: 117).
Commissioners, turned, in his 1842 Report on the Sanitary Conditions of the Labouring Population, to the problems of

the various forms of epidemic, endemic, and other disease caused, or aggravated, or propagated chiefly amongst the labouring classes by atmospheric impurities produced by decomposing animal and vegetable substances, by damp and filth, and close and overcrowded dwellings... (Chadwick, 1842, cited at Hall, 1998: 685)

and concluded that ‘these adverse circumstances tend to produce an adult population short-lived, improvident, reckless, and intemperate, and with habitual avidity for sensual gratifications’ (Chadwick, 1842, cited at Hall, 1998: 686, emphasis added).

In liberal reformers’ programs for improving the circumstances of the population, there was, however, no social housing, nor would there be until very late in the nineteenth century. When it did emerge, it was shaped by the way in which liberal reformers framed the housing question – how they investigated the question; how they related it to public health; how they related it to morality and the formation of character.

Investigating housing

The investigation of housing proceeded in the wake of the ‘avalanche of numbers’ that commenced with the development of popularly published statistics in the 1820s (Hacking, 1991). Between 1832 and 1846 in Britain, more than 100 Royal Commissions of Inquiry were established to investigate the state of society (Yeo, 1991: 52); at the same time, Statistical Societies and interested individuals set about their own, often monumental, inquiries, especially into the lives of the poor and their housing. In the 1830s, Southwood Smith’s studies of ‘fever districts’ in London established the connection between poverty and susceptibility to disease (Southwood Smith, 1854, cited at Osborne, 1996: 111); and Rawson identified a statistical connection between population density and crime rates (Hayward, 2004: 89). They were followed by journalists, most notably Henry Mayhew (Thompson and

10 Farr went further, discerning in 1843 that mortality rates were a function of the sixth root of density (Davison, 1983: 362-363).
Yeo, 1971), and pamphleteers, notably Beames (The Rookeries of London (1970)) and Mearns (The Bitter Cry of Outcast London (1970)), and the state again, most notably the 1885 Royal Commission on the Housing of the Working Classes. In New South Wales, the Sydney Morning Herald published its own survey of the ‘sanitary state of Sydney (Sydney Morning Herald, 1851), and W S Jevons17 conducted social surveys of Sydney and other New South Wales towns (Jevons, 1858; Davison, 1998). The colonial government also conducted investigations: in 1859, the Select Committee on the Condition of the Working Classes of the Metropolis (SCCWCM, 1860), and in 1875, the SCSSHB’s ‘Inquiry into Crowded Dwellings and Areas in the City of Sydney and Suburbs’ (SCSSHB, 1876).

The approach of liberal reformers to the investigation of the urban population and its housing reflected their analyses of natural systems and, in particular, the techniques of anatomy (Davison, 1983; Poovey, 1995). In their investigations, the ‘social body’ or the ‘body politic’ was subject to minute examination by door-to-door surveys and inspections, statistically dissected, its parts differentiated and classified. In particular, liberal investigators were concerned for vital processes, especially of circulation, and their attention was drawn to density, congestion and blockage. Their investigations mapped onto the city, and onto one another, a variety of moral and material conditions: density, disease, mortality, crime, class, intelligence, ‘character’. They did this literally, in the form of maps that differentiated and stereotyped the city and its populations: for example, Jevons (1858) mapped Sydney into districts coloured red, blue and black, for ‘gentlemen and ladies’ and ‘professional men’, ‘skilled mechanics’ and ‘shopkeepers’, and ‘labourers’ and ‘the indefinable lower orders’, respectively, anticipating Charles Booth’s 1898-99 ‘maps descriptive of London poverty’, in which rendered London’s streets in seven colours coded black (‘Lowest class. Vicious, Semi-criminal’) to yellow (‘Upper-middle to upper classes. Wealthy.’) (1902).

The investigators and their contemporaries also mapped these conditions in vivid texts. To give just one example from the investigations of Sydney, in 1860 Dr Isaac Aaron, sometime Sydney Municipal Health Officer, gave evidence to the SCCWCM as to divisions within the working classes of Sydney, stereotyped to differences in their housing:

17 The neo-classical economist and innovator of marginal utility theory had a previous career as an assayist and amateur social scientist in Sydney (Davison, 1998).
The first class is that, the lowest of all, which lives in all manner of holes and corners, in most dilapidated places, paying little or no rent, and existing no one knows how. The places occupied by these people are generally of the worst possible description... where there is an utter absence of all those conveniences and necessaries which should be connected with the habitation of a human being. In fact, the people who occupy it live more like beasts of the field or pigs...

The next class above this would consist of those generally get their living more or less by labor, sometimes employed, sometimes not, according to circumstances. There is a good deal of intemperance amongst this class, and there [sic] habitations generally are very inferior to what they ought to be....

The third class of the laboring population consists of those who, by industry and frugality, have been able to save sufficient either to rent a decent house or to build one for themselves. This, I am happy to say, is a tolerably numerous class in Sydney; but even here there is something wanting in the mode in which houses are constructed, even when building for themselves. (Aaron, 1860: 33-34)

Similar three-way divisions became well-worn in the literature of social investigation around the world (Mayhew, 1849, cited at Thompson and Yeo, 1971; US Labor Commissioner, 1895, cited at Harloe, 1995: 21-22). Booth's scheme of eight classes (classes 'A'-'H') arranged as a continuum through which an individual or household might advance or regress, was less florid and more sophisticated but, as Rose observes, each was nonetheless 'an amalgam of individual character and morals, income level and conditions of life' (Rose, 1985: 50).

The image of the investigated, dissected and classified city worked to disintegrate the opaque image of the 'dangerous classes', and revealed a range of classes that were more or less proximate to demoralisation. They were to be reached through two related liberal programs for the reform of the city, each of which would endure well into the twentieth century: the sanitation program, directed at health, and the 'character' program.

**Health and housing**

The liberal sanitary response to the city as a natural system subject to disease and dysfunction comprised law reform – particularly for the establishment of sanitary inspectorates under public health legislation, standards as to the width of streets, lanes and lots, and public and private actions against unsanitary practices as 'nuisances' – and the great
Victorian public works projects: improved buildings, water supply and sewerage systems, even parks, roads and railways, each of which reflected the liberal-sanitary concern for 'the efficient circulation of the city's vital fluids' and the 'deformed structures' that prevented it (Davison, 1983: 362). Liberal sanitary reformers had, as Daunton observes, a particular horror of crowded common lodging houses and the intermediate spaces between public street and private home – lanes, courts and stairways – into which home life might spill. From this perspective, poor housing was directly connected with demoralisation and crime and disorder. Dr Aaron had 'no doubt' that:

the want of proper accommodation has a direct effect on the moral sense of the occupants, because they are obliged to do everything in public you may say; and the state of bodily feeling which is induced by the absence of sanitary conditions no doubt induces many of these people to intemperance. (Aaron, 1860: 59)

Similarly, the Inspector-General of Police in Sydney considered that 'herding persons together in such places' as lodging houses tended to 'blunt the moral feelings', and that 'the majority – I may say all' of the crime in Sydney was 'concocted in such places' (M'Lerie, 1860: 5). Against this, sanitary reform proposed to prevent crime and disorder through the attainment of privacy and comfort in the home (Osborne, 1996). This meant destroying unsanitary housing, to free up the city's circulatory systems, and building new, improved housing according to sanitary principles: making, as Donzelot puts it, 'a breakthrough between the formula of the hovel and that of the barracks... a housing unit small enough so that no “outsider” would be able to live in it, yet large enough for the parents to have a space separate from their children' (1979: 41-42).

In Britain, the sanitary reform of housing became the task of local councils under a series of Acts – the Common Lodging Houses Act 1851 (UK) and the Labouring Classes Lodging Houses Act 1851 (UK) (the Shaftesbury Acts), the Artizans and Labourers Dwellings Act 1868 (UK) [sic] (the Torrens Act), the Artizans' and Labourers' Dwellings Improvement Act 1875 (UK) (the Cross Act), the Housing of the Working Classes Act 1885 (UK) and the Housing of the Working Classes Act 1890 (UK) – that are now recalled as the legislative basis of social housing. Their first effect, however, was the destruction of a great deal of housing. This began with the common lodging houses under Lord Shaftesbury's legislation; then houses ordered 'unfit to live in'
under the Torrens Act; and then whole areas declared 'unsanitary' under the Cross Act, which set the foundations for slum clearance procedure: 'the “designation” of an area, compulsory purchase of the property standing on it, and compensation to the owners' (Ravetz, 2001: 22). The Housing of the Working Classes Act 1885 (UK) consolidated the earlier legislation; under it London County Council and Liverpool City Council built their first tenements. The Housing of the Working Classes Act 1890 (UK) further enhanced councils' powers to build and manage their own housing, but they were required to dispose of it after 10 years (Ravetz, 2001: 25). Over the next twenty years about 20 000 dwellings were built by local authorities (Cowan and McDermont, 2006: 35).

Meanwhile, private bodies also built according to sanitary principles, beginning in London in the 1840s with the Metropolitan Association for Improving the Dwellings of the Industrious Class, and the Society for the Improvement of the Condition of the Labouring Classes - the former as a commercial enterprise and the latter as a charity - each with the purpose of building and letting flats for working class households at a reasonable return. Several more housing trusts were established in the 1860s, also on the basis of 'philanthropy at five per cent' (Daunton, 1983: 192-193; Ravetz, 2001: 23). From the 1850s, at various sites throughout Britain, manufacturing companies developed model villages on sanitary lines – for example, 'Port Sunlight' – to house their own employees and other workers (Ravetz, 2001: 33-35).

As Daunton points out, these developments housed none of the poor, and only a tiny proportion of the working population; many more workers were housed sanitarily on their own account, particularly through their participation in the building societies movement (Daunton, 1983: 192-194; Davison, 2000: 9-10). This was even more the case in the Australian colonies, where there was less heavy industry, and less of a need for workers to concentrate around a large firm, and hence less prospect for employers or housing promoters to develop rental housing on the scale of the British tenements and villages (Mullins, 1981). In 1860, the SCCWCM recommended that the construction of model dwellings by private capital should be encouraged, by awards of ‘medals or diplomas of distinction’, not subsidies (SCCWCM, 1860: 12). A Model Lodging House Company was established in the Rocks in 1878, but a Sydney Workmen’s Improved Dwellings Company, promoted in 1887, lapsed (Mayne, 1982: 159). The closest the city came to municipal
housing along British lines was the resumption and sanitary redevelopment of housing in the Rocks by the Sydney Harbour Commissioners after an outbreak of bubonic plague in 1900 (Volke, 2006). Nonetheless, sanitary model housing was established as part of the liberal reformer's solution to the problem of crime and disorder. So, for example, when the NSW Comptroller-General of Prisons, F W Neitenstein, conducted a tour of prisons, reformatories and asylums in Europe and America, he also made sure to visit London's model tenements and recommended their emulation in New South Wales, concluding that 'they afford cleaner physical and moral ways of living than prevailed under the old conditions, and in this way they help lessen the growth of crime' (Neitenstein, 1904: 106).

Housing and character

The people's homes are bad, partly because they are badly built and arranged; they are ten-fold worse because the tenants' habits and lives are what they are. Transplant them tomorrow to healthy and commodious homes, and they would pollute and destroy them. There needs, and will need for some time, a reformatory work which will demand that loving zeal of individuals which cannot be had for money, and cannot be legislated for by Parliament. (Hill, 1970: 10)

Between the unsanitary circumstances of the modern city and the free will of the liberal subject, classical liberal governmentality posited a kind of mediating substance: 'character'. Character consisted in habits, particularly of thrift, restraint and duty; these habits applied could build up more character. Character might be depleted or deteriorated by circumstances; alternatively, through character one could achieve 'mastery of one's circumstances' (Collini, 1980: 43).

Liberal reformers always implicitly assumed a role for housing in the formation of character, through the labour and thrift that had to be practiced to get and keep it; this role was emphasised and made explicit in the development of the building societies and in the pricing of the model tenements. The managers of the model tenements further sought to reinforce good habits through the terms of their leases. Neitenstein recorded that:
The most important rules prohibit any taking in of lodgers on the part of the occupiers; provide for the washing and sweeping of the common landings and staircases by the tenants in turn; provide for the cleaning of windows and floors weekly; confine the emptying of slops or carriage of dust and other offensive matter between certain hours; regulate singing, the playing of instruments, and noise generally, and so on' (Neitenstein, 1904: 106).

At the buildings owned by the Peabody Trust, tenants were required to be vaccinated; allowed to wash only their own clothing, and only in the laundries; prohibited from working at home in offensive trades such as rabbit pulling, matchbox making and working with glue; they could not keep dogs, or paint or paper their rooms, or hang pictures; nor could their children play in the corridors or stairs. The outside door to the buildings was locked, and lights put out, at 11 pm (Stedman Jones, 1971: 184-187).

In the final quarter of the nineteenth century, liberal reformers made two further attempts at directly forming character through practices of housing, this time amongst the poor. The first was the work of Octavia Hill, who managed tenancies for poor households, on a ‘five per cent philanthropy’ basis, in houses owned by private landlords and her own supporters. Bosanquet, a contemporary and supporter, described Hill’s techniques as proceeding on ‘the simple but not familiar idea that a landlord has a moral duty to his tenant’:

The system consists in the employment of trained women as agents and rent-collectors, who manage the property as any decent owner ought to manage it, but with a good deal of individual supervision…. It is absolutely indispensable for the houses of people who have lost the habit of living in comfort and cleanliness. (Bosanquet, 1891: 37-38)

Hill and her workers attended to repairs and improvements, and in return insisted on payment of the rent strictly as it fell due – less for any commercial reason than for the lesson in thrift it taught her tenants. And in contrast to Mr Wynne’s agents, Hill knew her tenants: in particular, she used the practice of collecting rent directly from tenants at their premises to insinuate a surveillance of character into their households, by inquiring after the circumstances of household members and giving advice and warnings. This work, Hill insisted, was to be done by women only – ‘ladies must do it, for it is detailed work; ladies
must do it for it is household work' (cited at Morrell, 1996: 95). Her system was, in effect, a new application of the technique of the ‘lady visitors’ developed by charitable organisations in hospitals and the disciplinary houses of the poor, and Hill herself explicitly articulated the disciplinary power of her techniques with classical liberal reformism:

'It is a tremendous despotism, but it is exercised with a view of bringing out the powers of the people, and treating them as responsible for themselves within certain limits... you cannot get the individual action in any other way that I know of. (Hill, 1885, cited at Cowan and McDermont, 2006: 41)

Hill did not establish a formal organisation through which to conduct her system of management – it is estimated that she managed about 2,000 tenancies at the time of her death in 1912, and her workers managed more in their own schemes (Morrell, 1996: 96) – but several Octavia Hill Societies were established in Europe and North America, and in 1916 her workers established the Association of Women House Property Managers. Hill’s methods of individual visiting, questioning and advice were accepted as the state of the art in reformist tenancy management, as well as being taken up more widely in the emerging field of social work.18

The second innovation was the creation of ‘settlements’ for the accommodation of middle class reformers within poor neighbourhoods, starting in 1884 with the Reverend and Mrs Barnett’s Toynbee Hall in London’s East End. Williams describes their mission: ‘settlers were not to deliver charity, but to throw in their lot with the poor, to live among them and befriend them, replacing the parish priest, the squire’s household and the schoolmaster’ (Williams, 1988: 3); more colourfully, an American settlement leader declared that a settlement ‘visitor’ should be ‘a wrestling angel’, delivering tough beneficence to the neighbourhood and, especially, inculcating households in ‘standards’ in housekeeping, cleanliness, child-raising and personal associations (Woods, 1898, cited at Vale, 2000: 74). By

18 There were, apparently, no Australian Octavia Hill Societies, but she was well known in the colonies. The Sydney Morning Herald reported on Hill’s methods (Sydney Morning Herald, 1884: 7), and E E Morris, President of the Charity Organisation Society of Melbourne remarked to the first Australasian Conference on Charity, in relation to methods of charity, ‘oh, the best authorities are St Paul and Octavia Hill’ (Morris, 1890: 9).
the First World War there were 50 settlements in various locations throughout England (Schubert, 2000: 119); the movement also spread through American cities, beginning with Jane Addams's Hull House in Chicago in 1889 (Vale, 2000: 72-79); Sydney too had one, established by students of the University of Sydney in 1908.

In this nineteenth century phase of the genealogy of government-housing, each of the above elements – the law of landlord and tenant, the disciplinary techniques of poor relief, the investigation and classification of the city, model dwellings, beneficent/disciplinary housing management – were connected in classical liberal problematics of poverty, sanitation and moralisation, but they were still ad hoc developments, and were not yet connected institutionally as a social housing system. This would begin to happen in the early twentieth century, with the emergence of new formulations of the problems – particularly of crime and disorder – to which housing could be addressed.

**Early History: the early twentieth century to the Second World War**

The turn of the twentieth century approximately marks the transition from social housing's prehistory to early history and, more broadly, the transition from classical liberal to social liberal governmentality. Reporting in 1913 to the NSW Government on housing conditions and housing reforms in Britain, Europe and Australia, R F Irvine looked back across this transitional moment; his comments on the 'housing problem' provide a useful contemporary introduction to the continuities and contrasts of the emerging social liberal governmentality:

[Classical liberal] optimists argued that things would right themselves if only men would abstain from meddling with nature. Others conceded that the conditions under which the working-classes lived were deplorable; but doubted whether any remedy could be found. As a result, no effective measures were taken for more than half a century. The workers, who suffered most, were at that time quite unorganised and destitute of political influence. Probably, moreover, few of them appreciated the real significance of the situation in which they found themselves. They did not understand and could not avoid the evils that inevitably followed from their mode of life – the undermining of health and character – the widespread racial degeneration. Nor did they see that this very squalid and congested life contained in itself the seeds of progress as well as the seeds of decay. Their association in factories and congested
living areas enabled them to realise a new community of interest which has been the parent of many fruitful movements. Concentration in cities has everywhere had these two results: it has meant for a time racial decay, but it has also meant new possibilities of association and progress. (Irvine, 1913: 4-5)

As Irvine indicates, social liberal governmentality extended the classical liberal concern for 'the undermining of health and character' into a new problem, 'racial degeneration'; it also located governmental solutions not in laissez-faire or philanthropy, but in 'a new community of interest' and 'new possibilities of association' that encompassed working people and justified greater intervention, especially by the state, in the processes of life and economy.

These themes are reflected particularly in social liberals' reformulation of the problem of crime and disorder. Whereas the liberal reform of police at the beginning of the nineteenth century proposed to detect and prevent crimes, the social reform of the early twentieth century proposed to identify and eliminate criminality through the operation of what Garland calls the 'penal-welfare complex' (1985). This was the particular promise of the new science of criminology, which as Garland observes, 'within a remarkably brief period, perhaps no more than twenty years after the appearance of Lombroso's L'Uomo delinquente in 1876... developed from the idiosyncratic concerns of a few individuals into a program of investigation and social action that attracted support throughout the whole of Europe and North America' (1985: 77). Criminology directed its analysis to identifying how the criminal individual was different from the non-criminal individual — and this was not, criminology insisted, a matter merely of choice or will: 'crime is a detected sign, symptom and result of a human personal condition' (Boies, 1901, cited at Garland, 1985: 91). This differentiated condition, criminality, was pathological: the criminal was 'abnormal', 'diseased' and otherwise 'deviant' from the norm (Garland, 1985: 92). As for the question of the causes of criminality, criminologists gave various, competing explanations — including constitutional and environmental factors, best known by their popular polarisation into the 'nature/nurture debate' — which criminology, as a body of science, allowed as multiple factors operating on the criminal individual (Garland, 1985: 99); these factors prominently included bad housing and the local-level 'social disorganisation' highlighted by the Chicago School.19 In response,

19 *The Making of a Criminal* (1940), one of the earliest works of criminological theory by an Australian author, was by F Oswald Barnett, an anti-slum campaigner and member of Housing Commission of
criminology proposed a scientific investigation of an individual's criminality, such that it might be either reformed by individualised treatment in a penal-welfare complex of imprisonment, probation and parole, psychiatry and social work; ‘extinguished’ – that is, by permanently removing the incorrigible individual from the social body; or, looking to the future, prevented, by eliminating the conditions that caused criminality (Garland, 1985: 98).

For this last function, early twentieth century reformers formulated new, distinctly ‘social’ programs of eugenics and social security. As Garland observes, ‘the eugenics program soon disappeared from respectable political discourse, [but] it did not disappear without trace’ (1985: 142): it shifted the target of intervention from the level of individual character to that of population, and orientated reformers away from *laissez faire* and philanthropic institutions and towards the state. The more significant and enduring program was social security, including minimum wages, labour exchanges and pensions and allowances as insurance against retirement, disability and unemployment. As Garland observes, social security meant securing certain normal modes of life only: ‘*inclusion and security* for the respectable, disciplined and regular worker, played off against a measure of exclusion and segregation for the “unfit”, the “unemployable” and the “degenerate”'(1985: 140, original emphasis).20

Amongst their other objectives, each of these programs gave support to what might be called a new social liberal expertise in housing, consisting of a new version of the sanitary housing reform commenced in the previous century, now enlarged into ‘town planning’, and the rationalisation of guidance as to domestic standards into a new ‘science of the household’ (Royal Commission on the Basic Wage, 1920, cited at Brown, 2000: 115; Reiger, 1985).

Victoria; it was analysis of the employment, housing and domestic circumstances of a cohort of juvenile offenders. An earlier, less theoretical work in the ‘infamous crimes’ style, *Studies in Australian Crime* (1924) was authored by J D Fitzgerald, the New South Wales housing and town planning campaigner and chair of the NSW Housing Board.

20 So, for example, eligibility for the old age pension, introduced first in New South Wales in 1900, was restricted to persons who were of ‘good character’ and had led a ‘sober and reputable life’; on the other hand, Aboriginal persons, ‘Asiatics’ and persons convicted of criminal offences were excluded (Conley, 1982: 285).
Social government and housing

In this social liberal expertise in housing, the role of housing in governing against crime and disorder was to secure the household by providing the material basis for its integration with the norms of society. This was a matter, in the first place, of physical and spatial form – as the NSW Director-General of Public Health put it, ‘morality is a question of square feet’ (Morris, 1937, cited at Spearritt, 1974: 72). Social liberal reformers proposed quite specific and detailed forms both for the individual dwelling and its wider setting, mostly famously in Ebenezer Howard’s Garden Cities, which, as wholly new cities of civic gardens and defined land-uses, delimited by distinctive green-belts and linked by rail, were supposed to achieve the synthesis of ‘Town-Country’ and realisation of ‘Social City’ (Hall, 1996: 93; Ward, 2002: 46-48). In the event, the greater effect of the Garden Cities movement was the inspiration it gave to the very much larger movement to plan and build ‘garden suburbs’ in existing cities and towns. These were residential areas at reduced densities, with more semidetached and detached housing, ‘one family, one house’ (Reade, 1914, cited at Freestone, 1987: 57) and, of course, public and private gardens, which were a manifold benefit: a focus for social interaction, a sound hobby, and a source of nutrition and assistance to the household budget. Promoted as ‘the great lever of social reform’ (Hennessy, 1912, cited at Freestone, 1987: 55), garden suburb principles were implemented, if rarely perfectly, by states first in Britain, and shortly thereafter in Europe, Australia and the United States, through the provision of transport and other infrastructure, and through town planning legislation that enshrined sanitary principles of separated land-uses, open spaces and detached housing.

In this diffusion of ideas, techniques and instruments of planning and building, two particular developments are especially relevant to the genealogy of government-housing. The first is the refinement, in the United States, of garden suburb planning to create discrete ‘neighbourhood units’. First conceived of in the 1920s by Clarence Perry as the translation of the settlement concept into a device of physical planning, the neighbourhood unit was delimited by the walking distance of the local school and a playground, and furnished with a square or common area for social intercourse (Hall, 1996: 123; Schubert, 2000: 122-23; Vale, 2000: 14). It was given concrete form in 1928 by Clarence Stein and Henry Wright in the garden suburb of Radburn, New Jersey, built as a super-lot that turned aside through-traffic, provided residents with pedestrian pathways and a central open space, and oriented their
houses away from the streets and towards the gardens (Hall, 1996: 126). The second, contrary development arises from Europe, where garden suburb planning was practiced at higher densities, with terraces and flats of modernist design. Taken at its extreme, as represented by Le Corbusier's unrealised plans for *La Ville contemporaine* and *La Ville radieuse*, this line of development proposed a physical-spatial form – high-rise cruciform towers in vaulting open spaces and straight, multi-lane roads – that was diametrically opposed to that of the discrete neighbourhood within a garden suburb, but it was still addressed to the familiar sanitary problematic of circulation and congestion. Each would have their greatest influence after the Second World War, in social housing’s ‘golden age’.

Secondly, the social liberal reform of housing was also a reform of housing economics, finance and ownership. Social liberal government continued to rely primarily on housing provided privately by the market: nowhere throughout the early twentieth century West was social housing the first choice, let alone the only choice, of reformers. It did not rely, however, as nineteenth century reformers had, on ‘the conduct of some wealthy man’ (Aaron, 1860: 59). Howard’s Garden Cities were privately financed and co-operatively owned, and it was this, as much as their distinctive form, that really excited reformers with the promise of garden city land values rising to fund municipal pensions and other local welfare services (Hall, 1996: 92-93). Housing associations and co-operatives, both for owner-occupation and rental housing, and often associated with the labour movement, also grew up through Europe (Harloe, 1995). Individual home-ownership was especially favoured, particularly in the relatively high-wage economies of the United States and Australia: Australian State governments used state banks to advance deposits and facilitate mortgage lending to workers, and the Commonwealth Government directly financed home ownership through the War Service Homes Commission. Through the 1920s, British governments also directly subsidised private housing development, most of which was sold into owner-occupation (Harloe, 1995: 112). Less directly, private housing to an appropriate standard was supported by states as they intervened in labour relations and the setting of minimum wages. The Australian formulation of ‘the living wage’ in the 1907 *Harvester* decision, for example, considered the cost of housing of a reasonable standard for a working class family; later, the 1920 Royal Commission on the Basic Wage heard evidence as to, amongst other things, the number of rooms that ‘the new science of the household’ prescribed for a working class
household of five persons (Royal Commission on the Basic Wage, 1920, cited at Brown, 2000: 115).21

To similar ends, states also intervened in the landlord-tenant legal relationship, particularly on the matter of rents. In the first section of this Chapter, I characterised the actions available to landlords as 'sovereign' actions; the interventions of states were rather in the manner of a paramount sovereign: that is, they were interdictive restraints on the powers of landlords. Through the course of the First World War, rent controls were introduced by countries across Europe, and in some jurisdictions in the United States and Australia, and in many places they were retained for some time after the end of the war (Harloe, 1995: 80, 135). In New South Wales, the Labor Party had campaigned on rent control immediately before the war, and subsequently introduced the Fair Rents Act 1915 (NSW), which limited rents to six per cent of the value of premises. These controls were partly lifted in 1928, wholly repealed in 1937, then imposed again on the outbreak of the Second World War (Fair Rents Act 1939 (NSW)). Also noteworthy is that distress for rent was subject to restriction, first in the 1890s depression to protect the income-producing goods of working class households (such as sewing machines and tools), and later abolished altogether (Landlord and Tenant Amendment (Distress Abolition) Act 1930 (NSW)).

Amongst these various solutions to the social problem of housing, states did also resort to providing housing directly, as social housing. As it was just one amongst several solutions, the availability of which varied between countries, the scale on which the social housing solution was pursued varied hugely, and there was also considerable variation, experimentation and adjustment as to the target populations and the built and institutional forms of social housing. All of this variation, however, was on the general theme of securing, first, households of solid working class respectability and regularity and then, from the 1930s, less regular, lower-income households capable of fitting social housing's standards, through the provision of expertly planned and maintained homes.

21 The answer was five: the Commissioners decided that the fifth room was necessary for use as a 'sitting or social room', thereby 'preserving decency in the home' and 'maintaining a good standard of manners and civilisation' (Royal Commission on the Basic Wage, 1920, cited at Brown, 2000: 115).
Social housing projects and targets

The first social housing of the new century, commenced in 1900 by the London County Council under amendments to the *Housing of the Working Classes Act 1890* (UK) that permitted development beyond the county boundary, was priced, like the previous century’s model tenements, to house relatively well-paid skilled artisans. These estates were contemporaries of Howard’s Garden Cities and the first garden suburbs, and as projects of large-scale town planning and domestic architecture they were, according to Hall, ‘in many ways identical, in spirit and practical outcome’ to the developments taking shape at Letchworth Garden City and New Earswick Garden Village (1996: 52). The relationship between social housing and town planning was formalised in the *Housing and Town Planning Act 1909* (UK), which joined municipal housing powers to new powers for making town planning schemes (and allowed councils to retain ownership of the houses they built). Only 13 schemes, all on garden suburb lines, were proposed by a ‘handful’ of councils under that legislation (Ravetz, 2001: 70-71), but the connection it made endured in subsequent regimes and inspired reformers in other jurisdictions – notably New South Wales, as discussed below. During the First World War, social housing was built in remote centres for British munitions workers – the first projects conceived without a direct justification in sanitary reform (Harloe, 1995: 81). The day after the Armistice, Lloyd George made the famous promise of ‘homes fit for the heroes who have won the war’, then enacted the *Housing and Town Planning Act 1919* (UK) (the ‘Addison Act’), which positively required local councils to assess their housing needs and build to the standards prescribed. These were largely the work of Raymond Unwin, the architect of Howard’s Garden Cities and the innovator of the garden suburb (Hall, 1996: 68). Even though the standards were subsequently reduced, the garden suburb remained the basis for what has become the familiar estate form of social housing. Eventually 170 000 dwellings were built under the Addison Act, but at such a cost that the rents, even after Treasury subsidies, were two to three times those of the rent-controlled private sector and affordable only to the relatively well-paid (Ravetz, 2001: 77-78; Harloe, 1995: 108). Envisaged as a seven-year program, the Addison Act was terminated after three years and in 1924 a new Act provided for reduced standards and subsidies; in 1930, yet another Act increased subsidies but linked subsidised building to slum clearance and rehousing the lower income households who were displaced; and finally, over the course of the Depression, the earlier programs of subsidies were allowed to lapse, and to cut costs
standards were again reduced – particularly to provide for flats (Ravetz, 2001: 93). Reflecting these historical adjustments in the standards, costs and targets of social housing, in 1935 the principle of cross-subsidisation of social housing stock was introduced – and with it, rental rebates according to tenants’ incomes, which would become an important technology in social housing management (Harloe, 1995: 184). Between 1919 and 1939, and despite the continual shifts in targets and standards, British councils built more than one million dwellings – about a quarter of the total housing stock built in that period – and the beginnings of a relatively broad-based social housing system (Ravetz, 2001: 89).

In the United States, on the other hand, with its strong preference for social security through home ownership, there was social housing for munitions workers during the First World War, but then no more social housing until the Depression, when President Roosevelt’s Public Works Administration began including housing in its construction program. These projects were targeted to ‘families of low incomes’, which were limited to six times the public housing rent; and this target group was adopted again in the Housing Act 1937 (US) (the Wagner-Steagall Act), which established the provision of public housing through state-enacted public housing authorities (Harloe, 1985: 191-97). Even so, these were ‘typical employed families of very low income, who are independent and self-supporting’ (United States Housing Administration, 1938, cited at Vale, 2000: 183; original emphasis) or, put another way, a ‘submerged and potential middle class’ to be secured against the Depression, and who would be expected to increase their incomes and move on (Vale, 2000: 182). Public housing building programs were also legislatively joined to slum clearance: the elimination of a ‘substantially equal’ number of unsanitary dwellings was required for any new public housing built (Vale, 2000: 184). By 1940, 117 000 public housing dwellings had been constructed, representing eight per cent of all construction in the two years to that date (Harloe, 1995: 197).

In Australia, social housing was the subject of even more erratic experimentation. The NSW State Government became involved in social housing relatively early, establishing under the Housing Act 1912 (NSW) the NSW Housing Board and commencing work on Daceyville Garden Suburb, a public housing estate described by the Board’s Chairman as ‘a small experiment in eugenics’ (Fitzgerald, 1914, cited at Keane, 1993: 207) for ‘working men and their families’ (Fitzgerald, 1913, cited at Keane, 1993: 206). The criteria for eligibility were
that the prospective tenant did not own a house, was of good character and could afford the rent; the rents, set to recover the cost of the scheme, were affordable for relatively well-paid workers (Briggs, 1972: 24). Originally planned to include over 1700 dwellings, just 315 were completed when construction stopped in 1920; the NSW Housing Board was abolished in 1924. Other experiments in social housing were conducted on an even smaller scale: two projects of flats, the State’s sole municipal social housing projects, built during the First World War by the City of Sydney to house persons displaced by slum clearance (Volke, 2006: 60); a Commonwealth-built estate of 100 dwellings for munitions workers at Lithgow (Freestone, 1989: 157-58); and in the late 1930s (at the same time that the Victorian and South Australian State Governments established their own public housing authorities), the NSW State’s Housing Improvement Board built an estate of 56 flats in inner-Sydney Erskineville as a demonstration for local councils of standards in town planning and domestic architecture, slum clearance and social housing. Eligibility for the Erskineville flats was subject to a maximum income (unlike Daceyville), but this was well above the basic wage; the rents were relatively high; and applicants were required to be in steady employment (Volke, 2006: 88-89).

All of these projects deliberately left out categories of substandard persons who were ‘beyond reclamation’ (Ministry of Health Central Housing Advisory Committee (CHAC), 1938, cited at Ravetz, 2001: 116). It was envisaged that some might benefit incidentally and ‘filter up’ to the less intolerable dwellings vacated by the new occupants of social housing (Harloe 1995: 35), but proponents of social housing assumed that for ‘Incorrigibles, Unemployables and Unregenerates [sic]… some sort of institutional shelter should be provided’ (Barnett and Burt, 1942: 42). Along these lines, Dutch authorities in the 1930s instituted a number of ‘experimental colonies’ for ‘difficult’ tenants, with surrounding walls and 11 pm curfews, which were noted with interest, but not formally emulated, by other authorities (Harloe, 1995: 169; Ravetz, 2001: 93).

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22 There was no criterion as to maximum income: indeed, Labor Treasurer J R Dacey stated that ‘I don’t care if the man is a millionaire…. I wish to make that clear in order to do away now with any idea of class distinction’ (Dacey, 1912; cited at Volke, 2006: 38).

23 Like his co-author, W O Burt was member of the Victorian Housing Commission.
Meanwhile, there were no great visionary statements or movements for the management of social housing: ‘in contrast to all the effort that went into its design, little thought was given to what the management of [social] housing would involve’ (Ravetz, 2001: 111). Octavia Hill’s method remained a ready resource for social housing authorities: the Association of Women House Property Managers (from 1932, the Society of Women Housing Estate Managers) continued to train managers, and its members worked on the war-time munitions estates and some of the Addison estates in the 1920s, and in the state’s first statement on
social housing management, the CHAC’s manual, *The Management of Municipal Housing Estates* (1938), Octavia Hill’s method was recommended for the ‘social education’ of tenants in becoming ‘housing-minded’ (CHAC, 1938, cited at Ravetz, 2001: 116). By the mid-1930s, however, only about 20 per cent of British councils had appointed formally designated housing managers, and many of these officers had instead a background in real estate or financial management (Harloe, 1995: 189) – and the remaining councils parcellled out the various tasks of management to the existing divisions in their bureaucracies (Ravetz, 2001: 112). These sorts of officers were represented, from 1931, by a male-dominated Institute of Housing. Relative to the other professional interests involved in planning and building social housing, housing officers were weak professionally: they were allowed little input into the design of social housing, and became subordinated to the demands of property maintenance (Ravetz, 2001: 113).

The very personal aspect of Hill’s method, then, became something of a minor theme in practice; nonetheless, housing officers still performed intensive investigations into the circumstances of applicants and tenants, and counselled them in the correct uses of their dwellings and surrounding spaces. The CHAC’s manual emphasised the importance of carefully ‘grading’ applicants, to ensure that risky households were not transplanted en bloc from the slums to estates, but rather mixed in with ‘families of a good type’; in practice, however, British officers used grading and their differentiated stocks of housing to achieve the opposite of social mix: concentrations of lowly-graded households in lower-rent, lower-quality stock where they might be more heavily supervised (Ravetz, 2001: 93) – an informal rendition of the Dutch colonies. At the Erskineville estate, the NSW Housing Improvement Board employed an English woman housing officer for ‘the delicate task of choosing the families most suitable…. Miss Margaret Ratcliffe, housing manager, investigated all their personal problems, individual requirements and visited their homes to see for herself under what conditions they were living’ (Pix, 1939: 4). During the course of a tenancy, housing officers used rent collection as an opportunity to check for lodgers (generally prohibited under tenants’ leases), overcrowding and other hazards: as the NSW Housing Board put it, ‘our rent collectors are practically health inspectors, and if they notice anything undesirable they report it to the Board’ (Foggitt, 1918: 31).

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By the end of the 1930s, then, social housing was part of the landscape of social liberal reform, and part of the landscape of many cities, though in each respect its prominence varied. Social housing really became established other than as an experiment or expedient after the Second World War.

The Post-War ‘Golden Age’ of Social Housing

The period after the Second World War has been called the ‘Keynesian’ or ‘Fordist’ phase of social liberal governmentality (Hay and Jessop, 1995; O’Malley and Palmer, 1996; Dean, 1999: 150; O’Malley, 2004: 48-50). It is also the period of the international ‘golden age’ of social housing (Harloe, 1995: 210).

The period is Keynesian because of the transformation of the concept of the economy in liberal governmentality by the economic revolution commenced in the 1930s by John Maynard Keynes: a revolution in theory that put uncertainty, rather than the classical problem of scarcity, at the heart of economic decision-making, where it led to lack of demand and systematic economic underperformance (Skidelsky, 2004: 523-4); it also entailed a revolution in economic policy, transforming it into a matter of managing aggregate demand so as to maintain full employment. Keynesian economics made sense of what had worked to promote economic activity during the Great Depression, and had provided a basis for financing the Second World War; it also offered the prospect of sustained post-war prosperity through state management of capital expenditure, nationalised industries, and planned mass production and consumption – hence its ‘Fordist’ characterisation. Keynesian economics also transformed and enlarged social security, integrating it with taxation in aggregate demand management, and expanding it beyond traditionally worthy working class households to those who may not have been in the labour force, but who now appeared as units of consumption with a role in demand management; meanwhile, many of those working class households moved away from the ambit of social security, because of rising prosperity and welfare delivered through continuous employment.

The idea of a ‘golden age’ may not be really appropriate to matters of crime control, criminal justice and criminology, but in the post-war period, the government of crime and disorder achieved ‘a settled institutional structure and an established intellectual framework’, built on
both the criminological tradition and the penal-welfare complex established in the early
decades of the twentieth century (Garland, 2001: 27). Garland and Sparks summarise what
mid-twentieth century criminology took as settled:

Crime was a social problem that presented in the form of individual criminal acts. These criminal acts, or at least those which appeared serious, repetitive or irrational, were viewed as symptoms of ‘criminality’ and ‘delinquency’. They were the surface signs of underlying dispositions, usually found in poorly socialised or maladjusted individuals. These underlying dispositions – and the conditions that produce them – formed the proper target for correctional intervention, with penal treatment being focused upon the individual’s disposition, and social policy being left to deal with the wider causes. (Garland and Sparks, 2000: 194)

Summarising further, the ‘basic axiom’ of penal treatment was that ‘penal measures ought, where possible, to be rehabilitative interventions rather than negative, retributive punishments’ (Garland, 2001: 34), and the central theme of the ‘wider causes’ of crime was ‘social deprivation’ and, later, ‘relative deprivation’ (Garland and Sparks, 2000: 194). The shift in theme represents the response of criminology to the distinctly post-war, Keynesian problem of governing prosperity. Through the 1950s and 1960s, criminology adjusted its search for the causes of crime with innovations such as strain theory and social opportunity theory (Weatherburn and Lind, 2001: 7-8), which reformulated the problem of economic disadvantage in the context of general affluence, within criminology’s general framework of concern for the motivations of offenders.

The post-war period also represents the height of the development of the police – in the narrow sense of the word – as the state’s specialised agency for the detection of crime (Crawford, 1997: 21). By the mid-twentieth century, innovations in transport and communications technologies allowed police officers to function less like missionaries and more like officers of fire brigades in responding to emergencies – speedily detecting offenders and delivering them into the custody of the penal-welfare complex.
Post-war housing

Social liberal housing policy also achieved more or less settled structures and rationales, on patterns established earlier in the century, but now enlarged by the Keynesian transformation of social security. Towards the end of the war and immediately after, social housing especially became the object of ambitious plans for the reconstruction of economies and societies. In the decades following, the full extent of these plans was not realised, but the social housing systems implemented really were systems, on a scale and with a degree of durability not present in the models and examples of the pre-war period.

So, in Britain, the post-war Labour government commenced a comprehensive program of town planning and ‘realised Ebenezer Howard’s vision half a century later’ (Hall, 2000: 29), building not less than 28 ‘new towns’ on garden city lines, many around proposed centres of Fordist industry and, from the mid-1950s, with Radburn neighbourhood planning principles incorporated too (Ward, 2002: 174). Local councils also built social housing again to ‘general needs’, and in 1950 it accounted for more than 80 per cent of new housing built in Britain (Harloe, 1995: 263). Over the following decade, however, as controls on private building were lifted and subsidies for new construction were linked more closely to slum clearance project, this rate declined to less than 50 per cent (Harloe, 1985: 287). Nonetheless, the scale of slum clearance was unprecedented – 1.2 million pre-First World War dwellings were demolished in the two decades from 1957 (Ravetz, 2001: 104) – and the social housing that replaced them was increasingly in the form of flats, particularly industrially-produced, Corbusian high-rise flats. The proportion of flats in council projects rose from 23 per cent in 1953 to about 50 per cent in 1960; by the mid-1960s, high-rise flats in particular comprised about a quarter of all new units (Harloe, 1985: 286). Social housing management also became more settled, if only as a relatively low-status profession focused on protecting properties and supervising tenants in the proper use of them (Ravetz, 2001: 114). The Institute of Housing and Society of Women Housing Estate Managers finally merged in 1965 and, as the Institute of Housing Managers, issued a consolidated manual: it noted Octavia Hill’s method but suggested that such close personal attention ‘would now be justified only very exceptionally’ as the majority of tenants ‘need no special care’ (Macey and Baker, 1965: 235). Nonetheless it still instructed officers in investigating applicants’ rent books and their standards of cleanliness and ‘home care’, and advised that they ‘encourage in tenants a
feeling of pride in their house and its surroundings’ and ‘take an interest in the trials and troubles of individual tenants’ (1965: 291). For ‘problem families’, the Institute recommended ‘treatment’: that is, placing the family in social housing, and ‘there giving them special guidance and training as a family’ through the combined efforts of housing officers and social workers (1965: 298).

The United States, on the other hand, enlarged its pre-war pattern of preference for individual home-ownership, and public housing was confirmed as a residual program of security tied to slum clearance (now ‘urban renewal’). Even so, to 1967 some 674,000 public housing dwellings were built, many of them in huge estates of towers and flats (Harloe, 1985: 269-75). This was, even more than before the war, housing for low-income households, but still public housing landlords insisted on ‘standards’: until the early 1960s, many of them segregated whites and non-whites, and they conducted eligibility policies that excluded applicants as ‘unacceptable’ on grounds such as the illegitimacy of their children, drug and alcohol problems, unsanitary housekeeping, arrest records, histories of poor rent payment, and income derived from welfare payments (Vaile, 2000: 314-315).

In Australia, both Federal and State levels of government became more heavily involved in housing policy – on the familiar pattern of preference for private provision, and public housing for persons not served by the private market. The high-point of ambitions was the report of the Commonwealth Housing Commission (CHC) in 1944, which envisaged public housing for the lowest-income third of the population, provided by local councils under the direction of state housing authorities with broad powers in relation to planning, standards and other aspects of housing generally. By the early 1950s, however, the conservative Prime Minister could presume to speak for all Australian Governments when saying ‘I do not want to see a state of affairs in Australia – and I am glad to gather that the Premiers do not – in which governments are the universal landlords. I think that this is a shocking position for governments to get into’ (Menzies, 1953, cited at Jones, 1972: 118). In the event, under a series of Commonwealth-State Housing Agreements (CSHAs), public housing represented about 16 per cent of all new housing construction (14 per cent in New South Wales) and so grew to represent about eight per cent of all housing at the 1966 Census (seven per cent in New South Wales) (Jones, 1972: 15-16), and responsibility for it remained with the state housing authorities and their wider functions were not really developed. Over the same
period, another 13 per cent of new housing construction was financed under the War Service Homes scheme for owner-occupation by ex-servicemen. Moreover, a large proportion of the public housing stock was sold into owner-occupation, too: in New South Wales between 1946 and 1969, 34 per cent of houses built by the state housing authority were sold to their occupiers (Jones, 1972: 127). Nonetheless, even on these reduced terms public housing could present itself positively. Public housing was advertised in brochures, booklets, and even touring maps of new estates and developments (NSWHC, 1947), and could claim that it was ‘not in any sense... a liability’, but rather ‘a social necessity, an essential facet of growth, development and decentralisation in a country such as this, and a positive, productive factor in our national progress and economy. Both in the social and material sense it is a valuable asset to the State.’ (NSWHC, 1966: 13)

The New South Wales state housing authority was the NSW Housing Commission (the Commission). In the following sections, I will look in more detail at several aspects of the public housing system administered by the Commission: its tenants and its housing officers, its spatial and built forms, and its conduct as a landlord.

Public housing in New South Wales: the NSW Housing Commission

Established 5 February 1942, the Commission’s first function was the construction of housing for war-workers, as well as the management of the State’s small pre-war public housing projects. By 1946, the Commission had built 2 111 dwellings and had commenced or contracted for another 5 528 – several times the number of dwellings delivered by the pre-war projects (NSWHC, 1946: 5). With the commencement of the CSHA in 1945, the Commission was entrenched as the State’s public housing landlord and its activity accelerated.
Figure 2.1. Public housing stock: retained and sold (cumulative).

(Source: Jones, 1972: 127)

Public housing tenants

Tenants of the Commission were admitted to public housing on the basis of what might be characterised as a social definition of need: that is, they and their households were of a sound type that needed to be secured against potentially damaging circumstances. According to the Commission’s eligibility policy, applicants had to establish that they had been unable obtain adequate private housing affordably — this generally meant at a rent less than 25 per cent of the applicant’s income (Jones, 1972: 22) — and that they had ‘a Housing need’, such as where the applicant’s present housing was unsanitary, overcrowded or shared with in-laws, of insecure tenure, or distant from the applicant’s employment (NSWHC, 1968a: 150/2). There was no income threshold or means test, and the policy expressly provided for a ‘reasonable degree of discretion’ to admit ‘applicants of rather higher income such as school teachers, police officers and other… employees following their calling’.

Decisions as to eligibility were made by local Tenancy Advisory Committees, typically comprised by a representative from local government, a nominee of the local State Member

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24 From 1956 the CSHA stated that public housing was ‘primarily for families of low or moderate means’ (cited at Jones, 1972: 22), but there was still no means test.
of Parliament, a representative of ex-service personnel, and a representative of 'the womenfolk of the district' (NSWHC, 1977: 47-48).

The result was public housing for low- to moderate-income working class families. Jones’s analysis (1972) of the 1966 Census data reveals that public housing tenants in Sydney participated in the workforce at only a slightly lower rate than the population of Sydney generally – in fact, for public housing tenants in detached houses, the rate was the same.

Figure 2.2. Public housing tenants, employment and occupation, Sydney, 1966.

(SOURCE: JONES, 1972: 39)

Jones’s analysis also gives an indication of the prevalence of young families in public housing. The ages of public housing tenants and occupants are markedly lower than those of the population generally.
The Commission's 'social' criterion of need was reinforced by further specific inclusions and exclusions. Ex-service personnel were included: the 1945 CSHA stipulated that half of all allocations should be to the households of ex-service personnel, and the Commission in fact allocated more than three-quarters of its two-bedroom units to ex-service personnel and their families (NSWHC, 1947). From the mid-1950s, age pensioners were also included, under a specific funding stream for small flats and bedsits. On the other hand, single persons of working age were excluded from eligibility: indeed, the Commission's policy was that if a male tenant should become single - whether by the death of their spouse or otherwise - his tenancy would be terminated (Jones, 1972: 63). Single parents also received less preferential treatment: they were expected to share a bedroom with a child of the same sex.

Migrants, too, were excluded, at least to begin with. The Commission allowed no migrants into its public housing from 1945-1948; British migrants were eligible from 1948, and naturalised non-British migrants from 1953. By the 1960s, 'need' had been adjusted to address migrants - 'it is necessary that adequate housing be available so assimilation in the community can be achieved quickly to prevent homesickness or the "unwanted" feeling' (NSWHC, 1960: 6) - and from 1962, all migrants were eligible to apply for public housing on settling in New South Wales (Jones, 1972: 49). As Figure 2.4 shows, however, at the 1966...
Census public housing tenants as a group remained notably more Australian-born than the population generally.

Figure 2.4. Public housing tenants by place of birth, Sydney, 1966.

(Source: Jones, 1972: 50)

Finally, on this social view of ‘need’, persons whose hygiene and conduct were not up the standard were excluded from eligibility. Housing officers investigated and reported to the Tenancy Advisory Committee on each applicant’s standards of personal hygiene, behaviour and ability to pay rent regularly, by inspecting the applicant’s current premises and checking references from landlords. Jones provides two examples from housing officers’ reports: that of a ‘wife with ten children, eight under 14 years’ who was reported to ‘have acted without restraint for many years and without regard to the security of the family she was bringing into the world’; and that of an 82 year old woman ‘of unkempt and dirty appearance, the interior of [whose] house contains rubbish and [whose] natural housekeeping standards are far below those required of the Commission’s tenants’ (Jones, 1972: 61) – each was ineligible. According to Jones, the Commission also ‘filtered’ out unsound applicants through the provision of emergency accommodation to the neediest applicants in ‘community housing centres’ comprised of ex-military buildings – the Commission’s version
of the Dutch colonies; from these accommodations, only those who maintained regular rent payments and satisfactory housekeeping were allocated permanent public housing (Jones, 1972: 67).25

Notwithstanding its insistence on 'standards', the Commission did anticipate 'social problems naturally, and not infrequently, encountered in... families in the low-income group' (NSWHC, 1955: 21). It also expected, however, that these problems would be solved and families 'rehabilitated to a satisfactory level of social behaviour':

Proof of this is evidenced in cases where the first decent accommodation some 'problem' families had known was that obtained from the Commission. With assistance and encouragement they have reacted favourably to their new environments, developing house pride as tenants and eventually proceeding towards home ownership. With the favourable conditions under which tenancy can now be converted to ownership, it is anticipated that instances of this nature will increase. (NSWHC, 1955: 21)

Public housing officers

The day-to-day operations of this rehabilitative regime were carried out by the Commission's staff of housing officers, employed under its Revenue Branch, with the assistance of a small staff of female welfare officers, under the Allocations and Properties Branch. Their respective roles reflected the development of housing management in Britain: property management, with a strong minor theme in supervising tenants' household arrangements;

25 Ruth Park's *Poor Man's Orange* (first published in 1949) told of the tribulations of inner city tenants, like the fictitious Mr Casement, whose housing was both of poor quality and in short supply, and described 'the terror of most of the evicted people... that they would be sent to squalid housing settlements where worse slums had been created than any the Council had pulled down' (1977: 259):

'Them little army huts,' thought Mr Casement in panic, 'and people fighting and screaming and banging on walls, and pinching the washing, and Jessie expecting me to go in and tell 'em off. I just ain't up to it these days' (Park, 1977: 259).
also like their British counterparts, both these sets of officers lacked status relative to public housing’s technicians, planners and builders (Mant, 1992: 22).

In its report, the CHC had envisaged housing officers possessed of ‘tact and understanding, as well as some technical qualifications… some knowledge of law, accountancy, housing and social service is needed’; it also endorsed the use of Octavia Hill methods where considered necessary (CHC, 1944: 65-66). The training of the Commission’s housing officers was mostly received on the job, with preliminary training in ‘property management, rent collection and public housing activities generally’ (NSWHC, 1947: 33). As indicated above, these officers investigated applicants; they also scrutinised tenants and their dwellings, through the direct collection of rents and more formal interviews and inspections. They were, for example, required:

- to keep under review at regular intervals occupants of Commission dwellings and are to report any circumstances where persons other than the authorised occupants have entered into the dwelling. ... To achieve this Housing Officers are required to observe sleeping arrangements when visiting the premises in connection with arrears reports, etc, and take appropriate action when irregularities are found. (NSWHC, 1967: 107)

Housing officers were further instructed to conduct ‘an efficient and wise liaison’ with tenants, and to that end the Commission required that housing officers ‘possess the personality and capacity to deal with people of varying temperaments and different social backgrounds’:

- Housing Officers must be pleasant but firm where occasion demands; they must be courteous and considerate and yet quick to detect unfair and unwarranted demands on the part of tenants and applicants.... Should it be necessary for housing officers to reply to or to initiate correspondence with tenants, or other persons, other than in the standard form letters duplicated for particular purposes, such letters should not be written in an abrupt or peremptory tone.... This does not, however, preclude the

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26 This training was followed by a ‘more extensive course of lectures at the Sydney Teachers College, Sydney University’, in ‘Human Behaviour (embodying courses in elementary Social Psychology and Sociology), Community Organisation, Social Case Work, Public Health, English Expression and Social Legislation’ (NSWHC, 1947: 33).
use in corrective action of a tone that is firm and direct, but nevertheless meets the requirements of courtesy and consideration. (NSWHC, 1967: 28-29)

The female welfare officers worked more intensively in the Octavia Hill tradition: their duties included 'the investigation of cases where tenants have allowed their rents to fall into arrears and, where necessary, to furnish advice in regard to judicious budgeting of the family income. They also see to encourage careless tenants to maintain standards of health and cleanliness with their homes' (NSWHC, 1948: 32). The welfare officers' involvement in cases was, however, unusual: in 1975, the Commission employed just eight welfare officers for all of the State (Bradbrook, 1975: 132).

Public housing places: homes and estates

For all the efforts of the Commission's officers, the major contribution of the Commission to the social liberal government of crime and disorder was considered to be the housing itself – and in order to house its tenants, the Commission built. Until the 1970s, most new public housing tenants took possession of premises that were newly constructed (Jones, 1972: 18).

As well as the newly built stock, the Commission had also inherited the state's pre-war public housing stocks and a number of sites and buildings that had been used for military purposes – the latter became the community housing centres, referred to above, which provided emergency accommodation until their closure in 1966. The Commission also conducted slum clearance: to 1970 it demolished 1 430 slum dwellings, mostly in the inner-Sydney suburbs of Redfern, Surry Hills and Waterloo, and built 3 472 public housing dwellings in their place (about six per cent of completions) (Jones, 1972: 72). This was slum clearance on a smaller scale than that of social housing authorities in Britain and the United States – at least partly because the Commission was occupied with building houses, particularly for sale.

Through the 1940s and 1950s, the majority of the Commission's new dwellings were detached houses built according to sanitary town planning principles on middle- and outer-suburban estates, usually of 500-2000 dwellings each (NSWHC, 1960: 8). As the Commission put it, 'these estates radiate out from the city proper' and, it was claimed,
created a potential labour force in strategic areas which attracted and allowed “breathing space” for industrial expansion – and provided the “castle” for the working man and his family’ (NSWHC, 1960: 8). From the late 1950s, the scale of the Commission’s estates increased, with the commencement of very large estates of detached houses in the outer suburbs of Sydney – notably Green Valley, with 6 000 dwellings for 25 000 persons, and Mt Druitt, with 8 000 dwellings for 32 000 persons – many of which were sold. In 1962, in the final stage of the Green Valley estate, the Commission expressly adopted for the first time the Radburn model of neighbourhood planning; the result was the Cartwright neighbourhood, with its pedestrian paths, communal spaces and houses facing away from the street, and it was, according to the Commission, ‘received most enthusiastically by the public generally, and in particular, was favourably commented upon by many planning authorities’ (NSWHC 1963: 16). The Commission also built flats, first mainly in walk-up blocks, then, from the mid-1950s, in high-rise towers, such as Northcott Place, a ‘Town in the Sky’ of 430 units in three 12-storey towers in Surry Hills, ‘designed mainly for business couples and families with grown-up children working in the city’ (NSWHC, 1960: 14). It also experimented with a range of niche dwellings, such as a ‘revolutionary’ bedsit unit (NSWHC, 1960: 19), particularly for elderly tenants.

Despite the significance it attached to the planning and amenity of its estates, the Commission recognised ‘no provision in the financial concepts of public housing… for the financing of cultural, social and like facilities’ (NSWHC, 1968b: 13); its role was to dedicate land to these purposes and leave the actual development of them to other agencies and society generally. In the Commission’s very confident view, ‘the establishment of normal community facilities and services is relatively short and in a few years even the largest of estates becomes merged with and accepted as a normal part of our urban area’ (NSWHC 1966: 13). This ‘progressive advancement to maturity’ operated, in the Commission’s view, on both the physical and human fabric of its estates:

It is pleasing to see ambition, hard work and effort, often assisted by the security and stability of satisfactory housing, exert itself to the point where a family in a Commission dwelling betters its financial position considerably…. The process now is that [public housing estates] tend to develop more into mixed community, which, with the passage of time and maturity, stabilises them and makes them
indistinguishable from the normal urban community with which they blend.
(NSWHC, 1968b: 15)

Maintaining this process on the Commission’s estates required the ‘constant attention’ of its
officers (NSWHC, 1955: 21), including through their use of the instruments of the landlord-
tenant legal relationship.

The Commission as landlord

Post-war landlord-tenant law in New South Wales remained as it had been since the
nineteenth century: a regime of free contracting and ‘sovereign’ actions against breach,
heavily qualified by state controls on rents and evictions. The *Landlord and Tenant Amendment
Act 1948* (NSW) maintained wartime rent and eviction controls, which were lifted
incrementally by further amendments through the 1950s and 1960s. The Commission,
however, was always exempt from the *Landlord and Tenant Amendment Act 1948* (NSW), and
as permitted by the common law, its leases imposed no obligations on the Commission,
while tenants were subject to a range of requirements and prohibitions: for example, they
had to keep the premises clean and allow the Commission’s officers access to inspect the
premises; and they were prohibited from subletting, causing a ‘nuisance or annoyance’, using
the premises for an illegal or immoral purpose, keeping pets, or hanging pictures
(Bradbrook, 1975: 111, 148). The Commission’s leases also granted virtually no security of
tenure: they provided for weekly tenancies, so they could be terminated on one week’s notice
(Bradbrook, 1975: 111). It was also the practice of the Commission, where it took eviction
proceedings, not to give reasons or grounds for the proceedings, ‘unless specifically asked
for by the Magistrate’ (NSWHC, 1967: 82).

The Commission’s leases reflected what the common law permitted, but they did not reflect
in all respects the Commission’s actual practice. Despite its weekly tenancies, the
Commission also gave the assurance that ‘tenants have absolute security of tenure so long as
they meet their obligations and comply with the conditions of tenancy’ (NSWHC, 1955: 22).
Data as to the Commission’s use of legal proceedings are patchy, but those that are available
indicate a considerable gap between law and practice. For example, in 1957 the Commission
reported that it commenced 992 proceedings for warrants of possession (on all grounds –
most would have been rent arrears), but just 263 ended in the termination of the tenancy, and of these just 81 were terminations by eviction. Furthermore, of the 81 evictions, not less than 15 were from the Commission’s community housing centres (NSWHC, 1957). Table 2.1 shows the Commission’s use of legal proceedings declining over the period 1962-69.

Table 2.1. NSW Housing Commission court applications, 1962-69.

<table>
<thead>
<tr>
<th>Year</th>
<th>Applications for warrants</th>
<th>Terminations $^{27}$</th>
<th>Applications per 1000 tenancies</th>
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</thead>
<tbody>
<tr>
<td>1961</td>
<td>927</td>
<td>179</td>
<td>22.3</td>
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</tr>
<tr>
<td>1964</td>
<td>1300</td>
<td>166</td>
<td>28.1</td>
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<tr>
<td>1965</td>
<td>1073</td>
<td>143</td>
<td>21.8</td>
</tr>
<tr>
<td>1966</td>
<td>1115</td>
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<tr>
<td>1969</td>
<td>937</td>
<td>132</td>
<td>15.2</td>
</tr>
</tbody>
</table>

(Source: NSWHC Annual Reports 1961-69; Jones, 1972: 16)

Over the four years to 1975, the Commission had, on average, obtained warrants in proceedings in 545 cases and effected 20 evictions each year, and reported to Bradbrook that ‘evictions for reasons other than rent arrears are exceedingly rare.... According to the Assistant Secretary of the NSW Housing Commission only one case a year on average arises in that State’ (Bradbrook, 1975: 130).

