



Australian
Human Rights
Commission

Inquiry into the National Housing and Homelessness Plan Bill 2024 (No. 2)

Australian Human Rights Commission

Submission to the Senate Economics Legislation Committee

9 August 2024

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1 Introduction

1. The Australian Human Rights Commission (**Commission**) welcomes the opportunity to make this submission to the Senate Economics Legislation Committee (**SEL**C) in relation to its Inquiry into the National Housing and Homelessness Plan Bill 2024 (No. 2) (**Bill**).
2. This Private Members Bill, sponsored by Ms Kylea Tink MP and Senator David Pocock is to be commended for applying a human rights-based approach to housing policy (direct and indirect) and delivery.

3. The Commission supports the principles in the Bill. The measures proposed drive the progressive realisation of the human right to adequate housing, and approaches such as the formalisation of a pathway to creation of a National Housing and Homelessness Plan (Part 2 of the Bill) (**Plan**) contribute to the establishment of meaningful benchmarks by which housing policy and delivery can be measured.
4. Creation of the National Housing Consumer Council (Part 3 of the Bill) (**Council**) and the National Housing and Homelessness Advocate (Part 4 of the Bill) (**Advocate**) within Housing Australia (**HA**) will complement the existing National Housing Supply and Affordability Council (**NHSAC**).
5. The Bill represents a real opportunity to generate impactful change for Australians. The Commission proposes amendments that remain within the spirit of the current drafting of the Bill:
 - A clear definition of ‘adequacy of housing’ that is aligned to the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) and United Nations guidance and commentary should be provided.
 - The Plan should explicitly address the full Housing Continuum, involve the right voices in its development and implementation and be assessed against human rights standards to identify and acknowledge the progressive realisation of the right to adequate housing.
 - The Council needs to be reoriented to consider housing impacts across the Housing Continuum, all elements of adequacy, and from an intersectional perspective.
 - The Plan should also adopt key principles of proportionality, non-regression of rights and intersectionality of needs. This will ensure that the initiatives reflect what is achievable and to aspire to ensure that nobody in Australia suffers any erosion to their housing status.
6. At its core, the Commission commends the systematic approach applied in this Bill to the right to adequate housing: enabling everyone in Australia to access housing that meets their basic needs and preferences, including minimum standards in security of tenure, affordability, habitability, accessibility, location, access to core services and infrastructure and cultural adequacy. The housing system should enable the empowerment and participation of all people and communities in the decision-making and management of their housing.

2 Key Recommendations

Recommendation 1: That the recommendations of the Commission’s *Free & Equal* project and the PJCHR inquiry into Australia’s Human Rights Framework be implemented to provide effective federal protection of all human rights, including the right to adequate housing.

Recommendation 2: That the Bill should be passed with the amendments set out in this submission.

Recommendation 3: That Section 3 of the Bill be amended to refer to the ‘Housing Continuum’ to provide a clear framework for discussing the progressive realisation of the human right to adequate housing.

Recommendation 4: That a definition of ‘adequate housing’ be included in Section 5 of the Bill.

Recommendation 5: That Section 3 of the Bill be amended to refer to the ‘person’, acknowledging that adequacy can only be understood in the context of what the individual needs.

Recommendation 6: That the legislation include a duty upon Housing Australia and the Advocate to take steps towards the realisation of the right to adequate housing.

Recommendation 7: That Section 3 of the Bill be amended to recognise the human rights principles of proportionality and non-regression in the development and implementation of all housing policies.

Recommendation 8: That Sections 8 and 9 of the Bill articulate the roles and responsibilities of all levels of government in developing, implementing and reporting on the Plan.

Recommendation 9: That the Bill be amended to ensure that the Plan better reflect the principles of a rights-based strategy that facilitates the progressive realisation of the right to adequate housing.

Recommendation 10: That the Bill be amended to explicitly recognise compounding forms of disadvantage and require the development of the Plan to take this into account.

Recommendation 11: That training on human rights and guidance on a human rights-based approach to housing accompany the Bill and National Plan.

Recommendation 12: That the name of the Council is amended to the *National Housing Impacts Advisory Group* to better reflect its function and the nature of resident-focused advice required to progressively realise the right to adequate housing.

Recommendation 13: That membership of the Council include representatives of other priority groups including older persons and people with lived experience of domestic and family violence, and from a range of social service sectors including domestic and family violence, to reflect the voices of those who provide services to vulnerable populations.

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Recommendation 14: Further thought be given to how Indigenous self-determination in housing could be facilitated by this Bill, in consultation with Indigenous peoples across Australia.

Recommendation 15: That a National Housing Indicator Index be developed by the Advocate to track the progressive realisation of adequate housing.

3 Australia's recognition of the human right to adequate housing

3.1 *Free & Equal: Human rights in the national context*

7. The Explanatory Memorandum to the Bill states that it is intended to:

‘give effect to Australia’s international obligation to ensure access to adequate housing [which follows from] Australia’s status as a signatory to the International Covenant on Economic, Social and Cultural Rights (**ICESCR**).’

The ICESCR includes recognition of the right to adequate housing:

The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions.¹

8. The right to housing is also recognised in the following treaties to which Australia is a party:
- Convention on the Elimination of All Forms of Racial Discrimination (**CERD**) – Articles 2 and 5
 - Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**) – Articles 13, 14 and 15
 - Convention on the Rights of Persons with Disabilities (**CRPD**) – Articles 19 and 28
 - Convention on the Rights of the Child (**CRC**) – Article 27
9. As a signatory to these treaties, Australia has acknowledged the status of the right to adequate housing as a fundamental human right and has committed to ‘take appropriate steps to ensure the realisation of this right.’²
10. The application of this right is also set out in the Declaration on the Rights of Indigenous Peoples (**UNDRIP**), including in Articles 3, 4, 18, 19, 20, 21 and 23. The Declaration provides guidance on how the binding provisions of the above treaties apply to the situation of Indigenous peoples.
11. Australia does not have a national human rights act that protects a right to housing.
12. Significantly, the Commission has developed a model Human Rights Act that would give effective protection for human rights in Australia through its *Free & Equal: An Australian Conversation on Human Rights (Free & Equal)* project. This model has been considered by the Parliamentary Joint Committee on Human Rights (**PJCHR**) in its recent inquiry into Australia’s Human Rights Framework.³ The Committee has recommended that:⁴

‘the government re-establish and significantly improve Australia’s Human Rights Framework, which should include:

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- comprehensive and effective protection of human rights in legislation, through the establishment of a Human Rights Act;
 - a significant and ongoing commitment to national human rights education;
 - requirements for public servants to fully consider human rights in the development of legislation and policies;
 - enhancements to human rights national scrutiny;
 - enhancements to the role of the Australian Human Rights Commission;
 - review of Australia's legislation, policies and practices for compliance with human rights; and
 - measures to monitor progress on human rights.'
13. Both the *Free & Equal* model Human Rights Act and the illustrative example Human Rights Act (which is based off the AHRC model) in the PJCHR report include recognition of the right to adequate housing.⁵
14. The Commission continues to advocate for the development of a federal Human Rights Act as integral to implementing human rights across Australia.
15. As articulated in *Free & Equal*, the Commission notes that a Human Rights Act is one of several measures necessary to fully protect and promote human rights in Australia. When it comes to economic, social and cultural rights such as the right to housing, achieving these rights requires progressive realisation over time. This requires measures that sit outside of the legal framework to guide decision-making about policy and resourcing.⁶
16. The Commission recognises that much of the work required to support progression of the right to adequate housing will take place outside the legislative framework of a Human Rights Act.
17. The Commission has also recommended in its *Free & Equal* project that a new National Human Rights Framework be introduced that includes other complementary measures to protect human rights. This Framework includes:⁷
- Reforming federal discrimination law to ensure more effective protection
 - Introducing a national human rights indicator framework to independently measure progress on human rights
 - Improving parliamentary oversight and scrutiny of human rights
 - A national human rights education program, targeted to public servants and the broader community
 - Investing in the resourcing and capacity of the Australian Human Rights Commission to sustainably support the new National Human Rights Framework and protect human rights

- Support for civil society organisations to protect human rights.
- 18. The PJCHR has also recommended improved capacity for all federal departments to understand human rights with dedicated human rights advisory offices and a significant uplift in human rights education.⁸
- 19. The Commission reiterates the importance of these structural, systemic measures to ensure the full consideration of human rights in all policy making processes.
- 20. The Commission sees this Bill as an important mechanism which would complement a Human Rights Act and other measures in a National Human Rights Framework.
- 21. While the Bill seeks to give effect to Australia’s obligation to ensure access to adequate housing, it does not create an individually justiciable right to adequate housing (as would be the case in a Human Rights Act). Individuals will not be entitled by this Bill to take legal action if their human right to housing has been breached by government action or inaction. Rather, the Bill seeks to embed a human rights-based approach to housing across Australia’s housing system and within the National Housing and Homelessness Plan and establish independent monitoring and accountability bodies.
- 22. The Commission emphasises the importance of:
 - adopting a **preventative culture** to ensure that human rights issues are proactively progressed – housing policies should be not only reactive but preventative;
 - ensuring broad **stakeholder engagement** including non-government organisations and community groups, to ensure that housing policies are inclusive and reflect the needs of all segments of the population; and
 - providing **parliamentary oversight** of the development of housing policy and legislation, to ensure it is considered for its human rights impact and effectiveness.

These principles guide the Commission’s response to the Bill.

Recommendation 1: That the recommendations of the Commission’s *Free & Equal* project and the PJCHR inquiry into Australia’s Human Rights Framework be implemented to provide effective federal protection of all human rights, including the right to housing.

3.2 Adequate housing as a foundational human right

- 23. Human rights are indivisible and interdependent. The human right to adequate housing is interlinked with many other human rights and policy domains. Realising people’s human right to adequate housing can materially contribute to the progression of other human rights and other positive policy outcomes including:
 - Right to the highest attainable standard of health:** Adequate housing is essential for maintaining physical and mental health.⁹ Climate change is giving rise to increased health risks such as heat stress, particularly in housing with inadequate insulation or cooling systems;

- **Right to education:** Stable housing is crucial for children's education. Homelessness or inadequate housing can disrupt schooling and hinder academic performance;¹⁰
- **Right to work:** People experiencing housing stress or homelessness are likely to experience difficulties in seeking and maintaining jobs.¹¹
- **Right to privacy, including home and family life:** Adequate housing ensures a private and secure space for individuals and families, which is essential for personal dignity and family life.¹² This includes those facing housing insecurity as a result of experiencing domestic and family violence.
- **Rights of the child:** Safe, stable and secure housing is central to meeting the needs of children and their families. Research demonstrates that housing is intrinsically linked with children's health and education outcomes and lays the foundation for their transition to adulthood and opportunities later in life. Issues such as homelessness, overcrowding, frequent moves and being in financial stress have been shown to have a strong impact on children's learning outcomes and their social and emotional wellbeing;¹³
- **Right to security of the person:** Adequate housing provides physical security and protection from external threats. Homelessness exposes individuals to violence and exploitation;¹⁴
- **Rights to social inclusion and equality, including gender equality and cultural diversity:** Housing provides a space for cultural practices and community engagement. Lack of housing can isolate individuals from their cultural and community activities.¹⁵ For example, many women and girls live in insecure, undignified and unsafe conditions, at increased risk of homelessness and violence. Forced evictions and other violations of the right to housing disproportionately impact women and reinforce existing gender inequalities.
- **Right to a healthy environment:** Adequate housing ensures that people are protected from climate risks; climate change renders this more challenging (for example, by increasing the frequency and severity of natural disasters that destroy homes).
- **Right to property:** Adequate housing is supported by property rights, and recognition of property rights can improve the position of marginalised groups (e.g., indigenous peoples, LGBTIQ+ peoples, women) along the Housing Continuum.

24. When housing rights are violated, it often leads to a cascade of other human rights violations. Conversely, fulfilling the right to adequate housing creates conditions that support the enjoyment of multiple other rights.

Recommendation 2: That the Bill should be passed with the amendments set out in this submission.

3.3 Housing as a Human Right in the State context

25. The Australian Capital Territory, Queensland and Victoria have human rights acts that do not explicitly guarantee the right to adequate housing, but which can be used to address housing issues indirectly by leveraging other protected rights (for example, in

Queensland, the *Human Rights Act 2019 (Qld)* has been used to challenge evictions in certain cases¹⁶).

26. In Victoria, the *Human Rights and Housing Legislation Amendment (Ending Homelessness) Bill 2023 (Vic)* proposes that the Victorian Charter of Human Rights and Responsibilities is amended to provide that housing rights are considered in all future policy and legislative decisions, ensuring that housing is accessible, affordable, and secure for all Victorians. As at the date of this paper, the Bill has not passed.

