

7 February 2025
Via email: theplan@homes.nsw.gov.au

Dear Madam/Sir,

Homes for NSW – Social Housing and Homelessness Discussion Paper

Kingsford Legal Centre (KLC) welcomes the opportunity to make a submission on the Homes for NSW discussion paper ('Discussion Paper').

We consent to this submission being published. For all case studies in this submission, names and identifying information have been changed to protect confidentiality.

About Kingsford Legal Centre (KLC)

KLC is a community legal centre. We provide free legal advice, casework, and community legal education to our local community and across NSW. We have over 40 years' experience as a service helping people with their housing matters. In the 2023–24 financial year, we gave 513 advices, in relation to housing issues and represented clients in 16 housing matters.

We have significant experience providing legal help to people living in social housing, as well as people who are experiencing homelessness or are at risk of homelessness. We deliver outreach at local community housing estates in southeast Sydney and run a Health Justice Partnership with Prince of Wales Hospital and the Eastern Suburbs Mental Health Service. We have a particular focus on providing intensive legal assistance to public housing tenants and supporting tenants to enforce their rights. We have a long and deep connection to social housing residents in our community from spending many years talking, consulting and listening to the issues they face in relation to their housing.

**In this submission all client details have been changed to protect client confidentiality.*

Key guiding principle: Housing is a human right

Housing is a human right.¹ Unfortunately, there is a housing crisis in NSW. We don't have enough homes for the people that urgently need them, especially for people who cannot afford the private market. People who live in social housing they face a range of complex and difficult challenges due to a lack of investment in the housing stock which has resulted in poorly maintained and at times dangerous housing that does not meet their needs. We see first-hand the way this impacts on our clients and their families. This impacts on the health of tenants and their families.

¹ *International Covenant on Economic, Social and Cultural Rights*, art 11.

To make the right to housing a reality, the NSW Government must drastically increase the supply and quality of social housing. To this end, we support Homes NSW's vision that 'everyone has access to a decent home and support if they need it'. This vision should reflect international human rights standards around habitable homes. The increased investment should occur across NSW and Sydney, including in our area of southeast Sydney.

This submission will focus on Homes NSW's priorities of 'customer-driven service' and 'more and better homes'. We draw on the experiences of our clients living in social housing and those seeking to enter social housing.

Recommendations

KLC makes the following recommendations:

1. Homes NSW should build in more flexibility into its policies and procedures for assessing housing eligibility, especially for Aboriginal and Torres Strait Islander clients, people with a disability and people who have experienced homelessness.
2. Homes NSW should create more community engagement and/or social and support worker roles to assess applicant needs and requirements, particularly for clients who are homeless or at risk of homelessness.
3. The Housing Pathways system should be expanded to include all community housing and affordable housing providers.
4. Affordable housing providers in southeast Sydney should set rents using the household income approach, rather than the market discount approach.
5. Housing applicants should be able to list more than one zone on their social housing applications.
6. Where it appears that a prospective tenant's rejection is 'unreasonable', the onus should be on Homes NSW to find that there has been unreasonable rejection and not on the tenant to prove that it was reasonable.
7. The timeframe to request a review of an 'unreasonable' rejection finding should be extended to 3 months (consistent with many other Housing appeals) up from the current 28 days.
8. Homes NSW should not remove prospective tenants from the public housing waitlist after two 'unreasonable' rejections.
9. Homes NSW should require that all social housing providers:
 - Do not evict tenants except as a last resort;
 - Try all available interventions before moving to evict;
 - Transfer tenants to another social housing property, rather than evicting tenants from social housing; and
 - Ensure that former tenants have appropriate accommodation - do not evict tenants into homelessness.

