Submission No 133

INQUIRY INTO CLIMATE RESILIENCE

Organisation: South-East Monash Legal Service

Date Received: 24 June 2024

SOUTH-EAST MONASH LEGAL SERVICE INC.

ADVOCACY COMMUNITY EMPATHY

SUBMISSION

Prepared by South-East Monash Legal Service Inc. for the

Legislative Council - Environment and Planning Committee

In relation to the

Inquiry into Climate Resilience

Date submitted: 24 June 2024

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This Centre is accredited by NACLC National Association of Community Legal Centres

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.

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.

SMLS and Climate Justice

SMLS was recently funded by the Victorian Legal Services Board to undertake a Climate Justice Program in South Eastern Melbourne, aiming to empower Melbourne's South-east communities in addressing climate challenges faced by disadvantaged groups. This program recognises climate harm at the intersection of cultural, economic, political, and legal systems. Through casework, community engagement, and advocacy, SECJ identifies critical causal elements of climate justice impact, engages communities in mitigation strategies, and collaborates with partners to contribute to a more resilient community.

Acknowledgement of Country

SMLS wishes to acknowledge the traditional custodians of this lands upon which our office are located, the Wurundjeri and the Boon Wurrung peoples. We pay our respects to the Elders past, present and emerging.

We acknowledge the people, traditions, culture and strength of Aboriginal and Torres Strait Islander peoples, and the fight for survival, justice and country that has taken place across Victoria and Australia.

We sincerely thank the Traditional Custodians for caring for Country for thousands of generations. SMLS recognises the ongoing impact of colonisation, dispossession and racism experienced by Aboriginal peoples. As a Community Legal Centre, we acknowledge the violence of Australian law and its ongoing role in processes of colonisation. We recognise that sovereignty was never ceded, and that this always was and always will be Aboriginal land.

Terms of Reference

(a) the main risks facing Victoria's built environment and infrastructure from climate change and the impact these will have on the people of Victoria;
(b) how the Victorian Government is preparing for and mitigating the impacts of climate change on our built environment and infrastructure;
(c) the barriers facing Victoria in upgrading infrastructure to become more resilient to the impacts of climate change, including barriers in rebuilding or retrofitting infrastructure, including but not limited to, issues relating to insurance and barriers faced by local government;
(d) the adequacy of the current Victorian planning system as it relates to its adaptation to, preparation for, and mitigation of climate change impacts;
(e) what more could be done to better prepare Victoria's built environment and infrastructure, and therefore the community, for future climate disaster events; and
(f) whether further inquiries or investigation may be needed into other aspects of climate change adaptation and climate disaster preparedness in Victoria, noting that climate change will have far-reaching impacts on all aspects of Victorian life, including but not limited to biodiversity, human health, primary production, industry, emergency services and more, and that while these areas may overlap with the matters covered in this inquiry, they may also warrant further investigation in their own inquiries.

Scope of submission

Many of the questions are outside of the scope of SMLS services. We have only provided comments where we were confident that our expertise was a valuable contribution to the subjects raised.

Acronyms

SMLS	South-East Monash Legal Service Inc.
CLC	Community Legal Centre
FCLC	Federation of Community Legal Centres (Vic)

Endorsements

SMLS supports the submission made by the Federation of Community Legal Centres (Vic) into this Inquiry.

This submission is endorsed by the Federation of Community Legal Centres (Vic).

Introduction

We thank the Legislative Council Planning and Environment for the opportunity to provide feedback in relation to their Inquiry into Climate Resilience (Inquiry).

The SMLS South Eastern Climate Justice program recently commenced. Our initial work in this program has revealed that climate change is already causing a shift in legal demands, changes in the law, and the emergence of novel, complex questions of law across multiple practice areas.

Whilst climate change is a global phenomenon, a local response is necessary. This is because the direct and indirect impacts of climate change are experienced locally. Not only does climate change intersect with Australia's legal and political systems, but it also has consequences for human rights. To date, there has been a lack of recognition of the social and human rights implications of climate change. Current governmental response and policy have been inadequate in responding to the climate crisis, particularly in regard to the impacts of climate change on the lives of disadvantaged and vulnerable members of the community. These impacts risk further deepening existing inequity and further entrenching and exacerbating systemic financial and social disadvantage and hardship.

It is important to consider how a human rights-based approach could contribute to the development of climate change policy in Australia. Governments have responded to climate change as an ecological problem. However, the impacts of climate change may threaten a broad range of internationally accepted human rights, including the right to life, adequate food, sufficient and safe water and housing. In addition, policies designed to address climate change themselves have the potential to impact on human rights. For this reason, a human rights approach can contribute to the development of new directions in climate change policy.

An opportunity exists in Australia for human rights to inform the interpretation of legislation. Emerging research indicates that there is a gap in courts considering human rights in their application of the principle of legality in cases where it arises. The principle of legality has particular significance in Victoria and other Australian jurisdictions with a human rights legislative framework. The High Court in *Coco v R* considered the application of fundamental human rights in regard to legislative interpretation and articulated the principle that there can be no "abrogation or curtailment of a fundamental right freedom or immunity" unless there is a clear and unambiguous intention expressed by the legislature to do so. [1] This extends to a broad area of law including family violence, employment, criminal law, activist protection, tenancy, discrimination, and consumer rights.