3.4 Recent Federal Housing Legislation

27. Australia has been grappling with issues relating to affordable housing for several years.
28. In 2009, the National Affordable Housing Agreement (**NAHA**) sought to establish a more cohesive, whole-of system approach to Federal and State housing assistance programs. This evolved to the National Housing and Homelessness Agreement and the establishment of the National Housing Finance and Investment Corporation (**NHFIC**) in 2018.
29. In 2023, the Commonwealth introduced a package of legislation to address Australia's housing supply and affordability issues, comprising the *Housing Australia Future Fund Bill 2023 (Cth)*, *National Housing Supply and Affordability Council Bill 2023 (Cth)* and *Treasury Laws Amendment (Housing Measures No. 1) Bill 2023*. Through these bills, the Commonwealth:
- renamed NHFIC to **Housing Australia**;
 - established the **Housing Australia Future Fund**, a \$10 billion fund to provide grants and loans for social and affordable housing initiatives. The fund aims to support the construction of 30,000 social and affordable homes in its first five years of operation; and
 - established the **National Housing Supply and Affordability Council (NHSAC)** as an independent advisory body to the Commonwealth Government and to provide expert advice to inform spending from the Housing Australia Future Fund and other housing-related policies.

The initiatives contemplated by the Bill must work in concert with these and other relevant legislation.

4 Part 1 – Overview

30. The Bill is aligned with the Commission’s approach in *Free & Equal*, in that it seeks progressive realisation of human rights expressly relating to adequate housing. Its stated object is to recognise the right to adequate housing as a fundamental human right, affirmed in international law. It also seeks to further progressive realisation of Indigenous self-determination in housing policy, in compliance with UNDRIP.

4.1 The Housing Continuum: a framework for understanding housing needs

31. The housing continuum is an accepted concept used to describe the range of housing types available in a community, catering to various needs and income levels (**Housing Continuum**). It describes the pathway from homelessness or crisis accommodation to stable private occupation (including but not limited to home ownership, market and institutional rental, and aged care). It acknowledges that different types of housing support will be required by people as they move through different times in their lives.

Figure 1: Housing Continuum



32. The Housing Continuum is internationally understood. A successful housing system is seen as one which sees people moving along the continuum to market rental or ownership as they improve their socio-economic wellbeing.¹⁷ Used in the housing strategies of Western Australia¹⁸ and Queensland¹⁹, the Housing Continuum provides a straightforward way to discuss housing pathways and adequate housing options.

33. The Housing Continuum also includes the various support services and interventions necessary to assist people in accessing and maintaining adequate housing, including tenancy support and wraparound social services.

34. To support the provision of a holistic and integrated approach to housing policy and provision, the Commission recommends:

(a) that **Section 3(c)** of the Bill be amended as follows:

3(c) support the provision of housing solutions along the housing continuum to improve the ability of the people of Australia to access housing that is adequate for their needs at different stages of their lives; improved housing outcomes for the people of Australia

(b) that **Section 5** of the Bill be amended to include new definitions as follows:

housing continuum means the full spectrum of housing options available to individuals and households in Australia, including, without limitation:

(a) crisis accommodation, being short-term emergency housing for individuals and families experiencing or at risk of homelessness;

- (b) transitional housing, being time-limited accommodation with support services to assist individuals and families in moving towards more stable housing arrangements;*
- (c) social housing, being rental housing provided by a State, Territory or registered community housing provider to eligible low-income households or those with special needs;*
- (d) community housing, being rental housing managed by a registered community housing provider or Local Government;*
- (e) affordable rental housing, being private rental properties offered at below-market rates to eligible low to moderate-income households as defined by the legislation or regulations of a State or Territory;*
- (f) private rental housing, being residential properties leased by private landlords at market rates;*
- (g) assisted home ownership, being residential properties purchased through a program or scheme designed to help eligible individuals and families enter the property market, including shared equity arrangements, rent-to-buy schemes, and first home buyer assistance; and*
- (h) market home ownership, being residential properties purchased and owned outright by individuals or families without government assistance,*

and for the purposes of this Act, references to the housing continuum shall be interpreted as encompassing the full range of housing options set out in sub-clauses (a)-(h) and associated support services;

Local Government means a local governing body established by or under a law of a State;

registered community housing provider means a community housing provider (however described) that is registered under a law of, or under a scheme administered by, a State or a Territory.

State means a State of the Commonwealth;

Territory means a Territory referred to in section 122 of the Constitution;

Recommendation 3: That Section 3 of the Bill be amended to refer to the ‘Housing Continuum’ to provide a clear framework for discussing the progressive realisation of the human right to adequate housing.

35. This will provide a clear framework to facilitate discussions on improvement to Australia’s housing systems and how the human right to adequate housing can be progressed.

4.2 Defining ‘adequate’ housing

36. Key to realising the right to adequate housing is an understanding of what ‘adequate’ means. This goes beyond the right to mere shelter or a physical structure of four walls and a roof. It is the right of every person to live somewhere in security, peace and dignity.²⁰
37. United Nations committees and bodies – including the UN Committee on Economic, Social and Cultural Rights (CESCR) and the Special Rapporteur on the Right to Adequate Housing (**Special Rapporteur**) – have developed guidance and commentary articulating the full range of features and characteristics that defines ‘adequate’ housing.²¹ These key features do not sit in isolation and cannot be compartmentalised; they are interconnected and mutually reinforcing.
38. The CESCR has identified that adequate housing must meet minimum adequacy criteria in respect of security of tenure, availability of essential services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.
39. Including a definition of adequate housing in line with the CESCR’s guidance will create a consistent framework and help achieve the Bill’s objective of recognising the right to housing as affirmed by international law. Accordingly, the Commission recommends that:

Section 5 of the Bill be amended to include a new definition as follows:

adequate housing is housing that -

- (i) is affordable for the person; and*
- (ii) is structurally sound; and*
- (iii) meets reasonable standards for habitability; and*
- (iv) provides for the person's physical safety; and*
- (v) provides sufficient space for the person; and*
- (vi) sufficiently accommodates the person's individual needs (including for example physical and cultural accessibility); and*
- (vii) is available and accessible in accordance with principles of non-discrimination; and*
- (vii) is located reasonably close to public services (including but not limited to education, healthcare and public transport) and employment opportunities for the person; and*
- (viii) provides the person with security of tenure and protection against unfair eviction.*

Recommendation 4: That a definition of ‘adequate housing’ be included in Section 5 of the Bill.

