



FAITH HOUSING AUSTRALIA

Realising the Right to Housing in NSW

Ensuring the Human Rights Bill 2025 delivers practical and meaningful protection of the right to housing

Submission to the NSW Legislative Assembly Committee on Community Services' inquiry into the Human Rights Bill 2025

June 2026



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1. Introduction

Faith Housing Australia (FHA) welcomes the opportunity to make a submission to the NSW Parliamentary inquiry on the Human Rights Bill 2025. FHA is the peak body for the faith housing sector, representing faith-based organisations, community housing providers, specialist homelessness services, faith leaders and values-aligned professional organisations committed to housing justice. Across Australia, FHA members provide housing and support across the continuum, including social and affordable housing, crisis and transitional accommodation, homelessness responses and wraparound services that help people sustain housing and rebuild their lives.

FHA strongly supports the introduction of a Human Rights Act in NSW as a necessary structural reform to improve protection of fundamental rights, including the right to adequate housing. Jurisdictions with statutory human rights frameworks have demonstrated that rights-based scrutiny can improve law-making, policy design and administrative decision-making, including in areas that directly affect housing security. NSW now has an opportunity to adopt a framework that protects civil, political, economic, social and cultural rights in a practical and accessible way.

Through our members' day-to-day experience supporting people experiencing housing insecurity, FHA's interest in this inquiry arises from our members' direct experience of the housing crisis and its effects on dignity, safety, health and social participation. Our members see every day that secure, affordable and appropriate housing is foundational to the enjoyment of many other rights. In the absence of a clear statutory framework, housing-related rights are often recognised in principle but inconsistently protected in practice. This submission focuses particularly on the proposed right to an adequate standard of living and housing in clause 40 (of the current draft), related housing-relevant provisions in the Bill, and the implementation settings that will determine whether rights protections are practical, accessible and effective in NSW.

Our reference in this submission to "clause 40" refers to the section related to the right to adequate housing, and should be taken to mean that section, however renumbered in a subsequent draft Bill. We refer to the "Bill" meaning the current draft, the subject of this inquiry, and the "Act", assuming the Bill or something similar has been passed and is in operation.

2. Recommendations

FHA's recommendations are intended to ensure that the rights recognised in the Bill are clear in scope, enforceable in practice, and capable of improving housing outcomes across NSW.

1) Overarching recommendations

- a) That the Human Rights Bill 2025 be passed, subject to targeted amendments that strengthen clarity, accountability and implementation, so that rights are meaningful in practice as well as principle.
- b) That the Bill's drafting continues to protect civil, political, economic, social and cultural rights within a single statutory framework, recognising that these rights are interdependent and indivisible and that housing is foundational to the enjoyment of many other rights.
- c) That implementation of the Act includes accessible complaints pathways, funded advocacy supports, public authority guidance, and sector-specific training so that the framework is practical and usable for people experiencing disadvantage, including homelessness and housing insecurity.
- d) That where the proposed Parliamentary Joint Committee on Human Rights forms the view that a Bill or statutory rule is incompatible with human rights, the member introducing the Bill or the

responsible Minister should be required to table a written response before the Bill is finally considered or the rule takes effect, and that the Committee be adequately resourced to perform this function. This reform would strengthen accountability and deliberation while preserving parliamentary sovereignty.

- e) That the Bill expands annual and other reporting obligations to include positive progress in the realisation of rights, including measurable improvements in access to housing and other essential rights, not only complaints and breaches.

2) Housing related recommendations

- a) That clause 40 be retained and strengthened to recognise that the right to an adequate standard of living, including housing, is essential to dignity, safety, participation in community life and the enjoyment of other rights.
- b) That clause 40 be amended to clarify, by way of a legislative note, that 'adequate housing' includes availability of services, affordability, habitability, accessibility, security of tenure, location and cultural adequacy, consistent with international human rights law. FHA supports the use of a legislative note rather than an exhaustive statutory list so as to guide interpretation without narrowing the content of the right over time¹.
- c) That clause 40 be amended to recognise access to crisis and emergency accommodation as an immediately realisable component of the right to housing, particularly for people experiencing homelessness and people escaping family and domestic violence.
- d) That the obligations on public authorities in Part 3, especially clause 49, be preserved and supported by guidance making clear that they apply to housing-related decisions including social housing allocation, tenancy management, homelessness responses, planning and infrastructure decisions, funding priorities, service design and consultation processes so that human rights are systematically integrated into day-to-day administrative and policy decision-making, not only considered in legal proceedings.
- e) That the Parliament consider whether additional interpretive guidance is needed in relation to homelessness, forced eviction, essential services, family and domestic violence, disability, children and young people, and First Nations communities, and that the statutory review of the Act after commencement expressly assess whether further housing-related protections or guidance are required.
- f) That implementation of the Act includes structured engagement with the housing, homelessness and community service sectors, together with people with lived experience of housing insecurity, to support practical guidance, monitoring and future review.
- g) That implementation of the Act embeds meaningful participation by individuals and communities who are directly or disproportionately affected by decisions relating to the rights protected under the Act, including through consultation, policy development, decision-making, implementation, monitoring and statutory review.

