



08 July 2024

Department of Government Services
Regulation Policy Team

Via email: regulationpolicyconsultation@justice.vic.gov.au

RE: Minimum Standards for Rental Properties and Rooming Houses

We write to offer our support in respect of some of the proposed minimum standards for rental properties and rooming houses.

Whilst we are not in a position to comment on many of the technical aspects of the minimum standards, we will provide our general observations and feedback. SMLS recently contributed by way of a [submission](#) into the recent Inquiry into Climate Resilience. We urge the Government to review and adapt the proposed minimum standards following any recommendations that may come from this Inquiry to ensure the standards are working towards the climate resilience of all Victorian renters. Research and forethought into how the impacts of climate change will disproportionately impact vulnerable communities must be done to determine what other measures or protections need to be put in place to minimise or mitigate the damage and loss experienced by vulnerable communities including renters and rooming house residents.

Our organisation

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

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

SMLS has one of the oldest clinical legal education programs in Australia, in partnership with Monash University's Faculty of Law, whereby law students undertake a practical placement at the legal service as part of their undergraduate degree.

Head Office

A: 5 Osborne Avenue, Springvale Vic 3171
P: (03) 9545 7400
PO Box 312, Springvale, VIC 3171
W: smls.com.au

Branch Office

A: Suite 1, Level 2,
64 Victor Crescent, Narre Warren Vic 3805
P: (03) 9038 8002

ABN: 96 206 448 228 | Reg: A0013997D



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

SMLS provides integrated, wrap around services through our Support Connect Integrated Program, where clients receive legal assistance, assistance from social workers and financial counselling through a partnership with Good Shepherd.

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

Many of our clients are impacted by financial hardship and/or family violence and SMLS often assists clients who are facing, or at risk of, homelessness. Our clients often require immediate access to housing, including crisis accommodation, social housing or, if financially viable, affordable private rentals. However, due to a combination of inflation, rental stress, low availability of rental properties and limited access to crisis accommodation, our clients are often forced into dire living situations. These issues are likely to be exacerbated due to climate change and increased extreme weather events.

SMLS, in partnership with WEstjustice and JobWatch, also has a dedicated program known as ISEALS (International Student Employment and Accommodation Legal Service) which provides free legal support to international students experiencing rental issues. This cohort is particularly vulnerable to exploitation by landlords and then are often faced with poor standards of housing, lack of heating and cooling and mould issues.

In addition to SMLS' legal services, we have a dedicated Integrated Services team, where social workers, lawyers and a financial counsellor provide holistic support to our clients. As part of this service, our social workers assist clients with a range of matters, finding rental properties and referring and supporting clients in securing crisis accommodation. We note that the number of clients requiring assistance with housing access and affordability has increased exponentially in recent months.

The Impacts of the Cost-of-Living Crisis and Climate Change on Renters

We have previously raised our concerns surrounding Victoria's current rental market in our submission to the Senate Standing Committees on Community Affairs Inquiry into The Worsening Rental Crisis in Australia, where we stated:¹

Australia is facing a cost-of-living crisis with the increasing costs of energy bills, food and rental prices, all factors contributing to a major strain on Australian families' financial, physical, and mental health and wellbeing. Many of our clients are locked out of the rental market and thus attempt to access public or community housing. This is proving difficult given Victoria has the lowest proportion of public and community housing stock in

¹SMLS submission 'The Worsening Rental Crisis in Australia' (August 2023) <<https://www.smls.com.au/wp-content/uploads/2023/11/SMLS-Submission-31.8.23.pdf>>

Australia,² which is pushing people who would otherwise be eligible for social or public housing into the unaffordable and inaccessible private rental market, resulting in unstable and unsafe consequences.