4.3 Adequacy and the application of an intersectional analysis

40. In addition to a clear definition of ‘adequacy’, the Commission recommends that the Bill refer to the individual person being housed.
41. Housing – and its adequacy - affects individuals differently based on their unique identities and circumstances. For example:
- **People with disability:** The 2023 final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability identified the need to address systemic barriers to accessing appropriate housing, and the role of housing in supporting the independence and rights of people with disability.²²
 - **People with psychosocial health challenges:** The 2021 Report of the *Royal Commission into Victoria’s Mental Health System*, identified the criticality of housing, and the need for establishing pathways to ensure that mental health services work closely with housing and homelessness services to provide coordinated and comprehensive support. It also set out the need for providing targeted support and housing solutions to this vulnerable population, and upskilling in the workforce to include training in housing support.²³
42. An intersectional analysis of housing adequacy is vital to ensure that the needs of the resident are addressed. Intersectionality recognises that individuals may face multiple, overlapping forms of discrimination that impact their access to adequate housing. Policies, both direct and indirect, must address these intersecting needs to ensure equitable access to housing for all, including women, Indigenous peoples, people with disability, and other marginalised groups.²⁴
43. Accordingly, the Commission recommends that **Section 3** of the Bill be amended to include:

Ensure that every person has the right to housing that is adequate for the person.

Recommendation 5: That Section 3 of the Bill be amended to refer to the ‘person’, acknowledging that adequacy can only be understood in the context of what the individual needs.

4.4 Progressive realisation – a duty to advance the right to adequate housing

44. The Bill includes in its objects the progressive realisation of the right to adequate housing and Indigenous self-determination in housing policy.
45. The inclusion of progressive realisation in policy making aligns with UN CESCR guidelines²⁵ and recommendations in *Free & Equal*. The Commission supports this approach.
46. There is an opportunity to articulate an overarching duty for Housing Australia and the Office of the Advocate, requiring these organisations to progressively realise the right to adequate housing and Indigenous self-determination in housing policy.

47. By doing so, the Bill will ensure that the activities of Housing Australia and the Advocate are grounded in advancement of the human right, fostering a holistic approach to policymaking.
48. This approach aligns with the recommendation in *Free & Equal* to create a ‘positive duty’ obligation for public authorities to act compatibly with human rights and to give proper consideration to human rights when making decisions.²⁶
49. The Commission recommends that the Bill be amended to include a new section creating an express duty, including actions to be taken in discharging that duty:

Duty to advance the right to adequate housing

<Housing Australia or other defined entity> and the Office of the National Housing and Homelessness Advocate must, in developing or reviewing policies and programs and in delivering services that are to be provided to the public, or have a direct and significant impact on the public—

- (a) consider and promote the right to adequate housing;*
- (b) take necessary and proportionate action towards realising the human right to adequate housing;*
- (c) provide advice and guidance to the Minister on priorities to advance progressive realisation of the right to adequate housing; and*
- (d) include in the Annual Report of each organisation a report on work carried out to progress the full implementation of the right to adequate housing.*

Recommendation 6: That the legislation include a duty upon Housing Australia and the Office of the National Housing and Homelessness Advocate to take steps towards the realisation of the right to adequate housing.

50. The principle of **progressive realisation** acknowledges that while immediate fulfillment of all aspects of the right to adequate housing may not be feasible due to resource constraints, all levels of government must take deliberate, concrete, and targeted steps to move towards full realisation over time.^{27,28} This includes:
- Setting Clear Goals:** developing a national housing strategy with specific timelines and measurable outcomes;
 - Resource Allocation:** ensuring sufficient resources are allocated to housing initiatives; and
 - Targeted Measures:** prioritising the needs of disadvantaged and marginalised groups.
51. In establishing these steps, governments must apply principles of proportionality²⁹ and non-regression:

- (a) **Proportionality** in the context of housing rights means that any differential treatment in housing policies must be reasonable and justifiable. State interventions must be balanced, and must not, for example, disproportionately disadvantage certain groups based on immigration status, socio-economic status, or other factors.³⁰
- (b) **Non-regression** requires all levels of government to avoid taking measures that deliberately reduce the existing level of enjoyment of human rights.

52. A human rights-based approach informed by these principles might include:³¹

- prioritising those who are most disadvantaged by giving them particular consideration, rather than benefiting those who are already advantaged at the expense of others;
- avoiding any trade-offs that regress the right to adequate housing;
- avoiding trade-offs that would result in failing to meet core minimum obligations (such as perpetuating homelessness);
- avoiding any trade-offs that would result in, or deepen, unequal or discriminatory outcomes;
- active and informed participation from those affected; and
- accountability over the actions and decisions of policymakers.

53. The Commission notes that this methodology has particular relevance to the right to adequate housing, in that it informs an approach to assessing the benefits of policy and funding from the perspective of ensuring that individuals are not forced by circumstance to regress along the Housing Continuum – for example, policies that enable older individuals to ‘age in place’ in their family homes, or ensure appropriate lending practices to residential borrowers, or prohibit arbitrary termination of residential leases by landlords.

Recommendation 7: That Section 3 of the Bill be amended to recognise the human rights principles of proportionality and non-regression in the development and implementation of all housing policies.

54. Since 1991, United Nations committees and bodies – including the CESCR and the Special Rapporteur – have developed guidance and commentary to articulate the full range of the features of the right to adequate housing.³²

55. Currently there is no guide for considering the right to adequate housing in the Australian context. In late 2024, the Commission will be publishing recommendations that outline an intersectional approach to progressive realisation of the right to adequate housing across Australia including the structure of an Indicator Index, a normative framework and supporting report.

56. The Commission’s forthcoming recommendations will provide guidance to inform implementation of the Bill.

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5 Part 2 – National Housing and Homelessness Plan

5.1 Overview

57. The Bill proposes establishing a National Housing and Homelessness Plan (**Plan**), to be published by the Minister every 10 years. Part 2 of the Bill sets out the requirements for the Plan, which must be led by Housing Australia, developed collaboratively and with broad engagement. Provisions to review and reporting on the Plan’s progress and effectiveness are also included.

5.2 Long term planning (sections 7, 12 and 13)

58. The approach to codify development of housing strategy via legislation addresses a key issue in realising the right to adequate housing, being the lack of a long-term approach.