F8-003 Kingsford Legal Centre | UNSW Law

UNSW SYDNEY NSW 2052 AUSTRALIA

T +61 (2) 9385 9566 | F +61 (2) 9385 9583 | ABN 57 195 873 179
CRICOS Provider Code 00098G



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Kingsford
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10. We support Homelessness NSW's recommendation² that Homes NSW should "invest \$2 billion per year for the 10 years to grow accessible social housing by 10,000 properties per year, with the goal of achieving 10% of all housing being social housing by 2050".
11. Homes NSW should proactively maintain housing stock and comply with its legal duties around habitability.
12. Homes NSW should provide greater support to tenants experiencing serious mould issues.
13. Homes NSW should review its management of maintenance contractors.
14. Homes NSW should review its record-keeping practices for maintenance requests.
15. Homes NSW should ensure that housing is offered with appropriate disability adjustments in a timely way
16. Homes NSW develop and manage more homes for larger families.

Feedback on Priority 1: Customer-driven service

We agree that housing services should prioritise the needs and voices of residents and potential residents. Unfortunately, many of our clients find housing services overstretched, unresponsive to their needs, or complex and difficult to access. This is particularly the case for people with barriers to communication, especially people with a disability and people from non-English-speaking backgrounds.

The application process

We support efforts to simplify the application process for housing. A difficult application process can be a real barrier to a person accessing housing. For some clients, online application processes are not accessible - often because a person lacks regular access to the internet. For other clients, such as those living with disabilities, physical attendance at an office can be difficult. This points to the need for flexibility in application processes to meet applicants' diverse needs.

Case study: application requirements can prevent people from accessing housing

David* has been homeless since the break-up of his marriage. David and his ex-wife had not commenced any proceedings in the Family Court. David attempted to apply for public housing with an extra bedroom for his son, but was told he needed to wait until a parenting arrangement was confirmed by a parenting order. David was unable to apply for a parenting order because he lacked suitable housing for his son.

² Homelessness NSW, Submission to the NSW Government, 2025-26 Budget (November 2024), <<https://homelessnessnsw.org.au/wp-content/uploads/2024/12/09122024-Homelessness-NSW-pre-Budget-submission-2025-26.docx>>



As shown by David's example, inflexible evidentiary requirements can prevent people from accessing the housing they need. We share Homes NSW's concern that this can "delay access for those with complex needs and vulnerabilities".³

Recommendations

1. **Homes NSW should build in more flexibility into its policies and procedures for assessing housing eligibility, especially for Aboriginal and Torres Strait Islander clients, people with a disability and people who have experienced long term homelessness.**
2. **Homes NSW should create more community engagement and/or social worker roles to assess applicant needs and requirements, particularly for clients who are homeless or at risk of homelessness.**

Accessing different provider options (including 'affordable' housing)

Some of our clients struggle to understand the different housing provider options available to them. The Housing Pathways system is a step in the right direction and should be expanded to include all community housing and affordable housing providers. The 'no-wrong-door' approach is important in a multi-provider system.

Case study: it is particularly difficult to find 'affordable' housing listings

The NSW Communities and Justice website recommends searching for affordable housing listings on Welcome Mat, realestate.com, Domain, or by approaching individual providers.⁴ It appears that there is currently⁵ one affordable housing property available in the eastern suburbs of Sydney – a one-bedroom apartment in Bondi, which is listed for \$495 per week. The property is listed on realestate.com and Domain, but it is not listed on Welcome Mat, or the affordable housing provider's website, which is out of date.

For some clients, affordable housing might be a suitable option. However, it is often practically difficult to find affordable housing. Additionally, in areas with high and spiking

³ Homes NSW, *Homes NSW Discussion Paper to Inform the Homes for NSW Plan*, December 2024, <https://hdp-au-prod-app-nsw-haveyoursay-files.s3.ap-southeast-2.amazonaws.com/5817/3457/2609/241129_HomesNSW_DiscussionPaper_11_FINAL_APPROVED_ACCESSIBLE_REVISIED_19122024.pdf>, accessed 15 January 2025, 11.

⁴ NSW Government Communities and Justice, *Renting affordable housing: To apply* <<https://www.facs.nsw.gov.au/housing/help/ways/renting-affordable-housing/chapters/to-apply>> accessed 24 January 2025.

