

2 September 2016

The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

E-mail: info@alrc.gov.au

Dear Madam / Sir

The Tenants' Union of NSW represents the interests of residential tenants in NSW and has done so since 1976. We are a not-for-profit co-operative, a community legal centre specialising in residential tenancies law and the peak resourcing body for the state-wide network of Tenants Advice and Advocacy Services. We seek to represent the interests of all tenants in NSW, including social housing tenants.

The Australian Law Reform Commission (ALRC) has been directed to conduct an inquiry into elder abuse and 'specifically consider best practice laws, as well as legal frameworks ... which:

- promote and support older people's ability to participate equally in their community and access services and advice
- protect against misuse or advantage taken of informal and formal supporter or representative roles, including:
 - formal appointment of supporters or representatives
 - informal appointment of support and representative roles (eg family members)
 - prevention of abuse
 - mitigation of abuse
 - reporting of abuse
 - remedies for abuse
 - penalties for abuse, and
- provide specific protections against elder abuse.'

We wish to make a submission to this Inquiry. This submission updates one that originally was forwarded to the New South Wales Legislative Council's 'Inquiry into Elder Abuse' on 13 November 2015 which you will find at:

<https://www.parliament.nsw.gov.au/committees/DBAssets/InquirySubmission/Body/53723/0039%20Tenants%20Union%20of%20New%20South%20Wales.pdf>

The ALRC is interested in comments about how elder abuse is defined and about best practice legal responses to elder abuse, including examples from other jurisdictions.

We specifically refer to Questions 1 and 3 in the Issues Paper released by the ALRC on 15 June 2016.

Question 1 covers the definition of 'elder abuse'. We submit that a government policy, in itself, may constitute a form of elder abuse.

Question 3 states: 'The ALRC is interested in hearing examples of elder abuse to provide illustrative case studies.' We submit that what is happening to older residents of Millers Point in New South Wales is an example of systemic elder abuse.

We address each question in turn.

The World Health Organisation's definition of elder abuse at:

http://www.who.int/ageing/projects/elder_abuse/en/ and

http://www.who.int/ageing/publications/toronto_declaration/en/ covers the psychological abuse being endured by older tenants of Millers Point.

Elder abuse is generally seen as occurring between two individuals of unequal power where there is an expectation of trust. However, we submit that the World Health Organisation's definition is too narrow. We believe that it is reasonable to extend this to between government and individual. Parallel examples come from debates around child abuse.

Recent examples of a government being complicit in child abuse come from the Commonwealth Government's policy of keeping children in detention centres. In October 2015 hundreds of medical staff and students across the country protested against the policy of keeping children in detention. You may read more at: <http://www.abc.net.au/news/2015-10-30/medical-staff-protest-children-in-detention/6899542>

A second example is the treatment of child migrants at Fairbridge Farm in Molong in New South Wales. On 29 October 2015 the New South Wales Premier, Mike Beard, said: ...

On behalf of the state of New South Wales I want to recognise all former child migrants who attended Fairbridge Farm ... They arrived here as vulnerable and trusting children, whose parents wanted nothing more than a better life than the one they could offer. ... they were betrayed by this state which did not ensure their safety. ... I acknowledge the harm and the lifelong effect Fairbridge Farm had on the residents and their families.

You may read more at: <http://www.abc.net.au/news/2015-10-29/fairbridge-farm-institutional-abuse-apology/6897376>

We submit that elder abuse also may be a systemic problem, with a government though its policies being the instigator of such elder abuse.

The NSW Government's decision to sell its social housing stock in Millers Point is an example of this. Prior to announcing its decision, the NSW Government engaged Cred Community Planning to undertake a Social Impact Assessment. This found that the possible negative health and wellbeing outcomes for residents with long-term or generational connections to the area have been 'clearly noted through engagement and other social research'. These include 'the stress of moving, distress of losing their existing social network and local services, and anxiety of trying to build new social connections in a new area'. It also stated that current research demonstrates the loss of social ties and support systems might lessen residents' ability to cope with hardship, leaving many feeling less secure, uncertain where to turn when they encountered problems, and often simply lonely and isolated. It highlighted the importance of older people being able to age-in-place in an area they are connected to and familiar with.

