

Making public housing count:
Submission to the Parliamentary Inquiry
into the Public Housing Renewal
Program

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November 2017



About Justice Connect Homeless Law

Justice Connect Homeless Law (**Homeless Law**) is a specialist legal service for people experiencing or at risk of homelessness.

Homeless Law staff work closely with pro bono lawyers to provide legal advice and representation to over 400 people experiencing or at risk of homelessness each year. Our services are outreach based and client centred, and our two staff social workers allow us to respond to clients' legal and non-legal needs. Around 60% of our casework is tenancy and eviction prevention (including tenants in public, private and community housing). Last year, Homeless Law:

- Opened 472 new client files to provide ongoing legal representation to people experiencing or at risk of homelessness;
- Delivered direct social work support to 143 clients;
- Prevented the eviction of 121 clients and their families into homelessness;
- Assisted 60 clients to resolve overwhelming fines directly related to homelessness; and
- Provided criminal legal advice or representation to 71 clients.

The assistance Homeless Law provides to clients with tenancy issues includes:

- Providing legal advice in relation to the rights and obligations of tenants under the *Residential Tenancies Act 1997* (Vic);
- Negotiating and advocating with landlords to avoid unnecessary evictions;
- Where social housing landlords are involved, negotiating and advocating in relation to obligations under the *Charter of Human Rights and Responsibilities Act 2006* (Vic);
- Representing clients at VCAT regarding applications for possession or compliance orders; and
- Providing non-legal support, including in terms of housing, health, family violence and brokerage, through our two in-house social workers.

Homeless Law also runs a specialist women's program, the Women's Homelessness Prevention Project. In its first two years of operation, the WHPP provided 102 women with 157 children in their care with a combination of legal representation and social work support. Of these 102 women at risk of homelessness, 90% had experienced family violence. Of the completed matters, 83% resulted in women maintaining safe and secure housing or resolving a tenancy legal issue (e.g. a housing debt) that was a barrier to accessing housing.

Over a two year period, Homeless Law also provided legal assistance to 228 prisoners through the Debt and Tenancy Legal Help for Prisoners Project. Through the provision of legal representation, Homeless Law assisted 43 Victorian prisoners to avoid eviction. Through this work we have built a stronger understanding of the common reasons why prisoners lose their tenancies while in prison and the barriers to finding housing upon release.

Homeless Law uses the evidence from our casework to inform systemic change aimed at preventing homelessness and reducing the negative impact of the law on people who are homeless or at risk of homelessness.

Acknowledgements

Homeless Law thanks our partner law firms and pro bono lawyers whose casework generates positive outcomes for our clients and has directly informed our recommendations in this submission. We also acknowledge our colleagues in the community legal, housing, homelessness and social service sectors for consulting in relation to this submission and our clients for their resilience and insights.

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1. Executive summary & five recommendations

Homeless Law commends the Victorian Government for its commitment to increasing the State's public housing stock and improving the living conditions of public housing tenants through the Public Housing Renewal Program (PHRP), which involves nine residential estates around Melbourne. The PHRP forms part of the Government's *Homes for Victorians* strategy, which seeks to improve affordability, access and choice to the State's housing market, including by "building and redeveloping more social housing – supporting vulnerable Victorians while creating thousands of extra jobs in the construction industry".¹

Homeless Law also welcomes the Victorian Legislative Council's Inquiry into the PHRP (**Inquiry**), which requires the Legal and Social Issues Committee (**Committee**) to inquire into, consider and report, no later than 20 March 2018. Homeless Law is pleased to make a submission to the Inquiry, which is directly informed by our experience of representing vulnerable Victorians who are, or are at risk of becoming, homeless. In preparing this submission, Homeless Law has participated in consultations with the community legal, social service, housing and homelessness sectors. We would also welcome the opportunity to speak at any future public hearings as part of the Inquiry.

Given we are relying on evidence from Homeless Law's casework and insights from our clients, we have focussed on the Inquiry's Terms of Reference that primarily relate to preventing homelessness and protecting tenants' legal and human rights. As noted by the Victorian Ombudsman, "public housing is a hugely important asset", which "provides housing for Victorians who are most in need, especially those who have recently experienced homelessness or have mental and physical ill health, disabilities or who need protection from family violence".²

Homeless Law supports the Government's recent announcement of an initial set of reforms to the *Residential Tenancies Act 1997* (Vic) (**RTA**), which recognise that Victoria's current housing environment is unfair on tenants, and seek to give all renters further security and support.³

Despite these positive initiatives, the State's current affordable housing options are sparse, social (public and community) housing waitlists are higher than ever before, and homelessness services are overwhelmed with demand. The data and statistics regarding housing affordability and homelessness in Victoria are increasingly well-recognised:

- The public housing system is complex, with the Department of Health and Human Services (**DHHS**) currently managing the state's 64,196 public housing residential tenancies, which are home to around 165,000 Victorians, through 17 local housing regions across the State.⁴
- There are currently over 35,000 people on the waiting list for public housing in Victoria.⁵
- Over 100,000 people seek assistance from specialist homelessness services in Victoria each year, and in 2015-16, around 275 requests for assistance were unable to be met each day.⁶

¹ Victorian Government, *Homes for Victorians: Affordability, access and choice* (March 2017) 2 (**Homes for Victorians**) available at: https://www.vic.gov.au/system/user_files/Documents/housing/FINAL%20PDF%20DTF046_Q_housing01.pdf.

² Victorian Ombudsman, *Investigation into the management of maintenance claims against public housing tenants* (October 2017) (**Ombudsman Housing Report**) 5-6 available at: <https://www.ombudsman.vic.gov.au/getattachment/cb264274-236b-4c26-a4ac-9aff6ecc5b11>.

³ Consumer Affairs Victoria, *New reforms designed to make renting fairer* (8 October 2017) available at: <https://www.consumer.vic.gov.au/latest-news/new-reforms-designed-to-make-renting-fairer-news-alert>.

⁴ Ombudsman Housing Report, above n 2, 5-6.

⁵ Department of Health and Human Services, *Public Housing Waiting and Transfer List* (September 2016) (**Public Housing List**) available at: http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/research_-data-and-statistics/public-housing-waiting-and-transfer-list.

⁶ Australian Institute of Health and Welfare, *Specialist Homelessness Services 2015–2016: Victoria – fact sheet* (2016), available at <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services/contents/policy-framework-for-reducing-homelessness-and-service-response>.

- Over the past decade, rental costs in Metropolitan Melbourne have risen by 4.6% each year,⁷ and a recent snapshot of private rental properties showed that less than 1% of rental properties in and around metropolitan Melbourne were affordable for single parents on low incomes.⁸
- Research has found that to meet the needs of people eligible for the Priority List of the Victorian Housing Register, the State would need 53,105 additional social housing units between 2016 and 2031, which is equivalent to 3,540 new properties each year.⁹
- A 2017 survey conducted jointly by consumer group Choice, National Shelter and the National Association of Tenant Organisations revealed that 83% of people surveyed were living with little to no long-term security, and tenants in Australia lack the power to demand standard property maintenance.¹⁰

It is in this context that Homeless Law provides legal assistance and social work support to Victorians on the brink of homelessness, including representing tenants in 131 social housing legal matters last year. This casework encompassed 78 matters involving public housing tenants and 53 for people living in community housing. Ninety were eviction matters, including 40 tenants facing eviction for rental arrears. From this work, Homeless Law sees first-hand the pressures faced by Victorian tenants, and the need for more long-term social housing with supports.