What it clear, however, is how the Commission conceived of its position at law as a support to the normalising processes of public housing’s sanitary environments and domestic interventions. The Commission indicated its priorities: ‘oversight has to be exercised to

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$^{27}$ 'Terminations' comprises tenancies terminated by evictions, and tenancies terminated by tenants vacating premises prior to determination of the Commission's proceedings.
safeguard against overcrowding by unauthorised occupants, unauthorised transfers of tenancies or subletting, unsatisfactory tenant behaviour and unauthorised interference in properties, erection of structures and other matters, while action is frequently called for in connection with domestic discord and disputes between tenants and special problems associated with elderly tenants' (NSWHC, 1955: 21). 'Unsatisfactory tenant behaviour’ was the subject of an instruction by the Commission to its officers, emphasising that such behaviour was proscribed by the tenancy agreement and was not to be tolerated, and to that end may be grounds for termination proceedings. The instruction, however, gave no further guidance as to whether and how to conduct these proceedings, except to note that ‘the number of occasions in which such procedure has been necessary, however, has been very limited, experience having shown that the tenant concerned usually vacates during the course of proceedings' (NSWHC, 1964). The Commission gave rather more direction in relation to tenants’ obligations in relation to property care, and even more especially in relation to lawns and gardens – ‘laxity in this regard is generally associated with other unsatisfactory features of tenancy’ (NSWHC, 1956: 19). Two full pages of the Commission’s 1968 officers’ manual were devoted to lawns and gardens and the Commission’s ‘expectation… that not only will the tenant create a true home environment by beautifying the grounds of his cottage but that every possible care will be exercised in the usage of the property so that deterioration of its value is limited':

Tenants should be instructed and encouraged to cultivate lawns and gardens and maintain them in a neat and tidy condition. This aspect of tenancy must be discussed with each tenant when taking up occupancy and where, after a reasonable period of occupancy, a tenant fails to co-operate he must be strongly warned of the consequences likely to arise from his negative attitude. (NSWHC, 1968a: 101)

The Commission’s uses of landlord-tenant law, taken together with its administration of eligibility according to a ‘social’ view of need, its construction of scientifically planned estates, and the supervisory approach of its officers in their relations with tenants, constituted a regime of government-housing practice; and despite the variation between the New South Wales regime and those in other countries such as Britain and the United States,
there was a strong ‘family resemblance’ between them and other programs of social liberal government – notably social security – in the way they sought to prevent disorder by securing and normalising those types of persons and households who were considered amenable to, and worthy of, the effort.

Looking back, we can see the genealogical roots of the Commission’s regime of government-housing practice in the investigation, more than a century previously, by classical liberal reformers of the question of ‘an appropriate Police’ and the ‘housing question’, and the various answers they proposed: attention to conditions, attention to need, sanitation, character. Looking forward from social housing’s ‘golden age’, the social liberal regime of government-housing practice would shortly become unsettled, as would social liberal governmentality generally, by new problems for government, and a new turn in the genealogy of liberalism: advanced liberal governmentality.
CHAPTER 3

THE LATE-MODERN PERIOD: GOVERNMENT-HOUSING PROBLEMatisED

From the beginning of the twentieth century, social housing had been regarded as one of the solutions of social liberal governmentality to the problems of industrialised, urbanised, capitalist life, including problems of crime and disorder. In this Chapter, I will look at how states in the late-modern period, beginning around the early 1970s, lost confidence in social housing being able to do the things to which it was addressed. It appeared that social housing did not just fail to solve these problems; it appeared to make them worse.

Social housing was not the only aspect of social liberal government to suffer a collapse in confidence around this time. Other aspects of social liberal government – not least in relation to the government of crime and disorder – and indeed social government generally came under challenge and were found wanting. As we will see, many of the characteristic institutions of social liberal government have continued to exist, but they have changed and been adapted to a new and different ‘advanced liberal’ governmentality (Dean, 1999; Rose, 1999a).

In this Chapter, I will consider how this shift is reflected in the changes that have taken place over the late-modern period in the fields of crime control and social housing, respectively. In relation to crime control, I will present the changes in three aspects: the new problem of the subject of criminology; the new spatial analyses of crime and disorder; and the problem of policing. Each of these aspects of change is relevant to the changing field of social housing, which I will consider in three parallel aspects: the problem of the role of social housing and its subject; the problem of social housing’s neighbourhoods; and the problem of the landlord-tenant relationship. The present Chapter does not go into the more specific questions of how practices of government-housing, derived from changing problematisations of crime and disorder and housing, are actually at work in contemporary public housing in New South Wales. Those questions will be explored in Part 3 of the thesis.

I will, however, briefly mention the one aspect of the institutional change to public housing in New South Wales that took place in this period: the abolition of the NSW Housing Commission and its replacement on 1 January 1986 by the NSW Department of Housing
This formal change was not, of itself, very momentous, but it reflects the pressures being brought to bear on social housing from a series of wider transformations that certainly were momentous.

The 'Death of the Social' and Advanced Liberal Governmentality

The shift of support from social liberal government from the 1970s was sudden and profound: it is often represented by statements of outright denial or negation – 'there is no such thing as society' (Thatcher, 1987, cited at Dean, 1999: 151) – or images and metaphors of collapse, destruction, even death (Baudrillard, 1983, cited at Rose, 1993).

Social housing has provided some of the most evocative metaphors of the 'death' of the social, none more so than the Pruitt-Igoe housing development in St Louis, Missouri. When they were built in the early 1950s, the Captain W O Pruitt Homes and the William L Igoe Apartments – 2,762 apartments in 33 eleven-storey buildings – won awards for their high-modern design. By 1959, however, the incidence of crime and accidents at the buildings had become 'a community scandal' (Rainwater, 1970: 1), and by the end of the 1960s, the buildings were said to condense 'into one 57 acre tract all the problems and difficulties that arise from race and poverty and all of the impotence, indifference and hostility with which our society has so far dealt with these problems' (Rainwater, 1970: 3). In 1972, Pruitt-Igoe was dynamited into the ground, its demolition becoming 'an instant symbol' (Hall, 1996: 235). Jencks, for example, dates 'the death of modern architecture' to the precise moment – 'July 15, 1972 at 3:32pm' – of Pruitt-Igoe's destruction (Jencks, 1981: 9). Harvey proposes that the date 'is not a bad date for symbolising all kinds of other transitions in the political economy of advanced capitalism' (1994: 361): the end of the long post-war prosperity; the problematisation of Fordist-Keynesian management techniques as 'rigidities' that caused both economic inflation and stagnation; the commencement of very uneven development across the sectors and regions of national economies and the flight of manufacturing from the West; and the turn of states from securing against uncertainty and misfortune to valorising competition and enterprise (Harvey, 1994: 362; Jessop, 1994: 257-61). Since the demolition of Pruitt-Igoe, social housing has continued to produce symbols of the failure of social government, like those from what Campbell calls Britain's 'dangerous places' of the 'riotous decade' of the 1980s: Brixton and Toxteth in 1981; Broadwater Farm in 1985; and
Blackbird Leys, Elswick, Ely, Meadowell and Scotswood in 1991 (Campbell, 1993). Also in 1981, the public housing estate at Bidwell in western Sydney appeared, with the considerable assistance of the media, to have its own ‘riot’ (Peel, 2003: 17-19; Powell, 1993: 100-103). There were ‘riots’ again in February 2005 at the Macquarie Field estate, also in western Sydney, in January 2006 at the Gordon estate in Dubbo, and in January 2009 at the Rosemeadow estate, again in western Sydney.

Over the period from that first symbolic event through to the present, the search for solutions to problems of government has been conducted in terms of what Rose has characterised as advanced liberal governmentality (Rose, 1999a; Dean, 1999). This is can be
considered in two aspects: the first is economic neo-liberalism, which worked directly on the economic transitions sketched above. O'Malley summarises its programs of reform:

The uncompetitive nature of the economies would be resolved by removing stifling regulation, privatising nationalised industries and eliminating protectionist subsidies and trade barriers. State bureaucracies that had become cumbersome and counterproductive would be made more responsive and flexible through the application of business principles and techniques. The mass of subjects who had become ‘welfare dependent’ would be exposed to market forces and be required to become self-reliant. The whole population would be stimulated to become more ‘enterprising’. The supposed fiscal crisis of the state, generated by the burgeoning cost of providing social security, would be resolved by a corresponding restriction of access to benefits to a reincarnated ‘deserving poor’. Technocratic domination by paternalistic experts of ‘the social’ sort would be tamed by making professional monopolies answerable to their ‘customers’. (O’Malley, 2004: 59-60.)

Neo-liberalism has not proposed the outright removal of the state from the economy—rather it has proposed to ‘actively intervene in order to create the organisational and subjective conditions for entrepreneurship’ (Rose, 1999a: 144). The early neo-liberal governments of Thatcher in Britain and Reagan in the United States did engage in the bluntest kind of reform by ‘rolling back’ state welfare expenditures (MacGregor, 2006: 145; Campbell, 2006: 197; Arestis and Sawyer, 2006: 206), but since then state governments—including those of the post-social Left or, as some have attempted to distinguish their new orientation, ‘Third Way’ administrations—have sought to ‘activate’ subjects by transforming welfare into an array of increasingly targeted programs that package payments and subsidies with a variety of market-oriented techniques, such as contracts (Dean, 1998; Yeatman and Owler, 2001). According to these iterations of neo-liberal rationality, the state must no longer subject persons to impotent, indifferent or hostile ‘security’, but instead ‘enable’ or ‘empower’ them as ‘individuals who [are] to be active in their own government’ (Rose, 1996a: 330; original emphasis).

Neo-liberalism has nowhere been the only word on post-social government, and its proliferation of markets and ‘simulacra of markets’ (Rose, 1999a: 146) are not the only means of making up advanced liberal subjectivities. ‘Government through community’ is the second aspect of advanced liberal governmentality, and proposes that the activity of
enterprising late-modern subjects should take place not just as the self-interested activity of participants in a market, but also as the voluntaristic activity of members participating in ‘civil society’ or, even more commonly, ‘the community’ (Rose, 1999a: 136, 168-69, 176; O’Malley, 2004: 75). ‘Community’ has a long and varied history in liberal governmental discourse, in the late-modern period it is distinctively set against the paternalism of social liberal government and directed to empowering individuals and building community as countervailing influences to both mass society and the undemocratic power of social liberal government’s experts. This concept of community, Rose contends, has been made technical and operable by a variety of new experts in community, with new conceptual tools (most prominently, those of ‘social exclusion’ and ‘social capital’), as ‘a moral field binding persons into durable relations. It is a space of emotional relationships through which individual identities are constructed through their bonds to micro-cultures of values and meanings’ (1999a: 172; original emphasis). And again, like neo-liberal economic reforms, programs of governing through community have been taken up across the political spectrum, with parties of the Right as well as Left invoking ‘community’ as the source of virtues, values and obligations – or else, dysfunctionally, as the site of intergenerational poverty and ‘underclass’ subcultures – including in a reinvigorated conservatism (Murray, 1984; Field, 2003).

That, at least, is advanced liberalism sketched in ‘ideal’ terms; some substantial qualifications on this scheme must be noted. First, and as suggested in some of the developments sketched above, reports of the ‘death’ of the social are at least somewhat exaggerated. The institutions of welfare still exist, in transformed condition, in assistance to eligible persons and, especially, in the activity of the welfare professions, particularly social work, psychology and psychiatry (O’Malley, 2004: 148). In particular, social housing still exists, though, as discussed below, there is less of it, proportionately if not absolutely, and it serves a different role. There also persists a sense of collective experience beyond community at the social level, in reference points such as human rights, on the one hand, and in the invocation of social obligations and moral authority, on the other. As Dean observes, Thatcher’s statement denying the existence of ‘society’ is usually cited in order to disparage it, and Thatcher

28 On the other hand, the response of the Australian Government to the global financial crisis of 2008 has included economic stimulus programs that will build a significant amount of new social housing. This response has also included a declaration that we have seen the ‘demise of neo-liberalism’ (Rudd, 2009: 25) – another exaggerated death. 85
herself later qualified her remark by affirming society as ‘a living structure of individuals, families, neighbours and voluntary associations… [and] a source of obligation’ – backed by moral and state authority (Thatcher, 1993, cited at Dean, 1999: 151-52). ‘Governing through community’ has transformed the social through the smaller scale of its practitioners’ activities and its ‘voluntaristic and responsibilising implications’ (O’Malley, 2004: 75, fn 13), but has not effected anything like a complete pluralisation of values.

Secondly, if the social has not died and has instead been transformed by advanced liberal rationalities of government, these transformations have also proceeded unsurely. The uncertainty of the process of governmental crisis and change is captured by Garland (2001), particularly in reference to the criminal justice field – but it is a picture that is recognisable in social housing and other fields of government too:

Garland identifies two broad strategies – each reflecting, with greater and lesser degrees of sophistication, advanced liberal rationalities of government – that have been taken in attempts to get out of the crisis in confidence in penal-welfarism or the social liberal government of crime; and again, each of these strategies is recognisable in social housing and in other fields of governmental practice. The first is a strategy of adaptation, which acknowledges the limits of the state’s ability to secure society against crime and disorder (or, for that matter, bad housing, or economic uncertainty and misfortune) and that seeks to redistribute responsibility for acting upon these problems – particularly to individuals and communities, sometimes in a commercial form, sometimes in the form of ‘partnerships’ with state agencies (Garland, 2001: 113-127; 1996, 450-459). The second is a non-adaptive strategy, of ‘denial and acting out’ against the limits of the state by denying that these limits
exist, and then attempting to ‘restore public confidence’ in state efficacy through high-profile exercises of sovereign-style interdiction and control – ‘cracking down’, ‘getting tough’, ‘law and order’ politics. Garland’s characterisation of these sorts of responses in loosely Freudian terms (2001: 131) emphasises their emotional and irrational aspects, but they do refer to advanced liberal rationalities of government in their claims to assert both individual responsibility and the moral authority of community values.

These intersecting lines of development – between neo-liberalism and community, and between post-social adaptation and sovereign reaction – help open up for analysis the ways in which problems in criminal justice and in social housing have been reformulated over the late-modern period. I will now consider these problematisations in more detail.

**Problematising the Government of Crime and Disorder**

As confidence in social liberal government faltered, failure and crisis became recurring themes in late-modern criminology (Braithewaite, 1989; Hogg, 1996). The result, Garland argues, is that ‘the last three decades have seen an accelerating movement away from the assumptions that shaped crime control and criminal justice for most of the twentieth century’ (Garland, 2001: 3).

This movement began at the start of the 1970s with mounting criticisms of the penal system, its rehabilitative ideal and welfarist orientation. The first criticisms came from a radical social perspective that identified with the poor and minority groups who were the main subjects of the system and sought their ‘empowerment’ against the distrusted power of the state and correctionalist professions (Garland, 2001: 56). Next, the mainstream of criminology took up some of these themes in research that showed the poor results of rehabilitation in prisons and in proposals to restrain the discretionary power of criminal justice authorities, especially where it depended on purported predictions of future criminality. Some of these themes in turn were taken up by political conservatives who proposed less discretion and more certain sentencing in order to make criminal justice less welfarist and more harshly deterrent – and where dangerous or repetitive offenders were not deterred, they should be effectively incapacitated (Garland, 2001: 59-60). These critiques proposed quite different directions for criminal justice policy, but together they effected a ‘collapse of faith in correctionalism’ and,
consequently, 'began a wave of demoralisation that undermined the credibility of key institutions of crime control', including policing, broader social programs that were supposed to prevent crime, and criminology (Garland, 2001: 61).

This collapse of faith 'inaugurated a period of change that has been with us ever since' (Garland, 2001: 63). These changes run as far as 'the emergence of new forms of criminology, a new crime control agenda, and a new understanding of state and non-state activities in the crime control field' (2001: 62). Over the course of these changes, the initial 'nothing works' pessimism of the 1970s and '80s has been partly relieved by a new 'many things work' ethos (Homel, et al, 2006: 1), reflecting the diverse directions in which the search for solutions has been conducted. Here I will briefly consider three related aspects of the problematisation of the government of crime and disorder since the 1970s: the individual subject of criminological knowledge; the role of space and place in controlling against crime and disorder; and the authority of state criminal justice.

**The problem of the criminological subject**

At the centre of the crisis in criminology was the faltering of criminology's longstanding 'Lombrosian project' of identifying and treating the causes of crime in the person of the criminal (Garland, 1994:18). Since its establishment, criminology almost invariably took the abnormal individual criminal as its subject. In the late-modern present, a number of new criminological subjects have emerged alongside this conventional subject. The first is the subject of criminology provided by neo-liberal economics and adopted in Clarke's 'rational choice perspective' (Clarke and Felson, 1993). From this perspective, crime is 'purposive behaviour designed to meet the offender's commonplace needs for such things as money, status, sex, and excitement' (Clarke and Felson, 1993: 6), and the decision to commit it is, like any other decision, formed according to information at hand as to the available opportunities, efforts and risks. No special causal concepts were necessary to describe criminal behaviour: 'here *homo economicus* drives out nineteenth century *homo criminalis*? (Gordon, 1991: 43). Even more pointedly, in Felson's 'routine activity approach', which locates crime in the coincidence of a likely offender, a suitable target and the absence of a capable guardian, 'persons were treated virtually as objects and their motivations were
scrupulously avoided as a topic of discussion' – indeed, theories of motivation produce only 'distracting information' (Clarke and Felson, 1993: 2-3). What causes and motivations distract from, according to these theorists, is 'situational crime prevention': the more productive, preventative work that may be done with those targets of crime and their guardians. These theories of situational crime prevention are characterised by Garland as 'the new criminologies of everyday life' (Garland, 1996: 450; Clarke, 2000: 97) or, in terms of the subjects they take, as 'criminologies of the self', in which offenders appear as 'normal, rational consumers, just like us', and in which the rest of 'us', as potential victims of crime, also appear as rational agents who ought to do something to prevent their victimisation (Garland, 2001: 137; O'Malley, 1992: 266).

Garland identifies a second post-social criminological subject, also conceived of with little regard to causes and motivations, but this time the offender is a predator, utterly unlike 'us'. This is the subject of what Garland characterises as 'anti-modern criminologies' or 'criminologies of the other' (Garland, 1996: 461), which have become prominent in political and, to a lesser degree, academic discourses that call for more punitive and exclusionary sanctions: for example, in John Major's call 'to condemn more and to understand less' (Major, 1993, cited at Garland, 2001: 184) and in James Q Wilson's dictum that 'wicked people exist. Nothing avails except to set them apart from innocent people' (Wilson, 1983, cited at Garland, 2001: 131). The implications of these discourses for criminal justice practice have been varied: in some respects, they call for the employment of the economic logic of rational risk assessment, claiming that overtly punitive sentencing will deter would-be offenders; in other respects, they employ a different kind of economic logic, 'actuarial justice' (Feeley and Simon, 1994), in calls for curfews, 'three strikes' sentencing laws and the use of imprisonment to incapacitate large numbers of offenders (O'Malley, 2004: 143). In yet other respects, however, they appeal simply to emotion – particularly in the United States, where such calls have resulted in 'the return of cruelty to respectability as a penal value' (Simon, 2001: 130).

Finally there is the criminal subject that emerges from the continued social scientific search for the causes of crime and deviance – in particular, from developmental criminology, which identifies the roots of crime and disorder in the experiences of early childhood and the pathways subsequently followed by subjects. These are subjects of 'risk factors' (for example,
inadequate parenting, socio-economic disadvantage, poor social skills, poor housing conditions) and obverse ‘protective factors’ (for example, access to support services), which, as O’Malley observes, represents an ‘agenda, although situated within a risk discourse, [that] gives expression to welfare-social rationalities’ (2004: 151).

**The problem of the spaces of crime and disorder**

The changing subject of criminology from the 1970s onwards has entailed new spatial analyses of crime and disorder. As Bottoms observes, the last time any major criminological attention had been paid to the spatial aspect of crime was before the Second World War, by the Chicago School sociologists in their studies of social disorganisation, and then the interest was in the area of residence of the offender, rather than the area in which offending took place, in order to explain the origins of the offender’s criminality (1994: 591-92). ‘Until the 1970s, most work on crime and place (including that of Shaw and McKay) had shown very little systematic interest in offence locations’ (Bottoms, 1994: 592).

The first expressions of this new interest in the spaces of crime and disorder came from outside criminology: first in Jane Jacobs’ defence of the old neighbourhoods of American inner cities for the way their dense populations and mixtures of residential and commercial uses put ‘eyes on the street’ to informally watch for crime and disorder – something neither the suburbs nor high-rise residential towers could do (Jacobs, 1961) – and secondly in Oscar Newman’s theory of ‘defensible space’ (1973). Drawing on Jacobs as well as a statistical analysis of crime in the New York City Housing Authority’s public housing projects, Newman formulated certain traditional principles of design – known to builders going back to the Neolithic period, but neglected in high-modern architecture – that secured against crime and disorder: territoriality, or the capacity of the built environment to create ‘perceived zones of territorial influence’ beyond the house itself; surveillance, particularly for residents to casually and continually monitor non-private spaces; and image and milieu, or how the design of a building or neighbourhood relates to surrounding land uses, and how it contributes to perceptions of stigma and isolation (Newman, 1973). Newman’s work offered many illustrations of both the absence and the application of the principles of defensible space, and these principles have become fixtures of situational crime prevention and a prolific industry in ‘crime prevention through environmental design’ (CPTED).
Defensible space was also conceived of as 'the physical expression of a social fabric that defends itself' (Newman, 1973: 3), which assumes the presence of a 'community of interest' that, given the necessary physical means, will straightforwardly use them to control against crime and disorder (Newman, 1980). This assumption has been questioned by subsequent researchers who have, in a reinvention the Chicago School's concept of 'social disorganisation', opened up further lines of inquiry into the ability of residents to exercise informal controls against crime and disorder. In addition to the significance of economic status, residential mobility and ethnic heterogeneity identified decades earlier, Sampson has discerned disorganisation and diminished control against crime and disorder in such factors as an area's 'sparse friendship networks', 'unsupervised teenage peer groups' and 'low organisational participation' (Sampson and Groves, 1989, cited at Weatherburn and Lind, 2001: 135-136). In surveys, neighbourhoods are investigated for measures of 'collective efficacy' by questioning residents as to such things as 'whether neighbours could be called upon to intervene if children were skipping school or “hanging out” or showing disrespect to an adult', 'whether people around here are willing to help their neighbour', and 'whether this is a close-knit neighbourhood' (Sampson, Raudenbush and Earls, 1998, cited at Weatherburn and Lind, 2001: 138). In the best-known reinvention of the social disorganisation concept, Wilson and Kelling contend that the efficacy of an area's informal controls against crime and disorder depends on their use in tending to the early minor signs of disorder – the first 'broken window' (1982). In their view, "untended behaviour"... leads to the breakdown of community controls' (1982: 31), such that minor disorder becomes tolerated, and this tolerance attracts more serious offenders and crime. According to Skogan, this can in turn trigger the out-migration of capable residents who would otherwise be able to exert some control; this is a 'tipping point' beyond which communities enter into 'spirals of decay' (1990). In a more sophisticated analysis of 'community crime careers', Bottoms and Wiles (1986; 1992; Bottoms, Claytor and Wiles, 1992) conceive of a wider range of interactive effects between offending and housing allocations (market and non-market), 'within area relationships', 'responses by outsiders' (including police and other agencies of control), and decisions by residents as to whether to stay or leave (Bottoms, Claytor and Wiles, 1992: 119-121; Bottoms and Wiles, 1986: 103). In an alternative analysis of 'crime-prone communities', Weatherburn and Lind apply a developmental criminology perspective to space, downplaying the role of informal community controls and emphasising instead the
connections between economic stress, weak parenting, susceptibility to delinquency and the extent to which there is already present in the community a population of offenders from whom delinquent behaviour may be ‘transmitted’ to the ‘susceptibles’ (2001: Chapter 6).

Each of these lines of inquiry into the spaces of crime and disorder has produced different implications for governmental practice – quite apart from the practices of surveying, questioning and collecting data that are involved in the inquiries themselves. The collective efficacy school calls for programs that build ‘social capital’ in neighbourhoods (Weatherburn and Lind, 2001: 178), while Weatherburn and Lind’s analysis supports programs to alleviate the mistreatment of children and economic stress within households. These inclusionary, developmental approaches contrast sharply with the practices of exclusion that also draw upon theories of space and crime and disorder. In defensible space, offenders are apt to appear as outsiders, and outsiders as offenders.20 Probably the best-known example of exclusionary CPTED is that of ‘Fortress LA’ in Davis’s City of Quartz, where ‘territoriality’ is applied in the form of gates across streets and ‘Armed Response!’ signs on lawns, surveillance is effected by security patrols, and the ‘image and milieu’ of the redeveloped downtown shopping precinct is secured by a streetscape that had been ‘hardened’ against the poor, such as through the infamous ‘bum-proof’ park benches (Davis, 1992: Chapter 4).

Similarly, while the ‘broken windows’ concept calls for care to be paid to the physical fabric and amenity of an area – for example, literally broken windows – it also expressly calls for the removal of those human ‘broken windows’ – drunks, vagrants, the mentally ill, teenagers – from an area’s public spaces. It is also proposed that this work of continually checking against the signs of discrepancy, however minor or ‘victimless’, is not just a matter for the informal actions of residents, but should be a major task of the police.

The problem of the authorities: the police

The crises in the penal-welfare system and criminological theory, and the new analyses of space and community, have raised significant problems for the role and work of the state agencies of criminal justice. I have already referred briefly to the criticisms and challenges

20 Anticipating Garland’s characterisation of criminologies of the self and of the other, Newman described his analysis as ‘a study of the forms of our residential areas and how they contribute to our victimisation by criminals’ (Newman, 1973: xiii, emphasis added).
posed to state authorities responsible for sentencing, corrections and prisons; here I will focus briefly on those posed to the police. Bayley summarises the findings of research into policing from the 1970s onwards, and reflects the general crisis of confidence:

The police do not prevent crime.... The police pretend that they are society's best defence against crime and continually argue that if they are given more resources, especially personnel, they will be able to protect communities against crime. This is a myth. (1994: 3)

The exposure of this 'pretence' took place not only in research findings. The role of police in the riots of the 1980s in Britain showed starkly that remote, militaristic policing did not just fail to prevent the violence, but helped foment it (Campbell, 1993: Chapter 4); elsewhere, not least in New South Wales, abuses of police powers, police corruption and involvement in organised crime, became a matter of public debate and official inquiry (Finnane, 1999: 18-21). More generally, the reorientation of criminology to the subject of the responsible victim and the spaces of crime also reflected disillusionment with the police 'myth' and a search for alternatives. Defensible space theory, for example, was expressly directed to problems of crime and disorder that 'will not be addressed through increased police force or firepower' and expressed a vision of policing as 'the responsibility of each citizen to ensure the functioning of the polis' (Newman, 1973: 1, 3).

Since then, policing has undergone fundamental change, both in relation to the police themselves, their objectives and their ways of working, and in relation to persons and agencies other than the police and their new roles in policing. In place of the long trend of increasing specialisation, separation, bureaucratisation and emphasis on responding to crime and detecting offenders — the dominant trend in policing since the formation of the new police in the early nineteenth century — police reformers have urged a 'partnership approach' (Crawford, 1997). In doing so, reformers have appealed to the original Peelian vision of the new police as being a part of the ordinary citizenry (Crawford, 1997: 48; Lusher, 1981, cited at Finnane, 1999: 21), but also to the increasingly salient 'community' of advanced liberal governmentality, particularly in their promotion of 'community policing'. As Innes observes, 'there is now broad agreement that policing today routinely involves a multiplicity of agencies and partners, and that security is the responsibility of a whole host of statutory and
non-statutory actors' (2004: 164). On this basis, Innes envisages police at the centre of a 'control hub' model of relations with a variety of partners: community support agencies, social services, local councils, private sector agencies and local businesses, each bringing their own instruments and techniques to their role in policing. Notably these include, in the case of property owners, situational crime prevention and incidents of property law, and in the case of welfare service providers, contracts for service.

As with those other dimensions of change in the government of crime and disorder, reviewed above, the changes in policing in the late-modern period also have a contradictory, schizoid quality. As in penal policy, in the face of reduced confidence in policing there has been, in many jurisdictions, a reassertion by commentators and law-makers of sovereign power in policing. So Wilson and Kelling envisage policing as 'the random but relentless maintenance of standards' (1982: 38), an image that would later be recast as 'zero tolerance policing' and capture the imaginations of politicians, police and commentators the world over. As Cunneen observes, these practices often go under the same 'community policing' label:

The width of meanings of 'community policing' [is] wide and imprecise enough that its uses also include policing along the conventional lines of random patrols, rapid response and specialist detection. It is also used to describe policing practices that, on closer inspection, undermine community policing approaches and that reflect a substantial departure from community policing principles. (1999: 18)

**Problematising Social Housing**

In the previous Chapter I referred to the post-war period as the international 'golden age' of social housing. After the golden age, the period from the 1970s appears to be that of social housing's international 'decline' (Harloe, 1995: 416; Cowan and McDermont, 2006) and 'fall' (Meehan, 1977).

The decline of social housing in many respects parallels that of social liberal, penal-welfarist criminal justice. From the 1960s, the affluent social liberal economies of the West began to rediscover the poverty in their midst: in 1960 in the United States, Harrington exposed *The Other America* (Harrington, 1960, cited at Harvey, 1990: 138); in 1965 in Britain, Abel-Smith
and Townsend reported on the persistence of poverty and inequality in *The Poor and the Poorest* (Abel-Smith and Townsend, 1965, cited at Saunders, 2005: 14); in Australia, Ronald Henderson produced surveys of poverty first in Melbourne (Henderson, Harcourt and Harper, 1970, cited at Saunders, 2005: 14), then nationally as the Commissioner of the Commonwealth Government’s Inquiry into Poverty (Commission of Inquiry into Poverty, 1975). Each of these investigations provided, in the first place, the bases for further extensions of social government welfare programs, but coincident with them were those criticisms by ‘community’ activists about the paternalism of social government. An early instance of the convergence of these criticisms was in the movement to close the large institutions, the descendents of the nineteenth century disciplinary houses of the poor.

Specifically in relation to social housing, even as it was being built on its most massive scale, a variety of problems was emerging in different countries across the world. Towards the end of the 1960s, British social housing administrators were disquieted by the discovery of the phenomenon of the ‘difficult to let’ estate, and by local campaigns against slum clearance: ‘many people, even in fairly dire conditions, simply would not accept rehousing in tower blocks’ (Power, 1999: 52-54). In the United States, Jacobs deplored the role of social housing authorities in the ‘death of great American cities’ (1961); Rainwater’s investigation of Pruitt-Igoe, already referred to above, is another example of the deepening discontent. In Britain, Ward criticised social housing from an anarchist perspective, declaring that ‘the best housing authority I know is a rural district council where the man from the surveyor’s department (innocent of training in housing management) collects the rent, adjusts the ball valve and gives advice on broad beans, before peddling off’ (1976: 148). In New South Wales, some of the strongest critics of the NSW Housing Commission were working class residents action groups and the activist Builders Labourers’ Federation, opposed to the redevelopment of old working class housing districts in inner Sydney into high-rise public housing – what some residents called ‘suicide towers’ (Burgmann and Burgmann, 1998: 194-205). It was not just high-rise public housing: in his *Ideas for Australian Cities*, Stretton defended both public housing provision and the suburban form of Australian cities, but lamented the reality: being a resident of a public housing estate was ‘like a yellow badge in a lifeless ghetto town to which it is public knowledge that no successful man would be admitted’ (1970: 167).
And these attacks, again like those on the penal-welfare complex, were taken up by the rising neo-liberal and neo-conservative coalition of the Right. In an early survey of then-emerging research, Jones suggested that it appeared that the improved housing provided by social housing systems (as distinct from any financial benefit these systems provided) did not result in significantly better physical or mental health, nor labour productivity, nor did it appear to reduce juvenile delinquency: ‘people, it seems, do not become happier and better citizens immediately they are given new houses’ (1972: vii, 6-8). Jones also referred to doubts as to the supposed economies of scale enjoyed by social housing authorities, and to the ability of social housing programs to work as a tool of Keynesian countercyclical demand management (1972: 11-12). In the mid-1980s, with Britain’s neo-liberal reform in full swing, Coleman condemned the social housing bureaucracies as a ‘vast housing-problems machine [that] has committed one blunder after another in the name of social betterment’ and declared that they should be ‘phased quietly out of existence’ (1985: 184).

I will explore some of the themes of this turn against social housing, and its transformation and survival, below. I note here the most obvious expression of it: that there would be less social housing. Since the late 1970s, stocks of social housing in almost all the countries of the industrial West have declined relative to privately-owned housing, if not absolutely (Harloe, 1995: 420). Social housing authorities have built fewer new social housing units, in some cases contracting construction very rapidly. In Britain, social housing construction peaked in 1977 at 170 000 social housing units; by the late 1980s it was about 30 000 (Harloe, 1995: 420). The stock of British social housing was further reduced by privatisation, both to private developers and social housing tenants: between 1980 and 1996, two million social housing dwellings were sold at heavy discounts to social housing tenants under ‘Right to Buy’ legislation (Ravetz, 2001: 202). It tended to be the better quality dwellings that were sold, so the remaining social housing stock was not only reduced in number but in quality (Harloe, 1995: 429; Ravetz, 2001: 203). The institutional form of social housing changed, too, as stock and funding were transferred away from its traditional agencies, the local governments, mostly to housing associations – the descendents of the philanthropic housing associations of the nineteenth century – as well as to ‘Arms-Length Management Organisations’, a few Tenant Managed Organisations and a few private landlords (Ravetz, 2001: 200). And in the most pointed and spectacular form of the reaction, the poorest social dwellings were demolished: in 1979, the first tower-block demolition in Britain levelled three
10-storey blocks in Birkenhead that had been built only 20 years previously (Ravetz, 2001: 187). In the United States, social housing was subject to a one-year moratorium in 1973, then restricted to headleasing (Vale, 2000: 335-6); construction resumed modestly towards the end of the decade, peaking at just 46 000 dwellings in 1980, then fell away to only 6 000 in 1987 (Harloe, 1995: 421). The demolition of public housing, starting with Pruitt-Igoe, accelerated: between 1995 and 2004, 115 000 units of public housing in the United States were demolished, and a further 50 000 approved for demolition (Solomon, 2005: 17).

In Australia, public housing has also declined. The trend took longer to become established here than in other countries, because the early Hawke Labor governments of the 1980s sought to expand public housing to mitigate the effects of wage restraint (Foard, et al, 1994; Mant, 1992: 54), but it had taken hold by the late-1980s and accelerated from the mid-1990s. For the period 1945-70, public housing completions represented, on average, 16 per cent of all housing completions; over the 1980s, this share fell to an average of nine per cent, and fell again over the 1990s to an average of five per cent (Milligan, 2003: 123). Upon the election of the Howard Coalition Government in 1996, funding to social housing under the CSHA was cut and declined in real terms over the subsequent 10 years by 30 per cent; over the period 1996-2008, the Australian social housing stock declined absolutely from just over 400 000 to 373 000 dwellings, and its share of the total housing stock declined by 18 per cent. As elsewhere, this long-term decline was accompanied by diversification of the institutional form of social housing away from its traditional, State-managed, public housing form, so public housing’s decline has been even steeper, losing over 34 000 dwellings, and almost 25 per cent of its share of total dwellings, over 1996-2008 (National Housing Supply Council, 2009: table A5.2).

The New South Wales public housing system reflects many of these national and international movements. The major formal change of this period was the abolition, in 1986, of the NSW Housing Commission. The Housing Act 1985 (NSW), which abolished the Commission, established in its place the NSW Department of Housing (NSWDOH) – renamed Housing NSW in June 2008 – and the Department’s corporate aspect, the NSW Land and Housing Corporation. The new Department was an attempt to get away from the ‘public works’ organisation of the Commission (Mant, 1992) and instead operate as a cross-tenural housing services agency with responsibilities across a range of housing policy areas,
including homelessness, assistance for homeownership, and tenancy law and information. At least to begin with, however, the NSW Department of Housing was 'still the New South Wales Housing Commission with a number of functions tacked on' (Mant, 1992: 5), and it was not until after the report of the Commission of Inquiry into the Department of Housing in 1992 (‘the Mant Report’: Mant, 1992), and then the ‘Reshaping Public Housing’ reforms of 2005 that public housing administration was comprehensively reformed – but even then, not to the full extent envisaged by the reformers.

These reforms have included the diversification of social housing in New South Wales, from being almost entirely in the form of the public housing owned and operated by the Department – the only exceptions at that time being short-term accommodation provided by community organisations and subsidised by the Department to especially needy persons while they waited for public housing – to being provided by numerous different types of social housing providers. The Mant Report envisaged the Department’s own housing operations being decentralised, neo-liberal style, into Regional Housing Offices operating in competition with enlarged community-based housing providers, each of which would contract with a central Ministry of Housing for the provision of housing services to eligible persons (1992: 67-70, 81-82). In the event, the Regional Housing Offices were not established, and Housing NSW, through the NSW Land and Housing Corporation, remains the major provider and manager of social housing in New South Wales, but the community-based providers – now ‘community housing associations’ – have developed into an alternative form of social housing and are the only growing part of the system. In New South Wales from 2000 to 2009, the absolute number of social housing dwellings has remained roughly steady, though the number of public housing dwellings has declined by almost 6 000 – almost five per cent (Shelter NSW, 2010: 10).

In New South Wales and elsewhere, the decline in social housing has been driven by, and in turn has driven, the formulation of some fundamental problematisations of the sorts of persons to be housed in social housing, the sorts of places in which they are to be housed, and the sort of authority invested in social housing agencies as landlords.

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The problem of the subject of social housing

Since social housing was first established, its traditional function had been to help secure a respectable but more or less vulnerable section of the working class. Over the late-modern period, this function has been transformed and new targets adopted – in particular, very poor non-working households, and persons who are ill, disabled or institutionalised – and as a result, the populations and the typical subject of social housing systems have changed markedly.

The first steps in this movement were made in the 1960s, as progressive commentators and administrators sought to open up social housing to persons excluded because of race, either formally through segregation or discriminatory eligibility criteria, or informally through the social housing authorities' vetting of applicants who did not meet 'standards' of housekeeping (Vale, 2000: Chapter 4; Burney, 1967). Criticised from the perspective of racial discrimination, the administration of 'standards' was also challenged for failing to serve other groups and, in particular, the very poorest households (Burney, 1967: 239). From the early 1970s, this line of criticism was extended by conservative and progressive critics alike. Jones's 1972 study of the Australian state housing authorities was an early example, concluding that 'Australian public housing appears to have favoured the "normal" intact family with dependent children' and that 'the aged', 'the physically handicapped' and 'the undeserving poor with low capacity to pay and in need of specialised services' received little assistance (1972: 69-70). The Commission of Inquiry into Poverty pursued a similar line of inquiry: it found that most Australian public housing tenants were not poor (about 70 per cent of them had incomes in excess of 120 per cent of Commissioner Henderson's poverty line), and only 28 per cent of applicants on the waiting list were poor; meanwhile, the large majority of poor renting households – 74 per cent – lived in private rental housing, and only 14 per cent of them were on the waiting lists (Paris, Williams and Stimson, 1985: 108).

Ahead of the Commission's findings, the Commonwealth Government included in the 1973 CSHA a means test for entry into public housing: at least 85 per cent of allocations were to go to households whose main income earner earned less than 85 per cent of average weekly earnings. After the poor and very poor, social housing authorities were urged to respond to
the effects of deinstitutionalisation, and extend eligibility to persons who would, in previous
decades, have been accommodated in hospitals, asylums and other closed institutions.

Through the economic crises and neo-liberal reforms of the 1970s and 1980s, these persons
were not included by an enlargement of eligibility, but rather by eligibility being narrowed to
them, and low-income working households being directed to the private market for their
housing. Of course, some of the unskilled working tenants of social housing lost their jobs
and the types of Fordist industries that employed them, and so became themselves members
of social housing’s new populations of persons who are disabled and unemployable; others
left social housing. In Britain, as noted above, two million of these households did so by
becoming homeowners and taking some of the social housing stock with them; others
moved out, particularly after the replacement in 1982 of rent subsidies with a means-tested
housing benefit, which caused rents for better-off social housing tenants to increase
markedly (Burney, 1999: 50). In the United States, social housing rent reforms also
effectively ‘taxed’ households earning more than a moderate amount (Vale, 2000: 362); low-
income workers were given housing vouchers (‘Section 8’ vouchers) to pay for housing in
the private rental market. Similarly, in Australia, the CSHAs of 1978 and 1981 introduced
‘market rents’ in place of lower ‘economic rents’, expressly to ‘minimise continued
availability of assistance to those no longer in need’ by increasing the rents of households
not eligible for rental subsidies (s 4E(a)(iii), Housing Assistance Act 1981 (Cth)); and Rent
Assistance, originally a small program of supplementary payments to pensioners in private
rental housing, was expanded and has come to double the expenditure on social housing
under the CSHA (Yates, 2001).

The effect of these changes can be considered in demographic terms, in the various
measures presented by Harloe (1995). So, for example, from 1976 to 1985 the proportion of
British council housing tenants dependent on welfare payments increased from less than half
to more than two-thirds (1995: 453-54); in the United States, two-thirds of public housing
tenants by 1992 were dependent on welfare payments, over half received food stamps and
similar assistance, over half had not finished high school, and three-quarters of households
were ‘female-headed’ (Harloe, 1995: 446). From 1969 to 2009, the proportion of New South
Wales public housing tenants in receipt of a rental subsidy grew from just 13 per cent to 90
per cent (Jones, 1972: 161; Australian Institute of Health and Welfare, 2010: Table 1.1);
furthermore, 63 per cent of households allocated public in 2008-09 had ‘special needs’ (AIHW, 2010: 1.7). From 1982 to 2009, priority allocations of public housing in New South Wales increased from 10 per cent to 47 per cent (Hall and Berry, 2004: 30; AIHW, 2010: Table 1.8).

Apart from demographics, these changes can also be considered in terms of the subject of public housing: that is, each of these persons is not so much a member of a social group for which the private housing market has failed to provide (as their post-war predecessors were) as an individual who has failed to engage with the housing market on account of a complex of personal inadequacies. This is the ‘incapable’ subject of social housing internationally (de Decker and Pannecoucke, 2004), or in the language of the New South Wales public housing system, the subject of ‘complex housing need’. This subject does not need housing so much as to secure their place in work, child-rearing and community life, as to ‘facilitate the receipt and effectiveness of support and care they need to live independently in the community’ (NSW Housing and Human Services Accord, Schedule: Client Information Sharing).

There have been other developments in relation to subjectivity and social housing. Throughout Australian social housing systems, neo-liberal reforms have recast social housing authorities as ‘service providers’ – and tenants as ‘clients’ and even ‘customers’ (Marston, 2004) – in attempts first to improve the quality of housing services such as property maintenance and the efficiency of allocations of vacant stock, and then, as clients’ needs have become complex, to facilitate their receipt of support services from other government and non-government service providers. It has also been envisaged that public housing clients will be activated by the services provided to them, so that the services, including housing, may be withdrawn and reallocated. In 1996 the Australian Government dropped from the CSHA its traditional objective of security of tenure, replacing it with ‘housing assistance for the duration of need’; this was given effect in New South Wales in 2005, when the State Government announced its ‘Reshaping Public Housing’ platform of reforms, under which new tenants would be signed up to fixed term agreements, the length of the term varying according to an assessment of the tenant’s need, with reviews as to continuing eligibility at the end of the fixed term. The intention, if not the actual outcome, was that public housing would no longer be ‘for life – with no responsibility’ (NSW State Government, 2005).
There have also been some countervailing moves. In the mid-1990s in Britain, the Conservative Government of John Major made gestures to a moralising allocations system, voicing a concern that the ‘wrong’ households – particularly single mothers – were ‘jumping the housing queue’ ahead of married couples: ‘allocations schemes should reflect the underlying values of our society... [and] the need to support married life’ (Department of the Environment, 1995, cited at Cowan and McDermont, 2006: 68). In the event, this principle was not incorporated in legislation. Later, however, the Blair Labour Government did experiment with changes to allocations that reflected other, neo-liberal, ‘underlying values’, through the introduction of ‘choice-based lettings’ programs. Meanwhile, in the United States, eligibility for public housing was expanded under the ‘provocatively’ titled Quality Housing and Work Responsibility Act 1998 (US) (Vale, 2000: 384) to households with incomes up to 80 per cent of the median – still low, but substantially higher than the incomes of most persons on social housing waiting lists – and specifically to otherwise ineligible police officers, in order to increase security. At the same time, the Act allowed social housing authorities to consider applicants’ criminal records, sex offender registration and drug abuse treatment histories in determining eligibility; deny admission to households that are believed to include persons who use illegal drugs or abuse alcohol; and strike from eligibility any persons who had qualified because of a disability that was ‘solely on the basis of drug or alcohol dependence’ (Vale, 2000: 385).  

The problem of neighbourhood

The changes in the population and subject of social housing have had serious implications for social housing neighbourhoods, especially the large estates distinctive to social housing. However, problems at the level of neighbourhood in social housing had been identified before eligibility was most tightened.

Most obvious have been problems of built form. In a survey of massive estates that were built at the height of the golden age of social housing and that are now ‘estates on the edge’, Power (1999) observes ‘how clearly they all stood out from their surroundings’.

31 An additional proposed requirement that new social housing tenants should either work, attend a vocational training program or set a date by which they would have to leave public housing, was not included in the Act as passed.
They had been designed to do this, by their creators – architects, developers and politicians – confident of the prestige that would follow. In later years, when they proved unpopular and hard to let, this distinctiveness became a major liability. It became easy for popular fantasies to evolve around the estates’ unique appearance. The British estate [in Power’s survey], for instance, was likened to ‘Windscale’, a nuclear power plant; the German estate to an alternative Cologne Cathedral and to Kolditz. The distinctiveness fed the imagination of journalists and made them compelling to media prophets looking for extreme images to illustrate doom-laden visions. (1999: 272)

The turn against the distinctive appearance of social housing reflected the emergence of deeper, more specific problems. Large high-rise estates built by experimental techniques often proved difficult to maintain (Power, 1999: 59). The concentrations of low-income households produced by mass estates found less and less justification in urban development policies for accommodating workforces conveniently to nearby industries; on the contrary, such concentrations of disadvantage meant local businesses and services ‘would wilt there, for want of paying custom’ (Stretton, 1970: 165). And the built form of social housing was referred to specifically by Jacobs and Newman in their early statements against modern architecture for its role in the ‘death’ of city neighbourhoods and the creation of criminogenic, indefensible spaces.

Through the 1970s social housing authorities first stopped building high-rises, and then started demolishing them. In New South Wales, the Housing Commission completed the relatively few high-rises already in construction, and planned no more very large suburban estates of detached houses such as Green Valley and Mt Druitt, but instead started building slightly smaller, medium-density suburban estates on ‘Radburn’ principles, such as Macquarie Fields (1972-78), Airds (1976-78), Minto (1976-79), Claymore (1979-81) and Ambarvale and Rosemeadow (1980-89). This style of development was intended to respond both to the emerging criticisms of the built form of social housing – the public spaces of these estates were to be playgrounds surrounded by houses and linked by walkways, rather than formal expanses of empty grounds around dense buildings – as well as to the growing pressures on social housing more generally. In particular, their construction still allowed economies of scale and, because the estates were not subdivided and remained ‘superlots’, they were resistant to privatisation at a time when the NSW Housing Commission could not be
confident of replacing stock (Randolph, et al, 2001: 26). Even before the last of these estates were completed, however, they too were overtaken by discontent. One of the ‘achievements’ of the new Department, recalled by its first minister, was that ‘the first thing it did was stop building housing estates’ (Walker, 2006: 175). To an extent, the problems were as before – the Radburn estates proved to be badly built, poorly maintained, and their parks, walkways and cul de sacs were felt to be indefensible (Woodward, 1997) – although many critics spoke to an even more fundamental discontent with the estate form altogether. Indeed in Matka’s analysis of the incidence of criminal offending in public housing estates in New South Wales, she found that the contribution of design features was negligible relative to that of concentrating very disadvantaged persons within the estate form generally (1997).

The problem of the estate form of social housing is as much a problem of relations between humans as neighbours – community relations – as it is of built form. In the golden age of social housing, it was considered that social housing communities could and would grow into communities like any other, provided their members forgot the habits of their disorganised communities and maintained their houses and households properly. Through the 1960s, however, continuing social inquiry amongst poor households – notably by Willmott (1960; Willmott and Young, 1962) and, again, Jacobs (1961) – revealed worthwhile relations, supports and resources within their ostensibly disorganised communities. It further appeared that disorganisation really took place when these communities were broken apart by slum clearance and their members transplanted into social housing estates. In Australia, Stretton cited the very large Housing Commission estate at Green Valley as a prime example of this process. The estate’s essential problem was a ‘lack of leadership, initiative, or democratic capacity to look after its own interests’ (1970: 162), and the roots of this problem were in

its people, hand picked (by the unanimous policy of both political parties) for their comparative incapacity to get on, or get tough, or get well, or get rich, or get things moving; then dumped outside the city walls all together and all alone without work, allies, entrepreneurs, exemplars or defenders. (Stretton, 1970: 165)

Stretton’s description anticipates several concepts that have since become commonplace in the discussion of the problems of social housing communities: in particular, ‘social exclusion’
and ‘social capital’. As Arthurson and Jacobs note, ‘social exclusion’ was originally used in the early 1970s by social progressives to highlight that certain types of persons – for example, those with disabilities and mental illness, drug users, the homeless – were still not included in social security and other programs of social government (2003: 3). Since then, with those persons having become the targets of government programs, ‘social exclusion’ has been redeployed as ‘a shorthand label for what happens when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, bad health and family breakdown’ (Social Exclusion Unit, 1998: 1). This ‘multi-dimensional’ and ‘dynamic’ conceptualisation of disadvantage has directed social housing administrators to consider the ways in which social housing contributes to exclusion, and to establish partnerships with other agencies to effect ‘whole of government’ responses and ‘joined-up’ solutions. In a similar way, the concept of ‘social capital’ has directed the attention of social housing administrators to the quality of the connections and networks between the members of social housing communities and with the wider world (‘bonding’ and ‘bridging’ capital, respectively: Putnam, 2000: 22-23). Both ‘social exclusion’ and ‘social capital’ have also offered administrators some strategic opportunities for getting past neo-liberal and neo-conservative analyses of poverty, dealing structural factors back in while acknowledging the agency of individuals, and proposing supportive work while avoiding expressly redistributive action (Arthurson and Jacobs, 2003: 10, 12-13).

In many estates in social housing systems around the world, each of these aspects of the problem of neighbourhood – the physical-spatial aspect and the community aspect – has been the target of programs of ‘renewal’, and in many cases, renewal programs are intended to work on both aspects together. The work of these programs is varied: some programs have altered or redeveloped problematic buildings and spaces, particularly according to principles of situational crime prevention, defensible space and CPTED; some have also attempted to fabricate community relations through inter-agency partnerships and tenant participation; and some have, mirroring social housing’s own historical role in slum clearance, sought to break up social housing neighbourhoods, redevelop estates for private purchase and engineer a better ‘social mix.’ Previously, concerns with social mix in social housing had been more to guard against ‘class consciousness’ and the threat that this posed
to the social body; now it is to act upon the body of the community, to prevent its turning against itself.

The problem of neighbourhood has been formulated in other ways too. According to Campbell, the main way in which this problem was explained in popular and political discourse particularly after the riots on British estates in 1991, was in terms of 'the theory of the underclass and that of defensible space in urban design, two theories which came together to describe junk people and junk places' (1993: 302). When described this way, social housing’s problematic neighbourhoods are apt to become the targets of moralising, authoritarian government.

**The problem of authority: landlords and tenants**

Over the late-modern period, the legal relationship between landlords and tenants has been fundamentally reformed. Previously, at law, landlords were, in a sense, petty sovereigns, subject to a superior sovereign (the state) and a range of proscriptions (rent control, eviction control) that had become, in many jurisdictions by the 1970s, patchily applied. From the 1970s, the landlord-tenant legal relationship began to be re-envisioned by tenant activists and by agencies of government as a consumer relationship, and leases as contracts for services, subject to their own specific regime of consumer protection.

In Australia, the most important early step in this movement was the Commonwealth Government's poverty inquiry, which included a specially-commissioned report on 'Poverty and the Landlord-Tenant Relationship' (Bradbrook, 1975; see also Australian Council of Social Service, 1974). Concluding that 'the current body of landlord-tenant law in Australia is a scandal... sadly deficient in most of the relevant areas of tenant needs.... [and] fails to satisfy fully the needs of the landlord' (1975: 1), Bradbrook recommended the enactment of legislation specific to residential tenancies, dispute resolution through specialist tribunals rather than the courts, and the establishment of tenancy information services. The proposed legislation would provide standard forms of tenancy agreement; prescribed obligations on landlords in relation to repairs and maintenance, fees and charges and tenants' privacy; and prescribed notice periods for rent increases and terminations. Both private rental and public housing tenancies were to be reformed in this way, but special mention was made of public
housing leases: observing that the public housing authorities included in their leases — if not actually enforced — even harsher terms than private landlords, Bradbrook recommended the prescription of a fair, standard form of public housing tenancy agreement even if governments did not proceed with private tenancy reform (1975: 113). Over the next two decades, each Australian State and Territory enacted residential tenancies legislation on the Bradbrook model: in New South Wales, the *Residential Tenancies Act 1987* (NSW). In the event, landlords have benefitted at least as much from the speedy, inexpensive mechanism provided by the legislation for terminating tenancies and recovering possession of premises.

These developments reflect an international movement. Bradbrook’s recommendations drew on then-recent law reform in the United States and Canada, and law reform along similar lines was also pursued in Britain, beginning with the development in the late 1970s and 1980s of ‘tenants charters’ for social housing (Ravetz, 2001: 207), then, as private landlordism revitalised under neo-liberal economic reforms, the passage of the *Housing Act 1988* (UK) and the *Housing Act 1996* (UK). These improved the contractual rights of tenants, but in some respects also reduced the security of the tenure (Cowan, 1999; Hunter, 2006: 138-39). Particularly as it relates to social housing, this turn towards contract was originally intended to curb the authority of landlords; however, it has in short order been followed by moves to enhance social housing landlords’ legal powers, particularly in relation to crime and disorder, including the use of contracts as well as other, more novel legal instruments. Like the police and their new powers, this has happened precisely when confidence in the ability of social housing to prevent vulnerable households from lapsing into disorder has been diminished.

In the United States, this move first appeared in the *Anti-Drug Abuse Act 1988* (US), which required social housing authority leases to provide that ‘any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises’ would be grounds for termination of the tenancy, whether the activity is ‘engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control’ (cited at Simon, 2007: 194). These provisions were given stronger impetus in 1996, when President Clinton issued an executive order for the promulgation of a ‘One Strike and You’re Out’ policy (Vale, 2000: 385; Simon, 2007: 195). In Britain, social housing landlords were a key
reference point in the Blair New Labour's prolific discourse and law-making about 'neighbours from hell' and 'anti-social behaviour' (ASB) (Burney, 1999; 2005; Flint, 2006; Field, 2003). First the Housing Act 1996 (UK) provided social landlords with a number of measures relating to ASB, such as 'introductory tenancies' with 'trial periods', and the right to apply for injunctions restraining tenants against causing threats and violence towards other persons, including powers of arrest. Next, the Crime and Disorder Act 1998 (UK) introduced the famous – or infamous – Anti-Social Behaviour Order (ASBO), which may be made by magistrates against any person over the age of 10 years who has behaved 'in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself' (s 1), and may contain such prohibitions as are 'necessary for the purpose of protecting from further anti-social acts of the defendant' (s 6). Neither contractual in nature (since ASBOs are civil orders made by magistrates, and breach is a criminal offence), nor specific to social housing, ASBOs are nonetheless especially significant in social housing because social housing landlords are one of the prescribed agencies (along with local government authorities and the police) that may commence ASBO proceedings. More recently, the Anti-Social Behaviour Act 2003 (UK), amongst other things, extended the 1996 injunctions to become 'anti-social behaviour injunctions', covering conduct 'capable of causing nuisance or annoyance' (s 153A) and the unlawful use of premises (s 153B); it also provides for the 'demotion' of social housing tenancies to less secure forms of tenancy on grounds of ASB, and requires all social housing authorities to develop policies in relation to ASB (Burney, 2005). Alongside ASBOs, the Home Office has also promoted the use of legally informal Acceptable Behaviour Contracts (ABCs). As a result, Burney observes, 'it is hard to think of any other group of adult citizens, outside institutional life, subject to the same level of governance in their daily lives' as British social housing tenants (Burney, 1999: 123).

In New South Wales, the provisions of the Residential Tenancies Act 1987 (NSW) have provided the basis for Housing NSW's 'Good Neighbour Policy', adopted in 1996; the Act has also been amended on three occasions to facilitate or enhance the use of legal proceedings against public housing tenants, including through the introduction of 'UK-style acceptable behaviour orders' (NSW State Government, 2004). All of these developments are considered in detail in Chapters 5, 6 and 7 of the thesis; they support a similar conclusion to Burney's in relation to the government of public housing tenants in New South Wales.
**Government-Housing at the Crossroads**

We are undoubtedly at a crossroads in the history of social housing in New South Wales. Before us lie numerous options but each is difficult, new and complex. (Mills, 2003)

_Crossroads..._ Public housing in New South Wales faces cataclysmic chaos if bold, dynamic and entirely new approaches to its philosophy, economics and social significance are not quickly determined and implemented (Ford, 1972: 3; original emphasis)

Since the 1970s, the ground has shifted beneath crime control, social housing and other fields of government. In this Chapter, I have considered the directions of the shift in terms of advanced liberal governmentality’s economic neoliberalism, on the one hand, and its concern for ‘governing through community’, on the other; and then how each is cross-cut by strategies of adaptation to the limits of state government and strategies of ‘denial and acting out’ in symbolic demonstrations of sovereign power.

Like other social housing authorities around the world, Housing NSW is still negotiating uncertainly across this new ground. For more than 30 years, officers of Housing NSW have experienced this uncertainty as a feeling of public housing being ‘at a crossroads’. In an interview for this thesis, a housing officer, H18, spoke of the resulting sense of tension in government-housing practice:

H18: There’s so many tensions internally around what the role of the Department is currently and what it ought to be in the future. Even given the ‘Reshaping Public Housing’ direction....

CM: A person looking at this from the outside might say that if this is an attempt to make the Department of Housing a more humane, more welfare-oriented organisation, why is it happening at the same time as other changes that may make it a more punitive one?
H18: Exactly. That’s what I’m saying – they’re the sorts of tensions that I guess I was alluding to. They’re evident in a political sphere external to the Department, but they are also clear within the Department. And they’re played out every day in client service teams, in head office....

(H18 interview)

How the tensions of advanced liberal governmentality are ‘played out everyday’ in Housing NSW’s practices of government-housing is considered in detail in the next Part of the thesis.
In the previous Part of the thesis, I analysed the history of social housing as a genealogy of 'government-housing'. In this Part of the thesis I will examine practices of government-housing in Housing NSW's contemporary government of crime and disorder. Each of the Chapters in this Part looks at practices under different aspects of the government-housing relation, and does so according to those themes by which I characterised, in Chapter 3, recent problematisations in both the government of crime and disorder and the government of social housing.

The first Chapter in this Part, Chapter 4, focuses on the individual subject of public housing. This is the *client*, to use Housing NSW's preferred term; in particular, the client who often appears also to be a crime-prone, disorderly subject who is in need of government. The next Chapter, Chapter 5, considers the practices of Housing NSW in relation to the built environment of public housing, and in the building of community relationships, particularly to address crime and disorder at the level of the community or neighbourhood. Chapter 6 specifically addresses practices of government-housing arising directly from the landlord-tenant relationship between Housing NSW and public housing tenants. The final Chapter in this part, Chapter 7, considers a number of 'new tools' for the government of crime and disorder that have been given to Housing NSW in the last several years – tools that combine different techniques and modes of government in an attempt increase Housing NSW's leverage over tenants, but which appear to have faltered.
CHAPTER 4

THE CLIENT

One of the ways in which problems of crime and disorder in public housing are explained is by reference to the characteristics of the individual persons who comprise the clientele of public housing. This Chapter deals with the question of the subjectivity of the client as it is viewed, constituted or 'made up' (Rose, 1999b: xvi) through Housing NSW's administration of access to public housing, and as it is addressed in the general mode of work of housing officers – their 'client service'. This question is crucial to the ways in which Housing NSW attempts to govern against crime and disorder.

In the first section of the present Chapter, I will consider the client of public housing as the problematic subject that emerges from the processes for determining eligibility for public housing and the allocation of dwellings. Following that, in the second section of the Chapter I will consider the subject of the client from another perspective, by looking at the work of the officers of Housing NSW – its Client Service Officers (CSOs) – in terms of its job categories and descriptions, the themes of attempts to reform it, and the dispositions of work 'culture'. What emerges is the client as a subject that alternates between positions of incapability and selfish agency, and that is addressed by a client service which itself alternates between a mode of work that urges early intervention, support and prevention, and a culture of punitive reaction.