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

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

These rental issues are exacerbated by climate events and urgent action is needed to protect the most vulnerable members of our communities from struggling from the impacts of climate change on accessibility and quality of housing, accessibility and cost of food, and the increasing cost of energy prices. With the increase in frequency of extreme weather conditions, along with rising energy costs, more people are experiencing high anxiety around being able to afford adequate heating and cooling and live safely and comfortably in their homes. Heatwaves are particularly dangerous for vulnerable people, including those that are very old or very young, those with health conditions or disabilities, and those who are socially isolated and culturally and linguistically diverse communities.³ The disproportionate impacts of climate change on lower socio-economic and vulnerable groups are well documented and accepted. These impacts may be both visible and direct (bushfires, storms, and floods) **and/or** invisible and indirect (air pollution heatwaves, food insecurity and high cost of living).⁴

Many of our clients are renters and rooming house residents, are socially disadvantaged, low-income earners. Rising rental costs and inadequate facilities in their homes only adds to their rising costs of living, stress, anxiety and affects their human right to adequate housing. They are spending a greater proportion of their income and budget on basic living costs such as rent, water, food and energy bills. They are also forced into buying cheaper appliances that are less energy efficient, costly to run and break down easily. The increasing unaffordability of rentals coupled with inadequate heating and cooling systems exacerbates the anxiety around maintaining comfortable living conditions, especially amidst extreme weather events.

Escalating energy costs add to the burden, making it harder for individuals and families to keep up with utility bills and maintain a comfortable living environment. Even with minimum standards requiring air-conditioning or heating, many Victorians will be forced to leave these appliances off

² Tenants Victoria, 'Tenants Victoria Top 3 State Election Asks', (October 2022)
<<https://tenantsvic.org.au/news/tenants-victorias-top-3-state-election-asks/>>

³ VCOSS, 'Feeling the Heat' < <https://vcoss.org.au/wp-content/uploads/2021/06/Feeling-the-Heat.pdf>>

⁴ Federation of Community Legal Centers VIC, 'Climate Change Impacts on Access to Justice', (November 2023)
<https://assets.nationbuilder.com/fclc/pages/715/attachments/original/1704861023/Climate_Change_Impacts_on_Access_to_Justice_Review_21_Dec_%281%29.pdf?1704861023>

because of the high cost of energy prices: ‘3 in 5 (61%) are not turning on air conditioning due to concerns about cost.’⁵ In the ‘2022 Summer Survey Report’ Sweltering Cities discussed their concerns with the lack of explicit requirements in Australia surrounding cooling in rental properties, which are typically less energy efficient and lack cooling options, creating unhealthy living conditions. Sweltering Cities went on to report that⁶:

- 38% of renter respondents are living without air conditioning, compared to 19% of non-renter respondents.
- 47.3% of renter respondents left their homes to find a cooler location compared to just 14.5% of people who said they own their home.
- 81% of non-renters reported having air conditioning compared to just 62% of renters.
- 72% of renters reported that concerns about costs stop them from turning on their air conditioner compared to 55% of non-renters.

We note that energy relief payments to individual households is an insufficient mechanism to address this issue. Measures where the outcome is maintaining the profits of energy companies are inappropriate and insufficient in addressing both the cost-of-living crisis and the transition to clean energy.

The social, financial, mental, physical, and legal impacts of climate change have a compounding effect on our clients’ complex and intersecting legal issues. The most vulnerable in society, including our clients, will be the ones most impacted by damage and loss. However, as they are already marginalised, the impacts that they experience will be hidden, ignored or denied unless systemic change occurs. Additional minimum energy efficient standards are desperately needed to facilitate this change towards climate justice for all Victorians and provide a minimum a basic level of liveability for renters, however we remain concerned with housing and energy affordability and accessibility.

General Feedback on the Proposed Minimum Standards

We welcome the proposed minimum standards in providing a minimum benchmark for improving the climate resilience of renters and relieving the cost-of-living pressures.

