

Victorian Multicultural Commission

Submission to the Residential Tenancies Act Review 2015

Fairer Safer Housing - Laying the Groundwork

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1. Executive Summary

The Victorian Multicultural Commission (VMC) welcomes the opportunity to make a submission to the review of the *Residential Tenancies Act 1997* (the review). The VMC has used information provided by members of its Regional Advisory Councils (RACs) to inform this submission.

Members of the eight RACs¹ were canvassed in regard to information related to private residential rental situations and asked to respond to five brief questions, informed by matters raised in the review's consultation paper, *Laying the Groundwork*.

1.1. Recommendations

Informed by the advice of the RAC members the following recommendations are formulated to reduce current barriers and alert the review to the particular needs of Victoria's culturally and linguistically diverse (CALD) communities.

RECOMMENDATION 1 - ISSUES TO INCLUDE IN THE REVIEW

The VMC recommends that the review:

- *Considers the means by which the Act can seek to address discriminatory practices as illustrated within this submission to further promote equity of access.*
 - *This could be achieved by pursuing partnership opportunities that will both facilitate and encourage a higher level of estate agent involvement with applicants from CALD backgrounds.*
 - *For example, this could be progressed via a state-wide partnership between the Real Estate Institute of Victoria (REIV) and Consumer Affairs Victoria. The VMC could act as adviser regarding the particular needs of multicultural community members such as by providing information and advice.*

RECOMMENDATION 2 - PRINCIPLES AND OBJECTIVES OF THE REVISED ACT

The VMC recommends that the review:

- *Acknowledges the particular vulnerability of people from CALD backgrounds when seeking to ensure equitable access to housing in Victoria's rental housing markets.*
 - *This includes due consideration of the power differential in the relationship between tenants and landlords, when deliberating upon the rights and responsibilities of each under the Act, in order to safeguard the rights of tenants from CALD backgrounds.*

¹ There are eight RACs covering metropolitan, regional and rural Victoria. Refer to this webpage for further detail. <http://www.multicultural.vic.gov.au/regional-advisory-councils/about-rac>

RECOMMENDATION 3 - KEY ISSUES FOR REGULATING THE PRIVATE RENTAL SECTOR

The VMC recommends that the review:

- *Considers the private rental sector within the context of the broader housing system and takes account of the particular constraints that effectively block home ownership aspirations for many community subsets.*
- *Working within this context could include:-*
 - *The development of a workable framework for longer term tenancy agreements, one that also provides safeguards by recognising the interdependent nature of the contractual tenant/landlord relationship.*
 - *The inclusion of a mechanism to moderate rent increases for current tenants, especially in relation to a framework for longer term residential tenancy agreements.*

RECOMMENDATION 4 – THE INFLUENCE OF AGENTS ON TENANT/LANDLORD RELATIONSHIPS

The VMC recommends that the review:

- *Seeks REIV and Consumer Affairs Victoria agreement to actively encourage the free take up of interpreter services, by the Translating and Interpreting Service (TIS National) to real estate agents throughout Victoria, to facilitate more productive relationships with CALD tenants.*

RECOMMENDATION 5 – FACILITATING THE RIGHTS OF TENANTS

The VMC recommends that the review:

- *Considers a scheme that provides greater supports and assistance to tenants from CALD communities and community subsets, to assist prospective tenants to exercise their rights and gain better access to well maintained and affordable private residential accommodation.*
 - *Such a scheme could be extended for all tenants from CALD backgrounds by providing avenues that facilitate better access to tenancy advocacy services for CALD communities, to ensure these tenants are able to exercise their rights.*

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2. Introduction

The Victorian Multicultural Commission (VMC) welcomes the opportunity to make a submission to the review of the *Residential Tenancies Act 1997* (the review), in particular with regard to multiculturalism and the housing needs of diverse communities in Victoria.

The VMC is the voice of Victoria's culturally and linguistically diverse (CALD) communities and is the main link between them and the government. Operating under its remit, as outlined under the *Multicultural Victoria Act 2011* (the Act), the VMC provides independent advice to the Victorian Government.

The functions of the VMC include conducting regular community consultation, undertaking research, informing the development of legislative and policy frameworks, and seeking to ensure that services are delivered to Victoria's diverse communities in a manner that meets their particular needs.

The VMC convenes regular Regional Advisory Councils (RACs) meetings throughout the year. RAC members provide the VMC with a regular flow of information about matters affecting multicultural communities, including settlement, multicultural affairs, service delivery and citizenship.² In addition the VMC also conducts regular community forums. Between December 2014 and June 2015 the VMC conducted ten multicultural forums for young people, eight forums for women and three forums for service providers.

3. Structure of this Submission

In order to inform this submission the VMC consulted RAC members in regard to matters raised in the review's consultation paper, *Laying the Groundwork*. Private residential accommodation is critically important for all migrants. It provides an opportunity to gain a foothold in a new community and is vital to successful settlement. Access to decent, affordable rental housing can increase disposable incomes and prevent material deprivation.³ Economic benefits emanate from a strong rental sector, especially in relation to Australia's increasingly mobile modern economy.⁴

Data about migration to Australia confirms that the private rental sector plays a substantial role in the settlement of an increasing proportion of newly arrived migrants.⁵ This may be for short transitional periods, to meet the needs of international students for example, while for other migrants the sector must provide a home over the longer term.

