



Submission by Kimberley Community Legal Services Inc. to the Senate Inquiry into The Worsening Rental Crisis in Australia

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We acknowledge that we work on Aboriginal land, traditionally the home of the Yawuru people of the West Kimberley and Miriwoong people of the East Kimberley. We pay respect to all elders past and present.

Introduction

1. Kimberley Community Legal Services ('KCLS') is an independent, not-for-profit, multidisciplinary community legal centre operating in the Kimberley region of Western Australia. As the only legal service offering free tenancy legal advice and representation in the region, our service observes the impact of the rental crisis in our everyday legal and social work practice. Our staff work with financially disadvantaged public and private renters in communities across the region, including Kununurra and Broome, Halls Creek, Fitzroy Crossing, Derby, Wyndham and more than a dozen remote communities in the Kimberley. As background, 89.1% of our clients are Aboriginal or Torres Strait Islander, 9% are homeless or at risk of homelessness, and 88.5% are living in financial poverty.¹ Further, 66% of our clients are women, and 34% of clients experience family violence.
2. The rental crisis is not new to our region but has become more acute in recent years due to increasing private rental prices and inadequate investment in social housing. The region has been experiencing high rates of homelessness and overcrowding, while recording some of the lowest socioeconomic outcomes in the country. There is also a shortage of temporary accommodation and crisis accommodation for those in immediate need, as well as a lack of available public housing properties and private rentals. This combination of factors means the community is at risk of deteriorating health and education outcomes, as well as losing critical service delivery workers due to accommodation shortages.
3. Access to adequate housing is imperative to people in the Kimberley being able to participate in their communities and maintain personal dignity and wellbeing. Housing is a social determinant of health and wellbeing, and the clear links are apparent between overcrowding, poor housing conditions and chronic health issues experienced at higher rates by Aboriginal and Torres Strait Islander people. These outcomes are further threatened by the lack of habitable housing and exposure to increasing temperatures and natural disasters in the Kimberley region.
4. In response to these concerns, our submissions propose four main changes to improve renter's rights in the Kimberley. These are:
 - Implement reasonable controls on rental prices in the private rental sector.
 - Increase investment in social housing to boost housing availability and address overcrowding.
 - Implement minimum standards, in particular energy efficiency standards, within the WA *Residential Tenancies Act 1987* ('RTA').
 - Consult with Aboriginal communities and tenants to build and design housing that is sustainable, climate adaptive and culturally appropriate.
5. Our submissions are confined to our experiences and knowledge of rental issues in the Kimberley region of Western Australia and focus on the inequitable rental market and the need for greater protections in the RTA. Any case studies we refer to are heavily de-identified but represent the experiences of our clients who are renters. Our submissions are focused on the following terms of reference:

¹ Kimberley Community Legal Services (2021), *KCLS Annual Report 2020-2021*, p.7.

- Rising rents and rental affordability.
- The experience of renters and people seeking rental housing.
- Improvements to renters' rights.

Renting in the Kimberley

6. The lack of affordable and accessible housing in the Kimberley region has been an ongoing systemic issue. The region is characterised by a large proportion of renters, with social housing making up almost 50% of rentals in the region.² The Kimberley is home to many remote Aboriginal communities, which have housing management agreements with the Department of Communities and Aboriginal Community Housing Limited. These communities face challenges with overcrowding and maintenance issues. In some communities there are very few, if any, private rentals which means there is a reliance on the provision of social housing stock.
7. The region experiences high rates of homelessness, and those figures are largely understood to be under reported in Census data. However, based on the available data the Kimberley has the highest homelessness rates in regional WA. The desert town of Halls Creek in the East Kimberley has the most homeless people (326) for any Local Government Area outside of Perth followed by Broome (318). Of those homeless people, 279 in Halls Creek and 123 in Broome lived in “severely” overcrowded houses.³ Events like the Fitzroy Crossing floods have put more pressure on households and increased already overcrowded conditions in the Kimberley due to the displacement of many residents. Social housing is an important aspect of housing provision in the region (particularly in remote Aboriginal communities) and requires investment in response to community needs. The high levels of homelessness and overcrowding indicate there are insufficient numbers of social housing properties available to community members across the region.
8. The lack of social housing availability is exacerbated by increasing prices in the private rental market. Those who are homeless and on the increasingly long waitlist for a public housing property have few to no options without access to affordable housing. At the time of writing and according to real estate advertiser, Domain, there is one private rental available in Kununurra. This lone property is advertised at \$600.00 a week. In Broome, there are 12 private rentals available, ranging from \$650 to \$1,500.00 a week. Rental prices were reported to have increased in Kununurra by 47%, and by 37% in Broome since early 2022.⁴ As a result, private rentals in the region are inaccessible to a growing number of people.

