



OUTER SIGHT OUT OF JUSTICE

Finding pathways to justice for Melbourne's outer-metropolitan areas

Shorna Moore

Wyndham Legal Service Inc.

February 2014

Map of Wyndham



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Accurate at February 2014

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Abbreviations

ABS	Australian Bureau of Statistics
ADR	Alternative Dispute Resolution
ARC	Assessment and Referral Court List
CALD	Culturally and Linguistically Diverse
CBD	Melbourne Central Business District
CISP	Court Integrated Services Program
CLC	Community Legal Centre
CLE	Community Legal Education
DAO	Dispute Assessment Officer
DSCV	Dispute Settlement Centre of Victoria
ERP	Enforcement Review Program
FOS	Financial Ombudsman Service
LAW Survey	NSW Law and Justice Foundation's Legal Australia-Wide Survey
LNAF	Legal Needs Assessment Framework
MHCLS	Mental Health Court Liaison Service
MSLS	Mortgage Stress Legal Service
NJC	Neighbourhood Justice Centre
PSO	Protective Service Officer
VCAT	Victorian Civil and Administrative Tribunal
VLA	Victoria Legal Aid
WLS	Wyndham Legal Service Inc.
WMC	Werribee Magistrates' Court of Victoria

Executive summary

Residents in outer-metropolitan areas have lower average income, poorer health and educational outcomes, lower employment participation rates and higher levels of youth disengagement than residents in inner-city areas. These indicators of disadvantage are compounded by relatively lower levels of physical and social infrastructure including 'justice infrastructure' of courts, legal services providers, alternative dispute resolution (ADR) services and access to legal information and other early interventions.

This report examines the challenges faced in Wyndham, a rapidly growing outer-metropolitan area in Melbourne's west, due to a lack of access to justice infrastructure. Wyndham has an old and inappropriate court building that does not meet the community's needs, limited physical presence of Victoria Legal Aid (VLA), a single community legal centre (CLC) whose resources restrict its community outreach, a police station that cannot even accommodate its staff, and other significant challenges.

Part A of this report examines the demographic profile of the municipality and maps the gaps in justice infrastructure. This research supports our recommendation to develop a 'Wyndham Justice Precinct' that takes a broad view of the justice system needs of the community and ensures a holistic, person-centred approach to providing support to people with legal problems.

Part B examines legal needs in Wyndham. Applying international research to the community profile and testing this through qualitative research, the report concludes that the Wyndham community has significant needs in areas of law including family law, family violence, criminal law (particularly driving offences and infringements), consumer law, debts and mortgage stress and neighbourhood disputes. This report examines the extent to which these legal needs are met, if at all, by existing service providers.

Part C evaluates a number of projects that sought to address the community's legal needs, including:

- **The Library Program**, where staff in Wyndham libraries were trained, resourced and supported to provide information to community members and a new resource was developed and made available through the library's website.
- **Digital innovation**, which recommends that internet information progresses beyond digital publication of leaflets in traditional form, to adopt an 'app'-based approach that takes users through decision trees to refine and limit information.
- **One-to-one and one-to-many conferencing**, which may use technology to provide access to legal information to appropriate individuals or groups. In Wyndham, this technology may be particularly suitable, given the significant difficulties faced by people seeking to physically access legal assistance using the municipality's limited public transport system.
- **Neighbourhood Disputes Partnership**, where residents contacting Wyndham Council, police, the Wyndham Legal Service (WLS) or the Magistrates' Court in

relation to neighbourhood disputes are referred to a specialist service that provides ADR.

There is a significant potential for innovative projects, delivered in partnership with non-legal community services, to enhance and improve Wyndham residents' access to justice. While a 'one-stop shop' justice precinct is an important recommendation of this project, it must be complemented by accessible services delivered thoughtfully and appropriately, to meet the disparate needs of groups and individuals across the Wyndham municipality. This approach can be replicated across other outer-metropolitan communities across Australia.

Key recommendations

RECOMMENDATION 1: WERRIBEE MAGISTRATES' COURT

- (a) Access to justice for ordinary people is delivered through a range of services provided at a local Magistrates' Court. The state government should provide access to specialist courts and court support services to residents in the outer-metropolitan areas.

RECOMMENDATION 2: VICTORIA LEGAL AID

- (a) A Victoria Legal Aid office (VLA) should be located near or incorporated in to all major Magistrates' Court venues in outer-metropolitan areas. A current example is the need to establish a Werribee VLA office when the Magistrates' Court is rebuilt.

RECOMMENDATION 3: VICTORIA POLICE

- (a) The state government should provide residents in outer-metropolitan areas with a safe, contemporary-standard police station. A current example is the critical need to establish a new police station in Werribee located close to the Magistrates' Court, in order to meet the needs of the growing population.

RECOMMENDATION 4: COMMUNITY JUSTICE CENTRE

- (a) The state government should commit to not only basic legal facilities and services but to the broader concept of a justice precinct. This will require sufficient capital works funding for the establishment or relocation of appropriate services to implement this policy to meet the needs of outer metropolitan residents.
- (b) The state government should develop and institutionalise a broader notion of community justice. A justice precinct must include the establishment of a community justice centre with pre and post court support services for criminal matters. It should also encompass the facilities required to assist local residents to engage with the civil and administrative justice system.

RECOMMENDATION 5: NEW GROWTH AREAS

- (a) Local government in outer-metropolitan areas should develop and roll out plans to ensure that local residents can access their justice precinct easily. This could be achieved by linking the centrally located justice precinct to the local community centres, routinely established in new growth areas.

RECOMMENDATION 6: CONSUMER

- (a) VCAT civil jurisdiction should sit alongside every Magistrates' Court in outer metropolitan areas. A current example is for VCAT to be co-located with the Magistrates' Court in Werribee when it is rebuilt.
- (b) The state government statutory authorities and industry complaint schemes should devote the necessary resources to ensure local access for vulnerable consumers, especially where they lack the skills to complain online or on the telephone.

RECOMMENDATION 7: LIBRARY PROJECT

- (a) Outer-metropolitan and rural local governments should work with community legal centres to implement pilot programs addressing access to justice in libraries.
- (b) That the 'How to Complain (Online) Manual' or a similar guide, together with appropriate training for librarians, be made available in libraries in outer-metropolitan and rural areas.

RECOMMENDATION 8: DIGITAL INNOVATION

- (a) That community agencies, such as community legal centres, be resourced and trained to assist clients through the use of technological innovation.
- (b) State and local government should, where appropriate, offer technological solutions to overcome geographical barriers to access to justice. Specific purpose 'apps' should be developed to assist both targeted client groups (i.e. youth) and to address specific problems (i.e. family violence).

RECOMMENDATION 9: VIDEO-CONFERENCING TECHNOLOGY & WEBINARS

- (a) That community legal centres and community agencies be trained to use new technology to advise, assist and educate local residents in outer-metropolitan areas. Methodologies could include video and online conferencing.

RECOMMENDATION 10: MORTGAGE STRESS RESPONSE

Local government should, through the Municipal Association of Victoria, set up a working party with community legal centres, financial counsellors, welfare agencies and financial institutions to:

- (a) explore the development of an early-intervention strategy using rate default to identify and assist local residents in outer metropolitan areas suffering mortgage stress

- (b) assist financial counsellors and community legal centres to work with residents in-outer metropolitan areas identified as being in mortgage default and mortgage stress.

RECOMMENDATION 11: NEIGHBOURHOOD DISPUTE PARTNERSHIP

- (a) The Department of Justice Dispute Settlement Centre Victoria (**DSCV**) should work with community legal centres and local government to set up neighbourhood dispute partnerships designed to reduce the number of neighbourhood disputes and to encourage alternatives to the Magistrates' Court.

Background

'A day in Wyndham'

Positioned halfway between Melbourne and the regional city of Geelong, Wyndham is largely rural in character. Wyndham is centred on the residential areas around Werribee and Hoppers Crossing with substantial population growth occurring in Tarneit, Point Cook, Truganina and Wyndham Vale (new urban growth areas). Currently, many of the new housing developments located in the new urban growth areas (in the outer suburbs of Wyndham) are surrounded by open paddocks and lakes, isolated from anything that resembles a proper township.

The City of Wyndham, located in the outer south-western suburbs of Melbourne, is one of the six designated Victorian Interface Council growth areas, experiencing the largest and fastest growth in Victoria¹. The most recent Australian Bureau of Statistics (ABS) census data measured the city's population growth for the period 2011 to 2012 at 7.64 per cent (12,739 people) making Wyndham the fastest growing municipality in Victoria.² Further, the population grew by a staggering 45 per cent (55,660 people) over the period of 2007 and 2012.³ High population growth rates are estimated to continue into the immediate future, with the residential population estimated to exceed 245,000 people by 2021.⁴

Compared to metropolitan Melbourne averages, designated growth municipalities, such as Wyndham, are characterised by relatively low average incomes, poor educational and health outcomes, high unemployment rates and high levels of youth disengagement with regards to higher education and workforce participation.⁵

Traditionally, young families and new migrants have looked to Melbourne's metropolitan fringe in search of affordable housing and a pathway to home ownership. Accordingly, Wyndham is characterised by an above-average proportion of young people aged between 25 and 35 years old, with an average of more than 57 babies born a week⁶. Equally significant is Wyndham's cultural diversity. According to the 2011 census, approximately 39.3 per cent of Wyndham's population was born overseas⁷. Due to the rise in humanitarian entrants, the city is also made up of a significantly large number of refugee communities.

Compared to metropolitan regions, Wyndham is significantly under-provided for in terms of road infrastructure and public transport options. Wyndham's rapid growth has dramatically increased the number of vehicles and worsened traffic congestion on the suburban roads – roads that in many cases have been built more than 20 years ago to cope with far fewer residents. The lack of local jobs in the city, and a shortage of public transport options, has

¹ Wyndham City Council website, available at www.wyndham.vic.gov.au (accessed 18 September 2013)

² ABS website, available at www.abs.gov.au (accessed 11 September 2013)

³ Ibid

⁴ Ibid

⁵ One Melbourne or Two? Implications of Population Growth for Infrastructure and Services in Interface Areas (2013), Essential Economics Pty Ltd, pi

⁶ Inquiry into Livability Options in Outer Suburban Melbourne, Submission by Wyndham City Council (2011)

⁷ Census 2011, available at www.censusdata.abs.gov.au (accessed 12 September 2013)

also meant that residents are extremely reliant on their cars, creating significant congestion within the city and on all main roads joining Melbourne's Central Business District (**CBD**).⁸ In fact, ABS Journey to Work data for 2012 shows that only 5 per cent of workers located in outer metropolitan areas used public transport as their main mode of travel to work, as compared to 14 per cent for metropolitan regions⁹.

The lack of public transport options provided in the new growth areas, in particular, has already been flagged by the City of Wyndham as a serious concern. Although the distance between an outlying suburb such as Truganina and Werribee is less than 10 kilometres, only one bus runs every 40 minutes between the two centres. Therefore, it often takes a person more than two hours to reach the city centre, sometimes having to take two buses. The following are two such examples:

... one of our centre's members, an elderly lady of refugee background, has to walk one kilometre to the bus stop and often waits between 30-40 minutes for the bus in order to travel to Werribee to visit her doctors – Arndell Park community centre worker

... in attempting to use public transport to get to the Werribee Plaza [the closest major shopping centre], I had to take a bus to the train station. In order to do so, I had to walk for 10 minutes, through empty and muddy paddocks to get to one of two bus stops available in my suburb. I then took a 25-minute bus trip to the train station followed by a 5-minute train trip in order to take another 10-minute bus trip. It took me over an hour – Point Cook East resident

In response to Wyndham's rapid population growth and the re-zoning of the Urban Growth Boundary¹⁰, the Wyndham City Council has established large community centres across the municipality¹¹. Several of these community centres have been built in the more isolated growth areas of Wyndham, such as Truganina and Wyndham Vale, following new housing development initiatives. The majority of the community centres provide a range of programs and services focussed on child care, education, recreation and health. In addition, Council has invested in four local libraries, two of which are adjoined to community centres in Wyndham Vale and Point Cook.

'Access to justice in Wyndham'

In terms of a 'justice precinct', or traditional justice infrastructure in Wyndham, there are the Werribee Magistrates' Court of Victoria (**WMC**), Victorian Civil and Administrative Tribunal (**VCAT**) residential tenancy list (located in WMC) and the Werribee and Wyndham North police stations. There is no VLA office and only one CLC located in Werribee to service the whole of Wyndham. It is also worth noting that Wyndham is the midpoint between six major correctional facilities.¹²

⁸ One Melbourne or Two? Implications of Population Growth for Infrastructure and Services in Interface Areas (2013)

⁹ Ibid 63

¹⁰ Growth Areas Authority website, available at www.gaa.vic.gov.au (accessed 12 September 2013)

¹¹ A total of 15 community centres have been built in Wyndham; available at www.wyndham.vic.gov.au/residents/community/comcentres (accessed 12 September 2013)

¹² The six correctional facilities are Barwon Prison, Dame Phyllis Frost Centre, Port Phillip Prison, Metropolitan Remand Centre, Ravenhall (construction is expected to be completed by the end of 2017) and Marngoneet Correctional Centre.

The current WMC was built in 1980 to service a population of no more than 40,000 residents. With a current population of nearly 200,000 residents, the WMC has not changed since it was first established. The court is an old brick building with only two court rooms, a handful of staff and no wheelchair access. On a busy day when the court is full, it is common to see people sitting on the brick floors of the building or waiting outside in the open. In relation to the police stations, both the Werribee and Wyndham North stations are overcrowded and unable to accommodate existing police numbers or Protective Service Officers (**PSOs**).

The WLS is the only centre that is funded to provide community legal services in Wyndham. The role of a CLC is to provide free 'direct legal services to their clients, people who tend to be disadvantaged and generally, people who could not afford to pay for a lawyer in the private sector'¹³. CLCs generally do not have sufficient funding to address all of the individual legal need they encounter.¹⁴ The WLS office is located in the heart of Werribee and provides outreach legal services at the WMC and at several local youth services.

People living outside of the Werribee centre, where the majority of the new housing estates are located, find there are barely any legal or access to justice services provided. To this day, no outreach model has been identified as effective in delivering access to justice services to those isolated and outlying areas. Currently, people are expected to travel to the WLS or other justice service for assistance, which may mean spending hours waiting on the telephone to lodge a complaint or for people who do not speak English, being unable to access the service.

Furthermore, people from culturally and linguistically diverse (**CALD**) backgrounds, in particular those newly arrived communities who have difficulty with English, generally have a low awareness of available justice services and little understanding of the Australian legal system. More often than not, they may have lived in countries with a repressive government, unresponsive justice system or a compromised rule of law.¹⁵

With no access to a viable justice precinct in Wyndham, it is a strongly held view that unless a person is willing to travel to inner Melbourne, or in some cases Sunshine, the ability for outer-metropolitan residents to access justice is disproportionately lower than those in inner-city areas. Considering the demographics of those living in outer-metropolitan areas, such as Wyndham, there is even more of a need to make sure that access to justice is obtainable. The question of equality of the law for outer-metropolitan communities needs to be one of concern to all local, state and federal governments in Australia.

¹³ Rich N., Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realize theirs (2009), Victoria Law Foundation CLC Fellowship, p10

¹⁴ Ibid 10

¹⁵ A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), Access to Justice Taskforce, Attorney-General's Department, Commonwealth of Australia, p153

Methodology

The project materials derive from four principal sources: a literature review of relevant materials including the NSW Law and Justice Foundation's Legal Australia-Wide Survey (**LAW Survey**)¹⁶; interviews and consultations with local residents and staff of various public and community organisations in Wyndham including state and local government members, Magistrates' Court, Victoria Police, VLA, as well as some public interest law academics at Deakin University, Geelong Campus; surveys and questionnaires; and casework.

The report encompasses our findings and recommendations for the improvement of access to justice, with particular reference to the establishment of justice precincts, in outer metropolitan areas. The term access to justice referred to in this report follows the definition found in the Australian Government's Strategic Framework for Access to Justice:

Access to justice [is] about dispute resolution and prevention. Access to justice goes beyond access to courts, tribunals and lawyers. It's also about access to information, support and opportunities and about having a fair and equitable experience in everyday life.¹⁷

The report is divided into three main sections. Part A "Infrastructure and service deficiencies in outer-metropolitan areas" explores some of the barriers and gaps in terms of accessing justice in Wyndham and outer-metropolitan areas in general. In particular, this section discusses the concept and features of a justice precinct and provides a summary of key requirements needed to establish a successful justice precinct model.

Part B "Common legal problems in outer metropolitan areas" considers the areas of legal need in the city of Wyndham including needs that are being met by existing services and those that are not. We have endeavoured to provide some information about the recurring problems experienced and we have provided summaries of our observations regarding the disproportionate impact those legal issues are having on people living in outer-metropolitan areas. But we acknowledge that these observations are just a starting point and without further research. We would be reluctant to say what the exact impact is in an outer metropolitan area like Wyndham.