This submission is structured around themes of settlement, access to secure rental housing, and the housing needs more broadly of people from diverse communities.

² RAC members reflect the diversity of Victorian communities and include local residents, service providers and local government representatives.

³ Joseph Rowntree Foundation, 2015.

⁴ Kelly, Hunter, Harrison, & Donegan, 2013.

⁵ National Housing Supply Council, 2011.

4. The VMC's Interest in the Issue

The VMC is keen to ensure that the diversity of Victoria's population and its significant housing needs are fully considered in the review. Fair and equitable access to safe, secure and affordable housing is a vital component of successful settlement for all migrants including humanitarian refugees and asylum seekers living in local communities.

More than any other group migrants are required to gain entry to housing markets in Victoria through private rentals. Even skilled migrants who may be in a position to purchase a home may need to rent privately for a time, while the limited resources of other migrants leave them in a more vulnerable position in the open marketplace.

Housing is a topic raised regularly in RAC meetings by members advocating on behalf of the diverse populations within their communities. In order to inform this submission the VMC also canvassed members of the eight RACs in relation to residential tenancy issues in terms of the changing housing context, tenants, landlords and residential tenancy disputes corresponding to the matters raised in the review's *Laying the Groundwork – Consultation Paper*.⁶

The VMC wants to ensure that the review has the opportunity to consider the housing needs of all Victorians, including people from diverse backgrounds and communities who may be, second and third generation migrants from CALD backgrounds, recent migrants, humanitarian refugees, and asylum seekers.

Dominant housing issues impacting upon diverse communities and community subsets include housing costs and the lack of suitable and affordable accommodation, as well as the additional barriers they face in accessing suitable accommodation. For example, larger and extended family groups and single men on Bridging E visa may face added difficulties in private rental residential housing markets. Currently there is a mismatch between the housing stock and household types which impacts disproportionately upon people from CALD backgrounds and their housing needs.⁷ The challenges all groups face include accessing affordable accommodation that is near public transport, schooling and other services.

4.1. Victoria's Multicultural Population

Victoria is home to one of the most culturally diverse societies in the world, and is also among the fastest growing and most diverse populations within Australia. As a multicultural state the Victorian population included 26.2% persons who were born overseas, representing over 200 countries, at the time of the 2011 Australian Census of Population and Housing.

In recent decades net overseas migration has consistently accounted for more than half of Victoria's population increase, adding to the vibrancy of our multicultural society and economy. The fastest rates of growth in diversity over the past two decades took place between the Censuses of 2006 and

⁶ For full details of the questions posed to RAC members please refer to the Appendix.

⁷ The mismatch includes disparity between supply and demand, and affordable housing options for household size. (Anglicare Australia, 2015.)

2011, with current rates of migration projected to continue or grow. Patterns of migration indicate that the range of source countries for new migrants has increased and therefore our diversity is growing.

Victoria's migration intake is predominantly skilled migrants followed by those who have settled through family reunion. The state has also received between 30–35 per cent of Australia's total humanitarian intake; 36,399 arrivals through the humanitarian stream within the past decade.

4.2. Housing Needs - Diverse Communities

Victoria's diverse communities are geographically well distributed, with more than 90% of people from non-English speaking backgrounds (NESB) living in the greater Melbourne metropolitan area. Growth areas tend to attract younger migrant families due to greater accessibility to affordable housing and have the highest numbers of people from NESB. New and emerging migrant groups also tend to relocate to these areas due to housing affordability.

While there are some concentrations of migrant groups in particular areas, including high numbers of refugee and asylum seeker arrivals in the South and North West metropolitan regions, overall there is relatively wide dispersal of people from diverse communities and subsets throughout the State.

All migrant populations require housing in order to establish themselves in the first instance. Access to affordable secure rental housing is a prerequisite to successful settlement and therefore of major importance, not just to individuals and family groups, but also to local, state and national economies.

4.3. Growing Diversity in Victoria

Victoria is second only to New South Wales in its ability to attract both temporary and permanent migrants for most visa categories. In 2014-15 India was the top source country for permanent migrants, with China ranking second.⁸ The majority of Indian Family Stream migrants and the majority of Chinese Skilled Stream migrants moved to Victoria in 2014-15.

Victoria also hosts the highest numbers of refugees and asylum seekers, classified by the Commonwealth as Illegal Maritime Arrivals (IMAs) holding Bridging E visa (BVE) with 38% of all BVEs choosing to live in Victoria. BVE holders are predominantly male, under 30 years of age and originate from Iran, Sri Lanka and Afghanistan.

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⁸ All migrant statistics derived from Australian Government Department of Border Protection and Immigration, 2014.