Eligible Subjects

Allocation according to eligibility is one of the defining elements of social housing; it is also a prominent element in explanations of the relation between social housing and crime and disorder. It is, for example, one of the drivers of the residential dynamics to which Bottoms and Wiles refer as the causes of offending in social housing estates (Bottoms and Wiles, 1986; Bottoms, Claytor and Wiles, 1992). For Weatherburn, Lind and Ku, eligibility is not just one factor in explaining crime and disorder in public housing; they advance the 'allocation hypothesis': that 'public housing estates experience persistent crime problems
simply because crime-prone individuals are (by reason of their economic and social
disadvantage) more likely to be allocated to public housing’ (Weatherburn, Lind and Ku,
1999: 256). They contend that ‘the public housing allocation process is largely, if not entirely,
responsible for the association between public housing and crime’ (1999: 270). As I indicated
in Chapter 3, however, the subjectivity of this ‘crime-prone individual’ is but one of a
number of positions on subjectivity adopted in late-modern criminology, each with different
implications for government – including practices of government-housing.

Housing NSW has policies that expressly attempt to address problems of crime and
disorder, in the course of its administration of access to public housing: these are its policy
relating to ‘unsatisfactory former tenants’ and its local allocation strategies, which I will
discuss further below. My main focus here, however, is not on the statistical outcomes of the
allocations system of Housing NSW, nor on its manipulations of this system, but on how
this system works to produce knowledge about clients. As applicants, Housing NSW’s
clients have offered up information about themselves in terms of Housing NSW’s eligibility
criteria, and made certain promises in the form of a contract. These measures are not merely
a valve for admitting certain types of individuals and households into the public housing
system; these measures also help make up those types, and hence make up public housing
tenants as subjects of government. This subjectivity is crucial to the ways in which Housing
NSW conceives of problems of crime and disorder in public housing, and hence to its
practices of government-housing.

The first aspect of this subjectivity I want to consider is the incapability of eligible applicants.
The image of the ‘incapable social tenant’ is invoked by de Decker and Pannecoucke (2004)
to summarise a range of stigmatic impressions of social housing tenants, particularly as social
housing systems have become more targeted to the most poor. What I mean by the
‘incapable’ subject of public housing, however, is not a mere image, but rather the result in
knowledge of certain actual practices in Housing NSW’s administration of allocations of
public housing. In these practices, the principle of ‘need’ is especially important. As shown in
the second Part of the thesis, ‘need’ has been a crucial, if changeable criterion of eligibility
throughout the history of the government-housing relation. The way ‘need’ was framed in
‘social’ terms by the NSW Housing Commission, and applied by the Allocations
Committees, first produced the strongly working class estates of the post-war period.
Through the 1970s and 1980s, the guidelines and proscriptions applied by the Allocations Committees were replaced by income thresholds and 'priority' criteria applied by housing officers to create a population of persons whose 'need' is framed, implicitly and expressly, in quite different terms. As indicated in the previous Chapter, these persons are less members of a social group for which the private housing market has failed to provide than they are individuals who have failed on account of one or more of a wide range of personal inadequacies – inadequacies documented and proven by individuals as part of the process for getting into public housing.

Eligibility and incapability

The eligibility criteria that a person must meet to be allocated public housing in New South Wales are set out in Housing NSW’s ‘Policy ALL0030A: Eligibility for Public Housing’. The policy provides:

To be eligible for public housing in NSW an applicant meet all of the following criteria:

- Be a citizen of Australia or a permanent resident
- Live in NSW
- Be within the Department’s income limits
- Not own, or part own, residential property in Australia
- Be able to successfully maintain a tenancy with, or without, support
- Repay, or undertake a formal agreement to repay, any outstanding debts owed to the Department
- Generally, be 18 years of age or older.

(Policy ALL0030A: Eligibility for Public Housing)

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32 In June 2010, Policy ALL0030A was superseded by the Eligibility for Social Housing Policy, which is a common eligibility policy for Housing NSW and other social housing landlords in New South Wales. Previously, each operated their own eligibility policies, although the policies of the other social housing landlords – especially the community housing organisations – were strongly shaped by their funding contracts with Housing NSW. The eligibility criteria and other relevant provisions of the Eligibility for Social Housing Policy are substantially the same as Policy ALL003A.
The crucial criteria are the third and, to a lesser extent, the fourth, which relate to the income and assets of an applicant (without these criteria, those who are eligible for public housing would scarcely be different from the rest of the population). It is in these criteria that the principle of ‘need’ operates; the principle is implicit, rather than explicit, but it is a very strong implication. Housing NSW’s current income thresholds ($500 per week for a single adult, adjusted by certain amounts for each additional adult or child) are set lower than the national minimum wage ($569.90 per week: Fair Work Australia National Minimum Wage Order 2010). Ninety-five per cent of new tenants are in receipt of a Centrelink payment (AIHW, 2010: Table 1.8), each type of which is subject to its own regime of eligibility, and information about which is disclosed to Housing NSW by the applicant. ‘Need’ is explicit in Housing NSW’s policy for priority applications, by which persons may be allocated public housing ahead of others on the Housing Register. About 47 per cent of new tenants are housed as a matter of priority (AIHW, 2010: Table 1.8), and as such have met the following additional criteria:

To be approved for Priority Housing, applicants must be:

• Eligible for public housing, and
• In urgent need of housing, and
• Unable to resolve that need themselves in the private rental market.

(Policy ALL0040A: Priority Housing33)

In order to satisfy the second criterion, an applicant must demonstrate that they are experiencing ‘unstable housing circumstances’, or their existing accommodation is appropriate, or they or a household member are ‘at risk’ of harm, such as domestic violence or sexual abuse. In relation to the third criterion, Housing NSW considers such factors as an applicant’s psychiatric, developmental or intellectual disability, or ‘any personal circumstance or characteristic which is likely, or has been shown, to reduce [the applicant’s] access private rental’; applicants will also often furnish with their applications statements from real estate agents attesting that there is nothing available to rent to the applicant.

33 The Eligibility for Social Housing Policy incorporates the priority criteria, mutatis mutandis.
There is yet more for the applicant to disclose to Housing NSW as to their need. Applicants must provide further information for the purposes of determining the period of the fixed term tenancy that may be offered eventually to the applicant. As part of the 'Reshaping Public Housing' reforms announced in April 2005, prospective tenants are offered tenancies with fixed terms of 10, five or two years, depending on whether they have demonstrated 'ongoing housing and support needs that are unlikely to decline over the next five years' (10 year fixed term), or 'housing and support needs that will most probably continue in some form over the next five years' (five year fixed term); all other prospective tenants are offered a two-year fixed term tenancy. (In the terms of the policy, these two-year tenants have 'transitional or temporary support needs that will probably decline over the next two years, or the client's continuing need for public housing is unclear over the next five years because the household's financial circumstances may improve.')

Neither Housing NSW's assessment of eligibility, nor the creation of the incapable subject of public housing, ends when an applicant becomes a tenant of public housing; each continues for the duration of the tenancy. Almost all tenants of Housing NSW are subject to one further system of eligibility, and an increasing number of tenants are subject to a second further system, with which they must deal for the duration of their tenancies. Both of these ongoing eligibility processes have implications for the creation of the subject of public housing.

The first is the rental rebate system, which has its own eligibility criteria and processes for assessment. For eligible public housing tenants, rent rebates reduce the rent payable under a public housing tenancy agreement to an amount related to the tenant's household income: in most cases, about 25 per cent, and rising to 30 per cent for those with 'moderate incomes'. Rent rebates have been part of the public housing system in New South Wales since the first CSHA in the late 1940s, but they have never been so important a part of the system as they are now, because of the introduction of market rents in the late 1970s and 1980s, and the lower-incomes of the households housed by Housing NSW: in 2008-09, 90 per cent of public housing tenants received a rent rebate (AIHW, 2010: Table 1.1). The rent rebate

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system requires tenants to furnish Housing NSW with further information about themselves – in particular, their income, and the identities of any other household members and their incomes – through periodic surveys and self-reporting.

The second ongoing eligibility system was introduced by the Reshaping reforms, so that from July 2005 new tenants of Housing NSW have been subject to periodic reviews of their eligibility to remain in public housing. In other words, these public housing tenants must demonstrate not just their eligibility to get in, but to stay in public housing. The criteria for continuing eligibility relate to income and assets, though tenants who are according to these criteria prima facie ineligible may be allowed to remain in public housing and have their tenancy renewed if they satisfy Housing NSW that they would be ‘at risk’ if they were required to move out. Housing NSW has been conducting reviews as to eligibility with the prospect of terminating the tenancies of ineligible tenants since July 2007.35 In the 10 months to 31 May 2008, Housing NSW conducted reviews of 3 514 tenants and their households; it found just 28 ineligible to continue.36

The result of the operation of this system is not just to select and maintain in public housing an objectively distinctive population. It is also, following Rose, to ‘make up’ and assemble persons as subjects, by organising particular truths about their capacities, and furnishing narratives of their lives (1999b: xviii-xix). In the focus groups and interviews, Housing NSW officers described the subject of public housing, according to these and related truths, as an often an incapable subject whose incapacities lead to crime and disorder:

H16: The primary eligibility criteria is people on low incomes, so I suppose we’re calculating on housing people from the low financial areas of society. And from that flows, I suppose, some desperation in relation to finances – affording things. Given that the Department has a policy – or over the last few years, a change of policy – to focus on priority needs clients first, many

35 The first reviews as to continuing eligibility actually commenced in October 2006, but there was no prospect of termination. These tenancies were the first entered into after the Reshaping announcement and had fixed terms of 18 months – the product of an interim arrangement while Housing NSW drafted its policy for two-, five- and 10-year fixed terms. When it reviewed these 'interim' fixed term tenancies, Housing NSW decided that it would renew all of them, and those that otherwise would have been ineligible for renewal were given fixed terms of one year, which were subject to further review.

36 Housing NSW, correspondence to the Tenants' Union of NSW, 2008.
of those priority needs clients tend to come from domestic violence backgrounds, substance abuse backgrounds, and other fairly significant difficulties that they face in their lives. Sometimes they're able to avoid those sorts of problems in public housing, with the support of other agencies; sometimes the problems follow them, and remanifest themselves in public housing.

(H16, interview)

Similarly H12, from the Riverwood office of Housing NSW, referred to the 'blokes...coming out of gaol' and into the bedsits on the Riverwood estate, where they are put 'back on the path to crime' (H12 interview). In these comments, the troublesome tenant is constituted with a very basic motivation – need, particularly desperate need – but otherwise appears distinctly passive. Their actions are understood not in terms of the choices they make, but their backgrounds. They follow paths; problems follow them. The probabilistic analysis of late-modern criminology as to the risk factors associated with crime and disorder is readily projected onto these needy, incapable subjects.

The incapable complainant

The incapable subject of public housing is also an incapable victim or complainant. The subject of public housing is 'vulnerable' to victimisation or fear of crime, emphasised H19, who went so far as to doubt that the incidence of criminal offenders was greater in public housing's population than in the broader community, but considered that 'feelings of vulnerability are absolutely more in areas of public housing' (H19 interview).

H19: The notion – which you may get from speaking to some people here [in Housing NSW] – that the estates are focuses for crime, I don't get a sense of [that] at all. I'm not clear at all whether that's the case. But certainly it is around vulnerability, that's clear.

(H19 interview)

This subject is also vulnerable to suffering through incivilities, disorder or conflicts that other persons are able to avoid or deal with. This was because 'they aren't working... they
don't have outside interests', said H10 (housing officers focus group 2). H11 further observed:

H11: The majority of our tenants are on a pension, so they have a lot more time on their hands, to maybe get irritated by their next-door neighbour's trivia and annoyance, and maybe the young people on the estate. So I think that causes problems, just because you've got so many people grouped together who aren't working. And that creates problems in itself.... And because we do have a lot of people with mental health issues, grouping them all together doesn't help.

(Housing officers focus group 2)

In the fieldwork at Riverwood, this aspect of the incapability of the subject of public housing had also impressed the electorate officer of the local State MP, who took many complaints from tenants about their neighbours. They did so, E1 said, precisely because of their need and incapacity:

E1: Because they've got nothing else to do. Because that's their world, those four walls they live in. It's their world, and they become very protective of it. A lot of them either don't know or forget that there is a big world out there, and that becomes their world and their - what's the word - their focus. So if anything intrudes on their world, because they've got nothing else to do, it becomes a major drama. And they don't see past the problem or how to fix it. Often, because they've got nothing else to do, it gives them something to whinge about too. It becomes like a cancer in a way, you know.... You know, if you're in a situation where you've got nothing to occupy your mind or nothing to do... you can start imagining all sorts of things, and things play on your mind. And you start getting bitter and twisted and evil, and I think that's what a lot of them do. I mean, I don't know what solutions are for things like that, but I think it is a lot of the problem.

(E1 interview)

For E1 and her counterparts in Housing NSW, both the subject of public housing and the subject's characteristic tribulations required government and, as a needy, incapable subject, this was expected by the subject itself. H19 observed that there was 'among the tenants an expectation that things are done for them'.
And they don’t have the power to control that, and they don’t have a voice, and [they] become expecting of that... you know, ‘we [Housing NSW] will do things for you, and if you ask we won’t do them, and you shouldn’t really ask, and we will look after you and you don’t really need to worry about that.

(H19 interview)

As H19’s comment indicates, the matter of expectations goes both ways: that is to say, it is not merely the case that the unable subject expects the attention of Housing NSW, but also that Housing NSW officers expect them to expect it, and so are disposed to confer this attention upon them and their troubles.

Agentive applicants

So far I have emphasised how Housing NSW’s eligibility processes operate to create an incapable, ‘crime-prone’ subject of public housing. What, then, of the active, responsibilised individual of agency who, as I indicated in Chapter 3, has assumed a central place in contemporary advanced-liberal governmentality?

There are a number of points where the agency of public housing subjects is ostensibly engaged. The most explicit of these comes after applicants have emerged from the application system and been allocated a public housing property, whereupon they sign a contract – that is, a residential tenancy agreement. As well as the residential tenancy agreement itself, public housing tenants also receive a document called a ‘tenant compact’, which reiterates the rights and obligations in the agreement as well as presenting in contractual form some of the other aspects of Housing NSW-client relationship (such as the tenant’s obligation to provide information to Housing NSW, and Housing NSW’s obligation to keep the tenant informed as to any decisions about the tenant that Housing NSW may make).

As each of the subsequent Chapters in the present Part of the thesis will show, contracts are of the first importance in Housing NSW’s government of crime and disorder in public housing. Here I am interested in the significance of the contract for the subjectivity of tenants – that is, its significance in terms of agency and responsibility – and in the focus
groups and interviews I asked Housing NSW officers about this significance. Their responses were deprecatory: signing the tenancy contract really did not make tenants responsible. For the subject of public housing, H5 said, ‘it’s just a bit of paper’ (housing officers focus group 1). H5 and her colleagues were very sceptical about the effectiveness of contracts in engaging the agency of Housing NSW’s typical clients, and about Housing NSW’s ability to ensure that clients felt the consequences of their responsibility being exercised.

H5: It’s not going to work. You can’t expect mental health patients and drug-induced people and alcoholics and everyone to sign an agreement to say ‘yeah, ok whatever.’ And what are you going to do to them? Throw them out on the street? No, we’re social housing.

(Housing officers focus group 1)

H3: Getting them to sign a piece of paper isn’t going to make them responsible…. I’ll be a bitch when I say this, but we can’t get people to pay their rent because they want to go and have a hit, or they want to go and buy a case of beer... They’re not going to be responsible for that, not unless they got all the supports –

H5: – in place –

H3: – backing them up, underneath.

(Housing officers focus group 1)

The processes of making the subject of public housing does, however, at a number of points insist upon agency. First, the eligibility criteria include a countervailing criterion that requires the applicant be ‘able to sustain a successful tenancy’. The policy qualifies the criterion by allowing that this ability might be demonstrated by an applicant either independently or with support; it further provides that where Housing NSW has doubts as to the applicant’s ability it may ask for a ‘Living Skills Assessment’ from a support agency. More than this, however, the whole of the application process itself entails an important qualification on the making of incapable subjects, which is significant for practices of government-housing. Applicants must narrate their entitlement in precise terms, and getting through the eligibility process can
be hard work. As Peel observes of housing and other support bureaucracies more generally, there is a ‘skill’ involved in making successful applications for assistance:

Those who rely upon others for help must become very skilled at producing an account of themselves, and not in the relative safety of the crafted memoir or diary: their autobiographies must be produced on demand and on the run, to the social worker or the police officer or at the emergency relief counter. They must keep their story consistent, and most of all they must tell it in the right way, speaking of sufferings they don’t deserve, and of their fortitude and strength of character. (2003: 12)

Along these lines, one of the Riverwood tenants recalled the effort he and others made in his application for public housing:

T9: I had to wait 14 years to get my place. And I only got it because I pushed really hard. I got letters from my this and [that]. Letters from my MPs and that. I had a lot of things and people [in support of my application] to get the housing.

(Tenants focus group 2)

As the rationing of access to public housing is tightened, and eligibility criteria become more complex, applications become more demanding exercises in tactics and strategy. It appears, paradoxically, that out of the eligibility process can emerge a calculating, self-maximising agent. In fact, when I asked Housing NSW officers in the focus groups and interviews about the operation of the eligibility and allocations system, they saw flashes of applicants’ agency everywhere. From their comments, Housing NSW officers’ encounters with this agency were almost entirely negative. They expressed scepticism about applicants and their motivations, and were aggrieved to find such qualities as ‘want’, ‘choice’ and ‘preference’ amongst clients emerging from the eligibility process.
H4: They want, want, want. It’s about what they want, not what they need.

H3: And they know the rules. They know how to break them, or how to go around them, to get what they want.

(Housing officers focus group 1)

H3: They have a very high expectation of the Department.

H8: They expect curtains. You send a client to look at a place, and they come back and say they want curtains. They want a house [rather than a flat].

H5: They expect to get the suburb of their choice.

H1: We had a woman last week, who was eligible for priority housing, and we could have signed her up with a lease — but no thanks, she’d rather have bond and rent assistance for the private sector. She’d prefer to rent privately.

H8: They expect to have everything they want. I’m sorry, it’s public housing.

(Housing officers focus group 1)

H14: They’ll come in and question why: ‘why am I getting this place and not that place?’

H13: Oh yeah. I see what you’re saying.

H14: .... We see what their make-up is, and who they’re currently with, where they’ve been, what they’ve been doing, and we say ‘my god, you need a stable roof over your head, and we’ve got it for you mate.’ [Instead, applicants say] ‘oh yeah, but what’s it like round here, how do the trains run?’

(Housing officers focus group 3)

H11: A lot of the time their expectations are too high, and they’re never happy with what you give them. Occasionally you get someone who is that grateful for what they’ve got — ‘I’ve got a roof over my head, this is just great’ — but it doesn’t happen very often. And maybe it’s because... I don’t know if it’s just because of the culture that we’re dealing with, but they’re quite demanding, and you know: I’m not happy in a unit, I’ve got to have a house, I deserve this, I deserve that.’ You explain what’s available, it’s your turn, this is what you’ve been offered, and I find that they’re just never happy.... Even the ones on the waiting list. I don’t really ever see anyone ecstatic with what they’ve received, really.

(Housing officers focus group 2)
The rent rebate system also, and again paradoxically, helps generate an agentive subject of public housing. It does so by providing opportunities for fraud: tenants can obtain a higher rebate and therefore pay less rent by not informing Housing NSW as to their full income, or as to the number of members of their household. These opportunities reinforced housing officers' impressions of the self-maximising tenant. Rental rebate fraud 'happens a lot, in Department of Housing', observed H11:

H11: Put it this way: there's a lot of single mums out there, with five or six kids, and they come in with a new baby, same father's on the birth certificate every time, yet hubby doesn't live there. And they're on Parenting Payment Single, popping out kids, and hubby doesn't live there. I find that very hard to believe. They're defrauding Centrelink and they're defrauding us. I don't know where he's living, if he's living there or if he's living at a friend's house, but they're just ripping off the system. I find that very frustrating.... We sometimes do get them, but there's a lot going on out there that they're getting away with. I think it's unbelievable.

(Housing officers focus group 2)

From all of the foregoing, it might sound as if Housing NSW officers cannot say a complimentary thing about their clients: that on the one hand public housing tenants are incapably trouble-prone, and on the other hand they are selfish trouble-makers. On the contrary, in the focus groups and interviews, Housing NSW officers did have positive things to say about their clients. My point, however, has been to show how public housing systematically relates clients to Housing NSW officers in these troubling ways. Its eligibility system requires the production of truths about need and incapacity; it also makes personal preferences appear greedy; and they provide benefits in such a way as to create opportunities for fraud. From the point of view of Housing NSW officers, this system produces two very different client subjectivities, and in their thinking they switch quickly between these perspectives.

**Using eligibility and allocations**

I turn now to the question of whether this system might actually be deliberately used to address crime and disorder. In Chapter 2 I noted the historical use in social housing of
grading applicants and allocating particularly risky households to certain, often less favourable premises – in the case of New South Wales, the early post-war community housing centres – for closer supervision. Housing NSW today uses the administration of access to public housing specifically to address crime and disorder in two, limited ways. The first is Housing NSW’s policy in relation to housing former tenants whose conduct was unsatisfactory; the second is Housing NSW’s use of discretion in allocations, including through ‘local allocations strategies’. In the focus groups and interviews, Housing NSW officers regarded each of the two methods as being of limited usefulness:

CM: Are you able to use allocations and eligibility to try to minimise problems or avoid problems?
H15: Well, the answer to that is no.
(H15, interview)

Housing former tenants

Under its policy for housing former tenants (Policy ALL0031A: Housing Former Tenants\(^3\)), Housing NSW may decline to house a former tenant whose previous tenancy with Housing NSW was assessed by Housing NSW as ‘less than satisfactory’ or worse. This can render the applicant ineligible altogether, or they may have to meet certain other criteria in order to be eligible for an offer of housing.

The policy sets out four graded categories of former tenant. ‘Satisfactory’ former tenants are those who moved out of public housing without a breach of their tenancy agreements and owing less than $500. These former tenants are admitted again to the waiting list, but those with debts will receive an offer of housing only if they have made satisfactory repayments.

‘Less than satisfactory’ former tenants either owe more than $500, had abandoned the property or left it in an unsatisfactory condition, or had been the subject of ‘substantiated complaints of serious nuisance and annoyance’: that is, an order from the Consumer, Trader

\(^3\) In June 2010, Policy ALL0031A was incorporated into the Social Housing Eligibility Products and Allocations Policy Supplement.
and Tenancy Tribunal that the tenant breached their agreement, or a statement from the police that the tenant engaged in conduct that the police consider to be a breach of the tenancy agreement. Less than satisfactory former tenants are admitted to the waiting list, but those with debts have their application 'suspended' for up to six months, in which time they must repay the debt, and those who were the subject of complaints are eligible to be offered a tenancy with a fixed term of six months only; if they complete the six months without breach, they are offered a fixed term agreement as usual.

‘Unsatisfactory’ former tenants are those who were evicted on the ground that they had breached their tenancy agreement, or who moved out during eviction proceedings and were the subject of substantiated complaints of nuisance and annoyance, or who are ‘repeat’ less than satisfactory former tenants. These former tenants are not admitted to the waiting list until they have sustained a tenancy of six months in the private rental market; thereafter they are admitted to the list and may be offered a six month fixed term tenancy agreement, on the same terms as above. The final category of former tenant is that of those who were evicted for ‘extreme breaches’, or who moved out during such proceedings. ‘Extreme breaches’, according to the policy, include:

- Illegal activities carried out by the tenant or a member of their household on the Department’s premises….
- Convicted of arson or deliberate damage of the Department’s… property by the tenant or a member of their household.
- Physical attacks or serious verbal threats directed at neighbours or the Department’s staff made by the tenant or a member of their household.

These former tenants are ineligible for public housing.

In her analysis of the government of crime and disorder by British social housing landlords, Burney suggests that the power to exclude a person from future eligibility for social housing is one of the major instruments at the disposal of landlords (1999: 106). Considering the size of Housing NSW relative to the whole of the New South Wales social housing sector, one might expect that this power should have an even greater potential here. The housing officers I interviewed, however, were sceptical as to its usefulness:
H5: If they are evicted, they’ll turn up somewhere else, go back on the housing register, the whole thing again. Sign up... it’s just a full-on cycle. Because you can’t stop them from being in housing.... [They will go] on the Riverwood list, and instead of being in [A Street], they’ll be in [B Street] in a bedsitter. And then when they breach that contract, we’ll kick them out and move them to another bedsitter.

H4: And in between that, you’ve got — they’ve become homeless, so you give them temporary accommodation, to resolve that issue until you house them again.

(Housing officers focus group 1)

According to Housing NSW officers, the claims of the incapable subject are too urgent to always keep them out:

H5: We’re housing them, but we’re throwing them out in the next six months. But we’ll rehouse them again.

H4: It’s in and out again.

H5: And we’re not going to have the support services they expect, with all our high need clients, so we’re going to become social workers and everything else. We’re not going to get the support. Nuisance and annoyance will skyrocket, and that’s all we’ll be doing. Kicking them out, putting them back in.

(Housing officers focus group 1)

These comments are very pessimistic; the fact remains that Housing NSW does indeed seek to prevent crime and disorder by excluding former tenants whose conduct was unsatisfactory. The pessimism, however, points to another effect of the policy, which is to require and make use of further knowledge about applicants, by making a test of their experiences in private rental housing, or checking their regularity or otherwise in repaying debts. Each of these tests produces further insights into the alternately needy and agentive subject of the application process.
**Allocations**

The second way in which Housing NSW attempts to use the administration of access to housing to govern against crime and disorder is through the exercise of discretion in allocation decisions. This happens formally through ‘local allocations strategies.’ An example of a local allocation strategy is provided by the Riverwood estate, where vacancies in a number of blocks of units, most notably the estate’s high-rise towers, are allocated only to persons aged 55 years and older. It also happens informally: as H10 explained, ‘any one time, there’s usually not just one property, there’s usually about 20 properties available, and there’s probably people from the fifth one up on the [waiting] list you could work with. But certainly, you check the client’s file, you look at their history’ (housing officers focus group 2).

So, on the Riverwood estate, housing officers said that they tried to avoid offering bedsits to young persons – especially young women – and also that they had placed ‘a lot of our problem tenants’ in the bedsit complex nearest the office, ‘so we could see them’ (H10, housing officers focus group 2). The latter was not a success. (The complex was taken over by a ‘gang’ and damaged by fire – a significant episode in the estate’s crime talk to be analysed in Chapter 9.) In the focus groups and interviews housing officers were very conscious of the limitations of allocations strategies and, in particular, how these strategies are no match for the power of Housing NSW’s eligibility criteria to generate a troublesome clientele.

**CM:** Can you tell me more about how you might use allocations to prevent something before it happens?

**H11:** Well, we can only do that to a certain extent. If it’s someone’s turn on the list, and we’ve only got – well, there’s a couple of blocks where a single, 20s-late-teens girl would just not be appropriate, you wouldn’t offer it to her. You have to justify that – every move has to be justified.

**H10:** There’s a limit to how much that can happen.

(Housing officers focus group 2)

Again, these are pessimistic comments on something that Housing NSW does actually do, formally and informally. Even though Housing NSW officers might feel very limited in what
they can do, at the very least, as H11 said, 'if there's a former tenant coming in, there'll be a note on the note pad, sort of a highlighted note, and then you would get the file and have a look' (housing officers focus group 2). Officers might feel that this is little more than going through the motions, and that troublesome applicants will be housed anyway, but the 'motions' of the eligibility and allocation system are important in themselves – more important than their limited usefulness in directly dealing with the risks posed by known or potentially troublesome applicants – because of the way in which they make up the subject of public housing, in the knowledge carried by housing officers and in the terms of the relations they subsequently have with tenants.

Where relations turn to problems of crime and disorder, this subject – alternately incapable and crime-prone, then agentive and selfish – is crucial to the question of Housing NSW’s responses. The fact that it is dealing with a subject that is apt to alternate so quickly between positions of incapability and agency heightens the prospect of schizoid responses along the lines of both the adaptive and ‘sovereign reaction’ strategies described by Garland (2001: 11-127; 1996: 450-459) and discussed in the previous Chapter. More particularly, it is not just Housing NSW, but housing officers themselves, who respond; they find themselves in the situation described by Garland of ‘[stumbling] upon ways of doing things that seem to work, and seem to fit with their other concerns’ and ‘[patching] together workable solutions to problems that they can see and get to grips with’ (2001: 26). This means that, in addition to how the eligibility and allocations system makes up the quickly alternating subject of public housing, it is important to consider how this subject is countenanced, and how its alternations are modulated, in housing officers’ ways of working – their ‘client service’.

**Client Service**

In this section I will consider the discourse, the routines and the modes of work of Housing NSW’s Client Service Officers (CSOs) by considering, firstly, the job as set out in CSOs’ job descriptions and related documents; then a reformist mode of work that was referred to several times in the documents and the fieldwork as ‘working with the client’; and finally I will consider ‘work culture’, which was also mentioned frequently by Housing NSW officers, and which refers to more informal, reactive ways of dealing with the troublesome client of public housing.
Client Service Officers

Housing NSW’s CSOs are the multi-skilled successors to the housing officers and welfare officers of the NSW Housing Commission. CSOs provide ‘a comprehensive service to clients’, including assessing eligibility, making recommendations as to priority applications, managing the waiting list and ‘assisting clients to access services which will enhance their tenancies’ (NSWDOH, 2006a). CSOs’ responsibilities also include ‘investigating and taking appropriate action in cases of breach of lease agreement’, ‘monitoring arrears and negotiating payments with clients’, ‘assisting client to resolve neighbourhood disputes’ and ‘participating in client and community liaison’ (NSWDOH, 2006a).

In addition to its CSOs, Housing NSW employs Senior Client Service Officers (SCSOs) to take carriage of more complex portfolios, represent Housing NSW before the CITT, and ‘assist in client service development’ (NSWDOH 2006a); it also employs a small number of persons in the position of Senior Client Service Officer (Specialist), who perform case management for clients with ‘severe/multiple needs’ and mentoring and other support for CSOs. In 2007, Housing NSW created a new specialisation, the Senior Client Service Officer (Anti-Social Behaviour), in 17 positions around the State. Each SCSO(ASB) operates across teams of CSOs, ‘supporting and mentoring’ CSOs in the management of anti-social behaviour, making linkages with agencies that may provide support services to clients, and developing ‘systems and processes for the management, documentation and monitoring of anti-social behaviour’ (NSWDOH, 2007).

As I observed in Chapter 2, the Housing Commission’s housing officers approached their work with instructions to be ‘pleasant but firm’, ‘courteous and considerate and yet quick to detect unfair and unwarranted demands’, and to ‘use in corrective action… a tone that is firm and direct’ (NSWHC: 1968a). By contrast, CSOs are expected to ‘manage’ difficult behaviour on the part of clients, to ‘listen attentively’, ‘be patient and friendly’, ‘draw out information or concerns’, and ‘focus on feelings’; CSOs’ guidelines also advise ‘do not argue’ and ‘do not be judgemental’, and go into considerable detail about how best to deal with each of a range of types of difficult clients (for example, ‘clients living with a mental health problem or disorder’, ‘clients experiencing hallucinations and/or delusions’, ‘clients with thought disorders’ and ‘clients threatening suicide’) (NSWDOH, 2006b). CSOs are also
expected to be problem-solvers: as it is put in the job description, ‘the Department is looking to Client Service Officers to move the delivery of services towards a problem solving environment and to take ownership of all client matters which fall within their [property] portfolio’ (NSWDOH, 2006a).

In an interview, H15 reflected on the old approach and described how Housing NSW, through its CSOs, now went about its work:

H15: Well, it’s no secret, up until [the 1990s] one of the criticisms of the Department was we were pretty draconian in our attitude of dealing with people. We were telling you what was best for you. I think we’ve changed that around dramatically. We spend a lot of time working with the client. ‘You tell me what’s best for you.’

(H15 interview)

The CSO job description also refers to ‘working intensively with clients to address their circumstances’ (NSWDOH, 2006a). Below I will consider this emphasis on ‘working with the client’ as a deliberate mode of work for CSOs; as I will show further below, however, that draconian attitude still persists in a ‘culture of reaction’.

‘Working with the client’

The reference to ‘working with the client’ in the CSO job description is more encompassing and attitudinal than are the lists of tasks and responsibilities also found there, and is meant to suffuse through these other aspects of the job. This includes CSOs’ responses to ‘anti-social behaviour, nuisance and annoyance, transfer requests, anything at all’, said H15, who further explained:

H15: It is really sitting down with the tenant or the client and saying ‘right, what’s your solution? What do you want us to do? Is there anything we can do for you? What support services can we put in place for you?’

(H15 interview)
For tenants whose conduct is troublesome or disorderly, ‘it’s an early intervention approach we’re taking now’, said H19, from Housing NSW’s central office, ‘and wherever we can we’re wanting to save tenancies’ (H19 interview).

This vision of ‘client service’ fits squarely within the adaptive strategy of advanced liberal government, and embraces both incapable and agentive subject positions, such that the work done by CSOs represents a negotiation between these two subject positions. ‘Working with the client’ has been deliberately established as an objective of each of the series of reforms that the public housing system has experienced over the past quarter-century: the abolition of the old Housing Commission and the creation of the Department of Housing in the 1980s, the Mant Report and associated reforms in the 1990s, and the Reshaping Public Housing reforms of the present decade. To an extent, however, the discourse of ‘working with the client’ has also emerged incidentally, as a strategic response to the challenges of public housing post-golden era circumstances. As H18, from Housing NSW’s central office, explained, ‘it seems to me that that [‘working with the client’] is almost incidental’:

H18: I don’t see that as the key motivator or driver to actually reshaping public housing, to move in those directions. I think… I’d like to think that that’s one of the agendas, but I actually don’t think it’s a key motivator. I’d like to see it as a spin-off.

(H18 interview)

In particular, H18 saw the discourse of ‘working with the client’ as a counter, instigated by officers, to other demands on Housing NSW as an organisation and the unwelcome implications of these demands for the work of CSOs, especially in regard to CSOs’ responses to crime and disorder:

H18: Now, if we see ourselves predominantly as an asset management organisation, then that certainly leaves us… moving into what I call that more criminal sort of, more punitive role in relation to law and order. If we see ourselves more of as a human services agency, then we have much stronger obligations, I think, to work at the other end of the continuum and to actually provide more assistance.

(H18 interview)
In other words, 'working with the client' has significant, though not unqualified, support both in what might be called the big 'positional' statements made by governments about public housing, as well as in the dispositions of CSOs. H18 said 'I think there are staff out there who are incredibly committed [to working with the client]':

H18: Those [staff] I'm talking about more often have a background in social welfare or social work, or something like that - they see and value the benefit of making a connection with other services or other agencies and working collaboratively with them to actually assist tenants. And they do that work; they do go out and arrange things with tenants, they meet with people, and it's much more of a partnership both with other agencies and with the tenant, and are very committed to try and assist people who are going through a particularly difficult time, and who need some support or a bit more understanding about what's going on in their lives. So I think there are a lot of people out there like that.

(H18 interview)

'Working with the client', then, means that CSOs are to address applicants and tenants as both subjects who need support, and subjects who should be interested and active in making decisions about that support. This requires CSOs to make some fine judgements about the capability or incapability of persons, to be both responsive and investigative and, as H18 put it, to 'care' about individual clients - not in the sense of a 'personal level of care', but in terms of comprehending all the personal information offered up by clients. This poses considerable demands for CSOs, and problems for this mode of client service.

The problems of 'working with the client'

Despite the official commitment to it in reform agenda, and despite the enthusiasm of officers such as H15 and H18, 'working with the client' is, as a mode of work, problematic. Part of the problem is that officers' ability to 'work with the client' is limited by other aspects of the job that compete for officers' time and attention, and which are more readily measured for the purposes of job performance. As H12 said, 'the black and white stuff can be measured':

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H12: You approve a rehousing, you decline a rehousing, you approve a priority rehousing, you've got rent arrears: it's all black and white. Nuisance and annoyance is all very hard to gauge.... I spent two and half hours on this particular case, two hours there, one and a half hours on that one, two hours fifteen there, 50 minutes here, an hour 10 there, and you know it goes on. It's hard to gauge it. In other words, when we go to a QBR [quarterly business report] – our reporting – this just never comes up. Nuisance and annoyance never comes up. Voids come up, our vacancies come up, our rent arrears come up, our rehousings; but this is never gauged. And there's no mechanism in place to sort of gauge it, and it's quite frustrating.

(H12 interview)

Another limitation on 'working with the client' comes from the skills and training of CSOs – or rather, their lack of skill and training. 'A lot of the staff are actually temps', admitted H19, and they are 'supported with an inadequate level or quality of training or resourcing, often, and bring to the job often very little grounding or training' (H19 interview). Similarly, H18 observed:

H18: In terms of skills, and I'm not saying this is universal, but I have observed that in some teams... we bring staff in, trainees, quite often young people, who don't have a lot of experience, or life experience, they don't have a lot of maturity, they haven't worked in this kind of environment before, and we send them out into the field into sometimes quite difficult situations and don't train them properly – or we might train them once they've been in the job for 12 months, if they're lucky.

(H18 interview)

H18 further explained that this problem was not isolated to Housing NSW's CSOs; rather, 'it moves all the way through the system':

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H18: We don’t give them any supervision for their work. We don’t give them a mentor when they arrive, and the more senior members of staff don’t get that level of support from their team leaders either. Team leaders don’t get the support from their area directors. So it’s all the way through the system....

(H18 interview)

Finally, even more of a problem for ‘working with the client’ is confusion as to the role of Housing NSW; that is, just what CSOs are supposed to do when working with clients. H15 observed:

H15: We’ve got to be careful, in terms of we’re not the doers in terms of providing the support services. This is where one of the dilemmas, or one of the conundrums, if you like, is, in terms of what’s our role, as ‘Housing’ people, as housing managers.

(H15 interview)

At the Riverwood office, Housing NSW officers spoke directly of the confusion as to roles:

H3: Where’s our responsibility? Yes, we are the landlord, we are the landlord. But we still have a responsibility out there to every resident to make sure that they can sustain a tenancy. Do we then become – which we are, unpaid for, now – become social workers, counsellors, financial advisers –

H6: – police –

H3: – police, home care, aged care. You just don’t know which hat to put on. Are we the landlord – is that all we do?

(Housing officers focus group 1)

Despite the promise that ‘working with the client’ makes for more effective and satisfying work, a number of Housing NSW officers expressed dissatisfaction or disillusionment with their present mode of work. H11’s initial impressions of the work were disappointed: ‘I think, when I initially went into this job, I thought it would definitely be a feel-good kind of job, but...’ (housing officers focus group 2). H19 said that specialist officers, in particular, had said to him that ‘it’s a two-year job: after that you’re going to go crazy or just become so
bitter that you're no longer effective in the job' (H19 interview). H12 reflected on a long career in public housing, and on his current heavy involvement in dealing with disputes about tenants' conduct:

H12: We used to go around and just knock on the door. We didn't use to have that much problems, in those days. We had less problems those days than we do today. Our social aspect from the mid-70s up til now has changed drastically. We never had the problems that we've got today. It's quite amazing, I don't know where we've lost it. From the start of, just after the Vietnam War, to now – and that's 35 years or so – is where we've lost it a little bit in Australia. I don't know why and I can't put my hand to it. But we just... respect, and decency, and things like that. We just sort of lost it on the way through. And it's quite sad....

Look, the job was so simple. And it was so enjoyable. I'm finding it very difficult.... I'm finding it very very difficult to come to work every day and do the job that I'm doing today.

(H12 interview)

A culture of reaction

In talking about 'client service', Housing NSW officers also referred to a 'culture' of work, which I will here call Housing NSW's 'culture of reaction', which stands in contrast to the discourse of 'working with the client.' The culture of reaction is, as H19 put it:

H19: A culture of: you get bitter and antagonistic and aggressive about clients, and you tend to become paternalistic: 'I know what's best for you, don't you dare, dot dot dot'. So there's a lack of tolerance.

(H19 interview)

The relationship between the culture of reaction and 'working with the client' is more than one of mere contrast; it is itself one of mutual reaction. On the one hand, the culture of reaction is viewed as the old way of doing things – see, for example, H15's comments above – and the discourse of 'working with the client' is supposed to progressively reform this culture and make it a thing of the past. On the other hand, from the comments of housing officers it is evident that the culture of reaction exists not just where 'working with the client'
has yet to take effect, but that it ‘breeds’ (H19 interview) where there are present problems in the job and dissatisfaction with ‘working with the client’.

Housing NSW’s culture of reaction is nowhere formally spelt out, but it refers to older visions of public housing and order, and attempts to rehabilitate them from three decades of disparagement by neo-liberal and post-social critics on the political left and right. H19 reflected, equivocally, on some of its themes:

H19: Of course, back then it was a better vision [of public housing], in my point of view, and people felt more optimistic about what they could achieve and the value of what they were doing. On the other side, we probably had less consultation, we had more of a paternalistic culture, and the job was much... less contentious.

(H19 interview)

Less equivocally, H13 spoke to the neo-conservative aspect of the culture of reaction, seeking a return to the ‘discipline’ of ‘the old days’:

H13: Back in the old days – and I like saying back in the old days – back in the ‘50s and the ‘60s our mums and dads were around, [H14’s] and mine, they’d just accept things. It was discipline. And that’s the way they were brought up under discipline, and say ‘well, we’ll accept that and we’ll work with it.’ These days, there’s no discipline and they [applicants and tenants] won’t work with it. And that’s what I’m finding. And that’s where we’re having problems.

(Housing officers focus group 3)

In practical terms, the culture of reaction disregards, on the one hand, work that may prevent disorderly conduct from either arising or escalating and values, on the other hand, forceful, punitive reactions to disorderly conduct – most all of, evictions. H18 described the culture at work:

H18: Complaints get left, people don’t get replies or responses, there’s no action taken, the matter escalates out in the field, it grows, the staff then slap on an NoT [notice of termination] or an SPO [specific performance order]. Or
they'll investigate, but not know how to proceed to resolve it, and so they then go into using the [Consumer, Trader and Tenancy] Tribunal and the legislative system to actually take some action to try and resolve it, and sort of use the stick.

(H18 interview)

In relation to each of those problematic aspects of ‘working with the client’ discussed above, the culture of reaction represents an alternative guide to action or means of gleaning value or purpose from CSOs’ work. So, where Housing NSW’s performance measurements do not adequately record ‘working with the client’, the culture of reaction devalues that sort of work as ‘soft and warm and fuzzy’ (H18 interview):

H18: You don’t have immediate KPIs that you can tick off, and so it’s seen as a luxury quite often…. Because a lot of the other systems don’t actually support and give value to a lot of that work – a lot of it’s hidden, because of the stuff we just mentioned – then there are other people who just see that as a waste of bloody time. ‘Why are we going to all this trouble, we’ve got a lot of people on our books, these people don’t value the benefit of having a public housing property, we’ve told them,’ so it’s just easier to go straight and try to get some Tribunal action, to have them evicted.

(H18 interview)

Similarly, H18 acknowledged this culture operates where skills and training are deficient: ‘sometimes people don’t feel like they have the skills or the support to respond to complaints, they don’t know how to do it’ (H18 interview). In an example from the fieldwork, H11 admitted that her response to complaints from clients about the annoying and disorderly conduct of other clients had been ‘to just put it all at the bottom of my tray. Realistically, I thought, “that might just go away, I’m a bit busy”, and unless they were in my face and it was a big problem – [only] then I’d think, “well, I’ve got to deal with this”’ (housing officers focus group 2). In this case, H11 spoke in the past tense, because she considered that some of Housing NSW’s new procedures and guidelines had helped her respond earlier and more constructively to complaints – an instance of ‘working with the client’ actually reforming the culture of reaction. The fieldwork offers counter-examples, too, of Housing NSW’s culture of reaction supplanting ‘working with the client’. For example,
for H12 – a trained and very experienced officer – ‘client service’ remained a present problem; it was not alleviated but compounded by the demands and difficulties of ‘working with the client’; and a forceful, drastic reaction – ‘going for the jugular’ – appeared as a solution:

H12: The policy is just out of order, in the sense that it says we’re trying to salvage tenancies, and then other people... try to gauge your nuisance and annoyance on how many times you issue a notice of termination and go to the Tribunal.... How we're trying to gauge it is if the team leaders are receiving local MP reps every five minutes of the day. They know the fact that the nuisance and annoyance has blown up. So that's the way I'm doing it, I'm trying to control it. But I'll say this to you, I'll be honest with you, I'm trying to control it and... it's getting to the stage where it's getting out of hand and I've really got to go for the jugular now. Because it's work intensive.... And that's the particular problem I'm facing just now.

(H12 interview)

To an extent, this problem might be answered relatively straightforwardly by redoubling the measures Housing NSW has already undertaken in support of ‘working with the client’, particularly more training and related resources for CSOs. Officers’ work could be measured differently, and more officers employed so as to reduced workloads. That still leaves, however, the basic problem: that the system they administer produces such a vexing subject as the client and, in turn, so much pessimism and cynicism in CSOs. Some rather less straightforward answers to this problem might lie in Housing NSW setting its eligibility, allocations and rent subsidy policies so that they do not require such oppressive demonstrations of incapability, especially to maintain eligibility for public housing and income-related rents; and so that signs of agency, such as an applicant’s desire to choose where they will live, are not countenanced so negatively. But again, such changes must represent only very partial adjustments, considering how entrenched is the rationing of access to Housing NSW’s declining stocks of public housing, and the strength of the implications of this for public housing subject-making.
From Subject to Strategies

This Chapter’s analysis of the client of public housing indicates that this client is a problem in two different respects. Aside from the statistical correlations, demonstrated in criminological research and familiar to Housing NSW, as to public housing’s clientele and rates of offending and victimisation, the present governmental analysis shows how the very processes employed by Housing NSW to assess eligibility and allocate housing make up a subject who alternates between being incapable, needy and falling passively into crime and disorder, then agentive, self-maximising and even deliberately fraudulent. This alternating subject is crucial for the ways in which crime and disorder are conceptualised as problems on which Housing NSW may act. Now, there is a strong general commitment by Housing NSW and its officers to preventative action and action that supports clients’ own efforts to deal with their problems, but this a commitment that often breaks down because of insufficient training, supervision, acknowledgement, or ‘hours in the day’, or because of nostalgia for older, simpler ways of working in which officers felt more fortified in their authority – and where this occurs the result is a culture that gives rein to cynicism and intolerant reaction.

The subject of the client, then, is the point on which turns Housing NSW’s own version of the cleavage of advanced liberal government, described by Garland (1996; 2001), into strategies of adaptation and of reaction. This pattern of strategy is evident in Housing NSW’s practices of neighbourhood renewal, and its practices as a landlord, as the following Chapters in this Part of thesis will show.
Problems of crime and disorder in public housing are not only explained in terms of the individual clients who are the subjects of public housing; they are also explained in terms of public housing neighbourhoods and communities. As discussed in Chapter 3, there has been since the 1970s considerable political and academic activity at this level of explanation in relation to crime and disorder, and much of it has been relevant – in some cases, specifically – to social housing. This activity has generated a considerable range of explanations as to social housing’s problems of crime and disorder. At one end of the range are explanations that focus on the physical and spatial fabric of social housing, such as theories of defensible space and crime prevention through environmental design (CPTED). At the other end of the range are explanations that deal in the fabric of relations between persons – their community. The analyses of Bottoms and Wiles (1986; Bottoms, Wiles and Claytor, 1992) and Weatherburn and Lind (2001; Weatherburn, Lind and Ku, 1999), which I referred to in the previous Chapter to introduce the figure of the crime-prone individual client of social housing, are really more about how these individuals effect, in the aggregate, crime problems that are more than the sum of their parts. Bottoms and Wiles explain this in terms of ‘housing markets’ and residential dynamics; and Weatherburn and Lind in terms of an epidemiological model for the transferral of offending behaviours from delinquents to their susceptible peers, thus creating ‘crime-prone communities’. Other explanations at this end of the range include a prolific literature, within and outside criminology, on social capital, cohesion, inclusion and exclusion. And at points between these two poles are explanations that link signs from the physical environment to the exercise of informal controls by residents, or to decisions to withdraw from an area’s public space, or from residing in the area altogether (Wilson and Kelling, 1982; Skogan, 1990).

None of these theories has a monopoly on Housing NSW’s development of neighbourhood-level practices of government-housing. Of these practices, the most prominent – in terms of both the resources devoted to them, and the public profile given to them by Housing NSW – are those grouped under the banner of ‘renewal’. Practices of renewal work on both the
physical-spatial and community fabrics of public housing neighbourhoods, and would appear to fit within that adaptive strategy of putting the institutions of social government at the service of a more empowering advanced liberal governmentality. Often left out of the ‘renewal’ group, however, are other practices of neighbourhood-level government – in particular, those relating to tenancy agreements – and none of these practices are uncomplicatedly adaptive or without potential for use in more reactive, oppressive styles of government.

In this Chapter, I will draw particularly on Crawford’s analysis of the local government of crime and disorder (1997, 2000, 2003), and consider these practices in three sections: the first relating to the physical and spatial fabric of public housing – that is, the built neighbourhood; the second relating to the construction of what I will call ‘communities of participation and partnership’ in public housing; and the third relating to the alternative construction of public housing neighbourhoods as ‘communities of contract’.

The Built Neighbourhood

Over its history, social housing as a governmental program has been conducted largely through physical-spatial practices. As I discussed in the second Part of the thesis, social housing’s original foundations were primarily in liberal-sanitary reform; and although never indifferent to the issue of managing the human relations of tenants, the state governments that first implemented social housing programs were more interested in creating and extending certain forms of physical environments for their target populations than they were in creating and extending certain systems of tenancy management. This tradition of social housing has, as we have seen, thrown up a succession of extraordinary forms in architecture and planning that are now much criticised. Despite its failures, social housing has not abandoned its tradition of physical-spatial reform; now, however, it is turned inward to social housing’s own troublesome forms.

Internationally, the most reviled of these are the high-rise towers of the 1960s and 1970s. The New South Wales public housing system did not build many high-rises, and instead built large, mostly low-rise estates, often on Radburn principles. In New South Wales it is the estates, and especially the Radburn estates, that are the focus of criticism, and the terms of
the criticisms are similar: these built environments are indefensible, stigmatising spaces of crime and disorder.

As indicated in Chapter 3, these criticisms are varied, and offer different explanations as to how public housing's built form contributes to problems of crime and disorder. Housing NSW's practical response to these criticisms has varied too, from demolition to reconstruction and improvement. The demolition of estates proceeds from the fundamental criticism of public housing's form, which holds that the real problem is the estate form itself, because it concentrates crime-prone individuals whose interaction produces crime-prone communities, and that the distinctive architecture and layout of the estates are merely incidental. Housing NSW has demolished estates at Villawood (1998), Minto (2003) and Dubbo (2006), and in each case the NSW State Government justified the demolition as action against crime and disorder.

The Villawood housing estate will be demolished as part of a major new plan to fight crime and other social problems on the estate. (NSW Government 1997, cited at NSW Auditor-General, 1998: 2)

'Minto is an example of how governments got it wrong in the past', the Housing Minister, Andrew Refshauge, said yesterday. 'Based on the United States-style Radburn estates, Minto concentrated hundreds of disadvantaged people into one area—enabling crime and unemployment to flourish and social problems to become ingrained over generations'. (Davies, 2002: 1)

Nothing could get worse than the situation that already exists on the Gordon Estate [in west Dubbo]. We've tried everything we possibly can…. The difficulties that we have there is we have warring families that don't get on; the Estate itself is broken; and we've tried every avenue and the only avenue left to me was to make the decision that we made, and that was to relocate the tenants and close down the Estate. (ABC Radio, 2006)

These demolitions, and the attendant media commentary, represent prominent statements against the estate form that reverberate throughout public housing generally. For example, when I asked the housing officers at Riverwood about the physical fabric of that estate, H3 joked 'I just reckon it should all be bulldozed' (housing officers focus group 1). This was a
joke told against the considerable efforts that Housing NSW and, in particular, the Riverwood officers had put into improving the estate, but it also indicates how the fundamental criticism of the estate form haunts these efforts.

Nonetheless, it is more often reconstruction and improvement, rather than demolition, that Housing NSW pursues, particularly through renewal programs that apply CPTED principles to estates. These programs work on the physical and spatial fabric of public housing neighbourhoods, but they also reconstruct public housing neighbourhoods as imaginary spaces – that is, as these neighbourhoods are conceived of and exist in the minds of housing officers, tenants and others – and have effects for public housing tenants, as they are addressed as users of their built environment.

Reconstruction

Since the early 1990s, Housing NSW has conducted renewal programs that have reconstructed the physical and spatial fabric of numerous public housing estates. The first, the Estate Improvement Program (EIP), commenced in 1994 on four estates, including the then recently built Radburn estates at Macquarie Fields and Airds in southwest Sydney. In 1995, the new State Labor Government proposed a more comprehensive program of improvements, with a budget of $147 million for its first four years, and indicated that it would work towards a 10-year plan of estate improvements (Knowles, 1995: 18). This became the Neighbourhood Improvement Program (NIP), in which 13 estates eventually participated; these estates comprised a total of 10,500 units of housing, of which some 2,900 units were improved, upgraded or refurbished (Randolph, et al, 2001: 30, 33). The NIP concluded in 1999, whereupon Housing NSW commenced the Community Renewal Strategy (CRS), into which some ongoing work under the NIP was rolled. In 2001, Housing NSW launched its community renewal program under the slogan ‘Transforming Estates into Communities – Partnership and Participation’. By this time, a total of 28 estates had been or were currently involved in renewal activity (NSWDOH, 2001: 16). In 2007, Housing NSW launched ‘Building Stronger Communities’, under which renewal activities have been conducted on estates in six locations throughout New South Wales.
These programs have, from their outset, been addressed, at least in part, to problems of crime and disorder. Of the criteria for the selection of estates for inclusion in the NIP, by far the most commonly cited was ‘crime/violence/vandalism/harassment/drug abuse’ (Randolph, et al, 2001: 19). One of the objectives of the NIP was ‘reducing levels of crime and nuisance’ (Randolph, et al, 2001: 32), and each of the NIP’s successor programs has included an objective relating to crime prevention – though, as will be discussed in a subsequent section, in the most recent programs this objective has shaded into more general objectives for safety and harmony.

The programs, particularly the EIP and the NIP, have emphasised physical-spatial interventions that closely follow CPTED principles. These interventions have included the ‘de-Radburnisation’ of some aspects of the Radburn estates (Woodward, 1997), by which houses are ‘turned around’ to address the street rather than the common areas at the rear; common areas fenced and divided to create backyards for individual premises; footpaths between houses and common areas closed; and cosmetic improvements, such as the addition of ‘heritage’-style finials and other ornaments, made so buildings on the estate would look more like other houses. Seven of the NIP estates underwent de-Radburnisation (Randolph, et al, 2001: 42). Other physical improvements directed at reducing the incidence of crime and disorder have included the closure of streets and other thoroughfares, improved lighting and the provision of balconies on flats.

Many estates and, as a consequence, many housing officers and tenants have had an experience of renewal and CPTED principles, and the experience has a significance that endures beyond the execution of the physical work: renewal is not, so to speak, a ‘set and forget’ sort of activity. The adoption of CPTED principles in Housing NSW’s renewal programs entails a reconstruction of how housing officers see and think about public housing neighbourhoods generally. Below I will consider how the ‘CPTED lens’ has wider implications for Housing NSW’s neighbourhood-level practices: in particular, the old preoccupation with orderly yards, gardens and common areas has been charged with a new significance in the prevention of crime and disorder.

38 Interestingly, the criterion ‘devalued assets’ was cited only once (Randolph, et al, 2001: 19).
The CPTED lens

I discussed in Chapter 3 how CPTED proceeds from an advanced liberal analysis of crime and space that views neighbourhoods as spaces of opportunity for offending, and offenders as 'abiographical', rational, calculating agents. This means that the CPTED view 'de-differentiates', as Crawford puts it: it assumes that offenders are no different from anyone else and that the possibility of offending is universal, and so 'etches a generalised distrust into its environs' (2000: 195).

For officers of Housing NSW, the attraction of a preventative, generalising, abiographical approach to crime and disorder is strong. As the previous Chapter showed, Housing NSW's administration of eligibility elicits a great volume of biographical narration from applicants and tenants that emphasises their incapability and that makes the attribution of responsibility difficult. CPTED promises a way of addressing crime and disorder without having to deal with the difficult business of attributing responsibility and culpability. The attraction to CPTED was evident in the focus groups and interviews on the Riverwood estate, which underwent renewal through the NIP and CRS, where housing officers described physical renewal programs as a major part of what Housing NSW does in relation to crime and disorder.

H12: We try to reconfigure our complexes to make sure that crime is prevented, and we do that... through our CRS program. We've actually made garden flats where we've fenced dwellings off and things of that nature. We've increased the lighting on particular complexes and things of that nature.

(H12 interview)

Some years after the completion of the work, CSOs continued to observe the operation of CPTED principles in the improved estate.

H11: The CRS has designed the estate a lot better, so they've created courtyards and balconies, and a bit more of a neighbourhood watch sort-of-thing that can happen....

H10: Certainly the sites that have had CRS are generally... [pause]... the tenants are more supportive of one another, they talk more, create more of a community.... One of the sites... there was a courtyard created in the middle
of the block, and so we were there the other day and the kids were out playing cricket in the middle. It was just a more positive environment.

(Housing officers focus group 2)

H12: Prior to the [CPTED-influenced] design coming into play it was an absolute nightmare, really. Implementing the design has restricted the crime situation – it’s actually brought people out into the community.

(H12 interview).

Officers also used CPTED principles to make critical observations on the physical fabric of the estate, both where it had not been touched by renewal work and where ‘improvements’ had not actually worked to prevent offending. For example, H12, who commented above, continued:

H12: However, the fencing issue has actually made little pocket holes where crime could take place, you could say. So on one side it’s a positive, and on the other it can be a negative, you know.

(H12 interview)

H9: I think the garden flats were good, a success. But the actual design... it has created a few problems that way. It really has. Initially the crime situation was great, it dropped down... but it’s resurfaced its head again. Let’s face it, criminals will always find a way around something, won’t they, to get something. They’re pretty smart people; highly intelligent.

H1: And of course, on none of our blocks of units the doors are secure.... Anyone can enter and leave.

H3: We don’t have intercom systems. The front and back entry doors are always chocked open.

H1: People walk through as a short cut to get to their block. So that doesn’t help.

(Housing officers focus group 1)

These mixed and negative assessments indicate, if anything, an even stronger commitment to CPTED principles than would uncritical enthusiasm, both in relation to some of the specific measures characteristically prescribed by CPTED (restrictions on access, enhancements to
visibility), and in the adoption by CSOs of an attitude of ‘generalised distrust’ towards the estates on which they work. Moreover, when these spaces are populated with the crime-prone persons considered in the previous Chapter, the distrust becomes acute. H12, for example, pictured the estate at Riverwood as a site of manifold opportunities for crime-prone individuals to lapse into offending:

H12: There’s a lot of foxholes around here. It’s an easy hangout joint…. I should imagine that, yeah, it’s an easy way to fall back onto the drugs scene, you can hide better here, there’s an element they can fall back onto that’s coming out of gaol that know connections in another area, all these sort of things come into play.

(H12 interview)

These comments begin to disclose another aspect of CPTED observed by Crawford: that as much as CPTED generalises and ‘de-differentiates’, it also, ‘incongruously’, disaggregates and fragments the government of crime and disorder, by territorialising it to the level of the neighbourhood (Crawford, 2000: 201). It does so particularly through the production of territoriality, including through the use of mechanisms – surveillance, barriers, target-hardening – that work at least as much on the perception that offending in that space will be apprehended, as on apprehension actually happening. As Crawford observes, the ‘technical efficacy’ of CPTED techniques ‘is less important than their role in the production of organised legitimate symbols of “orderly environments”’ (2000: 197).

The production of orderly environments is, as shown in Chapter 2, a longstanding historical mission of social housing and an established part of the work of housing officers, but now this abiding interest is charged with a different significance. The NSW Housing Commission abhorred poorly-kept houses, yards and gardens because it was concerned that the communities and individuals housed amongst them would not develop normally; now these things are seen as direct invitations to crime and disorder. As a consequence, the production of orderly public housing environments is also no longer a matter of expecting -- and perhaps sternly prompting -- tenants to ‘beautify’ their homes; in fact, in some ways property care has receded relative to a diverse range of disorderly signs that demand the attention of housing officers. CSOs in the focus groups and interviews were continually looking out for
flaws in the physical fabric of the estate, whether caused by Housing NSW and its contractors or by tenants, including flaws that go only to the appearance and symbolism of orderliness. H10 said, ‘certainly, if you see long grass and people not maintaining their properties, you push it and push it to get them to do that’ (housing officers focus group 2), but not because of a narrow obsession with tidy lawns. As H10 explained, her attention to the maintenance of orderly appearances was a wider ranging exercise that prevented conflict and helped effect a pacifying ‘presence’:

H10: I’m a real believer in, if you’re out there seeing what’s going on, you’re going to resolve problems, nuisance and annoyance problems before they escalate. See things happening, see property damage.... I was out there two or three times a week. People see me out there, and they know that you’re around and you’re talking to people and you’re finding out what’s going on. It’s just a presence that’s collecting a lot of information.