A former Chief Justice of Australia, the Hon Robert French, has stated extra-judicially that "[i]t does not take a great stretch of the imagination to visualise intersections between these fundamental rights and freedoms, long recognised by the common law, and the fundamental rights and freedoms which are the subject of the Universal Declaration of Human Rights and subsequent

[1] *Coco v R* (1994) 170 CLR 427, 437-38

international Conventions to which Australia is a party."[2] In *Director of Public Prosecutions v Kaba*, the Supreme Court of Victoria held that the rights and freedoms in the International Convention on Civil and Political Rights were fundamental rights and freedoms for the purpose of the principle of legality.[3] If this approach were to be taken in Australia, internationally recognised human rights might be identified as fundamental rights engaging the principle of legality.

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.

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[2] Chief Justice Robert French, 'Oil and Water? International Law and Domestic Law in Australia' (Speech delivered at the Brennan Lecture, Bond University, 26 June 2009) 21 http://www.hcourt.gov.au/assets/publications/speeches/currentjustices/frenchcj/frenchcj26June09.pdf>. See application of this statement in *Director of Public Prosecutions v Kaba* (2014) 44 VR 526; [2014] VSC 52 [179].

[3] *Ibid*

Both domestically[4] and internationally[5], 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 ***and/or*** invisible and indirect as outlined by the Federation of Community Legal Centres (Vic) in their Literature Review, *Climate Change Impacts on Access to Justice:*[6]

> *'Climate change impacts' refers to the many ways in which climate change affects environments and livelihoods. This includes the direct impacts of extreme weather hazards such as bushfires, floods, storms and drought. It also includes less obvious effects such as worsening air pollution, heatwaves, species extinction, environmental depletion, sea level rise, food insecurity and higher costs of living.*

Low-income earners are disproportionately facing the negative impacts of climate change and are unable to move homes or cities, or make the adjustments needed to adapt and become resilient to the impacts of climate change. This is because they are spending a greater proportion of their income and budget on basic living costs such as rent, water, food and energy bills.[7] They are also forced into buying cheaper appliances that are less energy efficient, costly to run and break down easily.

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[4] Australian Council of Social Service (ACOSS), 'Climate Change' <https://www.acoss.org.au/climate/#:~:text=Climate%20change%20will%20greatly%20impact%20low%20income%20households&text=As%20a%20proportion%20of%20household,households%20on%20an%20average%20income>

Dr Ang Li, Mathew Toll and Professor Rebecca Bentley, *University of Melbourne*, 'We Aren't all Equal When it Comes to Climate Vulnerability' <https://pursuit.unimelb.edu.au/articles/we-aren-t-all-equal-when-it-comes-to-climate-vulnerability>

Melissa Sweet, 'Inequality and climate change: the perfect storm threatening the health of Australia's poorest', *The Guardian*, <https://www.theguardian.com/australia-news/2019/may/14/inequality-and-climate-change-the-perfect-storm-threatening-the-health-of-australias-poorest>

[5] World Economic Forum 'The climate crisis disproportionately hits the poor. How can we protect them?', (13 January 2023) <https://www.weforum.org/agenda/2023/01/climate-crisis-poor-davos2023/>

World Health Organization, 'Climate Change', (12 October 2023) <https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health#:~:text=With%20the%20poorest%20people%20largely,climate%20change%20worsening%20this%20trend.>

[6] 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>

[7] Australian Council of Social Service (ACOSS), 'Climate Change' <https://www.acoss.org.au/climate/#:~:text=Climate%20change%20will%20greatly%20impact%20low%20income%20households&text=As%20a%20proportion%20of%20household,households%20on%20an%20average%20income.>

The social, financial, mental, physical, and legal impacts of climate change have a compounding effect on our clients' complex and intersecting legal issues. Even with deep, rapid and sustained adaptation, losses and damages will continue to occur, and those losses and damages will be unequally distributed across systems, regions and sectors. This means that 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.

More 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 these communities.

We see an urgent need for a whole of government approach to tackle the impacts of climate change on our vulnerable communities, such as ensuring safe and efficient housing, review of cooling and heating infrastructure (including in housing, community buildings, schools, public spaces, public transport and workplaces), cool/warm shelter options for those experiencing homelessness, access to free health services and access to free legal services particularly in times of need during extreme weather events. We must ensure a just transition, centering the interests of those that are most affected by energy transitions, including workers and vulnerable communities in order to mitigate the significant expansion of inequality in our society.

This submission highlights the general nature of the impacts of climate change on vulnerable communities in Victoria, specifically in relation to:

1. Impacts of Climate Change on Housing in Victoria
2. Impacts of Climate Change on Living Affordability
3. Impacts of Climate Change on the Health of Victorians
   A. Physical Health
   B. Mental Health
4. Impacts of Climate Change on Victoria's Infrastructure
   A. Schools
   B. Public Transport
5. Impacts of Climate Change on Employment
6. Impacts of Climate Change on Family Violence
7. The Urgent Need for Funding of Free Legal Services

Whilst considering the impacts on Victorian communities, housing, health, infrastructure, and employment, we urge the Government to consider climate resilience with a climate justice lens. Whilst there is the need for urgent mitigation steps, adaptation is equally important. The impacts of climate change are already being seen and felt, and this impact is being disproportionally felt by the most vulnerable in our communities, amplifying injustices and inequalities.