⁵ As at 21 January 2025.



Recommendations

- 3. The Housing Pathways system should be expanded to include all community housing and affordable housing providers.**
- 4. Affordable housing providers in southeast Sydney should set rents using the household income approach, rather than the market discount approach.**

rents (like parts of our local area), the market rate discount approach (i.e. a 20 or 25% discount on current market rent)⁶ often results in rents which are clearly unaffordable for people on a low income.

Listing multiple allocation zones

As noted by the Discussion Paper,⁷ the current system limits applicants to listing only one allocation zone. Many of our clients, particularly those with specific needs (e.g. a larger number of bedrooms or accessibility needs), would prefer to list multiple zones to allow them to access appropriate housing sooner. Being limited to one allocation zone is particularly problematic in the eastern suburbs zone, which has a waiting time of over ten years for most property types.⁸

Recommendations

- 5. Housing applicants should be able to list more than one zone on their social housing applications.**

The two-offer system

In our experience, the two-offer system can operate punitively for some of our most vulnerable clients.

Case study: the two-offer system can operate unfairly for victim-survivors of domestic and family violence

Patricia* is a victim-survivor of serious domestic violence. Patricia's second offer of housing was extremely close to relatives of her abuser. We helped Patricia to explain to Housing why this was not a reasonable offer. Due to her vulnerabilities, Patricia would have found it extremely difficult to advocate for herself on this point.

⁶ NSW Government Communities and Justice, *Renting affordable housing: How much rent will I pay?* <https://www.facs.nsw.gov.au/housing/help/ways/renting-affordable-housing/chapters/how-much-rent-will-i-pay>, accessed 24 January 2025.

⁷ Above n 3 11.

⁸ NSW Government Communities and Justice, *Expected waiting times* <<https://www.facs.nsw.gov.au/housing/help/applying-assistance/expected-waiting-times>>, accessed 21 January 2025.



Clients' experiences of domestic violence and trauma can impact on their decision making around offers of housing. In our experience, feeling unsafe in particular areas because of its connections with the perpetrator or friends or associates of the perpetrator may not be considered sufficient. We have also had clients offered properties connected to locations where the client experienced violence. Some of this may be unavoidable when offers are made but we need to have a system that better allows clients to explain their reasons for rejecting an offer when it is connected to histories of violence and trauma.

As shown by Patricia's case, the two-offer system can operate unfairly. Currently the onus is on a client to show why the offer was not reasonable. For clients who have been flagged as vulnerable, the onus should be on Homes NSW to enquire and provide appropriate support.

We have also had clients who have unreasonably refused offers of housing. Many of these clients have not understood the ramifications of unreasonably refusing a property. In these cases, applicants should be connected to support services, rather than removed from the public housing list. Being removed from the housing list after just two refusals is particularly harsh given the current waiting list times and is not an acceptable way to manage what is essentially a lack of housing.

Recommendations:

- 6. Where it appears that a prospective tenant's rejection is 'unreasonable', the onus should be on Homes NSW to find that there has been unreasonable rejection and not on the tenant to prove that it was reasonable.**
- 7. The timeframe to request a review of an 'unreasonable' rejection finding should be extended to 3 months (consistent with many other Housing appeals) up from the current 28 days.**
- 8. Homes NSW should not remove prospective tenants from the public housing waitlist after two 'unreasonable' rejections.**

Social housing is part of flourishing communities

The social housing system should recognise the valuable role that public housing plays in creating social cohesion. Social housing has historically been the site of strong local communities, including at The Hub@Lexo (Lexington Place Maroubra) and Kooloora Community Centre (Malabar) in our local area. While we appreciate the focus on the experience of individual public housing residents and applicants, KLC urges the government to consider the communities that have formed around public housing.

In 2015, KLC responded to a similar inquiry into social housing in NSW.⁹ We held a social housing forum at Kooloora. Tenants told us about the value they placed on their

⁹ Kingsford Legal Centre, *Submission to the Inquiry into Social, Public and Affordable Housing* (2015)

communities and connection to neighbours, friends and families. It is this connection that builds local communities.