(Housing officers focus group 2)

As H10’s comment indicates, this attitude of generalised distrust and attention to disorder in the built neighbourhood can lead housing officers into investigating all manner of complaints and grievances from neighbouring tenants – a point to which I will return in much more detail in the third section of the present Chapter, and in Chapter 6. Before that, it is useful to consider also how Housing NSW’s practices of reconstruction according to CPTED principles directly address tenants as neighbours and engage them in the production of orderly, renewed neighbourhoods.

**Teaching tenants CPTED**

Reconstruction according to CPTED principles involves inculcating tenants in these principles, to make them productive participants in the planning stage of reconstruction, and then effective users – ‘capable guardians’, in CPTED discourse – of the renewed physical fabric of their estates.

As it plans the renewal of an estate, Housing NSW consults with affected tenants through information sessions and workshops. One of the housing officer participants in the fieldwork, H17, had been involved in various renewal programs on a number of estates, and
talked about the consultation experience in some detail. Referring to the example of the garden flats created as part of the renewal of the Riverwood estate, H17 explained how Housing NSW invited tenants to view their estate through the CPTED lens, and sought their cooperation in the new design:

H17: So we said, oh well, here’s our chance to give it [the open space around the flats] purpose, define it, give it to some ownership. Round the bottom of these buildings had masses of open space.... We needed to talk to the community and ask, as a whole, what they think about us giving the downstairs places all this extra space, and we got a big sign off on it, which was quite surprising, really.

(H17 interview)

As the comment indicates, these consultations are not just information sessions about what work Housing NSW proposes to do and when, but are didactic exercises in CPTED principles generally. H17 described his approach to consultation with tenants about renewal of the built neighbourhood:

H17: I learnt very quickly that it wasn’t appropriate to tell you [the tenant] that the front fence is why there is not going to be any more crime. I had to tell you what a front fence does to help you to counteract crime. The rhetoric had to be that way. I’ll live and die by that. That’s what I’ve done: I’ve tried to show people that it’s not about putting up the fence lines, it’s about teaching you and explaining to you what it means to have that fence line at your disposal.

(H17 interview; original emphasis)

Consultations on estate renewal are exercises in explaining to tenants ‘what it means’ to live in a neighbourhood reconstructed – actually and conceptually – according to CPTED principles, and as H17 further explained, this means inculcating tenants in other advanced liberal crime prevention strategies and in advanced liberal subjectivity:

H17: You can say, ‘you just need a fence’ – that’s a physical intervention – or [you can say] ‘hang on, no, we need you to come into contact with what the police are doing. How does the police work? How can you participate? How can
you look at your [building’s] design and contribute to the safety of the site?
What about your own responsibility of making yourself feel safe – your
behaviour patterns, how you carry your handbag – all these sorts of things.

(H17 interview)

In particular, it means activating tenants as ‘capable guardians’ of their neighbourhoods.
Again referring to the example of the development of the garden flats at Riverwood, H17
described the role accorded to neighbouring tenants – in particular, ‘the people upstairs’
whose flats looked over the new garden flats – and how those tenants took to their role:

H17: The people upstairs were concerned about it having purpose. They were sick
and tired of it not having purpose. They were anxious: they’d say, ‘ooh, are
you sure that Chris downstairs is going to look after that [the newly fenced-in
yard]?’ One of the interesting things was when we explained to people
upstairs why we wanted to do that, what our motives were, we were indirectly
giving the people upstairs a little bit of power, to have the desire to say to
you, ‘well Chris, when are you going to mow the lawn? You can’t have your
kids using the space without it being tidy and able to be used. Joan next door
would give her eye-teeth to have that.’ So there was this inner checklist thing
that tenants started to do to each other.

(H17 interview)

Encouraging tenants as capable guardians may be an effective way of overcoming the
problem of the ‘incapable complainant’ introduced in the previous Chapter; the danger,
however, is that it may instead encourage tenants both to scrutinise more and to complain
more.

Reconstruction according to CPTED principles may or may not actually have an effect on
the incidence of crime and disorder on public housing estates (Matka, 1997), but it does have
an effect on how housing officers and tenants look at, think about and interact with the built
environments in which they work and live. Housing officers and tenants viewing their
reconstructed neighbourhoods through the CPTED lens might like what they see: the
proper application of CPTED principles and reassuringly orderly appearances. Alternatively,
though, they may see magnified the signs and symbols of crime and disorder. In either case,
the view is a critical, scrutinising one that trains attention and preventative action on discrepant signs and conduct in public housing neighbourhoods.

Communities of Participation and Partnership

Problems of crime and disorder in late-modern social housing are explained not just in terms of the physical-spatial fabric of social housing neighbourhoods, but also their human relations; their community fabric. Originally, social housing’s contribution to community relations was supposed to be preventative of crime and disorder, but in a passive way. In the golden age of social housing, the NSW Housing Commission assumed that if it provided sufficiently salubrious physical conditions, and applied firmness and guidance to tenants individually, then public housing communities would develop and mature into normal communities. By contrast, in the late-modern period, as public housing is populated and repopulated administratively with persons with increasingly high and complex levels of need, it is clear that public housing communities are not like other communities, nor will they develop as other communities do.

As I indicated earlier, part of Housing NSW’s response to crime-prone public housing communities is to envisage that there should be no more public housing communities, specifically by demolishing their spatial basis in the estates. In their place, Housing NSW envisages renewed, ‘mixed’ communities, only a small proportion of which are to be social housing tenants. In these projects, Housing NSW’s role in relation to community relations is, first of all, to forcibly undermine them as it ‘decants’ the estate; but then, as the site is populated and repopulated according to market processes, community relations are mostly left to be developed and shaped by those processes, rather than by the overt actions of Housing NSW.

However, as I also indicated, Housing NSW has demolished and redeveloped only a few large estates, so the greater part of its response to the problem of community relations is rather different: throughout its estates, community relations must be directly fabricated and managed by Housing NSW continually, if not continuously. Housing NSW describes its role in the management of community relations by using terms and concepts such as countering social exclusion and fostering inclusion (Housing NSW, 2009b: 8), social capital (Housing
NSW, 2009c: 15), cohesion (NSWDOH, 2005: 3; 2009c: 8), community development (NSWDOH, 1999: 10-11; 2009d: 7), capacity (Housing NSW 2009c: 8; 2009d: 7) and resilience (Housing NSW, 2009c: 8; 2009e: 4). In their respective bodies of literature, these concepts are accorded different meanings and purposes and their relative value or usefulness is contested, but Housing NSW uses them in a looser way, as metaphors in a discourse about a disintegrated social fabric and its repair by the fabrication of inter-personal, 'community' relations. Despite the loose terminology, it is possible to be more specific about the various ways in which Housing NSW involves itself with the fabrication and management of community relations: that is, by fabricating community relations as relations of participation and partnership; and, alternatively, as relations of contract, which I will discuss further in the next section of this Chapter.

Housing NSW's work on relations of participation and partnership has a lot in common with its mode of 'working with the client' individually, as discussed in the previous Chapter, with each mode of work generally adopting a preventative or ameliorative approach to disorder and trying to negotiate between public housing subjects' incapacity and agency. Indeed, each of these ways of working may be seen as an extension of the other, with Housing NSW working with individual clients so that they might feel they have the capacity to 'become involved in shaping the future of their communities', and looking to community development projects to build, in individual clients, 'skills and confidence to take on other issues' (NSWDOH, 1999: 11). An indication of what Housing NSW seeks to achieve by working on relations of participation and partnership is given by H18, an officer from Housing NSW's head office:

H18: I actually see the Department as having, potentially, a much more positive role, not in response to nuisance and annoyance and anti-social behaviour, but it's about its prevention. Because it's going to be even more significant as we bring more people together who have more complex needs. The potential for problems on those housing estates is going to be greater – I mean, that's no secret – it's already an issue now and it'll be more of an issue over time with the changing eligibility criteria. So clearly I think the Department should be asking itself, not only how are we going to manage this in terms of the individual... but we also have a responsibility to look at the community, the communities that we've set up around that, and the whole lot of work around community regeneration. I know that there's been all these flavours over time, but if you bring a lot of people together like that, you cannot expect
that there’s to be no problems, even just managing individuals, unless you actually do some work across the community in terms of, you know, social capital, or whatever everyone might want to call it, capacity building within that community.

(H18 interview; original emphasis)

These are high hopes, and in considering what Housing NSW does in pursuit of them it is useful to keep in mind Crawford’s warning about appeals to ‘community’ in crime prevention practice:

Given both the anxieties that crime evokes and its tendency to bifurcate the criminal from the law abiding, and the ‘rough’ from the ‘respectable’, crime may well be the worst social issue around which to construct open, tolerant, and inclusive communities. The preoccupation with security may have less to do with personal safety than with the degree of personal insulation from certain ‘others’. (1997: 274)

This is, as the discussion of Housing NSW’s CPTED work suggests, already an issue in public housing community renewal. I think it is useful, too, however, to also keep in mind the qualification offered by Girling, Loader and Sparks on Crawford’s ‘otherwise sage assessment’: that community interest in local crime problems might help to get people away from popular punitiveness.

It remains possible to envisage circumstances where a focus on ‘the local’ prompts demands that are more inclusionary and reintegrative in emphasis and not first and foremost oriented to criminal justice responses.... People respond in more modulated and complex ways to events and issues in which they are personally implicated than to those of which they are more abstractly aware. (2000: 174)

Housing NSW’s work on relations of participation and partnership can be seen as work towards this sort of response. However – and again like ‘working with the client’ generally – it is work conducted in tension with other aspects of the policies of Housing NSW and the practices of housing officers.
Participation

Tenant participation is not an optional extra – it is essential for the Department and for communities. (NSWDOH, 1999: 4)

Housing NSW seeks to get tenants participating in a wide variety of activities that bear in some way on problems of crime and disorder. The activities that most directly and expressly relate to crime and disorder are those associated with the renewal according to CPTED principles of the physical-spatial fabric of public housing, as discussed in the previous section. As I indicated there, Housing NSW’s consultations on CPTED renewal activity tend to engage tenants as distrusting, critical monitors of public housing’s buildings and spaces. Over time, however, these programs have shifted away from a heavy emphasis on physical-spatial reconstruction to now being at least as much about the reconstruction of community relations. Housing NSW has sought through tenant participation activities to find and engage a range of other capacities in tenants: as trainees and workers – Rose’s ‘entrepreneurs of the self’ (1996b: 57) – as holders of local knowledge and parochial loyalty; as elders and leaders; and as planners in renewal and participation projects themselves.

As well as the community renewal programs, Housing NSW also operates the Tenant and Communities Initiatives Program (TCIP), which funds a number of subsidiary programs, such as the Housing Communities Program (HCP, previously the Housing Communities Assistance Program (HCAP)), the Tenant Participation Resource Services (previously Regional Tenant Resource Services), Public Tenant Councils and Neighbourhood Advisory Boards (NABs, previously Estate Advisory Boards (EABs)) (Randolph, et al, 2001: 32).

Housing NSW has also embarked upon, in various places, projects for the establishment of community gardens; employment projects, such as schemes for employing tenants as handymen, cleaners and groundskeepers; and community arts projects. When I asked housing officers from the Riverwood office if they were involved in the development of community relations on the estate, they recounted a list of activities that they characterised
as ‘CD’ (community development): attending the Estate Advisory Board; writing articles for the local community centre’s newsletter; maintaining notice boards in each of the blocks of flats; employing tenants to maintain the estate’s grounds and common areas; establishing a recycling service; organising an information forum; and participating in a community safety audit, youth week, seniors week, the local council’s picnic day, and the local community festival. In H17’s view, community development had become suffused throughout housing officers’ work:

H17: We never realised we were doing community development work. We’d never sat down with our practices and procedures and said, ‘oh, there’s a bit of CD in that, there’s a bit of CD in that, oh look that’s all CD!’ [laughter]

(H17 interview)

Under the most recent renewal program, ‘Building Stronger Communities’, tenants have been engaged as planners through participation in the formulation of local ‘Regeneration Partnership Plans’ (Housing NSW 2009b; 2009c; 2009d; 2009e; 2009f; 2009g). In turn, each of these plans envisages dozens of subsidiary projects in which tenants may participate: community gardens, technology centres, mentor programs, elders’ groups, parenting courses, men’s sheds, midnight basketball and other sports, camps for the children of tenants with mental illness, ‘rights and responsibilities workshops’, and many more.

The ‘key results areas’ of all these forms of participation are ‘safer and more harmonious communities’; ‘safe and well-maintained public spaces and facilities, used and enjoyed by the community’; and ‘a more popular neighbourhood’ and ‘communities working together and moving forward’ (Housing NSW 2009b; 2009c; 2009d; 2009e; 2009f; 2009g). These are, on the one hand, less precise objectives than ‘crime prevention’; on the other hand, they represent a broader and probably sounder basis for building community relations – in fact, the word ‘crime’ scarcely appears in any of the Building Stronger Communities documents or the Regeneration Partnership Plans. There is also little express explanation as to how participation in these activities operates against crime and disorder (or rather, unsafety and

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When the Estate Advisory Boards (EABs) were renamed Neighbourhood Advisory Boards (NABs), the Riverwood EAB decided to keep the original name.
disharmony) – that is, whether they are supposed to work within households to prevent crime developmentally, or whether they are supposed to effect informal social controls (Weatherburn and Lind, 2001). It is evident, however, that they are supposed to do so largely through fostering solidarity, friendship and trust between tenants, and confidence on the part of individual tenants in drawing on these qualities to deal with problems as they arise. H17 described the individual and community effects of the ‘nice spider-web of networks’ that was spun out of tenant participation activities:

H17: The community leaders start to tell you, ‘oh, I know someone who’s in our block. He’s only moved in about six weeks ago. How can I steer him towards some kind of employment, because he can work, and we’ve had a chat and he said, “oh I’d love to work around here, if I only had a job”.’ So they’re the triggers; the linking then starts to happen. And there’s a nice spider-web of networks on the housing estate now where a lot of these opportunities get triggered just by people talking to each other, or we’re in there doing something, we’re engaging them or there’s a function going on, or the centre might be [doing something], or the community garden’s getting up and running again, all of a sudden they’ve got the newspaper; there’s things that are triggering people…. Yeah, so there are all those things that actually trigger off some sort of engagement, and once you get them engaged, that’s when you can start influencing the community development side of their life, both individually and what they can contribute to the community.

(H17 interview)

The terms on which these engagements are made – friendship, trust – are countervailing qualities to the generalised distrust and suspicion inculcated by CPTED work, and that they are in local renewal plans in which tenants have collaborated is consistent with Girling, Loader and Spark’s hope for more inclusionary, reintegrative local responses to problems of crime and disorder (2000: 174).

Tenant participation programs also have implications for housing officers and their perspectives on the incapability and, alternatively, the agency of public housing’s subjects. In particular, in the face of an eligibility system that breaks down its subjects’ capability and casts their personal motivations as greedy and potentially fraudulent, tenant participation programs attempt to rehabilitate tenants’ capacities and orientate housing officers to a more positive view of agency. The experience of tenant participation activities on the Riverwood
estate led H17, for example, to imagine a transformed system of public housing subject-making:

H17: What we haven’t done yet – over time we hope this might happen – as a new applicant is coming in, the question might be asked: ‘before I offer you a place, do you want to let us know what you think you have to contribute to Riverwood? If you came to live here, what do you think – what do you know about Riverwood? Do you got anything that you think you might have to offer? Any skills from your history?’ ‘Oh, I happen to be an ex-school teacher, you know, ten years ago, and I haven’t worked since because of my medical problems’ or whatever; ‘hmm, that’s interesting, [did you teach] young kids or older kids?’ This is the next phase.... This isn’t something that’s happened – it’s something that I’d dearly love to happen.

(H17 interview)

At least in the present phase, however, participation clashes with other aspects of the administration of public housing and tenants’ development as participatory subjects is limited. Training and employment projects are in direct contradiction to the reviews as to continuing eligibility that Housing NSW conducts of all tenants who have moved into public housing since 2005. More generally, Housing NSW’s participation programs have encouraged a sense of tenant ‘ownership’ of community activities (RPR Consulting, 2000: 3-4), but Housing NSW’s sense of the degree of responsibility or capability that can be afforded tenants falls short of that, and is usually limited to that of an advisory role only. H17 painstakingly, and not entirely successfully, tried to negotiate the shades of meaning of ‘ownership’:

H17: The ownership issue isn’t really about physically owning something; it’s about owning the responsibility of making it work. Or having the opportunity of having a say in how it works.... It’s a very grey area, because the lease doesn’t actually say... it implies ownership but it doesn’t actually say in clear print what level of ownership people have. Even the [Estate Advisory] Board – the Board is an Advisory Board, so it doesn’t have control or ownership over how money is spent or why it’s spent or what it’s going to be spent on, or those sorts of things, but it has an advisory capacity. So the Department recognising that the Board’s ‘ownership’ is the ability or the opportunity to be consulted and influence decision-making. So there is another [issue]: how much ownership can we give to our client base, so that they can actually be
held responsible – not so much accountable – but responsible to not ignore the slide in the community?

(H17 interview)

Indeed, most of the community development activities of the Riverwood office were about 'keeping lines of communication open' and referring tenants to relevant activities and other agencies (H3, housing officers focus group 1). Housing officers valued this sort of 'participation', not so much because they thought it built up the capacity of tenants but because they saw it as helping tenants to understand what Housing NSW was willing and able to do in relation to their problems.

H13: There's a different dialogue with tenants now, with the Estate Advisory Boards, et cetera.... Tenant participation is still in its infancy, but it has changed the culture.

H14: I agree. I've been involved in it. There's more understanding of what the Department can do. Now, this has worked in our favour, and against. How it works is Area delegates spread the word, and more knowledge of how the Department works.40

(Housing officers focus group 3)

As they did in relation to 'working with the client', housing officers spoke to disappointments and frustrations with tenant participation. H10 at Riverwood felt that Housing NSW did not do enough:

40 It has in some cases worked 'against', according to H14, by encouraging in tenants 'an expectation that we are the landlord from heaven who can do everything' and confidence in making complaints when Housing NSW does not do as expected (H14, housing officers focus group 3).
H10: We’re involved in the employment of tenants, through the contractor that we use. We have a community centre that works in with us and the community. Apart from that: zero.  
(Housing officers focus group 2)

Other housing officers, however, were sceptical that Housing NSW’s community development work could repair its dysfunctional communities. Referring to the employment and training projects sponsored by Housing NSW and the hope that these would keep participants from offending, H12 said, ‘now, that’s all Walt Disney stuff:

H12: Honest and truly, if we get a success rate of four or five per cent that’s great, but realistically, these blokes go off on a different angle, their tenancies – I’d like to know what the stats are – I don’t think their tenancies last that long, because they end up falling back into the crime situation and away they go. The element’s here.

(H12 interview)

In H12’s view, there was a disorderly or criminal element in the estate’s make-up that had not been eliminated through Housing NSW’s renewal work, and that continued to draw in susceptible subjects. H4 and H5 were, if anything, even more pessimistic, concerned about not just an ‘element’ but a more general deficiency in public housing neighbourhoods. Even after all the work done to change public housing by renewing estates and reforming the way housing officers work, said H4, ‘they [tenants] all still say “Housing Commission” and “housos”’ (H4, housing officers focus group 1).

41 One of the workers in the Riverwood Community Centre (RCC), C18, provided a kind of defence for disappointed officers like H10, stating that housing officers had enough to do without the additional expectation that Housing NSW should be directly involved in community development work:

C18: But I think the Client Service Officers in this area have 400–400! – tenants to look after. That’s a bloody lot of work. And I think if they just know how to do that, and do that reasonably well, and be up on things, and be reasonably decent to people when they want to transfer, and when they’ve got a problem, and when they’ve got a rent issue, and when they’ve got a mental health issue, and be decent... what, you want them to do community development work as well as that? Shit, that’s bloody hard! (C18 interview, original emphasis)
H5: Yes. So it's never going to change. The stigma has always been there.

H4: It's attached.

H5: Until our tenants' mentality changes as well. And get jobs, and live in the society.

(Housing officers focus group 1)

This scepticism is understandable: the idea of participatory communities acting against crime and disorder is at odds with so much of what housing officers know about their clients, through the administration of eligibility, and about public housing neighbourhoods, through plans to demolish estates and dissolve their populations into 'social mix'. Participation is supposed to challenge that knowledge, but it is a difficult task.

**Partnerships**

The second broad way in which Housing NSW attempts to fabricate community relations is through partnerships with other government agencies and non-government organisations (NGOs). These partnerships are presented primarily in terms of 'getting services happening on the estates' (NSWDOH, 1999: 8), such that these services might formally support tenants where the informal supports of neighbourhood and family are insufficient.

Housing NSW's partners include the NGOs that run many of the tenant participation programs discussed above, as well as the numerous community services, such as neighbourhood centres and community centres, funded by NSW Community Services (formerly the NSW Department of Community Services, or DOCS). They also include the police, which partners with Housing NSW to extend services such as liaison with tenants, participation in safety audits and other exercises in community policing, particularly through the NABs. Yet another is NSW Health, particularly in the provision of mental health services, as reflected in the 'Joint Guarantee of Service for People with Mental Health Problems and Disorders' (JGOS) (NSW Department of Health, 2003). First implemented in 1994, the JGOS commits Housing NSW and Area Mental Health Services to certain general principles in the provision of their respective services to individual tenants and applicants, as well as providing for Memoranda of Understanding for ongoing local-level meetings of
housing officers, mental health workers and other support workers, to foster referrals and conduct joint service planning. In 2006, Housing NSW concluded the Housing and Human Services Accord, a broader agreement between Housing NSW and other government agencies including NSW Community Services, NSW Health, NSW Corrective Services, NSW Ageing Disability and Home Care, which is designed to be a framework for existing partnership agreements (such as JGOS, which is now a ‘Schedule’ under the Accord) and the development of further partnerships. The Accord affirms that ‘joined up responses from relevant agencies are required to address the extent and interconnected nature of disadvantage and client needs in larger social [housing] estates’ and that ‘long-term improvements to neighbourhoods and the quality of life for residents are maximised by using partnerships and neighbourhood management strategies to build on the strengths and resources within the community’ (NSWDOH, 2006b: 5).

On the ground at Riverwood, H17 considered that partnerships were crucial to the success of community renewal, and it was important that Housing NSW’s partners – especially ‘major stakeholders’ like the community centre and the police – should feel that ‘it’s an inviting location to operate in’ (H17 interview).

Housing NSW’s partnerships go further, however, than ‘getting services happening’, and they have a range of other implications for Housing NSW’s work. In some respects some of its partnerships are directed at Housing NSW itself and reforming the way its housing officers work. In particular, the JGOS seeks to make housing officers consider the possibility that disorderly conduct may arise from mental health problems and, where this appears to be the case, to make appropriate referrals and to ‘jointly problem-solve the issues in a co-operative manner’, including with the client (NSW Health, 2003: 19). In other respects, Housing NSW’s partnerships implicate it in the investigation and enforcement functions of its state agency partners, even to the extent of putting Housing NSW at their service. In this way, partnership with NSW Community Services means that housing officers are mandatory reporters to NSW Community Services of children who are ‘at risk of significant harm’

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42 In its JGOS manual, Housing NSW presents this partnership expressly in terms of fabricated community: ‘make the MoU [Memorandum of Understanding] and the local JGOS committee an important public event in the community’s life. Let the community know what the partners have achieved and why this is an important achievement. Get the media there, get local dignitaries to witness it, sign it, launch the partnership and have a morning tea or luncheon event’ (NSWDOH, 2007: 16).
(Children and Young Persons (Care and Protection) Act 1998 (NSW), s 27). Housing NSW's 'Memorandum of Understanding' with The NSW Police Force establishes that police may ask Housing NSW to provide 'information, logistical support, services or access to property' in the course of police investigations and community protection functions. The Riverwood housing officers described the partnership:

CM: What do you bring to the partnership with police?
H5: Information.
H3: Yeah, and I suppose just working together. But that covers a broad range, under the heading 'working together'....
CM: I wonder what 'working together' means?
H3: Information, cooperation, communication.

(Housing officers focus group 1)

Specifically, H3 said that the Riverwood office has 'a monthly meeting with the police to discuss issues on the estate; where they've been called out to. They might seek information from us in relation to certain clients. Just normal interaction.' (Housing officers focus group 1.) In turn the Memorandum of Understanding, together with special provisions under the NSW Police Privacy Code, also provides that the police may release information about individual persons to Housing NSW where the information relates to conduct that may constitute a breach of a tenancy agreement. The information may be provided in the form of information summaries (including the date, time, place and type of incident, the name of a person charged with an offence, conviction details and court dates) or in the form of a copy of a report on the police database (a COPS report). 44

43 This aspect of the Housing NSW-Community Services partnership has the potential to be put at the service of Housing NSW too. 'Risk of significant harm' includes homelessness, including as a result of termination proceedings by Housing NSW. I am aware of one instance of correspondence from a housing officer to a tenant about rent arrears that includes a handwritten note intimating that if Housing NSW takes termination proceedings on the ground of the arrears, the officer will make a mandatory report about the tenant's children to Community Services (tenants advocate, personal communication with copy of correspondence, 2009).

44 These provisions are discussed again in Chapter 6.
As in other aspects of their work, housing officers expressed disappointment and frustration in their work on partnerships – H15 felt it was fair to say that Housing NSW’s partners generally ‘take more than they give’ (H15 interview) – but this varied according to the partner. Housing officers were critical of those partners that were responsible for the provision of support services – NSW Health, NSW Corrective Services – and that failed to deliver on their promises:

H12: Well, what I’m saying is, I had [a superior officer] in here the other day […] and we were talking about what we’re talking about now, and [the superior officer] is saying, ‘jeezus, we’re bending over backwards to help these other services, and we’re not getting anything out of it! We’re not getting nothing from them!’

(H12 interview)

Their greatest disappointment was in relation to mental health services:

H3: A lot of people that we’ve housed in the past came in on support plans, through Mental Health. Through Mental Health, they come in, they’re fine, the support plan works for a week, and that’s it. Support’s withdrawn. Mental Health department doesn’t have enough resources to be able to do that…. This is where you get stuck. You know that this person has a mental illness, just by you knowing that there is mental health issues there. [So the housing officer thinks] ‘no, I’m a caseworker, I’ll refer them to Mental Health,’ and Mental Health says there are no problems. But you know it’s this person, through the complaints from all the other residents, that’s causing this. But when it gets to go upstairs [for approval of termination proceedings by a senior officer], all of a sudden Mental Health wants to become involved, because there is a pending eviction, so it’s just… an ongoing cycle.

(Housing officers focus group 1)

By contrast, the housing officers were enthusiastic about their partnership with police: ‘we have a fantastic relationship with the police’ (H3, housing officers focus group 1).45 H12

45 Even stronger affirmations of solidarity with the police are made at the other end of Housing NSW’s organisational structure. In a 2006 speech to tenants – at the launch of a community arts
admitted to feeling ‘a bit of grief’ when, as he prepared to commence termination proceedings against a very disorderly tenant, the police asked him to ‘hold back’ in order to allow the police to make their own case against the person; nonetheless, H12 understood that ‘the coppers, their hands are tied with policies and procedures before they actually attack a thing’ and was pleased to oblige by arranging for the police to occupy a neighbouring property to complete their surveillance of the tenant (H12 interview).

By presenting these contrasting assessments, I do not mean to suggest that Housing NSW’s partnerships with support service providers must be failing while its partnership with the police must be accorded a success. On the contrary, a preparedness to criticise may be a healthier sign than a need to affirm ‘unity’ in a partnership. As Crawford has observed of partnerships in crime prevention, there may be a considerable degree of latent conflict between agencies and a very great deal of obfuscation and conflict avoidance that leaves inequities unchallenged. On this view, ‘where structural oppositions, divergent values and professional missions exist, conflict may in fact be a desirable product of interagency work. Conflict may be the healthy expression of different interests.’ (Crawford, 1997: 147). In the case of Housing NSW, housing officers’ close identification with the work of the police often takes the form of a partnership that goes beyond substituting or fortifying neighbourhoods’ informal supports, to implicating Housing NSW in police investigations and operations. This has the potential to work against the establishment of trust with at least some sections of its clientele and the non-state agencies that work with them as they attempt to draw potential offenders or disorderly persons into participation activities and away from crime and disorder.

The fieldwork at the Riverwood estate revealed an example of this sort of difficulty, in a strain between, on the one hand, young persons living on the estate and the community centre, and on the other hand, the police; this is discussed in detail in Chapter 9, as part of an extended analysis of how practices of government-housing work at the level of tenants’

project – the then Housing Minister, Cherie Burton, invoked class to reinforce solidarity with the police:

I have a very strong affinity with the police. When I was growing up on the housing estate, the only line of defence we ever had against people who perpetrated crimes was the police. No one else was looking out for us. We couldn’t afford the fancy-pants security alarms that the wealthier suburbs could. So our line of defence was the police. (Burton, 2006)
and workers’ local responses to crime and disorder. To presage that analysis, tenants indicated considerable ambivalence and anxiety about the contribution they thought their community relations made both to problems of crime and disorder and to their solution; and, as we have seen in the foregoing discussion, there is a corresponding ambivalence in housing officers’ experiences of fabricating community relations through participation and partnership. This work offers a broad vision of improved safety and harmony and promises to extend support, create trust and build tenants’ capacities; but all too often the promised support is not forthcoming, the pressure of other work limits what housing officers can do, the subject of public housing remains incapable, trust waivers and there is an anxious need to make a united front with the authorities.

As H18, who expressed such high hopes for Housing NSW’s community renewal activities, went on to say, ‘it’s never easy, that sort of community development work’ (H18 interview). This raises the question of whether some other scheme for working on community relations might offer easier, if not actually more effective, courses of action.

Communities of Contract

There is another way in which relations of neighbouring and community are fabricated in public housing: as contractual relations.

As I noted in Chapter 3, contracts have become, over the course of the late-modern period, increasingly prominent in strategies, both within and outside the formal criminal justice system, for the prevention of crime and the management of anti-social behaviour. Aside from their increasing popularity, contracts are immediately significant for the repair of the broken social fabric of public housing because they are already in place: they comprise a pre-existing legal infrastructure that, in its scope and structure, is unique to public housing neighbourhoods. All public housing tenants have contracts (‘residential tenancy agreements’, per the Residential Tenancies Act 1987 (NSW)46) with Housing NSW, so the public housing estates of New South Wales represent extraordinary concentrations of contract. Nowhere

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46 On 10 June 2010, the NSW Parliament passed the Residential Tenancies Act 2010 (NSW) (the 2010 Act), which has yet to commence. It will repeal and replace the Residential Tenancies Act 1987 (NSW) (the 1987 Act). Throughout the thesis I refer to the 1987 Act, and note the equivalent provisions of the 2010 Act.
else in the housing system are so many contracts entered into by so many persons with a single other party as in public housing estates.

Here I will consider how public housing contracts appear as an important element in the community fabric of public housing neighbourhoods, so that contracts are envisaged as reinforcing, or even substituting for, other more informal relations of obligation and order in a community. This vision is reflected in Housing NSW’s ‘Good Neighbour Policy’ (Policy EST0013A: Good Neighbour Policy), first implemented in 1996 (around the same time as the NIP), and in the statements of legislators and the Executive of the State Government, too. I will go into more detail as to the terms of public housing tenants’ contracts, and the uses to which Housing NSW puts these terms, in the next Chapter; here I will take a slightly wider view of the significance of contracts for public housing neighbourhoods, proceeding from Crawford’s conceptualisation of contracts as instruments of advanced liberal government. As Crawford puts it:

> Crime and deviance are seen as normal aspects of modern life to be managed through micro and particularistic processes, woven into the fabric of social exchange. Contracts are the social equivalents of crime prevention through environmental design. They seek to ‘design out crime’ through a complex array of instruments that inscribe incentives and disincentives into the environment and social relations. (2003: 500)

Following this conceptualisation, there are two aspects to the significance of contract in public housing that I will examine here: first, the way in which contractual obligations are ‘woven’ or ‘inscribed’ into the community fabric of public housing; and second, the ‘incentives and disincentives’ presented by public housing contracts.

**Contracts and the community fabric**

Public housing contracts have a peculiarly communal orientation, both because of their ubiquity amongst public housing tenants and because their terms are addressed to conduct between persons other than those who are parties to the contract.

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47 In June 2010, Policy ALL0013A was incorporated into the During a Tenancy Policy.
All tenancy contracts – both in private rental and in public housing – are regulated by the *Residential Tenancies Act 1987* (NSW), which prescribes standard terms that are included in all agreements, and which establishes the means for resolving disputes between landlords and tenants, including the termination of tenancies. For present purposes, the terms of tenancy agreements that are most relevant for public housing’s ‘communities of contract’ are:

- that tenants not cause or permit their premises to be used for an illegal purpose (often referred to as the illegal use term, from s 23(1)(a) of the *Residential Tenancies Act 1987* (NSW)\(^{48}\)), and
- that tenants not cause or permit a nuisance or any interference with the reasonable peace, comfort or privacy of their neighbours (the nuisance and annoyance term, from s 23(2)(a) and (b) of the *Residential Tenancies Act 1987* (NSW)\(^{49}\)).

As I have indicated, I will examine more closely what each of these terms means in the next Chapter; the important thing at this point is observe how these obligations, which strictly speaking are obligations owed by tenants to their landlord, are relevant to relations between tenants. Furthermore, as well as extending ‘outwards’ to their neighbours, the legal infrastructure of tenants’ contracts also operates ‘inwardly’ on the domestic relations between tenants and other members of their households and their guests. Tenants are liable in contract for the conduct of these other persons, because both the illegal use and nuisance and annoyance terms require that tenants not ‘cause or permit’ the proscribed conduct and because of section 30 of the *Residential Tenancies Act 1987* (NSW)\(^{50}\), which provides generally that a tenant is vicariously liable for the conduct of other persons on their premises.

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\(^{48}\) *Residential Tenancies Act 2010* (NSW) s 51(1)(a).

\(^{49}\) *Residential Tenancies Act 2010* (NSW) s 51(1)(b) and (c).

\(^{50}\) *Residential Tenancies Act 2010* (NSW) s 40.
It is a term of every residential tenancy agreement that the tenant is vicariously responsible to the landlord for any act or omission by any other person who is lawfully on the residential premises (other than a person who has a right of entry to the premises without the tenant’s consent) that would have been a breach of the agreement if it had been an act or omission by the tenant.

The effect of s 30 is to make the contractual relation between Housing NSW, as landlord, and the tenant articulated with the tenant’s familial and friendship relations, and it becomes the tenant’s responsibility to manage these relations in accordance with their contract.

The final aspect of this legal infrastructure is that tenants do not just owe contractual obligations that relate to their neighbours; they also enjoy a corresponding contractual right, per s 22(1)(b) of the Residential Tenancies Act 1987 (NSW)51:

22 (1) It is a term of every residential tenancy agreement that:

... 
(b) the landlord or the landlord’s agent shall not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of the tenant in using the residential premises.

So, where Housing NSW does not restrain a tenant from conduct that interferes with another tenant’s reasonable peace, comfort or privacy, there is a question as to whether Housing NSW has ‘permitted’ the interference and so is in breach of the tenancy contract itself. This right is occasionally the subject of litigation by tenants against Housing NSW, most notably in Ingram and Ingram v Department of Housing [2002] NSWCTTT 84, where the CTTT, and then the Supreme Court, held that the term obligated Housing NSW to act to protect a tenant against harassment by a neighbouring tenant – by at least warning the neighbouring tenant that their conduct was a breach of the nuisance and annoyance term.52

51 Residential Tenancies Act 2010 (NSW) s 50(2).

52 The Tribunal’s findings and orders were upheld when Housing NSW appealed to the Supreme Court (Department of Housing v Consumer, Trader and Tenancy Tribunal [2003] NSWSC 150). The obligation is made express in the Residential Tenancies Act 2010 (NSW) at s 50(3): ‘a landlord or landlord’s agent must take all reasonable steps to ensure that the landlord’s other neighbouring
There was, around the time of and shortly after the Ingram decision, a small flurry of interest from tenants in these proceedings, but a floodgate was not opened. Rather, it has reinforced that public housing’s neighbourhoods are, literally, communities of contract, and given Housing NSW officers an additional impetus amongst their other dispositions to act against disorder.\textsuperscript{53}

The Good Neighbour Policy is Housing NSW’s primary statement on its use of this legal infrastructure.\textsuperscript{54} The Good Neighbour Policy envisages neighbourhood relations as being underpinned by contractual relations, expressly referring to ‘the development and maintenance of harmonious communities’ in terms that include prominently tenants’ contractual rights:

Tenants have a right to the peaceful enjoyment of their home and an obligation to abide by the conditions of their Tenancy Agreement. They also have a right to complain about individuals who deny them this right. The Department has an obligation to act on receipt of all complaints that constitute a breach of the Tenancy Agreement.

More than any of Housing NSW’s other operational policies – and more than any of the instructions to officers about tenant conduct in the NSW Housing Commission’s manuals – the Good Neighbour Policy is written in a ‘visionary’ or promotional mode, in that it is not concerned with merely setting out principles or criteria to guide departmental decision-making, but rather with communicating to tenants a vision of the good community life that tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in using the residential premises.’

\textsuperscript{53} In an interview, an officer from Housing NSW’s legal branch, H16, reflected on breach proceedings by tenants and considered that ‘yeah, it’s starting to happen more often….. Some cases are running that way. Some successful, some not. They’re not as big [as Ingram]. But they’re increasing, just at the moment.’ There are five such proceedings for which decisions are publicly available; in three the tenants’ respective applications were dismissed and in one only was there a finding of breach against Housing NSW. There is another effect of Ingram: its use by the NSW State Government in justifying amendments to the law that have given extraordinary powers to Housing NSW – powers that depart substantially from the mainstream provisions of the Residential Tenancies Act 1987 (NSW) and even from the contractual form of the contemporary landlord-tenant relationship. These amendments are discussed in Chapter 7.

\textsuperscript{54} Good Neighbour Policy EST0013A, as amended 16 December 2002.
the measures in the policy are supposed to achieve. The Good Neighbour Policy is also the
basis for a number of other Housing NSW publications, including a series of factsheets for
tenants (‘Being a Good Neighbour in Your New Home’, ‘Nuisance and Annoyance’, and
‘Problems with Harassment’), that present community relations in terms of contract.
The Good Neighbour Policy does not, however, entirely reduce community relations to
contractual terms. It makes the disclaimer that ‘the Department cannot resolve every
neighbourhood disagreement however we can act if a breach of the Tenancy Agreement is
able to be substantiated.’ In the event of a breach, it makes a further disclaimer: even if ‘the
Department is able to substantiate that the complaint is a breach of the Tenancy Agreement,
the person causing the problem will be given an opportunity to change their behaviour
unless the breach is serious or extreme.’ Similarly, the policy states that Housing NSW
‘encourages tenants to initially resolve problems with other tenants themselves or, with the
assistance of mediation services’. In the communities of contract envisaged by the Good
Neighbour Policy, then, not every conflict or dispute is a breach, nor every breach a cause of
action under the contract.
In practice, though, the appeal for tenants of dealing with neighbour relations in terms of
contract and breach, and regardless of the qualifications in the Good Neighbour Policy, is
strong. In the focus groups, housing officers emphasised how notions of contract structured
tenants’ responses to neighbourhood problems:

H4: Yes, their perception is, because the agreement says you have the right to live
in a peaceful and safe environment, so that will be, ‘oh well, we’ll go to the
Department, and they’ll fix that. Because they [a neighbouring tenant] have
dared interrupt my peace and quiet’.
(Housing officers focus group 1)

And in public housing’s communities of contract, the scope of complaints as to breach is
extensive. I asked housing officers as to the sorts of conduct that came to their attention as
complaints under the Good Neighbour Policy:
H4: All sorts... [pause]... Well, it could be threats, they could be having a dispute with other people in the block –
H1: Loud music –
H4: Loud music –
H5: Drug dealing –
H1: Other people’s children –
H2: People who keep making a noise –
H4: Anti-social behaviour. That’s it!
H6: The buzzword!
H4: That’s the key word!
H3: Parking in my parking spot –
H5: TV too loud –
CM: What does that keyword mean, ‘anti-social behaviour’?
H5: Someone doesn’t agree with the way someone else is living.
H6: [Behaviour] that interferes with somebody’s way of life, or perceived way of life. Sometimes it can be minuscule, the trouble.

(Housing officers focus group 1)

Some housing officers spoke about how they tried, consistent with the qualifications in the Good Neighbour Policy, to encourage complainants to shift their approach from complaining about breaches of contract to taking more self-reliant and traditionally neighbourly action to resolve problems. As H3 said, ‘in one way it [a complaint about a neighbour’s breach] is a good thing to get them to discuss issues’, and cited a typical case:

H3: We have one block of units where there is a cranky old man that lives there who complains about everything and anything. And in that block of units is lots of children. Sat him down: ‘well, you’re at home all day. What have you done: have you gone out and introduced yourself to the kids? Have you gone out and spoken to the parents? Have you gone out and kicked the ball with them? Have you tried to do something? Have you gone to the [kids’] mother and said “I’m old, I go to bed at 5 am, can you keep the noise down?”

(Housing officers focus group 1)

These efforts, however, were often unsuccessful. H3 continued:
H3: But they haven’t [done any of the things suggested above]. They just think ‘well, I’ll come to the Department and they’ll fix it.’

H2: Yes.

H3: We’re the fix-its.

(Housing officers focus group 1)

There is, therefore, an irony in the way contractual relations are supposed to reinforce community relations in public housing neighbourhoods. While contracts are supposed to engage their subjects as responsible agents, and heighten their responsibility for their own behaviour and that of their household members, they also allow tenants to avoid the difficult, uncomfortable, risky and sometimes futile business of dealing with disorderly and conflictual neighbours. In public housing’s communities of contract, this is Housing NSW’s responsibility, and the incapable complainant is accommodated.

What, then, do public housing contracts offer to ‘fix’ these problems?

Incentives and disincentives: the consequences of contracts

In advanced liberal governmentality, contracts allocate, according to the contractual doctrine of strict liability, ‘incentives and disincentives’ for the contracting subject (Crawford, 2003: 500). In public housing’s communities of contract, the incentives and disincentives involved are ultimately the stark possibilities of remaining housed or having one’s tenancy terminated.

The Good Neighbour Policy does not state these consequences quite so baldly, and provides that Housing NSW may respond to complaints of breach with action short of termination — interviewing the tenant subject of the complaint, reminding them of their obligations, encouraging mediation — before following through with termination proceedings. Aside from the Good Neighbour Policy, however, other appeals to public housing communities as communities of contract expressly hold loss of housing to be the appropriate consequence for criminal or disorderly behaviour by tenants. In these formulations, the strict liability of contract is often linked with another discourse of strict enforcement and the reassertion of
sovereign power: that of 'zero tolerance'. So, for example, in a speech to public housing tenants in 2006, the then Housing Minister affirmed:

We do have a zero tolerance approach to anti-social behaviour. I've instructed the Department that if people continually abuse their home or their community, then they have no place in public housing. (Burton, 2006)

This was consistent with the expectations of complainant tenants, said housing officers in the focus groups:

H3: They expect they'll just come to the Department, put in a complaint, and we will evict other party – today.

(Housing officers focus group 1)

Housing officers felt the pressure of these expectations, despite the qualifications of the Good Neighbour Policy and the professional imperative to 'work with the client':

H9: It [the Good Neighbour Policy] says 'salvage tenancies', 'let the tenants work it out, salvage tenancies' – and when they [complainant tenants] walk into an office, they say 'I want this bastard evicted!' Know what I mean? The policy says 'what have you put in place to sort of resolve the issues? It could be mental health issues', sort of thing, or other issues. Yeah, everyone thinks that eviction's the right way to go and that's the resolution, but not always, no....

H4: And the hard thing is, they expect it to be fixed in two days, and they don't understand the process of what goes on behind the scenes, either. The tenants just expect it to be done, fixed, and you know, kicked out.

H5: Kicked out.

(Housing officers focus group 1)

And these pressures compound with housing officers' own culture of reaction. H12 admitted 'we've got our Good Neighbour Policy that we try to abide by, but in plain facts that doesn't basically... [pause]... it works, but it doesn't work.... I'm very confused with the
policy actually.... The feeling with the Client Service Officers is, 'well, let's get rid of them' (H12 interview).

**Binding Neighbourhood**

Each of these schemes of neighbourhood-level government – renewed built environments, renewed communities of participation and partnership, communities of contract – present questions as to how tenants individually may be bound into the scheme. In the case of the last, of course, this is readily answered: public housing's communities of contract are premised on the contracts that tenants enter into individually with Housing NSW. In each of the other schemes, too, when demands for order are urgent or when other means seem too difficult, Housing NSW's contracts appear to offer answers.

In the case of the renewal of the built environment along CPTED lines, which emphasises orderly appearances and asks housing officers and tenants to regard their neighbourhoods with a generalised distrust and attention to discrepancy, there is the question of how to respond to those individual tenants whose conduct, or that of their household members or associates, disturbs the appearance of order. A neighbourhood's capable guardians might be able to intervene informally with an appeal to a common interest in the neighbourhood; or they could address the matter as a breach of contract for the attention of Housing NSW as the landlord. In the case of programs that fabricate community through participation and partnership, otherwise potentially troublesome individuals are supposed to be reached through consultation, voluntary associations, friendships, opportunities for self-improvement and better delivery of support services – activities that, at the same time, also go to reforming what housing officers know about the subjects of public housing. However, where participation does not develop beyond the communication of what Housing NSW can do for its clients, and where the maintenance of eligibility takes priority over activity, and where the support fails to materialise and powerful partners such as the police prevail on Housing NSW to co-operate to their own ends, the individual is still bound by a contract that can be invoked in the name of community.
How this contract, as a contract with a specific form, content and associated procedures under contemporary landlord-tenant law, actually works in the government of crime and disorder is another question – to be answered in detail in the next Chapter.
CHAPTER 6
LANDLORD AND TENANTS

This Chapter of the thesis continues the analysis of contemporary practices of government-housing by considering specifically the landlord-tenant relationship between Housing NSW and public housing tenants. As indicated in the previous Chapters, the tenancy contract is but one of several aspects of Housing NSW’s relationship with tenants – it is also an administrator of access to housing, a provider of ‘client service’, a builder and modifier of the built environment, and a facilitator of community partnerships and participation – but it is to the landlord-tenant aspect of the relationship that the State Government, Housing NSW and tenants so often turn when dealing with problems of crime and disorder.

The landlord-tenant legal relationship is now, first and foremost, one of contract, rather than real property. We have encountered some aspects of contract in the previous two Chapters of the thesis: first the significance of contract in the construction of the individual subject of public housing and, secondly, its significance in the web of community relations that spreads throughout public housing neighbourhoods. In this Chapter, I will examine the content of tenants’ contracts and the specific obligations they impose, the various uses to which these legal instruments can be put in the government of crime and disorder and, conversely, the way the law of these instruments shapes the practices of Housing NSW. These practices include the use of legal proceedings in conjunction with ‘working with the client’ on all kinds of disorderly conduct and neighbourhood disputes – first as a back up to the provision of support, and then often as an alternative to support that is instead directed to the termination of a tenancy. In these nuisance and annoyance proceedings, the tenant may be addressed, at least initially, as being incapable and in need of support, but through Housing NSW’s processes of investigation, evidence-collection and application to the Tribunal, this subject position is apt to switch to one of liability and blameworthiness, and the purpose of the proceedings switches to termination, too. Housing NSW also uses its contracts in the strongly reactive, exclusionary prosecution of criminal conduct, especially in relation to drugs.
The Chapter considers specifically the contracts that all public housing tenants enter into with Housing NSW: their residential tenancy agreements or, as they are often called, their leases. Public housing residential tenancy agreements are subject to the Residential Tenancies Act 1987 (NSW) ("the Act")\(^{55}\), which makes similar— but not identical— provision in relation to both private and public housing tenancies. Housing NSW proceedings in relation to these provisions, which might be thought of as ‘mainstream’ proceedings under the Act, are considered here.

**The Residential Tenancies Act 1987 (NSW)**

I referred briefly to the Act in Chapter 3, where I introduced it as the latest and most comprehensive of a series of amendments to the law of landlord and tenant in New South Wales and, more specifically, as a reflection of the problematisation of the role and power of landlords that arose at the intersection of the findings of the Commonwealth Inquiry into Poverty, a general legislative turn to consumer protection and changes in the rental housing system. As noted in that brief discussion, the Act is not straightforwardly consumer protection legislation: it weighs consumer protection principles against landlords’ interests, and the balance it strikes accommodates the interest of landlords in being able to conveniently take vacant possession of their properties.

In the following sections I will examine a number of the provisions of the Act that are relevant to the government of crime and disorder. The provisions that appear to be most directly relevant are those relating to acceptable behaviour agreements (ABAs) — ss 35A and 631\(^{56}\), but those provisions are actually rather extraordinary and will be considered in the next Chapter. Here I will examine what might be called the ‘mainstream’ provisions relating to Housing NSW’s government of crime and disorder. The first two I introduced in the previous Chapter:

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\(^{55}\) As in the previous Chapter, I note the equivalent provisions of the Residential Tenancies Act 2010 (NSW), which has yet to commence.

\(^{56}\) Residential Tenancies Act 2010 (NSW) ss 138, 153 and 154.
• nuisance and annoyance
• use of premises for an illegal purpose (illegal use)
• serious injury to a person, or serious damage to the property
• payment of rent

Each of these aspects of the law applies to New South Wales landlords and tenants generally, not just Housing NSW and public housing tenants. The use of these provisions in public housing is, however, distinctive. This is partly because each of these aspects of the law is subject to certain special legislative provisions that are specific to public housing and social housing; it is also partly because of certain decisions of the NSW Consumer, Trader and Tenancy Tribunal and its predecessors (the Tribunal) and the superior courts on the way in which Housing NSW is required to proceed. The analysis presented in this Chapter will highlight how the law works to both enable and constrain Housing NSW and public housing tenants in acting on matters of crime and disorder. This involves a close reading of the Act and related legislation, and the case law, which at December 2009 comprised just under 240 cases brought by Housing NSW against tenants for which the Tribunal has provided publicly written reasons for its decisions. In doing so, I will not be attempting the sort of legal analysis that advances a single ‘correct’ interpretation of the law; rather, my aim is to show how the provisions and processes of the law make certain demands on, and thereby help to shape, Housing NSW’s practice, and how Housing NSW’s visions of its clients and its various modes of working with them can lead to improvisations on the law’s provisions and processes.

First, however, it is necessary to sketch the general scheme under the Act for taking action in relation to breaches of agreements, including action for the termination of tenancies. On the face of the Act, this scheme is the same for private landlords and Housing NSW, but a number of decisions of the NSW Supreme Court have resulted in Housing NSW adopting of a distinctive set of practices in relation to termination proceedings.
**Proceedings under the Act**

The enforcement of tenancy contracts under the Act lies in the threat and execution of proceedings to terminate a tenancy. The old 'sovereign' remedies that were available to landlords of the nineteenth century — the right of entry, the right to seize and distrain the tenant's goods — have long been abolished. Now a landlord may give a notice of termination, or apply for specific performance orders (SPOs) from the Tribunal, which can direct the party in breach to perform the agreement or enjoin them from breaching it. Failing to comply with an SPO is technically an offence, but there is no power of arrest in the event of breach of an SPO, and prosecutions are very rare — and prosecutions of tenants are practically non-existent. Instead, breach of an SPO by a tenant usually leads back to proceedings for termination of the tenancy and eviction of the tenant from the premises.

Under the Act, almost all termination proceedings against tenants are commenced by the landlord giving the tenant a notice of termination (the main exceptions are proceedings relating to serious injury to a person, or serious damage to the property, which require no notice: s 68). If, after the expiration of the period of notice, the tenant moves out, the tenancy is terminated; if the tenant remains in possession, the tenancy continues, and the landlord may then apply to the Tribunal for orders terminating the tenancy and returning possession to the landlord. The Act provides that a termination may be given without grounds, or with grounds prescribed by the Act. In termination applications on notices that give grounds, the landlord must prove the grounds (s 57); in applications on notices without grounds, of course, the landlord does not carry such an onus.

Until the mid-1990s, Housing NSW used 'without grounds' notices to terminate tenancies for reasons including rent arrears, harassment and use of premises for illegal purposes. Housing NSW stopped doing so as a consequence of two decisions of the NSW Supreme Court. In *Nicholson v NSW Land and Housing Corporation* [1992] NSW Supreme Court 30027 (unreported, Badgery-Parker J, 24 December 1991) (*Nicholson*), the Supreme Court held that as a matter of administrative law, public housing tenants had a legitimate expectation of security of tenure, and that in giving a notice without grounds, Housing NSW had failed to

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57 Residential Tenancies Act 2010 (NSW) s 90. Also, under the Residential Tenancies Act 2010 (NSW) no notice of termination would be required in proceedings relating to use of premises for an illegal purpose: s 91(4).
afford the tenant an opportunity to respond to the case for Housing NSW’s decision: a denial of procedural fairness. (Private landlords, it should be noted, are under no obligation to afford procedural fairness when they decide whether to serve notices of termination.)

In Nicholson, the Supreme Court also upheld the prevailing view that a valid notice of termination without grounds entitled the landlord to orders for termination and possession; except where the notice was retaliatory (s 65(2)), the Tribunal could not look at the reason behind a valid notice of termination or give consideration to any other factors. Indeed, that a notice of termination would, in almost all cases, lead directly to the termination of the tenancy, supported the Court in its view that Housing NSW should afford procedural fairness before giving a notice. For a short period after Nicholson, Housing NSW adopted the practice of sending tenants, to whom it proposed to give a notice of termination, a preliminary ‘show cause’ letter, informing them as to the reasons for the proposed notice and giving the tenant an opportunity to respond to the information. Where it was not satisfied with the tenant’s response, Housing NSW served a notice of termination without grounds. ⁵⁸

In Swain v Roads and Traffic Authority [1995] NSW Supreme Court 30034 (unreported, Rofe J, 22 March 1995) (Swain), the Supreme Court looked again at what the Tribunal could consider when determining an application for termination orders (whether with grounds or without), and looked in particular at the requirement (at then s 64(2)(c) of the Act) that the Tribunal must consider ‘the circumstances of the case’. In this case, the Supreme Court declined to follow the second part of the Nicholson decision, and instead held that the effect of the section was to give the Tribunal a statutory obligation to consider the circumstances of the case, including the reasons behind the notice.⁵⁹ Depending on the circumstances, the Tribunal might decline to make termination and possession orders at all, rather than terminating then suspending the operation of the orders in the event of hardship, per s 65(1). After Swain, the Tribunal began considering an indeterminate variety of factors both in relation to the particular circumstances of the notice of termination and in relation to the

⁵⁸ The last such case for which there are written reasons is NSW Department of Housing v Strathern and Paton [1996] NSWRT 37.

⁵⁹ The Supreme Court’s decision was upheld on appeal to the NSW Court of Appeal: Roads and Traffic Authority v Swain [1997] NSW Court of Appeal 40165 (unreported, Priestley JA, Meagher JA and Cole JA, 7 May 1997).
tenant's life generally. As a result, the Tribunal has become a forum in which tenants can attempt to 'show cause' as to why their tenancy should not be terminated. \(^{60}\)

The combined effect of *Nicholson* and *Swain* is that Housing NSW now, for almost all purposes\(^{61}\), only serves notices with grounds, and relies primarily on the Tribunal's processes to afford procedural fairness to the tenant. This represents a major difference in practice between Housing NSW and private landlords. It is open to private landlords to deal with matters relating to crime and other sorts of disorder by giving a tenant a notice of termination without grounds, rather than citing grounds and having to prove them in any Tribunal proceedings that subsequently arise. The Tribunal's considerations in these proceedings would be 'the circumstances of the case' only. Housing NSW, on the other hand, almost always serves notices on grounds of breach only, and in any proceedings has to prove the breach and win the argument on the circumstances of the case too.

This difference is important. On the one hand it appears to limit Housing NSW: it means that unlike other landlords Housing NSW cannot use notices 'without grounds' to deal with troublesome tenants when it lacks the evidence to support an application for termination on grounds of breach. On the other hand, data relating to landlords' proceedings under the Act indicate that this limitation has not discouraged Housing NSW from undertaking proceedings, but has instead caused Housing NSW to proceed on grounds of breach.

**Accounting for proceedings**

It should be said at the outset that it is not possible to completely account for the number of actions taken by landlords under the Act's general scheme of proceedings. The greatest 'dark figure', so to speak, is the number of notices of termination served: private landlords do not

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\(^{60}\) Under the *Residential Tenancies Act 2010* (NSW), in proceedings for termination without grounds, the Tribunal will not be able to decline to terminate because of the circumstances of the case (ss 84(3) and 85(3)); however, in proceedings on grounds, including breach, it may still decline to terminate, considering the circumstances of the case: s 87(4). I expect that there will be no change to Housing NSW's current practice as a result of the change to proceedings without grounds; if anything, this change heightens the importance of the first aspect of *Nicholson* and the requirement to afford procedural fairness.

\(^{61}\) The exceptions are where the Act does not prescribe grounds that correspond to the reason for seeking termination: for example, where a tenant has died and a tenancy remains on foot.
account for the number of notices they give, nor does Housing NSW. A second dark figure is the number of tenancies that are terminated when the tenant moves out in response to a notice of termination: again, neither private landlords nor Housing NSW account for this. Data do exist in relation to that stage in proceedings where landlords make applications to the Tribunal for orders. Since late 2008, when it established a Social Housing Division separate from its Tenancy Division, the Tribunal has accounted for Housing NSW's applications separately from those by other landlords; prior to that, the Tribunal's reports also identified Housing NSW applications, albeit less comprehensively. These data, on their own, do not show that public housing tenants are more likely to engage in conduct that may constitute a breach of their tenancy agreements. What they do indicate is that Housing NSW has developed a distinctive practice in relation to its applications: it is a heavy user of the Tribunal, particularly in applications where a breach must be proven.

Housing NSW's heavy use of the Tribunal is indicated by the number of its applications relative to the applications of other landlords. In the year to December 2009, Housing NSW made 10,217 applications to the Tribunal, which represents 28 per cent of all applications by landlords (CTTT, 2008, 2009a, 2009b, 2009c). In 2007-08, Housing NSW lodged electronically62 14,572 applications, representing almost 34 per cent of all landlords' applications. In 2006-07, Housing NSW lodged electronically 12,196 applications, representing almost 29 per cent of all landlords' applications.

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62 Prior to October 2008, the Tribunal did not account for Housing NSW's applications separately from all landlords' applications. It did, however, account for Housing NSW's applications lodged electronically, so the present comparison actually compares the number of Housing NSW's electronic applications in 2007 and 2008 with all landlords' applications. It is the practice of Housing NSW to lodge its applications electronically, but it is possible that some may have been made otherwise, so Housing NSW applications might be slightly underrepresented in the present comparison.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of applications</th>
<th>Share of all landlords’ applications (%)</th>
<th>Applications per 1000 tenancies</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-07</td>
<td>12 196</td>
<td>29</td>
<td>101.2</td>
</tr>
<tr>
<td>2007-08</td>
<td>14 572</td>
<td>34</td>
<td>122.3</td>
</tr>
<tr>
<td>2009</td>
<td>10 217</td>
<td>28</td>
<td>87.1</td>
</tr>
</tbody>
</table>


Housing NSW’s share of all New South Wales tenancies is 16 per cent (ABS, 2009: Table 22). Also, as noted in Chapter 2, the NSW Housing Commission’s rate of applications over the period 1962-69 was, on average, 21 per thousand tenancies – about a fifth of the rate over the most recent three years.

Furthermore, a relatively high proportion of Housing NSW’s proceedings relate to breach. In the year to December 2009, Housing NSW made 169 applications for termination in relation to ‘use of premises’ – this includes ‘use of premises for an illegal purpose’, and nuisance and annoyance – which represents 45 per cent of all landlords’ ‘use of premises’ applications; it also made a further 1 949 applications for orders other than termination in relation to ‘breach’, which represents 58 per cent of all landlords’ ‘breach’ applications (CTTT, 2008, 2009a, 2009b, 2009c).

Table 6.2. Housing NSW applications regarding breach, 2009.

<table>
<thead>
<tr>
<th>Application type</th>
<th>Number of applications</th>
<th>Share of all landlords’ applications (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination – ‘use of premises’</td>
<td>169</td>
<td>45</td>
</tr>
<tr>
<td>‘Breach’</td>
<td>1 949</td>
<td>58</td>
</tr>
</tbody>
</table>

(Source: CTTT, 2008, 2009a, 2009b, 2009c)
Edgeworth has compared the level of landlords' and tenants' use of the Tribunal to their use of the Local Court prior to the commencement of the Act; he finds that the Tribunal is much more accessible for both and is, therefore, 'a double-edged sword for tenants: while redress is more accessible, they walk a compliance tightrope under the new regime'. This finding also suggests, that 'perhaps unexpectedly... more informal mechanisms for dispute resolution, far from reducing the impact of law on the resolution of conflict, actually increase legal rules' (2006: 78). The present analysis indicates that this is especially so for Housing NSW and its 'communities of contract'.

Nuisance and Annoyance

Section 23 of the Act provides:

23 (1) It is a term of every residential tenancy agreement that:

... (b) the tenant shall not cause or permit a nuisance, and (c) the tenant shall not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of any neighbour of the tenant.