We call for a just and equitable response in tackling the impacts of climate change and building *all* Victorians' resilience to climate change.

> ***"Adaptation and mitigation actions that prioritise equity, social justice, climate justice, rights-based approaches, and inclusivity, lead to more sustainable outcomes, reduce trade-offs, support transformative change and advance climate resilient development."***[8]

1. Impacts of Climate Change on Housing in Victoria

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:[9]

> *In Australia, there is an urgent need for law reform, firmly acknowledging that access to housing is a fundamental human right, rather than a profit or investment opportunity. Too often we see clients unable to find suitable accommodation and who are let down by a system built on profit and investment. We urge the Government to use a human rights lens in all housing policy making with greater attention and resources towards making this human right a reality for all Australians.*
>
> *Across Australia, renters are struggling with the rising cost of living. Accessing a rental is becoming increasingly difficult due to a combination of factors including a housing shortage (with many properties used as short term/holiday rentals) and unaffordable, increasing rental prices.*
>
> *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 Australia,[10] 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*

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[8] Intergovernmental Panel on Climate Change (IPCC), 'Climate Change 2023: Synthesis Report' < https://www.ipcc.ch/report/sixth-assessment-report-cycle> 47

[9] SMLS 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>

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

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 the 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.

We have also raised our concerns surrounding housing insecurity, and the availability and affordability crisis in Victoria in our submission into the Inquiry into Housing and Affordability Crisis:[11]

> *The cost-of-living crisis and price gouging by large corporations is having serious effects on the accessibility and affordability of renting. With energy bills increasing by 20% and food by approximately 9%, in addition to the rising rental prices is placing renting Victorians under serious financial stress. According to the Reserve Bank of Australia, rents paid by new tenants has increased by 14% over February 2022 - February 2023, with this figure growing. Since 1 July 2022, renters on low to middle income have reported increases ranging from $30 to $320 a week, according to Tenants Victoria.[12] A major issue that lends to rental affordability is increases prescribed by the rental provider, who can dictate how much rent can increase, keeping the competition in the rental market in mind.*

FCLC have also reported on the issues of climate change on housing accessibility, where they state:

> *Climate change impacts affect the habitability of all environments through the risk they pose to biodiversity, human health (in terms of food, water security, pollution, extreme heat, smoke and ash), and housing security. These impacts are already being seen in Victoria as climate change compounds preexisting inequities and precarities as well as exposing new population cohorts to climate harm.[13]In Victoria,*

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[11] SMLS Submission 'The Rental and Housing Affordability Crisis in Victoria' (July 2023) <https://www.smls.com.au/wp-content/uploads/2023/07/Inquiry-into-the-rental-and-housing-affordability-crisis-in-Victoria.pdf> July 2023

[12] Tenants Victoria, 'Tenants Victoria's top 3 state election asks', (October 2022). <https://tenantsvic.org.au/news/tenants-victorias-top-3-state-election-asks/>

[13] See for example, Victorian Council of Social Service, A Climate of Fairness: Making Victoria's Climate Change Transition Fair and Equitable (Victorian Council of Social Service, October 2019).

exposure to environmental hazards and climate harms is manifesting most visibly in the issue of habitable shelter. This is evidenced by the heightened demand for climate safe housing, a rise in tenancy and insurance law issues, and increased pressure on the state to provide habitable social housing, prisons, schools and other public buildings. A recent report by the Special Rapporteur on the right to adequate housing documents the impact that the climate crisis is having on the enjoyment of this foundational human right that enables the realisation of many other human rights.[14]Those most exposed to the impact of climate change on housing include persons experiencing homelessness, elderly people, women, children, LGBTIQA+ people, racial and ethnic minorities, refugees, internally displaced peoples, people living in detention, Indigenous peoples, and people with disabilities. [15]

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.[16] Sweltering Cities went on to report that: [17]

- *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.*

Improving Housing Accessibility and Affordability

In our community, the challenges of housing affordability and accessibility persist, impacting various aspects of residents' lives. With the heightened frequency of heatwaves and other extreme weather events, vulnerable members of the community face increased risks. Heatwaves are particularly dangerous for vulnerable people, including those that are very old or very young, those

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[14] Human Rights Council, Towards a Just Transformation: Climate Crisis and the Right to Adequate Housing - Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context, Balakrishnan Rajagopal (No A/HRC/52/28, United Nations General Assembly, 23 December 2022).

[15] 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> 21.

[16] 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> 16

[17] 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

with health conditions or disabilities, and those who are socially isolated and culturally and linguistically diverse communities.[18]

A. **Affordability and Accessibility**:

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. Many of our clients are renters, socially disadvantaged, low-income earners and 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.