4.3.1. Snapshot of Migration to Victoria, 2014-2015

- Student Visas:-
 - Total primary and secondary visa grants 35,288 (24.2% of the national total), of which:-
 - 72.9% (20,677) were Higher Education Sector; and
 - 27.1% (7,694) were Vocational Education and Training Sector;

- Skilled Migrants:-
 - Total Skill Stream Outcomes were 15,004 (22.1% of the national total), of which:-
 - 56.2% (8,427) were General Skilled Migration;
 - 25.3% (3,803) were Employer Nomination Scheme; and
 - 14.7% (2,203) were Business Innovation and Investment Program;
 - Skill Stream outcomes by the top source citizenship countries were:-
 - India with 25.1% (3,760); and
 - China with 22.8% (3,419);

- Family Stream:-
 - Total Family Stream outcomes 7,500 (24.3% of the national total) of which:-
 - 78.7% (5,905) were Partner outcomes;
 - 16.5% (1,237) were Parent outcomes; and
 - 4.3% (323) were Child outcomes;

4.3.2. Maritime Arrivals Settled in Australia

Non Illegal maritime arrivals (non-IMA) - Australia⁹

In 2012-13, Australia received 8,308 applications for asylum by people who originally arrived by air (an 18% increase on the previous 12 months). 33 per cent of applicants were found to be refugees at the primary stage, and overall around 60 per cent of applicants were 30 years of age or younger.

Non-IMA Grants 2012-2013 - Top five countries by volume of final grants

Iran (91%)	Iraq (91%).	Pakistan (80%)
Egypt (79%)	China (26%)	

Illegal maritime arrivals (IMA) – Australia

In 2012-13, a total of 18,119 people who arrived in Australia by sea were screened into a refugee status determination process.¹⁰ About 68 per cent of asylum seekers who arrived by sea whose claims were considered and decided in the first instance by officials were found to be refugees.

⁹ All IMA statistics derived from Australian Government Department of Border Protection and Immigration, 2014.

¹⁰ Only those persons arriving as Illegal maritime arrivals (IMAs) who seek Australia's protection are screened into a refugee status determination process.

Around 85 per cent of those screened into a refugee status determination process in 2012-13 were male, and about 66 per cent were aged 30 years or younger. A ratio that has remained fairly steady during the past five program years.

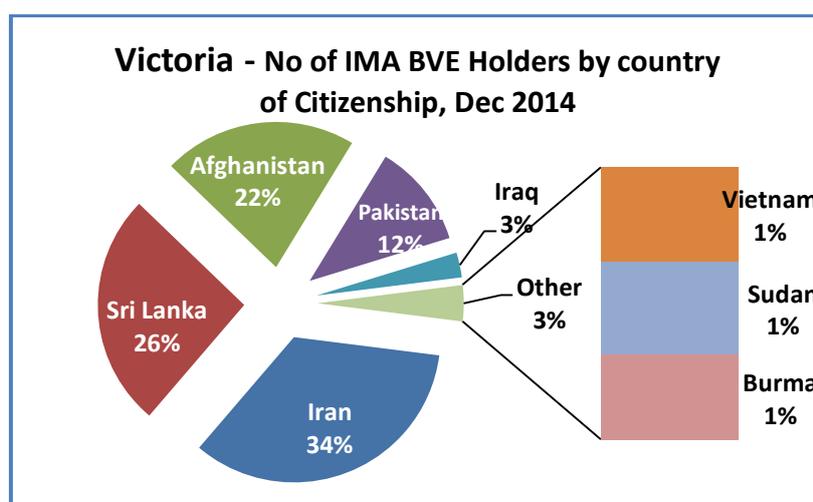
A total of 4,949 Protection visas were granted to Illegal maritime arrivals in 2012-13 representing 66 per cent of all Protection visa grants. Afghan citizens accounted for more than 40 per cent of grantees.

Illegal maritime arrivals (IMA) – Victoria

Bridging E visa (BVE) allows IMAs to remain lawfully in Australia while their immigration status is being resolved. BVE holders are free to choose where they live, and according to the most recent statistics issued by the Commonwealth Department of Immigration and Border Protection (DIBP), the majority choose to live in Victoria.

IMA BVE Grants December 2014 – Current Location by state		
State	Number	Percentage
Victoria	9,605	38%
New South Wales	8,648	34%
Queensland	3,070	12%
South Australia	2,362	9%
Western Australia	1,558	6%

IMAs who had been granted BVEs are able to live locally in the community. Those BVE holders who have the 'no-work' condition (condition 8101) removed from their visa are permitted to work.



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5. Response to Key Questions

5.1. The Changing Housing Context

What issues would you like examined in the Review of the current Act?

The VMC notes that current residential tenancies laws aim to strike a balance between the rights and responsibilities of landlords and tenants. While this aim is commendable there exists a fundamental lack of security associated with renting private residential accommodation, including through rent controls and the length of tenancy agreements.¹¹

The consultation paper positions the review within the Victorian Government's broader housing work to address the needs and expectations of tenants and landlords, and in particular the range of factors that impact upon people's housing choices in Victoria.¹² In considering the housing needs of all Victorian residents the Act must consider fully the particular needs of vulnerable migrant groups.