In formulating the appropriate balance between stock renewal and development, and tenants' needs and rights, it is important to recognise that the PHRP is an opportunity to directly benefit some of the State's most marginalised tenants. In an environment with such an overburdened public housing waiting list, a shortage of social housing with supports and an unprecedented number of rough sleepers, the current proposed increase in public housing stock of 10% (or around 110 units) does not go far enough in meeting the State's current or future housing needs. However, if implemented effectively, the PHRP can reduce the current housing and homelessness crisis, and help to create stronger, safer and healthier communities in Victoria.

Informed by the evidence-base from providing legal representation to over 450 clients last year, including preventing the eviction of 121 clients and their families into homelessness, Homeless Law makes the following five recommendations to ensure an adequate, safe and accessible public housing framework that helps vulnerable Victorians to live in long-term homes, be part of inclusive and productive communities and avoid homelessness.

FIVE RECOMMENDATIONS FOR ADEQUATE, SAFE & ACCESSIBLE HOMES FOR VICTORIANS

1. Prioritise a significant increase in public housing availability and accessibility for vulnerable Victorians

Homeless Law strongly supports the Victorian Government's commitment to increasing the State's public housing stock, improving the living conditions for tenants, and investing in the community.¹¹ Recognising that there are currently over 35,000 people on the waiting list for public housing, 22,000 Victorians experiencing homelessness and an estimated shortfall of 30,000 in rental units affordable to extremely low income Victorian households,¹² the proposed increase in public housing stock by approximately 10% (or around 110 public housing units) as part of the renewal process is an inadequate contribution to meeting the current and future housing needs of Victorians. Homeless Law recommends:

⁷ Department of Health and Human Services, *Rental report* (June 2017) 3 available at: <https://www.dhhs.vic.gov.au/publications/rental-report>.

⁸ Anglicare Australia, *Anglicare Australia Rental Affordability Snapshot* (2017) 90 available at: <http://www.anglicare.asn.au/docs/default-source/default-document-library/rental-affordability-snapshot-2017.pdf?sfvrsn=4>.

⁹ Burke, T, Swinburne University of Technology, *The Social Housing Numbers Challenge* (2016).

¹⁰ Natasha Robinson and Rebecca Armitage, *Renters have little security, put up with a lot and fear eviction: survey* (17 February 2017) available at: <http://www.abc.net.au/news/2017-02-16/renters-have-little-security-and-fear-eviction-survey/8273670>.

¹¹ Premier of Victoria, *Media Release: Over 1100 Public Housing Homes Set for Redevelopment* (1 December 2016) available at: <https://www.premier.vic.gov.au/over-1100-public-housing-homes-set-for-redevelopment/>.

¹² Launch Housing and University of Melbourne, *Submission to the Parliamentary Inquiry into the Victorian Government's Public Housing Renewal Program* (3 November 2017) 6 available at: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Public_Housing_Renewal_Program/Submissions/S87-Transforming_Housing_and_Launch_Housing.pdf.

- Maximising the ‘one-off’ opportunity of the renewal process and the positive aims of *Homes for Victorians*. Although public housing will not be the only mechanism for increasing the supply of affordable housing, there is a significant risk that the PHRP will be a missed opportunity for long-term growth, which cannot be regained once the nine sites are sold and developed; and
- Prioritising a significant increase in public housing stock across the nine renewal sites, which will make public housing more accessible and available to vulnerable Victorians, including people experiencing or at risk of homelessness.

2. Ensure that public housing properties meet the diverse needs of tenants and their families

To recognise the diversity of public housing needs in Victoria, and to better guarantee the rights of vulnerable individuals and families, including women and their children in the context of family violence, Homeless Law recommends:

- Building a mix of different-sized dwellings, acknowledging the need for more singles and couples to be housed, without displacing families;
- Matching the proposed increase in small units with an increase in larger units that have more bedrooms, so families are not forced into inappropriately sized properties, which may decrease their day-to-day quality of life; and
- Recognising the role for public housing in creating healthy, safe, productive communities, and that there are individuals and families for whom public housing is, and will continue to be, the most appropriate housing option, which is a worthwhile investment.

3. Protect tenants’ legal and human rights through appropriate legal agreements, consistent social housing policies and resourcing, informed decision making and pathways to specialist services

To uphold tenants’ legal & human rights throughout the renewal process, Homeless Law recommends:

- Reducing uncertainty and pressure by guaranteeing tenants’ rights to be relocated and returned to their properties, if they choose to do this, through appropriate legal agreements;
- Implementing consistent, human rights compatible policies and further resourcing to guide and assist staff within all social housing providers in making fair decisions during the renewal process, including relocations, allocations, and ongoing tenancy management;
- Giving proper consideration to all applicable human rights, particularly the housing management obligations of the Department of Health and Human Services and community housing providers as public authorities for the purposes of the *Charter of Human Rights and Responsibilities Act 2006* (Vic);
- Making tenants central to decision making and timing, including guaranteeing a relocation process that directly considers and monitors the impact on tenants, and builds-in holistic, ongoing supports; and
- Informing tenants and community members about the renewal policies and processes, and encouraging tenants to get independent, specialist tenancy legal advice and representation regarding relocating, the ‘right of return’ and tenancy sustainment.

4. Foster community cohesion and housing stability on the renewal sites

Homeless Law strongly supports the growth of public housing stock at the nine renewal sites. If the PHRP proceeds with a mixed model of public and private housing, to avoid segregation and foster social unity, Homeless Law recommends:

- Achieving a balanced, cohesive approach to housing integration, including by considering best practice examples, such as inter-mixing small clusters of public and private housing tenants throughout the sites, making the different types of housing indistinguishable and creating communal and green spaces that are accessible to all tenants; and
- When needed, connecting public housing tenants to appropriate services, so that tenants have the support they need to set up and sustain their homes.

5. Engage in genuine and accessible consultation with tenants, and publish social and economic site assessments, improving the accountability of the proposed renewal model

To improve community access and understanding of the PHRP process and better guarantee its social and economic viability, Homeless Law recommends:

- Carrying out more structured and accessible community consultation, offering tenants an appropriate and culturally inclusive opportunity to make informed choices about their housing; and
- Publishing comprehensive social impact assessments and the 'business case' for all of the renewal sites, and if the long-term social and economic benefits are uncertain, reassessing the timing and viability of the sites being sold-off, which will increase the renewal model's accountability.

2. Increasing public housing availability & accessibility

Homeless Law strongly supports the Victorian Government's commitment to increasing the State's public housing stock through the PHRP. We also welcome the Government's aims to improve living conditions for tenants, provide more affordable housing and invest in the community.¹³ As part of the Government's commitment to increase the number of available properties on the Victorian Housing Register, the PHRP proposes to increase public housing stock by approximately 10% (or around 110 public housing units).

