18 January 2011

Mayor and Councillors
Yarra Ranges Shire Council
P O Box 105
Lilydale   VIC   3140
By email: g.talbot@yarraranges.vic.gov.au

Dear Councillors,

Objection to the introduction of the General Provisions Local Law 2010

The PILCH Homeless Persons’ Legal Clinic (HPLC) and the Council to Homeless Persons (CHP)¹ write to object to the introduction of clause 8 of the General Provisions Local Law 2010 (Proposed By-Law).

The HPLC and CHP are concerned that the Proposed By-Law will criminalise homelessness in the Yarra Ranges municipality, and that the Yarra Ranges Shire Council (the Shire) should focus on addressing the causes and effects of homelessness rather than punishing people who are homeless.

In summary, this document outlines:

- the issue of homelessness in the Shire;
- how sleeping in cars is a response to homelessness and a dysfunctional housing market;
- the human effect of sleeping in cars;
- our concerns that the introduction of the Proposed By-Law will effectively criminalise homelessness;
- the human rights implications of the Proposed By-Law; and
- the need for the Shire to implement, and be a part of, a joined-up response to homelessness within the municipality.

In passing, we also note that the drafting of the Proposed By-Law prohibits the placing of a vehicle on a road, which may be problematic for residents and visitors.

Homelessness in the Yarra Ranges

On census night in 2006, there were 105,000 Australians experiencing homelessness: 16% of these people were experiencing primary homelessness (sleeping rough), with the remaining percentage experiencing secondary or tertiary homelessness, including 45% staying temporarily with friends or relatives, 21% staying in boarding houses and 19% staying in supported accommodation (such as hostels for the homeless, night shelters and refuges).

¹ Details on the HPLC and CHP are available in the attachment.
In Shire of Yarra Ranges, more than 500 people were homeless in 2006, including 64 living on the streets.\(^2\)

While the homeless population within the Shire is below the state average,\(^3\) the Department of Human Services has noted that the risk of homelessness for young people in the Yarra Ranges was recorded as the second highest on average from the 31 local government areas surveyed in Melbourne in 2000.

The *Youth Homelessness and Housing in the Shire of Yarra Ranges Report* (June 2005), produced by the Housing Young People Action Team (HYPAT), provides a comprehensive assessment of youth homelessness in the Shire, using a number of surveys of community-based agencies involved in working with young people who were at risk of homelessness or homeless at the time (i.e. presenting to crisis accommodation services). This study indicated:

- In the three month period of the survey (July-September 2004), 55 young people presented as homeless, or at risk of homelessness, to community agencies and 115 presented to Anchor Accommodation Services – a total of 170. The majority of these young people were from Lilydale and Yarra Junction, with most living with friends;
- The average age of first leaving home was 14.64 years, with an average length of homelessness of 73 weeks, with a range of one week to four years;
- The most common reason for leaving home was family conflict;
- 65% had left school before or during Year 10; and
- A significant number of young people had substance abuse, mental health and self harm problems, including attempted suicide.

**A lack of housing options leads to people sleeping in their cars**

Support services across Melbourne have experienced a sharp increase in homeless clients living in their cars, citing availability and quality of housing as the leading causes.\(^4\) With Victoria still battling a housing shortfall of around 22,000 dwellings, compounded by a lengthy public housing waiting list,\(^5\) affordable and long-term shelter for the homeless is limited.

Anchor CEO John Devine has said the relief organisation, which covers the outer east including Yarra Ranges and Knox, said the biggest issue facing people today was the lack of affordable housing.\(^6\) Of the Shire of Yarra Ranges support agencies that were interviewed as part of an Eastern Community Legal Centre research project, 86% identified that tenancy issues and lack of

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\(^6\) Martin and Neill, above n 2.
stable and affordable housing are impacting on their clients’ ability to address many of their personal and financial problems.\(^7\)

As the Shire’s Community Development Officer has written:

> In the Shire of Yarra Ranges, there is no emergency accommodation, there are only eight youth-specific short to midterm Transitional Housing Management (THM) properties with a potential for 20 tenancies and no long term public housing for young people. Increases in the cost of the Private Rental market make it almost impossible for a young person to access this type of accommodation, with the average weekly cost of a two bedroom property in an urban fringe town approximately $150-220. Caravan Parks which operate in some urban fringe areas of the Shire often won’t accept young people, and where they do, this form of accommodation is often inappropriate, unstable and unaffordable costing from $200-280 per week.\(^8\)

In October 2009, the Victorian government committed $72 million to the recommendations of a Rooming House Standards taskforce, established by Victorian Premier John Brumby in July 2009. However, those initiatives are still being rolled out and there continue to be reports of dangerous and under-regulated operation of rooming houses. This acts as a deterrent from shared social housing arrangements, leaving provisional shelters such as cars and tents as preferred options. When in opposition, Housing Minister Wendy Lovell said people who sought refuge in private rooming houses were “often at the mercy of heartless landlords” who charged “exorbitant room rates for disgusting conditions”.\(^9\)

Despite reports of the growing prevalence of Victorians living or sleeping in their cars, the matter has received little attention on both a local and state level, resulting in laws and policies that are either underdeveloped or entirely non-existent. This leads to poor outcomes for these vulnerable people.

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**Tom’s story**

Tom sought assistance from a housing service provider after the boarding house in which he lived was closed by the Council. In trying to find alternative accommodation he was advised that he would be funded to receive one week in a private boarding house. Unfortunately it was not possible to find any available rooms and he was subsequently told that his best option was to sleep in his car. Tom found that he felt most comfortable driving his car, as opposed to parking and sleeping. He found himself driving long distances and from time to time would park his car at truck stops and service stations although he was never sure whether he was permitted to do so. Tom found this lifestyle to be stressful and unsustainable and he ultimately contacted police to turn himself in on an unexecuted warrant (due to a parole breach) and return to prison.

