

## HOBART CITY COUNCIL DRAFT PUBLIC OPEN SPACE BI-LAW –FEEDBACK TO COUNCIL ON SUGGESTED WORDING FOR PROTECTING RIGHTS OF PEOPLE WHO ARE HOMELESS

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HCC is seeking advice from Shelter Tas on appropriate wording to exclude homeless people from the application of a proposed new bylaw for move-on powers in open space.

The wording of the current draft bi-law inadvertently captures homeless people. Council wants to amend the draft to exclude homeless people from its effect<sup>1</sup>:

### *Division 4 – Camping*

*a person must not camp in a public space without a permit to do so.*

*camp means to:*

*(a) erect a tent, camper trailer or similar portable shelter; or*

*(b) place, park or leave a caravan, campervan, motorhome or similar vehicle*

*in a public space between 10 pm and 6 am (except if legally parked on a highway); or*

*(c) sleep in the open or in any form of shelter or vehicle between 10 pm and 6 am;*

Council has two options under consideration and is seeking a definition that is simple to interpret and apply, while being culturally appropriate and removing scope for discretion. The two definitions being considered are:

1. people with no fixed address
2. people with no permanent address

In Shelter Tas' view, neither definition fully captures people who are homeless, e.g. it excludes people seeking safety from unsafe or inappropriate accommodation. Shelter Tas is considering suggesting this as an alternative:

*People with insecure, inadequate or unsafe housing or of no fixed address,*

supported with a practice guideline that gives examples of what this means in practical terms, such as:

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<sup>1</sup> Hobart Council Bi-Law Draft: <https://www.hobartcity.com.au/Council/Legislation-and-by-laws> Public Spaces

## Shelter Tas

- *insecure housing*: a boarding house or where a person does not have control over access to their housing
- *inadequate housing*: person is seeking respite from overcrowded housing
- *unsafe housing*: person is escaping family or domestic violence

The practice guideline (or protocol) could use elements of both the widely accepted cultural definition of homelessness Mackenzie and Chamberlain's (1992) and the ABS statistical definition (see below for more information on both).

**Mackenzie and Chamberlain's (1992) cultural definition of homeless** adopted by the Commonwealth Advisory Committee on Homelessness in 2001 and widely used in the homelessness sector. The definition includes three categories in recognition of the diversity of homelessness: Primary homelessness; Secondary homelessness; and Tertiary homelessness.

**The ABS definition of homelessness (2012)** adopts a statistically based framework, and again likely to be too complex for application in a Council by-law:

When a person does not have suitable accommodation alternatives they are considered homeless if their current living arrangement:

- is in a dwelling that is inadequate; or
- has no tenure, or if their initial tenure is short and not extendable; or
- does not allow them to have control of, and access to space for social relations.

The ABS definition of homelessness is informed by an understanding of homelessness as 'home'lessness, not rooflessness. It emphasises the core elements of 'home' in Anglo American and European interpretations of the meaning of home as identified in research evidence (Mallett, 2004). These elements may include: a sense of security, stability, privacy, safety, and the ability to control living space. Homelessness is therefore a lack of one or more of the elements that represent 'home'.

The definition has been constructed from a conceptual framework centred around the following elements:

- Adequacy of the dwelling;
- Security of tenure in the dwelling; and
- Control of, and access to space for social relations.

See [Information Paper: A Statistical Definition of Homelessness](#) (cat. no. 4922.0) for more information on the ABS' definition of homelessness.

ABS 4922.0 - Information Paper - A Statistical Definition of Homelessness, 2012 Accessed 1/5/18 at:

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4922.0Main%20Features22012?opendocument&tabname=Summary&prodno=4922.0&issue=2012&num=&view=>