In constrained housing markets such as Victoria's, those who are most vulnerable are at greater risk of discrimination and unfair treatment. At the point of accessing the private housing rental market the VMC has found, through feedback from its RAC members, that Victoria's CALD communities and subsets, including recent migrants, humanitarian refugees, and asylum seekers face discrimination due to a number of factors.

In responses by RAC members to questions posed by the VMC, 75 per cent highlighted incidences of systemic discrimination faced by people from CALD backgrounds when compared to mainstream populations in accessing private rental accommodation.

Building safeguards into the legislation that will protect Victoria's most vulnerable community subsets is critical in order to progress social cohesion, to ensure that notions of equity and equal access are formally addressed, and to recognise the significant economic ramifications that access to safe, secure housing has for local economies, through enabling workforce participation and productivity.

RAC members provided the following qualitative information to the VMC:-

Eastern Metropolitan RAC:¹³

- Agents and landlords tend to prefer people from the mainstream population if they have multiple applicants of the same status.
- New arrivals and in particular those who look different often experience discrimination from real estate agents.

¹¹ For example, the Grattan Institute recommends that greater security could be provided for renters, such as longer minimum lease periods and notice periods before a lease is terminated, to give this large and growing group a better deal, without materially reducing landlord returns. (Kelly, Hunter, Harrison, & Donegan, 2013.)

¹² The Victorian Government's Plan for Fairer Safer Housing outlined at <http://fairersaferhousing.vic.gov.au/home>

¹³ Full geographic details of the eight RAC regions can be viewed on the VMC website at <http://www.multicultural.vic.gov.au/regional-advisory-councils/regions>

Loddon Mallee RAC:

- It can be a bit tricky when the clients have no rental history coming directly from refugee camps.
- Access to rentals in the private rental market relies heavily on clients providing their own advocates/interpreters.

North West RAC:

- Generally from lower socio-economic backgrounds with unstable employment, applicants from CALD backgrounds feel at a disadvantage and are discriminated against in the process.
- No landlords openly say that people from CALD backgrounds are less welcome than others but the outcomes of applications do not reflect the fairness and equity that is presumed by legislation.
- If the landlord prefers a longer lease, they consider the residency status of the applicant.
- Applicants from CALD backgrounds, especially asylum seekers and refugees, lack references or a rental history at the point of application.
- The landlord compares applicants and usually excludes people from CALD backgrounds from the shortlist.

Southern Metropolitan RAC:

- The proportion who rent accommodation is substantially higher for overseas-born residents when compared to Australian-born residents.
- Over 70% of residents from Afghanistan, Iraq, Iran, Pakistan and Sudan who settled in Victoria in the past 10 years (as humanitarian or family reunion entrants) depend on private rental accommodation.

Loddon Mallee and Southern Metropolitan RAC members outlined local schemes operating to foster ongoing relationships between local service providers and real estate agents that work to alleviate discriminatory practices.

For example in Swan Hill and Bendigo local service providers who are also RAC members, have undertaken considerable work to initiate and build these relationships for the benefit of their clients and their housing requirements. In Dandenong the Southern Migrant and Refugee Centre (SMRC), Springvale Community Aid and Advice Bureau (SCAAB) and Adult Multicultural Education Services (AMES) have a history of working to facilitate equitable access to private rental accommodation for people from CALD backgrounds.

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As a result of these programs agents become more familiar with interpreter and translation services and gain confidence in extending their services to be more inclusive. However the scope of these programs is limited and localised.

RECOMMENDATION 1 - ISSUES TO INCLUDE IN THE REVIEW

The VMC recommends that the review:

- Considers the means by which the Act can seek to address discriminatory practices as illustrated within this submission to further promote equity of access.
 - This could be achieved by pursuing partnership opportunities that will both facilitate and encourage a higher level of estate agent involvement with applicants from CALD backgrounds.
 - For example, this could be progressed via a state-wide partnership between the Real Estate Institute of Victoria (REIV) and Consumer Affairs Victoria. The VMC could act as adviser regarding the particular needs of multicultural community members such as by providing information and advice.

5.2.Regulatory and Policy Framework

Are the principles and objectives underpinning the current Act relevant today?

The VMC is keen to improve the protections for residential tenants in private accommodation, especially those tenants who are from CALD backgrounds. Thus the principles underpinning the current Act need to take account of the disparity that exists in the relationship between landlords and tenants when seeking to ensure the fair balance between the respective rights and responsibilities of the parties.

In seeking to overcome inequities, the review needs to consider ways in which the Act can positively impact rental housing markets in order to ensure equity and equality of outcomes for all Victorian tenants. This is especially important under current market conditions, markedly changed in the past two decades.¹⁴ Residential property price increases are being continually driven higher, making home ownership a remote possibility for many lower socio-economic groups.