B. **Rising Energy Costs**:

What is equally concerning is even with air-conditioning or heating, many Victorians are forced to leave these off because of the high cost of energy prices: '*80% of Victorian respondents have air conditioning at home. 3 in 5 (61%) are not turning on air conditioning due to concerns about cost.*'[19]

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. 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. Systemic policy change is required.

Large shopping centres with heating and cooling become extremely busy on very hot or cold days because people go there instead of staying in houses with inadequate heating and cooling or unable to afford the cost of turning on the heating and cooling. Additional stigma may also be faced by people who are homeless or socially disadvantaged as they attempt to frequent these areas. Shopping centres also contribute to consumerism and may not be suitable for people who are already struggling with rising costs of living.

C. **Displacement and Homelessness**:

More frequent heatwaves also mean that bushfires and floods are becoming more severe, destroying people's homes, or deeming them uninhabitable and too dangerous, and displacing families into homelessness or insecure and unstable accommodation such as motels, caravan parks, and relatives' homes. Residents in coastal areas are already facing sea level rises and coastal erosion which will also force people away from living on the coast due to areas becoming unsafe and inhabitable. This climate related displacement will put further strain on the housing system. Those that are homeless also face extreme weather events with little to no protection at a great risk to their personal health and safety.

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

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

To address these challenges and enhance community resilience, it is imperative to allocate resources to build community resilience and explore sustainable solutions such as integrating solar panels, ensuring buildings are designed for energy efficiency, funding of programs to support low income renters and owners adapt their properties to include insulation and cooling and heating, implementing regulations to cap rent increases, and ensuring equitable access to social housing. Additionally, measures to prevent landlords from passing on costs and improving the energy efficiency of housing can significantly alleviate the burden on residents.

2. Impacts of Climate Change on Living Affordability

The increase in extreme weather events in Australia, such as drought, flooding, extreme heat or cold, is and will continue to effect agriculture through declining crop yields, leading to decreased quantity and quality of food available, which has follow-on impacts on the affordability of food.

SMLS clients are among those who are already feeling the effects of the rising cost of living (including rising energy costs discussed above) and increased food costs due to the impacts of climate change will continue to add to this stress for the most disadvantaged in our community. These impacts have a flow on effect and impact on both the physical and mental health of Victorians.

The Government must allocate resources to ensuring all Victorians have food security, even in times of weather events. The Victorian Government must develop adaptation plans and invest in climate finance. Investing in climate resilience and adaptation, including changing agricultural practices towards regenerative food production.

3. Impacts of Climate Change on the Health of Victorians

The Queensland Land Court in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21 found that there is no dispute that in Australia there is a 'significant' threat to life and health, that these risks are at risk of multiplying due to climate change and will only increase with continuing greenhouse emissions. who attested that climate change threatens to multiply health risks by either exacerbating.[20] Additionally, the European Court of Human Rights recently heard a complaint made by a group of older Swiss women (aged over 75) who had evidenced how their health and wellbeing (including cardiovascular and respiratory diseases) had been affected by climate change induced heatwaves, and every heatwave would only continue to increase their risk of 'mortality and morbidity'.[21] The Court found that Switzerland had violated their obligation to protect individuals from 'serious adverse effects on their life, health, well-being and quality of life arising from the harmful effects and risks caused by climate change'.[22]

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[20] *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21
[21] *Verein Klimaseniorinnen Schweiz and ors v. Switzerland* (Application no. 53600/20) [299]-[300].
[22] *ibid* [544]

It is likely that as a Community Legal Centre (CLC), SMLS will see an increase in cases from Victorians suffering adverse health effects due to climate change impacts and extreme weather events. These will have flow-on consequences as more people will be requiring medical attention and assistance from the public health system, doctors, and hospitals. It is also likely that people will be seeking to make insurance claims but be barred by insurance companies increasing premiums, excesses, and exclusions, thereby leaving vulnerable Australians without medical help.

A. Physical Health

Risks posed by all climate disasters are poor physical and mental health outcomes due to an increase in social issues. This includes family violence, alcohol, and drug use, either pre-existing or exacerbated due to the trauma of disasters.

Heatwaves are the leading cause of death, of all environmental disasters. Australian heatwaves have been responsible for more human deaths than any other natural hazard, including bushfires, storms, tropical cyclones, and floods.[23] Elevated temperatures increase the risk on vulnerable people including the young, old, those with disabilities, mental health issues, those who work outdoors or wait for public transport, as well as to First Nations peoples due to higher frequencies of certain health conditions in this population.[24]

Doctors for the Environment Australia have outlined some the effects of extreme heat which can include:[25]

- higher rates of mortality and heat-related illnesses such as dehydration, heat exhaustion, heatstroke and worsening of existing health conditions
- adverse impacts on pregnant women and birth outcomes.
- Increased dust or other pollutants, which can trigger asthma and allergies, there have also been increased incidents and deaths relating to occurrences of thunderstorm asthma. Tragically in 2016 10 people died from a 'catastrophic' thunderstorm asthma event.[26]
- Smoke from bushfires exacerbating heart and lung disease

FCLC have described this impact as a "silent killer" in their report 'Climate Change Impacts on Access to Justice' as follows:

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[23] NSW Government, AdaptNSW, 'Climate change impacts on heatwaves' <https://www.climatechange.environment.nsw.gov.au/impacts-climate-change/weather-and-oceans/heatwaves#:~:text=They%20have%20been%20responsible%20for,mostly%20in%20New%20South%20Wales.>

[24] Doctors for the Environment Australia, 'How Climate Change Affects Your Health: The facts Doctors for the Environment Australia' (August 2021) <https://www.dea.org.au/how_climate_change_affects_your_health_the_facts>

[25] *ibid*

[26] Commissioner for Environmental Sustainability Australia, 'Thunderstorm Asthma' <https://www.ces.vic.gov.au/resources/stories/thunderstorm-asthma>

The disproportionate impact of extreme heat on certain population groups is an example of a climate impact that could be regarded as slow violence. Extreme heat is a 'silent killer', and climate change is driving longer, hotter, and more intense heatwaves.[27] Extreme heat is particularly dangerous for many priority population groups assisted by legal assistance services including the elderly, the very young, people with disabilities and outdoor workers. In Victoria there is evidence of the impact of extreme heat on at-risk population groups in public housing settings.[28] The effects of extreme heat in low-paid workplaces and industries is also documented.[29][30]

B. Mental Health

Exposure to increasingly severe and frequent extreme weather events can result in psychological distress which can manifest in many ways in individuals and communities, with clinically diagnosed post-traumatic stress disorder (PTSD), anxiety disorders, depression and suicide seen to increase in communities impacted.

Psychological distress has been documented in increased domestic violence, and alcohol and substance abuse increasing and persisting for years following extreme weather events in Australia. Heat is associated with increased aggression, domestic violence and with mental and behavioural disorders including self-harm. There is clear evidence of increased mental health emergency presentations and hospital admissions in hotter weather for children and adults. Australian data shows an overall trend towards increased suicide rates with increased annual temperatures, with rates of suicidal behaviour having increased significantly since 2009 in NSW, during a period of increasing temperatures.

Compound events, where multiple disasters intersect with less time for recovery, are made more likely by climate change. An example of this can be seen in the bushfire and flood disasters which affected the east coast of Australia in rapid succession over 2019-2021. This sequence of drought, bushfires, floods, intersected by COVID-19, have an even greater impact than single events, where

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[27] Lesley Hughes, Elizabeth Hanna and Jacqui Fenwick, The Silent Killer: Climate Change and the Health Impacts of Extreme Heat (Climate Council of Australia, 2016).

[28] J Lander et al, Extreme Heat Driven by the Climate Emergency: Impacts on the Health and Wellbeing of Public Housing Tenants in Mildura, Victoria (Mallee Family Care, 2019).

[29] Elizabeth Humphrys, James Goodman and Freya Newman, '"Zonked the Hell out": Climate Change and Heat Stress at Work' (2022) 33(2) The Economic and Labour Relations Review 256; Freya Newman and Elizabeth Humphrys, 'Construction Workers in a Climate Precarious World' (2020) 46(4–5) Critical Sociology 557.

[30] 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>

the mental health impacts are compounded. It is likely that as these compounding events increase in frequency, that so too with the associated mental health impacts.[31]

Hospitals and General Practitioners, psychologists must be upskilled and better resourced in recognising and dealing with climate related events. The social inequalities that contribute to health inequities must also be tackled "*because people with the least social and economic power tend to have the worst health, live in unhealthier environments and have worse access to healthcare."*[32]

4. Impacts of Climate Change on Victoria's Infrastructure

In many locations across Victoria, temperatures above 40 degrees are a regular occurrence, these temperatures put pressure on infrastructure that was not built to cope with prolonged exposure to these conditions, for example, the increased use of cooling systems causing blackouts, or hospitals struggling to support patients when their resources are overwhelmed with incidence of heat related illnesses.[33]

In January 2024, the communities in central Victoria experienced three months' worth of rain in a day, causing major floods.[34] During the flooding, communities were isolated and cut off from accessing the town. People experienced above floor level flooding or were issued emergency warnings to evacuate immediately. These are communities still recovering from the last major flooding event with damage to roads, infrastructure, homes, and the built environment.

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[31] Doctors for the Environment Australia, 'How Climate Change Affects Your Health: The facts Doctors for the Environment Australia' (August 2021) <https://www.dea.org.au/how_climate_change_affects_your_health_the_facts>

[32] Melissa Sweet, 'Inequality and climate change: the perfect storm threatening the health of Australia's poorest', *The Guardian*, <https://www.theguardian.com/australia-news/2019/may/14/inequality-and-climate-change-the-perfect-storm-threatening-the-health-of-australias-poorest>

[33] Australian Insitute of Health and Welfare (AIHW) 'Extreme weather is leading to more injury hospitalisations, with heat being the main cause', (Media Release, 02 November 2023) <https://www.aihw.gov.au/news-media/media-releases/2023/2023-november/extreme-weather-is-leading-to-more-injury-hospitalisations-with-heat-being-the-main-cause>

