

10 November 2017

Legal & Social Issues Committee  
Standing Committee appointed by the Legislative Council of the Victorian Parliament  
Parliament House  
Spring St  
Melbourne VIC 3000

**By email only to:** [phrp@parliament.vic.gov.au](mailto:phrp@parliament.vic.gov.au)

Dear Committee

### **Submission to the Parliamentary Inquiry into the Public Housing Renewal Program**

We welcome the opportunity to make a submission to this important inquiry about the adequacy of the Public Housing Renewal Program (**PHRP**), which will affect the lives of countless vulnerable Victorians.

#### **Who we are**

We are a coalition of 7 community legal centres (**CLCs**), and further information about each of our services is set out in **Appendix A**. Some of our client's experiences of the PHRP process so far are set out at **Appendix B**. Each of our legal services works with and for many of the public housing residents affected by the proposed changes. Broadly, we as community legal centres provide free legal services, community legal education, and law reform advocacy assistance to vulnerable clients in our communities. We are gravely concerned that this is how the PHRP is currently formulated.

We make this submission and request to be heard by the Committee at the public hearing.

#### **Summary**

Our services work with residents of public housing and people experiencing homelessness. We therefore do strongly support increasing public housing stock and improving the condition of public housing dwellings to ensure they adhere to contemporary building standards. However, such improvements cannot be made at the expense of the rights and dignity of current housing residents, and in a way that undermines future public housing supply. We are gravely concerned that this is how the PHRP is currently formulated.

Our concerns about the PHRP are set out in detail below, and are briefly as follows:

1. There has been inadequate community consultation to date, and this needs to be rectified in order to obtain the community buy-in to the project that will ensure its success.
2. A 10 per cent increase in public housing stock and limited housing choice is entirely inadequate to meet the growing housing crisis. We propose that all new housing should be "public housing", and not "community housing" or "social housing", stock.

3. The proposed increase in one-bedroom dwellings risks displacing families. While we acknowledge the need for such dwellings, these should come in addition to, and not at the expense of, a mix of different sized dwellings.
4. Inappropriate planning tools and process are being used in the PHRP, including the use of Development Planning Overlays to facilitate the development, and the transfer of planning authority from local Councils to the Minister for Planning. Both of these mechanisms reduce third party rights to object or appeal. This effectively excludes the community from participating in a usual and transparent planning process.
5. The proposed public private partnership is an unsustainable vehicle for delivering social housing. It is "like keeping the front of the house warm by chopping up the back for firewood," – "[a]t some point, further investment will be required and there will be no land left to sell."<sup>1</sup>
6. The need for greater public/private housing mix is a false assumption. As found in the University of Melbourne evaluation of the Carlton Renewal Program, there is no real evidence that mixing public and private housing will improve social outcomes for public housing residents.
7. The language of "social housing", rather than "public housing" is being used in the explanatory documentation of the PHRP. Any intended transition from public housing (Department of Health & Human Services (**DHHS**) managed) to community housing provider managed social housing after the PHRP risks the diminution of tenancy rights, including rights of judicial review of community housing provider decisions and access to the Victorian Ombudsman complaints scheme.
8. We are concerned that due to the different operational requirements of community housing providers as compared to DHHS, community housing providers are not well-positioned to support higher risk tenancies through supportive policies such as allowing temporary absences.
9. We are concerned that the process of relocation endangers security of tenure for returning public housing tenants.
10. Residents are not being adequately informed about available independent legal advice and advocacy services currently available to support them through this process. Both effective communication with and resourcing to independent legal advice and advocacy services should be provided to ensure particularly vulnerable public housing tenants can engage fully in the consultation and planning process that affects their security of housing.
11. The human rights of public housing residents must be considered through this process.

In addition, we make the following practical recommendations:

1. Tenants should be consulted meaningfully, including:
  - a. Transparent and comprehensive provision of PHRP planning and financial documents to the community for their consideration and input.
  - b. Supporting vulnerable housing residents to engage with the process, including provision of interpreters, and advocates to support engagement where required.