59. Direct and indirect housing policy frequently reflects the position of the government of the day, which in turn means that its development mirrors the usual 3-4 year political cycle. However, the timescale of housing outcomes extends beyond this – the property development cycle is a minimum of 7-10 years, the typical timeframe to refurbishment of tenanted buildings is anywhere between 10-20 years and public housing is typically designed with a lifespan of 50 years.

60. The Commission acknowledges that the Plan will serve to bridge these different cycles and potentially competing policy objectives into a longer-term strategy that will progress the achievement of housing adequacy across Australia.

61. The Commission strongly supports the requirement to establish a 10-year plan for housing initiatives as it introduces an appropriate longevity in the approach to policymaking

5.3 Clarification of government responsibilities (Sections 8 and 9)

62. The United Nations Human Rights Committee has affirmed that all branches of government, at all levels – national, regional and local – and all other public and governmental authorities take on human rights responsibilities such as implementing the right to adequate housing.³³ This responsibility extends to each level of government ‘within their allocated sphere of authority.’³⁴

63. Currently and in broad terms:

- the Australian Government:
 - provides funding to the State and Territory Governments for delivery of housing outcomes,
 - sets notional targets as relating to housing supply,
 - activates indirect housing policy mechanisms to further advance supply and the delivery of adequate housing outcomes and support services (including *Managed Investment Trust Withholding Tax Amendment Bill 2018 (Cth)*, *Social Security Act 1991 (Cth)* and aspects of the *National Disability Insurance Scheme Act 2013 (Cth)*);

- State and Territory governments enact legislation and deliver housing policy and outcomes across the Housing Continuum (including social housing programs, rental sector regulation and infrastructure development);³⁵ and
 - Local governments typically influence housing outcomes through the implementation of land use and planning schemes.
64. However, there are no clearly stated directions as to this split in responsibilities. Historically, the result is ad-hoc legislative and policy development, leading to complexity and difficulty in driving clear outcomes.
65. Australia has, however, been moving towards this kind of shared responsibility and partnership – as seen in both the National Housing Accord and the National Agreement on Social Housing and Homelessness (**NASHH**).
66. Implementation of the Plan can support clearer division and allocation of human rights responsibilities across all levels of government, clearly identifying the Australian Government’s role in providing leadership and oversight³⁶ to the development of housing policy and driving fair housing outcomes for all Australians.
67. The Commission recommends that further development of the Plan could articulate the roles and responsibilities of all levels of government as follows:
- Section 9** should be amended to ensure that in the development, preparation and implementation of and reporting on the Plan, the Minister must actively seek and have regard to advice or contributions from State or Territory governments.
 - Section 8** should be amended to include additional directions that ensure an all-of-government approach to improving the housing system and shared responsibility and coordination at federal, state and territory and local levels within the housing system, by clearly articulating the roles and responsibilities relating to housing policy and legislation across all levels of government.

Recommendation 8: That Sections 8 and 9 of the Bill articulate the roles and responsibilities of all levels of government in developing, implementing and reporting on the Plan.

5.4 Strengthening the Plan to constitute a rights-based strategy (Section 8)

68. Whilst the Commission supports this Part in principle and commends the Plan for its aims to ensure adequate housing for all persons in Australia, it does not yet constitute a fully rights-based strategy.
69. The progressive realisation of the right to adequate housing necessitates an overarching national strategy which centres human rights. The strategy should be grounded in legal standards.
70. Whilst the Plan described in the Bill could serve the function of a rights-based strategy, it does not expressly link the realisation of human rights to initiatives to be considered by the Plan.

71. A national housing strategy operates at a higher level than housing policy and programs. It is based on a vision of structural change over time.
72. Structural change requires co-ordination of the wide range of laws, programs, policies and decisions to address housing needs that together creates a housing system.³⁷ In turn, a co-ordinated response not only advances the provision of increased housing supply, but also addresses existing structural gaps and inequalities.
73. An Australian housing strategy must also address the ongoing impacts of colonisation, including systemic inequality, dispossession and systemic racism, experienced by Aboriginal and Torres Strait Islander peoples.
74. In 2018, the United Nations Special Rapporteur on the Right to Adequate Housing published a report which sets out *Key Principles of a Rights-Based Housing Strategy*.³⁸ It identifies that a human rights-based housing strategy should:
- be based in law and legal standards that recognise the right to adequate housing in all of its dimensions;
 - prioritise those most in need and ensure equality;
 - be comprehensive and whole-of-government;
 - ensure rights-based participation at every stage from design to implementation to monitoring;
 - ensure reasonable budgets and resources for implementation and commit to tax justice;
 - effectively regulate and clarify the obligations of the private sector;
 - establish human rights-based goals and timelines that are recognised as human rights obligations;
 - ensure effective accountability and monitoring, including by mandating an independent monitoring body such as an ombudsman, housing advocate, commission or human rights institution; and
 - ensure access to justice.
75. Whilst the intention of the Plan is to drive outcomes that align with a human rights housing strategy, these are approaches that should be embedded into the Bill. This in turn will help officials design and deliver effective, evidence-based, equitable policy objectives that are robust and fair.³⁹
76. The Commission recommends consideration of the following amendments:

Section 8 – Goals and Timelines

To progressively realise the right to adequate housing, the Special Rapporteur recommends housing strategies of governments should include clear goals and timelines,⁴⁰ to ensure that progress is measurable and accountable. Section 8 of the Bill might include a sub-clause which states that the Plan should set out goals over a 2, 5 and 8 year timeframe (reflecting the reporting timeframes in clause 12 of the Bill), to address each of the items listed in sub-clause (1).

Section 8 - Resource Allocation

Section 8 of the Bill might include a sub-clause which states that the Plan will reflect broad funding allocations for housing subsidies, social housing projects and infrastructure development.⁴¹ It is noted that this is not dissimilar to approaches in arrangements such as the NHHA, where States and Territories expressly set out funding for particular projects.

Section 8 - Identification of impacted policy areas

In realising the right to adequate housing, strategies ‘should provide coherence and coordination in all relevant policy areas, particularly urban planning, land regulation, taxation and finance, social benefits and services.’⁴² This is not explicitly considered in the Bill and Section 8 of the Plan might include a sub-clause which states that items in sub-clause (1) should be considered in the context of legislation and policy in the areas of:

- land use and urban planning;
- land and tenancies regulation;
- taxation of transactions relating to land and land use;
- development of social benefits and services relating to housing.