² Australian Bureau of Statistics, 2016 Census of Population and Housing General Community Profile (Catalogue No 2001.0, 23 October 2017) Table GO33

³ Sarah Crawford (2023) *ABS Data Shows Kimberley has the Most Homeless People in Regional WA*, <https://www.kimberleyecho.com.au/news/the-kimberley-echo/abs-data-shows-kimberley-has-the-most-homeless-people-in-regional-wa-c-10121496>

⁴ Mya Kordic (2023) *Rent Increases by almost 50 percent in Kimberley town as housing crisis deepens in Western Australia*, <https://www.abc.net.au/news/2023-02-25/kimberley-rent-up-by-50-per-cent-as-housing-crisis-worsens/102020012>

9. According to the Australian Bureau of Statistics, lower income households are said to be in 'housing stress' if they spend greater than 30% of gross income on housing.⁵ Renting a property for \$500 a week equates to \$26,000.00 per year. To avoid said housing stress, the household would need to be earning above \$87,000.00 per year. This salary is well beyond anyone on a Jobseeker income. On the other hand, households need to earn less than \$65,000.00 per year to qualify for social housing.⁶ This lack of availability of private rentals means people on low incomes struggle to find accommodation, and those who are waiting for public housing have no alternative options and are expected to wait for up to 2 years on the priority list and up to 10 years on the general wait list.
10. Without access to affordable, accessible, and adequate housing, the social and economic impacts on the community can compound. Lack of housing options puts pressure on families, particularly women and children trying to escape family violence. In addition, overcrowding can cause more stress, environmental health issues, and anti-social behaviour.⁷ Housing pressures also end up creating major costs for crisis response services, the whole community and contributes to costly government interventions in the justice system.⁸
11. Our service prioritises advocating for change to the housing system for the benefit of our client base who experience the severe housing stress outlined above. In addition, for many of our clients in very remote areas, we provide an important (and sometimes sole) avenue to legal advice and social support. Our ability to travel to communities and deliver services provides clients with an important right to having access to justice. Due to the lack of available rentals in the region our service has recently had great difficulty recruiting staff members to fill these critical roles, including solicitors and financial counsellors. Prospective candidates often reject offers of employment based on their difficulty obtaining a rental property. As a result, our service delivery becomes more difficult to manage and puts increased pressure on our existing staff. This is representative of the worsening nature of the rental crisis in the Kimberley. While our focus remains on advocating for housing outcomes for our clients, we certainly require more rental options for staff to carry out this work.

Case Study 1

Maria applied for a public housing property in 2019 and sought to be put on the priority housing list due exposure to family violence and physical and mental health concerns. In 2023, she is still awaiting a home. Maria continues to experience secondary homelessness and lives transiently. She risks her safety at times by staying with family members who are violent towards her. Maria has no prospect of obtaining a private rental in the Kimberley due to the high cost of rent and the low number of houses available. Maria is still waiting on the priority list, 4 years since she first made her application for housing.

⁵ Australian Bureau of Statistics (2023) *Housing Affordability*, <https://www.abs.gov.au/statistics/detailed-methodology-information/concepts-sources-methods/survey-income-and-housing-user-guide-australia/2019-20/housing#:~:text=This%20is%20commonly%20referred%20to,being%20in%20'housing%20stress'>.

⁶ Shelter WA (2023) *Social Housing Income Eligibility*, <https://www.shelterwa.org.au/social-housing-income-eligibility/>

⁷ Lander et al., (2019) 'Extreme Heat Driven by the Climate Emergency: Impacts on the Health and Wellbeing of Public Housing Tenants in Mildura' (Report prepared by Mallee Family Care and the University of Sydney) 3.

⁸ SGS Economics and Planning, Give Me Costs: The Long-Term Costs Of Underproviding Public, Social And Affordable Housing (Report June 2022) 9.

Case Study 2

Prior to the 2020 pandemic, KCLS assisted Debra with an application to a private rental which was advertised at 250 dollars a week. She could afford this on her Disability Support Pension, and with the assistance of a no interest loan for her Bond (provided by the Department of Communities). She was able to secure the rental with the advocacy support of her case worker at KCLS. Debra's rent subsequently increased significantly, and she could no longer afford to pay this on her pension. Debra was then evicted from her private rental and forced to live with family where she can.. In 2023, it is no longer an option for Debra to apply for another private rental. In her town, there are no rentals below 500 dollars a week. She would struggle to be competitive with other applicants who earn more than her or are corporate or employed applicants.