Jane Norman, ABC News, 'Australia at heightened risk of blackouts this summer with 'extreme' demand for power pushing grid to the brink' (15 November 2023) <*https://www.abc.net.au/news/2023-11-15/summer-heatwave-drives-extreme-electricity-demand/103108580*>

[34] SBS News, 'Evacuation warnings as Victorian town gets three months' worth of rain in 24 hours', (8 January 2024)< https://www.sbs.com.au/news/article/evacuation-warnings-as-victorian-town-gets-three-months-worth-of-rain-in-24-hours/x5984d15d >

Clay Lucas, The Age, 'The Maribyrnong River flood warnings that receded, then went unheeded' *(I* 30 September 2023) < https://www.theage.com.au/politics/victoria/the-maribyrnong-river-flood-warnings-that-receded-then-went-unheeded-20230928-p5e8ft.html>

Community hubs such as pools, community centers, neighborhood houses and halls, schools, libraries must be properly funded and adapted (including with insulation, heating, cooling, fans etc.) to be climate resilient and provide shelter to Victorians in times of need such as extreme weather days, floods, and storms.

A. Schools

Many schools around Victoria are facing severe hygiene and health issues due to toxic mould and dilapidated buildings. There are reports of many schools facing a lack of or broken heating and cooling units, leaking and collapsing roofs, dilapidated buildings, students being forced to move into "temporary" "crummy" portables, an overall lack of maintenance funding, the need for urgent repairs and urgent maintenance requests going unanswered, poorly insulated buildings, and toxic mould infested buildings.[35] These are not issues that private schools are experiencing at the same level as they have the funds to meet their students' needs.

Climate Change has a disproportionate impact on young people as recreational activities and sports are impacted.[36] In lower socio-economic areas and in many public schools across Victoria, there are not adequate contingency plans to cover poor weather conditions, which will only get worse if climate change adaptation and mitigation plans are not urgently considered and put in place.

Many of our clients are young people who are disproportionally impacted by climate change. the most common barrier to sports delivery within schools across Australia is weather. [37] SMLS runs an

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[35] Adam Carey, The Age, 'Brighton Primary students learn in 'tiny, crummy portables' but state funding proves elusive', (9 April 2023) < https://www.theage.com.au/national/victoria/brighton-primary-students-learn-in-tiny-crummy-portables-but-state-funding-proves-elusive-20230405-p5cy7u.html>

3AW Melbourne, 'Nothing short of a disgrace': Children exposed to weeks of toxic mould at Mornington Peninsula school' (27 February 2024) <https://www.3aw.com.au/nothing-short-of-a-disgrace-children-exposed-to-weeks-of-toxic-mould-at-mornington-peninsula-school>

3AW Melbourne, 'Melbourne Schools Fall into Shocking State of Repair' (28 February 2024) <https://www.3aw.com.au/melbourne-schools-fall-into-shocking-state-of-disrepair>

Robyn Grace, The Age, 'Collapsed floors and safety risks: Public schools in disrepair close classrooms' (5 March 2024) <https://www.theage.com.au/national/victoria/collapsed-floors-and-safety-risks-public-schools-in-disrepair-close-classrooms-20240305-p5f9v4.html>

[36] Climate Council, 'Game, Set, Match: Calling time on Climate Inaction' <https://www.climatecouncil.org.au/resources/game-set-match-sports-climate-change>

[37] Australian Sports Commission, 'Addressing the decline in sport participation in secondary schools Findings from the Youth Participation Research Project Full Report November 2017',

outreach at several public schools, many of our clients are impacted by the lack of infrastructure that protects them from extreme weather events.

Schools and childcare centres must be supported to develop both adaptation plan to support the adaptation to climate change, and contingency plans for extreme weather events. Recently, a significant storm hit the southeastern suburbs at 3:30pm, when children were being released from school. Extreme winds, flash flooding and other dangerous conditions occurred as children were walking out of their classrooms and making their way home. Many concerned parents were surprised to learn that most schools did not have plans in place for such events and simply let young people out into the storm.

Public schools do not have the resources or expertise to develop appropriate climate resilience and adaptation policies. The Government must lead this work and provide Victorian schools with the resources, knowledge, funding, and tools to better adapt to climate change and become climate resilient.

B. Public Transport

Victorians are waiting in bus/tram/train stops and stations with minimum weather protection in extreme weather conditions including heatwaves and floods. On top of this, current public transport infrastructure is not adequately built to withstand climate change or minimise contribution to it. In 2023, the transport sector is the third largest contributor to Australia's greenhouse gas emissions.[38] Public transport is also unreliable in cases of extreme weather events, with train commuters experiencing disruptions to transport journeys due to the impact of heat on railway lines and power outages. This unreliability can lead to loss of income, inaccessibility to support services, and social isolation. It also leads to more cars on the road, leading to more money spent on private transport, more traffic on the roads leading to more emissions and more pressure on roads and infrastructure.[39]