3) Minor technical changes

- a) Clause 40(2)(d) appears to overlap with clause 44(1)(b) in relation to access to safe and uncontaminated water, and the Committee should consider whether this duplication is necessary.
- b) Clause 12(3) could be clarified to more clearly express that retrogressive measures, minimum core obligations and non-discrimination apply across the relevant economic, social, cultural and environmental rights. This may reduce unnecessary duplication and improve interpretive coherence.

¹ This is in contrast to the approach taken by the drafters of the proposed amendment to the Victorian Human Rights Charter in 2025: [Charter of Human Rights and Responsibilities Amendment \(Right to Housing\) Bill 2025 | legislation.vic.gov.au](#)

3. Clause 40: The right to an adequate standard of living and housing

FHA strongly supports the inclusion of clause 40 in the Bill. In NSW, the housing crisis is affecting low-income households, people experiencing homelessness, women and children escaping violence, older women, people with disability, young people, First Nations communities and many other groups facing structural disadvantage. In this context, statutory recognition of the right to an adequate standard of living, including housing, would provide an important normative and practical foundation for more rights-compatible law, policy and administration. At the same time, the current drafting would benefit from clearer interpretive guidance so that the content of the right is well understood by public authorities, courts and the proposed Commission. Greater clarity will also assist public authorities, housing providers and frontline services to apply the framework consistently in practice.

While FHA welcomes the important minimum protections recognised in clause 40, it does not yet provide sufficient clarity on the broader concept of 'adequate housing', which is critical to ensuring consistent interpretation and application across government.

FHA recommends a legislative note setting out the commonly accepted attributes of adequate housing. This is a pragmatic and implementation-focused approach. It would guide interpretation by courts, tribunals, the proposed Commission and public authorities, while avoiding the risk that a closed statutory list could narrow the content of the right or inhibit future development.

- **Housing should be understood as more than shelter.** For FHA, adequate housing means housing that is safe, secure, affordable, accessible and appropriate to the needs of the person or family. The Bill and supporting materials should better reflect the established elements of adequacy recognised in international human rights law and guidance². This reflects the experience of FHA members delivering housing and homelessness services across a diverse range of communities.
- **Security of tenure matters.** Protection against arbitrary or unlawful eviction is essential, but the right should also promote stable housing pathways and decision-making that reduces avoidable displacement and homelessness. Security of tenure includes the right to not be harassed. Consideration is needed of the right of individuals within a household to security of tenure, as well as the rights of the whole household. This has practical relevance to decisions about social housing transfers, tenancy management and service exit pathways.
- **Essential services are integral to habitability and dignity.** While protection against arbitrary or unlawful removal of essential services is important, so too is the provision of, or the ability to access, them in the first place. This reflects both the State's obligation to prevent interference with rights and its responsibility to ensure systems and policies support affordable and reliable access to essential services. For housing owners, providers and tenants alike, access to essential services is fundamental to sustaining tenancies and preventing avoidable housing instability.
- **Non-discrimination must be central.** Housing disadvantage is often compounded by disability, age, family status, cultural background, visa status and other factors. Clause 40 should ensure, itself or within the Act, both direct and systemic discrimination are prohibited. FHA notes that clause 40 already recognises non-discrimination as an immediately realisable aspect of the right; this should be reinforced in implementation guidance and decision-making practice across the housing and homelessness system.
- **Progressive realisation should still drive action.** Even where full realisation takes time and resources, the Act should support concrete, ongoing steps by public authorities to improve housing outcomes and avoid retrogressive measures that worsen access to housing. From FHA's perspective, progressive realisation should be reflected in continuous improvement to policy,

² General Comment No. 4: The right to adequate housing, 1991, the Committee on Economic, Social and Cultural Rights, OHCHR; Report of the Special Rapporteur on adequate housing, Mission to Australia, 2007, Human Rights Council, A/HRC/4/18/Add.2 Fact Sheet no. 21: The Right to Adequate Housing, 2010, UN Habitat, OHCHR; Guidelines for the Implementation of the Right to Adequate Housing, 2020, Special Rapporteur, Human Rights Council Concluding observations on the sixth periodic report of Australia, 2026, Committee on Economic, Social and Cultural Rights, E/C.12/AUS/CO/6, sections 38 and 39

funding and service delivery. In FHA's view, access to crisis and emergency accommodation should be recognised as part of the minimum practical response required while broader progressive realisation continues.

- **Decision-making impacts should be visible.** Clause 40 should influence government choices about housing policy, social housing management, homelessness responses, land use planning, infrastructure, funding priorities and frontline service delivery. Rights protection will be most meaningful where it informs the everyday decisions that shape people's housing outcomes, rather than being relied upon only in litigation.