Although the State Government's 'NSW Ageing Strategy' does not refer specifically to 'ageing-in-place', a number of significant documents commissioned by it do. A basic principle underlying this is that older people know what is best for their own lives and have the right to make decisions on their own behalf. An 'ageing-in-place' friendly policy provides the incentives for individuals to remain living in a community to which they have a strong attachment, either in their existing residence or alternate accommodation, with service supports. In full knowledge of this the NSW Government dismissed a recommendation from its consultants that some of the funds from the sale of homes in and around Millers Point be used to build new social housing properties nearby, especially for elderly residents. Again, the NSW Government's actions violate its own 'NSW Ageing Strategy'.

One local resident is documenting the impact of forced relocation on the tenants. She writes:

Amidst Housing NSW's glossy brochures and promises of better opportunities in a new home, Millers Point residents have heard many stories that tell a different tale about what being relocated is really like. Some were initially positive about moving and for others the idea was palatable as they were hoping for a house without steps or somewhere bigger, to be closer to family or with a yard for their dog, but even for these people it seems, forced eviction has being a very negative experience. The new house often has problems apparent only after moving in and some have been surprised at what it means to be in a place where no one knows your name. For those for whom Millers Point was very important for their well-being it seems that it has been at best traumatic, sad and a massive change, resulting in unexpected new stresses and loss. At worst it has resulted in tragedy. ...

We have seen a dramatic spike in hospitalisations, serious injury and illness and indeed the process is killing people as predicted. Within weeks of the announcement an elderly neighbour who was somewhat reclusive but functioning well having lived with her son in Millers Point for over 30 years, took her life. A woman who had been battling cancer for some time and living in a house with mould that Housing NSW never remedied was moved out of her home on the

Wednesday, went to hospital on the Friday and died on the Monday. We have lost at least three others ... ’

You will find a discussion of these issues and the impact on older residents in the article entitled ‘When older people are forced to move’. An electronic copy also may be found starting at page 18 in Shelter NSW’s *Around The House* (June 2015, No 101) at:

<http://www.sheltersnsw.org.au/publications/newsletters/around-house-no101>.

You will find an update of the situation at Millers point at:

<http://clearinghousetunsw.blogspot.com.au/2016/06/update-sales-of-millers-point-properties.html>

We also draw the Standing Committee's attention to the documentation of the situation of older residents that may be found on the website of 'Friends of Millers Point' at: <http://millerspointcommunity.com.au/>

Housing NSW has published the stories of four former residents who appear happy with being forced to relocate. You will find these stories at: <http://www.facs.nsw.gov.au/reforms/social-housing/millers-point/supporting-tenants-in-millers-point> . However, many former residents and those still remaining are far from happy and their experiences are documented in a paper by Professor Alan Morris, Institute for Public Policy and Governance, University of Technology, Sydney. His paper is entitled ‘A contemporary forced urban removal: The displacement of public housing residents from Millers Point, Dawes Point and the Sirius Building by the New South Wales Government’. What is so powerful about Professor Morris’s documentation is that he allows the residents to tell the story of their displacement in their own words. This paper concludes:

What is evident is that the actual and intended removal of public housing residents from Millers Point unleashed a great deal of hardship and distress. ... In sum, the way the New South Wales government has gone about the move was viewed by most interviewees as brutal. ... The announcement that all residents were to be moved was catastrophic for some residents and precipitated extreme anxiety and depression.

You may read Professor Morris’s report at:

<http://www.sheltersnsw.org.au/sites/sheltersnsw.org.au/files/public/documents/rept1609%20Contemporary%20forced%20removal.%20Millers%27%20Point.pdf>

We ask the committee to consider the contents of these documents in its deliberations.