Research undertaken by the HPLC suggests that most local councils across Victoria have encountered cases of car-dwellers within their municipality, but have no laws outside of camping regulations to deal with this issue. Councils have tended to resort to moving on car-dwellers, which is problematic given that other areas may also have prohibitions on sleeping in cars, or that the person may be incapable of driving at the time, due to fatigue or alcohol.

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\(^9\) Martin and Neill, above n 2.
Several councils did coordinate their activities with outreach services and housing programs, however many councils had no protocol developed, often reporting such matters to the police to take care of.

**Dave’s story**

Dave is an ex-offender. He started living in his car after realising he could not afford private rent and could not stay in a boarding/rooming house because of the exposure to both drugs and violence. He has now been living in his car for approximately 12 months and finds it difficult to spend time in rooms and experiences panic attacks in larger spaces. In order to survive, Dave uses the washing facilities at Ozanam Community House and knows where he can get meals.

Dave generally parks his car at a reception centre and although this has been relatively stable location, he is always anxious about hearing a ‘tap on the window’ from someone who has a problem with him sleeping in his car or wants him to move on. He explains that he is contacted by the police every couple of weeks and that they generally suggest that he has been drinking and also that he may have been drink driving. He reports that the police have woken him on occasion to question him in this way. Dave has taken to sitting in the passenger seat of his car to avoid the risks of a drink driving conviction.

Nonetheless, in addition to the anxiety surrounding his homelessness, Dave is also sensitive about his appearance (his size and his tattoos) and his criminal history. These anxieties can give him panic attacks and have him constantly moving from passenger seat to driver’s seat in order to be ready to drive away.

**Obligations under the Human Rights Charter**

The research undertaken by the HPLC also found that several councils fined car-dwellers or imposed penalty units upon them, which leads to the worrying outcome of criminalising what is ultimately a human rights issue that traverses the right to life, the right to security and freedom of movement, amongst others.

In this respect, we note that the Shire is required to consider human rights in making any decision under the Charter of Human Rights and Responsibilities Act 2006, and there is no evidence that Councillors have been provided with advice, or considered the implications, of human rights in considering the Proposed By-Law.

If we are to achieve the Commonwealth Government’s federal goals for reducing homelessness,\(^{10}\) there needs to be a greater focus on a comprehensive housing and homelessness strategy at all levels of government.

**Objection to the introduction of the Proposed By-Law**

We note Cr Samantha Dunn’s comments:

> We can all do our bit to help the homeless in our community, whether it be buying an extra tin of food at the supermarket to donate, giving cash, donating blankets, volunteering time, every effort helps to assist our emergency relief agencies to help the homeless.\(^{11}\)

Unfortunately, the measures proposed by Council fail to help people who are homeless in the Shire, and instead will punish people who are forced to sleep in their cars, through imposing

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\(^{11}\) See Cr Samantha Dunn ‘sleep out for the homeless’ on Cr Dunn’s blog, 13 October 2008 (available at [http://crdunn.blogspot.com/2008_10_01_archive.html](http://crdunn.blogspot.com/2008_10_01_archive.html)).
fines of up to $2,389 for people who are unable to access more appropriate housing, often due to their poverty.

**Sam’s story**

Sam has a serious mental health diagnosis and sleeps in an unregistered car. He does not have a license. He is at risk of regularly receiving traffic infringements and significant penalties for unlicensed and unregistered driving. Until losing contact with St Vincent de Paul this client reported regular contact with the police.

We suggest that a more appropriate response would be a joined-up policy to assist people who are homeless to access appropriate, affordable and secure housing and other supports. Local laws should serve to help people experiencing homelessness, rather than discriminate against them.

**Conclusion**

The HPLC and CHP are concerned that the Proposed By-Law will criminalise people’s homelessness. Rather than introducing a local law that will adversely impact on people who are homeless and have limited or no access to safe, secure and appropriate housing,

As the Maroondah Leader has editorialised,\(^{12}\) "[a]ction is needed now,’ and our community should expect local government to act to prevent homelessness, not punish it.

Please contact us if you would like to discuss this submission, or the ways in which local government can better respond to issues of homelessness.

Yours sincerely,

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About the HPLC

The PILCH Homeless Persons’ Legal Clinic (PILCH) is a project of the Public Interest Law Clearing House (Vic) (PILCH) and was established in 2001 in response to the great unmet need for targeted legal services for people experiencing homelessness. Legal services are provided by volunteer lawyers from private law firms at 13 homeless assistance services in and around Melbourne and regional Victoria. Services are provided by the HPLC at crisis accommodation centres and welfare agencies to encourage direct access by clients.

In addition to its legal assistance work the HPLC engages in community education, public policy advocacy and law reform work, while seeking to identify gaps in the delivery of services to homeless people and examining other relevant law and policy reform issues. The planning and delivery of the HPLC’s services are founded on a human rights based approach, which informs the development and execution of the HPLC’s casework, advocacy and capacity building, including through the informed participation of the HPLC Consumer Advisory Group (CAG), made up of people with lived experiences of homelessness.

More information is available at www.pilch.org.au/hplc/.

About CHP

Council to Homeless Persons (CHP) is the peak body representing individuals and organisations with an interest or stake in homelessness in Victoria. Our mission is to work towards ending homelessness through leadership in policy, advocacy and sector development.

CHP also incorporates the Homelessness Advocacy Service (HAS), which provides individual advocacy to homeless people and those at risk of homelessness, secondary consultation, training and consumer participation through the Peer Education Support Program (PESP). PESP is a consumer group, trained and supported to provide input into sector practice, community and government education and policy development relating to homelessness.

More information is available at www.chp.org.au.