Recent research from *Transforming Housing* has revealed a 30,000 shortfall in rental units affordable to extremely low income Victorian households (those making less than 35% of area median income),¹⁴ and to meet the needs of households eligible for the Victorian Housing 'Register of Interest', the State would need 6,700 more properties each year between 2016–2031.¹⁵ **In this context, the proposed 10% increase in public housing stock is an inadequate contribution to meeting the current social and affordable housing needs of Victorians.**¹⁶ Currently, there are more than 22,000 people experiencing homelessness¹⁷ and over 35,000 people on the waiting list for public housing in Victoria.¹⁸ There has also been a 74% increase in Melbourne's rough sleeping population since 2014, with 247 people sleeping on Melbourne's streets in 2016.¹⁹ In an environment with such an overburdened public housing waiting list, a shortage of social housing²⁰ with supports and an unprecedented number of rough sleepers, an increase of around 110 properties does not go far enough in meeting the State's current or future housing needs.

The supply of both social and affordable housing in Victoria is not meeting the current needs and ever-increasing demand of the community.²¹ Infrastructure Victoria's *30-year Infrastructure Strategy* outlines that affordable housing is needed for 75,000 to 100,000 vulnerable low income households,²² and this cannot be achieved solely through the private rental market, which remains largely unaffordable and inadequate to meet the complex housing, social and health needs of disadvantaged community members.

Although public housing will not be the only mechanism for increasing housing supply, there is a significant risk that the PHRP will be a missed opportunity for long-term growth, which cannot be regained once the nine sites are sold and developed. As noted by Infrastructure Victoria:

*'Major investment over the next 30 years, and particularly the next 10, is essential to ensure the most vulnerable Victorians have access to one of our most fundamental needs – shelter. Without bold action, the number of Victorians living in insecure accommodation will increase to levels never seen before.'*²³

Discussion about Victoria's public housing stock often focuses on short-term 'quick fixes', anecdotes and tenant stereotypes, rather than a long-term vision, which fails to recognise that it has a critical role to play in our society and the economy, and risks impacting on Victoria's productivity and liveability.²⁴ **The importance of public housing cannot be understated and we encourage the Government to prioritise increasing its stock.** We have contributed submissions to previous public housing review processes,²⁵ and the feedback from Homeless Law

¹³ Premier of Victoria, above n 11.

¹⁴ Launch Housing and University of Melbourne, above n 12.

¹⁵ Burke, T, above n 9.

¹⁶ Standing Committee on Legal and Social Issues, *Inquiry into the Public Housing Renewal Program, Terms of Reference* (9 August 2017) (**Terms of Reference**), Term of Reference 1, available at: <https://www.parliament.vic.gov.au/lsic/inquiries/article/3842>.

¹⁷ See Australian Bureau of Statistics, *Census of Population and Housing: Estimating Homelessness* (November 2012) 19 available at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/2049.0>; Public Housing List, above n 5.

¹⁸ Public Housing List, above n 5.

¹⁹ See City of Melbourne, *StreetCount highlights number of people sleeping rough* (9 June 2016) available at:

<http://www.melbourne.vic.gov.au/news-and-media/Pages/streetcount-highlights-number-of-people-sleeping-rough.aspx>.

²⁰ "social housing" is defined as "short and long-term rental housing that is owned and run by the government or not-for-profit agencies, which is comprised of public and community housing": see Department of Health and Human Services, *Social Housing* (November 2017) (**November Update**) available at: <http://www.housing.vic.gov.au/social-housing>.

²¹ Australian Housing and Urban Research Institute, *Public housing renewal and social mix policy brief* (1 September 2017) (**AHURI Policy Brief**) available at: <https://www.ahuri.edu.au/policy/ahuri-briefs/public-housing-renewal-and-social-mix>.

²² Infrastructure Victoria, *Victoria's 30-year infrastructure strategy* (December 2016) (**30-year strategy**) 98 available at http://infrastructurevictoria.com.au/sites/default/files/images/IV_30_Year_Strategy_WEB_V2.pdf.

²³ 30-year Strategy, above n 22, 5.

²⁴ Victorian Council of Social Services, *Making Social Housing Work: Better homes for low-income Victorians* (March 2014) (**Making Social Housing Work**) 15 available at: <http://vcoss.org.au/documents/2014/04/Making-Social-Housing-Work-Web.pdf>.

²⁵ Homeless Law (formerly PILCH Homeless Persons' Legal Clinic), *Keeping Doors Open: Submission in Response 'Pathways to a Fair and Sustainable Social Housing System' Public Consultation Discussion Paper* (31 July 2012) (**Keeping Doors Open**) available at: <https://www.justiceconnect.org.au/sites/default/files/HPLC%20-%20Keeping%20Doors%20Open.pdf>; Homeless Law (formerly PILCH

clients, who are public housing tenants or on the waiting list, continues to offer valuable insights into the importance additional public housing. This tenant feedback includes:²⁶

'More housing for people on low incomes. More options for people who need housing. There shouldn't be such a big waiting list.'

'If there is not enough public housing for people, the government needs to ensure that there are the right kinds of support available for people so they can get through it.'

During a previous consultation, Homeless Law client Marie,²⁷ who identifies as Aboriginal, expressed the relief for herself and her kids at being offered social housing after 10 years on the waiting list:

'... the most beautiful house I've ever seen in my life.

Well that's all good and well, but the majority of children that are involved in transitional housing or priority housing have experienced some sort of trauma in their life ... because that's the only way you're eligible for it. And the trauma and impact of them actually setting up a life somewhere and then moving once again to somewhere that may be nowhere near triggers other traumatic memories and creates an idea in the children's head that they have no security or stability.

Our new house – it's the base of everything. It's the base of the structure of healing. It's everything. I'm just so grateful that I've got this beautiful house and we will always have this and that's all that really matters.'

Marie's comments remind us that secure and stable tenure is one of the major features of social housing, which allows both public and community housing to play a significant role in improving the lives and wellbeing of highly vulnerable tenants.

Homes for Victorians states a target of 2,500 social housing units being refurbished or rebuilt and 2,200 new units being provided over five years, which equates to 440 new units each year.²⁸ The PHRP does not appear to meet these targets, and we would welcome public clarification about how the PHRP's proposed 10% uplift of social housing stock was reached. The need for strategic investment and large-scale outcomes of any renewal process has been highlighted by Infrastructure Victoria, which noted:

'While the cost of improving the provision of social housing for vulnerable Victorians will be significant, not acting will come with even greater costs to society and the economy, which will be felt by generations to come'.²⁹

There are also valuable insights from inter-state and overseas, where large increases, including a 369% increase at the Ivanhoe estate in New South Wales,³⁰ have been achieved through the creation of additional social housing properties. Homeless Law values the role of social housing, and we have discussed how both public and community housing providers can be regulated and resourced effectively to best protect the rights of tenants in section 4 below.

Given the size of the current waiting list, the State's growing population and the 'one-off' opportunity presented by the nine, socially dynamic, inner-Melbourne sites, the Government should maximise any renewal outcomes and prioritise significantly increasing DHHS-managed, public housing stock. If a significant increase in public housing across the sites is not achieved, the existing social and affordable housing market will be placed under

Homeless Persons' Legal Clinic), "We can't go private..." *Inquiry into the adequacy and future directions of public housing in Victoria, Submission to the Family and Community Development Inquiry* (February 2010).

²⁶ Keeping Doors Open, above n 25, 8.

²⁷ Keeping Doors Open, above n 25, 23.

²⁸ Homes for Victorians, above n 1, 32.

²⁹ 30-year Strategy, above n 22.

³⁰ Communities Plus, *Major Sites: Ivanhoe* (2017) available at: <https://www.communitiesplus.com.au/major-sites/ivanhoe-1>.

further strain, and the number of Victorians experiencing or on the brink of homelessness will continue to increase.