While the scope of this research is broad, it does not presume to identify all common legal problems experienced by people living in Wyndham and more broadly, outer-metropolitan areas. For example, no section is included on welfare because we saw relatively few welfare cases and believe we have not seen enough casework to draw informed conclusions about those issues that are having a particular impact on Wyndham residents.

Part C "Innovative Solutions" identifies new access points in terms of delivering justice to outer-metropolitan areas and proposes new service delivery models targeting those areas. In most cases, the outreach models discussed in this section of the report have been

¹⁶ Incorporating 20,716 interviews across Australia, the LAW Survey is the largest legal needs survey to date conducted anywhere in the world; Legal Australia Wide Survey: Legal Need in Victoria (2012) , Access to Justice and Legal Needs, NSW Law and Justice Foundation, available at www.lawfoundation.net.au (accessed 19 September 2013)

¹⁷ A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p4

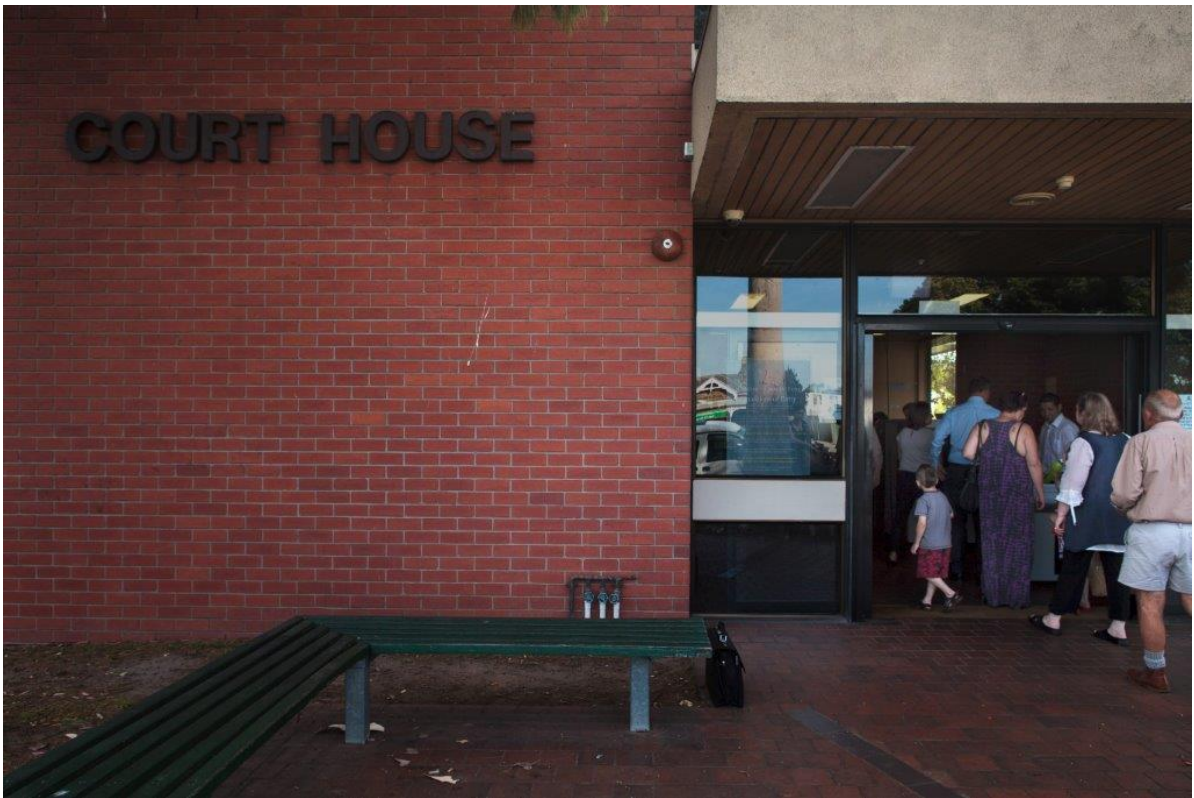
developed and piloted by the WLS and or other organisations responsible for the delivery of access to justice services.

For the purposes of this report, the City of Wyndham has been chosen to represent an outer-metropolitan council area, however, many issues identified in this report also exist in other outer-metropolitan areas across Victoria such as Casey, Cardinia, Hume, Melton, Mitchell and Whittlesea.

Many issues highlighted in this report are reflective of systemic failures affecting a large number of low - and medium - income Victorians living in outer-metropolitan areas and, as such, have broader policy implications.

PART A

INFRASTRUCTURE AND SERVICE DEFICIENCIES IN OUTER METROPOLITAN AREAS



Final sitting day 2013,
Werribee Magistrate's Court, Werribee

1. The need for a ‘justice precinct’

People have a variety of needs in relation to access to justice and are often forced to travel to inner-city areas with little or no public transport options available. Most people living in inner-metropolitan regions have access to some form of a justice precinct. On the other hand, limited service provision remains a key issue in all outer-metropolitan areas especially in terms of justice services. By simply providing limited outreach services in these areas, governments are failing to meet the needs of the rapidly growing population and putting more stress on those who live in outer-metropolitan areas (often due to affordable housing options).

In addition, hundreds of thousands of ordinary residents communicate with the justice system every day without entering a court, police station or prison. A frequent mistake of governments is to narrowly define access to justice as access to courts, police stations and prisons. Access to pre- and post-court services in relation to mental health, drug and alcohol, gambling and other services are now an integral part of the justice system and need to be as accessible as the traditional justice infrastructure.

In order to provide justice for all people in Victoria, whether a person lives in an inner-city, outer-suburban or rural area, each municipality must have access to a viable integrated ‘justice precinct’. The development of a justice precinct must feature:

- a contemporary standard Magistrates’ Court and VCAT
- VLA office
- a contemporary standard police station and other Department of Justice agencies, and
- a community justice centre, in close vicinity to each another.

In some cases, such as the Neighbourhood Justice Centre (**NJC**) in Victoria, the court or tribunal and other public justice services are located within the community justice centre (see section 6 of this report).

Evaluations of integrated community justice precincts around the world including Victoria’s NJC, show they contribute significantly to improvements in the quality of life in the local and surrounding areas, by reducing crime and saving taxpayers’ money.¹⁸ A previous study by a consortium – including Melbourne University – found the NJC reduced recidivism, was involved in reduced crime across the City of Yarra and provided a benefit of between \$1.09 and \$2.23 for every dollar spent.¹⁹ The NJC has been found to reduce recidivism from 46 per cent to 34 per cent, increase

¹⁸ In 2012, the state government commissioned KPMG to assess the cost benefit of the NJC, but has not released the findings of the report. However, the NJC was given ongoing funding of \$4,000 a year in the 2013-2014 state budget, after its short term funding expired

¹⁹ Price N., ‘Justice centre cuts crime: long-term funding secured for cost-effective service’, Melbourne Leader (30 September 2013), p3

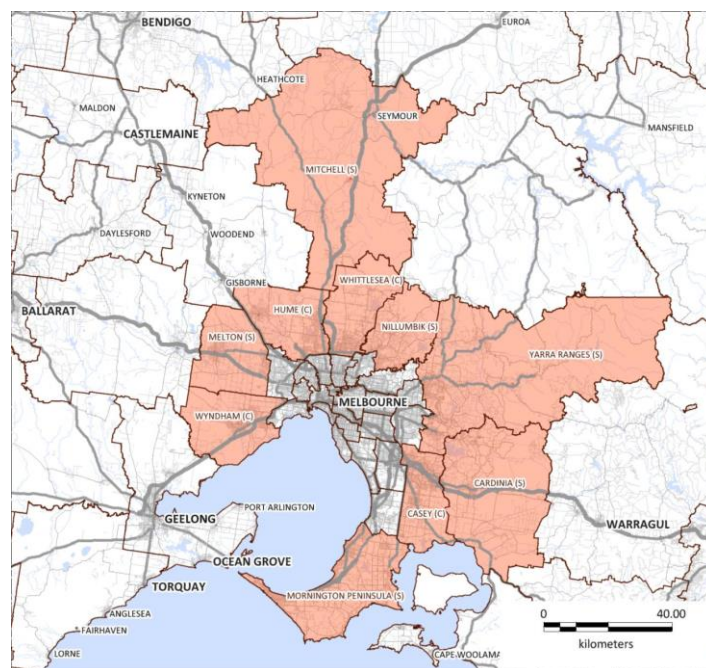
compliance with community orders to 77 per cent (an 11 per cent increase) and the overall City of Yarra crime rate fell by 28 per cent between 2007 when the NJC opened and 2011.²⁰ Attorney-General Robert Clark's spokesman James Copsey said the centre played a "valuable role as an innovation hub to pioneer and pilot reforms that can be applied more broadly across the court system."²¹

It is worth noting that if a municipality has easy access to an existing justice precinct nearby, there may be less of a need to develop a justice precinct within that city. This will require an assessment of a municipality's population, access to adequate public transport options and connections and road infrastructure.

2. Definition of outer metropolitan areas

Outer-metropolitan areas in Melbourne are defined by geography and, in particular, by location relative to the CBD. In a geographical sense, outer-metropolitan areas could be thought of as a doughnut-shaped ring that bridges the inner and middle city with the hinterland.²² As such, the character combines both urban and rural elements. Examples of outer metropolitan areas include, Cardinia, Casey, Hume, Melton, Mitchell, Whittlesea and Wyndham.

Figure 1: shows the location of outer-metropolitan areas with reference to metropolitan Melbourne and surrounding hinterlands.



Source: Essential Economics Pty Ltd

²⁰ Ibid 3

²¹ Ibid

²² One Melbourne or Two? Implications of Population Growth for Infrastructure and Services in Interface Areas (2013), p3

As Melbourne's population increased by approximately 605,000 people over the past decade, it has created a significant demand for new housing and placing new growth pressures especially in outer metropolitan areas.²³ As a result, the state government has made successive changes to the city's urban growth boundary.²⁴

The trend of outer-metropolitan areas to do the 'heavy lifting' in terms of facilitating population growth is expected to continue to 2026.²⁵ These areas are anticipated to accommodate at least 60 per cent of the city's population growth over the coming 15 years.²⁶

Traditionally in Victoria, young families and newly arrived communities have generally settled in the urban fringe due to affordable housing. Today, these areas continue to provide relatively lower-priced land and housing, ensuring that sufficient quantities of affordable housing are still available.

It is worth noting that diversity still exists within the outer-metropolitan areas and that each municipality is far from being the same as each other. For example, differences exist because of their location in respect to different sides of the CBD, their different histories and their different local economies.²⁷ However, the Interface Councils of Melbourne, a consortium of outer-metropolitan local government authorities, have come together with a strong common interest in urban development, planning issues and to ensure their communities do not get overlooked simply because they have a mixed identity of urban and rural characteristics.

In February 2013, the consortium released a report, *'One Melbourne or Two?'*²⁸ The report identifies long-term infrastructure and service requirements for the Interface Councils and can be read alongside this report.

3. Werribee Magistrates' Court and VCAT

Facilities and security

It is a commonly held view within Wyndham that the WMC has outgrown its current useful life and is now a security risk for the public. The WMC was built in 1980 to service a population of up to 40,000 residents. With a current population of nearly 200,000 residents, the WMC has not grown since it was first established. On a busy day when the court is full, it is common to see people sitting on the brick floors of the building or waiting outside in the open. Tim Pallas, the local state MP, has said:²⁹

²³ Ibid 2

²⁴ Ibid 2

²⁵ Ibid 5

²⁶ Ibid 5

²⁷ Ibid 4

²⁸ Ibid 1-87

²⁹ Tim Pallas MP, 'What Wyndham needs in this year's state budget' (media release, 17 April 2012)

The court is under-resourced for the number of cases it sees, with only two courtrooms and four staff, with very little capacity to meet security needs, be accessible to people with a disability or provide private and comfortable space to meet with legal and community services. It needs a new building to properly meet the complex needs of a large community.

In addition, consideration must be given to specific building and safety requirements for victims of family violence and crime, such as a 'Protected Persons Space' and remote witness facilities. Currently, if a person is highly vulnerable and requires a remote witness facility, their matter is adjourned to the Sunshine Magistrates' Court. Another CLC – Eastern Community Legal Centre – has undertaken extensive work in the Ringwood Magistrates' Court regarding this issue.³⁰ As a result, several reports have been published and should be read alongside this report.

In 2011, The Wyndham City Advocacy Strategy – "Working For Our City Needs"³¹ was adopted. The strategy refers to the need for a better court facility in Wyndham as a community health, wellbeing and safety issue.³² An objective is to pursue the development of 'new and expanded, multi-purpose, multi-jurisdictional court facilities'³³.

Court support and assistance services

The WMC is unable to cope with the volume of work generated locally and no capacity to accommodate any court-related support services. Court support staff consists of a handful of people and no Court Network Services³⁴. With the exception of the Family Violence Division operating one day a week, there are no support agencies or services to assist at the WMC. The two support staff that are available at the Family Violence Division are only able to assist applicants and not respondents.

Due to a lack of staff and resources, it is often the case that WMC users are sent to the local CLC to get help filling in their court forms. In almost all other Victorian Magistrates' Courts (metropolitan, outer-metropolitan and regional courts), it is the court Registrar's responsibility to help court users complete court documentation (i.e. family violence application forms). This is not being critical of the court staff, rather, it acknowledges the difficulties and workload they face on a day-to-day basis.

We have been told by the WMC that the reason for the absence of the Court Network Service is solely due to the lack of space.

³⁰ St Kilda Legal Service is another CLC that has conducted extensive research in this field and should be consulted alongside Eastern Community Legal Centre

³¹ Wyndham City Advocacy Strategy, 'Working For Our City Needs' (updated March 2013), available at www.wyndham.vic.gov.au (accessed 12 September 2013)

³² Ibid 13

³³ Ibid 13

³⁴ The Court Network Service was established in 1980, to address a gap in the justice system for a service providing support, information and referral. Court Network is a unique court support service operating throughout Victoria and Queensland, solely concerned with the needs of the court users. It operates in metropolitan courts and in the regional courts of Gippsland, Geelong, Ballarat, Bendigo and Echuca, Warrnambool, Wangaratta, Wodonga, Mildura and Shepparton.

Specialist courts and court support programs

There are currently 54 Magistrates' Court (**MC**) locations throughout Victoria, yet the roll out of specialist courts and court related programs are limited to a relatively small number of metropolitan and larger outer metropolitan courts (e.g. Sunshine Magistrates' Court).

For example, the following is a list (non-exhaustive) of specialist courts and programs and their locations³⁵:

- *Court Integrated Services Program (CISP)*. A multi-disciplinary team-based approach to the assessment and referral to treatment of defendants.
 - Available: Melbourne MC, Sunshine MC, La Trobe MC
- *Assessment and Referral Court List (ARC)*. A specialist court list to meet the needs of accused persons who have a mental illness and/or a cognitive impairment. ARC works collaboratively with the Enforcement Review Program.
 - Available: Melbourne MC
- *Mental Health Court Liaison Service (MHCLS)* determines the presence or absence of serious mental illness and provide feedback based on these assessments to the Court.
 - Available: Melbourne MC, Ringwood, Heidelberg, Dandenong, Frankston, Broadmeadows, Sunshine MC, Geelong MC, Shepparton MC, Bendigo MC, Ballarat MC, Latrobe Valley MC
- *The Enforcement Review Program (ERP)* assists members of the community who have 'special circumstances' and outstanding fines registered at the Infringements Court. The Program enables the Court to impose outcomes that reflect the circumstances of the offending.
 - Available: Melbourne MC
- *Neighbourhood Justice Centre (NJC)* combines a court with a variety of treatment and support services such as mediation, legal advice, employment and housing support, counselling and mental health services.
 - Available: Collingwood
- *Drug Court* focussing on the rehabilitation of offenders with a drug and alcohol dependency.
 - Available: Dandenong MC
- *Credit Bail Support Program* provides clients with a range of programs while on bail.

³⁵ Magistrates' Court website, available at www.Magistrates'court.vic.gov.au (accessed 22 August 2013)

- Available: Ballarat MC, Heidelberg MC, Broadmeadows MC, Dandenong MC, Frankston MC, Geelong MC, Moorabbin MC, Ringwood MC

The availability of these specialist courts and court support programs may 'mean the difference between gaining the benefit of Magistrates' with specialist understanding of the issues being dealt with and a quality outcome.'³⁶ According to the submission by Richard Coverdale to the State Parliamentary Inquiry into the Extent and Nature of Disadvantage and Inequity in Rural and Regional Victoria:

Limited or no access to specialist Magistrates' Courts, court based services and programs and external services utilised by courts, impact on the quality of justice and justice system outcomes, depending on where you live.³⁷

Those participating in court hearings within smaller outer-metropolitan, regional or rural towns, unable to access these services or programs or are required to travel to attend specialist jurisdictions, are, therefore, more likely to be significantly disadvantaged.³⁸

Without access to the MHCLS or the ERP at the WMC, people with mental illness are unlikely to be recognised as requiring specialist support. One practitioner regularly acting as a Duty Lawyer at a rural Magistrates' Court provided an example of the consequences of limited resources³⁹. Often dealing with 20-30 duty lawyer cases in a day, he stated that⁴⁰:

Clients with a mental illness, particularly itinerant workers, may not be recognised by me or the courts as requiring specialist support and without access to the MHCLS, they can be on a treadmill of conviction and sentencing, over and over without ever accessing appropriate interventions. For those attending Melbourne MC, outcomes for people with a suspected mental illness using duty lawyer service can be very different.