Recommendation 9: That the Bill be amended to ensure that the Plan better reflect the principles of a rights-based strategy that facilitates the progressive realisation of the right to adequate housing.

5.5 An intersectional analysis to inform the Plan

77. Section 8 of the Bill identifies areas of improvement to Australia’s housing system to be addressed by the Plan and Section 9 of the Bill identifies that the Plan must be developed in collaboration with certain cohorts impacted by housing insufficiency.

78. The proposed Plan does advance this approach, by requiring consultation with those who face special disadvantage in the housing system and those with lived experience of housing need and homelessness (clauses 9(1) and 10). This is empowering for those groups, whose contributions can help to identify gaps and structural weaknesses in housing systems and programs and ensure housing policies and strategies are responsive to lived experiences of housing system failures.⁴³

However, the Plan does not set out a systematic way of ensuring those who experience complex and overlapping intersections of disadvantage have their needs appropriately met (see section 4.3 above).

79. Additional context to inform the approach could be provided by inclusion of a new clause (proposed to be included after the current Section 7), which provides that:

- (a) *A person’s right to adequate housing may be adversely affected or compounded by other forms of disadvantage or discrimination that they may experience on the basis of their sex or gender identity, their sexual orientation, whether they have a disability, whether they identify as Aboriginal or and Torres Strait Islander, whether they are from culturally and linguistically diverse or*

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culturally and racially marginalised communities and their socio-economic class.

(b) *The development of the National Housing and Homelessness Plan in accordance with section 8(1) must take into consideration matters set out in sub-section (a) above.*

80. By expressly encouraging the development of initiatives that consider the intersectional impacts on housing adequacy, the Plan could drive positive and transparent progress towards full realisation of the right.

Recommendation 10: That the Bill be amended to explicitly recognise compounding forms of disadvantage and require the development of the Plan to take this into account.⁴⁴

5.6 Inclusion of an economic approach to inform the Plan

81. A human rights approach should not be used in isolation.

82. Housing adequacy is an issue which is driven not only by human rights but also the economic context of Australian society. This is particularly true of housing affordability and accessibility, which are intrinsically linked to issues relating to supply and demand.

83. Including an economic lens to the Plan will assist in addressing not only the affordability and accessibility elements of the right to adequate housing, but also ensuring a holistic approach to address inequity, and the sustainability of solutions over a long-term basis. Utilisation of an economic approach to inform the Plan will also provide a baseline for measurement of progressive realisation of outcomes, and therefore act to complement the human rights-based approach in addressing housing adequacy.

5.7 Tailored human rights training and guidance for housing policymakers

84. Given the complexity of Australia's housing system, it is imperative to provide tailored human rights training and guidance for policymakers and officials working on housing issues, enabling them to effectively navigate and address the multifaceted challenges in this domain.

85. As the PJCHR has noted, there is no current organised human rights training available to the Australian Public Service.⁴⁵ The complexity of the Australian housing system – and the role of policy and legislation at Federal, state/territory and local levels within that system – also means that policy guidelines tailored specifically to housing policy and legislation are more useful than broad guidance on a human rights-based approach.

86. As the National Human Rights Institution of Australia, the Commission has a unique role to play in supporting the development of this guidance and is prepared to support Housing Australia (or other nominated Agency, Department, Office) further in this regard.

Recommendation 11: That training on human rights and guidance on a human rights-based approach to housing accompany the Bill and National Plan.

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6 Part 3 – National Housing Consumer Council

6.1 Overview

87. Part 3 establishes the National Housing Consumer Council (**Council**) and its functions, along with the terms and conditions of appointments and administrative support.
88. The Bill identifies that the membership of the Council must include:
- an Indigenous person,
 - a person with lived experience of complex housing need,
 - a person with lived experience of homelessness, and
 - a person with disability.
89. The Council functions are to provide advice to the Minister in respect of the effectiveness of housing policies and their impact on different population groups.

6.2 Framing the nature of the advisory body

90. The Commission commends the inclusion of those with lived experience of various stages on the Housing Continuum as part of the Council.
91. However, the delivery of housing in Australia involves not only residents but also governments at all levels, financial institutions, builders, developers, landlords and other relevant stakeholders. To ensure the sustainability and progressive realisation of housing as a human right, housing policy development must encompass all aspects of housing delivery and support services.
92. Recognising housing as a human right necessitates a holistic approach that addresses the needs of all individuals, particularly those who are disadvantaged.
93. The term consumer may be considered to be at odds with the application of a rights-based approach to the delivery of housing outcomes and the development of a resident centred approach to direct and indirect housing policy. A consumer is someone who is commonly accepted to be acquiring or trading goods or services, whereas human rights are universal, inalienable and belong to every individual simply because they are human. Referring to people without housing or those struggling to secure housing as consumers fails to acknowledge their disadvantaged circumstances and undermines their inherent human rights.
94. The Commission supports the concept of including all aspects of the Housing Continuum. However, the Council's objective of addressing the comprehensive needs of individuals across the housing spectrum could be better met by reframing the title.

Recommendation 12: That the name of the Council is amended to the ***National Housing Impacts Advisory Group*** to better reflect its function and the nature of resident-focused advice required to progressively realise the right to adequate housing.

6.3 Membership

95. Participation is critical to living with dignity. It ensures that individuals and communities – including those in need of housing – are treated as rights-holders, not recipients of charity and are able to exercise agency, autonomy and self-determination.⁴⁶
96. Those who are most impacted by housing inadequacy – including, but not limited to young people facing disadvantage such as poverty, abuse and mental health concerns; women and children with lived experience of domestic and family violence – are often the least likely to have their voices heard. People living in homelessness or inadequate housing should be able to engage and be involved in decisions affecting their lives and to be recognised as experts in their own experience.
97. Their contributions can help to identify gaps and structural weaknesses in housing systems and programs and to ensure housing policies and strategies are responsive to lived experiences of housing system failures.⁴⁷
98. As such, the Commission commends the intention behind including those who have lived experience of housing inadequacy into Council membership.
99. Consideration should be given to the Council membership also including other priority groups including people with lived experience of domestic and family violence, and older persons.
100. Residents of housing are ultimately the focus of the Plan and the Council. However, those residents are not always empowered to articulate their needs; further, the range of organisations involved in delivery of housing services to vulnerable populations also have valuable contributions to make to the objects of the Council. Allowing for these service providers to participate in the Council could inform understanding of how the housing system has failed.
101. Further, framing the nature of the Council as relevant to ‘consumers’ fails to consider the economic aspects required to realise the right to adequate housing. Industry groups – including registered housing associations, builders, developers and financial institutions involved in the funding of housing solutions – should be viewed as appropriate participants in the Council.
102. Membership of the Council could also include:
- Peer workers with experience in facilitating cross-functional case management of individuals with complex housing needs; and
 - Representatives from peak bodies of service providers to vulnerable populations – such as the youth, domestic and family violence, mental health, alcohol and other drugs sectors.