Recommendation 1: Prioritise a significant increase in public housing availability and accessibility for vulnerable Victorians

Homeless Law strongly supports the Victorian Government's commitment to increasing the State's public housing stock, improving the living conditions for tenants, and investing in the community.

Recognising that there are currently over 35,000 people on the waiting list for public housing, 22,000 Victorians experiencing homelessness and an estimated shortfall of 30,000 in rental units affordable to extremely low income Victorian households, the proposed increase in public housing stock by approximately 10% (or around 110 public housing units) as part of the renewal process is an inadequate contribution to meeting the current and future housing needs of Victorians.

Homeless Law recommends:

- Maximising the 'one-off' opportunity of the renewal process and the positive aims of *Homes for Victorians*. Although public housing will not be the only mechanism for increasing the supply of affordable housing, there is a significant risk that the PHRP will be a missed opportunity for long-term growth, which cannot be regained once the nine sites are sold and developed; and
- Prioritising a significant increase in public housing stock across the nine renewal sites, which will make public housing more accessible and available to vulnerable Victorians, including people experiencing or at risk of homelessness.

3. Creating more public housing that recognises & caters for the diversity of tenants

Homeless Law agrees with the Government's proposed creation of additional small (largely 1 and 2 bedroom) units through the PHRP, which will provide more suitable housing for single and coupled tenants without children.³¹ This smaller-sized stock may particularly benefit rough sleepers, who often face dislocation from family and friends and limited viable housing options, if it includes connection to vital social supports such as Tenancy Plus (formerly the Social Housing Advocacy and Support Program).³² An increase in small units, however, should not come at the expense of existing larger units, or ignore the community's need for more homes that can accommodate families.

Section 17 of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**) provides that: "Families are the fundamental group unit of society and are entitled to be protected by society and the State."³³ The planned renewal risks inappropriately displacing families from public housing, replacing their existing, larger homes with one and two bedroom units. The PHRP states that: "Keeping families together is a real priority of these projects", referencing flexible homes which will be made by combining one and two bedroom properties.³⁴

From the information that is publically available, it is unclear if the proposed 10% increase in stock takes into account how many of the new dwellings may need to be used for the various demographics, and how individuals and families who are relocated from 3, 4 or 5 bedroom properties will be able to secure the right to return they have been promised. It is particularly important that families, who may vacate their existing public housing properties as part of the PHRP, are able to return to units with at least the same number of bedrooms. This will avoid families being forced into inappropriately sized properties, and maintain their day-to-day quality of life. The high level of uncertainty around the relocation process creates short and long-term risks, including cost burdens on tenants, housing and homelessness services and government, disruptions to communities, and an increased likelihood of eviction.

In addition to preserving the amount of stock already available for disadvantaged, low-income tenants and their children, the Government should prioritise taking positive steps to address the acute shortage of safe, stable and affordable housing for families, including by building on its excellent work in response to the Royal Commission into Family Violence. As 129 organisations from the across the housing, homelessness, health, justice, family violence and local government sectors collectively submitted to the Royal Commission into Family Violence, with less than 1% of private rental properties in metropolitan Melbourne being affordable for single parents on low incomes,³⁵ and the soaring public housing waiting list, Victoria's acute shortage of affordable housing:

- Deters victims from leaving violent relationships;
- Pushes victims into homelessness; and
- Can make perpetrators more isolated and increase the risk of repeated or escalated violence.³⁶

Through our Women's Homelessness Prevention Project (**WHPP**), Homeless Law has seen the impact of an acute lack of available social housing and a competitive, unaffordable, insecure private rental market. The WHPP is a holistic, integrated model of providing legal services that focuses on preventing homelessness through addressing both legal and non-legal issues. It keeps women and children in housing through a combination of intensive legal representation and social work support.

In its first two years, the WHPP assisted 102 women at risk of homelessness. Those 102 women had 157 children in their care, also facing homelessness and the hardship and social dislocation that comes with it. 90% of the women had experienced family violence in the past 10 years. Of the matters the matters finalised in the first two years, 62 of our WHPP clients were able to sustain their housing or transition to new housing without an

³¹ Terms of Reference, above n 16, Term of Reference 2.

³² Department of Health and Human Services, *Tenancy Plus support program* (October 2017) (**Tenancy Plus Support Program**) available at: <http://www.housing.vic.gov.au/tenancy-plus-support-program>.

³³ *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**) s 17.

³⁴ November Update, above n 20.

³⁵ Anglicare Australia, *Anglicare Australia Rental Affordability Snapshot* (2016) 80 (based on a snapshot dated 2-3 April 2016) available at: <http://www.anglicare.asn.au/docs/default-source/default-document-library/rental-affordability-snapshot-2016.pdf?sfvrsn=7>.

³⁶ Royal Commission into Family Violence, *Final Report* (2016), Volume II, 45; See also, Justice Connect Homeless Law, *Home Safe: Submission to the Royal Commission into Family Violence* (May 2015) (**Homeless Law Family Violence Submission**).

intervening period of homelessness, 16 women with 35 children in their care were evicted into homelessness. Dr Angela Spinney's 2011 Australian Housing and Urban Research Institute study articulates the impact of this:

'[we] know that children who become homeless, whether through domestic violence or other events, frequently suffer the trauma of disrupted schooling and friendships and that homeless families almost always experience financial disadvantage'.³⁷

Katrina's case study below shows the way in which women and their children who have fled violence are placed at risk of recurring homelessness due to the lack of viable housing options. The risk to these families is even greater if public housing stock is not appropriately developed to cater for diverse demographics.

Victim of family violence and her children left homeless because of the lack of affordable housing options

Katrina is a young mother of two children who had moved into her private rental property five months earlier. Over the past five years she has experienced severe family violence from an ex-husband, and has been forced to shuffle between her mother's house, two private rental properties, family violence refuges and crisis accommodation in motels due to safety concerns.

Her previous private rental tenancy ended due to issues with Centrelink that resulted in arrears accruing. She had most recently spent six months at her mother's house, but there was conflict due to overcrowding with her children. She was previously assisted to apply for public housing, but her application fell off the wait list due to constant changes of address which led to information being out of date. Katrina also suffers from anxiety and depression, and her son is having behavioural issues at school.

Due to ongoing Centrelink and debt issues, Katrina again fell into arrears and contacted Homeless Law for assistance. The lawyers negotiated with the landlord to obtain additional time and the WHPP social worker sent an urgent written assessment to Katrina's local homelessness access point to seek transitional housing. The VCAT member postponed the warrant for 30 days in recognition of Katrina's hardship, and Katrina worked intensively with the WHPP social worker to identify an alternative affordable rental property, and obtained financial brokerage to cover the first month's rent and bond.

Despite this, after 30 days and multiple applications for different rental properties with the WHPP social worker's assistance, Katrina was unsuccessful in securing a private rental property or being offered transitional housing. When the warrant was due to be executed at her property, she moved back into her mother's overcrowded house with her children, only six months after she'd last left.

Katrina's case also shows that, even with legal representation, intensive social work support, access to brokerage and the maximum additional time being granted by VCAT, the current shortage of social housing and increasingly inaccessible private rental market are pushing women who have experienced family violence and their children into the disruptive and damaging cycle of recurring homelessness.