The Wyndham City Council also recognises the inequity of the services and programs offered at the Werribee Magistrates' Court compared to inner-metropolitan courts and have included as a strategy objective to '[p]ursue better court support services'⁴¹.

As a result of the Inquiry into the Extent and Nature of Disadvantage and Inequity in Rural and Regional Victoria, the Committee's Key Recommendation 7 states that the:

³⁶ Coverdale R., 'Postcode Justice: Rural and Regional Disadvantage in the Administration of Law in Victoria' (2011), Centre for Rural Regional Law and Justice, Deakin University

³⁷ Coverdale R., 'Submission to the Inquiry into the Extent and Nature of Disadvantage and Inequity in Rural and Regional Victoria' (2010), Rural and Regional Committee, Deakin University p4

³⁸ Ibid 12

³⁹ Coverdale R., 'Postcode Justice: Rural and Regional Disadvantage in the Administration of Law in Victoria' (2011), p39

⁴⁰ Ibid

⁴¹ Wyndham City Advocacy Strategy, 'Working For Our City Needs' (updated March 2013), 7.5 Community Health, Wellbeing and Safety, p13

State Government further examine and respond to concerns raised before the Rural and Regional Committee during this inquiry. In particular...(j) Current strategies to ensure access to rural and regional Magistrates' Court participants at locations which do not have access to specialist courts and court programs available at larger centres.⁴²

VCAT

The VCAT operates in Wyndham from Monday to Wednesday out of the WMC. VCAT does not have its own building and relies heavily on extra space provided by WMC. All VCAT matters in Wyndham relate to tenancy only. The vast majority of civil, consumer, credit, guardianship, discrimination, planning and owners corporation matters are heard before VCAT in Melbourne's CBD.

For further discussion regarding the presence of VCAT in Wyndham, see section 9.5 and Recommendation 6 of the report.

Recommendation 1:

- (a) Access to justice for ordinary people is delivered through a range of services provided at a local Magistrates' Court. The State Government should provide access to specialist courts and court support services to residents in the outer metropolitan areas.

4. Victoria Legal Aid office

The Australian Senate Legal and Constitutional References Committee has found that various groups are particularly restricted in gaining access to justice due to factors like remoteness from mainstream legal services. The report identified Legal Aid in outer-metropolitan, regional, rural and remote Areas as a group experiencing problems accessing the justice system.⁴³

There is no VLA office in Wyndham. A person living anywhere in the western suburbs of Melbourne, including Wyndham, is expected to travel to the Sunshine Legal Aid office. For many of our low income clients with family or criminal law matters, representation is mostly provided by VLA duty lawyers. Duty lawyers in the western suburbs are also based at the Sunshine Legal Aid office with no outreach available in either Werribee or Melton. This lack of access is a tremendous disincentive to clients seeking timely advice before hearings, especially for those who rely on public transport and are unlikely to travel the distance to Sunshine.

⁴² Rural and Regional Committee, Inquiry into Extent and Nature of Disadvantage and Inequity in Rural and Regional Victoria, Final Report (2010), Parliamentary Paper No. 385, Key Recommendation 7 (j) p359

⁴³ Senate Legal and Constitutional References Committee, Legal Aid and Access to Justice (2004), Senate Printing Unit, p1; See also Noone M. A. and Curran L., 'Access to Justice Research in Australia' (2005), School of Law and Legal Studies, La Trobe University, Melbourne, Australia

It is worth noting that in order to travel from Werribee to Sunshine on public transport, a person must first catch the train to Footscray and then catch another train to Sunshine.

According to a youth justice research project conducted by our service, the majority of youth legal services provided in the western suburbs are provided at the door of the court, usually involving a 10-minute interview with a duty lawyer, five minutes before a hearing.⁴⁴ Meetings with a duty lawyer at court are generally rushed and it is often the case that a young person is unaware of the outcome of their matter including their legal responsibilities. For example, many young people would have no idea they were breaching their bail conditions because they were not aware they were on bail.⁴⁵ Some may receive a letter from their duty lawyer at some point after their hearing, however, many do not receive any correspondence at all. The idea that there is virtually no assistance or preparation for lower income cases before the day of hearing is not acceptable.

In response to the above, a 'Roundtable on Access to Justice at Court' was held by Wyndham City councillors in August 2012, attended by representatives from Sunshine VLA as well as other legal and community organisations. The roundtable showed widespread local support for the VLA Sunshine office to conduct two days a week outreach in Werribee, possibly at one of Council's premises.

Recommendation 2:

- (a) A Victoria Legal Aid office (**VLA**) should be located near or incorporated in to all major Magistrates' Court venues in outer metropolitan areas. A current example is the need to establish a Werribee VLA office when the Magistrates' Court is rebuilt.

5. Department of Justice

5.1 Police station

The City of Wyndham has two police stations; the Werribee Police Station and; the Wyndham North Police Station, which is located in Tarneit. The Werribee Police Station is closest in proximity to the largest population of prisoners in Victoria.

The Werribee Police Station is a 24-hour police station, while the Wyndham North Police Station is a 16-hour police station. When Wyndham North Police Station is closed, Werribee Police Station is responsible for the whole of Wyndham; from Little River to the boundaries of Melton, to the boundaries of Laverton and includes Point Cook.

⁴⁴ Moore S., 'An Invisible Demographic: Youth and the Law in Melbourne's West' (2012), Wyndham Legal Service Inc. (Victoria Law Foundation Report), p15

⁴⁵ Ibid 15

According to Inspector Damien Christensen, both police stations have exceeded capacity and are unable to accommodate existing police numbers and PSOs. The Wyndham North Police Station, although recently built, is already being extended on a small block with little parking space. It remains a 16-hour station as the additional staff is needed to work the nightshift on the road and not in the Watch House.

There are no police jails at either station but each have limited holding cells for the purpose of short-term custody of intoxicated persons, persons pending interview or transfer. This means that too often, local residents who have problems with alcohol, drugs, mental health issues and short term bail requirements are unable to be housed and dealt within their local community. It is often the case that residents are transported to inner-city Melbourne overnight (putting extra pressure on police resources and safety concerns).

Inspector Christensen has also indicated that numerous occupational health and safety issues exist in the Werribee station including glass windows in the custody area and only one passage through the station, which means all persons need to walk through the custody area.

It should be noted that the location of the WMC is some distance from the police station and several issues have been raised in relation to security of the public and police during court sessions.

Recommendation 3:

- (a) The state government should provide residents in outer metropolitan areas with a safe, contemporary standard police station. A current example is the critical need to establish a new police station in Werribee located close to the Magistrates' Court, in order to meet the needs of the growing population.

5.2 Werribee Justice Service Centre

In early 2013, the Department of Justice opened the Werribee Justice Service Centre, offering access to a range of different justice services at one location.⁴⁶ Services offered at the centre include Consumer Affairs Victoria, Births, Deaths and Marriages, Sheriff's Operations and Community Correctional Services. A feature of the centre is that it is close to other government agencies including Medicare, Centrelink and CRS Australia, a disability employment service.

Although the centre offers a one-stop shop for justice services, it must also work in partnership and collaboratively with community services and other local agencies to form part of a 'successful' justice precinct.

⁴⁶ Some agencies provide limited services from the Werribee Justice Service Centre.

6. Community Justice Centres

As access to justice infrastructure has failed to keep up with growth in Wyndham, another option that is under discussion is the development of a 'Justice Precinct' within Wyndham.⁴⁷ The city has suggested that the precinct will feature a new police station, courtrooms and emergency services hub, while the Wyndham Police Inspector is quoted as saying it was "inevitable that a justice precinct will be built in Wyndham, a new police complex with a large court system"⁴⁸. Tim Pallas, the local state MP, has said:

The development of the Wyndham Justice Precinct is also needed to adequately and efficiently address the needs of the community. If the Werribee Magistrate's Court were rebuilt and placed closer to the police station, resources would be used far more efficiently⁴⁹.

However, hundreds of thousands of ordinary residents communicate with the justice system every day without entering a court, police station or prison. A frequent mistake of state government is to narrowly define access to justice as access to courts, police stations and prisons. This narrow conception of what constitutes a justice precinct is problematic and it is useful to look at other justice precinct models such as community justice centres, for guidance to what makes a 'successful' justice precinct. Internationally, community justice centres are:

designed both to help defendants solve the problems that underlie their criminal behavior and to hold them accountable for the specific incidents that brought them to court; they consult with local stakeholders to set and accomplish priorities; they are proactive in preventing crime rather than merely responding once crime has occurred; they bring criminal justice agencies (courts, prosecutors, defense attorneys, and police) into close coordination to address community issues; and they strive to create an atmosphere which is conducive to engaging communities, defendants and other litigants.⁵⁰

Victoria's only NJC was established in the City of Yarra in 2007 as a 'one-stop shop' of community justice — dedicated to therapeutic jurisprudence⁵¹ and comprising a court with essential client services such as drug and financial counselling.⁵² Other onsite services include Aboriginal and Torres Strait Islander support services, court support, employment and training support, victims' support, general counselling, housing support, mediation, mental health assessment and youth support services.⁵³

⁴⁷ Wyndham City Advocacy Strategy, 'Working For Our City Needs' (updated March 2013); Alesha Capone, 'Time for Justice' Werribee Star, 21 June 2011; Alesha Capone, 'Call for Wyndham jobs support' Werribee Star, 8 November 2011; Victoria, Parliamentary Debates, Legislative Assembly, 26 October 2011, 4878 (Tim Pallas)

⁴⁸ Alesha Capone, 'Time for Justice' Werribee Star, 21 June 2011

⁴⁹ Tim Pallas MP, 'What Wyndham needs in this year's state budget' (media release, 17 April 2012)

⁵⁰ Frazer M. S., 'The Impact of the Community Court Model on Defendant Perceptions of Fairness' (2006), p4

⁵¹ Wexler D. B., 'The Development of Therapeutic Jurisprudence from Theory to Practice' (1999) 68 *Revista Jurídica de la Universidad de Puerto Rico* 690.

⁵² Rob Hulls, 'Success of Victoria's First Neighbourhood Justice Centre', *Vic Bar News* (Melbourne), 1 May 2007, 9.

⁵³ Department of Justice, 'Welcome to the Neighbourhood Justice Centre' (2012), available at www.neighbourhoodjustice.vic.gov.au/ (accessed 19 September 2013)

As Chan observes, 'Considering some clients also battle short-term memory problems from years of mental illness or drug abuse, the convenience of the NJC as a 'one-stop shop' is unparalleled and clients have no excuse to avoid their drug counsellor if they come to see their employment coordinator.'⁵⁴ Similar 'problem-solving courts' exist in the United States,⁵⁵ Canada,⁵⁶ the United Kingdom⁵⁷ and New Zealand.⁵⁸ These courts have faced some criticism, with research suggesting disparate impacts of problem-solving courts on minority families,⁵⁹ undermining of traditional notions of justice⁶⁰ and legitimacy⁶¹ and inequitable access across communities⁶². Murray notes a number of advantages of local/neighbourhood services, including using and gaining local knowledge, allowing for community participation and integration, providing more holistic services.⁶³

Another example of a justice precinct is located in Sunshine. This justice precinct encompasses the Magistrates' Court, VLA office, police station and the Visy Cares Hub. The Visy Cares Hub is managed by the Youth Junction Inc. and was established in 2006 in response to a growing need to consolidate youth services⁶⁴. Much like the NJC, the Visy Care Hub provides pre and post court support services to anyone under 25 years of age. The Hub contains several community agencies, including the local CLC, crime prevention and safety programs, housing support, education and training support, mental health counselling, drug and alcohol counselling and support, ethno-specific support services and Centrelink.⁶⁵

Internationally, a leading justice precinct/community justice centre is the Red Hook Community Justice Centre in Brooklyn, New York. Opened in April 2000, the court serves three police precincts in South Brooklyn. In addition to a community advisory board, the court has the Red Hook Public Safety Corps; Red Hook Youth Court; Red Hook Youth Baseball League; bi-annual door-to-door community conditions survey and open houses.

⁵⁴ Chan E. H-Y., 'Evaluating Therapeutic Jurisprudence' (2012) 37(4) *Alternative Law Journal* 274, 275.

⁵⁵ See eg Downtown San Diego Community Court, Citywide Community Courts, San Francisco Community Justice Center, Harlem Community Justice Center, Seattle Community Court, Downtown Austin Community Court.

⁵⁶ See eg Downtown Community Court (Vancouver). See further Slinger E. and Roesch R., Problem-solving courts in Canada: A review and a call for empirically-based evaluation methods (2010) 33(4) *International Journal of Law & Psychiatry* 258.

⁵⁷ See eg North Liverpool Community Justice Centre.

⁵⁸ See Brownsville Community Justice Centre.

⁵⁹ Spinak J. M., A conversation about problem-solving courts: Take 2 (2010) 10(1) *University of Maryland Law Journal of Race, Religion, Gender & Class* 113.

⁶⁰ Blom B. B., Galbo-Moyes J. and Jacobs R., 'Community voice and justice: An essay on problem-solving courts as 'a proxy for change' (2010) 10(1) *University of Maryland Law Journal of Race, Religion, Gender & Class* 113.

⁶¹ Murray S., 'Keeping it in the neighbourhood? Neighbourhood courts in the Australian context' (2009) 35(1) *Monash University Law Review*, p67.

⁶² Coverdale R., 'Postcode justice: Rural and regional disadvantage in the administration of the law' (2011) 16(1) *Deakin Law Review* 155; Lanni A., 'The Future of Community Justice' (2005) 40 *Harvard Civil Rights – Civil Liberties Law Review* p359.

⁶³ Murray S., 'Keeping it in the neighbourhood? Neighbourhood courts in the Australian context' (2009) 35(1) *Monash University Law Review* p67.

⁶⁴ Youth Junction Inc. website, available at www.youthjunctioninc.net.au (accessed 18 September 2013)

⁶⁵ Ibid

Red Hook is one of many problem-solving courts led by advisory boards comprising both judicial officers and representatives of community-based services. Understanding the governance and advisory roles of these organisations will be an important part of establishing a justice precinct in Wyndham, learning how justice services can use the expertise of community services to provide more appropriate services and effective outcomes.

Many comparable courts also undertake community legal education (**CLE**), which has always been a feature of CLCs' work, but not a focus of court services. Integrated justice precincts are centred around engaging the public in finding justice solutions which operate within and with the help of the broader community network⁶⁶. Understanding the community development and educative functions of existing models (which aren't features of the existing Victorian NJC) would provide a useful guide for the development of a similar service in the City of Wyndham.

Understanding the accessibility and design elements of a justice precinct is also important:

The Justice Precinct is a particularly intriguing type of civic complex, as it draws together a comprehensive societal cross-section on a daily basis. It must accommodate this diverse population off a visibly equitable basis. It caters to those experiencing their best and worst possible days, and to those just going about their day-to-day business. The highly charged and emotionally volatile nature of the events that take place there means that its accessibility as a public place has to be balanced with the need to provide safe passage for those appearing, defending, prosecuting, deliberating and adjudicating.⁶⁷

Pre and post court support services

Major features of community justice centres are pre- and post-court support services. Support and assistance before and after a court hearing is as important as during a hearing and can easily affect the quality of access to justice. The court experience can be a very stressful and traumatic experience and having support through this process is invaluable, not only on an emotional level but with respect to legal outcomes.

Accessing legal advice or financial counselling prior to an application of court proceedings may mean the difference between going to and avoiding court. For example, a financial counsellor located in the community justice centre can assist a person who is making an application for the relief of non-payment of fines.

Many people are also uneducated about the role of the lawyer, prosecutor, magistrate and court rules in general. In terms of pre-court support and information about court processes such as dress attire and court etiquette, should be provided to a person before their day in court. Pre-court support for some people can also mean

⁶⁶Rottman D., Casey P. and Efke H., Court and Community Collaboration: Ends and Means – A Discussion Paper (1998)3

⁶⁷Harding L., 'Parramatta Justice Precinct' (2009) 98(5) *Architecture Australia*, p76

better legal and sentencing outcomes. For example, a young person who turns up to court nicely dressed and well informed about court rules, is likely to be judged more favourably than if he/she appeared in a singlet showing off his/her tattoos and a baseball cap.

In addition, many people faced with a legal problem will exit the justice system following the determination of their matter by a court. However, this may not necessarily mean that their legal problem is resolved.⁶⁸ Some may have difficulty understanding and therefore complying with new obligations determined by the court.⁶⁹ For instance, many young people would have no idea that they were breaching their bail conditions because they were not personally aware they were on bail. For others, the resolution of an immediate legal problem may have no effect on the underlying cause of the problem.⁷⁰ These persons would benefit significantly from post court support services.