The government should support holistic and community-based services for social housing developments. In our local area, this includes services like The Hub@Lexo and Kooloora Community Centre.¹⁰ Community hubs provide a space for collaborative work across services, which can help to support tenancies. There should be greater support for tenant led groups that can problem solve and bring connection to local housing estates. There has been a noticeable decline in the support for these groups in the past ten years, when in the past they were critical for connection and communication with Homes NSW.

Profile: The Hub@Lexo

The Hub@Lexo is a thriving community service hub near a public housing estate in South Maroubra. The Hub hosts community services (including Homes NSW) and provides a meeting place for community events. The Hub@Lexo operates to support tenants and their families by providing a trusted space for the community and agencies that support the health and welfare of tenants. This means that tenants have access to support before problems escalate.

Approaches to 'antisocial' or illegal behaviour

As observed by the Discussion Paper, public housing has increasingly only been accessible to the most vulnerable,¹¹ who often require additional support. We agree with the Discussion Paper¹² that the three strikes system for 'anti-social' behaviour does not address the complex needs of some social housing tenants.

Case study: an elderly tenant assaulted by his neighbour

Mark* is a pensioner and lives in a public housing development. Mark was seriously assaulted by his neighbour, who seems to have serious, untreated mental health issues. The neighbour has continued to harass Mark (despite an Apprehended Personal Violence Restraining Order) and Mark is now afraid to use the communal areas of his complex. Mark has reported the issues to Housing but doesn't want his neighbour to be evicted into homelessness. Mark is unsure of what to do next.

Public housing tenants have told us that anti-social behaviour can cause tensions within their community,¹³ and we have assisted clients like Mark who have been assaulted by their neighbours. However, we have also assisted clients in similar situations to Mark's

¹⁰ Ibid 9.

¹¹ Above n 3 12.

¹² Ibid 13.

¹³ Above n 10 13.

neighbour. For these clients, who have often experienced trauma or live with serious mental illness, there are better alternatives to the three strikes system.

KLC recommends that Homes NSW should take a conciliatory, evidence-based approach to addressing problems with tenant behaviour. The NSW Government should also administer social housing in collaboration with other government services and ensure that social housing tenants receive the necessary social, medical and mental health support they require to maintain successful tenancies and create positive communities.¹⁴ There is a particular need for greater funding for community-based mental health support.

A trauma-informed approach should be equally applied to all social housing residents, whether they live in properties managed by Homes NSW or a community service provider.¹⁵

Recommendation

9. Homes NSW should require that all social housing providers:¹⁶

- **Do not evict tenants except as a last resort;**
- **Try all available interventions before moving to evict;**
- **Transfer tenants to another social housing property, rather than evicting tenants from social housing; and**
- **Ensure that former tenants have appropriate accommodation - do not evict tenants into homelessness.**

¹⁴ Above n 10 14.

¹⁵ Above n 3 14

¹⁶ These recommendations were also part of our 2021 submission on *Options to Improve Access to Existing and Alternate Accommodation to Address the Social Housing Shortage*.

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Feedback on Priority 2: More and better homes

More and better homes are a pressing priority for NSW and for our local area. Clear definitions and targets are required to make the goal of 'more' and 'better' homes meaningful.

More homes urgently required

There is not just a shortage of social housing – there is a crisis. There were 62,592 households waiting for social housing as at 30 November 2024, with 10,836 of these applicants having priority status.¹⁷ Investment in social housing has not kept up with population growth. Social housing has declined as a share of housing stock in NSW, from more than 6% of dwellings in 1996,¹⁸ to 5% in 2014, down to 4.7% in 2022.¹⁹

We believe that these figures do not capture the true extent of the problem. Analysis of 2021 census data by UNSW's City Future's Research Centre suggests there are more than 200,000 households in NSW with an unmet need for social or affordable housing.²⁰ Approximately 144,000 of these households would meet social housing eligibility criteria.²¹ Our experience with clients supports this analysis. Many of our clients are struggling with unaffordable housing on the private market, while some of our most vulnerable clients have dropped off public housing waitlists.