The Victorian Valuer-General reported an increase in the median house price for Victoria of 6.7 per cent from \$450,000 in the September 2014 quarter to \$480,000 in the December 2014 quarter, noting that this is a large increase for a quarter.¹⁵ Metropolitan house prices increased by 6.5 per cent to \$570,000 and in country Victoria house prices increased by 5.2 per cent to \$305,000. The

¹⁴ Baum & Wulff, 2001.

¹⁵ Victorian Valuer-General, 2015.

data also indicated that the driving factor in the increase in metropolitan Melbourne housing values were localities within 20km of Melbourne.¹⁶

The guiding principles of the Act should also seek to acknowledge the power imbalance that exists between the owner of a property and the tenant occupying that property. The benefits of security of tenure that home owners enjoy are not available to renters of private residential accommodation, who miss out these benefits.¹⁷ According to the Organisation for Economic Cooperation and Development (OECD), Australia has the highest difference in frequency of moving between owners and renters in Australia.¹⁸ People in the private residential rental sector move more often than owner occupiers.

In measuring the distribution of household wealth the Australian Bureau of Statistics (ABS) demonstrates that there is a concentration of residential real estate ownership among higher income groups when compared to lower income groups, illustrating an inequitable distribution of income and wealth. For example, a relatively small number of households had high net worth and a relatively large number of households had low net worth. The ABS reported that high net worth households had the highest incidence of home ownership without a mortgage (59%), whereas 91% of the households in the lowest net worth quintile were renters.¹⁹

RAC members reporting on the prevalence of housing stress, where people spend more than 30% of income on rent, noted that this is an issue for most people from CALD or migrants backgrounds. Almost 70% of RAC member responses confirmed that housing stress is a major issue for their clients and local communities from CALD backgrounds who are generally on low incomes.

RAC members cited instances of housing stress as follows:

- Affordability of housing in Monash is a big issue especially for CALD communities who are on low incomes, newly arrived and not in full time work.
- Some of them in Ballarat spend 40% of their income on rental.
- On housing stress in the North West Metropolitan region:
 - Housing stress is an issue for people from CALD backgrounds who are usually employed in low paid jobs or in receipt of Centrelink payment.
 - Tenants from CALD backgrounds earn less than the mainstream and spend more than 30% of income on rent.
 - Housing stress by renters from CALD backgrounds will continue in future due to the flow of new migrants, refugees and asylum seekers.

¹⁶ Ibid

¹⁷ Kelly, Hunter, Harrison, & Donegan, 2013.

¹⁸ Caldera-Sánchez, 2011.

¹⁹ Australian Bureau of Statistics, 2013.

- On housing stress in the Southern Metropolitan region:
 - Housing stress is an issue for particular households, e.g. sole parents and single people who want to live independently – they will face rents up to 40-55% of their income.²⁰
 - The proportion of local renters living in conditions of financial hardship after paying rent is 16% for Australian born residents, while for residents born in China, Cambodia, Iraq, Sudan and Vietnam it is 35%.²¹

RECOMMENDATION 2 - PRINCIPLES AND OBJECTIVES OF THE REVISED ACT

The VMC recommends that the review:

- Acknowledges the particular vulnerability of people from CALD backgrounds when seeking to ensure equitable access to housing in Victoria's rental housing markets.
 - This includes due consideration of the power differential in the relationship between tenants and landlords, when deliberating upon the rights and responsibilities of each under the Act, in order to safeguard the rights of tenants from CALD backgrounds.

5.3.Tenants

Key issues for regulating the private rental sector - arising from household size, length of tenure and dwelling type.

The growth in the number and proportion of households renting in Victoria is related to population increase as well as the constraints of housing markets where the private rental sector has grown at unprecedented levels in recent decades. A quarter, or one in four Australian households lived in private rental accommodation in 2011-12²². The Australian Housing and Urban Research Institute (AHURI) noted that over the period, 1996–2011, the growth in the private rental sector was higher than for all occupied dwellings, and that this did not benefit lower income households, whose situation deteriorated over this period.²³

In the contemporary housing market people are renting for longer periods. No longer a transitional state of affairs on the road to home ownership, renting has become a more permanent means for people to provide for their housing needs. For example, more than half (57%) of all households

²⁰ This finding is consistent with the Australian Housing and Urban Research Institute, 2015: 'The main households missing out on affordable rental were one-parent families and those living alone... Recent migrants were overrepresented among those living in unaffordable rental.'

²¹ Figures derived by the City of Greater Dandenong from the ABS Census data, 2011.

²² Kelly, Hunter, Harrison, & Donegan, 2013.

²³ Australian Housing and Urban Research Institute, 2015.

renting in 2007-08 had been renting for more than five years, and a third (33%) for more than ten years.²⁴

The consultation paper notes that more households are renting privately with more remaining in the private rental sector for longer than in the past. The VMC suggests that the review duly considers the private rental sector within the context of the broader housing system, by taking account of the constraints, such as those that effectively block home ownership aspirations for many community subsets.