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<sup>1</sup> Dr Kate Shaw quoted in "'Social mix' approach to public housing is failing, research finds" (16 June 2017), available online at: <http://www.theage.com.au/victoria/social-mix-approach-to-public-housing-is-failing-research-finds-20170616-gwsj3m.html>

2. All new housing built should be “public” (and not “social” or “community”) housing stock.
3. The Development Plan Overlay (**DPO**) is not an appropriate planning tool for this process. Consideration should be given to the use of the Design & Development Overlay (**DDO**), or other tools that allow for greater ongoing involvement of community in the planning process.
4. A social impact assessment for the PHRP overall is required.
5. The planning process should be put on hold until the completion of the Parliamentary Inquiry.
6. The developments should be structured to ensure that current residents experience no detrimental impact through loss of public amenity, community space or on-site services.
7. Government should fund an independent legal and advocacy service for residents to ensure that residents are informed of their rights and are supported to fully engage with the planning process.

### **Need for real consultation and transparent information**

The PHRP is an incredibly important program that will create a framework across nine key locations for the provision of social housing for many decades to come. It has the potential to satisfy many Victorian Government policy objectives, including those set out in *Home for Victorians* and *Plan Melbourne 2017*. It is therefore essential that the process by which the program is rolled out is truly consultative, takes into account community views, has community buy in, and will have a positive social impact.

We have identified the following problematic elements of the PHRP process to date:

- **Inadequate information diminishes value of community consultation:** The proponent of the PHRP, DHHS, has released inadequate information about many aspects of this program to the public. This includes information about the design of the new buildings, the rights of tenants to return, the rights of tenants during the relocation process, and who will own and manage the ‘social housing’ units. This lack of information at each stage of the process has made it difficult for residents, and their community organisation advocates (including community legal centres) to make meaningful contributions to the planning approval process.
- **Consultation with community inadequate to date:** Our services have consulted with residents of various PHRP estates, and as a result we are concerned about the limited involvement of current tenants in the planning process to date. Reports in relation to the New St, Brighton, estate, are that many residents, particularly of non-English speaking background, do not understand the process and what will occur.

Despite a Community Engagement Report being prepared in relation to that site,<sup>2</sup> there were news reports of poor and under-consultation at the site. For example, the ABC reported:<sup>3</sup>

*Catherine Kennedy, who has lived in the public housing estate for more than 16 years, said her home had given her stability.*

*She said residents had been given little information about the plans or if they would be moved.*

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<sup>2</sup> [https://www.planning.vic.gov.au/\\_data/assets/pdf\\_file/0011/82010/SH17-Engagement-Report.pdf](https://www.planning.vic.gov.au/_data/assets/pdf_file/0011/82010/SH17-Engagement-Report.pdf), page 9.

<sup>3</sup> <http://www.abc.net.au/news/2017-07-02/brighton-locals-reject-plan-for-nine-storey-development/8671448>

*"We have no idea, things are changing. The fact that our whole community is up in the air is worrisome," she said. ....*

*Anthony Feigl, who lives next door to the public housing block with his family and is part of the North Brighton Residents Action Group, said there had not been enough community consultation.*

*"The scale of development is completely inappropriate for this area," he said.*

*"The proposal displaces existing families in the housing estate and does nothing to address the state's critical shortage of public housing."*

We are concerned this evidences the unwillingness of the Victorian Government to adequately support tenants to have input on these life-changing decisions. We acknowledge the DHHS consultation undertaken with residents. However, we are concerned that in some cases, residents were at the same time negotiating with DHHS with respect to relocation. We query the ability or willingness of residents to be fulsome in their feedback to DHHS (or its agents) in light of this.

- **Fast track planning process also inhibits consultation:** The government has set up a fast-track planning approval process to expedite the program. The Social Housing Renewal Standing Advisory Committee (**SAC**) has been appointed for this purpose, with very limited terms that exclude critical considerations. The process is overly bureaucratic, with written submissions required to be made (presenting a significant challenge for many vulnerable clients), submissions not being made available online (limiting the communities' ability to engage with the process), and no public hearings at the housing estates (diminishing residents' ability to participate).
- **Consultation on planning overlay only has limited utility:** Once the Minister for Planning approves the proposed planning scheme amendments, there will be no formal avenues for residents to have a say on the development plans themselves. The Minister's decision to approve a Development Plan Overlay will be based on an initial plan for the redevelopment. These plans can change after the Minister's decision has been made. This leaves residents in a peculiar position: they are asked to make submissions about the redevelopment before the Minister's final decision. By the time the plans for the redevelopment are settled, residents will no longer have a say.