The crisis in social housing is replicated in our local area. As at 30 November 2024, there were 335 households on the priority list and 1001 households on the general list in the Eastern Suburbs zone.²²

¹⁷ Department of Communities and Justice, *Social Housing Waitlist Data* (2025) <<https://dcj.nsw.gov.au/about-us/families-and-communities-statistics/social-housing-waiting-list-data.html#Social0>> accessed 15 January 2025.

¹⁸ Hal Pawson, "The Housing and Homelessness Crisis in NSW Explained in 9 Charts" *The Conversation* 16 March 2023 <<https://theconversation.com/the-housing-and-homelessness-crisis-in-nsw-explained-in-9-charts-200523>> accessed 21 January 2025.

¹⁹ Australian Institute of Health and Welfare, *Housing Assistance in Australia 2023* (2023) <<https://www.aihw.gov.au/reports/housing-assistance/housing-assistance-in-australia-2023/contents-2023/state-and-territory-summary-data>> accessed 21 January 2025.

²⁰ Above n 18.

²¹ *Ibid.*

²² Homes NSW, *Social housing applicant households on the NSW Housing Register by Allocation Zone as at 30 November 2024* (2024).



Expected waiting times for general applicants	CS02 Eastern Suburbs
Expected waiting time for a studio/1-bedroom property	5 to 10 years
Expected waiting time for 2-bedroom property	10+ years
Expected waiting time for 3-bedroom property	10+ years
Expected waiting time for 4-bedroom property	10+ years

Clearly serious investment in public housing is needed in NSW, including in southeast Sydney. We support Homelessness NSW's recent call for Homes NSW to "invest \$2 billion per year for the 10 years to grow accessible social housing by 10,000 properties per year, with the goal of achieving 10% of all housing being social housing by 2050."²³

Case studies: there is not enough social housing

Donna* came to KLC for advice. She was on a social housing transfer list for four years and had physical disabilities that make it dangerous for her to mount the multiple storeys in her apartment complex to get to her house. Given this, Donna was at risk of significant harm every time she entered or leaves her home. Donna's house was also filled with severe mould, which was dangerously impacting on her health and the health of her children. In addition to this, Donna needed to move to protect her family from domestic violence. Donna's social housing provider refused to give Donna information about their housing transfer list and when she might be able to move to a safe property. They also refused to undertake repairs to clean the mould, saying that their properties are old, and it is the tenant's responsibility to clean. Donna was eventually moved into appropriate housing but it took several years and intensive advocacy.

Michael* was referred to KLC by a nurse. He is a single parent of three children who lives in public housing in a two-bedroom home. One of Michael's children requires their own room due a medical condition. Michael shares the remaining bedroom with his two other children. Michael's neighbours have made complaints about the children making noise.

Michael was approved several years ago for a priority transfer to housing that would provide more space for him and his children. Housing's inability to provide suitable housing is negatively impacting his mental health and his family's quality of life.

²³ Homelessness NSW, Submission to the NSW Government, 2025-26 Budget (November 2024), <<https://homelessnessnsw.org.au/wp-content/uploads/2024/12/09122024-Homelessness-NSW-pre-Budget-submission-2025-26.docx>>.



Recommendation

- 10. We support Homelessness NSW's recommendation²⁴ that Homes NSW should "invest \$2 billion per year for the 10 years to grow accessible social housing by 10,000 properties per year, with the goal of achieving 10% of all housing being social housing by 2050".**

Better homes

Public housing tenants deserve good quality housing. Unfortunately, large swathes of public housing in the southeast of Sydney have been left to fall into levels of substantial disrepair. Many of our clients frequently experience problems with mould, electrical supply, flooring and fixtures. Clients have often repeatedly reported these issues to Housing with no or little action.