Factors that limit access to safe, secure affordable housing for people from CALD backgrounds, recent migrants, humanitarian refugees, and asylum seekers include competition in private rental housing markets with increasing numbers of higher income households.²⁵

The AHURI (2015) notes that the use of private rental housing by higher income households is a direct reflection of choice and market constraints. Choice is something that higher income groups can exercise in greater measure and as a result competitive access to private rental accommodation is most intense in the inner and middle suburbs of major cities and some larger regional centres.²⁶

Lower income households face considerable constraints because they lack alternative options within broader housing systems. The UK based Joseph Rowntree Foundation (JRF, 2015) confirms that people living in poverty generally have worse, and less desirable, housing than those with higher incomes.

As a result of these known constraints the AHURI (2015) recommends some moderation of rent increases for current tenants through modern regulation of residential tenancies. The VMC supports this recommendation and suggests that the review considers incorporation of such a mechanism within revisions for the current Act.

RAC members provided comment on the following topics.

- **Household size**

Many RAC members highlighted the fact that the most common household type in the Victorian private rental market (3-5 people) does not accurately reflect households from CALD backgrounds. The following are examples cited by RAC members:-

Hume Regions:

- CALD households are either generally single workers living in group households, or larger extended families housing more than one generation.

Loddon Mallee region:

- Service providers reported that there are a number of single parent families in Swan Hill, especially people from South Sudan with families of five and more children; and
- Afghani families in the region also tend to be larger with between 5-8 children.

²⁴ Stone, Burke, Hulse, & Ralston, 2013.

²⁵ Australian Housing and Urban Research Institute, 2015

²⁶ Ibid

The VMC highlights the needs of the following CALD community subsets in exercising their rights to access appropriate and affordable housing:

- Single Humanitarian entrants with limited resources, predominantly single adult men from Afghanistan and Iran;
- Single parent families with many children, especially migrants from the African sub-continent; and
- Extended family households with more than two generations, households which may include Parent outcomes in the Family Stream of migration.

- **Length of Tenure and Dwelling Type.**

All rental housing sectors (public, social, private) are shaped by the extent and type of investment in the sector. Long term decline in investment in public and social housing, together with widespread investment in the private residential housing market have produced conditions which resulted in exceptional growth in Australian housing markets to the detriment of lower socio-economic groups and their ability to meet their housing needs.

The cost of housing for renters, including the amount for rent payment, bond and moving costs also affect the type or size of property, as well as the location when people are looking for suitable rental accommodation. Housing 'careers' for people from CALD backgrounds, and especially those on low incomes, may involve a series of properties over time as they travel for cheaper accommodation and for work.

For example, during community consultations in 2014-15 the VMC met community subsets in Morwell and Bendigo who moved to secure more affordable housing for themselves and their families, including South Sudanese, Somali and Afghani migrants. Unfortunately, having found more affordable accommodation these groups were faced with difficulties in securing work due to depressed local economies.

Issues of affordable rents and secure tenancies are important factors for people from CALD backgrounds in relocating. Together with a moderation of rent increases for current tenants the VMC would like to see greater security of tenure in the form of longer term tenancy agreements so that individuals and families can plan their futures from a secure base.

Having rents tied to longer tenancy agreement periods (such as 10 years, 15 years) provides security for both tenants and landlords. Such a move would provide a measure of protection for tenants that current legislation lacks, as well as security for landlords through regular income over the longer term and saving on advertising and re-lets.

However, such changes would also require further safeguards that would allow for unforeseen events where either party may be required to break the agreement. The VMC would like the review to develop a workable framework for longer term tenancy agreements, a framework that also provides safeguards by recognising the interdependent nature of the contractual relationship.

In the next stage of Review, the series of Issues Papers, the VMC would like to see the issues raised here explored in greater depth and solutions explored.

RECOMMENDATION 3 - KEY ISSUES FOR REGULATING THE PRIVATE RENTAL SECTOR

The VMC recommends that the review:

- Considers the private rental sector within the context of the broader housing system and takes account of the particular constraints that effectively block home ownership aspirations for many community subsets.
- Working within this context could include:-
 - The development of a workable framework for longer term tenancy agreements, one that also provides safeguards by recognising the interdependent nature of the contractual tenant/landlord relationship.
 - The inclusion of a mechanism to moderate rent increases for current tenants, especially in relation to a framework for longer term residential tenancy agreements.

5.4.Landlords

How do estate agents influence the relationship between landlord and tenant?

The VMC has heard of many instances, through its RAC members, where tenants from CALD backgrounds are not supported. In 4.1 The Changing Housing Context above, successful partnership programs between local service providers and local real estate agents are outlined. These successful partnerships illustrate the benefits of all parties working together to gain better outcomes for people from CALD backgrounds. The relationships not only gain better housing outcomes for CALD communities but help to sustain their place and standing in the local community.

There have also been many instances reported to the VMC by RAC members where real estate agents 'go out of their way to help' CALD clients in accessing housing. However, the VMC is advised that this is not the norm. Once the relationship is established between tenant and agent it provides assurance to all concerned that such prospective tenants understand their obligations and rights under the tenancy contract. For example, Southern Metropolitan RAC reported that agents who work with refugees and humanitarian arrivals report that these residents are most diligent in paying rent and in the care of the property.