4. Other housing-related clauses

While clause 40 is central, a number of other rights and framework provisions in the Bill are also relevant to housing, homelessness and tenancy-related decision-making. FHA encourages the Committee to consider the cumulative and interconnected operation of these clauses. In many housing contexts, rights will not operate in isolation; rather, they will overlap in ways that require careful balancing and practical guidance for decision-makers. Housing decisions rarely engage a single right in isolation, which is why practical guidance for decision-makers will be important.

- **Equality and non-discrimination:** These protections are fundamental in housing access, allocation, service delivery and treatment by public authorities. This is particularly relevant where housing disadvantage is compounded by disability, age, family status, cultural background or other structural barriers. These issues are regularly encountered by organisations allocating housing and delivering homelessness services.
- **Protection of families and children:** Housing insecurity has direct impacts on child development, safety, family unity and educational participation. Decisions that separate families from housing, or fail to respond to family violence and homelessness, may directly affect these rights.
- **Cultural rights:** Housing policy and service delivery should respect connection to community, Country, kinship and cultural practice, including for First Nations people, diverse faith communities and members of vulnerable communities. This is especially important where location, community connection and culturally safe service design affect the adequacy of housing. Practical implementation should support culturally safe housing responses alongside recognition of these rights.
- **Privacy, home and family life:** Decisions affecting entry, surveillance, relocation, transfers and tenancy management may engage this right. Clear guidance will help ensure these considerations are addressed consistently across housing services.
- **Property rights:** The interaction between the right to a home and property rights should be framed carefully so that human rights remain balanced and practical and capable of supporting sound housing policy outcomes.
- **Recognition and equality before the law, fair hearing and effective remedies:** People affected by housing-related decisions need accessible pathways and equity of standing to challenge decisions and seek timely redress. Accessible review pathways will be particularly important for people experiencing housing insecurity, who often face practical barriers to asserting their rights. This includes the ability to pursue complaints and proceedings without prohibitive procedural barriers.
- **Obligations on public authorities and interpretive provisions:** These framework clauses will be critical to whether housing rights are embedded in everyday administrative practice rather than remaining purely aspirational. From FHA's perspective, success will ultimately be measured by whether the framework improves the quality and consistency of everyday public decision-making.

5. General comments on the Bill

- **FHA supports a statutory human rights framework for NSW.** A Human Rights Act can improve the quality of law-making and administrative decision-making by requiring rights to be considered earlier and more consistently. Although responsibility for housing is shared across different levels of government, a NSW statutory framework would strengthen protection against regressive policy changes, improve accountability and encourage the State to use available powers and resources in a rights-compatible way.
- **Implementation will matter.** As with any significant legislative reform, implementation will ultimately determine whether the rights recognised in the Act translate into improved outcomes for people. The effectiveness of the Act will depend on clear obligations, practical guidance, training, institutional oversight, accessible complaints and review pathways, and capacity within public authorities to apply rights consistently. Without these supports, rights may be recognised on paper but not realised in practice. This presents a real risk that the Act could establish rights that are formally recognised but do not consistently influence outcomes in systems such as housing and homelessness.
- **Scrutiny is essential.** FHA is concerned that scrutiny mechanisms can be weakened if incompatibility findings are routinely ignored. While Parliament must remain free to legislate, requiring a formal written response to incompatibility findings before a Bill proceeds or a statutory rule takes effect would strengthen meaningful rights scrutiny and may encourage earlier amendment of proposals.
- **Civil, political, economic, social and cultural rights should be meaningful in practice.** The Act should avoid settings that recognise rights in principle but make them difficult to invoke or give them little weight in real-world decisions. FHA supports a Human Rights Act that is both principled and practical—one that strengthens accountability while helping governments, public authorities and service providers make better decisions for the people and communities they serve.
- **The framework should support prevention as well as redress.** In housing, better rights-based decision-making can help prevent homelessness, unnecessary eviction, service disruption and other avoidable harms before they occur.
- **The voice of affected communities should inform implementation.** People with lived experience of housing insecurity and homelessness, alongside the organisations that support them, should be involved in guidance, review and implementation design.
- **Further refinement may be appropriate.** FHA welcomes the opportunity to provide more detailed feedback on drafting, implementation mechanisms and the housing implications of particular clauses as the inquiry progresses. FHA also supports robust statutory review of the Act, including broad consultation and specific examination of whether the rights framework is improving outcomes in systems such as housing and homelessness.

Conclusion

FHA strongly supports passage of the Human Rights Bill 2025, subject to targeted amendments that clarify the content of the right to housing, strengthen accountability and embed rights in practical decision-making. In FHA's view, the resulting Act will be most effective if it clearly recognises housing as foundational to dignity and participation, supports immediate protections for people in crisis, and ensures that public authorities apply rights consistently across housing, homelessness, planning and service systems. FHA would welcome the opportunity to provide further detail on clause 40, implementation options and practical measures to strengthen housing justice outcomes in NSW and to support the Committee and government in implementing a framework that delivers meaningful housing outcomes in practice.

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