The long-term solution to avoiding people being evicted into homelessness is more public housing stock, with supports, that caters for diverse needs. Well-designed and managed public housing also contributes to the creation of healthy, safe, productive communities, and there are individuals and families for whom public housing is, and will continue to be, the most appropriate housing option, and this is a worthwhile investment.

³⁷ Angela Spinney et al, *Homelessness prevention for women and children who have experienced domestic and family violence: innovations in policy and practice: AHURI Final Report No 196* (2011).

Recommendation 2: Ensure that public housing properties meet the diverse needs of tenants and their families

To recognise the diversity of public housing needs in Victoria, and to better guarantee the rights of vulnerable individuals and families, including women and their children in the context of family violence, Homeless Law recommends:

- Building a mix of different-sized dwellings, acknowledging the need for more singles and couples to be housed, without displacing families;
- Matching the proposed increase in small units with an increase in larger units that have more bedrooms, so families are not forced into inappropriately sized properties, which may decrease their day-to-day quality of life; and
- Recognising the role for public housing in creating healthy, safe, productive communities, and that there are individuals and families for whom public housing is, and will continue to be, the most appropriate housing option, which is a worthwhile investment.

4. Protecting tenants' legal & human rights throughout the renewal process

The Government has proactively referred to the need to protect current tenants' rights to transition to a new property, and ultimately return to their current property if they want to do this.³⁸ It is clear that the PHRP requires due consideration of a myriad of legal and human rights of public housing tenants and how these may be affected by the process, along with the operational guidelines and policies connected to social housing, and the status of DHHS and community housing providers as public authorities for the purposes of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.³⁹

From Homeless Law's casework and advocacy experience, the PHRP would benefit from further consideration of tenants' various legal, policy-based and human rights in terms of both vacating and returning to their properties. The Government should ensure that all public housing tenants are treated fairly through the PHRP, including giving tenants more information about the status of their future housing as soon as possible.

4.1 Recognising tenants' legal rights

We commend the Government's commitment to giving tenants the first opportunity to return to their properties, with the same conditions of rent and security of tenure, and the related guarantee provided by the Minister for Housing, Disability and Ageing, the Hon. Martin Foley MP.⁴⁰ This assurance provides tenants with more certainty about their future housing and connection to community, and may enable them to make more informed decisions during the PHRP. However, the relocation process and right of return has not yet been granted any legal protections, and we are not aware of any publically available DHHS operational guideline or policy about these matters. For this reason, it remains unclear on what grounds tenants may be able to challenge any failure of DHHS to adequately relocate them, or return them to their property, following the renewal. It is also unclear what will occur if a tenant has a change in living circumstances during the renewal, such as the birth of a child.

If tenants are not informed of the legal processes around the proposed renewal, and there are no formal protections of their rights, there will be significant risks and uncertainty, which may further isolate disadvantaged people, disrupt communities and undermine the effectiveness of the PHRP.

Victoria already has a high rate of public housing properties being vacated annually – around 5,000 each year between 2013 and 2016.⁴¹ If tenants are not provided with clear information about the PHRP process and their individual rights, they are more likely to feel disempowered by government, dislocate from supports and be less equipped to sustain safe housing. This will place pressure on DHHS, along with community housing providers, the private rental market and the broader housing and homelessness sectors.

In 2016-17, Homeless Law assisted clients with 131 tenancy legal issues involving social housing, which included representing 90 tenants facing eviction, with 40 of these issues relating to rental arrears. Many of these tenants have a history of homelessness and overwhelming hardship, including trauma, mental health concerns, substance dependence, disability and family violence. Homeless Law regularly obtains feedback from our clients, and their stories illustrate the realities of homelessness and the challenges of social housing. Importantly, though, their stories also identify the role housing can play in ameliorating disadvantage and promoting recovery.

For people who have experienced homelessness and transience, a lack of clarity surrounding their tenancies over the coming years may be a source of further stress and anxiety, and may diminish their ability to focus on recovery and reintegration into the broader community. On this basis, the tenants' rights to be relocated and return to their properties, if they choose to do this, should be guaranteed as part of the PHRP through appropriate legal agreements.

³⁸ November Update, above n 20.

³⁹ Terms of Reference, above n 16, Term of Reference 3.

⁴⁰ November Update, above n 20.

⁴¹ Ombudsman Housing Report, above n 2, 26.

4.2 Human rights obligations, policies & resourcing for social housing providers

Clear policies that are compatible with human rights obligations

Homeless Law notes that some of the PHRP explanatory material references ‘social housing’ regarding the proposed new properties, where the nine residential estates involved in the renewal process have previously been referred to as ‘public housing’.⁴² This may suggest that some of the stock will be owned and/or managed by community housing providers rather than DHHS.

As discussed, we strongly support prioritising a significant increase in public housing stock, which is a key objective of the PHRP. However, we work closely with the housing sector and are aware of the value of both public housing and community housing for vulnerable people. If the PHRP proposes to convert public housing stock to community housing, we encourage the Government to work closely with the housing sector to ensure the application of consistent operational policies, and an adherence to social housing landlord obligations under the Charter, particularly in the context of considering alternatives to eviction.

Homeless Law regularly observes the different ways that tenancy matters are dealt with by community housing providers and DHHS, as well as inconsistencies between the policies of some community housing providers. **Last year, this was evidenced by 18.8% of community housing evictions faced by Homeless Law clients involving notices to vacate ‘without grounds’⁴³, as opposed to only 1% of public housing evictions.** This reflects the policy of some community housing providers to issue notices to vacate for ‘no reason’ to deal with fraught tenancies, where the housing provider is reluctant to use the compliance-based mechanisms under the RTA.⁴⁴ Policy-based concerns can also be seen through community housing evictions for small amounts of rental arrears, as illustrated by Rachel’s case study below.

Woman with mental health concerns evicted for rental arrears after not securing post-release public housing

After Rachel left prison, she was unable to secure public housing, so she moved into a community housing property to avoid post-release homelessness. She had spent over half her life in custody.

Rachel struggled with mental health concerns, which were intertwined with issues related to institutionalisation and substance dependence. These factors made it difficult for her to keep up with her rent and, when she came to Homeless Law, she was over \$2000 in arrears. Despite Rachel’s obvious difficulty maintaining her tenancy, the community housing provider did not facilitate her engagement with a housing support worker. The community housing provider was on notice that the consequences of eviction for Rachel would be homelessness and, more than likely, deterioration of mental health, relapse or re-offending.

Rachel’s offer to pay \$400 up front toward the arrears and to enter into a payment plan was rejected and the community housing provider refused to withdraw the application for possession. The community housing provider refused to negotiate alternatives to eviction. At the VCAT hearing, the community housing provider made submissions that they were not in a financial position to absorb Rachel’s \$2000 in arrears, even though Rachel had proposed a payment plan. This was accepted by the VCAT Member who found that the community housing provider would suffer ‘financial loss’ under section 331 of the *Residential Tenancies Act 1997* (Vic).

The community housing provider successfully obtained a Possession Order from VCAT on the basis of Rachel’s arrears. When the warrant was executed and the locks were changed, Rachel re-entered homelessness.

⁴² See, for eg, Department of Health and Human Services, *Public housing renewal program* (2017) available at: <https://dhhs.vic.gov.au/public-housing-renewal-program>.

⁴³ *Residential Tenancies Act 1997* (Vic) s 263.