The contractual term that arises from the second and third limbs of s 23 is commonly referred to as the nuisance and annoyance term, named after its antecedents in leases before the introduction of the Act, and the provisions of the Landlord and Tenant Amendment Act 1948 (NSW) for terminating a tenancy on ground that the tenant 'has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers' (s 62(5)(d)). Clyne describes the antecedent provisions as presenting 'little legal difficulty', and notes their usefulness in dealing with 'drunkenness, noise, abuse, assaults upon neighbours and similar conduct' (1970: 67). The term under the current Act has an increased prominence in public housing because of its communities of contract, especially as reflected in Housing NSW's Good Neighbour Policy. Six months after the policy was introduced in 1996, Housing NSW

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63 Residential Tenancies Act 2010 (NSW) s 51(1)(b) and (c).
noted in its annual report that the policy had resulted in an increased number of applications to the Tribunal in relation to breaches of the term (NSWDOH, 1997: 16).

As I indicated in the previous Chapter, the scope of the nuisance of annoyance term reaches beyond the tenant and their own conduct, to the conduct of other persons: as discussed in the previous Chapter, an illegal use of the premises by a household member of visitor can place the tenant in breach. The nuisance and annoyance term, like its antecedents noted above, provides that a tenant must not ‘cause or permit’ a nuisance or interference; additionally, the current Act appears to go further, by also providing s 30, which provides that tenants are vicariously liable for the acts and omissions of their other household members and visitors. The Tribunal has made inconsistent decisions in relation to tenants’ vicarious liability: in some cases, it has followed the old case law relating to the words ‘cause or permit’, which admitted a question as to the tenant’s ability to control other persons; in others, it has held that the term at s 30 makes tenants strictly liable for the acts and omissions of other persons. There are 42 nuisance and annoyance cases for which the Tribunal has made publicly available written reasons: in 19 of them, the alleged breach arises at least in part from the conduct of a person other than the tenant; in nine of these cases, the alleged breach arises solely from the conduct of a person other than the tenant.

Furthermore, the range of types of conduct targeted by Housing NSW’s use of the nuisance and annoyance term is wide, and mostly non-criminal: in only 13 of the 42 public housing nuisance and annoyance cases is there a reference to the tenant or another person being charged with a criminal offence. The subject of nuisance and annoyance proceedings is often that needy, incapable subject who cannot help but get into trouble, and for that reason, nuisance and annoyance admits a wide range of responses from Housing NSW, from participation in informal settlement of disputes to proceedings for termination:

H12: OK. If we get a complaint – a complaint of a minor nature – what we try to do is encourage the tenants to work it out for themselves, and if in the event that that fails, and we’ve interviewed both tenants, we refer them to the Community Justice Centre for mediation talks…. However, if it’s a definite

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breach of the tenancy, be it abuse, harassment, we've got police reports, things of that nature, there's drug trafficking, things like that, some crime taking place, and we've got definite, definite proof that this has actually taken place, we'll issue a notice of termination. And at the expiry of that notice of termination, we're off to a Tribunal hearing... and we'll go for the jugular, for the kill.

(H12 interview)

As H12 said, 'if it's a definite breach...' (H12 interview). This raises the question: what is a breach of the nuisance and annoyance term?

What is a breach?

In the 42 public housing nuisance and annoyance cases, a wide range of conduct is advanced as constituting a breach, from serious and repeated assaults upon neighbours – including a shooting\(^{65}\) – to threats, verbal abuse and intimidation,\(^ {66}\) to congregations of visitors, noisy parties and loud music,\(^ {67}\) to a one-off argument about garbage bins,\(^ {68}\) instances of a tenant ‘glaring’ at a neighbour,\(^ {69}\) to mysterious 'banging noises' emanating from a tenant’s unit.\(^ {70}\) In *NSW Department of Housing v Giddings* [1991] NSWRT 188, one amongst several incidents referred to by Housing NSW was the tenant’s own attempt at suicide; in *NSW Land and

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\(^{65}\) The shooting was in *NSW Land and Housing Corporation v Naera* [2009] NSWCTTT 555; see also *NSW Land and Housing Corporation v Whitmore* [2009] NSWCTTT 390; *NSW Land and Housing Corporation v Farlow* [2009] NSWCTTT 99; *NSW Land and Housing Corporation v Draper* [2000] NSWRT 193.

\(^{66}\) *Department of Housing v Winters* [1999] NSWRT 139; *Department of Housing v Bronson* [2002] NSWCTTT 45.

\(^{67}\) *NSW Land and Housing Corporation v Simpson* [2005] NSWCTTT 816; *NSW Land and Housing Corporation v Timbery* [2006] NSWCTTT 224.

\(^{68}\) *NSW Land and Housing Corporation v Layton* [2008] NSWCTTT 1080.

\(^{69}\) *NSW Land and Housing Corporation v MacDonald* [2009] NSWCTTT 524.

\(^{70}\) *Department of Housing v Maher* [2001] NSWRT 295. In some ways reminiscent of Agatha Christie’s *Five Little Pigs* or Kurosawa’s *Rashomon*, the Maher case involved six witnesses for Housing NSW testifying as to the banging noises they heard: some said it was a low thump, others a tapping sound; some said it was caused by the tenant striking the wall, another said it was the banging of doors, another suggested furniture being moved, and yet another the action of a washing machine. The Tribunal dismissed the application.
Housing Corporation v Peters [2007] NSWCTTT 681, the conduct included the tenant’s sometime partner yelling at and assaulting the tenant.

In the focus groups and interviews with Housing NSW officers, I asked ‘what is a breach?’ of the nuisance and annoyance term, such that complained-about behaviour might become the subject of proceedings by Housing NSW. In their responses to the question, officers offered a few types of behaviour that they felt were clearly breaches of the term: ‘assaults, drug activity, all that sort of stuff’ are examples of behaviours where ‘we jump on it straight away’ (H3, housing officers focus group 1).

CM: What’s a breach? How can you tell if something is a breach?
H10: OK. If it’s a physical assault...
(Housing officers focus group 2)

Similarly, where the troubling behaviour is incidental to some other criminal offending, the nuisance and annoyance term backs up the illegal use term, including as a possible alternative ground for proceedings where a tenant, for whatever reason, is not charged with an offence, but where Housing NSW is convinced that an offence – particularly a drug offence – is in fact being committed. As H16 observed, drug offences often go with other conduct – ‘the related noise and nuisance, the people coming up and down’ – on the basis of which nuisance and annoyance proceedings may be taken (H16 interview).

Apart from these types of behaviour, Housing NSW officers offered no clear principles or criteria for distinguishing behaviour in breach of the term from behaviour that neighbouring tenants would be expected to tolerate or resolve informally. As H2 said, ‘every single issue’s different, you can’t have it set down in concrete. It’s sort of a spectrum of issues’ (housing officers focus group 2). Instead, what was a breach was a matter of ‘common sense’ (H3, housing officers focus group 1; H9, housing officers focus group 1; H10, housing officers focus group 2).

This is hardly a clear test or principle to be applied to any given set of facts, and officers meant a range of things by it. I am not suggesting, however, that any of these answers are wrong answers, as if there really is a single true answer that becomes apparent if one
properly considers the law or policy. Instead my point is to observe how Housing NSW officers work out what they can and should proceed against, from their position in the middle of public housing’s web of community and contractual relations, and in the face of that alternately incapable/agentive subject of public housing.

Officers described the process they follow when they receive a complaint. First, they investigate — and this means they may investigate almost anything:

H5: Well, it’s every written incident that we have to investigate, isn’t it. So whether it’s trivial or not, if they come in and – whether it’s a dog barking – we still have to speak to someone about it. We don’t just let them go.

H3: ... Even though we might deem it trivial to start with, we still have to go out and speak to the person regardless. And if, sometimes, it’s a block of units against one person, and they do play their music loud, and all that sort of stuff [...] we have to interview everybody. We have to acknowledge every single correspondence about nuisance and annoyance and action it.

(Housing officers focus group 1)

These investigations often reveal a complex combination of factors behind a complaint and the behaviour to which it relates. H12 admitted, ‘it’s very difficult. There’s so many things involved’:

H12: When we actually speak to the people they [ie the neighbouring tenants] are making the complaint about, and when we get into that case you’ll see that there’s mental illness, there’s domestic violence, there’s all this other garbage involved.... What I find, nine times out of ten, with all disputes – major [disputes] – there’s something, there’s a hidden agenda behind everything. Be it drugs, alcohol, sexual assault, or something of that nature. There’s something hidden behind it.

(H12 interview)

As I discussed in Chapter 4, Housing NSW officers are supposed to engage with these factors as support needs on which they might ‘work with the client’; however, with the nuisance and annoyance term framing their response, Housing NSW officers’ work is also, simultaneously, a preparation for possible proceedings on the ground of breach. As well as
looking at tenants’ support needs, Housing NSW officers look for repeated misbehaviour, and chances to desist that were not taken: ‘you think, ‘okay, it’s just gone on too long, neither party’s backing off here, we need to proceed’ (H2, housing officers focus group 1).

H16 considered that ‘Ingram has obviously had a bit of an impact on people’s thinking’, prompting Housing NSW officers to respond to complaints, however trivial, and particularly to apply for SPOs:

H16: I think increasingly, from my perspective, teams are a bit more sensitive at least now to some form of specific performance order, at least to ensure that they are seen to be acting, although we may not think that it’s really that serious. Most matters will go through some sort of specific performance stage, unless it becomes a section 68-type matter, where there’s been assaults or something like that.

(H16 interview)

They are mindful of rebuffs to Housing NSW’s own attempts at defusing a conflict:

H10: If it’s loud noise, constant music, that sort of thing... first you’d approach the person and speak with them and say ‘look, a neighbour’s complaining about you and your loud music’.... And if it continues, then perhaps they’re not listening to reasoning, therefore you pursue it through a different course of action.

(Housing officers focus group 2)

Housing NSW officers also look at how tenants respond to their attempts to extend support:

H3: We can refer people to agencies, or we can refer agencies to people. Like with HASI [Housing and Accommodation Support Initiative] – mental health people – getting them to go in and give them support and all the rest of it. It’s up to the client to accept it. If the client doesn’t accept it, then that’s it. We can write the best briefing notes in the world to say that we’ve done this, this, this and this, but in the end if the client doesn’t accept any support, or if the client doesn’t want to take responsibility, but you know that there’s these underlying factors to it... this is where you get stuck.

(Housing officers focus group 1)
‘We try to put services in place to salvage the tenancy. However, they stuff up after that, we’ll go for the jugular, you know’ (H12 interview). H12 was explicit as to the dual purpose of his attempts to engage support services: first, to actually help the tenant, but secondly, to strengthen the case for proceeding on the ground of breach.

H12: What I’m saying is, I want to cover my tracks before I proceed down that line. You see the reason for that is because if in the event I’ve put everything in place and it still continues after I’ve tried to put everything in place, I will proceed to the Tribunal and go for the jugular. I will actually go for an order of possession. And when you write your report up, to [the superior officer]... they will want to know if every step has been taken, to salvage the tenancy. Now if I’ve got that in place, on the report, I know I’ve covered all tracks.

(H12 interview)

It appears that, at least in some cases, a breach is what happens when Housing NSW’s work with a tenant – however limited or under-resourced, or inadequately supported by other agencies, that work is – has failed. ‘I will not proceed to the Tribunal if I think I can resolve it myself; however if I cannot resolve it and it continues, I will proceed (H12 interview).

As Housing NSW officers investigate a complaint of nuisance and annoyance, they collect evidence: ‘you’re documenting, you’re getting reports’ (H11, housing officers focus group 2). Reflecting on how they sort through the ‘spectrum of issues’ around complaints of nuisance and annoyance to determine ‘what is a breach’, some Housing NSW officers suggested that documentation itself provided them with an answer:

CM: At what point does a problem become a breach?
H3: When it’s substantiated that there is a breach.
(Housing officers focus group 1)

H11: Once you’ve got police reports and things, and witnesses.
(Housing officers focus group 2)
H9: If you’ve got police reports and medical reports. If it’s an ongoing situation, and we’ve got police reports and medical reports to say it’s impacting on a person’s wellbeing and their living environment, and we can see it’s a breach – we’ve got AVOs (apprehended violence orders), police statements, the whole lot – off we go.

(Housing officers focus group 1)

To an extent, these answers are really begging the question, but more importantly they show Housing NSW officers looking for practical ways of working through the difficult, unsatisfying, time-consuming business of dealing with complaints of nuisance and annoyance, and seizing on documents, reports and testimony as providing authoritative answers and direction. They also indicate that the process of investigating troublesome behaviour as a breach of a contractual term – a process that generates records and documents – exerts a strength of its own on the question of whether the behaviour is in fact a breach.

**Proceedings against nuisance and annoyance**

To take proceedings against nuisance and annoyance, Housing NSW needs evidence. Its sources include the NSW Police Force, which provides information to Housing NSW subject to the NSW Police Service Privacy Code of Practice. As a Code of Practice under the Privacy and Personal Information Protection Act 1998 (NSW), this permits the NSW Police to depart from the principles provided by that Act, in particular Principle 11, which establishes that, in general, public sector agencies are not to disclose personal information, with certain exceptions (such as that the disclosure is ‘necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person’ (s 18(1)(c))). The Code of Practice permits, at cl 3.11.2, the following additional departure from the principle:

3.11.2 Department of Housing – The Police Service departs from Principle 11 to the extent that the disclosure of personal information to the Department of Housing may be permitted in the following circumstances:
(a) where the Department of Housing is investigating a complaint about a particular tenant and the information held by the Police Service is directly relevant to that investigation; or

(b) where the Police Service has obtained information about an offence and there is reasonable cause to believe that the offence committed is in breach of a Department of Housing tenancy agreement.

According to a memorandum of understanding between Housing NSW and the NSW Police Force, the information that may be provided by the Police to Housing NSW includes summaries of the date, time and place of an incident, the names of persons charged and details of convictions, court dates, COPS event numbers and, in some circumstances, COPS reports (schedule 2, cl 1(a) and (b)). In the 42 nuisance and annoyance cases, 21 involve evidence from the police, such as reports as to the receipt of complaints from neighbours or police attendance at the premises.

Housing NSW also actively seeks information from neighbours. It encourages complainants to document instances of nuisance and annoyance in ‘incident diaries’, and canvasses other neighbouring tenants for information about complaints. There is an example of this canvassing in Wilkinson v Department of Housing [2002] NSWCTTT 436, which cites the following letter sent by Housing NSW (‘the Department’) to all tenants of a block of flats in which a complaint had been made:

Dear ____,
The Department has received complaints relating to the conduct of one of your immediate neighbours in the housing complex where you reside.

In accordance with the Department’s Good Neighbour Policy I have been asked to investigate the matter by speaking to residents about the complaints.

It would be appreciated if you would contact me urgently to discuss any concerns you may have about possible breaches of the Residential Tenancies Act by any of your neighbours.

Thank you for your immediate response.

Yours sincerely

[H] senior Client Service Officer [telephone number]
Having made these preparations for a case, Housing NSW proceeds with a notice of termination, then an application to the Tribunal, often with the objective of nothing less than the termination of the tenancy: 'going for the jugular', as H12 put it. In the focus groups and interviews, Housing NSW officers identified a couple of other purposes that they pursue through what might be called 'adaptations' on proceedings on the ground of breach. In some cases Housing NSW takes proceedings with the purpose of merely warning the tenant; that is, it serves a termination notice and proceeds to the Tribunal on an application for termination orders, but with the intention of getting merely an SPO. A number of Housing NSW officers referred expressly to the notice of termination as a 'warning':

H10: What happens is they're served with a warning that's called a notice of termination. Now that, that can be scary for someone who's just constantly playing loud music. They think 'oh, they're going to evict me?' Whereas our intention is to put them under a specific performance order.

CM: OK. So you serve them with a notice of termination –

H11: We have to, yeah.

CM: – to get the ball rolling?

H11: Yes, yes.

CM: And then you go for a specific performance order at the Tribunal?

H11: Yes.

(Housing officers focus group 2)

In another kind of adaptation, the warning that is intended to be conveyed by the proceedings is not just for the tenant upon whom the notice is served. Housing NSW officers spoke of serving termination notices in an attempt at getting a message through to other agencies – especially mental health support services – and jolting them into action:

H16: I was running a noise and nuisance matter. Tenant we suspect has a mental illness; the mental health [team] says that she doesn't. I think that's more for expediency's sake than anything else. She clearly has a mental illness; you can't act like that, consistently, without having one. The Department has issued [a termination notice] – once again it was an attempt to jolt [the] mental health [team] and make them reconsider their diagnosis – or lack thereof – of this person, and we got an SPO.
The officer explained: 'there's a threat to a tenancy... [pause]... and it works' (H16, interview). H3 also recalled cases where 'you know that this person has a mental illness... and mental health says there are no problems.... But when it gets to go upstairs [for approval by a superior officer to proceed to the Tribunal], all of a sudden mental health wants to become involved, because there is a pending eviction' (Housing officers focus group 1).

These adaptations, however, are not completely successful. From the comments of Housing NSW officers, it appears that these sorts of adapted proceedings are apt to revert to proceedings for termination, their alternative purposes being overtaken as the processes for investigating and proceeding assert their own strength. H3 considered that 'you can only give people so many warnings' and that Housing NSW had 'fallen down' by doing too much of this (we've [said], “oh don’t do that again, don’t do that again, don’t do that again’’); H3 characterised her own preferred approach as “no, you breached your tenancy agreement, we’ve substantiated the claim, we’re going to the CTTT, they’ve then given us the order that [you’ve] breached, so the next step is a warrant” (housing officers focus group 1). Reflecting particularly on the situation of two neighbours in dispute and harassing each other, H3 took a fatalistic view of the process of warnings: ‘in the end, eviction is under the nuisance and annoyance – eviction is the only option, in most cases’ (housing officers focus group 1).

In relation to proceedings against tenants with support needs such as mental illness, Housing NSW officers lamented that the interest these proceedings provoked from support services was short-lived. ‘Then you go through the process, again and again and again, and it gets to that eviction stage: mental health come back on board again’ (H3, housing officers focus group 1). Looking to break this cycle, H3 asked ‘where’s our responsibility, and where’s another agency’s responsibility? We’ve got a responsibility to all the other residents, that they enjoy peace and quiet and all the rest of it’ (housing officers focus group 1). H12 despaired of ‘the sandshoe people’ – the support workers, tenant advocates, possibly even other Housing NSW officers and Tribunal members who want Housing NSW to tread more carefully – who became involved part-way through proceedings after he had already made the decision to go for termination (H12 interview).
As H3 said, 'nuisance and annoyance is a hard thing' (housing officers focus group 1). A complaint about a breach of this term can arise in relation to all manner of discord between tenants; and Housing NSW’s position at the centre of public housing’s communities of contract, and its role as the provider of ‘client service’, require it to get involved. Its involvement is simultaneously the difficult task of ‘working with the client’ and the collection of evidence as to breach; its investigations in turn activate neighbours as a source of evidence. The process tends towards proceedings for termination, which hold out various prospects for resolution: as a self-regarding agent, the tenant might respond to proceedings as a warning; as an incapable subject, the tenant’s plight might draw better support services from Housing NSW’s partners. Ultimately, however, it is the prospect of termination and eviction that appeals to some Housing NSW officers, in a reaction against the difficult conduct of some of their clients and the difficult demands of their work.

Use of Premises for an Illegal Purpose

As well as providing for the nuisance and annoyance term, section 23 of the Act also provides:

23 (1) It is a term of every residential tenancy agreement that:
(a) the tenant shall not use the residential premises, or cause or permit the premises to be used, for any illegal purpose.

The contractual term arising from this provision is commonly called the illegal use term. Before the Act was introduced, leases commonly included a term prohibiting use of the premises for an illegal purpose, and the Landlord and Tenant Amendment Act 1948 (NSW) provided that it was grounds for termination where the tenant or another person had been convicted of an offence arising out of the use of the premises for an illegal purpose, or where the premises had been found by a court to have been used for an illegal purpose (s

71 Residential Tenancies Act 2010 (NSW) s 51(1)(a).
Those provisions were, according to Clyne (1970), rarely used. In some respects, the current Act and the illegal use term go further, and in practice Housing NSW takes the term further, to operate a system of prosecution for certain criminal offences that runs parallel to the formal criminal justice system.

More than anything Housing NSW uses the term to prosecute drug offences. For the period from 1989 to December 2009, there are 40 illegal use cases relating to public housing for which the Tribunal's reasons are publicly available; not less than 34 of them relate to drugs. Of the other six cases, two do not specify the illegal purpose; three relate to possession of stolen goods only; and one relates to an alleged indecent assault upon a neighbouring tenant's child. Of the cases relating to drugs, three also relate to stolen goods, one to weapons, and two to both stolen goods and weapons. In an interview, H16, an officer from Housing NSW's legal branch, estimated that more than half of his caseload comprised drugs cases being prosecuted as illegal use breaches (H16 interview).

H16: Yeah, the caseload in relation to drug issues and illegal usage of premises has skyrocketed. It has overtaken just about everything else that we do.

(H16 interview)

The special attention to drug offences is facilitated by the formal aspects of the illegal use term; it is also a consequence of drugs and drug offences being significant for the subjectivity of public housing tenants. For Housing NSW, drug-use is often an element in the construction of the crime-prone incapable subject of public housing, but drug-dealing represents illicit, organised, commercial activity, which casts the offender strongly as an agentive, blameworthy subject.

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72 Clyne, a legal practitioner and litigious landlord, observes that in twenty years of practice he never acted in a case where this ground was used in proceedings for termination of a tenancy (1970: 75). Clyne considers that the provisions in the Landlord and Tenant Amendment Act 1948 (NSW) were probably intended to deal with 'disorderly houses' (Clyne, 1970: 76).
The form of the illegal use term

There are four notable formal aspects of the illegal use term. The first is the scope of operation provided by the words ‘use of the premises’. In *McAlhiffe v CITT* [2004] NSWSC 824, the Supreme Court interpreted the term according to the ‘natural and ordinary’ meaning of these words, rejecting a ‘technical, restricted’ interpretation that would limit the term to protecting the landlord’s own interests in the premises. In doing so it also found that a tenant may be in breach of the term where the illegal use does not involve the whole of the premises, and where the illegal use is not the sole or even predominant use. In that case, the tenant’s primary use of the premises was as her residence, but her cultivation of marijuana plants within a cupboard and on a shelf at the premises was held to be a use in breach of the term. In most of the 40 illegal use cases, the use is the sale or supply of drugs, and the Tribunal has accepted this as use for an illegal purpose without question; in eight of the cases, the use is cultivation and possession only – in one case, the cultivation of a single marijuana plant – and again the Tribunal has found these uses to be in breach of the term.

In a number of recent proceedings, Housing NSW has tested how far the words ‘use of the premises’ go in capturing criminal offences other than drug offences and in this regard the Tribunal has made inconsistent decisions. Housing NSW proceeded against a tenant who was in possession of stolen goods in *NSW Land and Housing Corporation v Marshall* [2007] NSWCTTT 575, and the Tribunal considered that the ordinary and natural meaning of ‘use’ requires something more than the mere presence at the premises of the object of an offence, and held that a tenant who had recklessly accepted as gifts a number of stolen goods and kept them at the premises was not in breach of the term. In another stolen goods case brought by Housing NSW, *NSW Land and Housing Corporation v Robertson* [2008] NSWCTTT 1197, the Tribunal expressly declined to follow the decision in *Marshall* and held that ‘the possession and storage of stolen goods is an illegal activity and the use of the premises in question as a vehicle for that storage is a necessary part of the crime such as may constitute a breach.’ In *NSW Land and Housing Corporation v Markham* [2009] NSWCTTT 651, Housing NSW proceeded against the tenant for an alleged indecent assault of a neighbour’s child inside the tenant’s premises, and the Tribunal referred to *Marshall* and indicated that it would consider such a ‘use’ to be merely incidental. In the focus groups and interviews, one Housing NSW officer stated that he had made preparations to prosecute as a breach of the
illegal use term an alleged sex offence by one tenant against another tenant at a local park, but did not proceed because he was advised that the premises had not been ‘used’ (H12 interview).

The second notable formal aspect of the term is the way its scope, like that of the nuisance and annoyance term, reaches beyond the use of the premises by the tenant, to their use by other persons, because of both the ‘cause or permit’ provision and the provision for vicarious liability at s 30. The case of Robertson, referred to above, is one of those cases where strict vicarious liability has been applied, the Tribunal holding that the tenant was in breach because her teenaged sons had kept stolen goods at the premises — and the tenant was neither involved in the offence nor even aware of the presence of the goods. In not less than 11 of the 40 illegal use cases, the alleged breach arose from the actions of a person other than the tenant; of these cases, six related to the criminal activities of a child of the tenant, and four related to those of the tenant’s partner.

Thirdly, the term refers to use for an illegal purpose but it does not require a conviction or a finding by a court to establish a breach (again, unlike the term’s antecedents). Housing NSW can and does take proceedings for breach before any criminal proceedings have been determined. Of the 40 illegal use cases, not less than 11 proceeded on the basis of the tenant or another person being charged only: in one of those cases (NSW Land and Housing Corporation v Pryde [2004] NSWCTTT 22) the person charged was acquitted, and the Tribunal was nonetheless satisfied that there had been a breach of the illegal use term. In another (Markham — the indecent assault case), the tenant was acquitted on one charge and his conviction on another quashed; here the Tribunal held there was no breach, but only after it had satisfied itself on the evidence that the alleged assault — a kiss — lacked the ‘context of sexuality or “indecency”’ to make it illegal. In NSW Land and Housing Corporation v Anderson [2008] NSWCTTT 975, the Tribunal made a finding of breach against a tenant where committal proceedings against the tenant had yet to be concluded, observing that those proceedings had taken a year to proceed to their present point and that ‘it is a matter of public interest that these proceedings are finalised without awaiting the outcome of the criminal proceedings.’
Table 6.3. Public housing illegal use cases (for which written determinations are publicly available), January 1992-December 2008.

<table>
<thead>
<tr>
<th>Basis of illegal use</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant convicted</td>
<td>20</td>
</tr>
<tr>
<td>Tenant charged only</td>
<td>6</td>
</tr>
<tr>
<td>Other person convicted</td>
<td>4</td>
</tr>
<tr>
<td>Other person charged only</td>
<td>4</td>
</tr>
<tr>
<td>Not specified</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
</tr>
</tbody>
</table>

(Source: Austlii databases ‘Consumer, Trader and Tenancy Tribunal, 2002-’ and ‘Residential Tribunal 1987-2002.)

Finally, the illegal use term is subject to a special provision that applies only where the premises are social housing premises: s 23(2). This provision, introduced by amendments to the Act in 1998, extends some aspects of tenants' obligations under s 23 beyond their own premises to ‘any property adjoining or adjacent’, including common areas:

23 (2) The tenant under a residential tenancy agreement entered into in respect of social housing premises is taken to have breached a term of the agreement if the tenant, or any person who, although not a tenant, is occupying (or jointly occupying) the residential premises with the consent of the tenant:

(a) intentionally or negligently causes or permits damage to any property adjoining or adjacent to the premises (including any property available for use by the tenant in common with others), or

(b) uses any property adjoining or adjacent to the premises (including any property that is available for use by the tenant in common with others) for the purposes of the manufacture or sale of any prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985.

73 In two of the 'not specified' cases, the tenant was not charged and it is not specified whether the other person in each case was convicted or charged only.
In making such a provision, s 23(2) specifically adapts the illegal use term to the characteristic physical forms of public housing in New South Wales - estates and blocks of units - and to the established target of Housing NSW's proceedings for breach of this term: drug offences. It is an adaptation of a term that already provides a broad basis for action by Housing NSW against alleged criminal offending in public housing - irrespective of whether an offence has been determined by the criminal courts - and that reaches beyond the contract between Housing NSW and the tenant to affect the tenant's other relations.

All these formal aspects make the illegal use term a wide net for catching criminal behaviour as a breach of contract. Of the 40 illegal use cases, the tenant was found to be in breach of the term in all but five cases.\(^{74}\)

**Proceedings against illegal use**

Although proceedings on the ground of illegal use do not depend on a prior conviction or finding of illegality, where Housing NSW takes these proceedings they do in fact refer closely to the processes of the criminal justice system. Above I described Housing NSW's operations in relation to illegal use as a parallel system of criminal prosecution: these proceedings are shaped by the criminal justice system in significant ways. In particular, Housing NSW's practice is to take proceedings only where there has been a criminal charge laid, and then use the products of the criminal proceedings in its own proceedings. 'When the police charge somebody with illegal usage, that's when we'll initiate our proceedings' (H16 interview). H16 described how local Housing NSW teams 'make the call' to take proceedings:

\(^{74}\) Of the five exceptions, in only one did the finding of no breach depend on the scope of the term (Marshall); in the second, Housing NSW's application was invalid for lack of particulars of the breach (NSW Land and Housing Corporation v Kormos [2002] NSWCTT 667); in the third, the Tribunal did not make a final determination and made instead only an 'interim statement of reasons', apparently to indicate that it was prepared to find against Housing NSW and push Housing NSW to reconsider transferring the tenant to other premises (NSW Land and Housing Corporation v Ascunce [2009] NSWCTT 444); in the remaining two, the fact of illegal use was not proved (Department of Housing v Quilla [2002] NSWRT 26; NSW Land and Housing Corporation v Markham [2009] NSWCTT 651).
H16: They may receive the information from the police – they may have good relations from police – other times they get it from local media, newspapers about court dates on that week, it comes from the local neighbours… or they find out the tenant’s incarcerated and they investigate and find out the reason for which relates to the tenancy.

(H16 interview)

The provision of police information is especially important, and in this respect the criminal justice system formally supports Housing NSW’s proceedings. As well as informing the commencement of proceedings, police information – provided under the NSW Police Service Code of Practice and the memorandum of understanding, discussed above – is the main source of evidence tendered by Housing NSW in proceedings before the Tribunal: ‘we rely primarily on the police brief of evidence’ (H16 interview). Of the 40 illegal use cases, not less than 35 involved evidence from the police: direct testimony by police officers, briefs of evidence, transcripts of interviews, videos, charge sheets, facts sheets, statements and other reports. Conversely, in these proceedings Housing NSW relies little on evidence from other tenants. Part of the reason for this is the availability of detailed evidence from the police; another is that Housing NSW assumes that this sort of evidence will not usually be available: ‘you’ll very rarely get anyone to give evidence against an alleged drug-dealer’ (H16 interview). H16 estimated that ‘we might have two [such cases] a year’, and further observed:

H16: As I said before, a large quantity of my cases are drugs-related, and no one, not a one [involves evidence from a tenant]. The Department doesn’t like to compel people, given that in some cases that they’ve got real fear for their safety if they reveal themselves.

(H16 interview)

Illegal use proceedings are taken in the absence of complaints, and even where the tenant has the support of neighbours: several of cases for which there are written decisions involve

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75 In the remaining cases it is not specified whether police evidence was tendered.
evidence from neighbours as to the respondent tenant’s good character and contribution to the neighbourhood.\textsuperscript{76}

There is, then, another sense in which Housing NSW’s illegal use proceedings parallel those of the police and other agencies of the criminal law, in the distinctly authoritative attitude adopted by Housing NSW. Where there are grounds for proceeding against illegal use, Housing NSW does not give warnings or otherwise adapt the proceedings to change the tenant’s conduct; instead it goes for termination of the tenancy. Housing NSW presumes to take these proceedings for the good of the community, including where some in the community do not know what is good for them — as the officer from legal branch observed, sometimes ‘you can’t get some tenants to give evidence against alleged drug dealers because they’re their clients’.

**H16:** The neighbours are their clients. The police intel usually indicates that; they’ll be sitting out there doing surveillance and all the neighbours are coming across and doing the bong. So there is an impact, from a social housing point of view, that these people, you know, you’ve got a dealer there, dealing drugs, feeding their habits which is causing problems for them, but they’re not going to complain, because from their perspective it’s ease of access. So our concern is getting rid of this alleged drug dealer, to try to salvage the area and avoid having tenancies falling by the wayside.

(H16 interview)

In so acting, Housing NSW usually tries to get its proceedings determined as quickly as possible, even before the determination of the parallel criminal proceedings. It is within the power of the Tribunal to adjourn an application for termination pending the outcome of related criminal proceedings and, according to the officer from legal branch, respondent tenants — especially where they are represented by an advocate — will usually seek an adjournment, while Housing NSW will usually oppose an adjournment: ‘obviously we’re going to push very hard to have it heard, because our concern also as a social housing provider is the impact on the neighbours’ (H16 interview).

As these comments indicate, the objectives pursued by Housing NSW through its illegal use proceedings are its own. By this I mean that even though its proceedings are launched consequently to the laying of criminal charges, and even though it relies on evidence produced by the police and the criminal justice system, Housing NSW’s officers justify their proceedings by reference to an imputed responsibility on the part of Housing NSW ‘as a social housing provider’, rather than by the mere fact that charges had been laid by the police. In other words, the laying of criminal charges against a public housing tenant does not so much cause illegal use proceedings to be taken, as offer an opportunity for Housing NSW officers to act upon strong dispositions against crime in public housing. This is especially so in relation to persons charged with drug offences, who, according to those dispositions, engage in illicit commercial activities that destroy community relations and make them the worst sort of selfish agentive individuals. The case law does show, though, an increasing willingness on the part of Housing NSW to prosecute other offences, too.

Section 68 – Immediate Termination

Unlike the provisions relating to illegal use and nuisance and annoyance, s 68 of the Act does not prescribe any terms of the tenancy agreement, nor does it relate, strictly speaking, to breaches of any terms. Instead, this section makes special provision for applications for termination orders in certain limited circumstances, such as where the tenant injures the landlord, their representative, or certain other persons, or causes serious damage to the premises.

68 Tribunal may terminate residential tenancy agreement where tenant causes serious damage or injury

(1) The Tribunal may, on application by a landlord under a residential tenancy agreement, make an order terminating the agreement if it is satisfied that the tenant has intentionally or recklessly caused or permitted, or is likely intentionally or recklessly to cause or permit:

(a) serious damage to the residential premises, or

77 Residential Tenancies Act 2010 (NSW) s 90.
Like the provisions for the illegal use and nuisance and annoyance terms, the scope of s 68 includes the conduct of persons other than the tenant;78 also, and again like the illegal use and nuisance and annoyance terms, the areal scope of the section is expanded specifically in relation to social housing to include ‘any property adjoining or adjacent to the premises (including any property available for use by the tenant in common with others)’ (s 68(3)). Unlike those other provisions, applications under s 68 are not applications on grounds of breach, and are not preceded by the service of a notice of termination: instead the application is made immediately to the Tribunal.

It is difficult to account for the applications Housing NSW makes under s 68. The CTTT data do not record these applications separately; they represent an unknown proportion of the 601 applications recorded as ‘Termination – other’ (CTTT, 2008, 2009a, 2009b, 2009c).

There are 22 cases of s 68 applications by Housing NSW for which written reasons are available; in only seven of them has the conduct also resulted in criminal charges being laid (in four cases, the charges relate to assaults; in two, arson; in one, malicious damage to property). In not less than nine cases, the tenant is stated to have a mental illness; in a further two cases, the tenant is stated to have some other support need.

More than other proceedings, s 68 proceedings reflect Housing NSW officers’ own confrontations with the disorderly lives of public housing’s late-modern population. Of the 22 cases, 16 relate to allegations of ‘injury’ and, of these, 13 cases relate to allegations of injury suffered by Housing NSW officers or maintenance contractors. The conduct in these cases ranges from throwing punches79 and pushing an officer,80 to a Housing NSW officer’s

78 That is, by use of the familiar words ‘caused or permitted’, but in the case of s 68 the tenant’s vicarious liability is subject to the qualification of ‘recklessness.’

79 NSW Department of Housing v Hillhouse [1996] NSWRT 156.

car being ‘banged upon’ and shaken while she was inside," to verbal abuse, racist and sexist insults and threats.\textsuperscript{82} The case law reflects a determined testing of what Housing NSW officers must endure from their clients, particularly in terms of what constitutes an ‘injury’ for the purposes of the section. In seven of the 13 cases, the injury is a physical one (the most severe is a contractor’s swollen mouth and loose teeth, after being punched); in one, the injury is a psychiatric illness (post-traumatic stress disorder, after the car-shaking); in five cases, the injury is the hurt or fear caused by verbal abuse, insult and intimidation. After a number of inconsistent decisions by the Tribunal, the NSW Court of Appeal determined in \textit{Crook v CTIT} \textsuperscript{2003} NSWCA 370 that ‘injury’ includes ‘psychiatric illness’, but not ‘mental distress’, and held that in the present case, where the tenant’s verbal abuse had made Housing NSW officers feel ‘threatened and intimidated’, ‘rattled’ and ‘visibly shaken’, such feelings, without evidence of psychiatric illness, were not injuries.

The legislation itself has also come to reflect the testing in the case law. Subsequent to \textit{Crook}, the Act was amended in 2005 to also include s 68A\textsuperscript{83}, which applies only to public housing and expands the type of conduct that may be grounds an application for immediate termination without notice:

\textbf{68A} Tribunal may terminate public housing tenancy agreement for threat, abuse, intimidation or harassment

(1) The Tribunal may, on application by the New South Wales Land and Housing Corporation under a public housing tenancy agreement, make an order terminating the agreement if it is satisfied that the tenant has:

(a) seriously or persistently threatened or abused any member of staff of the Department of Housing, or

(b) intentionally engaged in conduct in relation to any such member of staff that would be reasonably likely to cause the member of staff to be intimidated or harassed (whether or not any abusive language or threat has been directed towards the member of staff).

\textsuperscript{81} \textit{NSW Land and Housing Corporation v El Matri} \textsuperscript{2005} NSWCTIT 702.

\textsuperscript{82} \textit{Department of Housing v Crook} \textsuperscript{2003} NSWCTIT 268.

\textsuperscript{83} \textit{Residential Tenancies Act 2010} (NSW) s 92. Unlike s 68A, the new provision is to apply to all tenancies, not just public housing tenancies.
(2) If the Tribunal makes an order terminating an agreement under this section, the Tribunal is to also make an order for possession of the premises to which the agreement relates taking effect immediately.

Although it was introduced by amending legislation in 2004, section 68A commenced only in July 2007, and at the time of writing there are no cases relating to this section for which written reasons are available. It is, however, plainly intended to go further than the pre-Crook case law: the explanatory memorandum for the legislation notes that 'harassment' may include repeated telephone calls to Housing NSW.

Rent

Of the obligations considered here, the obligation to pay rent is the least directly addressed to criminal or disorderly conduct. In a general way, the payment of rent has been a means of checking for habits of regularity amongst poor persons since Octavia Hill implemented her system, as we saw in Chapter 2. A version of the Octavia Hill imperative is evident in some of Housing NSW’s rent arrears proceedings: for example, in *NSW Land and Housing Corporation v Fitzgerald* [2003] NSWCTTT 265, Housing NSW applied for and received termination orders where the tenant was in arrears $61.89 (albeit after previous proceedings and orders from the Tribunal to pay the arrears). As in Hill’s system, rent payments in public housing have a moral significance. If anything, this moral significance is heightened by the fact that they are not economic rents. In a sense, the rent rebate system objectively and precisely accounts for each tenant’s need and inability, adjusts their legal liability accordingly, and what is left is the tenant’s responsibility. Where tenants fail in their responsibility in this regard, their own agency is emphasised. H12 described the ‘game’ of negotiating with tenants in arrears:

H12: If they’re going to play the game and pay the debt back, we’re quite happy to let the tenancy run. However, if we see we’re going to have problems, we’ll issue a notice of termination and run it through the Tribunal system. Our success rate is quite high there — in this particular team — in that area of evicting people, because we’ve got [a superior officer], he’s full on. He goes for the jugular, and he backs us up no end, so it’s great.

(H12 interview)
In relation to the government of crime and disorder specifically, Housing NSW does put the obligation to pay rent to some use. The most straightforward way in which proceedings about rent are directed to the government of crime and disorder is in their use as a tactical alternative to proceedings on grounds of illegal use or nuisance and annoyance.

**Rent arrears proceedings: a tactical alternative**

Reflecting on the evidentiary requirements of proving those other types of breach relative to rent arrears, H16 said, 'definitely arrears is the much easier way to go', and further observed, 'strange thing – tenants involved in dealing with drugs, they don’t pay their rent, very often. You’d think [it is] one of the things – maybe the first thing – they’d take care of, but sometimes not' (H16 interview).

H16: The Department can and does take action to end the tenancy on that basis; if there are other breaches, the Department will usually throw those in as well. It’s my experience, though, that it’s much easier to get termination on rental arrears than just about anything else.

CM: It’s black and white?
H16: It’s so easy to get.
(H16 interview)

These proceedings are easy because the breach can be shown clearly on the face of evidence – the rental ledger – that is in Housing NSW’s possession.

H16: I s’pose if you’re really having difficulty finding people to give evidence in relation to the more substantive issue, then you fall back on the arrears to terminate the tenancy, and remedy the problem for the neighbours. That happens.
(H16 interview)
The significance of this tactical use of rent proceedings should not be overstated: in most cases where Housing NSW takes proceedings, it really is about the obligation to pay rent. H16 reflected on Housing NSW’s rent arrears proceedings, and suggested, ‘I would think that the majority of cases the teams are running are rental arrears cases, nothing else to it’, and as for the number of cases run otherwise, ‘it’d be low’ (H16 interview):

H16: We normally run the major issue, because the [local] teams are saying ‘this person has conducted themselves in such an anti-social manner, and it’s had such an effect on the neighbours, we want that breach found.’ So usually, it’ll be run on the basis of the breach. Then of course, we’re concerned from an evidentiary point of view if we know, or if we’re of the reasonable opinion that the person has done something very serious, but the evidence doesn’t back it up, and we have arrears, we’ll go that. As a second line. But... we’re going for the substantive breach, in most cases.

(H16 interview)

On the other hand, it is important to note that Housing NSW does enjoy a special capacity to take such proceedings and to otherwise affect tenants’ conduct through the obligation to pay rent. This is not because of any special provisions in the Residential Tenancies Act 1987 (NSW), but because of the rental rebate system.

The rental rebate system and its opportunities for action

I referred to the rental rebate system in Chapter 4, where I considered its contribution to particular ways of knowing the client of public housing as an alternately needy and incapable, then selfish and agentive, subject; here I will consider some of the technical aspects of the system and how they contribute to Housing NSW’s government of crime and disorder through the obligation to pay rent.

The legal basis of Housing NSW’s rental rebate system is in the Housing Act 2001 (NSW). Section 56 of the Housing Act 2001 (NSW) confers upon Housing NSW the power to grant rental rebates to public housing tenants, subject to an investigation by Housing NSW as to a tenant’s income and according to ‘guidelines approved by the Minister’. These are Housing NSW’s operational policies (in particular, the ‘Rental Subsidies’ Policy (Policy SUB0044A:
Rental Subsidies84 and the ‘Additional and Unauthorised Occupants’ Policy (Policy EST0014A: Additional/Unauthorised Occupants85) and the various details contained therein – the eligibility criteria, the types of income considered, the different rates of rental rebates, and the procedures whereby tenants are to provide information about their income and their other household members to Housing NSW. The Housing Act 2001 (NSW) allows Housing NSW to vary or cancel a tenant’s rental rebate, including with retrospective effect (s 57(4)); it also provides that making false statements to Housing NSW in order to obtain accommodation or a rebate is a criminal offence (s 69), as is merely failing to inform Housing NSW of a change in one’s circumstances with the intention of retaining a benefit to which one is not entitled (s 69A). These offences are punishable by imprisonment for up to three months and a fine of 20 penalty units ($2 200).

Apart from its criminal provisions, the operation of this system opens up a number of other opportunities for acting upon tenants’ conduct. First, according to the Additional and Unauthorised Occupants policy, where a tenant complies with the requirement that they inform Housing NSW as to the identities of other persons in their household, Housing NSW has an opportunity to decline to ‘authorise’ any other person and withhold the rental rebate. It may do so paternalistically, to try to keep out of the tenant’s household persons whom Housing NSW regards as likely to cause trouble. H16 described how upon being notified by a tenant of a new person in their household, ‘one of the initial steps is to check to see if that person is a former unsatisfactory tenant’:

H16: If it’s found that that person is a problem in the past, or may have some impact on that current tenant’s tenancy – [and] then usually there has to be some sort of justifiable reason, [for example] enormous rental arrears, or noise and nuisance eviction, or drugs eviction – it may not be approved…. I suppose in some ways staff are thinking, well, we want to safeguard this person [the tenant] from having this person [the additional household member] potentially cause problems for them.

(H16 interview)

84 In June 2010, the Rental Subsidies policy became part of the Account Management and Tenancy Charges Policy Supplement.

85 In June 2010, the Unauthorised and Additional Occupants policy became part of the Tenancy Policy Supplement.
H16 was not very impressed with the efficacy of this sort of action: ‘there’s also the issue that if we knock them back, they’ll stay anyway’ (H16 interview). Although the consequence of declining to authorise is clear enough – the tenant’s rental rebate can be withheld, the market rent is payable and the tenant will likely fall into arrears – it is not always clear whether following through on this and creating a problem with rent arrears was worth the trouble. H16 posed the question: ‘do we let them stay, and we don’t have a problem with rental fraud, or do we say they can’t, maybe through taking an altruistic view of saving this person’s tenancy from a problem with this new person. It’s a difficult one’ (H16 interview).

The second opportunity presented by the rental rebate system is where the tenant has not asked Housing NSW for some other person to be considered an ‘authorised additional occupant’, but Housing NSW is of the view that the person is in fact residing at the premises – and may have been residing there for some time. This, in the view of Housing NSW, is ‘rental rebate fraud’: the way of proceeding is clear, and Housing NSW officers expressed no qualms about proceeding where there is a question of ‘fraud’. Where an occupant is unauthorised, Housing NSW may vary or cancel the tenant’s rental rebate, and it may backdate the variation or cancellation to the point in time when it considers the unauthorised occupant moved in. This creates a debt, which Housing NSW treats as rent arrears and takes proceedings for termination on that ground. The sheer amount of the arrears so created can be formidable: in Department of Housing of NSW v Elkazzaz [2004] NSWCTTT 633, the tenant’s arrears after a retrospective rental rebate cancellation were $125,635. There are 76 publicly available cases of Housing NSW proceeding on the ground of rent arrears; not less than 20 involved a cancellation or variation of the tenant’s rental rebate.

As with Housing NSW’s rent arrears proceedings generally, these proceedings may be taken as a tactical alternative to proceedings for some other type of breach – and again like those proceedings, this is not always or even often Housing NSW’s motivation, but it is evident in at least a couple of the cases in the case law. In NSW Department of Housing v Clarke [1991] NSWRT 127, Housing NSW cancelled the tenant’s rental rebate and took termination proceedings when it formed the view that the tenant’s partner lived with her; it came to this view after the tenant was assaulted by her partner and the partner was gaol. Housing NSW’s application also referred to nuisance and annoyance, but the Tribunal terminated the
tenancy on grounds of rent arrears. In Department of Housing v Payne [2004] NSWCTTT 443, Housing NSW cancelled the tenant’s rental rebate because it regarded the tenant’s ex-partner as an occupant of the premises. The ex-partner was ‘a homeless drug addict… a vagabond and a derelict who slept wherever he could’, including from time to time on the roof of the tenant’s carport. Housing NSW came to its view after the ex-partner was found dead in the tenant’s toilet. Housing NSW’s application, which also referred to complaints from neighbours, did not seek payment of the rent arrears, just termination.

The third sort of opportunity opened up by the rental rebate system is not so much an opportunity for Housing NSW to act against tenants, but rather for other tenants to act against tenants— that is, by providing information to Housing NSW about a tenant’s income or other household members for use in rent rebate fraud actions. This is a peculiar feature of the rental rebate system, because outside of public housing, whether a tenant has paid the correct amount of rent is virtually invisible to persons other than the tenant and the landlord. In public housing, however, the correct amount of rent is related to such visible things as the number of persons in the tenant’s household, and whether the tenant works.

The rental rebate system effectively brings the question of rent out into the open, where it might be seen and acted upon by neighbours.

In the focus groups and interviews, Housing NSW officers spoke of information about tenants’ incomes and household complements coming from neighbours, community members (including members of ethnic communities, concerned that their community should be seen to be doing the right thing) and ex-spouses (‘we deal with those complaints very, very cautiously’: H16 interview). Housing NSW is pleased to accept these tip-offs:

H5: If we’ve had advice that there’s somebody living in the property who should not be living in the property— unauthorised people— we then ask people to come in and substantiate— show evidence— of whether the person does live there or doesn’t live there. It’s really not anti-social behaviour, but it’s something that we do seek evidence on.

(Housing officers focus group 1)

In public housing’s communities of contract, the obligation to pay rent and the rental rebate system combine like a second web of relations, auxiliary to those represented by the illegal
use and nuisance and annoyance terms and s 68, that may be activated if the business of proving breach is too difficult.

**Property Care**

Finally, and briefly, there are the obligations of a tenant in relation to property care, which, as discussed in Chapter 2, was the abiding concern of tenancy management in social housing’s golden age. In additional to s 68, which deals with serious damage to property, section 26 of the Act provides that tenants are required to keep their premises reasonably clean (s 26(1)(a))\(^{86}\) and not intentionally or negligently cause or permit any damage (s 26(1)(c)).\(^{87}\) Although these obligations are part of the reason for housing officers maintaining a supervisory presence on estates (H10, housing officers focus group 2), proceedings on these grounds are only a minor aspect of Housing NSW’s practice. The Tribunal does not account for these proceedings separately from Housing NSW’s ‘termination – other’ and ‘breach’ proceedings, and there are just nine publicly available cases on these grounds, of which only three are for termination orders. Rather like the s 68 proceedings, these termination proceedings involve persons with support needs whose conduct – hoarding (NSW Land and Housing Corporation v Groschup [2004] NSWCTTT 420) and living in squalor (Department of Housing v Lewis [2001] NSWRT 113; NSW Land and Housing Corporation v Naple [2004] NSWCTTT 663) – presents a hazard to neighbours and housing officers themselves. There is one case of Housing NSW taking a tenant to the Tribunal – for an SPO only – in relation to the state of the tenant’s lawns and gardens (NSW Land and Housing Corporation v Perry [2005] NSWCTTT 175); interestingly, the Tribunal held that the obligation at s 26 did not extend that far.

As I indicated in Chapter 2, property care was important to social liberal government-housing practice because the sanitary condition of social housing, and participation by tenants in habits of home beautification, were supposed to help secure the normal development of households and communities, and thereby prevent delinquency. In the late-modern present, Housing NSW remains interested in property care but, as a matter of

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86 *Residential Tenancies Act 2010* (NSW) s 51(2)(a).

87 *Residential Tenancies Act 2010* (NSW) s 51(1)(d).
government-housing practice, it has receded relative to other interests, particularly nuisance and annoyance and illegal use, that much more directly involve Housing NSW in the government of crime, disputes, unmet support needs and the disorderly lives of many of its tenants.

Housing NSW does not, however, have the last word on whether a tenancy will be terminated for any of these reasons. I have already, at various points in this Chapter, referred to the Tribunal and its influence on the way Housing NSW conducts proceedings under the Act. The next section looks a little more closely at how the Tribunal operates, and the significance of its role for Housing NSW’s efforts in governing crime and disorder through the landlord-tenant relationship. In particular, how does a consumer disputes forum deal with these sorts of proceedings?

The Consumer, Trader and Tenancy Tribunal

The Tribunal is established by the Consumer, Trader and Tenancy Tribunal Act 2001 (NSW), although, as I have indicated, it has had previous incarnations in the Residential Tribunal and before that the Residential Tenancies Tribunal, which had determined applications under the Residential Tenancies Act 1987 (NSW) from the Act’s commencement. Like its predecessors, the Consumer, Trader and Tenancy Tribunal is required to conduct its proceedings in ‘an informal, expeditious and inexpensive manner’ (Consumer, Trader and Tenancy Tribunal Act 2001 (NSW), s 3(c)). It is required to encourage conciliation and the settlement of disputes before hearing a matter (s 54(1)). It can and does determine applications in the absence of one or both of the parties (s 25(2)). It is not bound by the rules of evidence (s 28(2)), and ‘is to act with as little formality as the circumstances of the case permit’ and ‘without regard to technicalities or legal forms’ (s 28(3)). Its decisions are binding and legally enforceable, but do not represent precedents that are binding on the Tribunal in dealing with other applications. Parties to proceedings before the Tribunal are generally required to run their own cases (s 36(1)), and may be represented by a legal practitioner in exceptional circumstances only (s 36(3)). Nonetheless, the Tribunal does operate on an adversarial basis and is guided by the rules of evidence. Its procedures for hearings are based on those of the courts. So are many elements of its spaces: in some places, the Tribunal conducts hearings at
the Local Court; in other places, the Tribunal operates out of its own rooms, which include elements that approximate a bench, a stand for witnesses, two bar tables and a gallery.

The Tribunal has, in at least two cases, reflected on its own general function as a consumer disputes forum and the implications of this for proceedings that relate to crime and disorder. In *NSW Land and Housing Corporation v Yothoun* [2004] NSWCTTT 660, the Tribunal considered that 'this is not a punitive jurisdiction' and declined to terminate a tenancy where 'termination would really amount to punishment of the tenant.' Similarly, in *NSW Land and Housing Corporation v Johns* [2005] NSWCTTT 218, the Tribunal considered that 'the Tribunal should address its mind to the tenancy issues... arising from the facts and with regard to the provisions of the *Residential Tenancies Act 1987*' (original emphasis), and declined to terminate a tenancy because 'any culpable wrong done by the tenant and her children to others and any appropriate punishment are matters for another court to determine.' These express reflections on the Tribunal's function are unusual in the case law, but the case law is implicitly consistent in making no claims to deliberately punish tenants. On the other hand, the idea that the Tribunal is not punitive and is concerned only with 'tenancy issues' has hardly restricted it from entering into the web of relations between Housing NSW and its tenants, and attempting to resolve disputes about crime and disorder and administer justice through its instruments of hearings, SPOs and termination orders.

Considerations of its general function are less important to the Tribunal's determinations than are the specific provisions of the legislation in its jurisdiction. In particular, landlords' applications for termination on the ground of breach are subject to s 64(2)(b) of the *Residential Tenancies Act 1987* (NSW), which provides that for the Tribunal to make a termination order, it must be satisfied

- (i) that the landlord has established the ground, and
- (ii) that the breach, in the circumstances of the case, is such as to justify termination of the agreement

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88 *Residential Tenancies Act 2010* (NSW) s 87(4).
I briefly discussed the significance of the words 'circumstances of the case' at the beginning of the Chapter, where I noted that, since the decision in *Swain*, they are the basis for the Tribunal considering a wide range of factors in deciding whether to make termination orders. In *Swain*, the Supreme Court held:

Possible 'circumstances', which may have to be taken into account, are the time the tenant has occupied the premises, the age and state of health of the tenant, the necessity for any number of reasons for the tenant to live in a particular area, and the inability of the tenant to obtain other suitable accommodation in which, of course, I include accommodation in an area suitable for matters such as proximity to family, facilities or employment. (*Swain v Roads and Traffic Authority* [1995] per Rofe J at 14.)

The Court of Appeal further observed that 'hardship to the landlord' was also a circumstance to be considered (per Meagher JA at 455). In relation to applications for termination under s 68, which are separate from the provisions at s 64 and hence are not subject to the *Swain* decision, the Tribunal has a discretion as to whether it terminates a tenancy (*NSW Land and Housing Corporation v Green* [1997] NSWSC 532), and in determining these applications it has considered a wide range of factors, including some of those identified in *Swain*.

Like the other provisions of the Act discussed above, the provisions at s 64 are subject to further provisions specific to social housing. Shortly after *Swain*, the Act was amended to include section 64 (4)\(^{89}\), which attempts to structure the Tribunal's decision-making by providing that in social housing cases the Tribunal is to consider, in addition to the 'circumstances of the case', the following factors:

\[64(4)\]

(a) any serious adverse effects the tenancy has had on neighbouring residents or other persons,

(b) whether any breach of the residential tenancy agreement was a serious one (and, in particular, whether it was one to which subsection (6) applies), and whether, given the behaviour or likely behaviour of the tenant, a failure to terminate the agreement would subject, or continue to subject, neighbouring residents or any persons or property to unreasonable risk,

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\(^{89}\) *Residential Tenancies Act 2010* (NSW) s 152.
(c) the landlord's responsibility to its other tenants,
(d) whether the tenant, wilfully or otherwise, is or has been in breach of an order of the Tribunal,
(e) the history of the tenancy concerned, including, if the tenant is a tenant under a public housing tenancy agreement, any prior tenancy of the tenant arising under any such agreement.

Another post-Swain inclusion, section 64(6) provides that in social housing cases, the Tribunal must make an order for immediate possession (unless the Tribunal considers that it would be unjust to do so) if the breach:

64(6) (a) involves the use of the premises, or any property adjoining or adjacent to the premises (including any property available for use by the tenant in common with others), for the purposes of the manufacture or sale of any 
prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985, or
(b) subjects persons or property to unreasonable risk....

These factors, like those other provisions of the Act that are specific to social housing, reflect Housing NSW's characteristic physical form, its central place in these communities of contract, and the prominent targets of its proceedings; however, neither these factors, nor the 'circumstances of the case', count altogether in favour of Housing NSW or the tenant.

The result is that the ground covered by the deliberations of the Tribunal is extensive. There is the breach itself and its seriousness – measured, depending on the type of breach, in terms of money, criminal charges and penalties, or the evidence of neighbours, the police or Housing NSW officers. Beyond that, in the public housing case law the Tribunal often specifically considers the economic and other disadvantages of the tenant, particularly in terms of their difficulty in finding alternative accommodation. 90 These considerations do not always save the tenancy; and in one case, NSW Land and Housing Corporation v Dimaio [2006] NSWCTTT 53, the Tribunal has also considered that the 'vulnerability' of neighbouring

public housing tenants counted against the respondent tenant, holding that 'the applicant has an obligation to provide an environment for its tenants, many of whom are more vulnerable than others in society, which is free of drugs and other criminal activity.'

The Tribunal also often specifically considers the effect of a prospective termination order on the tenant's children. Hardship to children does not always result in the Tribunal declining to terminate, and in two cases it has considered that an illegal use breach was made more serious by having occurred in the presence of children. The Tribunal has also considered circumstances such as an Aboriginal tenant's cultural obligations to give shelter to extended family members (NSW Land and Housing Corporation v Timbery [2006] NSWCTTT 224); in that case it also considered these obligations 'do not... justify the tenant permitting people on her premises to create excessive noise, to engage in anti-social behaviour or to seriously disturb people who live in the neighbourhood'.

The Tribunal has, in a number of cases, considered circumstances in a way that resembles that of the criminal courts in sentencing. For example, in Department of Housing v Reed [1998] NSWRT 180, the Tribunal considered that the tenant 'is rehabilitating himself and he has the care of a five-year old child and as such the Tribunal believes the community would be best served in allowing the tenant to reside in the premises and continue with his rehabilitation rather than seeing any further interruption to his life.' In Department of Housing v Kelly [2001] NSWRT 162, a rent arrears case, the Tribunal considered that there was a 'greater community benefit' in declining to terminate the tenancy, because 'the tenant is prepared to enter into a very structured program to deal with both the social and economic problems she has in an effort to rebuild her life so she can meet her obligations under the agreement.'

What are the outcomes of these deliberations? Table 6.4 shows the outcomes of Housing NSW's applications to the Tribunal for the period January-October 2006: in its nuisance and annoyance and illegal use termination proceedings, Housing NSW succeeded in getting

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termination orders in half and a little less than half of proceedings, respectively; in rent arrears proceedings, it got termination orders in a little over one third of proceedings.

Table 6.4. Housing NSW applications to the Tribunal and outcomes, January-October 2006.\footnote{The data for Housing NSW applications for the period January to October 2006 were provided to me by Housing NSW and were sourced from the Tribunal, and they are reproduced here for the sole purpose of this thesis with the permission of the Tribunal and Housing NSW. Unlike the Tribunal's management reports (CTTT 2008, 2009a, 2009b, 2009c), this dataset includes the outcomes of Housing NSW's applications.}

<table>
<thead>
<tr>
<th>Application type</th>
<th>Number of applications</th>
<th>Termination Orders</th>
<th>Specific Performance Orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination – nuisance and annoyance</td>
<td>44</td>
<td>22</td>
<td>0</td>
</tr>
<tr>
<td>Termination – use of premises [for an illegal purpose]</td>
<td>23</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Termination – rent arrears</td>
<td>2336</td>
<td>882</td>
<td>162 (+ 503 money orders)</td>
</tr>
<tr>
<td>Termination – other</td>
<td>218</td>
<td>85</td>
<td>15</td>
</tr>
<tr>
<td>Breach</td>
<td>1158</td>
<td>7</td>
<td>130 (+ 523 money orders)</td>
</tr>
</tbody>
</table>

For another view on the outcomes of Housing NSW’s illegal use proceedings, Table 6.5 expands Table 6.3 (presented earlier in this Chapter) to present the outcomes of the publicly-available illegal use cases according to the outcomes of the related criminal proceedings. I have eliminated four cases in which there was held to be no breach, and three cases in which final determinations had yet to be made, so the outcomes presented below turned on the Tribunal’s consideration of the seriousness of the breach and the circumstances of each case.
Table 6.5. Housing NSW illegal use cases (breach), outcomes, 1989-2009.