The standards are a good start, and are much needed, however, we think they can go further in ensuring that the proposed heating and cooling systems installed are energy efficient and cost effective to run by raising the minimum star ratings. We are also concerned with the environmental ramifications of the proposed star ratings. Given the minimum standards are proposed to be implemented fully by 2027, the requirement of a minimum 2 stars or above for heating and 3 stars for cooling is not environmentally and future focused. The push should be towards installing energy efficient appliances, not those that are perhaps cheap to manufacture, buy and install, but remain costly and energy inefficient for tenants to run, and that have a low life span contributing to landfill. We note that property owners who can afford to build a new property will benefit from the new 7-star energy efficiency building standards which commenced in May 2024. This will be useful for owner/occupiers and renters or rooming house residents in some limited situations

⁵ Sweltering Cities, ‘2024 Summer Survey Report’ <<https://swelteringcities.org/wp-content/uploads/2024/04/2024-Summer-Survey-report-v1.3.pdf>> 19

⁶ Sweltering Cities and Healthy Homes for Renters, ‘Summer Survey 2022 Report’ <<https://swelteringcities.org/wp-content/uploads/2022/04/FINAL-Summer-Survey-2022-Report.pdf>> 17

(such as those who may rent a new build), however with the majority of renters and rooming house residents living in existing and badly ageing properties, they are only being provided with 2/3 stars rating heating and cooling standards.

We support the introduction of the heating and cooling in main living areas as a minimum standard. We remain concerned with the requirement to have heating and cooling systems in place *only* in main living areas provides no reprieve from the heat and cold in bedrooms. This proposed requirement may be suitable for a smaller apartment but a larger house or multi-level property or one with multiple rooms would not properly be heated or cooled with only one system in the main living area.

The proposed insulation and draught proofing standards are a positive step towards climate proofing homes and increasing renters' climate resilience. A future improvement to the minimum standards should include increasing insulation levels, air tightness and draught sealing levels of homes. We also recommend introducing minimum standards to include fly screens to improve ventilation and airflow into properties to help on hot days and to keep energy costs down for tenants.

Whilst the minimum standards will go some way in ensuring the standard of living improves for registered rental properties and rooming houses, proper enforcement of compliance is needed. We suggest requiring real estate agents check compliance as part of the condition report. We remain concerned for our clients in unregistered rooming house situations. Many of our clients find themselves in this precarious position with little assistance from local councils or Consumer Affairs. Our ISEALS clients are international students who have little knowledge of Victoria's rental regulations and processes. We are seeing frequent situations of unregistered rooming houses being passed off as 'student accommodation', 'share house', 'short stay accommodation', or even a 'hotel'. These clients are coming to us to seek advice in relation to compensation for problems with their (often unregistered) rooming house including heating and cooling appliances not working, lock and security issues, illegal evictions, and hot water systems not working. If a complaint is made, the tenant is often faced with an illegal eviction. Our clients are particularly vulnerable; English is often not their first language, they have little to no income whilst in Australia, and they do not know of their rights and the landlord/owners' legal obligations. The minimum standards will not protect those in these situations and further measures are needed to ensure all renting situations are accurately registered and tenants have free legal advice to know their rights under the regulations and the *Residential Tenancies Act 1997* and Residential Tenancies Regulations 2021. We urge the Government to adequately fund the CLC sector to provide necessary legal and social services to tenants of rental properties and rooming houses as well as record and report on the needs and impacts. The consequences of not doing so will cause further hardship and further deepen the current economic and housing crisis.

We note that the obligation trigger dates in some instances are not until 2027. We see heating and cooling as an urgent need for the reasons discussed above, particularly the financial and health ramifications for renters, and as such we recommend that the trigger dates for these minimum standards be brought forward to ensure that renters have adequate heating and cooling in their homes.

We support measures and the allocation of resources to explore sustainable solutions including ensuring buildings are designed and improved for energy efficiency, funding of programs to support community housing providers, not for profit housing providers, low-income renters and rooming

house residents and owners adapt their properties to implement these minimum proposed standards. This must be in conjunction with implementing regulations to cap rent increases. We see an urgent need to implement measures to prevent landlords from arbitrarily passing on the costs of implementing these minimum standards or evicting tenants. We also see a possible challenge for tenants during implementation of some of the measures, such as ceiling insulation as the installation of the requirements may impede on their living conditions. We suggest clear provisions for rental abatement provisions in the event the tenant does not have quiet enjoyment of the rented premises due to implementing the standards.

We remain available for further consultation of any developments in relation to those proposed minimum standards.

Yours faithfully,

South-East Monash Legal Service Inc.