Recommendation 13: That membership of the Council include representatives of other priority groups including older persons and people with lived experience of domestic and family violence, and from a range of social service sectors including domestic and family violence, to reflect the voices of those who provide services to vulnerable populations.

6.4 Inclusion of Aboriginal and Torres Strait Islander peoples

103. The Commission notes that – as affirmed by the United Nations Declaration on the Rights of Indigenous Peoples – Aboriginal and Torres Strait Islander peoples have the rights to self-determination and to free, prior and informed consent in relation to government initiatives, including housing initiatives, that affect them.⁴⁸ They also have a right to be actively involved in developing housing programs and initiatives that affect them and to determine and develop priorities and strategies for strengthening Indigenous housing.⁴⁹

104. These rights go further than the general right to participation.

Recommendation 14: Further thought be given to how Indigenous self-determination in housing could be facilitated by this Bill, in consultation with Indigenous peoples across Australia.

7 Part 4 – National Housing and Homelessness Advocate

7.1 Establishment of the Advocate and ensuring the Advocate engages with the Commission in its functions

105. Part 4 of the Bill establishes an independent Office of the National Housing and Homelessness Advocate (**Advocate**), setting out the Advocate's functions, which include oversight of the Plan and accountability. Division 3 allows the Advocate to request advice from the NHSAC and the National Housing Consumer Council.
106. The Commission supports the establishment of the Advocate as an independent systemic accountability body crucial for effective monitoring and compliance with human rights standards.
107. The Commission can provide advice to the Advocate in respect of these standards. The Commission and individual Commissioners are likely to have a significant and valuable contribution to the Advocate's functions in this area and we suggest thought be given to the ways in which the Commission's advice can be ensured. For example, a review of systemic housing issues relating to the experiences of people with disability should include the Disability Rights Commissioner as much as practicable.
108. Consideration could be made by the SELC that section 41 of the Bill be amended to provide for the Advocate to request advice from the Australian Human Rights Commission.

7.2 Monitoring and review through indicators and benchmarks

109. Section 33 outlines the Advocate's role in monitoring progress towards the goals of the Plan.
110. Monitoring is of critical importance and ensures that all levels of government are taking concrete steps (through the Plan) towards fulfilling their commitments to progressively realise the right to adequate housing.
111. Whilst the creation of a function to monitor the implementation of the Plan is supported by the Commission, the Bill does not provide sufficient detail in respect of the parameters of the Advocate's review.
112. The Commission supports embedding the principles of continuous improvement in the Plan. The Commission further encourages the consideration of the development of a National Housing Indicator Index (**Indicator Index**) to provide a consistent test of progressive realisation and a measure against the delivery of the Plan.
113. The development and utilisation of an Indicator Index is supported by the work currently being undertaken by the Commission. The Commission proposes that the Indicator Index is based on accepted indicators and benchmarks as guided by international jurisprudence and normative guidance and as tailored to the requirements

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of embedding housing adequacy in both direct and indirect housing legislation and policy.

114. The Commission recommends that the Indicator Index assess the achievement of housing adequacy as demonstrated in the Plan against the intersectionality of need of the resident, economic and social return on investment and the application of proportionality of rights. This should include the collection of consistent data over time and be disaggregated by demographics such as gender, age, disability, socio-economic status and ethnicity.

Recommendation 15: That a National Housing Indicator Index be developed by the Advocate to track the progressive realisation of adequate housing.

8 Recommendations

Noting the position taken by the Commission throughout this Submission, the following represent the recommendations made to the SELC:

Recommendation 1: That the recommendations of the Commission’s *Free & Equal* project and the PJCHR inquiry into Australia’s Human Rights Framework be implemented to provide effective federal protection of all human rights, including the right to adequate housing.

Recommendation 2: That the Bill should be passed with the amendments set out in this submission.

Recommendation 3: That Section 3 of the Bill be amended to refer to the ‘Housing Continuum’ to provide a clear framework for discussing the progressive realisation of the human right to adequate housing.

Recommendation 4: That a definition of ‘adequate housing’ be included in Section 5 of the Bill.

Recommendation 5: That Section 3 of the Bill be amended to refer to the ‘person’, acknowledging that adequacy can only be understood in the context of what the individual needs.

Recommendation 6: That the legislation include a duty upon Housing Australia and the Advocate to take steps towards the realisation of the right to adequate housing.

Recommendation 7: That Section 3 of the Bill be amended to recognise the human rights principles of proportionality and non-regression in the development and implementation of all housing policies.

Recommendation 8: That Sections 8 and 9 of the Bill articulate the roles and responsibilities of all levels of government in developing, implementing and reporting on the Plan.

Recommendation 9: That the Bill be amended to ensure that the Plan better reflect the principles of a rights-based strategy that facilitates the progressive realisation of the right to adequate housing.

Recommendation 10: That the Bill be amended to explicitly recognise compounding forms of disadvantage and require the development of the Plan to take this into account.

Recommendation 11: That training on human rights and guidance on a human rights-based approach to housing accompany the Bill and National Plan.

Recommendation 12: That the name of the Council is amended to the *National Housing Impacts Advisory Group* to better reflect its function and the nature of resident-focused advice required to progressively realise the right to adequate housing.

Recommendation 13: That membership of the Council include representatives of other priority groups including older persons and people with lived experience of domestic and family violence, and from a range of social service sectors including domestic and family violence, to reflect the voices of those who provide services to vulnerable populations.

Recommendation 14: Further thought be given to how Indigenous self-determination in housing could be facilitated by this Bill, in consultation with Indigenous peoples across Australia.

Recommendation 15: That a National Housing Indicator Index be developed by the Advocate to track the progressive realisation of adequate housing.

¹ United Nations General Assembly. ‘International Covenant on Economic, Social and Cultural Rights.’ United Nations, Treaty Series, vol. 993, December 16, 1966, p. 3, Article 11. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

² Ibid.

³ Australian Human Rights Commission (AHRC), *Free & Equal: Revitalising Australia’s Commitment to Human Rights* (Final Report, November 2023).