Recommendation 1: Introduce a cap on rental increases to ensure rental properties remain affordable for renters in the Kimberley region.

Recommendation 2: Increase social housing stock in the Kimberley to take the pressure off the housing system and reduce overcrowding and homelessness rates.

Minimum Energy Efficiency Standards

12. The implementation of minimum energy efficiency standards a necessary reform in the Kimberley to not only improve general living conditions but protect tenants from extreme temperatures. Without minimum standards, the health and wellbeing of vulnerable renters will continue to be at risk.
13. Earlier this year, the National Cabinet agreed that minimum standards should be phased in across the country.⁹ This is a welcome step towards providing renters with a higher standard of living, and we encourage federal and state governments to legislate strong and protective minimum standards. At present very weak minimum standards exist in the Western Australian RTA, limited to the requirement that properties be left in a reasonable state of repair and adhere to relevant building codes.¹⁰ WA Public Housing policies do not provide a sufficient standard of cooling to tenants (only ceiling fans) in regions where temperatures regularly reach above 35 degrees.¹¹
14. The Kimberley region is already experiencing the impacts of climate change through an increase in extreme heat and incidence of natural disasters. People in remote and disadvantaged communities are often predicted to feel the effects of climate change first.¹² In addition, renters do not have the market power to request improvements to a property in relation to energy efficiency – such as

⁹ Australian Government (2023) *National Cabinet*, <https://www.pm.gov.au/media/meeting-national-cabinet-working-together-deliver-better-housing-outcomes>

¹⁰ Residential Tenancies Act 1987 (WA), s 42(2).

¹¹ Government of Western Australia, Rental Policy Manual (Climate Control Policy), 71.

¹² NSW Government (2023) *Who is most at risk?*
<https://www.health.nsw.gov.au/environment/climate/Pages/who-is-most-at-risk.aspx#rural>

addressing inadequate heating, cooling, or insulation. As a result, there is an urgent need to reform the RTA to include mandatory minimum energy efficiency standards to protect all renters, but particularly the high population of people living in social housing in the region. These tenants are already economically disadvantaged, face health issues and have no current mandate to request that the Department of Communities make changes to the energy efficiency of their housing.

15. In our recently released research report, *Stuck in the Heat: Lived Experiences of Public Housing Tenants in the Kimberley*, we outline the impact inadequate housing has on tenants in periods of extreme heat. Our research shows the impact of rising temperatures on physical and mental health and social wellbeing outcomes.

16. The key findings within our report are:

- Poor quality public housing, maintenance issues and overcrowding impacts the ability of public housing tenants to effectively control the temperature and energy efficiency of their homes.
- Public Housing tenants in the Kimberley may experience energy poverty due to high energy prices and the use of inefficient cooling appliances.
- The current Housing Authority cooling policy tends to reinforce the financial disadvantage experienced by many public housing tenants in the Kimberley.
- Exposure to high internal house temperatures may harmfully impact a householders' health and wellbeing.

17. Our findings indicate the reality of public housing in the region – houses are in a poor state of repair and are unable to deal with the tropical, and increasingly hot, climate experienced in the Kimberley area. Broad legislative reform is required to ensure all landlords, private and public, are required to provide minimum energy efficiency standards, including cooling and heating requirements where appropriate. Legislating minimum standards in the RTA WA is an opportunity to improve the thermal comfort and energy efficiency of housing for all tenants in the Kimberley.

18. We have attached a copy of our report for the Committee's reference, and to provide further context, more detailed recommendations and lived experience case studies showing the impact of inadequate housing and poor energy policy.

Recommendation 3: Legislate mandatory minimum standards in the Western Australian *Residential Tenancies Act*, including minimum energy efficiency standards that protect tenants from extreme heat and other climate related incidents.

Recommendation 4: Consult with Aboriginal communities and tenants to build and design housing that is sustainable, climate adaptive and culturally appropriate.

Conclusion

19. The Kimberley region is experiencing a severe and worsening rental crisis and in need of targeted and appropriate reform specific to our region. Urgent reform to housing funding and legislative standards is required to ensure the region can continue to develop economically and develop resilience to a changing climate. In our practice, we observe the acute financial and social pressure disadvantaged people are placed under without access to safe and affordable homes, and the need for more affordable private rentals and more availability of social housing. New social housing stock needs to be climate adaptive and culturally appropriate to alleviate these stressors. Amendments to the RTA are required to ensure everyone in the region has a better standard of living, and to ensure the longevity of much relied upon rental properties in the region.