A post-court support service involves providing advice to people after the outcome of their case is determined. For example, they make sure that a person is aware of their rights and responsibilities. The Family Court of Australia has introduced an element of post court support for cases involving children through its Child Responsive Program⁷¹. As part of this program, at the conclusion of a matter, the judge may refer the parties to meet with a family consultant who can help them understand the orders and how they will be implemented.⁷² Another example of a post-court support service is a recent pilot program called 'Court Order Helper', conducted by Su Robertson and the Footscray Community Legal Centre. The pilot involves law students attending the Werribee and Sunshine Magistrates' Courts to assist unrepresented defendants to help them understand the outcome of their hearing. The students provide information only and do not provide legal advice unless supervised. For example, students may explain bail conditions, the processes involved in paying fines, interlock processes or getting a driver's licence back.

Access to the civil and administrative justice

There are some limited services available through both the WMC and VCAT but by and large, most civil and administrative disputes are dealt with through specialist tribunals and organisations based in the Melbourne CBD. These services can often be accessed by internet or email but that requires the complainant to be able to self-represent. A community justice centre can provide assistance and support to people who need to access the civil and administrative jurisdiction.

⁶⁸ A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p151

⁶⁹ Ibid 151

⁷⁰ Ibid 151

⁷¹ See Family Law Courts website, available at

www.familylawcourts.gov.au/wps/wcm/connect/FLC/Home/About+Going+to+Court/Family+Court+of+Australia+pathways/FCoA+pathways+CRP (accessed 24 September 2013)

⁷² A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p152

For example, if a person has fallen into arrears on their mortgage repayments due to financial hardship, a complaint lodged to the Financial Ombudsman Service (**FOS**) is all that is necessary to stop or suspend legal proceedings. A pre-court support service can enable a person to make an on the spot complaint to prevent any further legal action, prior to speaking to a lawyer or financial counsellor.

Another example involves a person who has a Centrelink or taxation issue and needs to lodge a complaint with the Federal Ombudsman service. A pre-court support service in the community justice centre can assist a person to lodge the complaint and prevent an immediate bankruptcy application from occurring.

While these services may be accessed via a CLC, Member of Parliament or a financial counselling service, a true justice precinct needs to contain a bank of computers with human resource support available to residents to assist them to engage with any part of the state or federal justice system. Therefore, in order to provide effective pre- and post-court support services, an accessible computer room or 'hub' should be located within a community justice centre.

Recommendation 4:

- (a) The state government should commit to not only basic legal facilities and services but to the broader concept of a justice precinct. This will require sufficient capital works funding for the establishment or relocation of appropriate services to implement this policy to meet the needs of outer-metropolitan residents.
- (b) The state government should develop and institutionalise a broader notion of community justice. A justice precinct must include the establishment of a community justice centre with pre- and post-court support services for criminal matters. It should also encompass the facilities required to assist local residents to engage with the civil and administrative justice system.

7. Further issues for isolated suburbs

7.1 Public transport

Case Study 1:

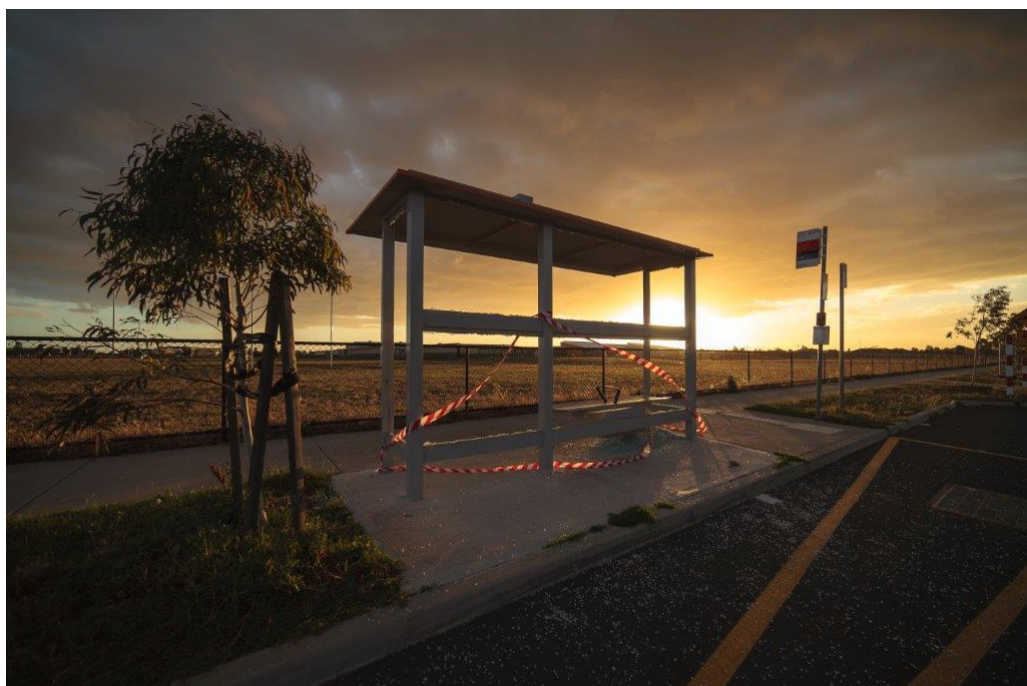
Tarneit to WLS

The only mode of public transport in Tarneit is the local bus. The bus stop is approximately a 20-minute walk from the centre of Tarneit. The bus travels direct to Hoppers Crossing railway station or the Werribee Plaza. Therefore, in order to reach the WLS in the centre of Werribee, a person would have to then catch another train or bus to the Werribee Train Station.

Although the distance between Tarneit and the WLS is less than 10 kilometres, it often takes two hours to commute using public transport.

A further problem for people living in Wyndham's outlying suburbs (new growth areas), in terms of access to justice, is the lack of public transport options. This is more inherent in new growth areas and housing estates that are increasingly distant from train stations and bus terminals.

Currently, the local bus is the only public transport available in Wyndham's new growth areas. For a person living in any of the new housing estates in say Wyndham Vale or Tarneit, it can take anywhere between one and two hours to reach the centre of Werribee. According to several workers in the community centres, unless a person has access to a car, it is unlikely they will make the trip using public transport.



Bus stop, Manor Lakes, Wyndham

We have seen numerous cases where clients are unable to attend interviews, court hearings and have missed important department appointments due to extensive gaps and delays in public transport.

There have been some developments towards servicing these new growth areas with more accessible public transport. There has been the creation of a new metropolitan train station at Williams Landing which is nearer to the new suburbs of Truganina and Point Cook. There has also been the emerging development of the Regional Rail Link⁷³ which will connect some of the more remote and outlying suburbs of Wyndham to the Melbourne CBD, namely Tarneit and Wyndham Vale. However, the Regional Rail Link will not provide services between the new growth suburbs and the existing train stations in Wyndham (i.e. Werribee or Hoppers Crossing train stations).

This will alleviate some of the burden travelling directly to inner-city Melbourne, however, it does little to improve access to public transport options within Wyndham, which provides for more local services. While the Regional Rail Link will be an improvement, it is not available yet, and may not be for some time.

7.2 Gaps in service provision

There is little evidence of service provision in terms of accessing justice in the new growth areas of Wyndham. The services that are provided in the Wyndham area are centralised in the Werribee town centre. This centralisation means that people in the new growth areas, who rely on public transport, must go to great lengths to reach any access to justice services. In the outlying areas, there are no CLCs, legal aid, financial counsellors, settlement support agencies, housing and welfare agencies, courts (including court programs) and government departments (i.e. Centrelink and Medicare).

In response to the rapid growth in Wyndham's outlying suburbs, Wyndham City Council has established community centres located in Tarneit, Truganina, Wyndham Vale and Point Cook. According to a 2009 Wyndham City Council report, 'Planning for Community Infrastructure in Growth Areas'⁷⁴, the objectives of the community centres are to meet the functional needs of the communities, enabling residents to more easily and freely access services and participate in community activities. The report relates 'Community Infrastructure' with preschool, child care and youth services, aged services, sporting competitions, informal recreation, cultural activities, health programs and emergency services.

The report does not refer to or discuss the need for justice services in the new growth areas.

⁷³ Regional Rail Link website, available at www.regionalraillink.vic.gov.au/home (accessed 23 September 2013)

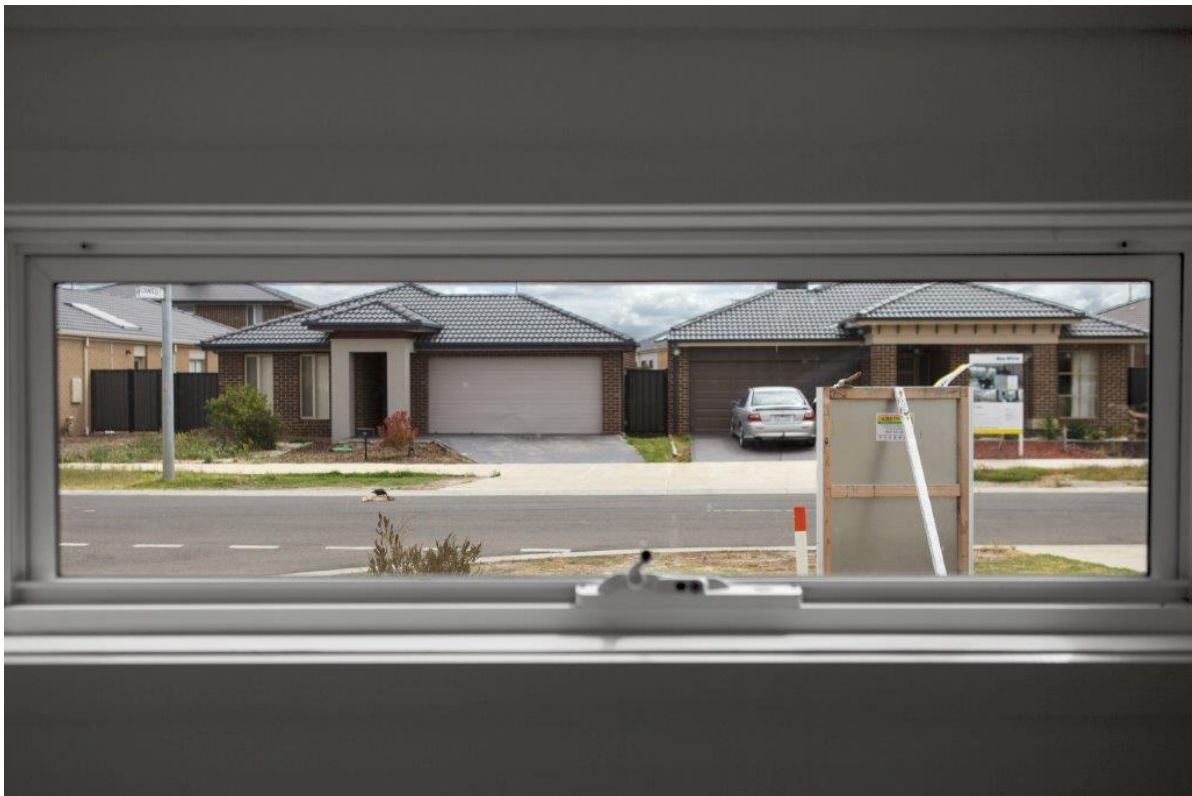
⁷⁴ Cronin, B., 'Planning for Community Infrastructure in Growth Areas' (2008), Wyndham City Council, available at www.lgma.org.au/downloads/File/Congress%20Presentations/Bernie%20Cronin.pdf (accessed 1 October 2013)

Recommendation 5:

- (a) Local Government in outer-metropolitan areas should develop and implement plans to ensure that local residents can access their justice precinct easily. This could be achieved by linking the centrally located justice precinct to the local community centres, routinely established in new growth areas.

PART B

COMMON LEGAL PROBLEMS IN OUTER METROPOLITAN AREAS



View from repossessed home, Wyndham

8. Summary of findings

8.1 Family law

Family law matters continue to be the most common issue for a person to seek legal assistance from our service, with almost half of those matters relating to divorce and separation. According to the LAW Survey, family problems comprised the highest proportion of substantial problems⁷⁵. Focus groups confirmed that most residents did not understand the basic laws and procedures surrounding divorce proceedings and did not understand that divorce is separate from child contact proceedings. Other commonly sought after advice regarding family law matters included child contact, child support and issues relating to settlement of property. This is of no surprise as there is a good deal of consistency in findings from around the world that problems surrounding family breakdown are closely associated with lawyers.⁷⁶

The majority of clients from CALD backgrounds, especially those from newly arrived communities, were not capable of completing their own divorce applications because of literacy and language issues. Due to the private nature of family law matters, most of these clients expected the CLC to complete the forms on their behalf and needed further assistance to be guided through the process. It is worth noting that the majority of English-speaking clients and focus group participants advised they were capable of filling out a divorce form if they were given it.

For most people living in outer-metropolitan areas, accessing free legal advice and representation for family law matters is not easy. Even if a person can get initial advice from a CLC, most CLCs do not have the resources or expertise to advise on complex family law matters involving children, access and property. While VLA may be able to assist some people with more complex family matters, this is an area where most people will find difficult to access such advice. This is further compounded by the lack of a VLA office in Wyndham (see section 4 of this report).

It is also worth noting that the majority of decisions relating to family law matters are made at the Family Law Courts in Melbourne and require the parties to attend the hearing. There are significant limits of what can be achieved at the local WMC or any other outer metropolitan MCs. Distance makes it that much more difficult to find solutions.

There is no doubt that there is a significant need for services in relation to family law, however, without further research, we would be reluctant to say what the impact of the lack of services is in an outer metropolitan area like Wyndham.

⁷⁵ Legal Australia Wide Survey: Legal Need in Victoria (2012) , Access to Justice and Legal Needs, NSW Law and Justice Foundation, available at www.lawfoundation.net.au (accessed 19 September 2013)

⁷⁶ Pleasence P., Balmer N. J. and Reimers S., 'What Really Drives Advice Seeking Behavior? Looking Beyond the Subject of Legal Disputes' (2011), Onati Socio-Legal Series, Vol 1, number 6, *Onati International Institute for Sociology of Law*, p3

8.2 Family violence

Case Study 2:

Sarah's Story

Sarah recently migrated to Australia with her two-year-old son on a spousal visa. She lives with her husband and his brother in an outlying suburb of Wyndham. Sarah has no friends or family in Australia. Since living in Wyndham, she has been suffering from physical, emotional and sexual abuse by her husband. She is not allowed to leave the house or make any phone calls without her husband's permission and/or supervision.

As Sarah lives in an isolated suburb and has no access to a car, there is nowhere for her to run to for help and it is likely to take her several hours to reach the centre of Werribee.

Sarah was able to contact the WLS for help using her private email on her smart phone. Although Sarah was unable to make calls using her mobile phone, she was able to access her emails, while she was pretending to use the bathroom.

The WLS was able to assist Sarah in terms of applying for an intervention order and linking her in with a domestic violence service to assist her with housing and other welfare issues.

Family violence remains one of Wyndham's major health and safety issues. Wyndham Police Inspector Damien Christensen is quoted as saying 'we continue to see crimes against the person relating to family violence increase'.⁷⁷ Family violence can include physical, sexual, emotional and psychological and financial abuse as well as threats and property damage. According to Victoria Police reports in 2012/2013, Wyndham recorded a 32 per cent increase in family violence incident reports with police receiving 2,009 reports, up from 1,523 in 2011/2012.⁷⁸ From those 2,009 incident reports, 726 charges were laid⁷⁹.

Victoria Police data also shows that there are higher reported rates of family violence in the outer-metropolitan areas of Melbourne, such as Wyndham.⁸⁰ Some have even argued that the congestion on the roads and the long hours outer-suburban residents are forced to travel to and from work is placing further stress on family relationships and resulting in incidents of family violence. It is important to note that these are only reported rates and that the available data underestimate the incidence of family violence, due to high levels of under-reporting.

The WLS provides a duty lawyer service at WMC to assist people who are applying for or named in a family violence intervention order. In 2012, the WLS assisted a

⁷⁷ Victoria Police News website, available at www.vicpolice.com.au/component/statistics/view/26.html?spostcode=3029 (accessed 6 August 2013)

⁷⁸ See www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media_ID=72311 (accessed 25 October 2013)

⁷⁹ Ibid

⁸⁰ Ibid

total of 297 people at the WMC, accounting for almost 33 per cent of overall case work. The issue of family violence was also raised in almost all community consultations and completed questionnaires and participants often stated they had witnessed family violence of a friend or relative. The main perpetrators of family violence were men and the majority of victims were women, most regularly intimate partners, however, intergenerational conflict was also flagged as a growing concern in Wyndham. Reports from Maternal Child and Health nurses working at the community centres across Wyndham indicated that many of their cases involve some sort of domestic dispute, including family violence against women. Domestic violence services, such as Women's Health West, have also indicated that it is often the case that a husband and/or mother-in-law attend the maternal and child health appointments with the woman, in case she speaks out about the violence in the home.