We agree with the Australian Housing & Urban Research Institute (**AHURI**) submission to this Inquiry that "[m]eaningful consultation about the program with existing residents of the broad neighbourhood is essential" as it "builds a trusting respectful relationship between residents and developers that can help during the long period of renewal, both in terms of tenancy support and in combating problems with anti-social behaviour".<sup>4</sup> Meaningful consultation "needs time to develop and it needs to be adequately resourced".<sup>5</sup>

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<sup>4</sup>AHURI submission, page 6, available online at: [https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Public\\_Housing\\_Renewal\\_Program/Submissions/S9-AHURI.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Public_Housing_Renewal_Program/Submissions/S9-AHURI.pdf)

<sup>5</sup> Ibid.

## **A 10% increase in public housing stock is inadequate**

Through the PHRP, the Victorian Government has committed to increase the number of homes available on the Victorian Housing Register.<sup>6</sup> It has not, however, promised an overall increase in bedrooms, nor an overall increase in square meterage of social housing. For example:

- The Gronn Place development in West Brunswick is set to have 89 units, which is an increase from the current 81 units. The development is likely to lose many three bedroom units, so the total number of beds at Gronn Place may decrease.
- We estimate that the West Heidelberg estates will lose approximately 30 bedrooms. No four or five bedroom houses will be built, a handful of three bedroom houses will be built, but the overwhelming majority of dwellings will be one or two bedroom. The new estates will not be able to cater for all the families that currently live there and will certainly do nothing to house families on the waiting list.
- The New St, Brighton estate will increase its social housing stock from 127 to 140 social housing dwellings. This is a bare 10% increase on the original stock. The estate is anticipated to may accommodate up to an additional 170 private dwellings. Therefore approximately 17 times the amount of social housing investment is used to fund a mere 13 dwelling increase.

## **Increased one-bedroom apartments risks displacing families**

We are concerned about the ability of the “renewed” housing estates “to cater for all demographics including families, couples and singles”. Whilst there is a need for one bedroom units to address the growing need in that segment of the public housing waiting list, the construction of small units should not be at the expense of the larger units, for which there also remains a great need. Increasing demand for one bedroom units requires a great increase in public housing overall, rather than a reconfiguration and carving up of the current housing available.

## **Public private partnership an unsustainable vehicle for delivering social housing**

We note the following foreboding comments coming out a Melbourne University study of the Carlton social housing redevelopment written by, among others, Dr Kate Shaw:<sup>7</sup>

*...the results of the Carlton public-private partnership should serve as a warning to government, not an encouragement to follow such a model.*

*"The Carlton model is a little like keeping the front of the house warm by chopping up the back for firewood [...] It is unsustainable. At some point, further investment will be required and there will be no land left to sell."*

...

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<sup>6</sup> “Not only will the new homes be brand new, there will be more homes. There will be a minimum 10 per cent more homes available to those on the Victorian Housing Register: Public housing renewal update for residents, Department of Human Services, November 2017 <<http://housing.vic.gov.au/public-housing-renewal-program>> (the **November Update**).

<sup>7</sup> Dr Kate Shaw quoted in “‘Social mix’ approach to public housing is failing, research finds” (16 June 2017), available online at: <http://www.theage.com.au/victoria/social-mix-approach-to-public-housing-is-failing-research-finds-20170616-gwsj3m.html>

See Abdullahi Jama and Kate Shaw, ‘Why do we need social mix?’ Analysis of an Australian inner-city public housing estate redevelopment, available online at: <http://www.smh.com.au/cqstatic/gwsjcu/JamaAndShawReport.pdf>

*The paper finds that the policy of "improving social mix" on public housing estates has been used as a way of covering up the politically unacceptable practice of displacing tenants and selling the land they lived on to developers.*

Our services are concerned about the selling off of public housing assets to provide immense profit for the developers, with no significant housing capacity (in terms of bedrooms, not just numbers of units) increase in public housing stock.

### **Need for greater public/private housing mix a false assumption**

The PHRP has proceeded on the presumption that a private and public mix of housing is the best model. As Dr Kate Shaw's work and submission to this Inquiry powerfully illustrates, there is no sound basis for this presumption. Indeed, Dr Shaw emphasises that these programs of estate redevelopments where the model involves the sale of public land to finance public housing upgrades has in fact disrupted these few sites of low-income housing and thus reduced the amount of land available for public housing resulting in an increase in the concentration of disadvantage.

### **Inappropriate planning tools and process, including removal of third party appeal rights**

#### Inappropriate to make Minister of Planning the responsible authority

It is improper that the Minister for Planning makes himself the responsible authority for the site.