<table>
<thead>
<tr>
<th>Illegal use cases</th>
<th>Terminated</th>
<th>Not terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant convicted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• community service</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>• fine</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>• good behaviour bond$^{94}$</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>• home detention</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>• yet to be sentenced</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>• not stated</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Tenant charged only</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Other person convicted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• gaol</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>• yet to be sentenced</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>• not stated</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Other person charged only$^{95}$</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Not specified</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>18</strong></td>
<td><strong>15</strong></td>
</tr>
</tbody>
</table>

(Source: Austll databases ‘Consumer, Trader and Tenancy Tribunal, 2002-‘ and ‘Residential Tribunal 1987-2002.)

As the table shows, there is no consistent pattern between Tribunal outcomes and the outcomes of criminal proceedings. This is not to suggest that the Tribunal’s decisions are wrong; on the contrary, the variability reflects its consideration of a wide range of circumstances, as required under the Act.

$^{94}$ Includes one case where the termination order was overturned on appeal.

$^{95}$ Includes one case where the other person was charged and acquitted.
The variability of outcomes of Tribunal proceedings is significant for Housing NSW's government of crime and disorder in a number of ways. Most obviously, it means that the mainstream provisions of the Act cannot really fulfil promises of a 'zero tolerance' approach to crime and disorder in public housing. Instead, the Tribunal's variability is something Housing NSW officers have to work with. In the focus groups and interviews, some of them criticised this variability as 'inconsistency': H9 was 'a bit concerned about the inconsistency of it' and H3 agreed ('ooh yeah!') (housing officers focus group 1). H16 said 'it all comes done to the [Tribunal] Member':

H16  Some take them [breaches] very severely and it's quite reasonably easy to obtain an order of possession for an issue of drug supply. Other members – I speak very generally – other members who are willing to let the criminal matter run first, and there's delay upon delay upon delay, have on occasion then used that: [they say] 'the tenant has been a very good boy or girl through the interim', between the charge and the final Tribunal matter, almost as if they are a reformed character and termination isn't warranted. And then you get a whole range of things in between.

(H16 interview)

Housing NSW officers rationalised this apparent inconsistency as an aspect of the justice system generally. By extension, they also identified their own work with the game-playing and 'manipulation' that is perceived to be inherent to the justice system:

H12: Don't take me the wrong way, but it depends on the Member you've got on the day. It's the same as our current court system: it's the judge you get on the day [laughter].... It's how you produce your case, and how... [pause]... don't take me the wrong way, but how you, as a presenter for the Department, manipulate the evidence so as the Member is thinking down the same line as yourself. So there you go [laughter]. It's difficult. I guess in a way you're a bit of a bush lawyer, in a way. It's very difficult. It's very difficult.

(H12 interview)

As H12 said, it can be difficult work persuading an ostensibly unpredictable Tribunal to make the termination orders Housing NSW wants: 'nine times out of 10 when we go into Tribunal we'll only get a specific performance order anyhow, and they'll put it on a six-
month relisting’ (H12 interview). H12 seemed reconciled to it, however, by taking a longer view of proceedings, and a fatalistic view of public housing’s alternately incapable and agentive subject:

H12: However, that [an SPO and relist] is good, because what we can do – and nine times they’ll stuff up in six months; they’ll get back on the grog or the drugs will come around, or the boyfriend will try to climb in through the backdoor or something and it’ll be on again – and we’ll be back in the Tribunal, and that’s when we’ve got them. When we go back that second time, and they’ve broken the order, see you later – you’re out.

(H12 interview)

A Multifaceted, Blunt Instrument

This Chapter has analysed in close detail the various uses that Housing NSW, in governing against crime and disorder, makes of the tenancy agreement it enters into with every public housing tenant. Housing NSW is a heavy user of legal proceedings, particularly for termination on grounds of breach, and although its officers may try to act on complaints of nuisance and annoyance to ends other than termination, proceedings often pull towards termination, because of the weight of gathering evidence and preparing for the Tribunal, and the quick shifts that officers make in positions on client subjectivity. The contractual term against illegal use of premises is wielded more decisively, with Housing NSW pursuing nothing less than termination where drugs charges, and a small but increasing number of other charges, have been brought against a tenant or a tenant’s household member. This may seem like clear and effective action against crime and disorder, particularly to the housing officers prosecuting it, but they do so by running ahead of the processes of a criminal justice system that sees fit to operate at higher standards of proof, and with a wider range of outcomes. Other provisions of the law are used more or less tactically, to test the limits of what housing officers are supposed to endure in a changed and difficult job, and sometimes – in the case of the term about paying the rent – to take proceedings that may be unsuccessful on other grounds.

One hundred and twenty-five years ago, Octavia Hill characterised the landlord-tenant relation as one of ‘tremendous despotism’ (Hill, 1885, cited at Cowan and McDermont,
2006: 41). Since then, the law has been reformed to inhibit some of its most draconian aspects and, as a measure of consumer protection, to impose some obligations on landlords and afford specialist resolution of disputes through the Tribunal. These developments are reflected in Housing NSW's use of the tenancy contract but, for the purposes of governing against crime and disorder, it remains a blunt instrument. At its highest, its use is a more or less gross manipulation of the 'disincentive' of losing one's housing; otherwise, it is a matter of reaction and exclusion. As will be shown in the next Chapter, this has also been the pattern for a series of new 'tools' made available by the NSW State Government to Housing NSW in governing against crime and disorder.
CHAPTER 7

THE LIMITS OF THE SOVEREIGN LANDLORD

This Chapter considers a number of recent attempts – all of them since 2002 – to create new ‘tools’ for Housing NSW in its government of crime and disorder (NSW State Government, 2004). They are: renewable tenancies, acceptable behaviour agreements, visitor sanctions, and a provision of the Residential Tenancies Act 1987 (NSW) that allows the State Executive to make further, as yet unspecified, variations on tenants’ liabilities under their tenancy agreements.

Each of these measures is an innovation on the practices considered in the previous three Chapters in this Part of the thesis, with a particular focus on the use of contracts. They also reflect each of those broad strategies identified in Garland’s analysis (1996; 2001) of late-modern advanced liberal government. In some respects they appear consistent with the ‘adaptive’ strategy of prevention, responsibilisation and partnership; yet the basic principles of their operation – more and tighter rules on tenants, and more ready termination of tenancies – comes from the controlling, punitive, ‘sovereign’ strategy of reaction against the limits of liberal government. Each of these innovations was conceived and promoted by the State Government as a measure to increase the effectiveness of Housing NSW’s government of crime and disorder. Each, however, was also in tension with other aspects of Housing NSW’s administration of public housing and established government-housing practices, and to date none has had any enduring practical application – indeed, the most characteristically ‘advanced liberal’ of all of them, the acceptable behaviour agreement (ABA), has not been used at all.

Renewable Tenancies

The first of Housing NSW’s new tools was the ‘renewable tenancy’ (Policy EST0020A: Renewable Tenancies). Conceived by the Housing Minister and announced in February 2002, renewable tenancies represented the first major attempt since the introduction of the
Good Neighbour Policy in 1996 to use a heightened application of contractual principles to bolster Housing NSW's government of crime and disorder.

Unlike the Good Neighbour Policy, renewable tenancies involved a significant change in the terms of public housing tenure. Renewable tenancies were short-term residential tenancy agreements subject to periodic review: in other words, 'probationary tenancies' (NSWDOH, 2002a). Whereas Housing NSW had previously entered into tenancy agreements on a continuing basis, renewable tenancies were agreements with a fixed term of one year that, subject to a review of the tenant's conduct, might be renewed for a further fixed term or terminated. The State Government expressly promoted the supposed benefits of the policy in terms of contractual responsibilisation, claiming that renewable tenancies would 'encourage tenants to take responsibility for their homes and be accountable for their conduct'; 'encourage tenants to fulfil the requirements of their leases' and 'act as a disincentive against damage improving life for everyone in the community' (NSWDOH, 2002b). As the previous Chapter shows, however, none of these objectives are new to Housing NSW's practice as a landlord. The real significance of the new policy was that if, on review, Housing NSW determined that a tenancy should be terminated, Housing NSW would serve a notice of termination under s 57 of the Residential Tenancies Act 1987 (NSW) – that is, a notice without grounds at the end of a fixed term – rather than a notice of termination on grounds of breach. This departure from Housing NSW's post-Nicholson practice meant that Housing NSW would no longer need to be able to prove a breach in proceedings before the Consumer, Trader and Tenancy Tribunal. This removed the crucial decision about the tenant's conduct from the Tribunal to Housing NSW.

The first renewable tenancies were entered into in November 2002; thereafter all new public housing residential tenancy agreements, with a few exceptions, were fixed term agreements under the Renewable Tenancies Policy. At that stage the policy applied to new tenancies only; in what was perhaps another application of contractual principle, the agreements of existing tenants were not changed or reviewed and their tenure continued on the old, more secure terms. In May 2004, the State Government announced a series of further reforms directed at 'anti-social behaviour' in public housing, the most significant of which were ABAs, which are discussed in the next section of this Chapter. These reforms also included a proposal to extend the Renewable Tenancies Policy so that tenants who had entered their
tenancies before the introduction of the policy could also be made subject to review as to conduct. Following the 2004 reforms, Housing NSW would be able to 'demote' an existing tenant with a continuing tenancy to a renewable tenancy, and the *Residential Tenancies Act 1987* (NSW) was amended accordingly to include the new s 14A, which allows Housing NSW to 'declare' that a continuing agreement will be subject to a fixed term.

At that time, at least, renewable tenancies appeared to be a growing area of practice in Housing NSW's government of crime and disorder. This has not, however, proved to be the case. The policy implemented by Housing NSW in November 2002 contained provisions that significantly moderated its use against tenants; the extension of renewable tenancies announced in 2004 did not proceed to implementation; and in 2005 renewable tenancies were directed away from crime and disorder to quite different objectives.

**Renewable tenancies in operation**

As in most other aspects of its operations, Housing NSW set out in an operational policy how it would conduct its actions in relation to renewable tenancies. In this case, the Renewable Tenancies Policy was developed in consultation with tenant representatives and NGOs, most of which were opposed to renewable tenancies. Some aspects of renewable tenancies – in particular, the successive fixed terms – had already been fixed by the Minister's original announcement, but it was in the operational policy that Housing NSW developed important details, particularly as to the reviews of tenants' conduct.

The Renewable Tenancies Policy provided that the reviews would consider a wide, but defined, range of types of conduct on the part of tenants: these heads of conduct included illegal activity, nuisance and annoyance, rent arrears, rental subsidy fraud, and property care. Tenants' conduct under each of these heads was to be assessed according to three standards: 'satisfactory', 'less than satisfactory' and 'unsatisfactory' (the same standards as in Housing NSW's Housing Former Tenants Policy). 'Satisfactory' tenants would have their tenancies renewed with an offer of a new fixed term of three years; 'less than satisfactory' tenants also had their tenancies renewed, but with a fixed term of one year, subject to review; and

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96 *Residential Tenancies Act 2010* (NSW) s 142.
'unsatisfactory' tenants were to be given a notice of termination without grounds at the end of their fixed term.

The operational policy also defined what would constitute 'satisfactory', 'less than satisfactory' and 'unsatisfactory' conduct under each head of conduct and, crucially, the definitions of 'less than satisfactory' and 'unsatisfactory' referred to activities that had been 'substantiated' in proceedings before the Tribunal or a court. Table 7.1 presents the operational policy's definitions in relation to illegal activity and nuisance and annoyance.

Table 7.1. Renewable tenancies review standards, illegal activity and nuisance and annoyance

<table>
<thead>
<tr>
<th>Head of conduct</th>
<th>Satisfactory</th>
<th>Less than satisfactory</th>
<th>Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nuisance and annoyance</td>
<td>- Unsubstantiated nuisance and annoyance issues where action has not been taken through CTTT</td>
<td>- Specific Performance Order obtained from the CTTT and breach has been rectified.</td>
<td>- Persistent substantiated breaches, or - Specific Performance Order has been breached, and Order for Termination and Order for Possession obtained from the CTTT.</td>
</tr>
<tr>
<td>Illegal activity</td>
<td>- Not applicable</td>
<td>- Not applicable</td>
<td>- Criminal activity that is in breach of the Tenancy Agreement and proven in Court, or where the CTTT determines that the premises have been used for an illegal purpose, or - Order for Termination and Order for Possession obtained from the CTTT.</td>
</tr>
</tbody>
</table>

(Source: Policy EST0020A: Renewable Tenancies)

97 With one exception: in relation to rental subsidy fraud, Housing NSW's own determination as to whether a tenant had committed fraud was sufficient for it to be considered at review.
In other words, it was not sufficient that the reviewing officers thought that a tenant had engaged in ‘less than satisfactory’ or ‘unsatisfactory’ conduct; rather, the conduct had to be a breach and the breach proven to an external agency, usually the Tribunal. The effect of this aspect of the policy, then, was to reassert the primacy of those ‘mainstream’ proceedings in dealing with crime and disorder and, in particular, to deal the Tribunal back into determinations on tenants’ conduct. This was in contrast to the original intention of the Renewable Tenancies Policy, which was that it would be a widely available alternative regime that cut the Tribunal out of key decisions.

This shift was not explained by Housing NSW, but it reflects, first, that renewable tenancies had the potential to undermine certain other aspects of Housing NSW’s practice in relation to crime and disorder. In particular, reviews of tenants’ conduct at periods of one to three years had the potential, if CSOs were simply to put off responding to problems until the review stage, to undermine the ‘early intervention’ approach otherwise encouraged by Housing NSW, whether as part of ‘working with the client’ or through the use of breach proceedings in the Tribunal. Secondly, renewable tenancies offered Housing NSW the opportunity for its own officers, rather than the Tribunal, to make the crucial decisions on tenants’ conduct, and in its operational policy Housing NSW effectively refused the offer. This indicates an apprehension on the part of Housing NSW that the culture of reaction still influences the decision-making of housing officers, and that their decisions should not be invested too heavily with drastic, sovereign-style effect.

**Renewable tenancies reshaped**

Housing NSW’s use of renewable tenancies has subsequently shifted even further away from the original vision. In April 2005, the State Government announced its ‘Reshaping Public Housing’ reforms, which tightened eligibility such that tenants are now offered fixed terms of 10, five or two years, depending on an assessment of their need. These tenancies are subject to review shortly before the end of their fixed terms, and may be ‘renewed’ with a further fixed term if the tenant remains eligible for public housing. The idea that renewable tenancies would be probationary tenancies, and that renewal would be subject to reviews as
to tenants' conduct, was quietly dropped, and the old policy phased out. Tenants who entered into fixed term agreements under the old policy continued to be reviewed according to an amended version of the policy, under which renewed tenancies would become continuing agreements and be subject to no further reviews. The last of the old renewable tenancies were finally renewed in 2008.

The fixed terms and reviews remain, as do the provisions of the Act that allow Housing NSW to 'declare' a new fixed term, but the 'Reshaping' platform of reforms has, so to speak, reshaped renewable tenancies to very different purpose. Under the old Renewable Tenancies Policy, reviews considered the tenant's conduct and expressly did not consider their income or other eligibility criteria; under 'Reshaping', reviews consider whether the tenant remains eligible for public housing according to income criteria and, under amendments to the Residential Tenancies Act 1987 (NSW), are expressly forbidden from considering whether the tenant is in breach of their agreement (s 64G).\(^98\)

**Acceptable Behaviour Agreements**

Two years after the introduction of renewable tenancies, the NSW State Government announced in May 2004 a new 'anti-social behaviour strategy' for public housing, the centrepiece of which was the introduction of acceptable behaviour agreements (ABAs). An ABA was to be an agreement between Housing NSW and a public housing tenant, additional to the residential tenancy agreement, prohibiting the tenant or another household member or guest from engaging in specified forms of anti-social conduct, on threat of eviction. Other measures announced at the same time included the (short-lived) extension of the Renewable Tenancies Policy, discussed above, and a pilot project of 'Specialist Response Teams' (a partnership between Housing NSW, the Community Services NSW, NSW Health and the NSW Police Force, in response to anti-social behaviour). Together these comprised 'a range of public housing reforms to discourage anti-social behaviour and heighten residents' responsibilities to the community' (NSW State Government, 2004).

\(^98\) *Residential Tenancies Act 2010* (NSW) s 144(3).
The introduction of ABAs was the most significant part not just of the 2004 reforms, but of all the innovations considered here. Even more than renewable tenancies, ABAs were expressly associated with other developments in advanced liberal governmentality, particularly in Britain. Even the name of the New South Wales strategy, 'Tackling Anti-Social Behaviour', was borrowed directly from the Home Office, and ABAs were described as 'UK style behaviour agreements' (NSW State Government, 2004), confusing Acceptable Behaviour Contracts (voluntary contracts, which operate persuasively, rather than through any legal effect) with Anti-Social Behaviour Orders (proscriptive court orders, which are legally binding by threat of arrest and imprisonment) (Burney, 2005: 83-91). The introduction of ABAs was also associated with contemporary debates in Australia about responsibility, especially parental responsibility. In the fieldwork, H19 suggested that the genesis of ABAs was in a 2003 radio interview given by Premier Carr: responding to a question about parental responsibility, he made a commitment to foster, through the use of contracts, a greater sense of responsibility in public housing specifically (H19 interview).

A wholly new contractual instrument, ABAs required the enactment of extraordinary new provisions in the Residential Tenancies Act 1987 (NSW). Dual appeals to responsibility and tighter control were also made in the parliamentary debate on the legislation for ABAs. Here the State Government ascribed the problem it sought to address — 'anti-social behaviour' — to 'a small number of individuals who, for various reasons, are unable to get along with their neighbours, and who are unwilling to accept responsibility for their behaviour and its impacts on the surrounding community' (Megarry, 2004: 9640). The State Government described its approach:

We are supporting tenants to change unacceptable behaviours. We are creating safer and more socially rewarding communities for the overwhelming majority of tenants who live harmoniously with their neighbours. And we are also ensuring that tenants are accountable for their behaviour. The proposed amendments and other strategies that the Government will be putting in place represent a measured response; one that imposes some responsibility on tenants but provides support and assistance to tenants who lapse into antisocial patterns of behaviour. (Megarry, 2004: 9640)

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99 H19 described the reaction of his colleagues to the Premier’s interview: ‘so, there was a collective groan from Ashfield [Housing NSW’s head office] [laughter], “oh gawd, what’s he done!”’ (H19 interview).
Numerous elements of the adaptive strategy are appealed to here and elsewhere in the debate: responsibilisation – it is tenants who are actually to make the change in their behaviours, with ‘support’ from Housing NSW; partnership – in the form of the Specialist Response Teams; and community – specifically the differentiated community of public housing (‘we want people who are doing it tough to be given as much support as they need to fully participate in their communities’) (Megarrity, 2004: 9640). Underlying these elements was an appeal to contract:

We make provision for public housing because we value the principle that people should have a decent standard of living. But public housing is a valuable community resource. So when people are provided with subsidised public housing, it carries with it an obligation to do the right thing by the community. At the most basic level, access to public housing carries an expectation that tenants will live in peace and harmony with their neighbours. (Megarrity, 2004: 9640)

The Opposition, too, supported the introduction of ABAs and invoked principles of contract to affirm tenants’ responsibilities in relation to criminal and disorderly conduct. Indeed, the Shadow Housing Minister considered it ‘worth pointing out at the commencement of my contribution that in the past there have not been any tenancy arrangements applying to public housing tenants’ (Page, 2004: 9800). This is, of course, incorrect, but it is significant that the perceived lack of order in public housing should be presumed to be the result of a deficit of contract, and that a new form of contract should be the means by which order would be brought to public housing.

Despite the Parliament’s appeals to the responsibility of tenants and the supportive role of Housing NSW, the legislation it passed actually provided for more rules and tighter control by Housing NSW. Contrary to the usual characterisation of contractual practices of government as tending to restrain the discretionary authority of state agencies (Rose, 1999a: 165), the ABA legislation actually increased it.

Like renewable tenancies, ABAs were conceived initially by the Executive of the State Government, with Housing NSW developing, in an operational policy, the details of how it would use them. Again like renewable tenancies, ABAs appeared at first to be a major new
tool in Housing NSW’s government of crime and disorder, but this potential has not been realised. The ABA provisions in the Act remain operative but, six years after they were introduced, Housing NSW has never entered into an ABA.

**The Residential Tenancies Amendment (Public Housing) Act 2004 (NSW)**

ABAs are the creation of the *Residential Tenancies Amendment (Public Housing) Act 2004* (NSW), which introduced the term ‘anti-social behaviour’ to tenancy legislation in New South Wales. The ABA provisions apply only to tenants under ‘public housing residential tenancy agreements’ – another term introduced by the legislation.¹⁰⁰

News s 35A(1) of the *Residential Tenancies Act 1987* (NSW) (the Act) provides that Housing NSW may ‘by notice in writing given to a tenant under a public housing tenancy agreement, request the tenant give a written undertaking [an ABA], in the terms specified in the notice, not to engage in specified anti-social behaviour.’ The term ‘anti-social behaviour’ is given a non-exhaustive meaning: it ‘includes emission of excessive noise, littering, dumping of cars, vandalism and defacing of property’ (s 35A(6)). The State Government gave an indication of what terms an ABA might include when it announced their introduction, circulating a ‘sample’ ABA with the following terms:

1. I will not write graffiti or damage property in and around the [specify area].
2. I will not congregate in groups in communal areas of [specify the area] ie stairways and walkways.
3. I will not climb on any rooftops, lift shafts or any other prohibited areas.
4. I will not throw anything at residents or passers-by in or around the estate.
5. I will not threaten or abuse residents or passers-by. This includes swearing.

(NSW State Government, 2004)

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¹⁰⁰ *Residential Tenancies Act 2010* (NSW) ss 138, 153 and 154. Note that the *Residential Tenancies Act 2010* (NSW) has dispensed with ‘public housing tenancy agreements’, so the provisions now relate to ‘social housing tenancy agreements’. It remains, however, that only the NSW Land and Housing Corporation – that is, Housing NSW – can ask a tenant to enter into an ABA (s 138).
Both these sets of possible terms – particularly those relating to littering, the dumping of cars, congregating in groups and swearing – indicate an intention that ABAs could cover conduct not otherwise covered by the terms of a tenancy agreement.

Section 35A(1) provides that the areal scope of an ABA is similar to the expanded scope of the illegal use term: the premises and any property adjoining or adjacent, including common property (s 35A(1)(a) and (b)). An ABA also expressly covers ‘any other person occupying (or jointly occupying) the premises with the consent of the tenant (a lawful occupier)’ (s 35(2)). The Act is clear as to the tenant’s liability for other’s misconduct: ‘if any such lawful occupier engages in any anti-social behaviour that is specified in the agreement, the tenant is taken to have engaged in the behaviour and breached the agreement’ (s 35(2)).

There is a threshold test for requesting a tenant enter into an ABA: to make the request, Housing NSW must ‘be of the opinion that... the tenant, or a lawful occupier of the premises to which the tenancy relates, is likely to engage in anti-social behaviour’ (s 35A(3)), with this opinion being based on the history of the tenant’s present tenancy or any prior tenancy with Housing NSW (s 35A(3)(a) and (b)). The request is also required to inform the tenant as to the consequences of not entering into an ABA, and of breaching an ABA (s 35A(4)).

These consequences are extraordinary. Failing or refusing to enter into an ABA is grounds for termination of the tenancy. Where Housing NSW applies for orders terminating a tenancy on this ground, it need show only that the tenant has failed or refused to enter into the ABA and the Tribunal must terminate the tenancy – s 641 allows no discretion to decline to make the orders. Furthermore, the Tribunal cannot take into account any other circumstances, such as the reason for the request, or the tenant’s reason for failing or refusing to enter into the ABA.

Similarly, breaching the terms of an ABA is grounds for termination, and where Housing NSW applies to the Tribunal for termination on this ground, the onus of proof is reversed: the tenant must prove that they have not seriously or persistently breached the ABA, or else the Tribunal must terminate the tenancy. Again, the Tribunal cannot take into account any other circumstances.
The ABA provisions, therefore, have made available to Housing NSW proceedings that are very different from those under the mainstream provisions of the Act: in ABA proceedings, there is no need for Housing NSW to prove a breach, as has been its practice since the Nicholson decision; furthermore, there is no consideration of the circumstances of the case, as has been the practice of the Tribunal since the Swain decision. They are draconian provisions: they provide for new ‘agreements’ that are more specific and more onerous than tenancy agreements, in terms that are set by Housing NSW, and they provide for termination so readily that it is effectively Housing NSW that decides whether a tenancy will end.

ABAs in policy and practice

After the introduction of the ABA provisions in the Act, Housing NSW commenced drafting an operational policy (‘the ABA Policy’) to guide their use. Unusually, the State Government also decided that the use of ABAs would initially be confined to two pilot areas – in Newcastle and Wagga Wagga respectively – so that the ABA Policy could be evaluated. The ABA Policy also dealt with the use of Specialist Response Teams, which were also piloted in these areas.

The current status of the ABA Policy is uncertain. The pilots were completed in 2006 without a single ABA being entered into; Housing NSW did make one request of a tenant that they enter into an ABA, but the tenancy was otherwise terminated before any further action under the ABA provisions was taken (NSWDOH, personal communication, 2006). An evaluation of the pilot was completed by a consultant for Housing NSW, but it has not been released publicly or to me. There has been no other formal statement by Housing NSW on its use of ABAs, but informally Housing NSW states that it does not use ABAs (Housing NSW, personal communication, 2008).

Despite its uncertain status, the ABA Policy remains important, both because it may yet be a guide to any future practice, and because of its contribution to the remarkable non-use of ABAs. First, the ABA Policy gave greater definition to the types of behaviour that Housing NSW would regard as being ‘anti-social behaviour’ for the purposes of the provisions – and, just as importantly, the types of behaviour that would not be addressed through ABAs. The following table is from the ABA Policy:
Table 7.2. Definitions and examples of anti-social behaviour, and responses, ABA Policy.

<table>
<thead>
<tr>
<th>General Nuisance Behaviour</th>
<th>Serious Anti-social Behaviour</th>
<th>Extreme Anti-social Behaviour</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off or infrequent mild or minor behaviour</td>
<td>One-off or repeated behaviour that has an adverse impact on others</td>
<td>One-off behaviour that involves serious criminal offence and/or poses an unreasonable risk to others and to property</td>
</tr>
</tbody>
</table>

Examples may include:
- Excessive noise at high levels or unreasonable hours (e.g. Noisy parties, use of power tools late at night, skateboarding in common areas, etc)
- Rubbish dumping in common areas (including discarding used needles)
- Rowdy behaviour (shouting and swearing, fighting)
- Defacing property (graffiti)
- Impeding access to common areas / car parks

Examples may include:
- Persistent general nuisance behaviour (i.e. frequent incidents over a number of months, substantiated by the CTTT)
- Repeated harassment of neighbours or passers-by
- Verbally abusive behaviour causing distress or fear, especially to vulnerable groups such as elderly, or people with a disability
- Threatening or intimidating behaviour
- Vandalism and damage to property
- Street brawling

Examples may include:
- Persistent serious antisocial behaviour
- Violence – threat of and/or physically assaulting neighbours or passers-by
- Illegal activity - drug taking or drug dealing in the street or common areas
- Using premises for unlawful purposes such as drug manufacture
- Burglary or theft from neighbouring resident(s)
**General Nuisance Behaviour** | **Serious Anti-social Behaviour** | **Extreme Anti-social Behaviour**
---|---|---
Does not warrant intervention within ABA unless behaviour becomes persistent and preliminary steps have been attempted as provided by this policy. The Department's Good Neighbour Policy applies. | Suitable for management within ABA | Not suitable for management within an ABA. In such circumstances criminal proceedings may apply.

(Source: ABA Policy)

These definitions narrowed the use of ABAs to 'serious anti-social behaviour', and removed both 'general nuisance behaviour' and 'extreme anti-social behaviour' from the ABA regime.

Secondly, the ABA Policy established a number of preconditions that had to be met before Housing NSW could request an ABA. First, it introduced a threshold question: where it considered that a tenancy was 'at risk' because of anti-social behaviour, Housing NSW would have to consider whether the tenant or occupier had an unmet support need, and convene a 'complex case review' to determine the question. If the tenant or occupier was considered to have an unmet support need, the ABA Policy directed that Housing NSW would not go down the ABA path, but instead attempt to arrange support through a Specialist Response Team, which, in the pilot areas, became a kind of inter-agency forum to facilitate communication and referrals between Housing NSW and local support services. It was only if the complex case review determined that there was no unmet support need at the root of the anti-social behaviour that an ABA would be considered.

There were further preconditions. These preconditions addressed the threshold issue from the legislation: that Housing NSW is of the opinion that a tenant or occupier is **likely** to engage in anti-social behaviour; and that this opinion is based on the **history** of the tenancy.
(including previous public housing tenancies). The ABA Policy provided that before Housing NSW could ask for an ABA, it must have first applied to the Tribunal for an SPO restraining the anti-social behaviour, and in the course of these proceedings the anti-social behaviour was determined to be a breach of the tenancy agreement. This precondition was further qualified by a requirement that the SPO must relate to ‘serious anti-social behaviour’ over a three-month period, or ‘general nuisance behaviour’ over a 12-month period. As in the Renewable Tenancies Policy, this both reinforced a narrow definition of the conduct in question as a breach of the tenancy agreement, and drew the Tribunal back into the process of making decisions on the tenant’s conduct. The final precondition to be met was that Housing NSW had monitored the tenant’s compliance with the SPO; in other words, Housing NSW could not ask for an ABA whenever it got an SPO simply as a matter of course.

Thirdly, the ABA Policy established a number of other safeguards. In cases where a tenant was the victim of domestic violence perpetrated by an occupier engaging in anti-social behaviour, the ABA Policy provided that Housing NSW would not request an ABA: domestic violence would be, so to speak, an immediate red light to ABA proceedings and Housing NSW would have to work with the tenant in some other way. In the case of Aboriginal tenants, the ABA Policy directed that Housing NSW should first consult with its Aboriginal SCSO, or the Aboriginal Housing Office, or a local Aboriginal advocacy or support service. Where the tenant or occupier had ‘a mental illness, acquired brain injury or... an intellectual disability, or other cognitive or psychosocial impairment’, the ABA Policy directed that Housing NSW would refer the person for a ‘psychometric and environmental assessment’ by an external expert to advise on the person’s support needs, their ability to enter into an ABA, and their ability to keep to its terms. Finally, the ABA Policy also provided that any tenant who had been requested to enter into an ABA would be entitled to have the request reviewed by a senior officer of Housing NSW. This meant that a tenant’s refusal to enter into an ABA would not result in the immediate prospect of a notice of termination and the mandatory termination of their tenancy, provided they asserted their objection through the appropriate process.

The overall direction taken by the ABA Policy was, therefore, similar to that of the operational policy for renewable tenancies: it guided housing officers away from the use of...
the new tool, narrowed its application, reasserted the mainstream provisions of the Act, and restored crucial decisions to the Tribunal. In the case of ABAs, the shift in direction was even more pronounced: indeed, the ABA Policy was the strongest statement anywhere in Housing NSW's operational policies on its 'working with tenants' mode of work and its commitment to working in partnership with support services.

The ABA Policy reflected other concerns about ABAs, too. H17 said that there was 'quite a lot of concern about them internally, in here' (H17 interview), because it was anticipated that such draconian legislation – particularly as it reversed the onus of proof in breach proceedings – would heighten conflicts and bring notoriety and additional scrutiny to Housing NSW's actions.

H17: Frankly, there was dismay, or disdain that we could ever support that or get it up and running effectively - 'it won't last, the onus of proof reversal.' So the reaction of a lot of staff was 'oh, the appeals, you know, everything you say will be tested. There's already enough contention'.... 'There'll be more scrutiny - it's just such a new concept.' I think it is reasonable to say that that was the most alarming or important aspect of the announcement. Certainly for staff, they picked that up straight away.

(H17 interview)

When I conducted the interviews and focus groups with the Housing NSW officers at Riverwood, most knew of ABA legislation, but at that time had yet to receive any instruction or training on the legislation or the ABA Policy. The officers joked that their role in ABA proceedings would be merely to fax the application for orders to the Tribunal, and termination would follow. Some were attracted to their potential for simplifying - if in a drastic way - the difficult work of conducting nuisance and annoyance proceedings, but others found the contractual mode of ABAs difficult to reconcile with the incapable subject of public housing.

H9: Look, I think that's a great idea. I really do.

H6: It's not going to solve the problems. They'll just go to other areas.
H5: But what's going to happen is, we're going to fax through the eviction, and that same person is going to be filling out the housing register, at the same time, all on the same day.

(Housing officers focus group 1)

H3: I can understand with the clients who have all the supports and are just feral clients who just don't want to do it [behave properly]. OK. But what about the old drunk, the drug and alcohol [addicted persons], the young persons who are just come out of gaol and are letting loose, what happens to all of them? Because they are the majority of our clients who we deal with at the moment for anti-social behaviour. They're the ones we are trying to get support services into, so that they can sustain a tenancy, so that they don't go and sleep on a park bench in Belmore Park.

(Housing officers focus group 1)

H3's ambivalence was, to a degree, reflected in the ABA Policy and the way it reserved the use of ABAs for agentive, culpable wrong-doers: in H3's words, 'the clients who have all the supports and are just feral clients who just don't want to do it'. Of course, the ABA Policy went further, with additional qualifications relating to the type of behaviour covered and the timing of an ABA; and Housing NSW's practice went further still, by not actually using ABAs at all. The ABA provisions in the Residential Tenancies Act 1987 (NSW), however, remain – the opportunity presented by the Residential Tenancies Act 2010 (NSW) to repeal the provisions was not taken – and they are not amenable to being put to work towards other public housing policy ends, as renewable tenancies have been. ABAs are merely dormant, and may yet be activated at the direction of the Minister or State Executive.

Visitor Sanctions

Housing NSW's third innovation, the 'visitor sanction', was introduced in late 2006 and, unlike the other two above, is still officially available for use. Visitor sanctions operate through the rental rebate system: Housing NSW may impose a visitor sanction in an attempt to stop a tenant from hosting disorderly visitors by threatening the tenant's rental rebate.

Before considering the details of how they work, it is worth noting that visitor sanctions, again unlike renewable tenancies and ABAs, were introduced with little fanfare and no
consultation. One consequence of this is that Housing NSW has produced little material justifying visitor sanctions or explaining their rationale: all that there is is in the relevant provisions of Housing NSW's Additional or Unauthorised Occupants Policy and Tenancy Policy Supplement. Broadly speaking, the familiar mix of adaptive and sovereign characteristics is evident: visitor sanctions focus on the ability of tenants to admit or refuse visitors, and enjoin them to exercise this ability responsibly; on the other hand, the word ‘sanction’ directly evokes sovereign power. More specifically, it might also be significant that visitor sanctions were developed in the months after a much-publicised instance of public disorder at the Gordon estate in west Dubbo, which had – before its demolition – a large Aboriginal population. Aboriginal persons' cultural obligations to their extended families, including to house-visiting relatives, are well known (and otherwise accommodated in Housing NSW policies, which provide, for example, that Aboriginal households are entitled to an additional room so that they can accommodate visitors).

Another consequence of the manner of their introduction is that visitor sanctions did not undergo a strategic shift, as renewable tenancies and ABAs did, between announcement and implementation – because they were announced and implemented at once. In practice, however, visitor sanctions, like those other innovations, have scarcely been used: I am aware of one instance of a visitor sanction being imposed (tenants advocate, personal communication, 2008).

Visitor sanctions in operation

As I discussed in the previous Chapter, CSOs occasionally use the rental rebate system to take action against disorderly tenants; visitor sanctions represent the first deliberate attempt to do so as a matter of policy. According to its amended Additional and Unauthorised Occupants Policy, Housing NSW may impose a visitor sanction on an individual tenant where there is evidence that either the tenant, other members of their household, or previous visitors have 'not met the standard of behaviour required by the Department under the Residential Tenancy Agreement.' Housing NSW may also impose visitor sanctions on

101 The communication includes a copy, with identifiers removed, of a file note created by Housing NSW confirming a visitor sanction. The tenant was, incidentally, Aboriginal.
multiple tenancies where there is ‘a strategy within the Department of combating anti-social behaviour in that complex, precinct or area’ and evidence of serious or repeated instances of criminal behaviour or anti-social behaviour.

The effect of a visitor sanction is that the tenant must apply to Housing NSW whenever a visitor to their premises is to stay more than three days, or else face the cancellation of their rental rebate. Ordinarily, tenants can have persons stay up to four weeks before they have to advise Housing NSW. Furthermore, a visitor sanction indicates that Housing NSW will take a harder line on the tenant’s applications: if it considers that a visitor may ‘pose a threat to the sustainability of the tenancy or the peace and comfort of the neighbourhood’, the policy states Housing NSW will decline to approve them, and if they stay the tenant will lose their rental rebate.

Of the ‘evidence’ required to support the imposition of a visitor sanction, the policy states that Housing NSW will consider ‘all information relevant.’ In contrast to the narrowly defined factors that were allowed to be considered under the renewable tenancies and ABA policies, this includes Tribunal orders, police reports, witness incident reports, apprehended violence orders, and ‘records collected or created by the Department, such as file notes, rent subsidy records, letters or reports provided by other people or organisations, forms and photographs.’ This makes for a policy that is much less restrictive of Housing NSW’s use of visitor sanctions than its use of renewable tenancies or ABAs.

Yet visitor sanction sanctions are hardly used; it appears they have not proved attractive to CSOs as they set about dealing with problems of crime and disorder. Visitor sanctions are beset with complications arising from the tensions between their sovereign and responsibilising elements, and the subjects to which they are to apply. First, despite its invocation of sovereign power, a visitor ‘sanction’ does not represent the final say on the question of a tenant’s visitors; instead, it means that Housing NSW will get involved in that question each and every time a tenant has a visitor, and so opens up the prospect of more applications, more administrative decision-making and more correspondence between tenants and Housing NSW. Secondly, because it requires tenants to ask permission of Housing NSW for a family member or friend to stay, and purports to put Housing NSW in the position of ‘yes’ or ‘no’, a visitor sanction virtually infantilises the tenant; it diminishes their responsibility rather than heightening it. As discussed in the previous Chapter, housing
officers may occasionally use the rental rebate system against a disorderly tenant in an opportunistic way, but they do so in circumstances where it appears, from the point of view of Housing NSW, that the tenant has been discovered committing a fraud, which highlights the tenant's selfishness and casts them as an agentive, culpable wrong-doer. By contrast, the decision as to whether to impose a visitor sanction does not take place in such charged circumstances, but rather in the circumstances of housing officers 'working with the client' and beginning to assemble evidence of breach for proceedings in the Tribunal. In these circumstances, the tenant often appears to have only an ambivalent agency and blameworthiness, and a visitor sanction may appear to housing officers to open up more questions and more work.

Section 9A and the Vision of the Effective State

The final innovation considered in this Chapter, s 9A of the Act, does not really amount to a new measure or 'tool' that is available for use by Housing NSW against crime and disorder; rather, it is a provision for the possible future introduction of additional measures in tenants' residential tenancy agreements. It also represents a good point from which to consider together the themes of all the innovations discussed in this Chapter and, more generally, those of the government-housing practices discussed in this Part of the thesis.

Introduced in 2005, s 9A builds on an existing provision (at s 9) that allows for the creation, by regulation, of different standard forms of tenancy agreement under the Act, which may be specific to social housing or public housing. Section 9A provides that a standard form of agreement specific to social housing may contain terms that apply not just prospectively—that is, to agreements entered into after the creation of the standard form of agreement—but also to agreements already in existence. In other words, s 9A allows the Executive of the State Government to create new terms in tenancy agreements (including in agreements already in existence) to which it, as Housing NSW, is a party.

Section 9A was one of several amendments made to the Act as a consequence of the Reshaping Public Housing reforms, which were concerned mostly with eligibility rather than

\[102 \text{ Residential Tenancies Act 2010 (NSW) s 15(2)(d); unlike s 9A of the Residential Tenancies Act 1987 (NSW), this provision is not limited to social housing tenancy agreements.}\]
crime and disorder. The State Government did, however, justify s 9A and the way it could uniformly alter the terms of public housing tenants’ contracts by referring to anti-social behaviour. In her second reading speech on the legislation, the Housing Minister stated:

An important example of how a uniform change would be required is if, based on new circumstances or events, a refinement of what constitutes anti-social behaviour by tenants was required. To ensure that all public housing tenants were required to adhere to the same level of behaviour, to enjoy the same rights and to meet the same obligations, we may need to amend all agreements. (Burton, 2005: 18441)

The State Government has not exercised this power. There is no prescribed standard form of agreement specifically for social housing tenancies, let alone one that includes terms that ‘refine’ anti-social behaviour or one that does so in relation to existing agreements. However, the vision of s 9A in action, as articulated by the Housing Minister, is significant for what it says about the ambitions of the State Government in its recent attempts to control more strongly against crime and disorder in public housing.

The vision of s 9A is one in which the state, as the landlord of public housing, is uncomplicatedly effective. So envisaged, the effective state can, through its tenancy agreements, set a level of behaviour to which public housing tenants, as responsible bearers of contractual rights and obligations, must adhere; then, in sovereign mode, it can adjust this level of behaviour as a matter of ‘refinement’ by unilaterally changing the rules and altering its contracts. A similar vision animated each of the other innovations considered here. In the case of renewable tenancies, the effective state would use its contracts to more heavily responsibilise tenants, then decide for itself whether a tenant’s conduct was sufficiently unsatisfactory to terminate the tenancy. In the case of ABAs, it would do the same by entering into entirely new and additional contracts with tenants, on terms dictated by Housing NSW, backed by termination proceedings in which the onus of proof is on the respondent tenant and in which the Tribunal’s decision is mandated in law. In the case of visitor sanctions, it would make tenants take responsibility for their visitors by putting their rental rebates at risk, then decide for itself whether each and every visitor might be permitted to stay.
This vision is a fantasy; a variation on the postures of authority and the punitive displays that Garland sees adopted by states as they symbolically deny the fact of their limited control of crime and disorder (1996: 445-446). The reality of Housing NSW’s government of crime and disorder is more complicated and less certainly effective than the State Executive’s vision. Over two decades, Housing NSW has made significant commitments to a strategy of adapting public housing’s institutions of mid-twentieth century working class social security to the very different population to which it is now targeted. It has done so first through reforms to the work of its housing officers, dissolving the old supervisory authoritarianism of the Housing Commission through advanced liberal concepts of ‘service’ and ‘working with the client’ as an agent in their own receipt of support. Secondly, it has commenced the renewal of the physical-spatial and community fabrics of its estates, with increasing emphasis on programs for community participation and partnership in capacity-building activities. This is, as many of the housing officers interviewed for this thesis pointed out, difficult work, and it does not always work. It is also a strategy that has always been under stress: from the ready availability of public housing’s web of tenancy contracts as a substitute for the informal obligations of neighbourhood, with implications of strict liability and exclusionary enforcement; from the way contractual terms and proceedings can frame housing officers’ investigations of misconduct and direct them towards termination; from the distrusting attention trained by the CPTED lens on signs of disorder; from partner agencies that do not deliver promised support, or that join Housing NSW in reactive responses to crime and disorder; from the persistence of Housing NSW’s own culture of reaction; and, most basic of all, from the subject of public housing that emerges from the eligibility system, alternately incapable then selfishly agentive, and the object of officers’ pessimism and cynicism. The State Government would better support public housing’s adaption to a preventative, ameliorative advanced liberal government of crime and disorder by acknowledging its limits and working to rehabilitate the positive agency of public housing tenants, than by promising to turn the blunt instruments of tenancy law and contract into new tools of efficacious control.103

103 In September 2009, the NSW State Government yet again changed the law in relation to public housing tenancies to deal with a problem of crime and disorder. This time the change was in response to a specific incident: it was revealed in the media that a notorious child sex offender, who since his release from gaol had been ‘run out’ of several Queensland towns by community pressure,
had commenced a public housing tenancy in a suburb of Sydney. The Housing Minister announced to the media that he had ordered Housing NSW to 'make sure he [the tenant] is moved as soon as possible.... My hope is that he will be moved by tonight' (Smith, 2009). When it became apparent that Housing NSW could not legally 'move' the tenant so quickly, the NSW State Government introduced the Housing Amendment (Registrable Persons) Act 2009 (NSW), to provide that the tenancy of a public housing tenant who is a registrable person under the Child Protection (Registrable Persons) Act 2000 (NSW) - that is, a person who has been convicted of certain serious offences against children - may be terminated by order of the Director-General of the Department of Human Services, upon the recommendation of the Police Commissioner (Housing Act 2001 (NSW) s 58B(1)). Both the recommendation and the order may be made without regard to the rules of natural justice (s 58F(3)) - that is, it is not necessary to give the tenant a hearing, or even inform them of the pending decision - and neither is subject to review of any kind by the Tribunal or the courts (s 58F(2)). The order immediately terminates the tenancy and the tenant may be evicted immediately by the police (s 58B(4)(a), (b)). What the amendments provide for, in effect, is the summary eviction of a narrow class of public housing tenant by the Executive of the NSW State Government.

The amendments are not really another 'new tool' for Housing NSW: they are a tool for the State Executive, and at the time the Premier described them as a 'response to what we hope is a one-off situation' (Rees, 2009). They are, however, another instance of the gestural politics of the State Executive in 'effective sovereign' mode. The tenancy in question was duly terminated, but the tenant has not necessarily been excluded from public housing: the Director-General is 'required to ensure that alternative housing continues to be made available' (s 58C(2)), and this accommodation may or may not be public housing (s 58C(1)).
PART 4

RIVERWOOD

So far the analysis in this thesis has been directed at showing the historical development of a relation between the field of housing and the field of crime and disorder, within the historical development of governmentality more generally, and at how Housing NSW’s contemporary public housing practice is directed, according to characteristically ‘advanced liberal’ programs and strategies, to the government of crime and disorder. In both these aspects of the thesis, the government-housing relation is conceived of at the relatively high, general or ‘macro’ level of governmental rationality, state instruments, law, policy and organisational culture.

The present Part of the thesis considers another lower or ‘micro’ level at which ideas about housing and ideas about crime and disorder come into relation. This is the local level; the level of neighbourhoods, estates, suburbs, towns – the level of the areas in which people live. In this part, I will consider the local level of the government-housing relation by presenting an account of a particular place: the public housing estate at Riverwood, a suburb of Sydney, New South Wales. It is in places like the Riverwood estate that practices of government-housing actually operate on the conduct of persons, and this context is significant.

The present Part of the thesis comprises two Chapters. The first, Chapter 8, presents an analysis of the historical development of Riverwood to the present. This account offers another, ‘ground-level’ perspective on the history of ideas and practices that was considered in Part 2 of the thesis, and presents what is for tenants and other participants in the fieldwork a fundamental reference point in their sense of the place today. In Chapter 9, the second Chapter in this part, I will consider the local discourse of tenants, housing officers, community workers and police in relation to crime and disorder – their ‘crime talk’ (Girling, Loader and Sparks, 2000) – which gives voice to a range of concerns, sentiments and feelings about the conduct of life in Riverwood. The analysis of Riverwood’s crime talk presented here is directed at showing how micro-level local sensibilities connect with the macro-level government-housing relation generally. In particular, it conceptualises the connection as a loose articulation, such that macro-level authority and expertise – ‘what
everybody knows' about government-housing — strongly influence, but do not determine, local sensibilities. These in turn help to shape, but again not determine, the construction of crime and disorder as problems to be acted on by practitioners of government-housing. As the previous Part of the thesis showed, the institutions of public housing present officers and tenants with a range of possible ‘solutions’ to these problems, but their apparent availability or utility is contingent on shifting specifications of the problem to be addressed. In this Part, local crime talk, too, is shown to be a fast-shifting discourse that discloses a range of responses to questions of crime, disorder and government. One of its aspects is, to be sure, reactive, punitive and exclusionary, but there are also other, often overlooked aspects of local sensibilities about crime, disorder and government that may be engaged in support of more preventative, inclusionary responses (Girling, Loader and Sparks, 2000: 175).

First, however, the lie of the land. Riverwood is a small suburb about 25 kilometres southwest of the Sydney central business district. At the 2006 Census, almost 10 000 persons were counted residing in Riverwood, in a total of almost 3 800 residential dwellings. Of these dwellings, about one-third are public housing — well above the State-wide average of five per cent. Most of Riverwood's public housing — some 1 284 dwellings, housing about 2 800 persons104 — is on the Riverwood estate in the northwest of the suburb.

Riverwood is bounded on its west by Salt Pan Creek, which runs south past the neighbouring suburb of Peakhurst to affluent Lugarno, where the creek joins the Georges River. To the north, Riverwood adjoins the suburb of Punchbowl, with the boundary running parallel to the M5 expressway, which is the major road link between the city and the greater southwest. The suburbs of Roselands and Narwee lie to the east. In the centre of Riverwood is the railway station, with the East Hills railway line cutting east-west across the suburb. The main road through Riverwood, Belmore Road, runs north-south, passing over the railway line at the station and continuing south to Peakhurst and Lugarno. Riverwood's shops line Belmore Road on each side of the station. Riverwood Plaza, a small enclosed mall on the southern side of the line, was built in the late 1990s and has become the centre of gravity for Riverwood shoppers and businesses. The Riverwood public housing estate lies a

104 The figures for the number of dwellings and residents on the estate come from Housing NSW, not the Census.
couple of blocks north of the railway line, past the shops, on the western side of Belmore Road, just south of the expressway.

Riverwood lies across two adjacent local government areas (LGAs): Canterbury City Council to the north, and Hurstville City Council to the south. The boundary between the two is a little north of the railway line. This means that the shops on both sides of the railway line are in the Hurstville LGA. The Riverwood public housing estate is covered by Canterbury LGA: it is the south-western edge of the LGA, with the municipal boundary running along the back fence of Housing NSW's houses on Florida Crescent. Similarly, policing in Riverwood is divided between two local area commands (LACs) of the NSW Police Force: Campsie LAC, which covers the northern part of Riverwood, including the estate; and Hurstville LAC, which has a substation at Shenstone Street in the south. The division between the LACs has shifted over the years: in the early 1980s, Hurstville LAC became responsible for all of Riverwood, and in July 2002 Campsie LAC resumed responsibility for the northern part.

The prevailing pattern of the streets in Riverwood and the surrounding suburbs is a grid, except on the estate, which is arranged around curvilinear streets and crescents. The streets and crescents are also distinctively named: Roosevelt Avenue, Truman Avenue, Washington Avenue, Minnesota Avenue, Pennsylvania Road, Kentucky Road, Michigan Road, Virginia Place, Arizona Place, Missouri Place, Tennessee Place, Wyoming Place, Idaho Place, Vermont Crescent, Florida Crescent, Montana Crescent. Some of the buildings on the estate continue the theme: Mayflower Court, Douglas MacArthur Court, Jefferson and Lincoln towers. The last two are the estate's most distinguishing physical feature: two eight-storey towers, the tallest buildings in Riverwood. Set back a couple of hundred metres within the estate, behind tall trees and lower blocks of flats, the tops of the towers look over, and are seen by, the traffic on Belmore Road.
CHAPTER 8

Riverwood: A History of the Present

This Chapter presents an historical account of Riverwood, from when the place was first inscribed upon on the early maps of the colony of New South Wales to the middle of the first decade of the twenty-first century. Between these two points in time, the place now called Riverwood was known, for a time, as Herne Bay. Over its history the place has been a suburban land bank, then a military site, an emergency housing centre and, most importantly, the site of a large public housing estate. It has also been a predominantly white neighbourhood, and then become a centre for the settlement of a diversity of migrants. It has been strongly working class, and then become home to both 'middle Australia' and the very poor. This history is relevant to the sense that people have of Riverwood as a place now, and to their responses to questions of crime, disorder and government.

For the earlier part of this account – up to just after the estate was built in the 1960s – I have relied on secondary sources, particularly Madden’s local history Hernia Bay (2001). For the later part of the account – from the early 1970s through to the present – I have been able to take a different approach, relying more on two quite different primary sources. One is the Census. For the 1971 Census, I have aggregated data relating to part of the Riverwood estate, and for each Census from 1976 to 2006 (except 1986) I have aggregated data relating to all of the Riverwood estate. The 2001 and 2006 Censuses also aggregate data relating to the suburb of Riverwood, allowing comparisons between the estate, the ‘non-estate’ part of Riverwood, and New South Wales as a whole.

The other source is the oral history of the estate, as recounted by the participants in the fieldwork. Several of the tenant participants had lived on the estate since the 1970s; more had lived there since the 1980s; and several participants from Housing NSW and Riverwood Community Centre (RCC) had worked on the estate since about that time too.

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Prehistory: Herne Bay

Riverwood is originally the land of the indigenous Dharug people. After the establishment of the colony at Sydney Cove, the area between Botany Bay in the east and Salt Pan Creek in the west was named the parish of St George, part of the hundred of Sydney, and the first land grants at the western edge of the parish were made in 1810. For most of the nineteenth century, these grants were used for farming, market gardening and timber getting. In 1864 Robert Levingston acquired 29 hectares between Salt Pan Creek and Belmore Road, and by the early twentieth century two neighbouring farms were also acquired by the Levingston family. In 1886, land on the banks of Salt Pan Creek north of Peakhurst was subdivided and sold under the name ‘Herne Bay’, presumably after the seaside holiday town of the same name in Canterbury, England (the Australian place being about 25 kilometres inland, the designation ‘Bay’ was tenuously justified by its proximity to Salt Pan Creek). In 1931, when the East Hills train line was opened, the railway station also took the name ‘Herne Bay’.

By the late 1930s, Herne Bay might have become another Sydney suburban subdivision: the Levingstons were running an 18-hole golf course, plus some cattle and timber getting, on their blocks, while their neighbours included the War Service Homes Commission and the Intercolonial Investment Land and Building Co Ltd. After the onset of the Second World War, however, the state took over. First, in December 1941, the Royal Australian Air Force (RAAF) was interested in turning Levingston’s golf course into a depot, and in preparation banned tree felling on the site. The RAAF depot did not proceed, but in November 1942 the United States Army requisitioned this and two other Herne Bay sites for use by the 118th General Hospital. Across the sites the Allied Works Council built five hospital complexes, with 4 250 beds and accommodation for 3 000 staff. In late 1944, the US Army began withdrawing from Herne Bay, whereupon parts of the complex were occupied by the Royal Navy. After the end of the war, the complex was used as a reception centre for ex-prisoners of war. In May 1946 the Commonwealth Government resumed the site and between June and December 1946 the Commonwealth Disposals Commission transferred the properties and buildings to the NSW Housing Commission (Madden, 2001).

By the end of 1946, the Herne Bay hospital complex was one of several ex-military sites owned by the Housing Commission, which commenced converting them for use as ‘temporary community housing centres’, with the objective of ‘providing the maximum
accommodation in the shortest possible time to meet the needs of the most urgent cases' (NSWHC, 1946: 20). The conversion of the long hospital buildings to flats was accomplished by erecting walls across their length and installing toilets and bathrooms, while other buildings in the complex were set up variously as a community hall, a social welfare centre, a kindergarten and school, and shops. Herne Bay was the largest of the centres: by June 1947, it comprised 1,096 flats, each with one to six bedrooms, and housed between about 6,000 persons (Ifould, 1947: 53).

In the opinion of the Chairman of the Housing Commission, Herne Bay was 'an excellent example of what could be done with collective housing' (cited at Ifould, 1947: 53), and a member of Commission's Tenancy Application Advisory Committee ventured that it was 'an interesting experiment in community living' (cited at Luker, 1947: 102). On the other hand,
two tenant participants in the research, T32 and T37, had lived at the community housing centre, and recalled 'Herne Bay, and the huts':

T37: It was – and how do I put this without seeming snobbish – it was… [pause]…
T32: A bloodhouse?
T37: … [pause]… or a pig-pen, I was going to say.
(Tenant focus group 5)

Within a few years of opening, the community housing centres – and Herne Bay itself – were notorious. In 1954 the Herne Bay Businessmen’s Association told Hurstville Council that ‘the present name has been made infamous by an “emergency” housing settlement bearing the same title, and there can be no doubt that commercial and private interests are being jeopardised’ (Madden, 2001: 186). According to Spearritt, so many juvenile and other offenders appearing at court at Bankstown gave Herne Bay as their address that the magistrates were moved to call for the community housing centres to be closed (1979: 201). In March 1958, after deliberations and ballots by the Herne Bay Change of Name Committee, Herne Bay became ‘Riverwood’.

Public Housing and the Building of Riverwood

In the same year as the change of name, the Housing Commission completed its first plan for the subdivision and redevelopment of the Riverwood site, and in 1959 commenced winding up its community housing program at Riverwood and its other locations. Through the early 1960s, the ‘horror huts’ were demolished and, in 1964, the American-themed roads and the first new cottages and blocks of flats were built (Madden, 2001: 190-191). Over the next 12 years, the estate was built up with housing that represented a sample of the various types and styles being built by the Commission across the State. Mostly two- and three-bedroom units in two- and three-storey walk-up blocks, the housing constructed at Riverwood also included, particularly around the edges of the estate, detached cottages, row houses and an ‘experimental’ style of ‘patio-house.’ The Commission also built an unusually large number of bedsit units in two-storey blocks, each in an ‘L’ or ‘U’ shape around a
courtyard and described as ‘a delightful living environment for elderly persons’ (NSWHC, 1966: 35).

Finally, the Commission built the high-rise towers. Completed in 1976, the Jefferson and Lincoln towers were built to contain a total of 192 units, won an award\(^\text{105}\), and were among the last of the high-rise projects completed by the Commission.

\(^\text{105}\) A certificate of commendation from the Illuminating Engineering Society (IES, 1977: 35).
information, care and youth drop-in service from a house in Belmore Road. The organisation subsequently became the Riverwood Community Centre (RCC), which now runs 14 social services and programs from a large multi-purpose building, built specially by Canterbury City Council, on the edge of the estate.

The estate at the Census, 1971

In 1964, when the first new buildings on the estate were completed, the first residents to move in were, in accordance with the Housing Commission's eligibility criteria at the time, low-income working class households. Some moved in as purchasers: most of the detached cottages around the edge of the estate were sold, and so were some of the row houses. Because of the large number of flats on the estate, a relatively large number of residents were tenants; furthermore, because of the large number of bedsits on the estate, a relatively large proportion of these tenants were elderly pensioners, and female.

The earliest available Census data relating to the estate are from 1971, and while these data do not relate to the whole of the estate, they do give an indication of the characteristics of its population. First they indicate how the estate related to the labour force, and how strong was its working class character. Fifty-two per cent of adult residents (that is, aged 15 years and over) were employed. Men, especially, worked: almost 82 per cent of adult males were employed, and only two men were counted as looking for work (in fact, their first jobs). Of those who were not in the labour force, more than 80 per cent were women, and more than a third were women aged over 55 years – most likely residents of the bedsits. Of the few men not in the labour force, nearly two-thirds were aged 60 years or more (NSSDA, 2007).

Secondly, the Census data also shows the ethnic homogeneity of the estate. In 1971, 87 per cent of residents were born in Australia, and a further 6 per cent were born in the United Kingdom and Ireland. Less than 1 per cent were born in 'Asia' – a category into which the 1971 Census did not go into any more detail.

These data relate to two Collector Districts (CDs) that covered a large part of the estate: in total, some 1333 persons. Other parts of the estate were covered by a CD that also took in other 'non-estate' parts of Riverwood. The data were compiled by National Social Sciences Data Archive (NSSDA, 2007).
Meanwhile, over the road, the rest of Riverwood quietly became one of an expansive band of in-filled middle Sydney suburbs. There are no aggregated Census data for the suburb of Riverwood available prior to the 2001 Census, so it is not possible to present the same sort of view into the details of its population as I have done for the estate. It is clear, however, that Riverwood and the neighbouring suburbs were built up predominantly on the basis of working class homeownership, considerably assisted by the Housing Commission, which built and sold hundreds of houses throughout Riverwood, Peakhurst, Punchbowl and Narwee. After the early 1970s, when the in-filling was completed, there was little further residential development in the area for the next two decades. Over that time, the area’s original working class homeowners paid off their housing and many stayed long-term. According to one Housing NSW officer, H17, homeowners buying into Riverwood found, at least until recently, that ‘the quality of the housing has been enough to tart it up inside’, and investors bided their time (H17 interview).

After the ‘Golden Age’

The Riverwood estate’s towers were completed as two international ‘golden ages’ – those of the Fordist-Keynesian economies and of social housing – were ending. Through the 1970s and beyond, the shifts both in the economy and in public housing policy that we reviewed in Chapter 5 reverberated through the Riverwood estate. Coincidentally, from this time onwards the Riverwood estate appears as a discrete population in the Census data, recording three decades of significant change on the estate. Since the 1976 Census, the Riverwood estate has been covered by a set of CDs that cover all of the estate and very little else. At the 2006 Census, these CDs were 1350101, 1350102, 1350108, 1350111, 1350112 and 1350113. The codes and some of the boundaries of these CDs have changed from time to time, but taken as a set they are compatible for comparisons. Data from the 1976, 1981 and 1991 Censuses were compiled for the present thesis by the NSSDA and compatibility for comparison was confirmed by the NSSDA and the ABS Geography section. Data from the 1986 Census were not available.
The estate at the Census, 1976-2006

From the mid-1970s the estate’s relationship with the labour force changed dramatically. First unemployment rose; then non-participation in the labour force rose and became entrenched.

