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By email: homelessness2020@dhs.vic.gov.au

Homelessness Taskforce  
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Dear Chairperson,

### **Homelessness 2020 Strategy Discussion Paper**

The Tenants Union of Victoria (TUV) welcomes the opportunity to provide its views on the Homelessness 2020 Strategy Discussion Paper.

The Tenants Union 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 across the state. We assist about 18,000 private and public renters in Victoria each year. Our purpose is to improve the status and rights of tenants in Victoria.

The Tenants Union believes reform of the homelessness service sector can make a significant contribution to reducing homelessness; however a greater reduction in the number of Victorian's without homes can be achieved by an integrated response to key failures in the housing system. In particular, the Tenants Union believes the homelessness strategy must address systemic failures in the rental market as these will make a most important contribution to reducing homelessness.

Accordingly, this submission will not comment on service delivery arrangements and will recommend several key interventions aimed at preventing homelessness and reducing exists from social and private rental housing to homelessness.

#### **Challenges and opportunities: private rental**

As the Commonwealth Government's White Paper on homelessness explains, there are many causes of homelessness, including poverty or long term unemployment, poor education, violence, mental health problems, disability and substance abuse. While many incidents of homelessness can be attributed to these circumstances, our experience in representing tenants in disputes with landlords strongly suggests the functioning of the private rental market is a key cause of homelessness.

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Therefore in our view the key challenges associated with the goal of halving homelessness and providing accommodation for all rough sleepers by 2020 are the ability of the private rental market to deliver secure, affordable and accessible housing for vulnerable households. We believe the risk factors associated with private rental failure justify a policy and programmatic responses in the homelessness strategy.

The private rental market plays crucial role in our housing system. Historically, the Australian housing system has been based on majority home ownership, long term public rental housing for low income households and transitional private rental. The housing system has evolved significantly, with private rental market tenure share continuing to increase as home ownership and social housing decline. Currently, about 370,000 households or 21% of all households live in the private rental market in Victoria.<sup>1</sup>

The profile of private renters reveals significant vulnerability to homelessness. Private rental is overwhelmingly the housing tenure of low-income and disadvantaged Victorian households: almost 195,000 households receive Commonwealth Rent Assistance, indicating that they are in receipt of some other form of government financial support, and over 85,000 private renter households earn less than \$500 per week. By comparison, fewer than 72,000 Victorian households reside in social housing.

On a national basis, there are significant numbers of low income households in the private rental market, with 356,000 households in the private rental market that earn less than \$514 per week.<sup>2</sup> In 2005–06, there were 439,000 households in housing stress in the private rental market, representing 60 per cent of all lower income private renters (and 23 per cent of all private renter households). By 2045, almost two-thirds of lower income private renters are projected to be in housing stress.<sup>3</sup>

The table below shows the proportion of various household types in the private rental market compared to the household population overall. This data indicates is that single person rental households are more prevalent than in the population overall.

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<sup>1</sup> ABS 2006 Census

<sup>2</sup> M. Wulff et al (2009) Australia's private rental market: changes (2001-2006) in the supply of and demand for low rent dwellings, AHURI.

<sup>3</sup> J Yates, H Kendig et al (2008) Sustaining fair shares: the Australian housing system and intergenerational sustainability, Australian Housing and Urban Research Institute.

Household Type	Percent of Households
Single	33.14%
Single + Child(ren)	18.72%
Couple	18.70%
Couple + Child(ren)	19.74%
<i>Group</i>	10.85%

Source: ABS, 2006 Census

This indicates a significant number of low income single people living in private rental are at greater risk of homelessness than other household types. Our clients who are single report significant difficulties securing private rental housing, particularly due to difficulty of meeting increased rents in recent years.

The current rental market is typified by historically low vacancy rates and significant annual median rent movements. Key drivers include increasing costs and a substantial supply gap. An overall growth in stock has masked a contraction in the proportion of private rental properties affordable for low income households.

The generally acknowledged equilibrium point in the market is a vacancy rate of 3 per cent of total stock. In Melbourne, the latest data reveals the vacancy rate of 1.5 per cent. Because of increased demand and stagnant supply, many low income households struggle to compete in the mainstream market. Our experience suggests that the shortage of affordable rental housing has resulted in many households being forced into marginal forms of housing tenure such as informal rooming houses and long stay caravan parks. Importantly, many households living in such marginal rental housing report they have previously been able to secure mainstream private rental accommodation.

The development of the homelessness strategy provides the opportunity to address some of the key drivers of homelessness in the private rental market. These measures must address three key issues: security, affordability and accessibility.

### **Security**

There are serious shortcomings in Victorian tenancies legislation that undermine security and contribute to homelessness. The discussion paper's emphasis on prevention and early intervention justifies consideration of how the RTA may influence security of occupancy.

The current provisions relating to termination fail to recognise the increasing impact of tenure insecurity for residential tenants. We have specific concerns

about two notices - the Notice to Vacate for no specified reason (s.263) and the Notice to Leave (s.368) - and are recommending that these notices be repealed. The presumption should be on eviction as a last resort and only for just cause.

Residential tenants and residents, especially those who are unlikely to ever be home purchasers, are more likely to have lower incomes, lower levels of education, lower levels of social connectedness, and as a result, lesser life chances than those who own their own home. These are the very group in the community who are at risk of becoming homeless due to the function of the private rental market and would most benefit from long-term secure and affordable rental accommodation. However with the standard residential lease being 12 months, private renters have low levels of tenure security. With the average length of bond being 18 months (according to Residential Tenancies Bond Authority) the likelihood of tenants experiencing at least 6 months of tenure insecurity is common.