This transfers duties from the local council to the Minister, including enforcement of the planning scheme and implementation of the planning scheme objectives.<sup>8</sup> It also means the Minister will make decisions on permit applications, instead of the local council.<sup>9</sup>

#### Development Plan Overlay is inappropriate

The Development Plan Overlay (**DPO**) is currently suggested as the planning vehicle to deliver the PHRP. The *Plan Melbourne 2017-2050 Strategy*, states that one of its objectives is to "strengthen the role of planning in facilitating and delivering the supply of social and affordable housing", and, in this regard, that:<sup>10</sup>

*Current approaches (such as requiring section 173 Agreements under the [PE] Act 1987 or applying requirements through tools such as Development Plan Overlays) have been criticised for not being sufficiently robust and inequitably applied.*

One key issue with the DPO is that it removes ongoing third party rights for future permit applications.

The Department of Environment, Land, Water and Planning ('**DELWP**') states that the two purposes of a DPO are:

- to identify areas that require the planning of future use or development to be shown on a plan before a permit can be granted

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<sup>8</sup> *Planning and Environment Act 1987* (Vic) s14.

<sup>9</sup> *Planning and Environment Act 1987* (Vic) s47.

<sup>10</sup> At page 56. Available at:

[http://www.planmelbourne.vic.gov.au/\\_\\_data/assets/pdf\\_file/0007/377206/Plan\\_Melbourne\\_2017-2050\\_Strategy\\_.pdf](http://www.planmelbourne.vic.gov.au/__data/assets/pdf_file/0007/377206/Plan_Melbourne_2017-2050_Strategy_.pdf)

- to exempt a planning permit application from notice and review if it is generally in accordance with an approved plan.<sup>11</sup>

With a DPO, any application for a planning permit that is ‘generally in accordance with the development plan’ is exempt from notice requirements.<sup>12</sup> Further, the responsible authority can decide to grant the permit and immediately issue it.<sup>13</sup> The decision to grant a permit is not open to review.<sup>14</sup>

Whether an application for a permit is ‘generally in accordance’ with the development plan is a decision for the responsible authority.<sup>15</sup> If the PHRP proceeds as planned, the Minister for Planning will make this decision.

This means third parties cannot apply to VCAT to review the responsible authority’s decision to grant a permit. In relation to the Public Housing Renewal Program, it means developers will apply for a permit from the Minister for Planning, without being required to notify owners and occupiers of adjoining land or municipal councils. The Minister for Planning’s decision about the permit will not be open to challenge by anyone other than the developer themselves.

DELWP comments that:

*“Because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third-party interests, self-contained sites where ownership is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas”<sup>16</sup>*

It is also an inappropriate tool unless clear plans are provided and full impact assessments have been done. Given these concerns, and the criticism by the Victorian Government of the DPO in *Plan Melbourne*, we question the appropriateness of the DPO for this re-development, given the vulnerable communities it will effect, and the limited opportunities to date for participation in the planning process by that community.

We suggest that there are more appropriate planning tools available, such as a Design and Development Overlay (**DDO**). The DDO can provide for building envelopes and setback controls so can put in place a framework for future permits, but it doesn’t remove third party rights so allows future involvement at the permit stage when the full detail is provided.

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<sup>11</sup> DELWP, *Applying the Incorporated Plan and Development Plan Overlays – Planning Practice Note 23* (August 2015) 1, available at [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays\\_Aug-2015.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays_Aug-2015.pdf)

<sup>12</sup> Development Plan Overlay Clause 43.04-2 exempts an application under the DPO scheme which is generally in accordance with the development plan from the notice requirements of the *Planning and Environment Act 1987* (Vic) ss 52(1)(a), (b) and (d), available at [http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43\\_04.pdf](http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43_04.pdf)

<sup>13</sup> Development Plan Overlay Clause 43.04-2 exempts an application under the DPO scheme which is generally in accordance with the development plan from challenge from the decision requirements of *Planning and Environment Act 1987* (Vic) ss64(1), (2) and (3), available at [http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43\\_04.pdf](http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43_04.pdf)

<sup>14</sup> Development Plan Overlay Clause 43.04-2 exempts an application under the DPO scheme which is generally in accordance with the development plan from challenge from the review rights of the *Planning and Environment Act 1987* (Vic) s82(1), available at [http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43\\_04.pdf](http://planningschemes.dpcd.vic.gov.au/schemes/vpps/43_04.pdf)