The Translating and Interpreting Service (TIS National) provides access to phone and on-site interpreting services in over 160 languages and dialects. These services are available free of charge

to estate agents but many do not take advantage of the service, leaving applicants from CALD backgrounds at a distinct disadvantage in the initial application process.

Real estate agents are required under the *Estate Agents (Professional Conduct) Regulations 2008* to act fairly and honestly at all times (Reg: 11), and to make all reasonable enquiries to ascertain information that is relevant to the services or transactions relating to the agency (Reg: 15). Negative attitudes have been reported to the VMC by RAC members, displayed to tenants from CALD backgrounds, especially newly arrived communities.

Instances of discrimination reported to the VMC by RAC members include the following:

- An REIV representative visited Shepparton late in 2014 due to the large number of rental application refusals to large African households.
- Eastern region RAC members reported to the VMC in May 2015 that international students were being exploited with Chinese and Indian students being housed in illegal rooming houses.
- In the Eastern Metropolitan region the Nepalese community reported that estate agents take tenants' requests and complaints lightly and do not attend without constant follow up.
- The Loddon Mallee region RAC reported that it can be difficult for tenants from CALD backgrounds to resolve disputes themselves due to the lack of take up of the free TIS National interpreter services available to estate agents.
- The North West Metropolitan RAC reported that the lack of take up of interpreter services by estate agents can lead to agents acting predominantly in the interests of the landlord to the detriment of the tenant.

RECOMMENDATION 4 – THE INFLUENCE OF AGENTS ON TENANT/LANDLORD RELATIONSHIPS

The VMC recommends that the review:

- Seeks REIV and Consumer Affairs Victoria agreement to actively encourage the free take up of interpreter services, by the Translating and Interpreting Service (TIS National) to real estate agents throughout Victoria, to facilitate more productive relationships with CALD tenants.

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5.5. Residential Tenancies

What factors contribute to tenants exercising, or not exercising their rights?

The main barriers for tenants from CALD backgrounds in understanding and exercising their rights are cultural and language barriers. Due to the difficulties in accessing private rental housing more generally, tenants from CALD background more often end up living in old and run down residential property that is poorly maintained, because it is also at the cheaper end of the spectrum.²⁷ However, this issue is often coupled with high rent for the property in question.

RAC members at Loddon Mallee, North West Metropolitan and Southern Metropolitan regions all cited older properties in need of maintenance as an issue, together with persistent delays in agents and landlords attending to repairs. Language barriers often result in tenants from CALD backgrounds being more reticent to report their needs when compared to mainstream populations. They are also less likely to complain due to limited English language skills. As a Loddon Mallee RAC member commented, they are 'possibly not so demanding', which can also be attributed to differences in cultural practices and norms.

In some instances differences such as cultural conceptions of government, authority and the legal system can be strong deterrents to seeking redress, especially in relation to refugees and tenants who are newly arrived in Australia.²⁸ Many have endured pre-arrival displacement and precarious journeys to reach Australia. As a result these tenants may be fearful that any valid complaints may place their tenancy on a more precarious footing.

Providing some form of intensive assistance to assist tenants and landlords in the initial stages to adhere to good practice would be beneficial in assisting people from CALD backgrounds to gain access to decent private residential accommodation and to sustain successful tenancies. Such a service would also help to alleviate disputes from escalating and recourse to the Victorian Civil and Administrative Tribunal (VCAT). By putting services in at the 'front end' any difficulties can be addressed as they arise in a more cost effective measure and without added burden to the Residential Tenancies List at VCAT.

Specialist housing workers and settlement services already run this type of program by providing case management for refugees and asylum seekers. They act as advocates and assist in the building of relationships that enable tenants to exercise their rights. For example, a Loddon Mallee RAC member who is also a local service provider at Bendigo Community Health Services cited their work advocating on behalf of clients to local real estate agents.²⁹ Similarly AMES incorporates refugee housing workers into their Humanitarian Settlement Services.³⁰

²⁷ Berta, 2012.

²⁸ Ibid

²⁹ For a list of settlement services provided by Bendigo Community Health Services see:

<http://www.bchs.com.au/Services/RefugeeProgram/index.aspx>

³⁰ For further information on AMES HSS see: <http://www.ames.net.au/settling-in-australia/humanitarian-settlement-services.html>

However, these are specialised services and there is a broader need for advocacy services of this type, especially to tenants from CALD backgrounds, to assist them in gaining access to private residential rental property as well as maintaining secure tenancies.

RECOMMENDATION 5 – FACILITATING THE RIGHTS OF TENANTS

The VMC recommends that the review:

- Considers a scheme that provides greater supports and assistance to tenants from CALD communities and community subsets, to assist prospective tenants to exercise their rights and gain better access to well maintained and affordable private residential accommodation.
 - Such a scheme could be extended for all tenants from CALD backgrounds by providing avenues that facilitate better access to tenancy advocacy services for CALD communities, to ensure these tenants are able to exercise their rights.