In February 2024, around 620,000 homes and businesses, mostly in Victoria's Eastern suburbs, experienced power outages. This resulted in strains on emergency services, receiving more than 3,000 calls for assistance and response times taking longer than usual. Many train lines could not run, further overloading buses with stranded passengers and traffic lights were shut down, increasing the risk of motor vehicle accidents on the road. Additionally, some people experienced data and phone reception disruptions and therefore could not access emergency service or obtain information as to when their power will come back on. This also impacted on the ability to communicate with others, leaving many people vulnerable with a lack of access to services and uncertainty. SMLS is

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<https://www.sportaus.gov.au/__data/assets/pdf_file/0006/678687/34896_Youth_participation_project-full_report_acc2.pdf> 6

[38] Australian Government, 'Transport and Infrastructure Net Zero Roadmap and Action Plan', (2023) <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/transport-and-infrastructure-net-zero-roadmap-and-action-plan>

[39] *ibid*

aware of reports of people in wheelchairs being trapped at train stations due to power outrages causing equipment malfunctions that prevented them from being able to leave.

The importance of adapting public transport accessibility to meet the needs of Victorians is critical. Sweltering Cities discusses the urgency for these adaptation policies in their Sweltering Cities Report:[40]

> *Rising temperatures will make walking, cycling, rolling or even just waiting for the bus difficult or potentially dangerous for people who are vulnerable to heat related diseases. Younger people, older people, people with disabilities and people who don't drive or have access to a car are particularly impacted when extreme heat makes active or public transport inaccessible.*
> *Transport is the third largest source of greenhouse gas emissions in Australia and cars are responsible for roughly half of those emissions. NSW will electrify all public buses by 2030, but if it's too hot to wait, people will still drive. Increasing the accessibility of local public transport is key to reducing transport greenhouse gas emissions.*

5. Impacts of Climate Change on Employment

Extreme weather events and climate change can negatively impact workers, particularly those in insecure work. These impacts include accessibility to transport to get to and from work, lost wages for missing (either because of personal reasons such as having to deal with a flood at home or because of the employer having to shut down for example because of damage to the workplace), and health impacts of unsafe workplaces.

The Centre for Urban Research 'Climate Impacts at Work Report'[41] examined the impact of climate change on Victorian workers and the flow on effects of these impacts. Key findings included:

- *More than 60% of workers indicated they have been impacted in some way*
- *More than a third have not been able to travel to or from work due to extreme weather*
- *A quarter have had to work additional hours due to extreme events and disasters*
- *Almost 10% of respondents have lost wages or had to take personal leave,*
- *2% have lost jobs due to climate-related events.*[42]

Many of our clients work in industries that have had little regard to climate resilience and adaptation. Many employers do not have the knowledge or experience to consider the impacts that the climate has on their workers or the workplace. This results in our vulnerable clients (including migrants, young people, students, people with disabilities and those who do not know their rights)

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[40] 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> 18
[41] Todd Denham, and Lauren Rickards, 'Climate Impacts at Work. Climate Resilience Living Lab, RMIT University, Melbourne', (September 2022) <https://cur.org.au/cms/wp-content/uploads/2022/09/220926-web-climate-impacts-at-work-pages.pdf>
[42] *ibid* at 28

working in unsafe workplaces. We have seen clients working in unsafe hospitality jobs in extreme heat conditions, machine operators or construction workers working in extreme weather with no sun protection or cooling, and those working in factories and food manufacturing factories with little to no regard for their health or safety on hot or cold days. In Victoria there is no statutory or regulatory limit on working temperatures. Agricultural workers in our region are particularly vulnerable.

The 'Climate Impacts at Work Report' survey respondents reported that most survey respondents called for greater adaptation measures to be taken, and further found that only 14% of respondents reported that their organisation had adaptation measures in place and only 12% had received any training to help avoid or manage climatic impacts.[43] Respondent workers called for:

- *Training and education programs to help avoid or manage climate change impacts.*
- *Reviews of occupational health and safety requirements, particularly of uniform requirements including PPE*
- *More flexible work arrangements to enable workers to undertake work when conditions are more conducive to productivity (e.g., early morning rather than middle of the day), avoid commuting, or take personal leave to respond to extreme weather events.*

Workers' recommendations for government build on the above:

- *Enforce OH&S regulations*
- *Mandate access to flexible working arrangements, as well as ensure that home working situations are also safe and comfortable*
- *Improve building design standards to provide better protection from extreme conditions.*[44]

The government must build climate adaptation knowledge among employers and provide them with the necessary resources and incentives to transform their workplaces into safe, climate-resilient spaces for all workers. Additionally, the government should consider further regulations to better protect workers from unsafe working conditions.

Providing information to the private sector for adaptation, establishing policy conditions for real adaptation, and promoting climate resilience and adaptive capacity are critical measures. Delivering local and regional science and information, especially where connections with ecological, biophysical, or social processes are crucial, is also vital.

It is essential to ensure that state planning, property, and environmental legislation and policy foster effective adaptation by business owners and managers. State regulatory and market frameworks should encourage private parties to adapt effectively.