<sup>15</sup> DELWP, *Applying the Incorporated Plan and Development Plan Overlays – Planning Practice Note 23* (August 2015) 4, available at [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays\\_Aug-2015.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays_Aug-2015.pdf)

<sup>16</sup> DELWP, *Applying the Incorporated Plan and Development Plan Overlays – Planning Practice Note 23* (August 2015) 3, available at [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays\\_Aug-2015.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0015/12750/PPN23-Applying-the-Incorporated-Plan-and-Development-Plan-Overlays_Aug-2015.pdf)

## Concerns with the “social housing” model

Housing Victoria defines “social housing” as “short and long-term rental housing that is owned and run by the government or not-for-profit agencies.”<sup>17</sup> Social housing is comprised of two types of housing: public and community housing. The primary distinction between the two is that public housing is managed directly by the Victorian Government and community housing providers are registered and regulated by government. Some specialise in helping specific groups, like people with a disability, women, singles and older people.

The explanatory documents regarding the PHRP use the term “social housing” to refer to the new residences, where the nine residential areas affected by the program have previously been referred to as “public housing”. This change in terminology suggests that the responsibility for running housing for vulnerable members of the community may be shifted from DHHS to an external organisation.

We are concerned about any potential change in the management of public housing tenancies at the relevant estates subsequent to the PHRP. In particular, we are concerned there is a real risk that with increased private management of the housing estates, tenancy rights will be diminished, and/or negatively affected.

For example, there is a risk that the lack of clarity in the law with respect to community housing providers could result in a diminution of tenants’ legal rights to challenge community housing providers’ decisions. For example, unlike decisions of the Director of Housing as landlord, decisions of a community housing provider are ordinarily not subject to judicial review.<sup>18</sup> Complaints about decisions made by DHHS can be raised with the Victorian Ombudsman, however the Ombudsman’s jurisdiction does not include community housing providers.

In addition, DHHS officers follow the Tenancy Management Manual and other policies which support people to sustain tenancies. The Director of Housing supports tenants through temporary absence of up to 6 months if special circumstances are approved, allowing tenants to remain in their homes at significantly reduced rent of \$15 a week.<sup>19</sup> Special circumstances include when a tenant is a victim of family violence, accessing drug or alcohol rehabilitation services, or is on remand or imprisoned.<sup>20</sup> This provides an important safety net for vulnerable residents who are otherwise at risk of homelessness.

Similarly, if a public housing tenant falls into arrears, there are policies in place to collect the debt while maintaining tenancies.<sup>21</sup> Tenants are able to enter into a financially manageable ‘local agreement’ with the Director of Housing. This is also an opportunity for DHHS to connect the tenant with support services.

The Victorian Government is uniquely placed to absorb the short term financial losses inherent in providing these supports to tenants. It is also likely to benefit from cost savings in other areas of service delivery that flow from supporting people to remain in their homes.<sup>22</sup>

In contrast, community housing providers cannot easily absorb costs associated with best-practice policies. As part of *Homes for Victorians*, community housing providers will be required to allocate 75

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<sup>17</sup> *Social Housing*, Department of Human Services, <<http://www.housing.vic.gov.au/social-housing>> 13 September 2017.

<sup>18</sup> Justice Kyrrou, ‘Judicial review of decisions of non-governmental bodies exercising governmental powers: Is *Datafin* part of Australian law?’ (2012) 86 *ALJ* 20.

<sup>19</sup> DHHS, *Temporary absence operational guidelines* (July 2017), 10.

<sup>20</sup> DHHS, *Temporary absence operational guidelines* (July 2017), 10.

<sup>21</sup> DHHS, *Tenancy Management Manual, Chapter 1 – Arrears*, 14.

<sup>22</sup> PILCH, *Keeping doors open: HPLC Submission to the 2012 Victorian Public Housing Consultation*, 47.



per cent of housing to those in greatest need in order in order to access funded initiatives.<sup>23</sup> The Auditor-General notes that this presents a restraint on revenue, and may reduce the financial viability of community housing providers.<sup>24</sup> The community housing sector itself expressed these concerns.<sup>25</sup>

This demonstrates the different operational requirements of community housing providers compared to DHHS. Community housing providers are not well-positioned to support higher risk tenancies through supportive policies such as allowing temporary absences.