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APPENDIX

Residential Tenancy Act Review Questions for Regional Advisory Council (RAC) Members

In order to gain information from the regions to inform this submission the VMC posed the following questions to RAC members who were asked to provide their responses to the questions by close of business on Monday 27 July 2015.

1. The Act should aim to strike a fair balance between the legal rights and responsibilities of tenants and landlords.
 - a) Is access to the housing rental market in your region fair and equitable for people from CALD backgrounds when compared to mainstream populations? Provide examples/comments.
 - b) Within the private rental market are people from CALD backgrounds more likely to move or be moved on when compared to mainstream populations? If yes, are moves generally voluntary or involuntary? Provide examples/comments.
 - c) In seeking to resolve disputes with landlords do tenants from CALD backgrounds encounter any additional difficulties when compared to mainstream populations? Provide examples/comments.

2. Generally speaking people from CALD backgrounds tend to be at the lower end of income scales.
 - a) Is housing stress an issue for people from CALD backgrounds in your region (spend more than 30% of income on rent)? Yes/No. Provide examples.

3. Statistics show that almost a third (33%) of all Australian households rent privately. Does this statistic (33%) accurately reflect the housing situation of:-
 - a) People from CALD backgrounds in your region? Yes/No.
 - b) New and emerging communities in your region? Yes/No.
 - c) If no, what is your estimate – 40%, 45% 50%, etc.?

4. Household size – families are the most common household type in the Victorian private rental market, most usually comprising 3-5 people per household (adults and children).
 - a) Does this household size reflect the size of CALD families in your region? If not what is your estimate of average household size?
 - b) What is the most common type of property rented by people from CALD backgrounds, (e.g. apartment, semi-detached, stand-alone house)?

5. Issues for Tenants or Landlords – Do you know of any recurring issues in relation to private rentals in your region? For example excessive rents/rent increases, poorly maintained property, quiet enjoyment, etc. Please provide examples.

Summary of Responses from RAC Members		
Number of Responses by Region:		
North West: 4	Eastern: 3	Loddon Mallee: 3
Southern: 2	Gippsland: 1	Hume: 1
Barwon SW: 1	Grampians: 1	
Total Number of responses received: 16		

Works Cited

- Anglicare Australia . (2015). *Anglicare Australia Rental Affordability Snapshot*. Canberra: Anglicare Australia.
- Australian Bureau of Statistics. (2013). *Household Wealth and Wealth Distribution, Australia, 2011-12. Cat.6554.0*. Retrieved August 4, 2015, from Australian Bureau of Statistics: <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6554.0Main%20Features22011-12?opendocument&tabname=Summary&prodno=6554.0&issue=2011-12&num=&view=>
- Australian Government Department of Border Protection and Immigration. (2014). *Asylum Trends - Australia: 2012-13*. Retrieved July 31, 2015, from Live in Australia; Humanitarian Programme: <http://www.border.gov.au/about/reports-publications/research-statistics/statistics/live-in-australia/humanitarian-programme>
- Australian Government Department of Border Protection and Immigration. (2014, December 31). *State and Territory Migration Summary, 31 December 2014*. Retrieved July 31, 2015, from Department of Border Protection and Immigration: <http://www.border.gov.au/ReportsandPublications/Documents/statistics/state-and-territory-migration-summary-dec-2014.pdf>
- Australian Housing and Urban Research Institute. (2015). *Supply Shortages and Affordability Outcomes in the Private Rental Sector: Short and Longer Term Trends*. Melbourne: AURI.
- Baum, S., & Wulff, M. (2001). *Housing aspirations of Australian*. Melbourne: Australian Housing and Urban Research Institute.
- Berta, L. (2012). *Making it Home. Refugee Housing in Melbourne's West*. Melbourne: Footscray Community Legal Centre.
- Caldera-Sánchez, A. (2011). *To move or not to move: what drives residential mobility rates in the OECD?* Paris: Organisation for Economic Cooperation and Development.
- Joseph Rowntree Foundation. (2015, June). *Housing and Poverty*. Retrieved August 5, 2015, from Joseph Rowntree Foundation: <http://www.jrf.org.uk/sites/files/jrf/housing-poverty-roundup-full.pdf>
- Kelly, J.-F., Hunter, J., Harrison, C., & Donegan, P. (2013). *Renovating Housing Policy*. Melbourne: The Grattan Institute.
- National Housing Supply Council. (2011). *2011, State of Supply Report*. Canberra: Australian Treasury.
- Stone, W., Burke, T., Hulse, K., & Ralston, L. (2013). *Long-term private rental in a changing Australian private rental sector*. Melbourne: Australian Housing and Urban Research Institute.
- Victorian Valuer-General. (2015). *Victorian Property Sales Report, Decemebr 2014 Quarter*. Retrieved August 4, 2015, from Department of Transport, Planning and Local Infrastructure: <http://www.dtpli.vic.gov.au/property-and-land-titles/property-information/property-prices>