Outside of their lease, along with a range of legitimate, albeit reasonably short periods of notice, tenants are always at risk of receiving a notice to vacate for no specified reason with only 120 days notice. It is accepted by the TUV that landlords have a legitimate right to deal with their property and to decide when and whether, within reasonable legal grounds, to lease their property to others and to seek its return to their possession. However, we believe this notice is unfair and makes a contribution to homelessness. In our experience, no reason notices are most commonly issued by landlords of low rent housing acting in a retaliatory manner. The recipients of this notice tend to be poorer households with poor prospects for establishing another tenancy.

The Notice to Leave affects the most vulnerable and disadvantaged of all renters - those who live in rooming houses. While expressed as a suspension this notice leaves the resident in an extremely prejudicial state of limbo - essentially a legislated homelessness. Unlike notices to vacate this notice is effectively an eviction at will as there is no decision by the Tribunal unless and until a challenge to the notice is mounted by the resident.

The caravan park provisions also provide a key example of a lack of security of occupancy under the RTA. As defined by s. 3, residents are not afforded the protections of the Act until they have occupied the park for 60 consecutive days. We note that some unscrupulous operators are in the habit of evicting residents just prior to the expiry of the 60 days, and then readmitting them for another period just shy of 60 days, as means of avoiding the operation of the Act. This practice, permissible under the act, perpetuates homelessness.

We recommend the Victorian Government take immediate action to 'turn off the tap' by repealing the no reason notice to vacate and notice to leave as well as providing caravan park residents with protection from day one. While the Commonwealth Government's White Paper commits to a review of without

grounds termination clauses we believe there is sufficient justification for acting immediately.

We believe legislative responses to address security of tenure should also be supported by programmatic responses addressing tenant representation at VCAT. Statistics confirm that tenant access to the tribunal is extremely low. Ninety-three per cent of applications to the tribunal are made by landlords or their representatives compared to seven per cent by tenants.<sup>4</sup> Moreover tenants only attend twenty-two per cent of matters that were initiated by landlords.<sup>5</sup>

A significant proportion of our advocacy casework is devoted to sustaining vulnerable tenants in their current rental housing. In this sense, tenant advice and advocacy programs play a crucial role in preventing homelessness. We recommend the homelessness strategy provide direction on the expansion of tenancy advocacy programs to develop a specific homelessness prevention program based on a duty advocate service and specialist homeless tenancy case workers. By attempting to directly prevent exists to homelessness, we believe such a program will provide significant benefit.

### **Affordability**

Given that the large majority of exits from private rental to homelessness occur as a result of tenants falling into rental arrears, any significant improvement in security of tenure must underpinned by the resolution of complex affordability problems.

The homelessness strategy should consider the question of improving affordability in the private rental market. Addressing the chronic undersupply of affordable private rental is a complex matter requiring consideration beyond the scope of the homelessness strategy.

However, the Tenants Union believe a whole of government approach to homelessness must be clearly linked with residential tenancies law. Specifically, we recommend restricting rent increases to one every 12 months, extending notice periods and empowering VCAT to consider hardship in considering rent increases. We also recommend the Government monitor rents, rent increases and associated charges in non-mainstream forms of accommodation (such as caravan parks, rooming houses etc) to capture accurate data about rent levels in these sub-markets. Such data could be considered by VCAT when reviewing proposed rent increases.

### **Accessibility**

Improved accessibility of private rental housing is vital precondition for the eradication of homelessness. We continue to receive a significant number of

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<sup>4</sup> Victorian Civil & Administrative Tribunal *Annual Report 2007 - 2008*.

<sup>5</sup><http://www.vcat.vic.gov.au/CA256DBB0022825D/page/Listing-Home+Page+News-VCAT+SMS+pilot+project> [accessed 10 June 2009]

complaints relating to the operation of residential tenancy databases (RTD). Listing on a residential tenancy database can severely restrict a tenant's access to private rental housing. RTDs are operated by private businesses that collect and maintain information to real estate agents and, indirectly, to landlords. RTDs are justified as a risk management tool.

We recommend the Victorian Government immediately adopt in full the national model provisions on RTDs as proposed by the Ministerial Council on Consumer Affairs as a key response to homelessness. We believe the RTA should be amended to include the model provisions as soon as possible rather than waiting for the national process to run its course. We believe this reform would have greater impact on accessibility than the expansion of existing brokerage programs.

### **Social housing**

The changes in operation of the social housing system can play a significant role in preventing homelessness. Social housing providers often take proceedings against tenants on the basis of their social conduct, often where this conduct directly relates to the factors making the tenant eligible for social housing. We are concerned that an increasing number of tenants are being evicted from social housing into homelessness on this basis.

We believe the Office of Housing allocations process can be improved by abolishing the policy of refusing to house applicants who have debts incurred outside the general statute of limitations (6 years) and that debt repayment requirements for allocations should be reviewed to reduce access barriers, especially in cases where a debt derives from a bond loan. These improvements will effectively reduce an unnecessary barrier to access to public housing.

We welcome any further opportunity to be consulted on these issues. Should any such opportunities arise, please contact me on 03 9411 1413 or 0417 138 471.

Yours sincerely,



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Tenants Union of Victoria