Moreover, according to a recent study by the New Hope Foundation, 'Supporting Women from Refugee and Migrant Backgrounds who are Affected by Family Violence'⁸¹, family violence is a significant issue impacting on refugee and migrant families living in Wyndham and the families are not accessing formal support services in proportion to their need and number in the community.⁸²

Community Comment 1: *A response from a worker at one of Wyndham's outer suburb community centre:*

If a woman comes to the community centre and talks about family violence she has a problem about how to get from that community centre to the police or the court without her partner or other members of the community finding out. If the police are called, it can take some time to get out here.

Family violence is already considered a hidden issue and for people living in isolated areas, the combined effect of these distance-related obstacles to obtaining access to assistance can be crippling. For example, a rural woman facing family violence may not have access to public transport or childcare services, making it difficult for her to see a lawyer. In addition, there is a lack of shelters and support services in outlying communities, such that she may not be able to leave the home.⁸³

As family violence is a significant issue for Wyndham, it is even more important to ensure that residents who are living in outlying areas, isolated by unsatisfactory public transport, are able to access basic justice services.

⁸¹ Holloran C., 'Supporting Women from Refugee and Migrant Backgrounds who are Affected by Family Violence: Challenges and Opportunities, A Participatory Action Approach', New Hope Foundation

⁸² Ibid 8

⁸³ University of Toronto faculty of Law, Middle income Access to Civil Justice Initiative: Background paper, p66; Cohl & Thomson Report, *supra* note 11 at 33

8.3 Criminal law

It is a concern that while the crime rate across Victoria has fallen over the past decade, the crime rate in Wyndham has increased over the past couple of years. For example, in 2012-2013, Victoria Police recorded 12,493 offences in Wyndham, a 5.1 per cent increase compared to the previous 12 months.⁸⁴ The most common offences committed over the period included, driving offences, theft, robberies, assaults and damage to property.⁸⁵ Many assaults were reported in the prisons located in Wyndham as well as on congested roads (i.e. road rage).

Generally, advice and representation in criminal law matters is provided by VLA and CLCs are funded to assist primarily in civil law areas. As discussed in section 4 of this report, there is no VLA office in Wyndham. The closest VLA office is based in Sunshine with no outreach available in Wyndham. The lack of a VLA office or outreach service in Wyndham is a tremendous disincentive to residents seeking timely advice before hearings. Unless a person has a car, the ability to access a Legal Aid office, especially those living in the new growth areas, is challenging.

There is a significant need for legal services in relation to criminal law matters, however, without further research, it is difficult for us to determine what the impact of the lack of services is in an outer metropolitan area like Wyndham.

8.4 Driving offences and infringements

Driving offences and infringements are a major issue in outer metropolitan areas. WLS statistics for 2012 show more than half of the offences committed in the new growth areas of Wyndham are driving related offences. Driving offences range from minor road infractions such as speeding by less than 10 km/h over the limit, to more serious offences of excessive speeding and driving while under the influence of alcohol. Similarly, the penalties for these offences range from relatively minor infringements and loss of demerit points to mandatory loss of a driver's licence. It is also worth noting that the enforcement measures for these offences range from minor processes such as issuing enforcement orders and warrants to more serious measures such as the clamping of vehicles or suspension of vehicle registration or driver licence.

People living in these areas also face a greater risk of incurring driving infringements as they are expected to be on the road for far longer periods of time due to the fact they live further from work, leisure, shopping etc. According to a report by the Department of Infrastructure and Regional Development⁸⁶, workers in outer Melbourne commute significantly longer distances to their place of work compared

⁸⁴ Victoria Police News website, available at www.vicpolice.com.au/component/statistics/view/26.html?spostcode=3029 (accessed 19 September 2013)

⁸⁵ Ibid

⁸⁶ Department of Infrastructure and Regional Development, Australian Government, 'Population growth, Jobs Growth and Commuting Flows in Melbourne' (2011), Research Report 125

to workers living in inner Melbourne.⁸⁷ For example, the average commuting distance for inner Melbourne residents is 7.5km and this compares to 19.1km for outer metropolitan residents.⁸⁸ Further, public transport options are more numerous in the inner city compared to the outer metropolitan areas.



Clamped car

In 2012, the National Association of Community Legal Centres developed 'The Legal Needs Assessment Framework'⁸⁹ (LNAF), a set of key socio-demographic indicators of legal need that predict underlying legal need in a geographic area. Driving and traffic offences were linked to people aged between 15 and 34 years. Applying the LNAF methodology, Wyndham is likely to have a higher-than-average proportion of traffic offences committed, based on its relatively young population. WLS data confirms the above, showing 32 per cent of its youth law clients⁹⁰ in 2012 sought assistance regarding a driving offence or related infringement.

Our research has also found the severity and impact that these kinds of offences can have on people living in outer-metropolitan areas are disproportionate compared to people living in inner-metropolitan areas. Outer-metropolitan residents are far more reliant on their vehicles due to distance travelled and the lack of public transport options available to them. Australian government statistics show that 83 per cent of residents in outer-metropolitan areas rely on private car use compared with 46 per

⁸⁷ One Melbourne or Two? Implications of Population Growth for Infrastructure and Services in Interface Areas (2013), p51

⁸⁸ Ibid 51

⁸⁹ Available at www.nacclc.org.au/cb_pages/legal_needs_assessment_framework.php (accessed 23 September 2013)

⁹⁰ Youthlaw clients are typically aged between 13 and 25 years of age.

cent in inner-city areas.⁹¹ It is no surprise that the clamping of vehicles as an enforcement measure and mandatory loss of driver's licence have been flagged as an issue in our research.

8.5 Consumer law

Case Study 3:

George's Story

George lives in one of Wyndham's outlying suburbs. George was born overseas and has a low level of English proficiency. George had an existing home loan and car loan with his financial institution and was happy with both loans. He was contacted by an unknown broker who informed him that they could provide him with an X amount of loan and assist him to amalgamate his existing home and car loans. The broker advised that the new loan would have a lower rate of interest than his existing loans and could be paid off in significantly less time.

Following repeated phone calls in an attempt to pressure George to sign, the broker took the step of further visiting George's home. The broker showed George many documents which he could not read due to his limited English skills. At the broker's request, George signed numerous documents, unaware that those documents were in fact home loan or mortgage documents. Moreover, he was pressured to sign several incomplete documents and was told that the broker will fill in his name and other details at a later stage. He was never provided with copies of the documents.

George was also never explained the legal nature of the document nor was he informed about the broker service fee of \$18,000, due to be paid on settlement. George was expected to sign the documents on the same day and not advised to seek independent legal advice before signing the documents.

George subsequently attended WLS seeking assistance in relation to a number of misrepresentations made to him by the broker.

Consumer law issues⁹² are widespread in Wyndham and are most likely to be handled without advice⁹³. The most prevalent consumer issues are disputes with essential service providers (i.e. energy and telecommunication providers), purchase or sale of cars, unsolicited door-to-door sales and disputes with financial institutions. Many of the disputes encompassed elements of unfair contract terms, unconscionable conduct, misrepresentation and misleading and deceptive conduct. Further, most participants in the research were not aware of the existence of the complaint handling schemes such as the Telecommunications Industry Ombudsman or the Energy and Water Ombudsman Victoria.

⁹¹ One Melbourne or Two? Implications of Population Growth for Infrastructure and Services in Interface Areas (2013), p51

⁹² According to the LAW Survey, 20% of respondents in Victoria experienced consumer issues.

⁹³ Legal Australia Wide Survey: Legal Need in Victoria (2012)

Some demographic groups had increased vulnerability. Many non-English speakers (many who have a refugee background), public housing residents, concession card holders, women (particularly when home alone), elderly and young people were particularly vulnerable to pressure tactics used by unsolicited door-to-door sales.⁹⁴

As more and more newly arrived and refugee communities are being settled in the new growth areas of Wyndham, there is a serious concern that door-to-door tactics are being used to take advantage of these people and families. Often, sales strategies have included high pressure sale tactics which take advantage of low levels of English proficiency. In addition, if a person is door knocked in an isolated suburb of Wyndham, the chances that anyone will pick up on what they are doing is minimal.

Over the past few years, Wyndham has seen a substantial increase in the number of Burmese refugees being settled in the area, particularly the Karen⁹⁵. Between 2009 and 2010, the Footscray Community Legal Centre conducted extensive community education with the Burmese community, which has been documented in a report entitled 'The Burmese Community and the Legal System – A Study in Confusion'⁹⁶. The report highlighted the vulnerability of this group by/through being subjected to a range of marketing and sales tactics, by/with door-to-door sales people selling utilities, communications products, life and funeral insurance policies⁹⁷.

In response to the growing number of community members impacted by door knocking and unfair practices, a young group of Karen women have come together to deliver consumer training sessions at their local churches in Wyndham.⁹⁸ The women have also developed a letter to distribute to service providers across Victoria, on behalf of the Karen community of Melbourne.

⁹⁴ Berta L., Brody G. and Mackenzie C., 'Strangers Are Calling! The experience of door-to-door sales in Melbourne's refugee communities' (2013), Footscray Community Legal Centre Inc., p5

⁹⁵ The Karen is the second largest ethnic group in Burma and the Karen State is located in eastern Lower Burma, along the Thai border.

⁹⁶ Smith A. and Boi N., 'The Burmese Community and the Legal System – A Study in Confusion' (2010), Footscray Community Legal Centre and Financial Counselling Service, available at www.footscrayclc.org.au/images/stories/docs/Burmese_Community_and_the_Legal_System.pdf (accessed 19 September 2013)

⁹⁷ Ibid 3

⁹⁸ This project was undertaken as part of the 'Our Community Our Rights' project facilitated by Women's Health West. In its second iteration, the project worked with women from ethnic minority backgrounds from Burma on building their capacity to understand and invoke human rights protections in Australia, engage in advocacy work and participate in civic life. For more information, see: <http://whwest.org.au/health-promotion/equity-and-justice/ocor/>

Community Comment 2: taken from a letter written by a Young Karen Women's group on behalf of the Karen Community of Melbourne – sent to various service providers across Victoria

'Our community has come together to advise your company that we don't accept the use of door-to-door sales strategies, particularly where they are targeted at vulnerable newly arrived communities.'

'We are aware that many people in the Karen community have experienced problems as a result of door-to-door sales. Due to our culture and our experiences of oppression, we are fearful and stressed when salespeople knock at our door. We feel like we must open the door and even let salespeople in our home.'

'Sometimes those sales strategies have included high pressure sales tactics which take advantage of our lack of English proficiency. In particular, many community members have found themselves bound by two contracts for the same service as a result of being pressured into signing contracts they don't understand. In many cases, this has led to financial hardship and family conflict.'

'On 10 and 11 August 2013, our community undertook consumer rights training...we feel much more confident to hold door-to-door salespeople to account and to pursue legal recourse through our local CLC or the relevant Ombudsman where companies violate consumer rights and protections.'

Another issue for Wyndham residents is that most consumer matters are heard before the Civil Claims List of the VCAT in inner city Melbourne. Claims under \$10,000 in the Civil Claims List will generally be classified as a 'Small Claim'. The small claims division of VCAT does not sit in Wyndham. All VCAT matters in WMC relate to tenancy only.

Wyndham residents face two disadvantages: lawyers and other representatives are not permitted to represent people pursuing a Small Claim (mostly consumer matters); and a person living in Wyndham has to be prepared to travel to Melbourne to have a dispute heard before VCAT.

Recommendation 6:

- (a) The VCAT civil jurisdiction should sit alongside every Magistrates' Court in outer-metropolitan areas. A current example is for VCAT to be co-located with the Magistrates' Court in Werribee when it is rebuilt.
- (b) The state government statutory authorities and industry complaint schemes should devote the necessary resources to ensure local access for vulnerable consumers, especially where they lack the skills to complain online or on the telephone.

8.6 Debts and mortgage stress

Case Study 4:

Mary's Story

Mary is a sole carer for her husband who has multiple sclerosis (MS). They have a mortgage over their home and Mary also has a loan for approximately \$7,000 from her financial institution (Small Finance Loan). Due to her husband's deteriorating health condition, Mary fell into arrears on her Small Finance Loan and was unable to repay the debt. The credit provider sent several notices demanding that Mary repay the full amount outstanding on her Small Finance Loan. As Mary was struggling to cope with her husband's illness at the time and the news that he did not have that long to live, she avoided all correspondence from the creditor.

As a result, the creditor obtained judgment against Mary for the \$7,000 and she was subsequently made bankrupt. A Trustee in Bankruptcy (Trustee) was appointed to deal with Mary's property. In order to repay the \$7,000, the Trustee must sell Mary's home. The fee owed to the Trustee will be significantly higher than the small amount of money owing on the debt.

Mary and her husband attended the WLS shortly after bankruptcy was filed. After a considerable amount of time spent working on the matter, WLS was able to overturn the bankruptcy so that Mary could sell her own home, avoiding thousands of dollars of Trustee fees.

There are a number of credit and debt issues experienced by Wyndham residents such as meeting day-to-day expenses; however, mortgage stress is by far the most significant problem. Mortgage stress is defined as spending 30 per cent or more of household income on mortgage repayments or repaying debts. With over 50 per cent of residents living in Wyndham's outlying suburbs owning a house with a mortgage⁹⁹, the high cost of living has caused many Wyndham residents to fall into financial hardship. Some of the reasons behind this problem include unscrupulous lenders, interest rate increases, unemployment, family breakdown, death of a spouse, illness or injury.

The possibility of losing one's home has also put extreme pressure on relationships and has the potential to have disastrous effects on the wider Wyndham community including homelessness, bankruptcy, health issues and family violence. The LAW Survey found that in most jurisdictions, including Victoria, credit/debt were associated with family problems and peaked between 25 and 44 years of age¹⁰⁰.

⁹⁹ ABS 2011 Census data shows Point Cook 61.6%, Wyndham Vale at 57.8%, Tarneit at 58.2% and Truganina at 57.5% owned house with a mortgage.

¹⁰⁰ Legal Australia Wide Survey: Legal Need in Victoria (2012)

Even where residents' circumstances change for the better, such as the resumption of employment, it does not necessarily mean freedom from financial hardship. Often, when residents have experienced financial hardship and substantial debt accumulations, they find that unless they can raise a large sum of money, they invariably are attempting to catch up while expenses and interest compounds and increases.

Mortgage default has been found to be higher in outer metropolitan areas. ABS 2011 Census data shows 15.4 per cent of households in Wyndham are making payments that would categorise them as being in mortgage stress, spending more than 30 per cent of their household income on mortgage repayments.¹⁰¹ This is compared to 9.9 per cent in the whole of Australia¹⁰². Other areas where more than 15 per cent of householders paid more than 30 per cent of their total income on their mortgage repayments were Cardinia, Casey, Hume and Whittlesea Councils, all of which are outer metropolitan areas.¹⁰³ Moreover, according to 2013 Fitch Ratings, Melbourne suburbs that are home to the highest share of borrowers falling more than 30 days behind on repayments include Wyndham Vale.¹⁰⁴ It is worth noting that other postcodes included Melton South, Caroline Springs and Broadmeadows¹⁰⁵, all of which are outer metropolitan areas.

We have identified many people who are suffering financial hardship, including mortgage stress, do not seek assistance from a lawyer or financial counsellor. This can be a significant disadvantage to people who are already struggling. As part of this project, WLS undertook a survey to determine the percentage of clients suffering from financial hardship and what assistance they sought to manage their problems. We found that approximately 50 per cent of those surveyed suffered from bills and/or mortgage repayment difficulties and 60 per cent of those ignored their problem(s).¹⁰⁶ In addition, apart from not knowing where to seek help, there is also the element of fear due to ignorance of their legal options. It is sometimes easier, in the resident's mind, to do nothing and wait. This is the worst-case scenario.

In recognition of the high rate of mortgage stress in Wyndham, the WLS has set up the Mortgage Stress Legal Service (**MSLS**) assisting those who face imminent house repossession to negotiate with their financial institution.

¹⁰¹ Available at www.google.com.au/search?q=2011+census+quickstats+wyndham&ie=utf-8&oe=utf-8&rls=org.mozilla:en-US:official&client=firefox-a&gws_rd=cr (accessed 26 August 2013)

¹⁰² Ibid

¹⁰³ Ibid

¹⁰⁴ Toscano N., 'Low rates fail to stem home repossessions' (7 October 2013), The Age, Fairfax Media, available at www.theage.com.au/victoria/low-rates-fail-to-stem-home-repossessions-20131006-2v2bx.html (accessed 30 October 2013)

¹⁰⁵ Ibid

¹⁰⁶ These figures derived from a survey conducted from July to October 2012 on new clients of WLS seeking assistance.

Community Comment 3: *Juliet Akello, supervising lawyer of the Mortgage Stress Legal Service:*

A lot of the Mortgage stress clients I see at the legal service are overwhelmed by their circumstances and avoid dealing with the situation altogether.