### **Risk of reduced tenure for returning public housing tenants**

The *Homes for Victorians* strategy outlines the role of community housing providers in items 4.3 and 4.4. That strategy notes that in transferring management of 4,000 dwellings from the Director of Housing to community housing providers, “tenants’ rights to their home will not be affected”.<sup>26</sup>

Subsequently, the Public Housing Renewal Update for Residents released in November 2017<sup>27</sup> states that the Victorian Government has made a commitment that the renewable housing project will not reduce security of tenancy, and that tenants will have:

- First opportunity to return to a residence where relocation was required as a result of the project;
- Rent will be capped at 25% of household income.

We are concerned that these commitments are not legally guaranteed rights for any tenants removed throughout the renewal process. We further express our concern for residents’ capacity for redress if these guarantees are not adhered to. These concerns are heightened by the unsettled status of human rights protections in relation to the actions and decisions private agencies acting as landlords within the social housing model.

### **No social impact assessments**

In the case of many estates, such as the New St, Brighton estate, no social impact assessment has been prepared. We submit DHHS should be required to prepare and then release for public comment such an assessment, so that the community can consider the program in light of all relevant information.

We note that in relation to the Prahran Renewal Plan, a Social Impact Assessment Baseline Report (Public Place Melbourne Pty Ltd, May 2014) was prepared addressing, amongst other things:

- community facilities;
- open space and recreation;
- community attitudes and behaviour;
- housing;
- community facilities; and
- built form.

The social impact assessment in relation to the PHRP should consider the possibly impact of how any future redevelopment will be carried out, specifically in relation to how tenants’ rights will be affected in key areas such as transfer from public to community housing and any required relocation for the duration of the project.

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<sup>23</sup> Victorian Auditor-General’s Office, *Managing Victoria’s Public Housing* (June 2017) 32.

<sup>24</sup> Victorian Auditor-General’s Office, *Managing Victoria’s Public Housing* (June 2017) 32.

<sup>25</sup> Victorian Auditor-General’s Office, *Managing Victoria’s Public Housing* (June 2017) 32.

<sup>26</sup> *Homes for Victorians*, 35 [4.4].

<sup>27</sup> November Update.

## **Lack of independent legal advice for tenants**

Public housing residents have told of DHHS relocation officers offering them contracts to sign, without directing them to seek independent legal advice. DHHS has referred existing tenants to the Victorian Public Tenants Association (**VPTA**) for additional advice in its November update.<sup>28</sup> However, we note that the VPTA does not provide legal services, and refers its clients to the Federation of Community Legal Centres and the Victorian Tenants Union to access legal services.<sup>29</sup> No community legal centre, and in particular the Tenants Union of Victoria, has been resourced by the Victorian Government to provide independent legal advice on this project to residents. Community legal centres were not consulted about the proposed changes and how we could prepare to assist residents.

This is insufficient given the particular vulnerabilities of residents and the power imbalance between DHHS and the resident. Organisations well placed to provide independent advice should be resourced to do so.

## **The human rights of public housing residents must be considered through this process**

Finally, to the extent this parliamentary committee is acting in an administrative capacity and so a “public authority” under the *Charter of Human Rights and Responsibilities Act 2006* (Vic), we ask that it “give proper consideration to” relevant human rights (s 38), including:

- The protection of children and families (s 17)
- Right to privacy, ie: to “not to have [ones] privacy, family, home or correspondence unlawfully or arbitrarily interfered with” (s 13)
- Freedom of association (s 16)
- Freedom of expression (s 15)

## **Contact for enquiries**

If you have any queries, please contact Agata Wierzbowski on 03 9534 0777 (reception) or by email to [agata@skls.org.au](mailto:agata@skls.org.au).

Yours faithfully

**Agata Wierzbowski**  
Principal Lawyer  
St Kilda Legal Service

**Jennifer Black**  
Principal Lawyer  
Fitzroy Legal Service



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<sup>28</sup> November Update.