The Australian Concise Oxford Dictionary, Fourth Edition, Oxford University Press, 2004, p. 1451 defines 'systemic' as: 'of or concerning the whole body, not confined to a particular part' . Wikipedia (viewed on 9 November 2015 at: https://en.wikipedia.org/wiki/Systemic_problem) states: 'A systemic problem is a problem due to issues inherent in the overall system, rather than due to a specific, individual,

isolated factor. ... A change to the structure, organization or policies in that system could alleviate the systemic problem.'

We ask that the report of the ALRC acknowledge that systemic elder abuse is a form of elder abuse and, further, that the situation of older residents of Millers Point amounts to such abuse.

We are aware that the resolution of the situation at Millers Point is a NSW Government responsibility, but it has wider implications. I refer to the announcement on 22 October 2015 by the New South Wales Minister for Social Housing, the Hon Brad Hazzard, when he called for interest 'in delivering the new generation of world class social, affordable and private housing in NSW': 'Communities Plus is a new generation of integrated housing developments, delivered in partnership with the private, non-government and community housing sectors in Macquarie Park along with six locations in metropolitan Sydney and regional NSW,' You may read more at:

http://www.facs.nsw.gov.au/about_us/media_releases/communities-plus-boosts-social-and-affordable-housing

The impact of this program is picked up by Ms Marie Chase-Sillars, a resident of the Ivanhoe Estate at Macquarie Park, New South Wales which is one of the affected communities. She writes under 'Comment' at the end of the blog at: <http://tunswblog.blogspot.com.au/2015/10/millers-point-and-rocks.html>:

We here at Ivanhoe Estate received our "marching orders" two weeks ago after a wait of 3.5 years ... The people here are just shocked and silent and I suppose the 3.5 years of waiting has worn them down. 2750 units to be put here with a few Public Housing units, so who wants to move back to a concrete jungle? ... Another Community torn down to make way for the people who can afford upward of \$800,000. Sydney, you cannot afford to keep tearing the souls out of these Communities without cost, you must stop moving people around like a chess game, think about what this means to so many elderly vulnerable tenants and what about the children of Ivanhoe who are having nightmares about changing schools and losing friends, do you care Sydney and the State Government?

Given that 30 percent of public housing tenants are in receipt of the Age Pension and 34 percent are over the age of 65 years (as reported by Ms Kathy Roil, General Manager Strategy, NSW Land and Housing Corporation, at the Industry Briefing on 'Communities Plus' on 4 November 2015), it greatly concerns my organisation that the New South Wales Government runs the risk of repeating the mistakes of Millers Point by denying elderly tenants the opportunity to age-in-place, with the possible consequence of what can only be described as institutionalised elder abuse, as currently experienced by the older residents of Millers Point. The Tenants' union of NSW firmly believes that, before the individual developments proceed, it is essential that Social Impact Assessments are undertaken in each instance and that the Government act upon any recommendations made in relation to alleviating the impact on older persons.

The Commonwealth Government is able to influence State and Territory governments in the formulation of housing policy through the National Affordable Housing Agreement (at: <https://www.dss.gov.au/housing-support/programmes-services/national-affordable-housing-agreement>). This Agreement is administered by the Australian Government Department of Social Services and it is renegotiated from time to time.

We ask that the report of the ALRC recommend that, when the above Agreement is renegotiated, proper safeguards (including a recognition of the importance of elderly folk being able to ‘age-in-place’ and meaningful community consultation) are put in place to ensure what has occurred in Millers Point is not repeated.

Please don't hesitate to contact me at Email: julie.foreman@tenantsunion.org.au or Telephone Number 8117 3700 should you wish to discuss this submission.

I would appreciate an acknowledgement that you have received this submission.

Yours faithfully

Julie Foreman
Executive Officer