⁴⁴ Homeless Law, *There’s no place like home: Submission to the Residential Tenancies Act Review Options Discussion Paper* (February 2017) 20.

DHHS operational guidelines also provide tenants with important protections, which do not consistently exist amongst community housing providers.⁴⁵ Key policies and the related DHHS obligations include:

- Public housing tenants being able to apply for a 6 month 'temporary absence' from their properties, including due to family violence and imprisonment, which allows them to pay a reduced rate of rent (\$15 per week) during this time period. Further 6 month extensions are also available in exceptional circumstances;⁴⁶
- Not pursuing compensation debt claims against public tenants where a property has been damaged due to violence, third parties or fair wear and tear;⁴⁷
- Public housing tenants' rent not being more than 25% of their total household income;⁴⁸ and
- Being required to take into account human rights and procedural fairness considerations before pursuing the eviction of a public housing tenant.⁴⁹

If there is consideration of stock becoming community housing (either owned or managed) as part of the PHRP, this should require the application of consistent, publically available policies, which incorporate similar protections to those provided by the DHHS' operational guidelines and policies.⁵⁰ This should also include access to the Tenancy Plus support program focussed on sustaining tenancies (which is now available to community housing tenants on the Victorian Housing Register).⁵¹

These protections should specifically include the obligation for all social housing landlords to act compatibly with, and give proper consideration to, the applicable human rights under the Charter.⁵² The Charter provides a helpful framework for negotiating with social housing providers making difficult decisions because it:

- Encourages consideration of a tenant's individual circumstances, including their family, any health problems and their risk of homelessness;
- Allows these considerations to be balanced against the competing obligations of social housing landlords (including, for example, the safety or comfort of other tenants and reliance on rent revenue); and
- Encourages proper consideration of alternatives to eviction.⁵³

For existing tenants at the nine renewal sites, the following Charter rights are likely to be engaged:

- equality – every person 'has the right to ... enjoy his or her human rights without discrimination' and 'is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination';⁵⁴
- privacy and home – a person has the right 'not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with';⁵⁵
- families – 'families are the fundamental group unit of society and are entitled to be protected by society and the state';⁵⁶ and
- children – 'every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child'.⁵⁷

⁴⁵ See generally, Department of Health and Human Services, *Policies, Guidelines and Legislation* available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation>.

⁴⁶ See Department of Health and Human Services, *Temporary Absence Operational Guidelines* (September 2015) available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/tenancy-management-manual/temporary-absence>.

⁴⁷ Department of Health and Human Services, *Tenant Property Damage Operational Guidelines* (July 2017) 2 available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/maintenance-manual/5.-tenant-property-damage>.

⁴⁸ Department of Health and Human Services, *Tenancy Management Manual, Chapter 1 – Arrears* (July 2017) (**Tenancy Management Manual**) 14 available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/tenancy-management-manual>.

⁴⁹ Tenancy Management Manual, above n 48.

⁵⁰ Tenancy Management Manual, above n 48.

⁵¹ Tenancy Plus Support Program, above n 32.

⁵² Charter s 38; *Burgess v Director of Housing* [2014] VSC 648; *Goode v Common Equity Housing Limited (Human Rights)* [2016] VCAT 93.

⁵³ Homeless Law, *Charting a Stronger Course: Homeless Law submission to the eight year Charter review* (16 June 2015) (**Charting a Stronger Course**) 7 available at: <https://www.justiceconnect.org.au/our-programs/homeless-law/law-and-policy-reform/preventing-evictions-and-sustaining-tenancies/charting-stronger-course-homeless-law-submission-eight-year-charter-review>.

⁵⁴ Charter s 8.

⁵⁵ Charter s 13(a).

⁵⁶ Charter s 17(1).

⁵⁷ Charter s 17(2).

Many community housing providers are already making decisions that take into account human rights and consider themselves to be public authorities for the purposes of the Charter,⁵⁸ and this best practice approach should be uniformly built into the policies of all Victorian community housing providers. The importance of human rights in the community housing context is illustrated by Jacqueline's case study below.

Victim of family violence facing imminent eviction from community housing because of perpetrator conduct

Jacqueline is an Aboriginal woman who has a cognitive impairment and has been living in community housing and receiving a disability support pension for a number of years. She had previously obtained an intervention order against one of her children due to persistent family violence, but in a recent incident Jacqueline's child had attended her property and caused significant damage. Jacqueline had hidden in the bathroom and called police during the incident.

When Jacqueline's community housing landlord learned about the damage, they issued her with an immediate notice to vacate for malicious damage and requested she immediately repay over \$4000 in damage that had been caused. Jacqueline hadn't vacated the property, and attended a VCAT hearing where a possession order was made against her. Several days before police were due to remove her from the property, Jacqueline contacted Homeless Law for assistance.

Jacqueline's lawyers entered urgent negotiations with her landlord in an attempt to prevent the eviction, which included providing detailed information about her history of family violence and cognitive impairment that the landlord had not previously been aware of. When Jacqueline's landlord refused to call off the eviction, the Homeless Law lawyers worked with pro bono counsel and lodged an urgent injunction application in the Supreme Court, arguing that the landlord had failed to give proper consideration to Jacqueline's human rights in reaching its decision to evict her.

Shortly after these proceedings were commenced, Jacqueline's landlord agreed to cancel the eviction, and instead offered Jacqueline alternative housing in a new location, with no liability for the damage caused by her child. She has relocated to a different community housing property which has better security that improves her safety.

Jacqueline's case study also shows the value of using the Charter as a framework to align the culture of DHHS and community housing providers with human rights compatible decision-making, and how additional training, resources and regulatory certainty are necessary to improve the sustainability of tenancies connected to the PHRP.

In the context of decisions being made during the renewal process and the impact on tenants, proper consideration should be given to all applicable human rights – particularly the housing management obligations of DHHS and community housing providers as functional public authorities for the purposes of the Charter – throughout the process.⁵⁹

Targeted resourcing for social housing providers

As part of the PHRP, the rights of tenants at the nine estates may also be affected if DHHS and other social housing providers are not adequately resourced to appropriately meet their needs.

Public housing staff, on average, manage around 230 tenancies a year, which allows approximately 10 minutes per tenancy per week.⁶⁰ DHHS staff members, and community housing workers, need sufficient resourcing, together with ongoing training and practical guidance, to support the consistent application of policies and appropriate decision-making.

Further training, support, oversight and cultural change will be beneficial within DHHS, and the community housing sector, so that workers can make tenants aware of their rights and obligations, empowering tenants to

⁵⁸ Charting a Stronger Course, above n 53, 20-21.

⁵⁹ Charter s 38.

⁶⁰ Ombudsman Housing Report, above n 2.

make informed decisions about any relocation. This will also be important for all social housing workers in responding to any increase in tenant numbers caused by the PHRP.

The Government should provide more clarity about the intended nature of the renewed stock, and if any of these properties are likely to be managed by community housing providers, consistent, human rights-based policies and resourcing should be implemented. Homeless Law strongly advocates for the existence of clear, detailed policies to guide and assist staff within all social housing providers in making their decisions in the renewal process, including relocations, ongoing management, allocations and evictions.⁶¹ Policies should not, however, be rigidly applied without consideration of individual circumstances and the Charter is crucial for the balanced, fair, well-informed exercise of discretion by all social housing workers.