<sup>29</sup> [https://vpta.org.au/vpta-services/#service\\_directory](https://vpta.org.au/vpta-services/#service_directory)

**Jenni Smith**  
Chief Executive Officer  
ORGANISATION



**Stephanie Price**  
Principal Lawyer  
West Heidelberg Legal Service



**Mark O'Brien**  
Chief Executive Officer  
Tenants Union of Victoria



**Jacki Holland**  
Manager  
Moonee Valley Legal Service



**Dan Stubbs**  
Chief Executive Officer  
Inner Melbourne Community Legal



## Appendix A – About our organisations

CLC name	Housing estate(s)	About the CLC
Fitzroy Legal Service	<p>Atherton Gardens (Fitzroy).</p> <p>Collingwood</p> <p>Richmond North</p> <p>There are also many residents living in walk -up public housing flats (smaller blocks) across the municipality.</p>	<p>Fitzroy Legal Service is one of the oldest not for profit CLCs in Australia providing legal services to approximately 3500 clients per annum, in addition to our online legal resources being accessed by over 15,000 users each week (including the Law Handbook). For over 44 years we have championed legal literacy, access to justice, law reform/ policy change and public interest litigation. We have a strong reputation and long history of collaborative partnerships within the legal community, across the community and health service sectors, and directly with the communities we serve. FLS has strong ties to the local community but is relied upon as a state-wide service provider.</p> <p>Our services include:</p> <ul style="list-style-type: none"> <li>• a legal advice service that operates five nights a week, staffed primarily by volunteer lawyers;</li> <li>• an outreach service and four specialist legal advice clinics (specialising in family law, animal law and LGBTIQ-related legal issues);</li> <li>• a self-funding day practice that offers criminal and family law casework and court representation;</li> <li>• a Drug Outreach Lawyer program that provides community legal education, referral, advice, advocacy and ongoing casework services to drug users on an outreach basis through health justice partnerships;</li> <li>• assistance with family law and family violence on an outreach basis through health justice partnerships in the City of Yarra;</li> <li>• two duty lawyers providing holistic advice, casework and support services at the Neighbourhood Justice Centre; and</li> <li>• community development and community legal education activities, public interest litigation, law reform and the development of legal research and policy.</li> </ul>
Inner Melbourne Community Legal	<p>Carlton</p> <p>North Melbourne</p>	<p>Inner Melbourne Community Legal is a not-for-profit community organisation that provides free legal assistance to disadvantaged people in the City of Melbourne area. Our mission is to promote social justice and the health and wellbeing of the community through advocacy, education and casework.</p> <p>We focus our resources towards helping the most disadvantaged members of the community including individuals experiencing homelessness, mental</p>

		illness, disability, substance dependency and individuals from culturally and linguistically diverse backgrounds.
Moonee Valley Legal Service	Ascot Vale	<p>Moonee Valley Legal Service (MVLS) is a community legal service located within the Ascot Vale public housing estate. We are committed to the delivery of high quality legal services, community legal education and advocacy responsive to the needs of our local community.</p> <p>We aim to achieve equality and justice within the legal system for disadvantaged members of the community. We offer free legal advice, information, referrals and ongoing casework on a range of legal matters including tenancy, family law, criminal matters, minor civil matters, fines and infringements and motor vehicle accident. We also provide a specialist family violence service and free community legal education sessions on a range of topics including fines, cyber-bullying, wills and estates, family violence and family law.</p>
Northern CLC	Gronn Place, Brunswick West	<p>The Northern Community Legal Centre (<b>NCLC</b>) formed in early 2016 following an amalgamation of the former Broadmeadows Community Legal Service and Moreland Community Legal Centre. The NCLC operates in one of the fastest growing and disadvantaged areas of Melbourne, and has a significant catchment including the Hume; Mitchell Shire and Moreland local government areas (LGA'S). The NCLC operates from a central office located in Gladstone Park, with outreach services in; Broadmeadows, Brunswick, Coburg, Craigieburn, Dallas, Sunbury and Wallan.</p> <p>Our purpose is to ensure equal access to justice for all in Melbourne's North West and we do this through the provision of legal services, community legal education and law reform to meet the needs of the most vulnerable and disadvantaged people in Melbourne's North West. We provide night services weekly in the Hume and Moreland LGA's and specialist clinics for priority client groups and provide the Family Violence Duty Lawyer Program at Broadmeadows Magistrates Court.</p>
St Kilda Legal Service	New St, Brighton Bangs St, Prahran	<p>St Kilda Legal Service (<b>SKLS</b>) provides free and accessible legal services to members of the community within the Cities of Port Phillip, Bayside, Stonnington and parts of Glen Eira. The Legal Service is committed to redressing inequalities within the legal system through casework, legal education, community development and law reform activities.</p> <p>We are a generalist community legal centre that provides legal advice and casework assistance on a</p>