Early dialogue with the bank and early access to legal assistance is important and can prevent the onset of legal action including, but not limited to, legal proceedings and action to repossess property. This is also the case for credit cards, personal loans and other debts.

In addition, a recent submission by Consumer Action Law Centre¹⁰⁷ has also explored the experiences of people who have received ‘default judgments’ for debt-related problems. Default judgment is a court order imposed without a hearing against one party because they failed to provide a defence to court action. Each year, 30,000 to 40,000 consumers receive default judgments against them in the Victorian Magistrates’ Court.¹⁰⁸ According to the report, the majority of all civil complaints in the Victorian Magistrates’ Court result in default judgment. Of particular concern is the high number of claims for small debts which result in a default judgment and subsequent bankruptcy. As seen in Mary’s Story above, a debt as low as \$5,000 (Mary’s debt was \$7,000) can force a person into bankruptcy.¹⁰⁹ In this case, a private trustee was allocated to manage the person’s financial affairs and charge very high fees for this service. Thus, the impact on an individual or family’s financial wellbeing can be severe and can often result in the seizure of the debtor’s property, including the family home or ongoing deductions from wages.¹¹⁰

8.7 Tenancy

Case Study 5:

Jack’s Story

Jack rents a property in Wyndham that did not have a working oven and stove for many months. He had called and asked the real estate agent several times for repairs to be undertaken and then received a ‘no reason’ Notice to Vacate.

The Footscray Community Legal Centre assisted Jack to challenge the Notice to Vacate and seek compensation. VCAT found that the Notice to Vacate was invalid because it was given in retaliation to his request for maintenance and repairs and awarded Jack \$1,730 in compensation.

¹⁰⁷ Dr Bodsworth E., Brotherhood of St Laurence, ‘Like juggling 27 chainsaws: Understanding the experience of default judgment debtors in Victoria’ (2013), A report prepared for Consumer Action Law Centre

¹⁰⁸ Ibid

¹⁰⁹ Bankruptcy Act 1966

¹¹⁰ Ibid

Housing and tenancy issues are of primary concern to Wyndham residents. Although Wyndham is considered to have affordable housing options and some of Melbourne's lowest rents, Victoria Police are executing eviction warrants on approximately 22 rental properties every month in Wyndham¹¹¹. According to VCAT data, the number of eviction warrants executed in Wyndham has increased 40 per cent from 2011, to more than 263 evictions during the financial year 2012-2013.¹¹²

Uniting Care Werribee Support and Housing have said the eviction "crisis" is particularly affecting families renting in newer housing estates in suburbs such as Tarneit, where an eviction notice is executed every week.¹¹³ Renters are being evicted once a fortnight in Point Cook and Truganina.¹¹⁴

Some of the reasons behind this problem include unemployment, family breakdown and changes to Centrelink payments. In fact, the Lalor federal electorate showed the one of the highest number of families on single-parent payments in Australia before the recent change that moved them to a Newstart Allowance once the youngest child turned eight. This meant their income dropped, in some cases, from \$980 to \$850 a fortnight. Crisis Counsellor Vaska Dervisovski of Uniting Care Werribee Support and Housing has stated that 'families stripped of up to \$180 per fortnight were often unable to meet their needs and rental arrears were not as high a priority as food and utilities.' Furthermore, Ms Dervisovski stated that, it is not a financial budgeting issue; it is inadequate income to cover basic costs such as accommodation, utilities and food. People are paying on average 65 per cent of their income on private rent and in some cases, up to 80 per cent.

It is also worth noting that Wyndham has the state's highest unemployment rate of 8.7 per cent, well above the national average of 5.7 per cent¹¹⁵ at the time of printing.

Another CLC – the Footscray Community Legal Centre – has undertaken extensive work on tenancy cases and provides outreach services across the western region, including Wyndham.¹¹⁶ According to the outreach solicitors and the data produced by the service, the majority of clients they assisted in the financial year 2012-2013, most involved a dispute relating to bond claims by the landlord; applications for possession due to rent arrears; and repairs. The outreach solicitors have also

¹¹¹ Victorian Civil & Administrative Tribunal, 'Residential Tenancies List: Warrants of Possession, Period: 01/07/2010 to 30/06/2013', VCAT's Tribunal Management System (report run 21/8/2013)

¹¹² Ibid

¹¹³ Toscano N., 'Families evicted in tenants crisis' (28 August 2013), The Age, Fairfax Media, available at www.theage.com.au/victoria/families-evicted-in-tenants-crisis-20130827-2sod2.html (accessed 30 October 2013)

¹¹⁴ Ibid

¹¹⁵ See Department of Employment, Australian Government website, available at <http://employment.gov.au/small-area-labour-markets-publication> (accessed 28 January 2014)

¹¹⁶ The Tenancy and Advice and Advocacy Program (TAAP) run by Footscray Community Legal Centre & is funded by Consumer Affairs Victoria. The objective of the service is to provide effective support to vulnerable and disadvantaged tenants through the provision of information, advice and representation at the Victorian Civil and Administrative Tribunal in agreed catchment areas.

reported that the main issue the duty service at Werribee VCAT faces is the high rate of non-attendance. The majority of the tenants who attend VCAT seek assistance from the service, however, the actual numbers attending is low.

In March 2012, Laura Berta of Footscray Community Legal Centre released a report, *Making it Home: Refugee Housing in Melbourne's West*¹¹⁷. The report presents findings from the Refugee Tenancy and Housing Project, developed in response to the need for tenancy advocacy services in Melbourne's western suburbs and can be read alongside this report.

Recent data from CLCs across the western suburbs have also shown that very few people under the age of 25 seek legal assistance regarding tenancy matters.

8.8 Neighbourhood disputes

Disputes involving neighbours are some of the most common legal problems concerning Wyndham. Neighbourhood disputes can be as minor as overhanging trees, fencing, noise, rubbish and have the potential to escalate rapidly to criminal matters, such as intervention orders and assaults. New residential growth areas have increased the risk and occurrence of these incidents as detailed below. This also means that many neighbourhood disputes that occur in these areas are largely hidden and isolated.

New housing estates in the growth areas of Wyndham are being developed at rapid speed and in some cases, new estates are taking less than 12 months to establish. It is not uncommon to find a lack of fundamental infrastructure, such as public transport and access to justice services in these areas (see section 8 of the report). Thus, finding access to good information and assistance about how to resolve problems with neighbours can be difficult for people who live in new growth areas.

According to the DSCV with the a mediation service run by the Department of Justice, the most common calls for assistance in 2012-2013 related to fencing matters.¹¹⁸ An increasing number of these came from people living in the new growth area of Wyndham. Often in growth areas, residents are moving into homes that adjoin farm lands, property that is under construction or vacant property. As new housing estates are developed in stages, residents often go without adequate fencing for extended periods of time and are left to negotiate the construction of a fence with their neighbours.

It is also worth noting that while residential land sizes have been shrinking, the average house size has increased substantially. At present, it is not unusual to purchase a new property with a lot size between 200-350 square metres. Ten to 20 years ago, this was quite unusual. The reasons for this are complex and not relevant

¹¹⁷ Berta L., 'Making it Home: Refugee Housing in Melbourne's West' (2012), Footscray Community Legal Centre, available at www.footscrayclc.org.au/images/stories/Tenancy_Report.pdf (accessed 30 October 2013)

¹¹⁸ Department of Justice, 'More people seeking help early to resolve disputes', (press release 13 September 2013); see also www.disputes.vic.gov.au/ (accessed 26 September 2013)

to this report however, the consequences of this trend have led to an increase in risk factors with neighbourhood disputes. Issues such as: homes bordering one another; lack of yard space for recreation; narrow streets and footpaths; and the lack of verandas can cause significant problems for neighbours to deal with.

Community Comment 4: *According to a Wyndham Vale resident, due to the close proximity of neighbour homes (the walls border one another), they were able to hear loud sounds from within their neighbour's home. The noise through the walls had the effect where occupants had to move rooms otherwise, their own enjoyment of their property was totally disrupted.*

Community Comment 5: *A response from a Wyndham Vale resident:*

Regularly on weekends, when multiple neighbours have guests at their homes, there is simply not enough space for more than 1-2 visitors at any time without having to park in front of neighbours' homes. This has led to confrontation more than once between my neighbours when guests have parked on their garden or over their driveways.

In addition, the Wyndham growth areas represent a significantly above average settlement of persons not born in Australia, people who have arrived recently and people of a non-English speaking background. This leads to a melting pot of cultures that can have unpredictable implications if cultural sensitivities are not known, understood or respected.

Frequently, residents of growth areas are finding it difficult to enjoy their new neighbourhoods. Often, these areas have infrastructure such as footpaths, recreational areas, parks, open spaces built a long time after they had moved in. With many backyards too small to enjoy or have children play within or in fact, non-existent, residents must have recreational spaces outside of their immediate home or property and they make use of whatever public space is available to them, causing further problems and neighbourhood disputes.

PART C

INNOVATIVE SOLUTIONS



Wyndham Library - Point Cook Branch, Point Cook

9. Literature review – legal outreach

Traditional outreach legal services can be defined as ‘face-to-face legal assistance and advice services delivered away from the primary service/office, in places accessible to the target group.’¹¹⁹ A feature of effective outreach according to research done by the Law and Justice Foundation of NSW, is that ‘they reach clients who would otherwise not have received legal assistance.’¹²⁰ The responsibility to identify, engage with and provide legal services is fundamentally a CLC issue. Some authors go as far as to suggest that it is less about individuals and families being hard-to-reach than it is about services being difficult to access.¹²¹ Buck and Curran note that¹²²:

If legal aid services are to be effective in reaching people who are disadvantaged, disempowered or marginalised, then integrated, connected service delivery, outreach and relationship building, community development and education play a vital role.

In Victoria and Australia more generally, a wide range of legal services are provided under the banner of outreach. For example, legal assistance services in welfare agencies, financial counselling organisations, hospitals¹²³ and doctor’s surgeries, mental health services, Aboriginal services, libraries, community centres, prisons, pro-bono legal advice clinics to homeless people¹²⁴ and regular advice sessions run by CLCs in rural and remote locations. A good example is the Public Interest Law Clearing House’s Homeless Person’s Legal Clinic. This legal service goes to where the clients unlikely to access help for their legal problem are situated. Lawyers work closely with social workers and also attend soup kitchens and walk the street side by side with the homeless, successfully building up trust and contact with homeless people who were not previously accessing traditional legal services.¹²⁵

Curran further argues for a reconsideration of how legal services are delivered which can enable better connections to be made.¹²⁶ She suggests that legal services, through working more connectedly with non-legal contact points, may find people with legal need who may not be accessing legal services.¹²⁷

¹¹⁹ Forell S. and Gray A., ‘Outreach legal services to people with complex needs: what works?’ (2009), Justice Issues, Paper 12, Law and Justice Foundation of New South Wales, p1

¹²⁰ Ibid 9

¹²¹ Robinson E., Scott, D., Meredith V., Nair L. and Higgins D., ‘Good and innovative practice in service delivery to vulnerable and disadvantaged families and children’ (2012), CFCA Paper No. 9, Australian Institute of Family Studies, p7

¹²² Buck A. and Curran L., ‘Delivery of Advice to Marginalized and Vulnerable Groups: The Need for Innovative Approaches’ (2009) 3(7) *Public Space: The Journal of Law and Social Justice*, p1-29

¹²³ See The West Heidelberg Community Legal Service/Banyule Community Health Service/La Trobe University Partnership; and North Melbourne Legal Service/Royal Women’s Hospital Outreach

¹²⁴ See Public Interest Law Clearing House Homeless Person’s Legal Clinic, available at www.pilch.org.au/hplc/ (accessed 31 October 2013)

¹²⁵ Curran L., ‘Making Connections: The Benefits of Working Holistically to Resolve People’s legal Problems’, La Trobe University Law School, *E Law – Murdoch University Electronic Journal of Law*, Vol 12, No #1 and #2

¹²⁶ Ibid

¹²⁷ Ibid

To effectively reach and assist those hard to reach clients, outreach legal services need – at the outset – to form and maintain strong links with target communities and the agencies which support them. Outreach services are best located in places that are frequented and trusted by the target group.¹²⁸ This poses a challenge for legal service providers in outer metropolitan areas as there are fewer access points for people to go to in order to access justice.

It is also important to offer a range of delivery channels on top of the traditional face-to-face model, such as using internet, telephone, video-link and social media.¹²⁹ As part of our research, a WLS lawyer was placed in the community centres located in the new growth areas to provide legal outreach (appointment and drop-in). We found the lawyer often had nothing to do for several hours when clients missed their scheduled appointments. This is as a result of being placed in an outreach location without the ability to attend to any other work related matters. In our experience, face-to-face legal outreach took more resources away from the CLC in order to effectively reach and assist clients.

The practical legal outreach programs, referred to in section 9 of this report, encompass partnerships with local government and community agencies (i.e. libraries and community centres) as well as experimenting with different service delivery models. However, it is important for CLCs or other service providers to have undertaken an appropriate legal needs analysis prior to the outreach service being established.¹³⁰

10. The library program

The rationale for the library program is found in numerous recent studies including the Law and Justice Foundation of New South Wales, which have emphasised the need for high visibility general advice gateways to ensure access to justice. The Foundation has suggested the use of non-legal advisers as gateways to legal services.¹³¹ This pilot program sought to explore the use of libraries as such a gateway.

In a Law Foundation of Ontario report on access to legal services for rural populations and linguistic minorities, it was also suggested that general service organisations such as libraries and community centres may be able to deliver public legal education and information effectively.

There are four public libraries across Wyndham, located at Hoppers Crossing (Plaza Library) and Werribee and two operating in the new growth areas of Point Cook and Wyndham Vale. The libraries are open seven days per week, from early in the morning and often late at night. There are currently 62,845 memberships across all

¹²⁸ Forell S. and Gray A., 'Outreach legal services to people with complex needs: what works?' (2009), p1

¹²⁹ Buck, A. and Curran, L., 'Delivery of Advice to Marginalized and Vulnerable Groups: The Need for Innovative Approaches' (2009)

¹³⁰ Forell S. and Gray A., 'Outreach legal services to people with complex needs: what works?' (2009), p9

¹³¹ Legal Australia Wide Survey: Legal Need in Victoria (2012)

four libraries. Each of the libraries contain computer rooms or 'hubs' which are available for members to use. All libraries in Wyndham are free to all residents living in the municipality.

Library staff have also indicated that they feel they are considered an access point to justice by patrons because patrons regularly enquire with them about issues unrelated to library services. In terms of legal enquiries, library staff advised that they often hear complaints about mobile phone bills and others service providers. However, staff feel unqualified and hesitant to provide any assistance at all with respect to anything 'legal'. The reason is because the staff have a low level of legal knowledge and training.

Changes brought about by various technologies including the internet, have made a big impact on the role of the librarian. For example, the teaching of information literacy skills is one of the roles that comes with technology. The use of technology to access information has put pressure on librarians to transform into 'information professionals' as library staff are now also expected to be able to navigate information online as well as on the shelves.

Assistance with access to online complaint handling services is further based on statistics from schemes such as the FOS which indicates that 70 per cent of the 33,000 complaints made in 2012-2013 were lodged online. Less than 1,500 complainants received assistance from any source and libraries were not recorded as a source of referral. Moreover, there has been a substantial growth in the jurisdiction, size and complaints handling activities of industry based consumer dispute resolution schemes in Australia particularly in areas of financial services and telecommunications.¹³² However, our research and experience suggests the average consumer in Wyndham is largely unaware of the existence and processes of complaint handling services.

It is worth noting that interviews with several state and federal Ombudsman offices confirmed that a solicitor is not required to lodge a complaint online for any of the schemes. The complaints forms are user friendly and can be easily completed by most people within half an hour.

Pilot

We conducted a pilot with the four libraries in Wyndham to assist library users to lodge disputes and complaints online through the library computers with the assistance of a comprehensive complaints manual provided by the legal service. Eight clinics over a six week period were held between the libraries where assistance from lawyers, library and IT staff were available. The clinics also assisted the libraries to advertise their capacity to assist users with complaints lodgement.

Library management and staff expressed enthusiasm for a partnership which would enable libraries to assist library users to use online services through library

¹³² O'Shea P., 'Underneath the Radar: The Largely Unnoticed Phenomenon of Industry Based Consumer Dispute Resolution Schemes in Australia' (2008), The University of Queensland, TC Beirne School of Law Legal Studies Research Paper Series, No. 08-25, p1

computers to lodge complaints and disputes online with state and federal government agencies and industry based complaint handling schemes (Schemes).

The librarians provided access through a complaints manual prepared by our service and direct access to the appropriate complaints web page on the library computers. Although the librarians did not strictly provide legal advice, they provided access. Further, the librarians still referred appropriate cases to the CLC.