4.3 Connecting tenants to community-based supports & recognising the impact of relocation

Any relocation of tenants through the PHRP must consider, on a case-by-case basis, the proximity to social support networks, educational, health and welfare services. Community-based support services are essential for vulnerable tenants and their families, including in terms of any successful housing relocation and community integration. If an existing tenant is moving far from their current networks, DHHS should connect these people to local services, so that they are not at any risk of harm and are able to settle into their new community.

Appropriate connections to community supports is also an important part of recognising the impact of any relocation on tenants and their families. As part of the renewal process, DHHS should carefully monitor the risks to newly established tenancies of people who have been relocated, and act quickly to prevent these, including in relation to rent, compliance and abandonment. DHHS should provide transparent figures about the number of 'tenancies ended' using a broad definition.

The PHRP should also incorporate learnings from New South Wales, where focus groups of public housing tenants involved with renewal programs have provided the following key principles:

- Respect for tenants;
- Acknowledgment that renewal has damaging and disruptive impacts;
- Impacts will be mitigated and minimised;
- Commitment to real engagement; and
- Tenants to receive a fair share of the benefits of renewal. Importantly, these principles were complemented by implementation requirements.⁶²

The PHRP needs to make tenants central to decision making and timing, including guaranteeing a relocation process that directly considers and monitors the impact on tenants, and builds-in holistic, ongoing supports.

4.4 Independent, specialist legal help for tenants

At every stage of the PHRP process, tenants would benefit from independent legal advice about their rights and options. **DHHS should give all existing tenants and relevant community members information about the renewal process, with tenants also being actively referred to specialist legal assistance services**, including community legal centres, the Victorian Aboriginal Legal Service and Victoria Legal Aid as appropriate.

Different legal services will be best placed to provide tenants with advice about their rights, objective perspectives on DHHS processes and policies, and VCAT representation as necessary. In the initial phases of the PHRP, tenants will particularly need legal advice about:

- The relocation process, including the 'right of return', preferably before signing any legal agreement. This will help to ensure appropriate relocations for tenants, including in terms of location, property and

⁶¹ See, eg, Homeless Law Family Violence Submission, above n 36, pt 5.4: discusses the diminished transparency as a result of the previous removal of detailed Office of Housing policies from the Department of Health and Human Services website.

⁶² These key principles were accompanied by implementation requirements: Shelter NSW, Tenants' Union of NSW and the City Futures Research Centre UNSW, *A Compact for Renewal: What tenants want from Renewal* (April 2017) available at: <https://files.tenants.org.au/resources/what-tenants-want-from-renewal.pdf>.

- landlord, and what if any, steps will be taken if tenants do not accept properties offered within the proposed relocation timeframes; and
- Any complications arising from relocation, for example, risk of eviction for breach or falling behind in rent because of costs (such as transport and new uniforms) or destabilisation.

Based on Homeless Law's casework, the most vulnerable tenants should be offered a holistic, integrated model of legal services that prevents homelessness – addressing both legal and non-legal issues – as a support through this process. The value of connecting tenants to specialist tenancy advice is demonstrated by Ari's case study below.

Young man with serious mental health conditions almost evicted from social housing for relatively minor damage

Ari is a social housing tenant who received a notice to vacate for malicious damage. Ari moved to Australia in his late teenage years, suffers from depression, schizophrenia and a mild intellectual disability. Ari had been working with a caseworker to find sustainable long-term housing.

Ari sought Homeless Law's assistance after learning that, in his absence, the social housing provider had obtained a possession order from VCAT, based on allegations that he had caused malicious damage to the property, which included staining the carpet, breaking a light fitting, removing a bathroom fan and smoke alarm.

Homeless Law entered into negotiations with the social housing provider in an attempt to prevent Ari's eviction, which included providing detailed information about his mental health issues and complex circumstances. The social housing provider eventually agreed that the damage caused was 'relatively minor' and that it was important to work with tenants before evicting.

DHHS should recognise the significant impact the PHRP process will have on tenants, seeking to limit any exacerbation of pre-existing personal and financial hardship. Homeless Law supports the comments made in the Joint Community Legal Centre Submission to the Inquiry about an apparent lack of collaboration with legal assistance providers to date through the PHRP.

All tenants and relevant community members should be informed about DHHS' renewal policies and processes, with tenants encouraged to get independent, specialist legal advice and representation regarding relocating, the 'right of return', and tenancy sustainment. Homeless Law welcomes any referrals of these tenants for this legal assistance.

Recommendation 3: Protect tenants' legal and human rights through appropriate legal agreements, consistent social housing policies and resourcing, informed decision making and pathways to specialist services

To uphold tenants' legal & human rights throughout the renewal process, Homeless Law recommends:

- Reducing uncertainty and pressure by guaranteeing tenants' rights to be relocated and returned to their properties, if they choose to do this, through appropriate legal agreements;
- Implementing consistent, human rights compatible policies and further resourcing to guide and assist staff within all social housing providers in making fair decisions during the renewal process, including relocations, allocations, and ongoing tenancy management;
- Giving proper consideration to all applicable human rights, particularly the housing management obligations of the Department of Health and Human Services and community housing providers as public authorities for the purposes of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*;
- Making tenants central to decision making and timing, including guaranteeing a relocation process that directly considers and monitors the impact on tenants, and builds-in holistic, ongoing supports; and

5. Creating cohesion between public & private housing

Homeless Law strongly supports prioritising the growth of public housing stock through the PHRP. As part of the renewal process, the Government has proposed an integration of public and private housing, which in general terms, is a viable option for any contemporary estate or site. If this integrated approach is required to achieve significantly increased public housing and meet the objectives of *Homes for Victorians*, it must not be done without considering the needs of individual tenants on a case-by-case basis, and how the private and public housing on each potential site would be allocated.⁶³

If the PHRP needs to incorporate private housing, the renewed sites should be thoughtfully designed, including potential inter-mixing small clusters of public and private tenants throughout the nine sites, making the different types of housing indistinguishable from each other and creating communal and green spaces that are accessible to all tenants.

The PHRP should draw on best practice, which indicates that mixed-tenure sites that integrate public and private housing side-by-side, so they are not markedly different, are more successful in achieving a socially cohesive neighbourhood than other mixed-housing models.⁶⁴ As part of this process, it would be valuable to reflect on the ongoing social inclusion issues at the redeveloped Carlton public housing estate, where there are three buildings that are cordoned off from one another, and a physical barrier exists between the respective public spaces available to social tenants and private tenants.⁶⁵

The Australian Housing and Urban Research Institute has also found that a balanced mix between social and private housing is more likely to be successful in a larger neighbourhood of approximately 4000-8000 people.⁶⁶ Discrimination and isolation can be avoided if DHHS carries out transparent, detailed and evidence-based research and scoping – in collaboration with tenants, their supports and other key stakeholders – about each site.

In Homeless Law's experience, public housing tenants can face stigma and unfair stereotypes from private tenants and the broader community. This problematic stigmatisation needs to be closely monitored by DHHS in relation to all of the renewal sites.

Due to some tenants' vulnerabilities, they can also face barriers to settling into a community where there is a mix of public and private housing without the necessary supports. **Although it may be challenging for DHHS to manage competing priorities of tenants and neighbours in the PHRP context, it is important to remember that public housing exists for people at the end of the line in the Victorian housing market.** If evicted, homelessness is almost inevitable, making safe and sustainable public housing critical. In making every effort to avoid and manage potential conflict, DHHS should actively connect public housing tenants with effective and adequately resourced services that provide housing, social and health supports.

