



SUBMISSION

Prepared by South-East Monash Legal Service Inc. for the
Legislative Council Legal and Social Issues Committee
Inquiry into the rental and housing affordability crisis in Victoria

Date submitted: 22 July 2023

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Our organisation

Established in 1973, South-East Monash Legal Service (**'SMLS'**) is a community legal centre that provides free legal advice, assistance, information and education to people experiencing disadvantage in our community within the City of Greater Dandenong, the City of Casey and the Shire of Cardinia.

SMLS operates a duty lawyer service at various courts in Victoria, including Dandenong Magistrates Court, the Children's Court and provides legal representation at courts and tribunals such as the Victorian Civil and Administrative Tribunal, Fair Work Commission, Federal Circuit Court, Family Court and Victims of Crime Assistance Tribunal.

For most of the 50 years in operation, SMLS has been running a clinical legal education program in conjunction with Monash University's Faculty of Law, whereby law students undertake a practical placement at the legal service as part of their undergraduate degree.

SMLS has an extensive community legal education program that is developed in response to feedback from the range of community engagement and community development activities that we are and have been involved in.

SMLS also has a significant policy, advocacy, and law reform program, contributing to reforms in family violence laws and practices, access to civil procedure reforms, employment law, sexual assault and victims of crime, youth law, gambling and electronic gaming machines and other legal topics relevant to our service delivery and the needs of our community.

Acknowledgement of Country

SMLS wishes to acknowledge the traditional custodians of this lands upon which our office are located, the Wurundjeri and the Boon Wurrung peoples. We pay our respects to the Elders past, present and emerging.

We acknowledge the people, traditions, culture and strength of Aboriginal and Torres Strait Islander peoples, and the fight for survival, justice and country that has taken place across Victoria and Australia.

We sincerely thank the Traditional Custodians for caring for Country for thousands of generations. SMLS recognises the ongoing impact of colonisation, dispossession and racism experienced by Aboriginal peoples. As a Community Legal Centre, we acknowledge the violence of Australian law and its ongoing role in processes of colonisation. We recognise that sovereignty was never ceded, and that this always was and always will be Aboriginal land.

Terms of Reference

That the Legal and Social Issues Committee inquire into, consider and report by 17th November 2023 on the challenges facing Victorian renters and factors causing the rental and housing affordability crisis in Victoria, including but not limited to -

1. The factor leading to low availability and high costs of rental properties;
2. Options to address insecurity, availability and affordability issues facing Victorian renters;
3. The adequacy of regulation with regards to standards and conditions of rental housing;
4. The adequacy of the rental system and its enforcement;
5. The impact of short stay accommodation;
6. Barriers to first home ownership and the impact this has on rental stock;
7. The experience of, and impacts of all the above on, renters and property owners;
8. Any other related matters

Scope of submission

SMLS have provided comments on select terms of reference where we were confident that our experience as a community legal service allows us to contribute to the subjects raised. We note that many of the questions raised are outside the scope of SMLS' services.

Acronyms

SMLS South-East Monash Legal Service Inc.

ISEALS International Student Employment and Accommodation Legal Service

Introduction

SMLS thanks the Legislative Council Legal and Social Issues Committee for the opportunity to provide a submission in relation to the rental and housing affordability crisis in Victoria.

As a community legal service, SMLS often assists clients who are, or at risk of, homelessness. Many of our clients are impacted by financial hardship and family violence, which creates the need for immediate access to crisis accommodation, or an available rental. However, due to a combination of inflation, rental stress, low availability of rental properties and limited access to crisis accommodation, our clients are often forced into dire living situations.

SMLS also has a dedicated program known as ISEALS (International Student Employment and Accommodation Legal Service) which provides free legal support to international students experiencing rental issues relating to bonds and urgent repairs.

In addition to SMLS' legal services, we have a dedicated Integrated Services team, where social workers, lawyers and a financial counsellor provides holistic support to our clients. As part of this service, our social workers assist clients with a range of matters finding rental properties and referring and supporting clients into securing crisis accommodation.