		<p>broad range of legal issues, and often sees vulnerable clients with legal matters associated with poverty, drug addiction, mental illness and homelessness. SKLS provides a generalist legal service including a night service three nights per week, and operates two specialist programs: the Drug Outreach Program and the Family Violence Duty Lawyer Program. We also undertake community legal education and law reform activities throughout our community.</p>
West Heidelberg Legal Service	West Heidelberg (Tarakan and Bell/Bardia estates)	<p>West Heidelberg Community Legal Service (<b>WHCLS</b>) is a community legal centre that provides free legal services to vulnerable and disadvantaged people in the City of Banyule. Our services are targeted to those least able to access legal assistance, including those experiencing poverty, chronic illness, mental health issues, disability and those who are from a refugee background.</p> <p>For almost 40 years, WHCLS has operated a unique integrated legal service delivery model through its co-location with Banyule Community Health. On 1 July 2014, WHCLS formally merged with and became a program of Banyule Community Health (<b>BCH</b>).</p>
Tenants Union of Victoria	N/A	<p>Tenants Victoria (TENVIC) formally the Tenants Union of Victoria (<b>TUV</b>) was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents. Our service is accessible to renters across Victoria. Our mission is to promote and protect the rights of tenants and residents in all forms of residential accommodation including private, public and community housing. We aim to inform and educate tenants about their rights, improve conditions, improve the status of tenants and represent their collective interests in law and policy making.</p>

## **Appendix B – Case studies**

*Note: All case studies have been de-identified and submitted with the consent of our clients.*

### Case Study 1 – Victoria\* and Anton\*

Victoria and Anton are in their 70s and have been living in the housing estate for over 20 years. They currently live in a 3 bedroom unit, which they used to share with their two adult children who have now moved out. Victoria and Anton are Russian emigrants who have limited English.

Victoria and Anton have not participated in any information sessions with DHHS due to their significant language barrier. They are aware that the estate will be redeveloped and that they will be moved out of their facilities for 2 years. They don't know where they will be moved to or what the facilities will be at their temporary property. As far as they know, there is no guarantee that they will be moved back to the same place, only that DHHS will "try their best". Victoria no longer drives, and Anton tries to keep driving to a minimum (for medical appointments and shopping in the local area). They are concerned they will be relocated far away from their kids, who provide much needed assistance, and from their doctors.

Currently, Victoria and Anton have a two storey unit. Given their age, they have previously written to DHHS requesting relocation to a one storey unit and a shower instead of a bath. Victoria recently had a fall on the stairs in their unit and has reported difficulties in climbing the stairs and having to get in and out of the bath.

### Case Study 2 – Sandra\*

Sandra\* is 70 years old and has been living in the estate since 2010. She has a 3 bedroom apartment which she used to share with her husband and two daughters. One daughter has moved out, and her husband and second daughter are both currently working interstate.

Sandra is concerned that those responsible for relocation will not take into consideration that at some point in the near future, her husband and daughter will return to living with her, and she will be left in a 1 bedroom unit.

Given the scale of the project, Sandra thinks there should have been more consultation with residents. Sandra has tried to engage with the DHHS consultation process wherever possible, but still feels she doesn't properly understand what is proposed or when the relocation will commence. Sandra has attended meetings and also contacted the Housing Call Centre (number provided by DHHS), only to be told they had no further information. She has been stressed about this situation for over a year and is understands from correspondence she has received to date that relocation is to start "towards the end of 2017".

Sandra reports that many residents of the estate have not been able to engage with the consultation process as they speak English as a second language or (as is the case with Sandra), no private internet connection to access public available documents.

Sandra is nervous about being relocated too far from her current suburb area given her requirements to attend regular, local hospital appointments.

### Case Study 3 – Paul\*

Paul is in his 70s and has lived in the housing estate with his wife for 25 years. They currently have a 3 bedroom house which they used to share with their children who have moved out.

Approximately 2 months ago, Paul's neighbour told him that people from DHHS visited some of the residents to talk about the proposal. As far as Paul knows, DHHS did not speak to everyone. He understands they did not speak to him and his wife as Paul and his wife speak English as a second language.

They are concerned about the relocation as they have not been given a commencement date, information on how long the process will take and whether or not they will be able to move back to the estate once the redevelopment has been completed.

Paul and his wife are concerned that they will be moved far away from their current area, which means being isolated from their GP and Jewish Community Centre. The community centre is a major part of their life and they do not think they will be able to attend important activities if they are moved to far away. They are elderly and have health concerns and do not like to travel too far.

They are currently located close to a tram stop which makes it easier for them to travel and for their children to visit.

*\* names have been changed*