A detailed summary of the pilot has been documented in the report, *The Library & the Legal System: How to complain online*.¹³³

How to Complain (Online) Manual

As part of the library program, a manual entitled, *How to Complain (Online)*¹³⁴ was created by our service, providing details and instructions on how to lodge online complaints with almost 20 schemes. The manual was created for two reasons. Firstly, as a response to the information overload already provided online and secondly, as a resource to train library staff to better assist their patrons. The manual was designed for ease of use and requires rudimentary levels of comprehension, skill and equipment to be able to lodge a complaint. Most importantly, the manual was drafted to be used by non-lawyers.

Community Comment 6: Kerri Sidorow, Library Community Learning Coordinator, Wyndham City Council:

People often come to the library to use photocopiers and email facilities when they have issues with service providers. While seeking assistance with these resources, patrons often share their frustrations with staff about the difficulties they are having resolving their issues. Ready access to the 'How to Complain Online manual' gives staff the information to offer patrons a clear pathway towards having their problems resolved, rather than just being good listeners.

Overall, more than 287 copies of the manual were printed and distributed between the four libraries participating in the program. A copy of the manual was also uploaded on all library computers and the Wyndham City Council website for online access. A further 93 people viewed the file online during the six-week program. The manuals were available for collection at the libraries and also distributed on clinic days.

The manual will continue to be available in hard copy and online at all four libraries in Wyndham.

¹³³ Graljuk M. and Dargatz C., 'The Library & the Legal System: How to complain online' (August 2013), Wyndham Legal Service Inc.

¹³⁴ Moore S., 'How to Complain (Online) Manual' (2013), Wyndham Legal Service Inc.; Available at www.wyndhamls.org.au/#!/publications/cqn (accessed 11 September 2013)

Evaluation

Feedback from library staff and users suggest the pilot program has been a success in providing a new means of access to justice in Wyndham. The success of the pilot also highlights that non-lawyers can play a crucial role in facilitating access to justice for individuals.¹³⁵

The attendance rates at the clinics are not indicative of the success of the project, rather the interest in the manual indicates that libraries are a viable access to justice point. While the level of participants attending the clinics was much lower than those collecting the manual, this is not a direct reflection on the clinics themselves. It can be difficult for individuals to attend clinics for a variety of reasons including work, study and family commitments. It has been suggested that if the program were to continue, clinics should run on weekends rather than during the week.

The large number of manuals collected by library users over a short period suggests people are generally comfortable with making online complaints without legal assistance. This also highlights that individuals are confident in being able to use the manual without the help of a lawyer.

A limitation of the pilot is that the manual is written in English only and not offered in any other languages to cater for the large CALD population in Wyndham. As a result, people who have poor English skills will find it difficult to follow the manual and may rely heavily on support from library staff. Further, most Schemes require complaints to be lodged online in English only. Currently, if a person requires the assistance of an interpreter, the complaint can be lodged over the phone with the use of an interpreting agency.

Recommendation 7:

- (a) Outer-metropolitan and rural local governments should work with community legal centres to implement pilot programs addressing access to justice in libraries.
- (b) The *How to Complain (Online)* manual or a similar guide, together with appropriate training for librarians should be made available in libraries in outer-metropolitan and rural areas.

11. Digital innovation – “App”

If the legal market is in the process of transformation, it is only logical that all legal service providers, including CLCs, are susceptible to the same drive to respond to

¹³⁵ University of Toronto faculty of Law, Middle income Access to Civil Justice Initiative, p41

technological innovation.¹³⁶ Futurist Richard Susskind argues that in order to better access justice, a streamlined legal profession must embrace the possibilities of technology and citizens must be empowered to deal with their legal affairs.¹³⁷ He argues that a new wave of imaginative and entrepreneurial providers are needed. In fact, the LAW Survey has identified that 20 per cent of Victorians responding to their legal problems use websites or self-help guides.¹³⁸

Digital innovation in the private sector has been a priority for two decades or more. Almost all industries have been investing heavily ever since to improve efficiency through streamlined processes. Some industries which have invested millions, and, in some cases, billions of dollars into digital innovation include print media, banking, stockbroking, air transport, post (via email), communications, education, music distribution, shopping, healthcare and even social interaction. The list goes on. There is no reason social justice needs to remain a somewhat primitive sector.

More often than not, certain areas of law do not require lawyers to be providing face-to-face legal advice, for example: applying for a divorce; organising simple payment plans; fencing disputes; complaints to ombudsman services and; other regulatory bodies. Therefore, these areas of law can be streamlined, where possible, to maximise accessibility by the public and efficiencies for the legal service providers.

In terms of improving access to justice for those living in isolated and remote communities, digital initiatives can also help to overcome issues of proximity, appointment setting, language barriers, the desire for anonymity when accessing services and the stretched resources of local CLCs.

‘App’ or mobile website

Given the current use of mobile media devices and the projected increase in the use of such devices to access information in the future, there will be an increase in expectations from the public that they will be able to access information through these devices.¹³⁹ In today’s age, internet information also needs to progress beyond digital publication of leaflets in traditional form.¹⁴⁰ Too many websites are little more than digital leaflets of legal information and do not use the internet’s interactive power. According to Smith, to meet its full potential, it needs an application or ‘app’-based approach that transforms the way information is delivered so that the user is taken through a logical ‘decision tree’ and the amount of information on the screen at any one time is limited.¹⁴¹ The most successful websites takes an individual on a

¹³⁶ Smith R., ‘Can digital replace personal in the delivery of legal aid?’ A discussion paper for the conference of the International Legal Aid Group, June 2013

¹³⁷ Ibid

¹³⁸ Legal Australia Wide Survey: Legal Need in Victoria (2012), xvi

¹³⁹ Australian Government, ‘Harnessing the benefits of technology to improve access to justice’ (2012), p16

¹⁴⁰ Ibid

¹⁴¹ Ibid

journey and must work from the perspective of the individual user instead of the advisor's (i.e. CLC) perspective.¹⁴²

In terms of an innovative legal outreach model for CLCs, the design of the 'app' is to be a 'first port of call', information and referral. It must be free, simple and accessible for the user. The information must also be specific and relevant and will therefore need expert advice to make qualitative assessments. Another important feature or design of the 'app' is the ability to provide cross-sector integration and referral pathways. For example, a person may identify their issue as a legal one; however, it may be that the person actually requires financial counselling advice or support from housing or welfare agency. In addition, the legal issues a person experiences will often have their foundation in broader, non-legal issues.¹⁴³

The following is an example of how a CLC may use an 'app'-based approach in the delivery of legal advice/information to its region:

1. Users would first be able to select their preferred language, overcoming any language barriers or difficulties.
2. Users would then be asked to select the type of issue they are facing, for example, 'Family Dispute', 'Neighbourhood Dispute', 'Family Violence', 'Criminal', 'Debt/Credit' and 'Fines'.
3. A refined series of questions would next appear on the screen (one at a time) with multiple-choice style responses, allowing for issue identification. Each question must be answered before moving onto the next.
4. Dependent on the answers given by users, they would be provided with streamlined general legal advice, advised to make an appointment to see a lawyer (private or CLC), precedent letters and forms (already available on other websites such as VLA and CLC websites), referral information to other service providers (i.e. financial counsellors, Victoria Police, local courts, welfare & housing support services, health care services etc.).
5. Users will be able to print or email to themselves the necessary forms, such as divorce applications, intervention order applications, letters of demand, payment plans and Power of Attorney.

Individuals will access the site via a combination of desktop computers, smartphones¹⁴⁴ and tablet computers (i.e. iPad). As such, it is important the 'app' be developed as a mobile website, accessible via any web browser. This is central to the "Girl's Gotta Know" application, discussed below in this report. The website's design will be responsive to the different devices being used to access it and will

¹⁴² Ibid; See also the NSW Ministry of Justice and NSW Legal Aid Commission's LawAccess and LawAssist; and the Dutch Legal Aid Board's legal advice site, Rechtswijzer

¹⁴³ A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p82

¹⁴⁴ According to the Australian Communication's and Media Authority Report (February 2013), "Smartphones and Tablets: Take-up and Use in Australia", just under 50% of Australia's adult population used Smartphones as of May 2012. This figure is rapidly growing as more and more manufacturers and telecommunications providers move towards these platforms.

automatically display correctly across different screen sizes. This will reduce the cost otherwise associated with building multiple incarnations for the different platforms.

By enabling the users to access the ‘app’ from a home computer, smartphone or self-serve kiosk, access to information will be widely disseminated without additional cost to the CLC. Further, it will be easy to update the ‘app’ in the event of new or changed laws.

INDUSTRY EXAMPLES – ‘APPS’

“Girl’s Gotta Know”

In April 2013, Women’s Legal Service Tasmania launched its successful website, “Girls Gotta Know”.¹⁴⁵ This mobile site, targeted at Tasmania’s female youth population, provides information on a range of relevant legal topics. This site is limited because it does not link to or refer users to other services and does not follow the survey questions style discussed above to identify issues.

The mobile ‘app’ was able to gain significant media coverage upon the launch of the website, via coverage in all the major local newspapers and on the ABC news. Early feedback via the service’s Facebook Page was extremely encouraging.

“MyShopRights”

Consumer Affairs Victoria’s “MyShopRights” mobile ‘app’ provides instant advice on refund, warranty and lay-by rights. For example, ‘what happens if you change your mind about a purchase?’¹⁴⁶ The mobile site follows a multiple choice style format that limits the amount of information on any one screen.

“Centrelink”

Self-serve kiosks have operated in the Department of Human Services Centrelink outlets for over a decade. As early as 2002, many Centrelink locations provided kiosks, offering online access to Australian Job Search through touchscreen kiosks. The functions of these kiosks have since expanded. In April 2012, then Minister for Human Services, Senator Kim Carr flagged the development of smartphone apps and the use of self-serve kiosks to improve further the self-service availability for Centrelink clients.

As with any new service, online or face-to-face, sufficient advertising resources must be allocated.

¹⁴⁵ Available at m.girlsgottaknow.com.au/ (accessed 4 October 2013)

¹⁴⁶ Available at www.consumer.vic.gov.au/shopping/myshoprights-app (accessed 2 September 2013)

Kiosks – community centres and libraries

Many organisations, departments and industries have employed self-service kiosks to streamline processes and improve overall efficiencies. In many cases, these have been in place for several years. For example, airport check-in, customs passport control, shopping centre information desks, public transport ticketing, ATMs, fast food ordering and many more.

Touch-screen stations could be trialled in community centres and libraries in outer metropolitan areas. Community centre staff, as well as library staff, should be trained in their use and can provide a good source of referral back to the local CLC. Self-serve kiosks may also have printing facilities in order to provide on the spot forms and other templates. By providing kiosks in local and public spaces, non-smartphone users or people without home computers will still have access to and benefit from the mobile ‘app’.

Further, the availability of kiosks in community centres and libraries may assist victims of family violence who prefer to remain anonymous and/or find it difficult to access advice without arousing suspicion (see section 2.2). As seen in Case Study 1, Sarah’s Story, some victims of family violence are unable to use their home computer or smart phone to access information as they are being constantly monitored or supervised by the perpetrator.

Cost

The cost of developing an app will depend on its complexity. According to several web developers, a basic functionality app can cost anywhere between \$5,000 and \$15,000. The cost of developing a more complex functionality app will depend on a range of factors, including who will be providing the content and can cost anywhere between \$50,000 and \$150,000.

Recommendation 8:

- (a) Community agencies, such as CLCs, should be resourced and trained to assist clients through the use of technological innovation.
- (b) State and local government should, where appropriate, offer technological solutions to overcome geographical barriers to access to justice. Specific purpose ‘apps’ be developed to assist both targeted client groups (i.e. youth) and to address specific problems (i.e. family violence).

12. One-to-one, one-to-many conferencing

One of the biggest problems identified for people who live in the outlying suburbs of Wyndham, is the lack of public transport and time taken to reach the Werribee centre. The use of technology to support these communities is a growing area, particularly for those in remote locations and should be considered as a model of service delivery.

According to the ABS 2011 census data, more than 80 per cent of Wyndham households have some type of internet connection. In addition, the majority of community centres and libraries located across Wyndham provide access to computer rooms and internet.¹⁴⁷

One-to-one conferencing

One-to-one-conferencing (i.e. Skype or Jabber) is an easy way to improve the convenience of appointments for clients living in isolated or remote areas. Burdensome travel times are removed as clients are able to seek personal legal advice using their home computer or accessing computer rooms located in local libraries or community centres.

As part of the project, WLS has recently begun trialling Skype sessions to conduct appointments with certain clients who find it difficult to visit the office.¹⁴⁸ Feedback suggests the one-to-one video conferencing model has been a success, with clients able to instantly send and receive any relevant documents and chat online with instant messaging also being useful. It should also be noted that Youthlaw offers a range of online services and appointments via Skype for those young people living in rural or regional Victoria.¹⁴⁹ The successful implementation of this type of service delivery is dependent upon access to suitable computer equipment and will involve a cost analysis.¹⁵⁰

However video-conferencing may not be appropriate for particular types of legal issues, for example Powers of Attorney or family violence matters. Moreover, not all clients will feel comfortable with the technology used for video conferences, for example elderly people or people with certain disabilities like vision impairment.

¹⁴⁷ Some community centres also provide Wi-Fi services to local residents

¹⁴⁸ As part of the National Broadband Network Regional Legal Assistance Program, the Commonwealth through the Attorney-General's Department has provided \$4 million over four years to improve access to legal assistance services for people living in regional Australia, through the NBN. Several centres have received funding to run similar video-conferencing programs ; See North West Community Legal Centre, Welfare Rights Centre (SA) Inc, Hobart Community Legal Service, Redfern Legal Centre

¹⁴⁹ Available at youthlaw.asn.au/services/youthlaw-online-via-skype/ (accessed 2 September 2013)

¹⁵⁰ Robinson E., Scott D., Meredith V., Nair L. and Higgins D., 'Good and Innovative practice in service delivery to vulnerable and disadvantaged families and children' (2012), p11

Although CLC resources need to be funded for flexible delivery of services that are suitable to accommodate the needs and capacities of people.¹⁵¹

One-to-many conferencing and “Webinars”

Using one-to-many conferencing, a CLC is able to broadcast a lecture or seminar to many individuals and locations at the same time. This is often called a “Webinar”. It would be possible for an individual to log into a webinar from their own home computer, community centre, library, school, mobile device or otherwise.

For example, a CLC could run an information evening, using a webinar, about family law matters that could be accessed at all library locations. Another example may involve, a CLC broadcasting a seminar about bullying and cyber bullying to many schools at the same time.

Webinars can be either one way, in the form of an educational or informative speech or two way, where audience participation is allowed and encouraged. The format is in many ways similar to an online university lecture, except it would be broadcast live and allow for participants to interact with the session host. For example, the Department of Human Services’ Centrelink have been hosting live and interactive webchats with expert panels¹⁵². During the webchat, the Department will answer questions and discuss issues of interest with the listeners. To participate in the live webchat, an individual can call into the online forum to speak directly to the panel. Video segments of the live chat are then uploaded to YouTube to view again and share with the Department’s clients.¹⁵³

The software available for webinars usually allows for screen sharing, where the audience can see the host’s screen and be guided in a “how to” format. This is useful in showing an audience how to access a particular service or form on a website, such as a divorce application form.

Another benefit of webinars is their ability to be recorded and added to social media like YouTube and Facebook as well as the CLC’s website for viewing at any time. It would be recommended that the recordings be split by question or topic so that they are short snippets for individuals to view more conveniently.

It is worth noting that one of the best ways to build trust and engage with people is through face-to-face contact. Therefore, it is in no way recommended for Webinars to replace more traditional means of community outreach, rather to supplement and enhance it.

¹⁵¹ Coverdale R., ‘The Law and Legal Compliance Training Needs of Primary Producers in Australia’ (2009) Rural Industries Research and Development Corporation, Australian Government, Publication No. 09/137

¹⁵² Available at www.webcast@humanservices.gov.au (accessed 22 July 2013)

¹⁵³ Ibid

MODEL PROGRAM

Learning and Development Program - Pilot

Since February 2013, the Centre for Rural Regional Law and Justice at Deakin University has been running a series of free video-conferences across a broad range of legal and or justice topics. The program is based on a model developed by Deakin University for its 'Deakin at Your Door Step' program, delivering forums at multiple locations using video conferencing facilities.

In the program, an expert panel made up of private, government and community representatives is invited to discuss a range of legal issues that affect rural and regional communities. The panel members are physically in the one location, while the forum is broadcasted up to 14 locations through video conferencing technology including several VLA offices.

The model is largely a question and answer style interactive forum for people to share their stories and experiences and to pose questions and comments to an expert panel. Specific questions can also be emailed in advance as well as during the live forum.

So far, the Centre has run approximately six forums on a range of issues including food security, cyber security, youth issues and disability care. Each forum had approximately 60-70 people participating with the exception of the disability care forum having 180 people attend.