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[43] *ibid* at 31
[44] *ibid* at 28

6. Impacts of Climate Change on Family Violence

A most concerning impact of climate change is the correlation between disasters and family violence. FCLC has noted this correlation in their Report *Climate Change Impacts on Access to Justice, Literature Review:*

> *Australian literature also documents an association between disasters and increased domestic and family violence, which can have a knock-on effect across many areas of civil law.*[45] *Anecdotally the rise in family violence-related legal problems alongside an extreme weather event is not being reflected on the ground in Victoria, with few services reporting an increase in demand for services in this area of law. However, this may be due to a data deficiency. Further research is required to better understand how legal assistance providers identify climate-related legal needs.*[46]

Research shows family violence in Australia increases during and after disasters such as floods, bushfires and cyclones, as well as during heatwaves.[47] As financial stress, employment stress, housing stress, mental health issues, and social issues like drug and alcohol use, are also risk factors for an increased incidence of family violence, the increase is these issues because of the impacts of climate change will indirectly increase the incidence of family violence.

We are facing a family violence epidemic in Australia with alarming rates of family violence and death. With additional pressures associated with leaving family violence situations, regarding lack of housing or financial pressures, victim-survivors of family violence will also find it harder to leave, staying in relationships longer, increasing their and their children's exposure to potentially deadly situations.[48]

Many of our clients have intersecting legal issues such as housing, financial debts, uncertain immigration status, are facing discrimination, have health concerns, or have a myriad of

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[45] Debra Parkinson, 'Investigating the Increase in Domestic Violence Post Disaster: An Australian Case Study' (2019) 34(11) Journal of Interpersonal Violence 2333.

[46] 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>

[47] Flinders University, UN Women, 'Australia: Domestic violence increase during disasters', (14 March 2022) < https://wrd.unwomen.org/explore/insights/australia-domestic-violence-increase-during-disasters>

The Conversation, 'As the temperature rises, so do rates of domestic violence' < https://theconversation.com/as-the-temperature-rises-so-do-rates-of-domestic-violence-215070>

[48] Our Watch, 'Change the story: A shared framework for the primary prevention of violence against women in Australia', (2021) <https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2021/11/18101814/Change-the-story-Our-Watch-AA.pdf>

employment issues. When an added stress event such as an extreme weather incident occurs, this can cause disastrous flow on consequences on family dynamics.

SMLS runs an Integrated Services program with Good Shepard (SCIP) which aims to contribute to a resilient community by taking a holistic and integrated approach to meet the legal and social needs of vulnerable people from diverse backgrounds in south east Melbourne. Community development workers undertake legal education and community engagement activities, while a team of social work students supports clients with a range of activities: Housing and health advocacy, job readiness assistance and warm supported referrals. Lawyers provides legal information, advice, referrals, case work and representation, including managing internal referrals to specialist areas of law. A Financial Counsellor provides financial support services and interventions.

Community Legal Centres (CLCs) must be fully funded to provide critical holistic and multi-disciplinary assistance to ensure those who have experienced or at risk of family violence are able to access the support they need such as secure housing, counselling, and financial support.

7. The Urgent Need for Funding of Free Legal Services

We echo the concerns of the FCLC and the impacts climate change has on access to justice.[49] SMLS supports a greater investment in more targeted legal services for those members of our vulnerable communities who are the first to be impacted by climate change. Adequate funding for community legal services is needed to continue to provide holistic legal and social work assistance relating to tenancy and property issues, energy and bill debts, the flow on impacts that these stresses have on family violence. Providing early legal support allows for early intervention responses.

The legal sector is recognising that current practice in Australia is insufficient in responding to the climate crisis, particularly in the areas of inequity and addressing systemic disadvantage. Emerging research indicates that there is a lack of recognition regarding incorporation of climate change impacts into various areas of law, such as family violence, employment, criminal law, activist protection, tenancy, discrimination, and consumer rights. This deficiency further entrenches disadvantage and discrimination, reducing the capacity for long-term community resilience. Human rights and access to justice are also excluded from disaster response and recovery, as well as climate change adaptation planning, which exacerbates the problem.

CLCs respond to the legal needs of their communities by addressing factors that drive and exacerbate marginalisation and exclusion. Demand is rising for legal services that understand and respond to the challenge of climate change, that focus on the protection of human rights, and inequality.

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[49] 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>

However, legal services need to adapt, increasing their capabilities and understanding to identify the intersection and deliver best practice in seeking justice. Therefore, there is a need to enhance the capacity of legal services to respond to the impacts of climate change, protect human rights, and promote equity and justice.

We also acknowledge the findings by FCLC surrounding the gaps in data recording of the impacts of climate events on access to justice, in which they state:

> *As each climate disaster is unique and recovery non-linear, big evidentiary gaps remain in our understanding of legal need across different extreme weather events. Victorian legal assistance services report these common areas of law for disaster recovery legal work:*

- *Residential tenancy and other forms of housing law (manufactured homes, caravan parks, emergency relief accommodation)*
- *Insurance law*
- *Employment law*
- *Social security law (including accessing disaster payments)*[50]

Data collection and reporting is critical in understanding Victorian's resilience to climate change. However, without adequate funding, the CLC sector is unable to keep up with the demand of providing legal and social work services as well as recording and reporting on data and trends stemming from climate change.

We urge the Government to adequately fund the CLC sector to provide necessary legal and social services to these vulnerable communities 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.

[50] *ibid*