In 2017, the United Nations' special rapporteur for housing delivered a comprehensive document concerning housing commoditisation to the United Nations Human Rights Council in Geneva. The paper outlines the detrimental impact of unregulated global capital, which, in recent years, has not only induced distortions in housing markets worldwide but has also resulted in an alarming escalation of property prices and rents.¹

In Australia, there is an urgent need for a paradigm shift firmly acknowledging that first and foremost, access to housing *must be a fundamental human right*, rather than seen as an investment opportunity or profit-making system. Too often we see clients unable to find suitable accommodation and are let down by the system, built on an understanding of housing through the lens of profit and investment. This must be a top-down change-we urge the Victorian government to use the human rights lens in all policy making and put greater attention and resources towards making this human right a reality for all Victorians.

¹ Butler, P 2017, '*Housing should be seen as a human right. Not a commodity*', the Guardian, The Guardian, viewed 22 July 2023, <<https://www.theguardian.com/society/2017/feb/28/luxury-real-estate-housing-crisis-un-homelessness>>.

SMLS strongly urges the following:

Enshrine the right to housing: As suggested by the The Parliamentary Inquiry into Homelessness in Victoria, the Victorian Government should include the right to housing in the Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic).

Expand renter's rights: Create a Fairness Formula within the Residential Tenancies Act for rent rises.

Expanding the availability of social housing: The Victorian Government must urgently address social housing accessibility for Australians who are unable to access the private rental market. This requires a significant increase in the supply of public and social housing.

Housing insecurity, and an availability and affordability crisis

The lack of available housing across the private and public space is a serious concern for Victorians.

Rent (and cost of living) increases:

The cost-of-living crisis and price gouging by large corporations is having serious effects on the accessibility and affordability of renting. With energy bills increasing by 20% and food by approximately 9%, in addition to the rising rental prices is placing renting Victorians under serious financial stress.

According to the Reserve Bank of Australia, rents paid by new tenants has increased by 14% over February 2022- February 2023, with this figure growing. Since 1 July 2022, renters on low to middle income have reported increases ranging from \$30 to \$320 a week, according to Tenants Victoria.² A major issue that lends to rental affordability is increases prescribed by the rental provider, who can dictate how much rent can increase, keeping the competition in the rental market in mind.

To address this aspect of the housing crisis, we support Tenant Victoria's suggestion that there be a Fairness Formula to regulate future rent increases. While there are rules around how a rental provider can notify renters about their intention to raise the rent, and there are limits on how often it can be changed, there is no rule as to what the increase should be (other than providing information about how it has been calculated). A Fairness Formula prescribed in the *Residential Tenancies Act* would create a fixed formula that rental providers can use to calculate rent increases instead. This has already been implemented

²Tenants Victoria, 'Tenants Victoria's top 3 state election asks', October 2022, accessed 21/07/2023. <https://tenantsvic.org.au/news/tenants-victorias-top-3-state-election-asks/>

in the ACT, whereby a rental provider can increase the rent on a property by no more than 10% more than the increase in the Consumer Price Index.

Recommendation:

- Create a Fairness Formula within the *Residential Tenancies Act* for rent rises.

Limited options for social housing

The lack of housing options available confounds the issues facing Victorians in need of housing. Victoria has the lowest proportion of public and community housing stock in Australia,³ which is pushing people eligible for social or public housing into the private rental market, which many cannot afford or access.

There needs to be significant investment in the amount of social housing that is affordable for Victorians, ensuring that people such as victim survivors of family violence have a safe place to go which they can afford. Greater social housing would increase supply of housing, which would reduce competition in the private market and put a downward pressure on house prices.⁴

SMLS support's VCOSS's recommendations that at least 60,000 new public and community homes be built by 2032 to take account of the commitments made under the Big Housing Build.

Recommendation

- Commit to the Big Housing Build and deliver 60,000 new public and community homes by 2032.

Short-stay accommodation, long-term impacts

Owners of properties who use their homes for short-term accommodation are also fuelling the rental and housing crisis in Victoria. Owners of these properties are generally only

³ Kolovos, B 2023, Victoria's social housing stock grows by just 74 dwellings in four years despite huge waiting list, the Guardian, The Guardian, viewed 22 July 2023, <<https://www.theguardian.com/australia-news/2023/mar/17/victorias-social-housing-stock-grows-by-just-74-dwellings-in-four-years-despite-huge-waiting-list>>.

⁴ M. Grundoff, 'Australia's housing crisis is self-inflicted. We need four reforms to reverse it'. *The Australian Institute*, October 22, 2022. <https://australiainstitute.org.au/post/australias-housing-crisis-is-self-inflicted-we-need-four-reforms-to-reverse-it/>

leasing these properties out for a short period of time over the year – and otherwise leaving them empty.