The pilot program involves several crucial features:

- Adequate equipment including computer, internet, microphone and speakers. Equipment will vary depending on sophistication of technology used.
- At least one facilitator is needed to coordinate the logistics of and facilitate the online forum. The facilitator is responsible for the content, booking of speakers, booking system (when prior bookings are required), promotion and facilitating of the event.
- An expert panel or other presenters are there in their capacity as volunteers.
- The online booking procedure must be free if the forum is free participation.
- There must be a procedure to control sound and to reduce noise interference (i.e. making sure all microphones are switched off).
- Ideally 50 plus individuals (across all locations) would participate in each forum, however there is no minimum required.
- Before uploading videos to social media platforms such as YouTube, video footage should be edited to reduce banter and duration (i.e. video should not be longer than 60 minutes).

The strength of the program is that it is driven by collaboration between all levels of government, community agencies and private sector. As long as the 'locations' have suitable equipment such as internet capabilities and video conferencing technology (i.e. screen and sound technology), the cost should be relatively low.

Post survey evaluations of forum participants have shown that approximately 90 per cent of people said they would use the technology again.

Conferencing Technology

Many conferencing and meeting service providers exist. While the currently utilised 'Skype' is widely known, it is fairly restricted in its application. There exists various paid and free software as a service (SaaS) companies with whom it would be recommended to explore. These SaaS companies incorporate a far greater range of conferencing features in their software than basic one-to-one communication offerings like Skype. A successful implementation of this type of model is however dependent upon access to suitable computer equipment and will involve a cost analysis.

It is recommended that the conferencing capabilities be trialled with either TeamViewer or Google+ Hangout.¹⁵⁴ Both of these are user friendly and free of charge.

Recommendation 9:

- (a) Community legal centres and community agencies should be trained to use new technology to advise, assist and educate local residents in outer metropolitan areas. Methodologies could include video and online conferencing.

13. Mortgage stress response

Community Comment 7: *Juliet Akello, supervising lawyer of the Mortgage Stress Legal Service*¹⁵⁵:

What we have found is that in trying to run a Mortgage Stress clinic is that we are getting clients too late, often post judgment. By the time we see them, the range of options available to them are limited. Clients need to seek assistance as soon as they miss their first mortgage repayment. We need a strategy for early intervention. We need to explore a model that will enable local residents to bring mortgage defaults to the legal service at an early stage while we can still assist.

Our key findings show we need an early intervention strategy to respond to the growing rate of mortgage stress in the outer metropolitan areas. Our experience is that by simply advertising a MSLS to the public we have failed to achieve early intervention and will often see people far too late in the process. We recognise that to make a significant difference, we need to explore a model that will enable local

¹⁵⁴ As part of our research, a Digital Innovation Report was prepared for the WLS by Jonathon M. Green of J Online Marketing.

¹⁵⁵ The Mortgage Stress Legal Service is a weekly service run by the WLS. The service provides free legal advice and assistance to people experiencing financial hardship. This is particularly the case if a person has received a repossession notice or mortgage default notice from their financial institution.

residents to bring mortgage repayment defaults to the legal service and financial counsellors at an early stage. Early intervention, at a minimum, means we need to engage people before a judgment is ordered by the courts. As a matter of law, the options available to assist people with mortgage stress is significantly limited after a judgment is made.

We need to identify early indicators and early intervention processes for mortgage stress. The most likely and unexplored option is rate arrears. This will give us the opportunity to identify those people experiencing mortgage stress at an earlier stage.

Our research shows a clear relationship between people who have fallen behind in paying their rates and those in mortgage stress. Recent research by the Footscray Community Legal Centre and the Federation of Community Legal Centres¹⁵⁶ identified that claims for unpaid rates have risen dramatically over the past decade and are especially high in outer metropolitan areas. The local councils most frequently using default judgment as a debt collection tool against ratepayers are located in growth areas and new housing developments.¹⁵⁷ The high numbers of default judgments obtained by Victorian councils such as Wyndham, Melton, Casey and Frankston, are perhaps an indication of the increasing incidence of mortgage stress in the new housing developments in those areas.¹⁵⁸

Therefore, any early intervention strategy must encompass a 'triage' mechanism for the early intervention and resolution of a dispute.

¹⁵⁶ Council Debt Collection: Alternatives to suing ratepayers in hardship (2012), Footscray Community Legal Centre and Federation of Community Legal Centres

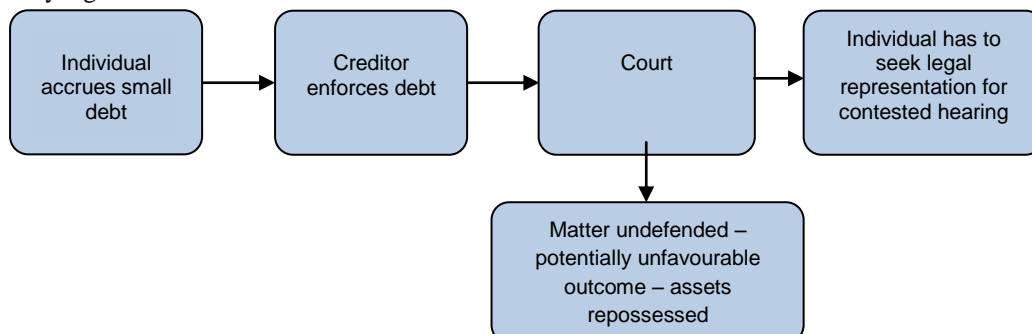
¹⁵⁷ Ibid

¹⁵⁸ Dr Bodsworth E., Brotherhood of St Laurence, 'Like juggling 27 chainsaws': Understanding the experience of default judgment debtors in Victoria (2013), p24

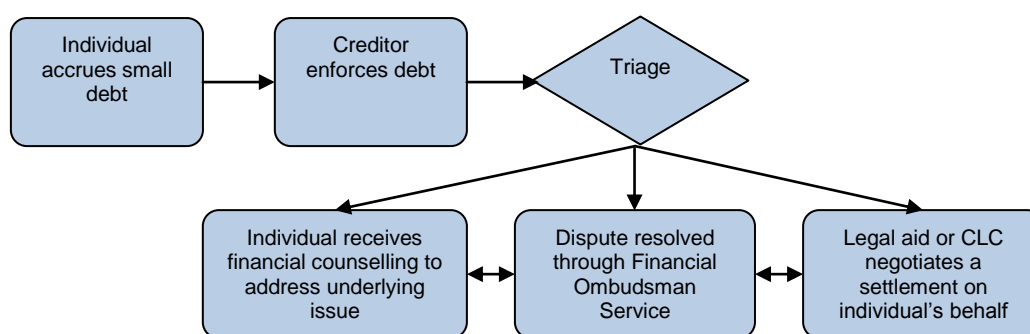
Figure 2¹⁵⁹ illustrates an ideal model for early intervention in relation to debt recovery matters.

Figure 2: Debt recovery

A possible pathway to the current system for an individual faced with creditors enforcing a debt—in the absence of early legal assistance—is as follows:



Access to early intervention produces this more ideal pathway:



Source: A Strategic Framework for Access to Justice in the Federal Civil Justice System
Access to Justice Taskforce, Attorney-General's Department, Australian Government

More often than not, a person's access to justice will vary depending on their entry point and the level of assistance available. Therefore, there is a need for access to early intervention and more ideal pathways.

Recommendation 10:

Local government, through the Municipal Association of Victoria, should set up a working party with CLCs, financial counsellors, welfare agencies and financial institutions to

- (a) explore the development of an early intervention strategy using rate default to identify and assist local residents in outer metropolitan areas suffering mortgage stress
- (b) assist financial counsellors and CLCs to work with residents in outer-metropolitan areas identified as being in mortgage default and mortgage stress.

¹⁵⁹ A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p69

14. Neighbourhood Disputes Partnership

Most CLCs, particularly those in outer-metropolitan areas, are approached by people with a variety of neighbourhood disputes. As discussed in section 2.7 of this report, fencing disputes are by far the most common neighbourhood dispute, particularly in growth areas and new housing estates. People often get very upset about problems with their neighbours and it is easy to understand why. There is a lot at stake because conflict with a neighbour can make people feel uncomfortable or even unsafe in their own home.

Traditionally, many neighbourhood disputes are dealt with by the Magistrates' Court. In terms of legal assistance, most CLCs provide general advice but do not have the resources to represent in Court. More often than not, general advice given by a CLC lawyer can also be found in a free self-help 'fencing kit'. Some CLCs chose not to provide advice at all, as it is seen as a poor use of resources, and simply refer people to a private solicitor or mediation service.

The dilemma for CLCs is that unless there is a mechanism to build experience and expertise within a centre, a client will be receiving advice from a lawyer who gives it on a one off basis without much experience. In relation to fencing matters, CLCs often provide advice on an ad hoc basis at either a night time legal service or generalist daytime service run by volunteers. Fencing matters do not generally fit into any particular clinic, policy or project. In fact, such matters do not fit into any specialisation, build expertise or economies of scale.

In addition, legal disputes between neighbours are likely to be expensive, time consuming and detrimental to the relationship between the parties. Even if one is successful with taking legal action in the Magistrates' Court, 'neighbours can sometimes wage an endless war that could make living in ones home an ongoing nightmare.'¹⁶⁰ Communication and co-operation between neighbours with the aim of resolving a dispute in a less adversarial way is more likely to bring about a long-term less adversarial and better outcome where all parties are able to live in more harmony.

Mediation

In recent years, there has been a shift toward recognising alternatives to litigation including ADR as a means of delivering justice. In early 2009, the Australian Government publically recognised that access to justice is an important issue where ADR plays a key role.¹⁶¹ The Attorney-General's Department in its Access to Justice Framework states that:

¹⁶⁰ The Law Handbook: Your practical guide to the law in Victoria (2013), Fitzroy Legal Service Inc.

¹⁶¹ The Hon. Robert McClelland MP, Attorney General, Encouraging access to justice through alternative dispute resolution, Media Release, 26 March 2009; see also Senate Legal and Constitutional Affairs References Committee (December 2009), p104

[It] envisages a move towards a justice system which favours the resolutions of disputes outside courts'. There is a role for legal assistance programs in supporting such a move, by supporting persons who are accessing ADR services, and in some cases by providing the ADR service itself.¹⁶²

ADR is the resolution of disputes by an impartial third party independent of judicial determination.¹⁶³ Mediation services are a common form of ADR like the Department of Justice's DSCV that deals with many neighbourhood disputes.

During an initial interview with the DSCV, a Dispute Assessment Officer (**DAO**) explains how the neighbourhood issue fits into a general legal framework and assesses whether mediation is suitable. If it is, the DAO will encourage the client to try mediation before going to court. The DAO does not provide 'legal advice' but they do advise on legal processes. For example, a person with a fencing dispute will be advised of the requirement to first serve a Notice to Fence and obtain quotes. Further, the DAO will advise a person that their neighbour has 28 days (or fewer in some cases) to respond to the Notice to Fence. In other words, the DAO will offer legal information that can be accessed in any of the free online Fencing Kits.¹⁶⁴ If necessary, DAOs may refer a person to an external organisation for some legal advice.

It is now also very common for a magistrate to order the parties to a neighbourhood dispute attend a mediation service before having their matter heard in Court. In some circumstances, there are court-authorised schemes requiring parties to attend mediation before a hearing date, for example, in most civil law matters.

A widespread lack of knowledge and understanding about ADR among the public may be one of the most significant barriers to greater use of mediation services, for instance, in neighbourhood disputes.¹⁶⁵ This lack of awareness might mean that neighbours do not consider the option of mediation or that they may deem it to be inappropriate.¹⁶⁶

CLC/DSCV Partnership - Pilot

Our experience and research has found that in most cases, there are better solutions to neighbourhood disputes than a court-based solution. The traditional reliance on the Magistrates' Court does not necessarily mean it is the best solution. There is a need for a less adversarial model which encourages people to resolve disputes with their neighbours outside of the courtroom.

¹⁶² A Strategic Framework for Access to Justice in the Federal Civil Justice System (2009), p144

¹⁶³ Senate Legal and Constitutional Affairs References Committee (December 2009), Access to Justice, p102

¹⁶⁴ A Self-Help Fencing Kit is available from the Monash-Oakleigh Legal Service, 'How to Conduct a Fencing Dispute in the Magistrates' Court'

¹⁶⁵ Alternative Dispute Resolution in the Civil Justice System, Issues Paper – Summary (March 2009), National Alternative Dispute Resolution Advisory Council, p2

¹⁶⁶ Ibid

In response to the large amount of neighbourhood complaints in Wyndham, the WLS has teamed up with the DSCV to provide a pilot neighbourhood dispute service, based at the WLS office. The advice provided concentrates on common neighbourhood issues (i.e. trees, fences, noise) and focus' on how to negotiate an outcome or arrange mediation. If the issue involves questions of legal complexity beyond the usual legal framework (i.e. Notice to Fence, quotes) or mediation has been attempted but unsuccessful, the DAO will see if an on-duty WLS lawyer is available to give the client advice. It is at the discretion of the WLS lawyer and whether WLS will take further action.

Sometimes, mediation may not be suitable because people are unable or unwilling to negotiate, especially if there has been a history of violence or aggression between the parties. It is worth noting that any neighbourhood dispute involving violence of any kind, does not fall within this pilot service.

Any person who contacts a local Council, Victoria Police, the CLC or the Magistrates' Court in relation to a neighbourhood complaint will be referred to this new partnership service. Regional Co-ordinating Magistrate Noreen Toohey has stated:

We are supportive of any project or program that offers parties the chance to resolve their issues away from the Court system thereby allowing both parties to obtain ownership of an outcome rather than having it ordered.

The creation of the partnership acknowledges that simply seeing neighbourhood disputes as a legal problem with a legal solution is not necessarily the best approach. By setting up a partnership clinic dealing exclusively with neighbourhood issues, we will not only build expertise and economies of scale but we will also be in a position to offer clients a more holistic solution to their problems.

This model enables us to be part of the solution without either a drain on our resources or providing a second-best solution, which is both court based and based on a lack of experience and expertise. It is our legal opinion that a person with a neighbourhood dispute should first attempt to resolve the matter through mediation before going to court.

Due to the voluntary nature of mediation, we are aware that a large proportion of people will chose not to participate. We are interested to see whether a model partnership between a CLC and mediation service, over a period of time, will increase the proportion of people attending mediation.

We are trialling this service with the intention to make it permanent. The initial response to the pilot service has been positive, both in the number of clients turning up to appointments and the feedback after the event. As the pilot has been evaluated by the DSCV and WLS as being a success, the intention is to not only extend the pilot in Wyndham but to other areas in the western region and possibly in other areas of Victoria.

Recommendation 11:

- (a) The Department of Justice Dispute Settlement Centre Victoria (**DSCV**) should work with CLCs and Local Government to set up neighbourhood dispute partnerships designed to reduce the number of neighbourhood disputes and to encourage alternatives to the Magistrates' Court.

Conclusion

Access to justice is a primary concern for people living in outer-metropolitan areas. Our findings clearly show outer-Melbourne communities are disadvantaged in the administration of the law, compared with their inner-city counterparts. This is brought about by a range of factors including lack of sufficient court services, government agencies, early intervention strategies and adequate public transport. As a result, more and more people living in outer metropolitan areas are struggling through the legal system, particularly in relation to family violence, driving offences and debt and mortgage stress, due to the difficulty of accessing justice.

The inherent disadvantage for people living in outer-metropolitan areas in terms of accessing justice needs to be addressed by governments on a structural level. While a 'one-stop shop' justice precinct is an important recommendation of this report, there is significant potential for innovative projects, delivered in partnership with non-legal community services and organisations, to enhance and improve outer metropolitan residents' access to justice.

Appendix 1: Summary of Key Infrastructure and Service Requirements – Justice Precinct

A summary of key infrastructure and service requirements for the development of a justice precinct model in outer metropolitan areas are provided in Table 1:

Table 1: Summary of Key Infrastructure and Service Requirements

Infrastructure	Facilities/Services/Programs
Magistrates' Court and VCAT	Contemporary standard court building
	Victorian Civil and Administrative Tribunal
	Family Violence Division
	Protected Persons Space
	Remote witness facility
	Court Integrated Services Program /Assessment and Referral Court List
	The Enforcement Review Program
	Mental Health Court Liaison Service
	Credit Bail Program
	Dispute Settlement Centre Victoria
	Court support service and facilities
	Court Network Services
Police Station	Contemporary standard police station
	Accommodation for Protective Services Officers
	Police gaols and/or detention facilities
VLA office	Legal advice and assistance
	Duty lawyer service
Community Justice Centre	Advisory Committee
	Centre management and officers
	Pre & post court support services
	Children contact centre & services
	Computer 'Hub'
	Legal – Community Legal Centre/ Victoria Legal Aid
	Mediation service
	Victims of crime/family violence support
	Financial counselling service
	Housing & welfare service
	Community support services (i.e. women, youth, aged-care, disability, CALD, Aboriginal & Torres Strait Islander)

	Health & Counselling services
	Alcohol & other drug support services
	Employment and education support services/training
Department of Justice centre	Consumer Affairs Victoria
	Sheriff's Operations
	Community Corrections
	Births, Deaths & Marriages
Miscellaneous	Centrelink/Medicare

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