



SUBMISSION

Prepared by South-East Monash Legal Service Inc. for the
Senate Standing Committees on Community Affairs

The Worsening Rental Crisis in Australia

Date submitted: 31 August 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

The worsening rental crisis in Australia, with reference to:

- a. The experience of renters and people seeking rental housing,
- b. Rising rents and rental affordability;
- c. Actions that can be taken by governments to reduce rents or limit rent rises;
- d. Improvements to renters' rights, including rent stabilization, length of leases and no grounds evictions;
- e. Factors impacting supply and demand of affordable rentals;
- f. International experience of policies that effectively support renters;
- g. The impact of government programs on the rental sector; and
- h. Any other related matters

Scope of submission

SMLS have provided comments on terms of reference where we were confident that our experience as a community legal service allows us to contribute to the subjects raised.

Acronyms

SMLS	South-East Monash Legal Service Inc.
ISEALS	International Student Employment and Accommodation Legal Services
RTA	<i>Residential Tenancies Act 1997 (Vic)</i>

Introduction

SMLS thanks the Senate Standing Committees on Community Affairs for the opportunity to provide a submission in relation to the worsening rental crisis in Australia.

Many of our clients are impacted by financial hardship and/or family violence and SMLS often assists clients who are facing, or at risk of, homelessness. Our clients often require immediate access to housing, including crisis accommodation, social housing or, if financially viable, affordable private rentals. 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 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. ISEALS clients experience 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

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

Urgent Law Reform Needed

In Australia, there is an urgent need for law reform, firmly acknowledging that access to housing *is a fundamental human right*, rather than a profit or investment opportunity. Too often we see clients unable to find suitable accommodation and who are let down by a system built on profit and investment. We urge the Government to use a human rights lens in all housing policy making with greater attention and resources towards making this human right a reality for all Australians.

Across Australia, renters are struggling with the rising cost of living. Accessing a rental is becoming increasingly difficult due to a combination of factors including a housing shortage (with many properties used as short term/holiday rentals) and unaffordable, increasing rental prices.

Australia is facing a cost-of-living crisis with the increasing costs of energy bills, food and rental prices, all factors contributing to a major strain on Australian families' financial, physical, and mental health and wellbeing. Many of our clients are locked out of the rental market and thus attempt to access public or community housing. This is proving difficult given Victoria has the lowest proportion of public and community housing stock in Australia,³ which is pushing people who would otherwise be eligible for social or public housing into the unaffordable and inaccessible private rental market, resulting in unstable and unsafe consequences.

Clients that we assist through our Social Work program report struggling to afford necessities such as food and rent. Many of these clients are single parents with young dependents, relying on Centrelink, often from migrant backgrounds and/or fleeing family violence. Anecdotally, we can report that it has taken some of these clients over 6 months to find private accommodation, some of whom have been forced into short term motel accommodation due to losing their home.

Urgent reform and investment are required to provide Australians with:

- Access to affordable social housing to ensure that those facing hardship such as victim survivors of family violence have immediate access to safe and secure housing.
- Access to affordable and stable private rentals.

Rental Increase Regulation

SMLS supports Tenant Victoria's suggestion that there be a "Fairness Formula" to regulate future rent increases.¹ In Victoria, the *RTA* regulates how a rental provider must notify renters about their intention to raise the rent and limits as to how often it can be raised, however the *RTA* does not stipulate thresholds on rent increases. A Fairness Formula would therefore create a formula that rental providers must use to calculate rent increases instead. Whilst we appreciate that changes are required at a state level, greater support from the Federal Government is required to implement such changes.

Access to Legal Advice and Representation

SMLS 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 facing mortgage stress. Providing early legal support allows for early intervention responses.

¹ Tenants 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/>

Housing as a Human Right

SMLS believes that housing should be a human right and urge the Government to put greater attention and resources towards making this human right a reality for all Australians. As noted in the National Conference on Homelessness by the Human Rights Commissioner, the right to housing is supported by international law, within the Universal Declaration of Human Rights adopted by the United Nations in 1948, as well as the International Covenant on Economic, Social and Cultural Rights.²

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.³

The UN has condemned Australia for its public housing failures and inability to enshrine a right to adequate housing in our laws back in 2007- however no substantial changes have been made since.⁴ Internationally, Australia's commitment to the legal right to housing is lagging. We note that France and Scotland have established a legal right to housing, and Finland's constitution 'obliges public authorities to promote the right to housing' - so much so that the number of people experiencing homelessness in Finland has dramatically declined.⁵

As echoed by Justice Connect⁶, a housing-first approach and a human right-centred housing policy would enable people to access safe, secure housing. We would encourage the Government to adopt this approach moving forward. At a state level, as suggested by the Parliamentary Inquiry into Homelessness in Victoria, we have previously recommended the Victorian Government to include a right to housing in the Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic) and we recommend that this right is enshrined across all jurisdictions.

² C Sidoti, 'Housing as a human right', *National Conference on Homelessness, Council to Homeless Persons – Address by Chris Sidoti, Human Rights Commissioner*, 4 September 1996, accessed 27 July 2023, [h5_9_2.PDF \(humanrights.gov.au\)](#)

³ 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>>.

⁴ A Stafford, UN man condemns Australia for housing failures, *The Age*, June 1, 2007, accessed 27 July 2023, [UN man condemns Australia for housing failures \(theage.com.au\)](#)

⁵ Justice Connect, 'Housing should be a human right', *Justice Connect*, 16 March 2021, accessed 31 July 2023, <https://justiceconnect.org.au/fairmatters/housing-should-be-a-human-right/>

⁶ For more info, see <https://justiceconnect.org.au/fairmatters/housing-should-be-a-human-right/>

SMLS supports the National Association of Renters' Organisations Joint Statement and Submission⁷, and has also endorsed the University of Melbourne Student Union Inc (UMSU) submission to this Inquiry.

⁷ <https://tenantsvic.org.au/articles/files/submissions/NARO-Joint-Statement-Senate-Inquiry-Rental-Crisis-August-2023.pdf>
<https://tenantsvic.org.au/articles/files/submissions/NARO-Nine-Principles-For-Strengthening-Renters-Rights-August-2023.pdf>