Not only are these properties creating tax issues because it allows these rental providers to claim a greater deduction than they otherwise would if expenses were tied to the number of days the property is rented out,⁵ but this means that less long-term rental properties are available, creating competition and shortages of rental properties in Victoria.

Short-term accommodation are typically excluded from the *Residential Tenancies Act*, making renters' rights and providers' obligations unclear.

The Brisbane council introduced changes in 2022 where homeowners who list properties as short-term accommodation will be charged a 50% rate hike, with a new 'transitory accommodation' category within the city's budget to help tackle housing availability and affordability.⁶ This increase means that accommodation providers would pay at least \$600 per year minimum, which arguably provides an extra incentive to landlords to rent their property to tenants on a longer basis.

This approach would increase housing supply and create more long-term rentals in the private rental market and be one force to combat the housing crisis.

Recommendation:

- Victorian Government implement regulations and taxation of the short-stay industry and improvements to the state's vacancy tax.

Other matters

A Nordic way of life?

The Victorian Government could also look to the co-operative housing approach used in Nordic nations to combat the housing affordability and availability crisis. As adopted in Denmark, the co-operative model is a mainstream form of housing that offers individually owned or rented dwellings, where residents are "actively engagement in management and decision making".⁷ Importantly though, co-operative housing models require owners to live in their dwellings and cannot rent it out for extended periods and prevents homes from

⁵ T. Evans, 'Here's a fix for the housing crisis – end the great Airbnb tax rort',. *Michael West Media*, 16 March 2023, <https://michaelwest.com.au/heres-a-fix-for-the-housing-crisis-end-the-great-airbnb-tax-rort/#:~:text=The%20simple%20fix,property%20is%20actually%20rented%20out>.

⁶ Gillespie, E (2022, June 15). Brisbane to charge Airbnb hosts higher council rates to tackle housing availability. *The Guardian*. Retrieved on 10 July 2023.

⁷ A. Scott, S. Grimstad, H. Holst, 'Homes for people: How Nordic policies can improve Australia's housing affordability' *The Australian Institute*, April 2022, p. 10, <https://australiainstitute.org.au/wp-content/uploads/2022/04/P1244-Homes-for-people-How-Nordic-policies-can-improve-Australias-housing-affordability-WEB-3.pdf>

becoming investment objects, which can provide more affordable housing for low-income earners.⁸ Further, co-operative dwellings provide rental assistance where needed, and rents are kept within the sector and re-invested into new housing projects – something that Victoria could benefit from.⁹

Non-equity (rental) housing cooperatives, where tenants rent their house affordably from a non-profit housing organisation, could also be an option. These dwellings are affordable for low-income renters and vulnerable people. Tenants are also actively involved in decision making and management of maintenance. This option therefore provides a more stable forms of housing, and a collaborative dispute resolution process and is worth further investigation by the Government.¹⁰

Access to legal assistance

SMLS also supports a greater investment in more targeted legal services for renters, as well as ensuring adequate funding is provided for community legal services to continue to provide tenancy assistance, and assistance to people in mortgage stress.

ISEALS clients at SMLS experienced a range of accommodation and tenancy issues, such as:

- recouping bonds or bond disputes
- damage to rental properties
- requests for repairs due to the property being below minimum standards
- ending a lease
- disputing rent increases

Providing legal support often lead to early intervention responses - which can potentially prevent homelessness.

Recommendation:

- Increase investment in tenancy and mortgage stress legal assistance services in Victoria

⁸ A. Scott, S. Grimstad, H. Holst, 'Homes for people: How Nordic policies can improve Australia's housing affordability' *The Australian Institute*, April 2022, p. 7, <https://australianinstitute.org.au/wp-content/uploads/2022/04/P1244-Homes-for-people-How-Nordic-policies-can-improve-Australias-housing-affordability-WEB-3.pdf>

⁹ <https://australianinstitute.org.au/wp-content/uploads/2022/04/P1244-Homes-for-people-How-Nordic-policies-can-improve-Australias-housing-affordability-WEB-3.pdf>

¹⁰ For more information, please visit: <https://australianinstitute.org.au/wp-content/uploads/2022/04/P1244-Homes-for-people-How-Nordic-policies-can-improve-Australias-housing-affordability-WEB-3.pdf>