Figure 8.1. Labour, Riverwood estate, 1976-2006.

![Labour Force Participation](chart.png)

(Source: NSSDA, 2007)

This change can be seen, in part, as a matter of the declining fortunes of residents who stayed in Riverwood: those who lost their jobs, and then did not find other jobs in the new post-Fordist economy. It is also, in part, a matter of working households leaving the Riverwood estate, to be replaced by new and different residents. This latter part of the explanation for the estate’s change is probably the more important part, considering other concurrent changes that were occurring on the estate. Through to the 1990s, the estate housed large and increasing numbers of single persons, younger than the Age Pension age, and many more than previously were males.
Figure 8.2. Household type\textsuperscript{109}, Riverwood estate.

![Graph showing household types from 1976 to 2006.]

(Source: NSSDA, 2007)

Figure 8.3. Age, Riverwood estate 1976-2006.

![Graph showing age distribution from 1976 to 2006.]

(Source: NSSDA, 2007)

\textsuperscript{109} I have taken the 1976 family types 'head and children only' and 'head, other adults and children' to be equivalent to 'one parent families'; and 'head, spouse and children' and 'head, spouse, other adults and children' to be equivalent to 'couple family with children.' I have done the same with 1981 family types (which differ from the 1976 family types in that they refer to 'dependents' rather than 'children').
These changes in the population of the estate strongly reflected changes in public housing policy in the period, particularly the introduction of market rents, the tightening of eligibility, and the extension of eligibility to single non-aged persons and the prioritisation of persons in crisis. The effect of these policy changes on the Riverwood estate, however, was also shaped by the way they combined with other more specific factors. In particular, the effect of the new eligibility criteria was accentuated by the unusually large number of bedsits on the Riverwood estate, which were the most obvious properties in which to house single non-aged persons. As one Housing NSW officer, H17, recalled, ‘all of a sudden our bedsits, our sleepy hideaways based on aged pensioners… became a hive of activity of a whole different range of social problems’ (H17 interview). The decline of the boarding house sector in the inner suburbs of Sydney through the 1980s and 1990s particularly affected the Riverwood estate when ‘we had a flood there… a flood of people coming out here basically homeless’ (H17 interview).

The estate’s new residents also came from a greater diversity of ethnic backgrounds. Over the 1980s and 1990s, as the number of residents born in Australia or the United Kingdom declined, a few other backgrounds began to figure strongly.
At least at first glance, the Riverwood estate's changing ethnic profile has reflected developments in Australian immigration policy generally and settlement patterns in southwest Sydney specifically. From the 1970s, the population of the estate began to reflect the migration, in the 1950s and 1960s, of persons from central and southern Europe; from the 1980s, the estate began to reflect very strongly the expansion of Lebanese immigration, which began in the 1970s. In contrast to earlier Lebanese migrants, many of these migrants settled in and around the nearby suburb of Lakemba, and many were Muslims (Collins, et al, 2000: 96-98). Later, from the 1990s, the population of the estate also began to reflect increased Asian immigration to Australia: in particular, the growing number of Chinese tenants on the estate is associated with the growth of the large Chinese community at Hurstville.

When the ethnic profile of the Riverwood estate is considered more closely, however, broader immigration patterns do not alone account for all of the change. It appears that changes in public housing eligibility have combined with particular labour market dynamics and other local factors to concentrate certain ethnic groups – especially the Lebanese – on the estate. Since at least the early 1980s, unemployment rates amongst Lebanese persons have been three to five times higher than those of the Australian population generally, and
those who work are more often employed in blue-collar jobs than are Australian-born and other overseas-born persons (Collins, et al, 2000: 109-110).

Riverwood now: the estate, the suburb and the State at the 2006 Census

From the vantage point of the present, the Riverwood estate is very different from what it used to be. It has also changed to the extent that it very different from the rest of the suburb of Riverwood and the wider population of New South Wales.110

To bring the sketch of the development of the suburb of Riverwood up to date: the spartan accommodations of the Herne Bay community housing centre had been located at the semi-rural edge of Sydney; now Riverwood is consolidated in the suburban middle of the metropolis. The most recent period of Riverwood’s history – since the mid-1990s or so – has been one of the suburb ‘reinventing itself quite dramatically’ (H17, interview). Thirty years since the suburb was first built up by the Housing Commission and working class homeowners, Riverwood began to reinvent itself particularly through Sydney’s housing boom of the late 1990s and early 2000s. No longer content just to renovate the interiors of their houses, some Riverwood homeowners switched to what H17 called ‘the Masterton scenario’, demolishing older houses and building new, larger residences (H17 interview). The redevelopment has been most dramatic on the southern side of the railway line, near the shopping centre, where several new apartment blocks were built. Not only has the housing changed, but the public domain has been reinvented too, with the new mall and improvements to the shopping centre in the late 1990s, and renovations to Riverwood railway station early this century.

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110 Data from the 2006 Census for Riverwood CDs has been aggregated by the ABS as ‘Riverwood State Suburb’ (SCC 11855). Data for ‘the rest of Riverwood’, or ‘Riverwood (non-estate)’, was derived by me by subtracting the six estate CDs from the ABS’s Basic Community Profile for Riverwood SSC.
As well as Riverwood being a 'middle suburb' geographically, the 'non-estate' parts of Riverwood are now, in economic terms, very much 'middle Australia', or at least middle New South Wales. By contrast, almost everyone who now lives at the Riverwood estate knows poverty and disadvantage at close hand. Figures 8.6-8.8 show data from the 2006 Census as to the employment and household incomes of the Riverwood estate, the rest of Riverwood and all of New South Wales.\(^{111}\)

\(^{111}\) I did not include incomes in earlier figures relating to the Riverwood estate because the Census incomes data do not use a consistent scale of incomes and are not readily comparable from Census to Census.
Figure 8.6. Labour, Riverwood estate, Riverwood (non-estate) and NSW, 2006.

(Source: ABS, 2007a, 2007b and 2007c)

Figure 8.7. Household income (per week), Riverwood estate, Riverwood (non-estate) and NSW, 2006.

(Source: ABS, 2007a, 2007b and 2007c)
The 'middleness' of the rest of Riverwood is also evident in data relating to housing tenure: the rate of homeownership in the rest of Riverwood is almost the same as the rate for all of New South Wales (62.8 per cent compared with 64.1 per cent, respectively), and the rate of outright homeownership is a little higher for non-estate Riverwood than for New South Wales (43.4 per cent compared with 41.1 per cent).

The very low household incomes on the Riverwood estate reflect not just the low level of participation in paid work by residents, but also the high proportion of lone person households on the estate, as figure 5.8 shows. This was in itself a concern for a number of tenants, who referred to the insecurity of being on their own (T33, tenants focus group 5; T40 interview).

![Figure 8.8. Household type, Riverwood estate, Riverwood (non-estate) and NSW, 2006.](image)

(Source: ABS, 2007a, 2007b and 2007c)

In addition, workers from both Housing NSW and the RCC emphasised how on the estate – particularly among the residents of the bedsits – there is a concentration of factors of disadvantage not recorded in the Census: mental illnesses, acquired brain injuries, intellectual disabilities, alcoholism and drug addiction, and histories of imprisonment. ‘We have

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disadvantaged people, and *a lot* of people who aren’t well’ (C18, interview, original emphasis).

In one respect, ‘non-estate’ Riverwood is more like the estate than it is like New South Wales generally: it is very strongly multicultural. At the 2001 Census, slightly more than half of the estate’s residents, and slightly less than half of those in the rest of Riverwood, were born outside Australia; at the 2006 Census, these proportions had grown further, especially in non-estate Riverwood, where the proportion of overseas-born residents increased more than 12 per cent in just five years. Figures 8.9 and 8.10 show the countries of birth and ancestries for the largest ethnic groups in Riverwood in 2006.

*Figure 8.9. Country of birth, Riverwood estate, Riverwood (non-estate) and NSW, 2006.*

(Source: ABS, 2007a, 2007b and 2007c)
These figures also show that when Riverwood’s multiculturalism is looked at more closely, there are significant differences between the populations of the Riverwood estate and the rest of Riverwood. Altogether, Riverwood has a large Asian population but, apart from the Vietnamese-born residents, relatively few of this population live on the estate. By contrast, of the Lebanese-born residents of Riverwood, two-thirds live on the estate. As the Census figures show, the proportion of estate residents who are either Lebanese-born or of Lebanese ancestry has recently declined slightly but, according to H17, the Lebanese population of the estate continues to be renewed by incoming Lebanese households, particularly encouraged by the good word of a Lebanese community leader who was housed in one of the improved units (H17 interview). C18 also observed that there was, within the Lebanese population on the estate, 'another population': young unmarried men who still lived at home with other family members (C18, interview). By contrast, many of the Chinese and Vietnamese tenants are, as participants from both the Housing NSW and RCC observed, middle-aged or elderly (community workers focus group 1).

A final point of distinction from the Census data: the Riverwood estate's distinctive mix of young and old residents. As Figure 8.11 shows, the age profile of the Riverwood estate is
quite different from those of the rest of the suburb and the general population. The estate has similar proportions of young children, much lower proportions of adults aged 20-44 years, and much higher proportions of older persons.

Figure 8.11. Age, Riverwood estate, Riverwood (non-estate) and NSW, 2006.

Because of the bedsits, the estate has always housed a large number of older persons, but some tenant participants referred to the old age of the estate’s residents as an index of change:

T25: When we first came here, it was a lot of single mums and their kids, a lot of young families, couples and their kids. Now it’s, well, the Department has gradually done it deliberately, it’s the older people. That’s why I’m still here, see, I’m an oldie [laughter]. I’ve gone from one of those ones [a young person with a family] to [an ‘oldie’] [laughter].

(T25 interview)
The change observed by T25 is really her own ageing, but she and other tenants spoke of the ageing of the estate's population as a change that had been directed by Housing NSW: that the Riverwood estate has been made deliberately a place for older persons. They observed more older persons moving onto the estate, including some from other Housing NSW accommodation. They also noted that the population of the bedsits was now younger than what it had been, but that the number of young adults housed on the estate, 'coming and going' to larger housing elsewhere as they formed families, had 'faded away' (T33, tenants focus group 5).

Narratives of Change

As well as being recorded in the Census, the changes experienced through the estate’s post-golden age period are recorded in the narratives of tenants and workers on the estate.

One of the tenants of the high-rise towers, T25, described the period from when she and her husband moved in, in 1976:

T25: These two blocks, they were beautiful. The gardens and the grounds were magnificent; the cleaners were here everyday, including Christmas Day. We nearly died our first Christmas [laughter], we said ‘what are you doing’ – he was a young fellow, he was a really nice young chap – ‘what are you doing here, you’re not working today?’ ‘Yeah, we work today.’ They cleaned the place, vacuumed it, cleaned everything everyday. Now we’re lucky if… [pause]… we have a new cleaner, he’s improving [laughter]. But the foyer was magnificent, and had gorgeous – this room, you have no idea what this room was like: carpet that thick, a beautiful wall unit, a huge painting, tables and chairs… [pause]… OK, not that different from these [indicates furniture] but very good condition – they were beautiful. We had ornaments on the wall unit – it was gorgeous. The foyer had a fountain in it, and plants and things, in that fountain area. We had what the kids used to call a fort over there – it’s been demolished – it was logs and a bridge over – the kids had a ball! We had a basketball hoop, the fountain worked, and a slippery dip, and they were looked after…. And people look at that now and say ‘you haven’t looked after your home.’…. It’s an amazing difference. I’m glad my husband’s not alive because he would be horrified now. He really would be.

(T25 interview)
For almost two decades following the opening of the towers, the administration of public housing on the Riverwood estate appeared to go into retreat. The Jefferson and Lincoln towers had had residential managers when they were first occupied, but in the early 1980s these staff were withdrawn. By the late 1980s, the local housing office on Belmore Road was also closed; the office was let to a bank, which collected tenants' rents, while the rest of the administration of the estate was conducted from Hurstville. Several participants in the fieldwork recalled this time in the history of the estate as what other researchers might call a 'tipping point' in the estate's career (Bottoms and Wiles, 1986; Bottoms, Claytor and Wiles, 1992; Skogan, 1990).
The late '70s, from '78, '79. And they [the Housing Commission] couldn’t give a damn about the place. The cleaners went off, the gardeners went off, and everything just started to run down... and that just continued and I kept in my little world.... You just saw the changes... the way the Department disregarded everything, and as a result the tenants did.

(T25 interview)

H17 recalled how, through the 1980s to the early 1990s, Housing NSW’s own information indicated that problems existed across a range of measures (H17 interview). The physical quality of the estate deteriorated, for reasons including vandalism and graffiti. Rent arrears increased, which was seen as a ‘rebuff’ by tenants who were unhappy with the condition of the estate. Complaints about annoyances caused by other tenants increased. ‘Massive’ numbers of applications were received from tenants seeking transfers off the estate. Vacated units needed more repair work, and sat vacant longer. Many applicants for public housing who were offered tenancies at Riverwood refused them:

H17: We had people who wouldn’t even pass the first phone call, once the word ‘Riverwood’ was mentioned – they wouldn’t even come and look at the place.... There was all these sort of ingredients that were making people dissatisfied, but there was also the perception: ‘my god, there’s more crime happening here.’ Every week in the local papers – not so much the Telegraph and that, but the Leader and the Torch and papers like that – if something had happened, a car chase or whatever, ‘Riverwood’ would be word that would go in there. So there was a negativity about the housing estate.

(H17 interview)

This negativity has, according to many participants in the fieldwork, persisted ever since, at least in the perceptions of outsiders to the estate. To the general agreement of others in the focus group, T16 said, ‘there’s a stigma attached to this area, in a sense, if not by the people in it, then by the people outside’ (tenants focus group 3). However, participants’ own experiences and perceptions of the most recent period of the Riverwood estate’s history – from around the mid-1990s through to the present day – were more complex, with residents and workers describing it through narratives both of positive reinvention, and of decline.
The narrative of reinvention

For many participants, the recent reinvention of Riverwood is another tipping point in the history of the estate, this time for the better. As the wider suburb has been reinvented, so has the estate, albeit by developments peculiar to it. In 1995, the estate became one of the first in the State to undergo a formal program of public housing 'renewal.' First the local office returned with a new tenancy management team and a brief to develop a master plan for the renewal of the estate. This was carried out under the Neighbourhood Improvement Program (NIP), and subsequently the Community Renewal Strategy (CRS) and the Accelerated Improvement Program, as noted in Chapter 5. These programs did not build any additional housing on the estate, but made significant alterations to the interiors and exteriors of many of the units, including the conversion of some bedsits to one-bedroom units, the addition of balconies to some of the walk-up units, new kitchens and bathrooms, and new fences and boundaries around the blocks to create individual yards for some ground floor units. These projects were conducted in consultation with residents, which entailed the development of new structures of community organisation on the estate, such as the Estate Advisory Board and Area Meetings and which have continued since. More recently, Canterbury City Council has also made improvements to the public spaces adjoining the estate, most notably the banks of the northern arm of Salt Pan Creek, which have been landscaped into a 'wetland'.

H17, who recalled the measure of the problems at the estate in the early 1990s, also observed a turn for the better through Riverwood's period of reinvention. Accepting that dissatisfaction with properties and disputes between neighbours still arose, this officer considered that since the improvements, 'there's very few people demanding to leave the estate because of unrest.... There isn't the flood of that sort of people wanting to leave because Riverwood is a bad place to live' (H17 interview). H12 said that rent arrears had declined by a 'staggering' amount, which he associated with tenants and Housing NSW 'coming together' in the renewal process (H12 interview).
Many tenants spoke positively of the improvements to the physical condition of their units and the grounds of the estate, and about the amenity of the wider suburb: 'It's very handy to the shops, the library, buses, trains. It's got Woolworths [...] it's got the works. It's like being in the city' (T32, tenants focus group 5). Generally speaking, the tenants I spoke to repaid Riverwood's amenity with feelings of familiarity and loyalty. A number of tenants applied what might be called the 'Lotto test': if they won the lottery, they said, they might move out of public housing but they would still live in Riverwood (T33 and T35, tenants focus group 5).

Tenants were also positive about community relations on the estate. As T5 put it, 'I think it is a very bonded community' (tenants focus group 1), and the rest of the participants in the focus group agreed. Workers also mentioned positively the strong sense of community on the estate. A police officer, P3, observed that 'there's a certain type of tenant that's down
there. I've noticed that there's a core group that's organised meetings and have a very keen interest.... They've got a very keen interest and pride in the area they live, and they push it as well' (P3, police focus group). H17, who spoke proudly of Housing NSW's own work in improving its physical assets on the estate, considered that 'really the biggest asset here is that it is a traditional community' (H17 interview). Tenants returned the compliment, observing a 'turnaround' in the quality of their relations with the Housing NSW:

T25: You know, there's been a weird turnaround.... From the beginning, we didn't have a great deal of communication with the Department, but everything was fair and above board, sort of thing. Then it went into 'them and us', and now it's coming together.

(T25 interview)

Riverwood's multiculturalism, both on the estate and in the wider suburb, is also part of this positive narrative. The primary reference point of the reinvention narrative - the changes in Riverwood's physical fabric - is associated directly with the suburb's ethnic change. In particular, the new blocks of privately-owned flats on the southern, 'Hurstville' side of Riverwood are associated with the growing Asian population (C2, community workers focus group 1; H17, interview; T6, tenants focus group 1). Even the older blocks of flats on the estate were viewed more favourably in this light: as H17 put it, 'see, the Asian community is very happy to live in this style of housing. They're not paranoid about having the quarter-acre block; they love this, they love the high-rise' (H17 interview). The shops in the shopping centre also reflect the growing and 'very business-orientated' Arabic and Asian communities, as H17 illustrated by taking an imaginary trip down Riverwood's shopping strip:

H17: Go and canvass the shopping centre. Go and stick your head into the newsagent's - 'oh, an Asian lady.' The bread shop - 'oh, an Asian couple'.... Across the road there used to be a photo shop - Asian couple. There's a fruit-and-veg-cum-whatsie store - Arabic. Arabic. Another food whatsie - Middle Eastern. There's this swell of business activity that's reflecting the culture injection that's happening in the Riverwood estate alone.

(H17 interview)
For H17 and most other workers, and for many tenants, the multicultural reinvention of Riverwood and the estate was something about which to feel positive and even proud. Similarly, a number of participants considered the development of community organisation on the estate as a success for multiculturalism. As Housing NSW’s relations with the population of the estate were felt to have improved, so, in a similar spirit, had relations between tenants of different ethnic backgrounds, particularly through the growing involvement of the Lebanese tenants in the Riverwood festival and other community events (H17 interview; C18 interview; T25 interview).

From the perspective of this optimistic, upward-tending narrative, even the low incomes and disadvantage of the estate appear in a better light. With an eye to the amenity of Riverwood and the resources of the RCC, some tenants even considered themselves ‘extremely lucky’:

T4: Yes, we’ve got a lot more here than other places have got.

T6: We are extremely lucky here, with the set up we have. The work of that community centre and the marvellous programs that exist down there. And occasionally a new one will come along and that program, you will find, has a better chance of achieving what it sets out to do, because of what T5 said earlier: the bonding of the community as a whole. And all of us gets behind those programs.

(Tenants focus group 1)

For the estate’s older residents, Riverwood was an attractive and encouraging place. As one tenant said, noting the senior citizens groups and other activities for socialising organised by the RCC, ‘we possibly notice the ageing population more because people who are aged do a lot more now’ (T5, tenants focus group 1, original emphasis). Similarly, ‘there’s a lot more people in wheelchairs that you see around the place’, because persons with disabilities are relatively well-served by the Riverwood accessible train station and shops. As one tenant with a disability said, ‘it’s factors like that that bring people either in, or back, to Riverwood’ (T5, tenants focus group 1).

Most of the younger residents, too, said that Riverwood was ‘a good place... it’s alright’ (T28 interview). Again like many of the older tenants, the younger residents acknowledged the
estate's adversity and drew pride from it. 'It's an alright place,' said one young resident, 'the people around here, they're alright. They're pretty down-to-earth and stuff. They don't go acting all rich, 'cos they're not' (T30 interview). Another younger resident, T31, compared Riverwood with neighbouring Narwee and Peakhurst and described Riverwood, with deliberate ambivalence, as 'a lively place.... Everything happens here! There's never a dull moment!' (T31 interview).

The 'reinvented' Riverwood estate of the present-day also addresses the estate's longer history in what is, perhaps, a surprisingly positive way. This is not to deny how bad things had been – on the contrary, the bad times are foundational part of the reinvention narrative – but rather to claim strength from those bad times. The estate's strong community feeling claims to have roots that reach back into Riverwood's past. As H17 saw it, the strength of the community came especially from tenants who had been there 'twenty years or so. They are actually the ones we call "the warriors": they'd already put their roots down and decided this is where they wanted to live' (H17 interview). In a similar way, the police also referred to the 'certain type' of interested tenant as one who had 'lived there thirty, forty years, from day one' (P3, police focus group).

This sense of history goes even further back. Several tenants recounted being referred to as 'from the camp', recalling the old local grievance about the Herne Bay community housing centre:

T36: Yes, this is going back a bit, but I've got some good stories in that way. This particular one is about a lady I knew from the Riverwood Legion Club - I used to bowl there quite a bit - and I knew the lady quite well, we used to talk and say hello. Anyway, one day I was in Woolworths and she says, 'what are you doing down here?' and I said 'what do you mean?' And she said, 'you don't live over here, you live over there in the paddock!' They used to call it the paddock, years ago -

T33: Or the camp....

T36: Well, I was horribly offended [laughter] and I said, 'as far as I know anyone who lives in this area is free to shop at Woolworths. I didn't know that there were barriers.'

(Tenants focus group 5)
This was, as T36 said, 'a good story', about the foolish, out-of-date snobbery of outsiders, and about a tenant standing up for herself and the estate. In the interviews and focus groups, all the tenants who referred to Herne Bay did so at least wryly, and most did so with some pride or affection for their association with a place remembered as being so tough. H17 suggested that the publication of a local history of Herne Bay and Riverwood, Madden’s 

_Hersea Bay_ (2001), which I cited in the historical account above, had contributed to this feeling (H17 interview). The officer observed how tenants 'protect' the history of Riverwood and the estate, such as by resisting a change, proposed as part of the renewal process, from use of the word 'estate.' Even the estate’s most conspicuous physical legacy, the 'dreadful' Jefferson and Lincoln high-rise towers (T25 interview, original irony), are defended. During the fieldwork, tenants and workers on the estate celebrated, in October 2006, the thirtieth anniversary of the completion of the towers with a community lunch, an historical display and the publication of a brief history of the towers (Breakspear, 2006). More than protecting the history of the estate, tenants also use its history to protect themselves and their sense of place in Riverwood now.


(The author, 2006)
The narrative of decline

There were, however, numerous participants who looked back over the recent history of the estate and saw not a reinvention but a continuation of a depressing downward trajectory.

T11: I've been here for 30 years or something, and it certainly has changed in that time, but then again I suppose most places would change in 30 years. But the place has gone down.
CM: It's gone down?
T11: I would say so. It's gone downhill.
T10: At the moment it has.
T11: It has gone downhill.
T10: We have seen better days.
(Tenants focus group 2)

T14: It's deteriorated, T9.
T9: Slowly, it's come to what it is now. And I can see it going worse.
T12: Of course it's going to get worse.
(Tenants focus group 2)

The estate's narrative of decline is strikingly divergent from its narrative of reinvention, but it addresses the same things. The transformation of Riverwood's physical fabric, which otherwise exemplifies 'reinvention', is also told as a story of, variously, loss or missing out. In one focus group, T17 and T19 reflected nostalgically on the 'beautiful homes pulled down and units gone up', but also that there was 'not so much [redevelopment] this side' of the railway line (tenants focus group 3). Not only do the new houses and flats confirm, in a very visible, concrete way, the inevitable distancing of Riverwood's past, they also stand as a sign of the increasing social distance between the estate and the rest of Riverwood.

Some of the Housing NSW officers expressed similar disappointments about the estate. H17 regretted that, despite Housing NSW's investment in renewing the physical fabric of the estate, 'when you look at the physical placement of the housing and the streets, they enter
from an area that is still looking like it is public housing.... We haven't had any [private sector] development to encompass us’ (H17 interview). Even after the renewal work, said H3, ‘it’s just... [pause]... a rabbit warren. And it’s old. I know most estates are old. It is old (housing officers focus group 1, original emphasis). H10 admitted that the Riverwood estate ‘drags down the area’ (housing officers focus group 2).

Tenants too thought that things were ‘a bit sad’ on the northern, ‘Canterbury’ side of Riverwood, where the estate is located. Here the businesses are older, smaller, and struggling to survive on the custom of the estate.

T17: Seven or eight hairdressers –
T16: Chemist shops! There’s four on this side of the line! Doctors! We’re a very sick community! [laughter]
T17: I just find it... [pause]... yeah, it’s just a bit sad, this side, I feel. Whenever we look at the shops: ‘oh, there’s another one for lease.’

(Tenants focus group 3)

In these sorts of discussions, the popular new shopping centre on the southern side of the railway, Riverwood Plaza, was not an unqualified benefit to tenants on the estate. At the Area meetings I attended, many worried that the post office opposite the estate was preparing to move to the plaza and ‘kill this side completely’ (T35, tenants focus group 5).

For some participants, the effects of the estate’s economic decline went deeper and were more personal. T25, reflecting on the distinctive fabric of the estate, observed that ‘it makes it obvious, the different types of housing, but I don’t think it’s so much the look of the place as character (T25 interview, original emphasis). T36 detected, across a variety of signs of difference, ‘a different attitude’ outside the estate, as she recalled life as a tenant in the private rental market:

T36: It was a different attitude: they [private tenants] were proud of where they lived, they were proud of their gardens, they were proud of how the garbage was put out, they would have their car washed. It’s a whole different world out there, as a private tenant.

(Tenants focus group 5)
T17 was specific: ‘it’s the work ethic. There’s no work ethic, really’ (tenants focus group 3). Similarly, one of the Housing NSW officers worried about a ‘culture’ on the estate of not working:

H12: There’s a family here in their third generation of people that haven’t worked. So the father hasn’t worked back in the ’70s, and he’s been on the dole or disability pension, and then... [pause]... now we’re into another generation that’s coming along. It’s quite, quite mindboggling. So the culture within in the families is ‘don’t go to work.’ That within itself breeds a problem.

(H12 interview)

The electorate officer spent most of her working day dealing with public housing tenants and applicants, and felt that ‘the majority of the people on the estate [...] feel very isolated.’ This isolation was the product of individual routines that were restricted by poverty:

E1: It [the Riverwood estate] is really like a little world on its own, because the majority of people who live here wouldn’t be going into Sydney, or much out of their area at all. One: because they couldn’t afford to; and two: because unless they’re working, and a lot of them aren’t, they’ve got no reason to go anywhere.

(E1 interview)

The narrative of decline also implicates Riverwood’s ethnic change and multiculturalism. A number of tenant participants were troubled by what ethnic diversity meant for the estate as a place. They were, at least to begin with, guarded in their criticisms – ‘I can’t say anything, I’ll be getting blamed for being racist’ (T22, tenants focus group 4) – a comment that itself implicitly invokes a sense of decline from a simpler past to today’s complex and oppressive sensitivities. The electorate officer who observed the ‘isolation’ of tenants described it primarily as an economic phenomenon, but also suggested that it was aggravated by the estate’s diversity of ethnicities:
E1: People are scared to get to know other people of a different ethnic group. You've got a lot of people who have lived in one area for a long time, especially the older Australian generation, and suddenly there might be a young Lebanese woman – especially if it’s a Muslim family next door to them – and they have no idea how to approach these people and how to talk to them – and vice versa. So you get neighbours who don’t even talk to each other anymore.

(E1 interview)

On this participant’s view, the problems of economic isolation and ethnic division compounded upon one another: not only did tenants of different ethnicities prefer to ‘stick to their own people’, but poverty meant there was ‘fear – a lot of the time – and lack of education, and maybe lack of opportunity as well’ (E1 interview). Significantly, this compounded sense of isolation also involved the estate appearing to lose something it once had, the electorate officer recalling how ‘30 or 40 years ago, everybody knew everybody in your street, no matter where you lived, and everybody was connected to each other’ (E1 interview).

Finally, there is also a decline perceived across the estate’s generational division, with some of the older tenants unimpressed by ‘the quality of youth today’:

T6: It seems to me, the quality of youth today are not being taught the respect that we who are older were trained to do. It’s a break down in the overall society.

T5: I think that’s right.

T6: Where the common courtesies that us elderly people were trained in our own infancy, to always respect age – it no longer exists.

(Tenants focus group 1)

This is not, of course, a complaint that is unique to the estate, and for the tenants who made the complaint the sense of decline was a society-wide one. It was, however, felt strongly on the estate, where so many of the tenants are older persons, and where the risks posed by young persons were compounded by their also being poor and ethnically diverse.
A Sense of Place

For all the change that it has experienced and that has gone on around it, the Riverwood estate has maintained its physical location. Its ‘sense of place’, however, is in tension. In this final section of the Chapter, I will consider how the estate today is claimed to be a part of the social landscape in which it is physically located and, conversely, how the estate appears ‘out of place’ and relocated in an imaginary geography of poverty.

Participants themselves spoke of the estate’s distinct sense of place. As E1, the local Member of Parliament’s electorate officer, said, the Riverwood estate is ‘really like a little world on its own’ (E1, interview). CS, a worker at the RCC, said ‘there is definitely a clear identity’, and referred to the young persons on the estate with whom he worked:

C5: Often the boys will say, ‘oh they live on the other side of Riverwood’ or ‘we’re from this side of Riverwood’, things like that. If they pick it up and recognise it, just about everybody else certainly would.

(Community workers focus group 1)

Most of all, tenants themselves observed Riverwood’s ‘great divide’ (T19, tenants focus group 3) or ‘big division’ (T25 interview):

T25: There seems to be a lot of separation. You’re either in the estate or you’re outside the estate [laughter]. Oh I mean there are people that I know outside, you know, who will talk to me in the street and whatnot… [pause]… but there is a big division.

(T25 interview)

T25 added, on reflection, ‘it’s not animosity or anything; it’s just a division’ (T25, interview).

From all of the fieldwork, it is clear that the division is not a matter of mere animosity – although this is one element in it. In adopting this equivocal tone, T25 was speaking to the multiple, ambivalent themes of Riverwood’s ‘big division.’

When I asked in the focus groups and interviews about what sort of place is Riverwood now?, most participants – tenants and workers – answered first in terms of physical location,
amenity and proximity and, in these terms, Riverwood is a good place. Many participants emphasised how the estate itself fits in well with Riverwood. This was because of the estate’s amenities and resources, such as the creek-side park and, especially, the RCC and the numerous social services it operates for the whole community. It was also because of the sense of community on the estate. This view of the Riverwood estate, with tight bonds and deep roots, locates it among the many traditional communities of interested residents in the middle suburbs of Sydney.

Nevertheless, the Riverwood estate is apt to be imaginatively 'relocated' from its place in middle Sydney to other, imagined geographies. The public housing system is one such geography. In the focus groups and interviews, tenants and workers talked about the Riverwood estate with reference to the inner-city public housing estates of Waterloo and Redfern, outer-suburban Green Valley, Campbelltown, Macquarie Fields, Airds, Claymore and Minto, and regional Dubbo, Windale and Wollongong. Each of these places was invoked to illustrate a point about the Riverwood estate, as it currently is or might be:

T37: I think we're all worried that something could happen here like what happened at Macquarie Fields. 112
T33: No, I'm not.
T36: I don't think it could happen here.
T37: I s'pose they thought that too.
T35: I don't know.
(Tenants focus group 5)

In this imaginary geography, there are yet other spaces that are contiguous with the estate. Invoking the familiar metaphor of the ‘revolving door’, C2 envisaged the space on the other side of the ‘door’ to the estate:

112 In February 2005, two young persons from the Macquarie Fields public housing estate in western Sydney were killed in a car crash while being chased by police. A third young person escaped the crash and hid. As residents of the estate grieved and police hunted for the third person, both groups confronted one another in what became a much-publicised 'riot'.

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C2: You get kind of a revolving door and sometimes you don’t see someone for a while and then they’re back and they’re at a different address. To me they’ve been away somewhere – I don’t know where that somewhere is – and then they’ve come back.

(Community workers focus group 1)

This vague realm (‘somewhere’) might operate inscrutably in individual cases, but the estate is tied to it closely as its subjects pass back and forward between each. C18 was more specific, remarking particularly on the ‘transient nature’ of the residents of bedsits and how ‘they come in and out of gaol, or they come in and out of rehab’ (C18 interview).

The Riverwood estate’s location in this geography of poverty offers some consolations and grounds for defence, as well as posing threats and worries. Alongside other public housing estates, the Riverwood estate compared favourably. T17 claimed that ‘in Housing Department areas, Riverwood is up there’, and recalled a visit to Riverwood by public housing tenants of other estates: ‘the other Department of Housing areas, like Minto, Bonnyrigg, Coogee, all those others – Mount Druitt – all those areas think Riverwood is one of the best run Department of Housing areas’ (tenants focus group 3). P2 also noted the Riverwood estate’s ‘unusual’ pride, saying ‘you want to compare it to, like, Claymore, or Airds, there’s a lot of community pride there [in Riverwood]’ (P2, police focus group). Many tenants referred to the stigmatic image of ‘bad Riverwood’ – as a pretext for the strong defence of Riverwood and, especially, the estate:

T9: Everyone tells me, ‘ah, you don’t want to live in Riverwood because, mate, it’s dull.’ But it’s beautiful.

(Tenants focus group 2)

T5: Speaking as someone who asked the Department to be sent back to Riverwood, and people said ‘you’ve got to be joking!’ and I said, ‘no, I’m not, I’m happy to come back to Riverwood.’ And I’ve been back now for nearly three years, and I still feel good about it.

(Tenants focus group 1)
T23: You know, when you go somewhere and they go ‘what’s your address?’ and when you go ‘Riverwood’, at the beginning they say, ‘oh….’ I used to get that.

T22: Old Herne Bay!

T23: And I’d say ‘what’s that “oh” for?’ [They would say] ‘druggies and that live there.’ And I say, ‘no he doesn’t.’ And you get a lot of houses now that are bought private. You have a sort of mix, you know: renting, housing, renting…. You could buy a house in Riverwood, or a unit: half a million dollars. And I have a few friends who used to say that [Riverwood was bad], they go, ‘but Riverwood – half a million?’ And I go, ‘it [Riverwood] is not that bad.’

(Tenants focus group 4; original emphasis)

This defence of Riverwood was undertaken not just in the actual conversations recounted by tenants, but also in the recounting of them, in the focus groups and elsewhere. During the fieldwork, I attended a number of community events on the Riverwood estate at which the contributions of local persons were acknowledged and rewarded, and these persons would invoke the ‘bad Riverwood’ of others’ imaginations precisely at the same time as their esteem for and contribution to Riverwood was being recognised. In doing so, they indicated the unstable location of the Riverwood estate, flickering between amenable, community-minded middle suburbia and an imaginary geography of poverty. They also spoke to some strong themes of the estate’s sense of place: that the Riverwood estate is good and fortunate; it is vulnerable and divided from the rest of Riverwood and beyond; it must always be careful to help itself.

Histories and Present Tensions

CM: What do you think the future for Riverwood – the estate in particular – will be, looking forward?

T17: It can only be better.

T19: .... It probably will be purely a ghetto.

(Tenants focus group 3)
In this history of Riverwood's present, I have traced a number of themes of change and presented a number of moments that participants in the fieldwork referred to as tipping points in the estate's journey from the post-war 'camp' at Herne Bay to the middle suburbs of twenty-first century Sydney.

Depending on the threads one picks up, the history of the Riverwood estate may be one in which there used to be more people in work, and more money, and more social solidarity. Another history is that the Riverwood estate used to be non-cohesive, and oppressed by stigma, and that the community has rallied and become proud and cohesive and tolerant. Taken together, the histories of the Riverwood estate trace a number of the tipping points and trajectories that are in some ways contradictory. This is because these narratives are not just histories, but ways of talking about the tensions and struggles within Riverwood now.

In the next Chapter in this Part of the thesis, I will consider how these tensions and struggles are also reflected in the way the Riverwood estate talks about crime and disorder.
CHAPTER 9

RIVERWOOD ESTATE CRIME TALK

This Chapter continues the analysis of the government-housing relation at the local-level by focusing on the responses of tenants and workers on the Riverwood estate to crime and disorder, as disclosed in their ‘crime talk’. Crime talk is, as Girling, Loader and Sparks describe it, the ‘dense and digressive’ discourse of persons about problems of crime and disorder, and their government, in a particular place:

People’s talk about crime (their ‘discourse’) is dense and digressive. It slips from topic to topic, changes gear and direction. It talks in stories, instances and anecdotes but then moves to speculations, conjectures, theories. It roams to the present, to the remembered past to possible wished-for or threatening futures. It is heavy with experience and skips between abstractions. It makes sense of troubling and alarming events but also expresses confusion and uncertainty. It effects connections between people but also draws boundaries and distinctions and crystallises hostilities, suspicions and conflicts. It invokes authority and demands order, yet voices criticism and mistrust of authorities and orders. (2000: 5)

As it ‘changes gear and direction’, this discourse is informed by its speakers’ sense of place, or ‘habituation’ (Karn, 2007: 43), in generally prevailing ideas and practices about crime and disorder. In the case of the Riverwood estate, the crime talk of the tenants and workers who participated in the interviews and focus groups ranges from intensive discussion about specific events on the estate – in particular, the arrival in 2005 of a ‘gang’ on the estate – to observations on the longer-term trajectory of the estate and general theorising about the conduct of life in the contemporary world. It does so informed by a sense of place that encompasses the strong defensive attitudes and significant worries and tensions, especially about public housing, that were discussed in the previous Chapter; it also pays special attention to ideas and practices about crime and disorder as they relate to public housing.

Here I will examine the Riverwood estate’s crime particularly as it articulates with the aspects of government-housing discussed in Part 3 of the thesis: the problematic individual subject of public housing, the neighbourhood context of crime and disorder, and the landlord-tenant relationship. The purpose of analysing the Riverwood estate’s crime talk in this way is...
to show how tenants and workers construct problems of crime and disorder as local problems to be acted on through practices of government-housing, and how these constructions present demands, hazards and opportunities for Housing NSW.

I will begin, though, with the question of the incidence of crime and disorder at the Riverwood estate, primarily because it is a useful introduction to the digressive, changeable nature of local crime talk, rather than because of any absolute bearing it may have on the construction of problems of crime and disorder.

The Incidence of Crime and Disorder on the Riverwood Estate

In contrast to the population of the Riverwood estate, which was shown by the Census data presented in the previous Chapter to be so distinctive, the relative incidence of criminal offending on the Riverwood estate is, on the available evidence, rather less clear. This did not, however, stop participants in the fieldwork from holding strong, if widely varying, views about crime and disorder on the estate.

The best available quantitative data are those in the NSW Bureau of Crime Statistics and Research (BOCSAR) report, Canterbury Local Government Area Crime Report 2007 (Varshney and Price, 2008), which relate to offences reported to police in 2007 and which are presented in the form of crime maps for Canterbury LGA. On the maps, reproduced below, one can discern the Riverwood estate in the extreme bottom left corner of the LGA, near the creek.


(Varshney and Price, 2008)
Image 9.3. Hotspot map: domestic violence, Canterbury L.G.A.

Image 9.4. Hotspot map: malicious damage, Canterbury L.G.A.

(Varshney and Price, 2008)
Because the maps for 2007 are the first to be produced, they do not show any historical change in the incidence of offending on the Riverwood estate. Nor do the maps allow comparisons between the incidence of offending on the estate and the incidence of offending in the rest of the suburb of Riverwood (because, for one thing, most of the rest of the suburb is not in Canterbury LGA, but in Hurstville LGA), nor the incidence of offending in other LGAs and across New South Wales generally. This is because 'crime density' on the maps is not depicted according to a common scale, nor is it adjusted for density of population – rather, it refers to the number of offences in a spatial unit.

What the maps do show is that the Riverwood estate is the site of numerous instances of offending in each category of offence, and that relative to other sites of offending in Canterbury LGA, the density of offending on the estate is about medium for most categories; lower in some categories ('steal from person,' 'steal from motor vehicle', 'motor vehicle theft') and higher in other ('alcohol-related assaults', 'break and enter dwelling' and 'steal from dwelling'). In these terms, the Riverwood estate stands out from the areas immediately adjoining and can be called a 'hotspot', but then again, there are for each category of offence dozens of other areas in Canterbury LGA with similar crime densities. The estate's crime talk reflects, and even goes beyond, this considerable interpretative scope.

The police evidence, and feelings of safety and security

In their focus group, I asked police officers about the incidence of crime and disorder on the Riverwood estate, and they replied that levels of offences reported from the Riverwood estate were 'on a par' with those reported across the Canterbury LGA. One officer had made 'a study of the actual downloads of what the reported crime was, what the calls of assistance were', and said that in his study, 'there was nothing really there that stood out to say that either a) this is a hot-spot for it, or b) this suffers a unique type of crime problem' (P3, police focus group).

In the focus groups and interviews, most of the other participants also expressed the view that the estate was as safe and secure as the surrounding area, if not more so; indeed this was a prominent theme in their crime talk. H17 said that 'crime-wise, I'd have to say there's less crime here than there is outside' (H17 interview). In the tenants' focus groups, the most
common — but not unanimous — response to the question of the incidence of crime and disorder was that the Riverwood estate is ‘alright.’

T22: I haven’t had a lot of trouble. Even my old neighbour that lived here, A, she used to say, ‘well, we can honestly say we feel safe, as far as security goes.’ She always used to say that. And she still lives at Narwee now.

T23: Well, as I said, I’ve been here nearly 15 years, and touch wood so far.

T20: Yeah, no troubles.

T23: Me personally, I haven’t had any.

T22: I think it’s alright.

(Tenants focus group 4)

T33: I feel safe here on the estate. Even at night, once I get down here to the estate, I feel quite safe.

T36: Yes I do too. I’ve never been bothered on the estate, never.

(Tenants focus group 5)

A number of participants supported this impression by referring expressly to information from the police:

T25: When you look at the stats for the area, the estate is not bad, not bad at all with crime. I mean you look at it and you think ‘oh gawd, that’s …[pause]…’; but when you compare it to the whole [local government area], it’s not bad at all.

(T25 interview)

P3 explained: ‘when I go down there and explain to them about the crime rates, I show them there’s a lower crime rate in Riverwood than what some areas are. And they’ll even support that: they’ll say “well, our premiums are lower”’ (police focus group). The forum for this exchange is the Riverwood estate’s EAB, which is convened monthly by the community centre and the members of which include tenant representatives, Housing NSW and Campsie Police, the last of whom provides an oral report on offending on the estate, occasionally including a presentation of police statistics. These statistics, such as they are, do
not, however, represent a sufficient base of evidence for any firm conclusions about the incidence of offending on the estate.\textsuperscript{113}

The feeling on the estate of relative safety and security has only weak foundations in actual measurements of the incidence of crime and disorder; it does have, however, much stronger foundations in the estate's sense of place. The idea that the estate's crime rates are equivalent to or lower than the surrounding area is plausible to an extent but, more importantly, it is strategically appropriate to that strong sense, detailed in the previous Chapter, of the estate being a tightly bonded, well resourced, interested community – and one that surprised outsiders by being the opposite of their negative expectations.

As I also discussed in the previous Chapter, this sense of place is subject to considerable tension and contention. Crime talk on the Riverwood estate is also stocked sufficiently with other more troubling experiences and stories about crime and disorder that these accounts can be availed of to support those more anxious interpretations of the Riverwood estate's historical trajectories and contemporary place in the world.

\textit{The Housing NSW evidence, and worrying about crime and disorder}

Aside from the police and their data as to offences reported on the Riverwood estate, there is another authority at Riverwood that compiles evidence as to the incidence of crime and disorder on the estate. Since the start of 2000, the Riverwood office of Housing NSW has kept a register of complaints made to the office by tenants about other tenants' misconduct. Housing NSW made the register available to me for the purpose of this thesis. It reveals a more worrying – and worried – side of life on the Riverwood estate.

I have compiled Table 9.1 to illustrate, according to several problem types, the contents of the register.\textsuperscript{114} Most of the incidents complained about are not crimes, but numerous

\textsuperscript{113} If anything, they suggest that rates of offending, on a per capita basis, are higher on the estate than for Canterbury LGA. The records of the EAB include some police figures for three months in 2004-2005 that, if extrapolated for the purposes of comparison with BOCSAR's offence data for Canterbury LGA, would appear to suggest that the Riverwood estate's rates of assault and stealing are twice those of Canterbury LGA, and the estate's rates of break and enter and malicious damage are four times higher. As I say, these data are too informal and too narrow to conclude that offence rates are higher, but neither do they support the contention that the estate's rates of offending are 'on par' or lower.
offences and serious incidents of abuse and harassment appear throughout, often in continuum with more or less minor annoyances and infractions of peace and order.

Table 9.1. Complaints to Housing NSW Riverwood office, January 2000-September 2005

<table>
<thead>
<tr>
<th>Problem type (number of complaints)</th>
<th>Examples</th>
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| Noise, nuisance and annoyance (94) | - Noise (fixing and dragging furniture, banging...) from unit above at 1, 2 o'clock in the morning.  
- Dogs in units 1 and 2 barking all the time and the owner did not pick up the mess the dog leave.  
- A neighbour above B often airs and hangs quilts, bed covers over the balcony, making B's unit very dark and dust comes into her place. Neighbour speaks Arabic - no English.  
- Complaint received over counter re kids kicking ball against wall of D's property.  
- Tenant has completed witness report stating there are a lot of teenagers hanging around causing nuisance and annoyance, namely unit 3/4 A Street. Plus other tenants in the block are dumping rubbish in F's garbage bin, as their own bins are already full.  
- Noise problem due to G having seven or eight young males drinking at his property. Also fighting, rocking throwing, police have been called numerous times. Housing NSW letter acknowledging complaint sent. J to be interviewed.  
- Noise coming from unit at all hours of day, people coming and going from unit, guests observed using syringes in common area, guests also urinating in public.  
- Tenant in 5/6 B Street has sons who are causing a lot of noise and yelling and screaming daily. Tenant claims they just visit. Tenant will be asked for information proving where they are living. |

114 To September 2005, the register comprised records of 166 separate complaints from residents of the Riverwood estate. Each record includes a short description of the conduct complained about, the premises at which the conduct took place and, in most cases, the date of the complaint and the parties involved. The register refers to a very wide range of different sorts of conduct - much wider than the criminal offences recorded in data derived from the police. The problem types in the table - 'noise, nuisance and annoyance', 'abuse and harassment', 'visitors and additional occupants', 'violence', 'property damage', 'illegal activities, including drugs and stolen goods' - are not from the register, which records complaints in an undifferentiated way; the problem types I have used are based on types of criminal offences and terms of tenants' tenancy agreements. Many complaints disclose problems of several types. The examples were selected randomly (though examples that appeared repetitive were discarded) and are as recorded in the register, except that I have de-identified all persons and addresses.
<table>
<thead>
<tr>
<th>Problem type (number of complaints)</th>
<th>Examples</th>
</tr>
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</table>
| Abuse and harassment (60)          | • Abuse coming from tenant in 7 C Street Riverwood on a daily basis.  
• Complained about children playing with the lifts and hanging around the building – has been harassed and threatened when required them to stop and leave.  
• K has taken out an AVO against L in 8 D Street, Riverwood. This has happened due to L causing nuisance and annoyance, eg harassment.  
• Tenant was robbed on [date]. Tenant is receiving abuse after seeing one of her neighbours shooting up in the common area laundry.  
• Once again people visiting M’s unit has created problems with NandA [nuisance and annoyance], this time drinking and offensive behaviour with M’s visitor from 9/10, also problems with tenant visiting from high rise. Neighbours are at their wits end with the problems this behaviour causes. |
| Visitors and additional occupants (22) | • N has decided to report an ongoing problem with his neighbour at no 11, there is a high level of people coming and going.  
• Complaint regarding additional occupants living in unit and Department not informed, also kids throwing rubbish and hanging on the clothesline.  
• Constant stream of people/drug problems/[petition] signed by all other tenants/hasn’t come for interview. |
| Violence (18)                      | • Tenant [Q] assaulted by neighbour R. R charged by police. Q pregnant had to get ambulance. [Neighbouring tenant] S handed in transfer papers.  
• Middle Eastern males coming into complex, assault has taken place. Police have been called. U to be rehoused.  
• Tenant and boyfriend domestic violence/police called.  
• V stated problems with W in unit 12 drinking, fighting and noise throughout the night, stated this has been reported to Office many many times and no action.  
• Unauthorised additional occupant causing NandA [nuisance and annoyance] which is affecting quiet enjoyment of other people in complex. Physical violence involved. |
| Property damage (16)               | • Front door lock vandalised with super glue.  
• Interview X regarding daughter’s out-of-control party and common area stairwell damage.  
• Complaint from Y (unit 13) that tenant’s kids are lighting fires in hallway. |
| ‘Illegal activities’, including drugs, stolen goods (15) | • General complaints from many tenants from this address. Team Leader aware. Drug dealing, problems with noise, young men burning rubbish and letting off fireworks late at night.  
• Middle Eastern males coming into complex at night/afternoon. Squatting in vacant units, illegal activity going on there. Z fears for his personal wellbeing. Police have been called. Threats by youths to firebomb Z’s unit. |

(Source: Housing NSW Riverwood office complaints register, 2000-2005)
As a means of measuring the incidence of crime and disorder on the estate, the register is very limited. It does not include all complaints made to Housing NSW: the Riverwood officers indicated that although it was their intention to record everything, sometimes they did not, usually because of the demands of other work, and the register itself reveals periods of weeks or months in which there were no complaints recorded. It is not really reliable, then, for measuring the total number of incidents of crime and disorder on the estate, nor for measuring changes in the number of incidents over time. One can see in the register a sketchy spatial pattern of complaints: eight buildings on the estate (not including, on account of their size, the two high-rise towers) accounted for 40 per cent of complaints recorded in the register; just two of these buildings accounted for more than 20 per cent of complaints. This sketch, however, is very partial. Moreover, the register does not show that the estate is more disorderly than elsewhere, or that any of the types of problem complained about are more prevalent on the estate than outside – there are no comparable registers for complaints about such a range of conduct in other places. However, that the register exists only in relation to the Riverwood estate – that is, public housing – is in itself significant.

What the register does show is tenants' worried attention to infractions of a very wide range of greater and lesser rules for the orderly conduct of life on the estate. This came through in the focus groups and interviews too, as tenants spoke of their worries about a range of criminal and disorderly incidents on the estate.

T17: Well, the burn-outs –
T18: The vandalism –
T17: – the vandalism, the smashed windows –
T18: – the destruction of property, be it public property, or tenants' private property.

(Tenants focus group 3)

T21: Smashing windows, wrecking gardens, emptying garbage bins on the road, furniture is dragged from one end of the block to the other –
T20: Jumping on garbage bins.
T22: Kids' stuff.
T21: burning things, lighting fires, trying to burn important things. Just general destruction.

(Tenants focus group 4)

T8: Revving the car up in the backyard, working on the car half way through the night, and having music blaring while they're at it.

T2: Noisy neighbours....

T5: Rubbish is kind of a problem; hygiene type issues....

T6: You do have a few of what are commonly referred to as 'hoons' speeding in the built-up area here, where it's quite rigidly signposted '50' and you'll still see these hoons hurtling round in their cars at breakneck speeds.

(Tenants focus group 1)

T14: Well, drugs.

T9: Drugs.

T11: Drugs

T13: Drugs.

T14: Drugs and alcohol.

T13: Any day of the week you can come down and get drugs.

(Tenants focus group 2)

T25: Well, I'm not saying there weren't any drugs around, back twenty years, but certainly you weren't aware of it, like you are today. And there wasn't the intimidation about things like there is today. I mean, my next door neighbour... [pause]..., The people that come and go, they bang on doors as they go past, they take out light fittings above your door and the place where I am, unless the light is there above my door at all times you can't see through the peep-hole and know who's there. So they take out the light fittings. They're not drastic things, but they're a worry.

(T25 interview)

Like those expressions of safety and security, these worried commentaries on crime and disorder are also significant for and, in a way, appropriate to, the estate's sense of place. We saw in the previous Chapter that there is a strong sense of the Riverwood estate being 'a little world on its own', and that this division is effected in discourse as much as it is in
demographics and other material conditions. Residents and workers on the estate retraced this division in their discourse about crime and disorder. Tenants reported on their own encounters with other residents of Riverwood across the estate’s ‘big divide’ and how crime and disorder figured in the production of the division. It was inscribed in the suburb’s spatial divisions: T17 recalled ‘I’ve heard different ones say of the estate, ‘oh, I wouldn’t walk that way of a night time’, even along Belmore Road’ (tenants focus group 3). Crime and disorder was inscribed, similarly, in Riverwood’s economic divisions: for example, the refusal by some local restaurants to deliver to the estate.

T25: Well, one of the local pizza places.... Once a year or so I decide to get myself a pizza for dinner [laughter] and I’ve been out of action for a while and I tried to ring our local pizza place and [sigh] they won’t deliver to the estate anymore.... Well I don’t blame them. The chap that I spoke to, I said, ‘but—but—but, I’ve had deliveries before!’ And he said – he started to get a bit defensive, you know, I think he thought I was having a bit of a go at him.

CM: Did he give you a reason?

T25: Yes, a good reason. They’d had a number of young fellows delivering assaulted, and just after Christmas one ended up in hospital, and he said, ‘that’s it, no more.’ Now, I can’t blame them, and I said to him, ‘well, I’m sorry for them, and I’m sorry for us.’ But I can understand it. Obviously, they’ve been there for over twenty years and it’s a private – it’s not one of the Pizza Hut-type things, it’s a private one – and they’ve been really good and they do fantastic pizzas [laughter]! And you know, as he said, he hasn’t had this happen previously. Now it’s starting to happen.

(T25 interview)

Participants effected this inscription themselves. T30 said ‘from the [railway] station along to this side, that’s trouble. On the other side, you won’t find trouble there’ (T30 interview). H8 said ‘the other side of Riverwood – that’s called upper Riverwood [laughter]’ – claimed that ‘we had a lot of clients – people from [the estate] – coming on [the other] side, and causing anti-social behaviour, such as broken windows. And being proud of where they were coming from. And putting their gang tags on’ (housing officers focus group 1).
The gang: an episode in crime talk

Many participants in the fieldwork commented on the incidence of crime and disorder on the Riverwood estate by referring to a particular set of events: that relating to a ‘gang’. (It was also recorded in the Housing NSW register: see the last the last entry in Table 9.1.) This set of events does not, on its own, establish any conclusions as to the relative incidence or likelihood of offending on the estate, but it was an important episode in crime talk on the estate, and it is useful to consider it in a little more detail.

The ‘gang’ arrived in early 2005, when two young Lebanese men – brothers with long histories of offending, who had lived on the estate as children – began again to frequent the estate with a few friends and associates from nearby Padstow. These ‘Padstow Boys’ befriended a tenant with an intellectual disability and turned his bedsit into what became known as their ‘clubhouse’ (C18 interview; T19, tenants focus group 3), which became a focus for drug dealing and drug use on the estate – ‘there were needles everywhere’ (H11, housing officers focus group 2) – and other types of disorderly conduct and criminal offending: the building was vandalised; weapons were stashed there; there was cat-calling and abusive language and, according one Housing NSW officer, a sexual assault was committed there (H10, housing officers focus group 2). Police stepped up their presence on the estate by increasing the frequency and intensity of their patrols, and tenants recalled one of these exercises ending with gang members attacking a police car (T16, T18, T19, tenants focus group 3). Then, around the middle of 2005, four units on the estate were damaged in separate instances of fire-lighting. One of the burnt units was the ‘clubhouse’, which was so damaged that all the tenants of the block were relocated and the block itself was subsequently demolished. By late 2005, the episode had passed: one of the two young men at the centre of the gang had been arrested for offences committed not on the estate, and one of their associates – as it happens, a white man aged in his 30s – was arrested for offences relating to the fires on the estate and elsewhere (P1, P2, police focus group; C18 interview).

This episode in crime talk was told to various ends. Some participants (T6, tenants focus group 1; T17, tenants focus group 3; H17 interview) told the story of the gang as a story about ‘outsiders’ disrupting the otherwise mostly safe and orderly life of the estate. As H17 described it, it was ‘an invasion’, and the invaders were ‘totally feral’:
H17: They had total disregard for any authority... No respect whatsoever for anything at all. Just total... [pause]... a total lifestyle outside all normal parameters of acceptable behaviour. So the opportunity to challenge them with common sense was... [pause]...it was ridiculous. These kids feel they're outside the law.

(H17 interview)

The main purpose of these participants was to defend the estate as a generally safe place, but in conversation this sort of narrative was apt to shift and come to address the estate's vulnerability. T6, for example, said 'there's a wild element that comes from outside the estate', but then conceded, 'I'm not trying to say that we don't have... youth here that are of the same ilk, but without those others coming from outside the estate I think the overall misbehaving [would be] very minor incidents, you know' (tenants focus group 1). The story of the gang spoke to other aspects of participants' concern for the vulnerability of the estate: T17 remarked on the role of the 'silly old fellow' in the bedsit who allowed the gang a toehold on the estate; tenants also linked the gang to the deterioration of business on the estate's side of the shopping strip (T17, T18, T19, tenants focus group 3). As well, concern for the estate's vulnerability again shaded into talk about potential threats that had always existed within the estate. As some told the story, the gang was not really made up of outsiders at all - 'the gang has been the gang that has been in Riverwood for all these years. It's all the kids who grew up [here]' (T19, tenants focus group 3).

The episode of the gang was told differently by the RCC workers and the younger residents. The community centre workers were careful to distinguish between the 'hard-core' of the Padstow boys and a 'wider circle' of young residents who had the difficult task of negotiating their own presence on the estate with that of the gang. According to C18, 'they will make comments [critical of the conduct of the Padstow Boys], but they can't have an ongoing war about it. You know, they've got to live here' (C18 interview). Some of these boys did join in the gang's misconduct to 'show off... it's their peacock behaviour' (C18 interview); and some of the young residents themselves admitted that some of their peers were 'a bit immature... and give it [the estate] a bad name' (T26 interview). Mostly, however, young persons spoke of the activities of the gang as being a threat to their safety on the estate and, more than the older residents, they recounted instances in which they were actually threatened or victimised (T27 interview; T30 interview; T31 interview).
These participants also referred to a second, less obvious series of events that occurred within the episode of the gang that was also significant in the crime talk of the estate, though few others remarked upon it and it does not appear at all in the quantitative evidence. These events were instances of alleged harassment and violence by police against young persons on the estate, and they were very significant in the crime talk of the younger residents and the community centre workers. Most of the young persons whom I interviewed complained about harassment, and several said that they themselves had been the victims of violence:

T27: They [the police] think they own the area, or something. They pull anyone over, you know, for nothing. They take down our names, harass us too, you know. Like me, I go to school and I come from school, and here and there I've been pulled over, going to school and coming from school, and when I come from school, I'm going home alright, they stopped me, they searched my bag [...]. And they say, 'show me your ID,' you know. I'm dressed in school clothes, and they think I'm going somewhere else?

(T27 interview)

T30: They [the police] just target people out of nowhere. I was just outside my house, and there was fires going on the whole day, and I was outside my house, riding my skate board, and with my mates while they were fixing the car, and there was like a riot squad — three vans just driving round Riverwood. And they pulled up, and interviewed and stuff, saying my name and that, and they said I was being a smart-arse, but I don't care what they were saying. After that they said shut up, and put my arm in a lock, and he took me around the van, and my mates walked out, and he took me behind the van, and he started to grab my hand and grab my head, and started slamming me on the fence, choking me. And I go, 'hey what are you doing? You picking on 15 year olds?' And he goes 'listen here, smart-mouth, I can bruise you in places it won't hurt' [sic]. And I go, 'go do it then', and he goes, 'I can fucking kill you if I want, too.' And he started punching me, kicking me, abusing... [pause]... like, for nothing. I did nothing.

(T30 interview)

Several RCC workers, too, were aggrieved on behalf of the younger residents. C18 complained angrily of 'people being strip-searched in our car park at 5:30 in the afternoon, having to part their buttocks, being 15 years of age... [pause]... young boys. [We have]
pictures with all scrapes up their legs from where they were thrown on the ground because they got frightened and they ran’ (C18 interview).