During the renewal process, public housing tenants should be connected to appropriate services when needed, so that tenants can access supports to set up and sustain their homes. This will minimise the level of community disruption and reduce the likelihood of unnecessary circumstances such as Amy's case study below.

⁶³ Terms of Reference, above n 16, Term of reference 4.

⁶⁴ See, for eg, Roberts, M, *Sharing Space: Urban Design and Social Mixing in Mixed Income New Communities* (2007) 183-204.

⁶⁵ Levin, I, Arthurson, K and Ziersch, A, *Social mix and the role of design: Competing interests in the Carlton Public Housing Estate Redevelopment* (2014) 23-31.

⁶⁶ AHURI Policy Brief, above n 21.

Single mother who has experienced family violence and homelessness facing eviction from public housing for dog barking & kids making backyard noise

Amy is a single mother with two children. Having fled a violent relationship, she became homeless. Since that time she has spent a number of years trying to recover from the impacts of the violence with the assistance of services and supports. She was finally offered more permanent accommodation through DHHS.

Shortly after moving in to the property with her two children, one neighbour quickly began having issues with her. She was not fully aware of what his complaints were, her only indication was yelling over the fence at her children playing in the backyard or at the dog when it was barking. He didn't approach her to speak about it or explain why this upset him.

She received breach notices for things like playing the music too loud and excessive noise. She spoke with her landlord about these notices citing her concern that the landlord had not actually witnessed the alleged behaviour and querying the extent of the issue. Amy also had some evidence that during some of the times that the alleged breaches were taking place, she was not home. She felt it was unfair that she was simply issued with written notices and then expected to remedy the behaviour when it was her sense that she was doing nothing wrong. She would have also liked the neighbour to approach her to speak about it rather than complain to her landlord. She had had tenancies before and they were uneventful, and even at this property she was surrounded by five houses yet only one neighbour appeared to have an issue.

Despite making some attempts to remedy the issue by restricting her children's time in the backyard and removing the stereo from her house, before long, Amy ended up in VCAT facing a compliance order. Rather than issuing the order, the member ordered mediation but the neighbours declined to participate. As yet the matter has not returned to VCAT, so an order has not been granted.

For tenants with complex circumstances, the risk of isolation and exacerbation of personal vulnerabilities is even greater, and DHHS should directly liaise with these tenants before they are arbitrarily moved into inappropriate housing. Subject to the tenants providing consent, these discussions should also involve their legal or non-legal supports. This constructive approach would help to avoid situations similar to Amy's story, and help to build safe, productive and healthy communities around the sites.

Recommendation 4: Foster community cohesion and housing stability on the renewal sites

Homeless Law strongly supports the growth of public housing stock at the nine renewal sites.

If the PHRP proceeds with a mixed model of public and private housing, to avoid segregation and foster social unity, Homeless Law recommends:

- Achieving a balanced, cohesive approach to housing integration, including by considering best practice examples, such as inter-mixing small clusters of public and private housing tenants throughout the sites, making the different types of housing indistinguishable and creating communal and green spaces that are accessible to all tenants; and
- When needed, connecting public housing tenants to appropriate services, so that tenants have the support they need to set up and sustain their homes.

6. Enduring benefits of genuine community consultation & accountability

Homeless Law acknowledges that the Government has already publicly consulted in relation to the PHRP, and that this has taken place in the context of seeking to efficiently implement the renewal process.

Tenants should be afforded more consultation opportunities and meaningful choices about the PHRP model.⁶⁷ There are further opportunities to conduct community-based consultations with affected tenants, which may increase the likelihood of genuine engagement and understanding. Although it may present challenges around timing, in the State's current housing and homelessness environment, the importance of community consultation cannot be understated, as delivering 'enough high quality social housing is not only good social policy, it is also good economic policy.'⁶⁸ All public housing tenants impacted by the PHRP should be given a chance to participate in structured and accessible community consultation and to make informed choices, including tenants from culturally and linguistically diverse backgrounds, and tenants who identify as Aboriginal and Torres Strait Islander.

Through Homeless Law's previous contributions to public housing reviews, we have received feedback about the need for more direct tenant engagement in decision-making processes, including:⁶⁹

'Public housing doesn't meet my needs. I meet my needs. It meets my needs insofar as I have a roof over my head and it is near my methadone and my son's school, but I don't fit in socially.'

'Tenants should be provided with clean houses, fences and properties with no mice. Tenants should also be matched to the right neighbourhoods. Don't put a young family in housing with very old people. This causes a lot of havoc with the people already living there.'

'You can get labelled as scum for having a young, loud child who makes noise. If someone does not fit in culturally or socially it can be a very isolating experience for them'

We also note that social impact assessments may not have been conducted for all sites involved in the PHRP, and as part of genuine community consultation, these reports should be undertaken and/or made publically available.⁷⁰ In addition to the State's fundamental obligation to support vulnerable tenants, there are also extensive socio-economic benefits and savings involved in providing adequate secure, affordable housing to Victorians.⁷¹ If the PHRP is successfully incorporates growth and sustainability, it can deliver:

- greater satisfaction for tenants;
- affordable long term housing that is financially sustainable;
- locally responsive housing solutions for a diversity of low income tenants; and
- improved opportunities for tenants through community integration and partnerships.⁷²

After obtaining meaningful input from public housing tenants, decision-makers should also further evaluate the reduction in costs achieved through the provision of additional public housing, and by avoiding evictions into homelessness (including reduced use of emergency accommodation, health and justice systems).⁷³

As part of this transparent process, we also call for the Government to release the comprehensive 'business case' for the PHRP, require developers to release information about the PHRP's costs and anticipated profits,

⁶⁷ Terms of Reference, above n 16, Term of Reference 9.

⁶⁸ Making Social Housing Work, above n 24, 5.

⁶⁹ Keeping Doors Open, above n 25, 16.

⁷⁰ Terms of Reference, above n 16, Term of Reference 5.

⁷¹ Keeping Doors Open, above n 25.

⁷² Making Social Housing Work, above n 24, 5.

⁷³ See, for eg, Kaylene Zaretsky et al, *The cost of homelessness and the net benefit of homelessness programs: a national study: AHURI Final Report No 205 (2013) 4*; Department of Health and Human Services, *Support for High Risk Tenancies Strategic Project* (October 2006) cited in Department of Human Services, *Human Services: The case for change* (December 2011).

and release predicted outcomes of future profit-sharing provisions, including where this income will be directed (for example, will money be invested into more public housing in other locations). **If this process determines that the long-term social and economic benefits are uncertain, the Government should reassess the timing and viability of the sites being sold-off.**

Recommendation 5: Engage in genuine and accessible consultation with tenants, and publish social and economic site assessments, improving the accountability of the proposed renewal model

To improve community access and understanding of the PHRP process and better guarantee its social and economic viability, Homeless Law recommends:

- Carrying out more structured and accessible community consultation, offering tenants an appropriate and culturally inclusive opportunity to make informed choices about their housing; and
- Publishing comprehensive social impact assessments and the ‘business case’ for all of the renewal sites, and if the long-term social and economic benefits are uncertain, reassessing the timing and viability of the sites being sold-off, which will increase the renewal model’s accountability.