⁴ Parliamentary Joint Committee on Human Rights, *Inquiry into Australia’s Human Rights Framework* (Report, May 2024) 9.11.

⁵ Australian Human Rights Commission, *Free & Equal: A Human Rights Act for Australia* (Position Paper, December 2022) 128.

⁶ Ibid, 56.

⁷ Australian Human Rights Commission (AHRC), *Free & Equal: Revitalising Australia’s Commitment to Human Rights* (Final Report, November 2023) Recommendation 1.

⁸ Recommendations 7, 8, 9, 10 and 11 all include aspects of human rights education and other material to support public servants’ knowledge and understanding of human rights in their work.

⁹ Australian Human Rights Commission, ‘Housing, Homelessness and Human Rights’ (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/projects/housing-homelessness-and-human-rights>

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Australian Human Rights Commission, *Keeping Kids Safe and Well – Your Voices* (Report, December 2021).

¹⁴ Australian Human Rights Commission, ‘Housing, Homelessness and Human Rights’ (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/projects/housing-homelessness-and-human-rights>.

¹⁵ Ibid.

¹⁶ See for example *State of Queensland through the Department of Housing and Public Works v Tenant* [2020] QCAT 144.

¹⁷ International Housing Association. ‘IHA Housing Continuum.’ Accessed August 4, 2024. <https://www.internationalhousingassociation.org/generic.aspx?genericContentID=25973>

¹⁸ Western Australia Government, *WA Housing Strategy 2020-2030: Connecting 150,000 WA households to a home by 2030*. Department of Communities, 2021, accessed 5 August 2024, <https://www.wa.gov.au/system/files/2021-06/wa-housing-strategy-2020-2030-accessible.pdf>

¹⁹ Queensland Government, 2017. *Queensland Housing Strategy 2017–2027: Building a better housing future for all Queenslanders*. Queensland Department of Housing and Public Works, accessed 5 August 2024, https://www.housing.qld.gov.au/__data/assets/pdf_file/0024/8187/qldhousingstrategysummary.pdf.

²⁰ United Nations Committee on Economic, Social and Cultural Rights (UN CESCR), *General Comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant)*, UN Doc E/1992/23 (1991).

²¹ See for example UN CESCR, *General Comment No. 4* and OHCHR, *Fact Sheet on the Right to Adequate Housing*.

²² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report* (Canberra: Commonwealth of Australia, 2023), accessed 5 August 2024, <https://disability.royalcommission.gov.au/publications/final-report>.

²³ Royal Commission into Victoria’s Mental Health System, *Final Report* (Canberra: Commonwealth of Australia, 2021), accessed 5 August 2024, <https://rcvmhs.archive.royalcommission.vic.gov.au>.

- ²⁴ United Nations Office of the High Commissioner for Human Rights. ‘Women and the Right to Adequate Housing.’ HR/PUB/11/02. New York and Geneva: United Nations, 2012.
- ²⁵ Australian Human Rights Commission, *Free & Equal: Revitalising Australia’s Commitment to Human Rights* (Final Report, November 2023) 56.
- ²⁶ *Ibid* 57.
- ²⁷ United Nations Office of the High Commissioner for Human Rights (UN OHCHR). ‘The Right to Adequate Housing.’ Fact Sheet No. 21 (Rev. 1). Geneva: United Nations, 2009.
- ²⁸ *Ibid*.
- ²⁹ United Nations Office of the High Commissioner for Human Rights. ‘Guidelines for the Implementation of the Right to Adequate Housing.’ Special Rapporteur on the Right to Adequate Housing. Accessed August 4, 2024. <https://www.ohchr.org/en/special-procedures/sr-housing/guidelines-implementation-right-adequate-housing>.
- ³⁰ <https://www.ohchr.org/en/special-procedures/sr-housing/guidelines-implementation-right-adequate-housing>
- ³¹ See UN CESCR, *General Comment No. 4* and OHCHR, *Principles and Guidelines for HR Approach to Poverty Reduction Strategies* UN Doc HR/PUB/06/12 (2006).
- ³² See for example UN CESCR, *General Comment No. 4* and OHCHR, *Fact Sheet on the Right to Adequate Housing*.
- ³³ United Nations Human Rights Committee, *General Comment No. 31 on the nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add. 13 (26 May 2004) [4].
- ³⁴ Leilani Farha, *Report of the Special Rapporteur on adequate housing – the roles of local and other subnational levels of government*, UN Doc A/HRC/28/62 (22 December 2014) [15].
- ³⁵ Chris Martin et al, *Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy* (Final Report no 401, Australian Housing and Urban Research Institute, June 2023) 31.
- ³⁶ As per the UN Special Rapporteur - Leilani Farha, *Report of the Special Rapporteur on adequate housing – the roles of local and other subnational levels of government*, UN Doc A/HRC/28/62 (22 December 2014) [15].
- ³⁷ *Ibid* [7].
- ³⁸ *Ibid*.
- ³⁹ Te Kāhui Tika Tangata New Zealand Human Rights Commission, *Implementing the right to a decent home in Aotearoa: Fairness and dignity for all* (Housing Inquiry Final Report, July 2023) 16.
- ⁴⁰ Guideline No 4, <https://www.ohchr.org/en/special-procedures/sr-housing/guidelines-implementation-right-adequate-housing>
- ⁴¹ *Ibid*.
- ⁴² *Ibid*.
- ⁴³ Leilani Farha, *Report of the Special Rapporteur on the right to adequate housing: Effective human rights-based housing strategies*, UN Doc A/HRC/37/53 (15 January 2018).
- ⁴⁴ This reflects the approach taken in the Victorian *Gender Equality Act 2020*. See <https://www.genderequalitycommission.vic.gov.au/intersectionality-work/executive-summary>
- ⁴⁵ Parliamentary Joint Committee on Human Rights, *Inquiry into Australia’s Human Rights Framework* (Report, May 2024) 8.32.
- ⁴⁶ Leilani Farha, *Report of the Special Rapporteur on Adequate Housing: Guidelines for the Implementation of the Right to Adequate Housing*, UN Doc A/HRC/43/43 (26 December 2019) 6.
- ⁴⁷ Leilani Farha, *Report of the Special Rapporteur on the right to adequate housing: Effective human rights-based housing strategies*, UN Doc A/HRC/37/53 (15 January 2018).
- ⁴⁸ UNDRIP Article 19.
- ⁴⁹ UNDRIP Article 23.