Across all the focus groups and interviews, police violence represented a minority concern: neither the police nor the housing officers volunteered any comments on the matter, and the few other tenants who referred to it did so to criticise the young persons for their association with the gang and the community centre for defending them. Nonetheless, the talk about police violence does reflect some familiar themes about the estate’s sense of place. For C18, police violence was associated, first, with the estate’s vulnerability: ‘it’s about them [the young persons] being Arabic, I think, in a disadvantaged community. I think those two things is colouring the way police are looking at our young people’ (C18 interview). Secondly, it was associated with stigma and division:

C18: ‘I think they [the police] just thought, ‘ah stuff it. It’s just bloody Riverwood.’
(C18 interview)

Crime talk on the Riverwood estate, then, discloses contrasting impressions of the incidence of crime and disorder on the estate: that it is as safe as, or safer than, the surrounding area; but also that crime and disorder are worrying problems, particularly where they are visible to, or involve, neighbours and other members of the public. Aside from the concern about police violence, which was controversial, this contrast does not reflect a clear division between two groups holding opposing opinions on the estate: many of the tenants who spoke of worrying incidents had also said the estate was a good place, ‘alright’ in terms of crime and safety. Instead this contrast reflects the range of feeling evoked by the estate: that is, as an amenable, vulnerable place; a place located ambivalently between historical trajectories of reinvention and decline, and between middle suburbia and those interconnected spaces of poverty, gaol-rehab-public housing.

It is in the midst of this range of feeling that Housing NSW conducts its practices of government-housing. It is to the points of connection between government-housing practice and local sensibility that I now turn.
The Individual Subject in Riverwood Estate Crime Talk

The Riverwood estate may or may not be short on crime, but its crime talk is long on the causes of crime and disorder, including how these causes are constituted in the subjectivity of individual persons. Not surprisingly, in this aspect of the estate's crime talk, public housing is a prominent, even dominating point of reference. As I showed in Chapter 4, Housing NSW's administration of eligibility generates not only the distinctive population of public housing. It also generates knowledge about its members as subjects, as well as a few very limited possibilities for trying to prevent problems arising. As the present section shows, this administration and the knowledge it produces are also part of crime talk on the Riverwood estate, particularly in its identification of certain worrying types of persons. Thinking and talking in these terms, however, led some tenants to a sharper insistence on individual responsibility, and to demands for a greater preventative use of the eligibility system, than Housing NSW can admit.

In the fieldwork, participants very readily identified types of persons who caused problems of crime and disorder on the Riverwood estate: the poor, the mentally ill persons, those addicted to drugs, young persons – and by extension, inadequate parents – and those who have offended previously and been through the prison system. All of them were made more numerous or prominent in the estate's population over the past three decades by public housing's administration of eligibility. P1 said that knowing this was necessary to understanding crime and disorder on the Riverwood estate – even if, in a remarkable non sequitur, the estate does not have an unusual incidence of offending.

P1: Essentially, to understand the issues you have in Riverwood, I think you need to have an understanding and an appreciation of what the housing estate is, down there. It's high-volume housing, which is concentrated, and the units and that are stocked with people who are -- and not being critical of any of the people who are there -- who are at the lower end of the socio-economic scale, which is unfortunate. And I think we also have a situation where probation and parole are released into that area, because of the suitable accommodation that's there in the bedsitters, and I can appreciate why that happens -- it's not much use giving a three-bedroom home to a single male person. So you have these people who require public housing, and many of them down there have other problems as well: mental issues, alcoholism, drugs, the releasees, a number of them are unemployed. Again, not being critical of the people themselves -- that just happens to be the social structure
down there, and I think you need an appreciation of that, to know what problems to expect and to know what problems are occurring down there. And the problems, the crime problems that are occurring down there are actually related to some of those factors that I’ve just mentioned to you.

CM: What are those problems?

P3: You want actual crime? Well, crime... [pause]... the reported crime from Riverwood is not – there’s nothing there that’s significant to Riverwood alone. You have house break-ins, street offences, stolen cars – it’s the same sort of volume of crime as you’d expect in any other part of Sydney. So there is nothing there that’s unique to the Riverwood housing estate.

(Police focus group)

Similarly, for H17, who thought there was less crime and disorder on the estate than outside, the question of the causes of crime and disorder turned his mind to some of the residents of the bedsits: ‘those people don’t change their behaviour pattern just because you’ve given them four walls’ (H17 interview). Other workers on the estate referred straightforwardly to an increasing incidence of problems caused by the types of persons housed by Housing NSW on the estate. E1, the electorate officer, observed, ‘there’s a hell of a lot more people with psychological problems in the community.... And... all the drug addicts’ (E1 interview).

E1: They [drug addicts] weren’t around so big then [30 years ago], or you didn’t see them then, but now they’re all in Housing and in your face. And that, combined with all the people with psychiatric problems, makes for a hell of a lot more complaints from neighbours.

(E1 interview)

C19 observed an additional factor: there is on the estate a ‘concentration of single males that’s not actually in most communities’, and this was a cause of crime and disorder (C19 interview). In common with other participants, C19 also attributed criminal offending and disorder to the ‘multiple disadvantages’ of these males:

C19: They have multiple disadvantages: alcohol and drug use – alcoholism is quite high amongst these males.... They come to the attention of the police for
drunkenness and disorderly, assault charges, I think you’ll find, and drugs. And drugs. A lot of them are recently released from gaol. They have mental illness. They have alcoholism. And they’re unemployed chronically. That impacts.

(C19 interview, original emphasis)

These explanations reflect the professional knowledge of the respective workers on the Riverwood estate, but it is a knowledge not confined to the workers. The tenant participants also identified mostly the same types of person as causing crime and disorder on the estate: the poor and unemployed; the young and inadequately parented; the mentally ill and institutionalised.115

T18: Personally, I think it [crime and disorder] stems from a lot of people together who are in the same sort of social structure – which means not a lot of money. The children and the young adults don’t really have that much to occupy their minds.

(Tenants focus group 3)

T22: It’s kids – little kids – mostly here, at the moment.
T23: It’s what T22 said.
T20: Kids misbehaving.
T21: Misconduct of the children. You ask them to do something, they go do the opposite. Meaning they haven’t got any discipline at home. Parental guidance needs to be looked at severely.
T22: [Sigh]....
T21: The next generation, mate, is gone. They’re going to be wild as.

(Tenants focus group 4)

115 I note one significant difference between workers’ and tenants’ accounts as to the types of persons who caused crime and disorder on the estate: a number of tenants referred specifically to the Lebanese as a cause of trouble (T12, tenants focus group 2; T17, T18, T19, tenants focus group 3; T22, tenants focus group 4; T29 interview). I will return to the question of the Lebanese in a subsequent section rather than pursue it here, because none of the tenants who identified the Lebanese as offending subjects went on to talk about any particular subjective quality of being Lebanese that was relevant to purported offending.
I see a lot more people with mental illness around. And... we’re not only talking about people with mental illness; we’re talking about people with an intellectual disability, who used to be housed in institutions or in group homes, and a lot of these have gone. So a lot of these people have just been given to DOH.... And a lot of people come from the prison system, which is also wrong, because again there’s not the place to have them helped. That’s a real Pandora’s box, as I see it.... A lot of these issues are causing a lot of anti-social problems.

(Tenant focus group 1)

This knowledge poses a problem for tenants: that of maintaining a sense of the estate as a normal, middle-suburban place in the face of an administration that populates it with such troubling types. They did so by switching quickly between subject positions, rather as Housing NSW’s officers did in their own encounters with the administration of eligibility, in this case from positions of incapability to sharpened personal responsibility. T5, for example, expressed sympathy for public housing’s incapable subjects, acknowledging that it was ‘not always easy’ dealing with these persons, but also that ‘I don’t think it’s easy for the particular clients we’re talking about either’:

Because they don’t really know – they don’t have people to speak for them. And they don’t know how they can always make people understand what their needs are. And I think a lot of that is adding to anti-social behaviour, because you’re having things, issues, whereby they don’t know how to communicate and they don’t understand that this is not what you do.

(Tenants focus group 1)

But then some offenders were ‘little thugs’ who deliberately set out to offend and upset their neighbours:

Well, I think a lot of people are just anti-social people. They don’t want to be anything else. I think some people deliberately set out to be anti-social because they think it’s fun.

(Tenants focus group 1)
With this switch, T5 reacted – momentarily, at least – against the tendency of workers on the estate and other more distant experts to explain crime and disorder in terms of public housing’s crime-prone subjects, and hence to inscribe these problems in their sense of the Riverwood estate as a place. These were explanations with which T5 was very ably conversant, but she also worried that explanations should not also be excuses, an anxiety that arose directly from the Riverwood estate’s ambivalent place in the world:

T5: There’s always going to be anti-social behaviour while we have the kind of society we do. So it doesn’t matter if you live at Riverwood or St Ives or Vaucluse, you’re going to have a lot of those problems. So I think we’re going to have to stop saying ‘oh this is because it’s Riverwood’, and I don’t think any of us here in this room do, but I think generally a lot of people do say ‘oh, but this is Riverwood’ and think you can excuse it.

(Tenants focus group 1)

At numerous points throughout the focus groups and interviews, tenants ‘switched’ away from factorial explanations of crime and disorder to remove excuses and assert strongly the responsibility of the subject. In doing so, they characterised crime and disorder as manifestations of selfishness, lack of care and breach of obligation, and they framed questions about responsibility, selfishness and obligation in terms of public housing, like the tenancy agreement every tenant signs:

T1: Most of the time you find when they are noisy or they’re screaming they’re under the influence or something. So who can do anything about that? They can sign something, but when they are the way they are, whatever [drug] they’re having, they don’t think of that, what they’ve signed.

T5: And a lot of them wouldn’t care anyway, I’m sure. Their attitude would be ‘oh ok, I’ve signed this, big deal, now I’m in. I’m in like Flynn.’

T4: That is very true. That is very true.

(Tenants focus group 1)

116 A wealthy suburb on Sydney’s North Shore.

117 A very wealthy harbour-side suburb in Sydney’s eastern suburbs.
Similarly, a number of tenants framed individual responsibility in terms of the affordable rents and relative security of tenure of public housing. They were concerned that these things should be appreciated and used responsibly – and if not, these things should be forfeit.

T9: When you see all these housing estates [...] They don’t appreciate Housing.
T11: They don’t appreciate it.
T9: What they’re getting for nothing!
(Tenants focus group 2)

T25: I would like to see people supported and hopefully change their ways and things work out, but if it doesn’t, quite honestly, I would like to see my next door [neighbour] – I mean, he’s not causing a problem for me, but I look at it and think, ‘why should you, you bum’ – excuse me, but he is a rotten sod, he brings in all the druggies and things, and there are families that I know, decent people who are on the waiting period for 10 years – ‘why should you be there, and they can’t get a place?’
(T25 interview)

None of these responses shows that contractualist engagements of individual responsibility actually prevent otherwise disorderly tenants from causing trouble; what they do show is the strong appeal of contractual concepts to the estate’s orderly tenants, with obvious implications for their expectations as to how Housing NSW will manage tenancies and take action against breach. This will be discussed in the section, further below, on Housing NSW’s role as a landlord as it appears in crime talk. For present purposes, it is sufficient to note that these expectations may strain against Housing NSW’s mode of ‘working with the client.’

Some tenants also took a much more robust view than Housing NSW of the possibilities for using eligibility and allocations to deal with crime and disorder. According to this view, the assessment of eligibility was understood as ‘screening’, and was an opportunity to prevent undesirable, irresponsible persons from becoming tenants. As T14 said, ‘we want a nice, peaceful area. We don’t want this criminality coming in.’
At the beginning, if you screen people properly, you can house them in nice, peaceful areas. If people are causing problems, or they look like causing problems, they’re denied housing.

Yeah.

And that’s their fault, not our fault.

According to this interpretation, Housing NSW was presently wasting an opportunity: T13, for example, was aghast to find that some old neighbours of his from private rental ‘who were on methadone, are down here now. In Housing! I don’t know how they got Housing!’ (tenants focus group 2). For some tenants who had lived in public housing for a long time, this interpretation was also backed by the memory of a different clientele of public housing, and a different mode of housing officers’ work. As T25 maintained, recalling the first days of the Riverwood towers, ‘we were vetted when we first moved in. There were certain standards.’

We had to have referees. And our referees were contacted to see if we were decent people and what we were like…. They came to our home, before we applied, to check that we were decent tenants and that the place we were living in was looked after…. Our landlords were contacted to see if we paid our rent regularly and on time, referees were checked, you know…. Yeah, there was a certain standard. And then things just went to pot, and they didn’t care who went in.

This interpretation of eligibility as a tool for screening was based on tenants’ own experiences with Housing NSW’s administration of eligibility and what it is like to offer up information about their housing need and to keep providing information about themselves to Housing NSW as part of the routine of rental rebate renewal. It was also quite at odds with the way Housing NSW actually targets and selects only the most needy, incapable, crime-prone clients, and the limited utility of its ‘housing former tenants’ policy and decisions about allocations.
Tenants' encounters with the eligibility system and its subject client led them, in their crime talk, to ideas about government-housing practice that are, in significant respects, at variance with Housing NSW's actual practice. In making this observation, I am not suggesting that Housing NSW's practices should be reformed accordingly, to place greater emphasis on contractual responsibility and to vet applications according to more rigorous standards. Rather, my point is that these responses, and the associated sense of confusion and grievance felt by tenants, are the results of an over-tight eligibility regime, and the alternately incapable/selfish subject it produces, combined with a sense of place that is defensive against stigma. The previous Chapter showed how this sensibility defended the Riverwood estate as a place for 'battlers', and even as a place of support for persons with disabilities (T5, T6, tenants focus group 1), but even this tolerant sense of place pushes back against the present eligibility system, and all its worrying implications for client subjectivity.

Crime and Disorder and the Estate's Neighbourhood

As much as crime talk on the Riverwood estate is concerned with crime and disorder at the level of the individual subject, so it is with the neighbourhood level. This is so in relation to the causes of crime and disorder. The distinctive features of the Riverwood estate — this time its physical fabric and its community relations — are said to explain a great deal about its experience of crime and disorder, even if the incidence of crime and disorder is held to be unremarkable. It is even more so in relation to what should be done about these problems. Government-housing practices of 'renewal' registered strongly in workers' and tenants' crime talk, and programs of physical renewal and community activity were crucial to that strong sense of safety and security on the estate. Talking and thinking about the neighbourhood of the estate, however, also focused some anxious attention on 'non-conformity', particularly in connection with youth, culture and ethnicity, and prompted calls for more authoritarian action in support of community standards. These responses presented hazards for the conduct of community development work and interagency partnerships on the estate, and they were negotiated with some difficulty.
Reading the estate's physical fabric

As I showed in the previous Chapter, there is a strong sense amongst workers and residents on the Riverwood estate that it is marked off from the surrounding area by two aspects: its physical appearance and its experience of crime and disorder, each aspect being identified with the other. For over a decade now, this connection has been the target of renewal programs – the NIP, the CRS – that have made major changes to the fabric of the estate and assumed a crucial place in its history. Over that time, it has also been an important area of work for the workers on the estate, especially the housing officers, for whom it has been a major preoccupation. It has also been a concern for the police, who prepared a ‘safety and security survey’ report for Housing NSW in 1999 (NSW Police, 1999), and the community centre workers, who have been involved in consultation on the renewal programs and subsequent community safety audits. All these groups of workers have developed a considerable professional knowledge of the connection between the physical environment and crime, and they continue to apply it in their talk about the estate now.

Many of the tenant participants had also lived through the physical renewal work, and just as it was important to their enjoyment of the estate generally, it was also important in their crime talk. Most were very positive about the effect of the work on crime: as T6 said, ‘it has done a great deal to eliminate that type of criminal activity that used to be a bit more heavy around the area’ (tenants focus group 1). To an extent, this sense of safety was not distinguished from the general feeling that the renewal work had delivered ‘a better quality of life’, and the pleasing fact that something promised had actually been delivered (T6, tenants focus group 1). Tenants, however, were also well-informed as to the techniques involved in CPTED, and as the renewed physical fabric of the estate became a part of their everyday routines, so too did CPTED principles and techniques become part of their crime talk.

T6: Where [prior to the renewal work] you had no security, [now] you had that security – of each individual block being fenced off. The women’s clothes drying areas became more upgraded: you came away from your old Hills Hoist stuck out in the middle of a bare block of ground at the back of your building, and through a combination of the fencing, they have come inside that fence. The incidence of clothes stealing is non-existent – or nearly enough non-existent –

T3: Not yet.
T6: You hear of the odd one or two. But not like it used to be....

T5: In the common areas the lighting's a lot better. You don't feel scared to walk out the backyard now, the light –

T6: It's so well lit it's like a Christmas tree.

T5: Well it is. Some people might even say too well lit. But speaking personally I don't care – I'd rather it be like that and at least you feel safe. And it is a deterrent: people know that they can be seen.

(Tenants focus group 1)

T38: Those wooden fences: I say they're a hiding place for the crooks. The garbage bays – I wouldn't go out at night and then come home and have to come past my garbage bay.

T35: Yes, there are a lot of cubby-holes and dark places.... It encourages crime.

(Tenants focus group 5)

I have already discussed, in Chapter 5, how an on-going, distrusting scrutiny is applied to public housing estates through housing officers, tenants and other stakeholders taking up the 'CPTED lens'. In the crime talk on the Riverwood estate, we can also see how their responses to this perspective also fold in commentary on a range of anxieties about the estate's history and present position. The bedsits, in particular, were read in such a way: H17 referred to 'that mixture of mental health issues, substance abuse, social-degradation-sort-of-image, visually that just stands out' (H17 interview), especially when contrasted with their previous 'age pensioner hideaway' image. H3 and H5 contemplated the bedsits and saw references to the estate's imagined proximity to gaol and its ex-prisoner group:

H3: I suppose it gets down to the bedsit design.... A lot of releasees actually say they feel better being in gaol, they feel safer, than in one of our bedsit complexes. Because it is a complex of 24, [each bedsit] just opens up on to each other. There's no privacy. There's nothing to it. You're on top of everybody.

H5: And there's no release.

H3: No, there's not. There is lots of other space around here, but people just don't use it, because they're fearful of the estate.

(Housing officers focus group 1)
The police, too, paid particular attention to the bedsits and told quite elaborate narratives about bored, unsupervised young persons causing trouble for the rest of the estate:

P3: You've got youths hanging around – or anyone – hanging around together in groups in communal areas, and the design of these buildings, like the bedsitters, they're all around a common courtyard, there's no security or anything, there's no control over who can congregate in there, in the courtyards. They're secluded, they're off the street, so sometimes they may become an area in which people may partake in criminal activity. And then there's the thing, they're messing the joint up, leaving a mess, boredom – burning things, boxes or bins or whatever, whatever's there – and I suppose you could directly relate that to neighbour issues. These groups of people just meandering through the whole estate and congregating, meeting up with one friend and then another, and then another, and before you know it there's five or six or them at the last courtyard they may be at, the courtyard they've happened to eventuate at.

P2: With nothing to do.

P3: With nothing to do.

(Police focus group)

Tenants were attentive to a variety of things that detracted from the appearance of orderliness – the estate's metaphorical 'broken windows'. T5 articulated this theory succinctly, stating that she was concerned about 'the condition that people... live in: you know, leaving common areas untidy or not neatly and cluttered up. And I sort of think that's anti-social, and it can lead to other things' (tenants focus group 1). T35 also saw untidiness as an expression of a lack of values, and it troubled her deeply:

T35: I don't find there's a lot of values in Riverwood estate, myself. Just looking at the garbage bay areas, looking at the recycling that's left on footpaths, rubbish everywhere, papers everywhere. Ten people can walk past a bit of litter and not pick it up. To me it came as a shock. You know, a shock to my system.

(Tenants focus group 5)
When they applied this critical scrutiny to the estate, tenants, like the workers, also read in the physical fabric of the estate other concerns about change on the estate. As T35 and others explained, the values that were absent from the estate's appearance were those that tenants had been anxious to reassert in relation to the subject of public housing: responsibility, and respect for the benefit they were receiving:

T35: I just find that there's a lack of care and a lack of... [pause]... what can I say... [pause]... I can't think of the word –

T32: 'Responsibility'?

T35: – respect for were they live. A lack of respect.

T36: Yes.

T35: I don't mean everybody. I'd say 78 per cent are like that. The other – how many per cent left – 22 per cent would be like the people in this room [attendees of the Area Meeting]. [It is] a very low percentage of people who have respect for themselves.

(Tenants focus group 5, original emphasis.)

T35's comment also speaks to another worry: that only a minority of tenants are concerned with giving proper care and attention to the appearance of the estate, and to their own conduct. This worry had wider implications for the way some participants regarded the community fabric of the estate.

_The estate's community fabric: strengths and flaws_

As I indicated in the previous Chapter, between the estate's alternate narratives of renewal and decline there was considerable variation in workers' and tenants' sense of community. In workers' and tenant's crime talk, community figured in a similarly variable way, so that where they emphasised feelings of safety and security, the estate's community was strong; and where participants worried about their vulnerability to crime and disorder, they also worried about their community being flawed and un-unified.

Thus, T5 believed that the estate was a 'bonded' community, she explained that she felt secure amongst her neighbours: 'I think people do look out for one another in Riverwood'
(tenant focus group 1). Worker participants also credited the estate’s community activity with contributing to safety, especially community activity by that ‘core group’ of tenants characterised by H17 as the ‘warriors’ and by P3 as the organisers of meetings and the pushers of tenants’ interests. P3 spoke about how these tenants were interested in addressing crime and disorder, identifying problems and following them up and said of his interactions with tenants at the EAB, ‘I was expecting fears or tales of woes but it was things like “driving down my street too fast”, “they burnt a bin last week, what’s happened with that?”’ (Police focus group).

Participants were conscious that this activity was something that had been deliberately cultivated on the estate, and that this was not the work of tenants alone, but rather that the ‘bondedness’ of the community also consisted in the partnerships that had been forged between government and non-government agencies and tenants. Many participants referred to the EAB as an important facility for the organisation of partnerships and community activity, and to one another as important and effective partners. Hence H17 acknowledged that the RCC was a ‘major player’ in the ‘connectedness’ of the estate’s community (H17 interview), and a number of housing officers referred specifically to the community centre’s work with the men from the bedsits to get them training and jobs (H10, housing officers focus group 1; H11, H12, housing officers focus group 2; H17 interview). These housing officers also spoke about their own ‘fantastic relationship’ with the police (H3, housing officers focus group 1), and the police in turn considered that they had a ‘very good’ relationship with the Housing NSW Riverwood office (P2, P3, police focus group).118 T6

118 I should note that there might have been another agency accorded a place in the community’s partnerships against crime and disorder on the estate: private security. The Riverwood estate is unusual amongst New South Wales public housing estates in that there is a private security guard present on the estate. Since the early days of the towers, Housing NSW has employed a guard from a private security company to monitor the common areas around the bases of the towers of a night, and even as the resident managers and the local office were withdrawn in the 1980s, the night security guard remained, stationed in a small office under Lincoln tower. However, in all the focus groups and interviews none of the tenants, community centre workers or police mentioned the security guard. Only a small number of housing officers mentioned the guard; the comments of H10 and H11 are indicative:

H11: [The] security guard at night – do they still have that?
H10: They do, they do. I don’t know... [pause]... I guess he’s there, and that’s a good deterrent, but I don’t think they can do a lot. (Housing officers focus group 2)

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reported that ‘through our [EAB] meetings, we have the police on side’ (tenants focus group 1), and T21 and T23 reflected on the parts played by the agencies on the estate when they spoke of the improvement in crime and disorder on the estate since the 1980s:

T23: What was responsible for the good changes, do you think? The community centre helping a lot more with kids? We don’t know. The police presence a bit more, maybe?

T21: The police presence. I think the police presence, more than anything. Because they really are here non-stop, in Riverwood....

T22: Yeah. And the community centre has had a lot of things. It’s one of the best community centres, I think, around.

T23: Yes, they have a lot of activities.

T22: They do all that, they try, and they’ve worked in to start this scheme off [the Area Meetings]. Not that too many come here... but it helped a bit.

(Tenants focus group 4)

However, not all comments on community and partnership were positive. Some tenants worried about flaws in the estate’s community fabric – particularly relating to disadvantage and ethnic diversity – that contributed to, or weakened its effectiveness against, crime and disorder. Moreover, there were tensions in the estate’s partnerships, especially between the community centre and the police, about the policing of young persons on the estate.

**Flaws in the fabric**

Tenants worried at a number of perceived flaws in the estate’s community fabric, each reflecting the history of change on the estate. Some were directly attributable to its administration as public housing: in T18’s words, ‘here, you’ve got everybody who has got a low economic standard housed together, and I think that does cause problems.... It’s unhealthy’ (tenants focus group 3, original emphasis). It was unhealthy because of a ‘group mentality’ amongst the poor (T18, tenants focus group 3); ‘those at the lower level... they’re influenced

The guard remains, but in the early 2000s, in a move that speaks to both the invisibility of the service and the range of initiatives embarked on by the estate’s community collaborations, Housing NSW, after consultation with the EAB, decided to turn over the guard’s office to use as a recycling bay.
by the other people around them’ (T16 focus group 3). This was especially so for the young (T16, T17, T18, tenants focus group 3) – a lay version of Weatherburn and Lind’s theory of delinquent-prone communities (2001). They also worried, with varying degrees of cautiousness, that the estate’s ethnic change and multiculturalism – neither directly attributable to public housing policy – may be flaws:

T17: This [crime on the estate] is not down on a particular nationality, it’s just unfortunate --
T18: They all seem to be the same!
T17: – they’re here.
(Tenants focus group 3)

In particular, T17 and T18 were referring to Lebanese persons on the estate. So did some other tenant participants: T31 said, ‘like, I’m not being racist, but it’s just the Lebanese, basically… they’ve just decided to take control of the area, know what I mean?’ (T31 interview); while T12 alleged, a little more specifically, that ‘as far as the drugs are concerned, it’s the Lebanese mob around this area that are controlling it’ (tenant focus group 2). When tenants identified the Lebanese amongst the estate’s typical offenders they spoke of ethnicity as a factor in the organisation of groups of persons involved in crime and disorder, and of multiculturalism as a factor that operated to frustrate effective community action against crime and disorder. Lebanese ethnicity was associated with a wide range of misconduct on the estate, from organised crime, particularly drug trafficking (T12); to the offending and anti-social behaviour of the gang (T16, T17, T18, 19, tenants focus group 3; T31 interview); to misuses of the estate’s buildings and spaces and the resulting disruption to the production of a symbolically orderly appearance.

T17: It’s just unfortunate. This is an estate and like we said, they’re all living in this area. So what that one [Lebanese household] does, this one copies, and this one copies. ‘We can get away with that.’ It’s a domino effect, I reckon. I’ve spoken – we’ve spoken to people, haven’t we, of that nationality. And there’s lovely people. You explain things to them and, you know, you’re telling them something, but you know it’s not 100 per cent taken in.
(Tenants focus group 3)
T22: I can't say anything, I'll be getting blamed for being racist. Other nationalities have really made things look untidy. I'm not saying all - so do a lot of Aussies. I'm not excluding that either. There's a mix. But that's the way they say they live over there.¹¹⁹

(Tenant focus group 4)

This aspect of tenants' crime talk was, like other aspects, a commentary on the estate's place in the world, but in this case it was less about its place as a public housing estate in an imagined geography of poverty, and more about its place in a much-reported ethnic crime 'crisis' - or 'moral panic' - in south-west Sydney around the turn of the century (Collins, et al, 2000), and its place in the wider panic about national values and cultural conflict since 2001 and the 'war on terror.' It was in these frames of reference, and their associated geographies, that the tenants located the estate and Lebanese crime and disorder, with T17 suggesting that the present state of tension on the estate was 'a bit like how Cronulla all started.'¹²⁰ I don't agree with the Australians and what they did - and drink was a lot involved in that - but I do agree with the principle behind it' (tenants focus group 3). T18 agreed: 'Aussies will only take so much.... We like our lifestyle' (tenants focus group 3). The 'principle behind it' was that a community should act to enforce conformity to its standards, and looking at their own community on the estate, T17 and T18 were vexed:

T17: You're probably hitting your head against a brick wall, because unfortunately, these people do not want to conform. That's the word: conform. Like, we live

¹¹⁹ T22 qualified her comment further: 'I mean, this man [indicating T24] is Lebanese, and they [T24's household] are not like that - they're lovely and tidy and clean. And... that lady who came here [to the earlier Area Meeting], she's very clean inside... [pause]... although they did put a [clothes] line up. (Tenant focus group 4)

¹²⁰ A beachside suburb in Sydney's southern suburbs, Cronulla was the site of what became an internationally notorious 'race riot.' On 11 December 2005, several thousand white Australians gathered at Cronulla Beach to 'take back the beach' from young Lebanese men who had, in recent weeks, allegedly assaulted a lifeguard and harassed other beachgoers. The mob shouted racist slogans and some attacked bystanders who appeared to be 'Middle Eastern.' As news of the riot spread, a number of groups of young men of Middle Eastern backgrounds attacked persons and buildings in other beachside suburbs.
like this, but they don’t have to live like this. They’ll live how they want to live. That’s still not being racist, but —

T18: It’s a fact of life.

(Tenants focus group 3, original emphasis)

This was, it must be said, a controversial aspect of crime talk on the estate. Other tenants made a point of controverting the association of the Lebanese with crime and disorder: T25, for example, told a story about how her own unconscious prejudice was overcome by the friendliness of young Lebanese persons at a community event (T25 interview), and T13 talked about how his Lebanese neighbour was as much a victim of crime and disorder as any one else in his block (T13, tenants focus group 2). Even those tenants who were most anxious about the effect of ethnic diversity on the estate did not go close to proposing that they should ‘take back’ the estate through violence or a deliberate program of exclusion: instead they would persist with organising Area Meetings and other community activities, despite their occasional frustrations.¹²¹

Many of the Riverwood estate’s community activities, especially those taking place around the RCC, have sought to ameliorate anxieties about ethnicity and multiculturalism and, considering the references to multiculturalism in their narrative of reinvention in the previous Chapter, they have done so mostly very successfully. Nevertheless, in tenants’ crime talk, tension about multiculturalism did recur, and it found a place there at least partly in response to the connections, emphasised by Housing NSW in its community renewal work, between community organisation and the causes and prevention of crime. It also appeared to affect actual responses to crime and disorder on the estate. H12 said, ‘one of the problems that we’re finding is that cultural side of things, accepting different cultures’, and he saw it in some of the complaints received from tenants about nuisance and annoyance: ‘I mean, it [the complained about behaviour] is nuisance and annoyance, but I can see when I interview people that this [ethnic or cultural intolerance] comes up’ (H12 interview). Furthermore, as I

¹²¹ T16 suggested pushing ahead with community organisation but with a change in strategy, borrowing an idea from responses to the ethnic crime ‘crisis’ and the war on terror – appealing to and bolstering moderate religious leaders – and applying it to the tension about the appearance of the estate: ‘if you can get the leaders, maybe. It’s important to the way some of the nationalities work. If you can get the leaders – religious leaders, maybe – to support them…’ (tenants focus group 3).
have already noted, several of the community centre workers (C16, C17, C18, C19) felt strongly that it had affected the police response to the gang and other young persons on the estate. Said C18: 'I think the police are actually getting the idea that they can do anything to anybody, and in particular they can do it to Arabs. And I think too that [some] people in this community don’t mind it when it’s the Arabic kids’ (C18 interview).

Trouble in partnership: the police and the community centre

Of all the partners in the estate’s community, it was the police who were, for many participants, to be especially credited for the estate’s perceived good record with regard to crime. Conversely, the police were a serious problem for a section of the estate’s community – young males, especially from Lebanese backgrounds – and the community centre workers who supported them.

The police gave their own explanation as to how they policed the estate. They proceeded on the basis of what they knew about the estate’s residents as the ‘clientele’ of public housing, and as ‘stakeholders’ in a public housing community:

P1: If you understand and appreciate the clientele there, the stakeholders there, then you realise they need to be policed slightly – slightly – different than how you would people living at Beaumont Street [Campsie] up the road here.

(Police focus group; original emphasis)

To this end they did ‘proactive policing’ and ‘high visibility patrols’, with the distinctively uniformed Operational Support Group (P2, police focus group). They also engaged in ‘active liaison’ with stakeholders of the estate, encouraging them to provide information to the police for investigation, and providing information themselves. This police information included, as already noted, reports to the EAB about the incidence of offending, explanations as to the work they were doing, and reassurance as to the safety of the estate. For example, referring to a time when the Operational Support Group was on the estate, P3, who had attended the EAB, explained ‘they weren’t down there because of any potential riot…. They were just down there to bolster the safe community. And target these youth that they kept telling me about’ (police focus group).
The police considered that their approach was a success. 'We've got fingers in the pie everywhere there' said P1, who added, 'a lot of it, though, is not just us, but they [the tenants] are very proactive in themselves.' P2 agreed: 'they want us down there too.... They want us to come down there and to be involved in these things' (police focus group). The police found Housing NSW's Riverwood office to be similarly enthusiastic, with P1 observing that they were 'always on the phone, always talking, always exchanging information, like up-to-date intelligence or information pertaining to certain things' (police focus group). P1 suggested 'the very vast majority of people down there are very happy with the police, I would think' (police focus group), and the crime talk of the Housing NSW officers and many tenants supported this assessment. In particular, they were pleased with the visibility of the police on the estate: 'the police presence works wonders' (T22, tenant focus group 4).

As I indicated in the first section of this Chapter, young persons on the estate said they experienced the police presence very differently, as harassment and violence; and several of the RCC workers were angrily aggrieved at the conduct of this 'partner' in the estate's security. C16, C18 and C19 each recalled police referring to their approach as 'zero tolerance' (C16, community centre focus group 2; C18 interview; C19 interview), and C19 continued: 'my understanding of zero tolerance, from what I've read, is different to what they practice. I actually believe it [Campsie LAC's policing] is a form of thuggery policing' (C19 interview). These workers were aggrieved because of the injuries and intimidation they had seen suffered by young men they knew, but also because of the damage they saw being done to relations between the estate's young persons and the police generally, and to the subtle work being done by the community centre and the young men themselves to negotiate a space for them on the estate and disassociation from the activities of the gang. As it was, the actions of police were achieving the opposite (as one young resident observed of the conflict, 'it's like a gang. They [the police] have their gang and we have our gang' (T27 interview)). C16 indicated the difference in their approaches:

C16: If I had to come in here as a policeman, right now, given the problems that have been, I would be tread very lightly, be very polite, be really friendly, probably not wear my belt, stuff like that, like really friendly. The way they come in: ready, hands on, go and search, guns blazing, wild west style,
cracking down, zero tolerance.... Given that the boys already have contempt for them, I wouldn’t come down here and give them a reason to have even more contempt.

(Community centre focus group 2)

The community centre workers worried that the tension with the police was affecting other aspects of the estate’s partnership, threatening to divide the estate against the young persons and the efforts of the RCC for the sake of maintaining unity with the police and majority opinion. C18 was troubled by some email correspondence amongst tenants that accused the community centre of giving refuge to criminals, and felt that the housing officers too had become set against their work: ‘I think... they became on-side with the police, against us.... They [Housing NSW officers] want to blame people. We want to advocate, they want to blame. They want to say that their job’s harder because of all this, and think they want to go and evict them’ (C18 interview).

The trouble in the estate’s partnership did not actually get as bad as these comments, made just after the worst of the episode of the gang, may suggest. Despite the grievances of its workers, the RCC’s efforts were not altogether frustrated -- on the contrary, it was a valuable support for the young men in difficult circumstances -- nor did it undo the partnership. For example, the community centre kept convening the EAB and the police kept attending; and Housing NSW continued to part-fund the RCC through its HCAP and RTRS programs. Nevertheless, the conflict does point to some underlying differences about the organisation of community and the government of crime and disorder. The RCC’s community work – organising meetings, keeping people informed, giving young persons something to do – was generally widely supported, but when the particularly troubling episode of the gang came along, and the community centre asked for tact and forbearance while it attempted work that was difficult and uncertain of success in every instance, support retracted; and the image of a community that asserted its values aggressively, through ‘zero tolerance’ policing, became more attractive.

The support given to the police in tenants’ comments went further than favourable assessments as to the effectiveness of police operations and liaison. Some tenants also invoked the police in symbolic stories and scenarios about community and order. T17, now
a grandmother, told a story about police from her own childhood in Glebe\textsuperscript{122}—but her account was as much about the Riverwood estate today:

T17: Things have changed since I was a kid. You'd walk home from the movies at 11 o'clock at night and call into the milkbar with a few friends—the police were there. [The police would say] 'you've got 10 minutes.' And then my mum, when she was alive, it was Bumper Farrell from Newtown.\textsuperscript{123} He used to come and kick them up the backside. Never had any problems in Glebe, you know, with gangs. We wouldn't tolerate it.

(Tenants focus group 3)

In this vision of past community, a group of young persons walking about late at night was not a gang; a strong community solidarity guarded against problems of disorder; this was supported by an inescapable police presence and the practice of a 'tough'—even violent—'but fair' style of policing, especially of young persons. Looking to the present, tenants saw the police, like their own values of responsibility and respect, as a beleaguered institution. T23, for example, sketched an imaginary scenario of a child remonstrating with a police officer: 'the police is holding him and he's telling the police "no, don't do that!" We used to say, "you see a policeman, you go"—[stands up straight]. So it's changed; everything's changed' (tenants focus group 4). Furthermore, T16 and T17 saw the police frustrated by political correctness and an out-of-touch legal system, and shared in their frustrations:

T16: Oh, my sympathy's with the police.
T17: Me too.
T16: They try so hard, and then you've got these so-and-so magistrates—
T17: Yes, they let them [offenders] off.

\textsuperscript{122} An inner-city suburb of Sydney, once strongly working class, now substantially gentrified (though it still has several small public housing estates).

\textsuperscript{123} H12 also recalled, with approval, the 'Bumper Farrell way' of policing (H12 interview). Frank 'Bumper' Farrell (died 1985) was a police officer in inner Sydney in the post-war period. He also captained the Newtown rugby league team, played for New South Wales and Australia, and gained renown in 1945 for allegedly biting an ear off an opposing captain (Daily Mirror, 1945).
T16: — who say [in mock scolding voice] 'now don’t you do that again, now get out of my sight.' You know!

(Tenants focus group 3)

As in the previous section, I do not present these responses to suggest that policing and community activity in public housing should be brought closer into line with them; rather, the important thing is that the aggressive police action supported by these tenants is, in their own terms, expected to fail. This might be a cynical expectation, but it might also be appealed to as part of the basis for supporting alternative activities that remain under local direction, such as the community development work of the RCC.

This is not to underestimate, however, the attraction of expressive action against crime and disorder, especially as many tenants projected this role not only onto the police, but also onto Housing NSW as their landlord.

The Landlord

As well as expecting action from the police and, as community members, from tenants themselves, tenants on the Riverwood estate expected Housing NSW to act against crime and disorder. Table 9.1, above, shows the immediate results of this expectation: complaints to housing officers about a great range of disruptions to orderly life on the estate. In the focus groups and interviews, tenants reiterated their expectation.

CM: So do you think... that the Department of Housing has a responsibility to deal with some of these things?

T5: I do, yeah, I do.

T1: Yes, they're the landlord, aren't they?

(Tenants focus group 1)

I have already observed, in Chapter 6, how the Riverwood housing officers felt about this responsibility, their responses ranging from enthusiasm for acting against serious offences — 'going for the jugular', particularly against drug offences and other misconduct that had
come to the attention of the police (H12 interview) – to despair at being seen as the ‘fix-its’ of every neighbourhood dispute (H3, housing officers focus group 1). Their responses were further complicated by qualifications in the Good Neighbour Policy that reflect the directive for housing officers to ‘work with clients’, tensions about the measurement and value of this work, and the demands of the Tribunal’s processes.

Many tenants on the Riverwood estate took a less complicated view. They implicitly saw the estate as a ‘community of contract’, along the lines set out in Chapter 5: a network of contractual relations extending outwards to neighbours and inwards to tenants’ household members, and each tenant’s housing at stake as a disincentive against breach. This understanding was given support by a number of aspects of tenants’ sense of the estate’s place and history: the sense that the estate was in decline; that it was on its own and must help itself; that individual responsibility had to be asserted authoritatively against ‘excuses’.

For T9 and T14, their neighbours’ membership of the estate’s community was straightforwardly a matter of contract, with strict liability and drastic consequences:

T14: They’re given an opportunity of decent housing at a reasonable price. If they abuse that, then out straight away. No warnings or anything.
T9: It should be a privilege to live in Housing. It should be a privilege.
T14: Exactly.
(Tenant focus group 2)

T9 pressed his point further in discussion with T10, who had sought to put the question of the incidence of crime and disorder on the Riverwood estate into perspective by comparing it – not unfavourably – to other places and tenures in Sydney’s suburban hierarchy. T9 insisted, however, on holding the estate, as a community of contract, to an even higher standard:
T10: Coming to crime and people, you can get that in any area. You can go to Rose Bay, Dover Heights\textsuperscript{124}, anywhere, and there’s going to be crime, there’s drugs –

T9: But it shouldn’t be in Housing! It shouldn’t be in a Housing estate!.... There shouldn’t be crime; crime should not be happening, if Housing sets out guidelines and says ‘you are entitled to this, this and that’, alright.... Now is there a problem when there’s three times these reports [of neighbouring tenants’ misconduct], and Housing doesn’t do anything about it? When they’ve set out ‘you’re entitled to peace and quiet’ – they’ve set [that] out themselves. And they say – and zero tolerance also. That’s what they say: ‘zero tolerance.’

(Tenants focus group 2)

Considering everything else that is known and said about the people and neighbourhood of the Riverwood estate, the contention that ‘crime should not be happening’ there is remarkable. It speaks to the strength of the sense of entitlement that is derived from tenants’ contracts (‘you’re entitled to peace and quiet’) and extra-contractual promises as to how obligations will be enforced (‘zero tolerance’); it also assumes that Housing NSW is capable of delivering on these expectations. There were a number of instances in the estate’s crime talk where tenants ascribed extraordinary and quite unrealistic powers and actions to Housing NSW. T20 and T21, for example, spoke of Housing NSW as if its legal position as landlord, and its place at the centre of the Riverwood estate’s community of contract, allowed its officers an inescapable physical presence on the estate and in households of its tenants, to proactively check against crime and disorder:

T21: The thing is, the Department should come round once a month, knock on everyone’s door, visit them. Talk to them, see what’s going on. If they’re not home, come back tomorrow. Leave a note – ‘see you tomorrow.’ Or come round in the night-time even, when everyone’s home.

T20: Check the place.

T21: Knock on everyone’s doors and say ‘what are the problems here?’ Let them hear it from the mouths of the people, not from me.

(Tenants focus group 4)

\textsuperscript{124} Rose Bay and Dover Heights are wealthy harbour-side suburbs in Sydney’s eastern suburbs.
Several tenants spoke about invoking this supposedly powerful aspect of Housing NSW through complaints, and expected Housing NSW to respond directly to their complaints as a matter of contractual obligation; but they also expected that their own role in any proceedings would be limited. T6 explained that the 'process here' was for tenants to sign a petition against a noisy or abusive tenant, which would then be 'referred to the proper authorities within the DOH structure', and 'if it is bad enough, so it goes through the process and eventually they are evicted from the premises' (tenants focus group 1). As T18 put it:

T18: If you have noisy neighbours and they're persistently noisy, you have to sign a form that they've been noisy, and then you sign another one. When they [Housing NSW] get as many as they need, they then take action. Isn't that how it goes?

(Tenants focus group 3)

As a complainant, T21 insisted that his role should be limited to making a complaint:

T21: I can tell you, if I'm the tenant, and I say to you [Housing NSW] 'please, this is what's going on', I should be out of it. You're the boss, you're the owner of this building, you should go and tell them 'look, this is what's happening... Either you [the disorderly tenant] stop or you'll be paying for it.'

(Tenants focus group 4)

In the focus groups and interviews, I asked participants about acceptable behaviour agreements, then recently introduced by the NSW State Government as the new contractual tool in the government of crime and disorder in public housing, as described in Chapter 7. I described there how housing officers were dubious as to the benefits of ABAs, though the apparent ease of getting termination orders appealed to some. In their focus group, the police officers thought that the new tool 'sounds like a good idea' (P1, police focus group), mostly because of ready termination and eviction after breach, rather than because of any anticipation that an ABA would better engage the subject's responsibility: 'if they can get them into an acceptable behaviour agreement, then that's something they breach and they
can take action’ (P1, police focus group). Amongst the tenants, few knew much about the new provisions. Some accepted them uncritically, and with varying degrees of urgency, as worth trying; most doubted that ABAs could effect a change in the behaviour of the tenants to whom they applied, and considered instead that the advantage would be in the enforcement of ABAs in proceedings for termination and eviction.

CM: Do you think signing an agreement like that is a way of controlling this sort of behaviour?
T21: They’ve got to do something mate.
T22: ... I suppose so.
T23: I don’t know.
(Tenants focus group 4)

T4: That won’t stop them [disorderly tenants].
T8: I mean, there’s no harm in trying.
T5: Well, I think sometimes you get to a point where you will try anything.
(Tenants focus group 1)

T19: If they’re enforced. If they’re enforced.
T17: And who’s going to enforce it? That’s the problem.
(Tenants focus group 3)

‘The problem’ of enforcement was a sore point for many tenants, one that arose from their perception of Housing NSW’s present practice as landlord. Tenants may have thought that tenancy agreements and ABAs, as contracts, and Housing NSW, as the landlord, should operate strictly, and they may have complained to or petitioned Housing NSW on that basis, but in other comments they also made clear that Housing NSW did not actually operate that way and that they expected to be disappointed. T9, who had such a strong view as to how things should be on the estate, also complained that ‘Housing doesn’t do anything about it’ (tenants focus group 2). Other tenants in the same focus group complained angrily of indifference:
These comments would have aggrieved the housing officers, who considered that the amount of time they spent dealing with complaints from tenants about crime, nuisance and annoyance was 'quite astronomical... in this day and age, it's probably taking up 25 per cent of [housing officers'] time, on a weekly basis, easy' (H12 interview). Instead the comments show how little patience or even acknowledgement for housing officers' efforts at 'working with the client' were admitted by tenants when neighbourhood relations were thought about and talked about in terms of tenancy contracts. Indeed, from the perspective of a 'good tenant' like T23, whose expectations of the contract had been disappointed by Housing NSW, the provision of support to 'trouble-people' looked like favourable treatment:

T23: That's what I don't understand with the Housing. If you're the good tenant, there's no law for you. For the trouble-people, there's a law. And they can do whatever they want, and we can't do nothing. But you don't pay your rent one day, straightaway they [Housing NSW] write you a letter, 'we'll put you to court.' So you try to do good things: it doesn't work. You make trouble: you get whatever you want. That's the impression we get. I don't know if it's true, but that's the way you get. They can throw things, break things — they get a new door, they get a new window. You can have a broken window — just, it's broken — you try to get a repair... tomorrow, tomorrow, one year, five years — they haven't done it.

(Tenants focus group 4)

This comment may be a reiteration of the familiar neo-conservative criticism of alleged social liberal perversity that has been applied to any number of governmental programs; it nonetheless indicates that the view of the estate as a 'community of contract' may be at such
a strain against 'working with the client' that the latter is not merely overlooked but positively resented. Once again, the point of recognising this hazard of Housing NSW's practice is not to propose that it should redouble its prosecution of breaches of its tenancy agreements, or impose new, more onerous contractual obligations on tenants; on the contrary, a greater emphasis on service provision outside the model of the landlord-tenant contractual relationship – such as physical improvements that raise tenants' quality of life generally, and opportunities for participation in community development activities – may help establish acceptance of supportive responses to disorder, and be more productive of feelings of safety and security. T23, after all, was one of the many tenants of the Riverwood estate who, when not occupied with the landlord-tenant contractual relation, was happy to report that she had had no troubles at Riverwood, and that the estate was 'alright' (tenants focus group 4).

Crime Talk and Government-Housing

In their own analysis of the crime talk of a particular place, Girling, Loader and Sparks conclude that attention to crime talk challenges 'the prevailing assumption that “public opinion” on crime is deeply and ineluctably punitive in outlook and disposition', and reveals 'the existence of a more unfinished, complicated and open set of responses to the problem of order than is allowed for in the dominant scripts of media and political discourse' (2000: 175). The place they studied – a relatively prosperous 'middle English' town – is different from the Riverwood estate in many ways but, to a considerable extent, similar conclusions can be drawn from crime talk on the Riverwood estate. From the Riverwood estate's ambivalent place between middle suburbia and the interlocked institutional spaces of public housing-gaol-rehab, tenants and workers on the estate knew well the 'dominant scripts' about public housing – the necessary 'understanding and... appreciation of what the housing estate is' (P1, police focus group). Most tenants and workers, however, were pleased to say that they felt that the Riverwood estate was, at least after the hard times, a relatively safe and secure place, with a strong, inclusive community, amenable buildings and spaces and valued community resources and partnerships. However, infractions of order also registered strongly with tenants, who traced them to certain causes that were part of the fabric of the
estate – and who in turn registered their concerns with both the police and with Housing NSW in calls for a strong presence and authoritative enforcement.

Certain aspects of Housing NSW’s practice narrowed tenants’ responses towards these calls. In particular, when they thought and talked about the individual subject of public housing, some tenants’ responses hardened and became more insistent on strict personal responsibility and the exclusion of potential trouble-makers before they even become tenants. When they worried about the appearance of the estate, some tenants wished for conformity more than inclusion; they also preferred expressive police action to subtle community development work. When tenants thought and talked about neighbourhood relations as contractual relations, and about Housing NSW’s role as a landlord, some imagined regimes of heavy supervision, strict ‘zero tolerance’-style enforcement and little role for tenants other than as complainants. When, inevitably, they were disappointed, some imagined that this was because of a perverse determination to reward the disorderly at the expense of the orderly. Each of these sorts of response – and hence the practices to which they are connected – presents a hazard for other aspects of Housing NSW’s practice, such as ‘working with the client’, with which housing officers already struggle. But on the other hand, none of them is really held out with any conviction of actually being a success, and in the Riverwood estate’s crime talk, more hope was attached to practices that made the modest, realistic promise that safety and security are more likely achieved through subtle, often difficult and occasionally futile efforts at support and neighbourliness.
PART 5

CONCLUSION AND BIBLIOGRAPHY

CHAPTER 10

CONCLUSION

This thesis has provided an alternative account of the problem of crime and disorder in public housing. Other accounts have sought to measure the relative incidence of crime and disorder, and explain variously the causes in terms of the qualities of the individual clients of public housing, their relations with one another, or the spaces and buildings in which they live. In this thesis, the problem, from the perspective of governmental criminology, is the inevitable one: each of these accounts and their various ways of thinking about and acting on particular problems have implications for thinking about and acting on other problems. The complexity of this problem-solving activity is compounded by the fact that it takes place on top of the remains of past solutions, which may be used again in new ways. The result is that public housing represents a dense regime of governmental practice, beset by tensions, contradictions and rapid changes of strategy. The work of this thesis has been not to nominate any one of those other accounts as the right and true one - each of those accounts already does so for itself - but to clarify the points at which these practices become strategically confused, and to identify hazards and opportunities for clearer strategic practice.

The starting point of the present account was the history of successive problematisations of crime and disorder in terms of housing: this was sketched in Part 2 of the thesis. For the classical liberal reformers of the nineteenth century, 'the housing question' was posed in terms of the physical and moral condition of the urban working class and poor. This was a problem beyond the powers of the traditional landlord-tenant legal relationship and the disciplinary houses of the poor; instead, reformers proposed improvement through sanitary dwellings that preserved the integrity of the working class household, and through close supervision and moral instruction for the poor, including through the tenancy relationship. In the early- to mid-twentieth century, new social scientific specifications of 'criminality' or
‘deviance’ were answered by programs of social liberal governmentality, including social housing, that would secure certain vulnerable but worthy sections of the working population in accordance with expertly defined social norms. To this end, social housing was equipped with distinctive built forms adopted from town planning, the larger successor to sanitary reform; a profession of managers who took some of the supervisory methods of the nineteenth century and applied them especially to property care; an eligibility system that operated on a ‘social’ view of need and excluded ‘substandard’ households; and a system of rental subsidies to make it affordable.

This has been followed, through the late modern period of the 1970s to the present, by new problematisations of crime and disorder and a decline and transformation of social housing, each in the context of the rise of advanced liberal governmentality. This latest phase is explicable in terms of two intersecting sets of conceptualisations: first, the reforming ideals of neo-liberal economic rationality and the rationality of ‘governing through community’; and secondly, the competing practical strategies of adapting the institutions and techniques of social government to the apparent limits of what the state can do, or else reacting against these limits in symbolic displays of sovereign power. In Chapter 3, these conceptualisations were used to trace the parallel problematisations of crime and disorder and of social housing, particularly in terms of the subjects they have made up, the spatial analyses they have employed, and the types of authority they have invoked.

In Part 3 of the thesis, I presented Housing NSW’s responses to these problematisations in all their dense, contradictory details, with particular attention to the ways in which housing officers experience and negotiate the tensions. In this analysis, the crucial point upon which Housing NSW’s own pattern of adaptive or reactionary responses turns is the subject of the client. Through the administration of Housing NSW’s reformed, neo-liberal eligibility criteria, the subject of public housing is constituted as the subject of a range of criminogenic risk factors who has proved that they are incapable of dealing with the housing market and the other usual means for taking care of oneself; and alternately, as a selfish agent who culpably abuses the availability of support. Housing NSW attempts to address its clientele through a reformed, service-oriented mode of work – ‘working with the client’ – that posits a subject of a qualified agency who is entitled to expect responsive service from Housing NSW and with whom housing officers can work on problems. Despite official and personal
commitments to this mode of work, however, housing officers also disclosed a contrary culture of reaction, particularly where officers’ training or supervision is deficient, spurred by measures of work that do not properly value preventative, ameliorative activity. This culture gives rein to cynical, pessimistic, punitive responses to that alternately incapable and crime-prone/selfish and blameworthy subject.

The ways in which Housing NSW addresses crime and disorder at the neighbourhood-level reflect this pattern. Its projects of physical-spatial renewal according to CPTED principles are implemented as improvements to services to clients, and as educative processes to engage the agency of tenants positively in their roles as the ‘capable guardians’ of defensible space. On the other hand, these practices may also heighten anxieties – and monitoring and complaints – about a wide range of signs of disorder. Housing NSW enters into community renewal projects as enlarged versions of ‘working with the client’, intending to empower individuals, build trust and collective efficacy, and engage in partnerships for the better provision of support services. However, like ‘working with the client’ individually, Housing NSW’s community development work is often limited or frustrated: by partners (notably mental health services) who do not provide services as promised; or partners (notably the police) with powerful agendas of their own that housing officers find difficult to contest; or by the difficulty of maintaining a rehabilitated sense of tenants’ agency in the face of the subject of the eligibility system. Finally, Housing NSW also fabricates community relations as contractual relations: this invites tenants to be regarded, by housing officers and other tenants, as the subjects of strict liability in relation to their conduct, and the conduct of other household members.

Housing NSW’s use of the landlord-tenant legal relationship heavily complicates its preventative, ‘working with the client’ mode of work. The terms of the modern residential tenancy agreement, especially in the networked, ‘community’ form it takes in public housing estates, draw Housing NSW into all manner of disputes. This is particularly so in relation to the nuisance and annoyance term: in responding to complaints under this term, housing officers indicated that they often try to work on a client’s support needs, but at the same time use information gathered through the eligibility and rent rebate systems, from other agencies such as the police, and from neighbouring tenants, to also build a case for prosecution. They also indicated that proceedings may be taken variously to attract the
attention of support providers and jolt them into better serving the tenant, to send a warning to the tenant and so jolt them into behaving better. As evidence is documented, however, and as pressure from neighbours’ complaints and officers’ other work mounts, these proceedings take on a momentum towards the Tribunal and termination. In yet other proceedings – particularly under the ‘illegal use of premises’ term – housing officers simply ‘go for the jugular’ and prosecute to evict a culpable wrongdoer. The starkest instances of the strategic confusion in government-housing are in the ‘new tools’ created by amendments in law and policy over the last decade that have added to the landlord-tenant legal relationship in public housing. In form, most of these appear as additional incidents of contract that further responsibilise tenants; in substance they empower Housing NSW to ‘get tough’, impose more rules and evict more readily. These ‘new tools’ have presented such a strain to Housing NSW’s ameliorative practices that it has contrived, as a matter of policy, to limit their effect and, in fact, scarcely used them at all.

The strategic confusion operates at another level of the government-housing relation, too. In Part 4 of the thesis, I directed attention to how this confusion and consequent tensions were marked in the local discourse of crime, disorder and housing of tenants and workers on a particular public housing estate. The ‘crime talk’ of the Riverwood estate is a digressive commentary on the estate’s sense of place and its experience of social change, told largely in stories about notable symbolic events and narratives of historical decline and reinvention. As such, it is rather different from government-housing discourse at the level of rationality, theory, policy and law, but it does refer heavily to that higher-level discourse as residents and workers express their feelings and worries for the estate. These points of reference, however, are not merely points at which abstract knowledge or general principles are translated or applied straightforwardly to represent the specific experience of the Riverwood estate; they are also points at which residents and workers made more ambivalent connections, and even sought to defy the ‘dominant scripts’ about public housing and crime and disorder.

In their crime talk, therefore, many tenants emphasised that they felt safe and secure on the Riverwood estate – but they worried over myriad infractions of order, minor and serious, and brought them to the attention of Housing NSW. Although they found solidarity in being ‘battlers’, they also saw the causes of crime and disorder in the subjective qualities of the persons selected by Housing NSW to live on the estate; they reacted strongly against
'excuses' for disorderly conduct and had a sharpened sense of liability. They defended the estate's form and emphasised its amenity, but were watchful for criminogenic defects and were dismayed by disorderly appearances. They emphasised the 'bondedness' of the estate's community and its inclusive multiculturalism, but they worried over potential flaws in the fabric - 'unhealthy' associations between poor persons, Lebanese ethnic identity, youth 'gangs' - and wished for greater conformity. Many tenants were strongly supportive of the police and, in particular, of a highly visible, expressive style of policing, but they expected the criminal justice system to disappoint them and not actually give effect to the values they wanted expressed. Similarly, they were also attracted to promises (literal and imagined) in the landlord-tenant legal relationship - promises of individual liability for misconduct and strict enforcement by Housing NSW. In this respect too, however, they expected to be disappointed by their landlord's actual performance.

In laying bare the tensions in government-housing practice, this thesis demonstrates the usefulness of the governmentality perspective for contemporary criminology, particularly for identifying the hazards in conducting public housing practice to the ends of governing crime and disorder. It sounds a warning, first of all, for criminal justice policy makers who, in accordance with the adaptive strategy of advanced liberal governmentality, propose further decentralising responsibility for dealing with crime and disorder from the traditional state agencies of the police and the corrections system to Housing NSW and other social housing landlords. The intention of such a movement may be to avoid the unproductive, punitive or, indeed, counter-productive and criminogenic effects of contact with the traditional agencies, but Housing NSW's practices may also be reactionary, harsh and punitive, especially where they are based, as they often are, on the tenancy contract and the threat of eviction. This hazard exists even where the consequences of the tenancy contract are not expressly invoked and prevention is instead emphasised, such as in eligibility and allocations strategies and estate renewal. This is because these approaches proceed on ways of thinking about problems of crime and disorder in public housing that can lapse into cynicism about the agency of public housing subjects, suspicion about public housing's spaces, and distrust in its community relations. These attitudes can switch housing officers and other tenants back to the simple explanations and opportunities for action presented by the extensive contractual infrastructure present in public housing. On the other hand, there is a warning too for other criminal justice policy makers who would propose instead that Housing NSW can and
should effectively deal with crime and disorder by 'getting tough' or 'cracking down', particularly through new contract-themed tools that heighten the prospect of eviction. Housing NSW's use of tenancy contracts to those ends demonstrates that such uncomplicated effectiveness is a fantasy, and its handling of its 'new tools' shows that it may resist these innovations in order to try to preserve its ameliorative modes of work.

More specifically for Housing NSW, this thesis highlights the hazards that follow from the way in which it constitutes the subject client of public housing. Aside from questions of whether its clientele creates problems of crime and disorder because they create 'crime-prone communities', negative 'resident dynamics', 'spirals of decay', 'broken windows', underclass subcultures or insufficient collective efficacy, or simply are motivated offenders, public housing's alternately incapably crime-prone/selfishly agentive subject is a problem for government-housing. Short of a very great loosening of the eligibility criteria – which would also require a substantial increase in public housing stock – there are other areas of housing policy that might be reformed to help rehabilitate this subject with a qualified agency, consistent with the 'working with the client' mode of work. These might include, for example, allocations (to admit choice); rental rebates; and reviews as to continuing eligibility. Community development and tenant participation projects also have a role in adjusting tenants and housing officers to a more positive view of the agency of tenants, and to a view of neighbourhood as something other than a network of contracts under a landlord.

The thesis also demonstrates the potential of extending the governmentality perspective beyond its characteristic focus on expert knowledge and discourse to the lay discourse of local crime talk. Attention to the 'sense of place' that articulates authoritative positions on government-housing with local narratives reveals another dimension of the strategic confusion in advanced liberal government-housing, and further hazards and opportunities for practice. As the analysis of the Riverwood estate's crime talk shows, having 'an understanding and an appreciation of what the housing estate is, down there' (P1, police focus group) disposed many tenants and workers favourably to government-housing practices that promise strict liability and expressive enforcement. They also doubted those promises, however, and located the feeling of safety and security more in an informal attachment to the estate and its community, than in the terms of a contract.
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