

Senate Economics Committee – Financial Regulatory Framework and home ownership

Submission by Legal Aid Queensland

20 September 2024

Financial regulatory framework and home ownership

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Senate Economics Committee Inquiry into the Financial regulatory framework and home ownership. LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ’s lawyers in the day-to-day application of the law in courts, tribunals and Ombudsman schemes. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ’s Consumer Protection lawyers have extensive experience providing specialist advice and representation to vulnerable clients and regularly give advice to Queensland consumers affected by the financial regulatory framework. The lawyers provide advice to clients as well as lawyers and financial counsellors throughout Queensland in relation to mortgage stress, insurance, housing repossession, debt, contracts, loans, telecommunications, and unsolicited consumer agreements.

LAQ has assisted and represented clients who have legal problems interacting with the financial system and who have trouble finding affordable housing. This submission is informed by that knowledge and experience.

LAQ provides this submission to assist the Economics References Committee as to whether the present financial regulatory framework adequately prioritises the goal of home ownership for Australians. LAQ has commented only upon the terms of reference relevant to its expertise and experience.

The problem of access to affordable housing and home ownership

In LAQ’s experience, the problem of access to home ownership and affordable housing is multi-faceted.

Over the past few years, LAQ has seen a rise in:

- a) People living in cars.
- b) People living in tents or on the street.
- c) People couch surfing.
- d) People struggling to find affordable rentals even when they are working.
- e) People going without meals, or without heating and cooling, in order to afford their rent.
- f) People who are prioritising their mortgage but are at risk of losing their home because they are behind on body corporate fees.
- g) People prioritising their mortgage but at risk of losing their home because they are behind on Council rates.
- h) People seeking financial hardship arrangements on their mortgage.
- i) People using Buy Now Pay Later Products and Wage Advance products to pay for basic expenses.
- j) Following natural disasters, people struggling to find accommodation close to their community and supports.
- k) Disasters highlighting that, in Queensland, much of the affordable housing is in areas more prone to disasters.
- l) New housing being built in areas that do not have appropriate infrastructure or access to public transport. This increases the cost of the housing as people require a car (which is expensive) to get to work and/or to transport children to school.
- m) People in longer term financial hardship on their mortgage attempting to stay in their homes longer and eating into their equity because the tight rental market makes it very difficult to sell their property and find alternative rental accommodation.
- n) High property prices seeing the average value of mortgages being applied for continuing to increase.

The problem of home ownership and access to housing is primarily a supply-side issue

In LAQ's submission, the problem of home ownership is primarily a supply-side issue and not a demand driven issue. There is demand for housing that is not able to be met in the market.

This is highlighted by the fact that:

- a) There are people who have access to credit/mortgages struggling to find appropriate housing to purchase.
- b) Property prices remain high despite interest rates rising.
- c) The average deposit needed for a First Home Buyer Loan has increased by 50% since 2020 to \$159,000¹.
- d) Rents are continuing to increase significantly.

All these factors point to the fact that:

- a) There are significant numbers of people able to access credit under the current financial regulatory framework.

¹ <https://www.money.com.au/home-loans/home-loan-statistics>

- b) Property prices remaining high in many areas of Queensland suggest there is significant demand for housing in Queensland and that there is significant competition for that housing.
- c) This competition makes it difficult for first home buyers to enter the market.

In LAQ's submission, the first priority should be to address the supply-side issues of access to home ownership.

Relaxing the financial regulatory framework to allow easier access to credit for aspiring homeowners has significant risks

In LAQ's experience, the current regulatory framework which imposes responsible lending obligations and financial hardship responsibilities on credit providers strikes an appropriate balance between protecting consumers and providing access to credit. LAQ is supportive of the current Australian Prudential Regulation Authority's (APRA's) mandated risk-based lending standard which mitigate the risk of borrowers overextending themselves. LAQ submits that these standards are imperative to ensure long-term financial stability. The framework recognises that there is an information asymmetry and power imbalance between lenders and people seeking a loan, which means more responsibility should be placed on lenders to ensure a transaction is appropriate.

Since the introduction of responsible lending, LAQ has seen:

- a) A reduction in the number of irresponsibly made loans.
- b) Meaningful remedies available to people where they are given an irresponsible loan.
- c) Lenders working more closely with borrowers to provide assistance during times of financial difficulty.

In short, the existing financial regulatory framework protects people in vulnerable circumstances from unmanageable debts and the effects that the unmanageable debt has on other aspects of their lives.

It is important to highlight that the effect of irresponsible lending goes beyond the financial impacts. In LAQ's experience, the other consequences it has seen include:

- a) Impacts on mental health.
- b) Family law issues arising because of financial trouble.

In LAQ's view, making changes to the financial regulatory system to make it easier for aspiring homeowners to access credit risks:

- a) Further increasing demand, which in turn further increases property prices.
- b) An increase in the number of people struggling to pay their mortgages.

LAQ submits that both risks will further exacerbate the problem faced by first homeowners trying to access home ownership.

Examples of effective priority treatment for aspiring homeowners without compromising financial stability

In LAQ's submission, one of the biggest impediments to aspiring first homeowners obtaining their first home is the expense created by either:

- a) The need to obtain a deposit (as highlighted above, this is substantial and can take years to save).

- b) The need to pay mortgage insurance. This is often financed as part of the loan, is very expensive when paid across the life of a mortgage and is to protect the banks' interests and not the borrower's interests.

LAQ supports the introduction of a scheme where, if a borrower would qualify for a loan under existing lending criteria and does not have the deposit, the Government would pay for the cost of the borrower's mortgage insurance and would not later pursue these costs from the borrower.

Organisation	Legal Aid Queensland
Address	44 Herschel Street Brisbane QLD 4001
Contact number	██████████
Approved by	Nicky Davies, CEO
Authored by	Paul Holmes, Principal Lawyer – Civil Justice Services