Case studies: basic repairs and maintenance have not been completed

Peter* lives in a 70s public housing block in southeast Sydney. The property has fallen into a state of general disrepair despite Peter's attempts over the last 10 years to get Housing to fix his home. Peter has been electrocuted by dangerous wiring and received inexplicably high electricity bills amounting to thousands of dollars. There have also been repeated water leaks into the property, which Peter has reported. He has become increasingly frustrated that multiple 'inspections' of the issue have not led to any actual repairs.

Maria* is an elderly woman who is currently living in public housing. Maria, who suffers from chronic and persistent mental illness, came to KLC's Health Justice Partnership for assistance with mould in her apartment. The level of mould in Maria's apartment was deeply concerning. Maria was unable to sleep in her bedroom due to the mould and instead slept on the couch in her living room. She also began to develop breathing distress at home and opted to spend as much time outside her home as possible, even in winter. She raised the issue with her landlord many times, but she was told that mould was her responsibility as a tenant.

KLC's advocacy was greatly assisted by the work of Maria's mental health caseworker. The caseworker was able to obtain the medical reports that demonstrated the mould was affecting Maria's health and organise the occupational therapist report that indicated that the structural defects in Maria's apartment were contributing to the mould build-up.

As shown by these case studies, residents often face an uphill battle to have basic repairs attended to by Homes NSW or their social housing provider. In some cases,

²⁴ Ibid.

repairs requests are ignored (or at least not properly recorded). In other cases, clients are unfairly told that maintenance issues are their fault. We have also noticed a pattern of repeated 'inspections' of a problem without any action taken. This might suggest an issue in Homes NSW's management of contractors engaged to conduct repairs.

Recommendation

- 11. Homes NSW should proactively maintain housing stock and comply with its legal duties around habitability.**
- 12. Homes NSW should provide greater support to tenants experiencing serious mould issues.**
- 13. Homes NSW should review its management of maintenance contractors.**
- 14. Homes NSW should review its record-keeping practices for maintenance requests.**

Housing mix

Homes NSW's housing needs to reflect the needs of tenants and potential tenants, including people with limited mobility.

Case study: lack of accessible housing

Fatima* is a long-term public housing resident whose only income is the disability support pension. Fatima has multiple physical disabilities and complex housing needs. For many years, she has been trying to obtain modifications so that her home is safe and suitable for her needs. Over the years, Fatima has been required to provide multiple occupational therapist reports to support her requests for modifications. While some modifications were made to Fatima's home, these were not sufficient to meet her needs and Fatima's housing was still unsafe. Due to concerns about the safety of some of those modifications, Fatima independently obtained a report from a specialist consultant to assess the home modifications against various disability and building standards. The report showed that the property fell short of relevant standards in a number of ways.

Many of our clients require housing with few or no steps. Unfortunately, many of the social housing properties in our area are walk-up 1970s blocks. Some have external stairs to access ground floor apartments. Even where Homes NSW staff acknowledge our clients' need for accessible housing, they are hamstrung in their work by the lack of suitable housing stock.

Homes NSW should also develop or acquire more homes for larger families. In our experience, it is often very difficult to house clients with four or more children. Children should not be in insecure or unsafe housing. Unfortunately, the lack of immediately available homes has left our clients' children facing prolonged instability and housing that threatens their health. Private rental subsidies, while an important stopgap, can be inappropriate for families with complex needs, who might benefit from more support. We need serious investment in Homes NSW-owned and managed properties.

Recommendation

- 15. Homes NSW should ensure that housing is offered with appropriate disability adjustments in a timely way.**
- 16. Homes NSW develop and manage more homes for larger families.**

Please let us know if you have any questions about this submission. You can reach us at legal@unsw.edu.au.

Yours faithfully,

KINGSFORD LEGAL CENTRE



Emma Golledge – Director, Kingsford Legal Centre



Nina Ubaldi – Solicitor, Kingsford Legal Centre