**REQUEST FOR SECOND TIER REVIEW – WRITTEN SUBMISSIONS**

[these names and facts in these submissions are fictional]

On behalf of Ms Jane Smith, we provide the following submissions in support of Ms Smith’s request for a second-tier review of the decision by DCJ Housing on 10 April 2021 to reject Ms Smith’s application for priority housing.

**Background**

Ms Smith is a 37-year-old woman with two children, aged 4 and 7 years old. Ms Smith was residing is private rental accommodation at 1 Bondi Street Bondi Junction NSW 2022. On 1 March 2021, Ms Smith received a notice of termination on the grounds of rent arrears and on 28 March 2021 her residential tenancy agreement was terminated by the NSW Civil & Administrative Tribunal.

Ms Smith and her children are currently residing in a refuge in the eastern suburbs of Sydney.

**The original decision**

On 7 March 2021, Ms Smith made an application for social housing at the Maroubra office of DCJ Housing. On 10 April 2021, DCJ Housing sent Ms Smith a letter informing her that her application had been approved and that she would be placed on the housing register as a ‘wait-turn’ application.

The letter stated that Ms Smith was not eligible for priority housing as she was able to resolve her housing needs in the private market. A copy of that letter is attached.

**Request for first tier review**

On 18 April 2021, Ms Smith made an online application for a first-tier review of DCJ Housing’s decision not to approve her for priority housing. A copy of that application is attached.

On 1 May 2021, Ms Smith received a telephone call from a DCJ Housing appeals officer. That officer asked Ms Smith a number of questions about her circumstances and asked Ms Smith to provide further evidence relating to her medical conditions.

On 5 May 2021, Ms Smith provided DCJ Housing with a medical assessment from her general practitioner, Dr John Smyth.

On 20 May 2021, DCJ Housing wrote to Ms Smith to inform her that her request for first tier review had been declined. That letter included an appeal report giving reasons for DCJ Housing’s decision. A copy of the first-tier decision is attached.

**Request for second tier review**

On 4 June 2021, Ms Smith lodged an application to the Committee for a second-tier review of DCJ Housing’s decision not to approve her application for priority housing.

The application is listed to be heard by the Committee on 18 June 2021.

**Criteria for priority housing**

The criteria for priority housing eligibility are set out in DCJ Housing’s *Eligibility for Social Housing Policy* and *Social Housing Eligibility and Allocations Policy Supplement*. The policy relevant states:

To be eligible for priority housing, applicants must meet all three of the following criteria:

1. Eligible for social housing, and
2. In urgent need of housing, and
3. Unable to resolve that need themselves in the private rental market.

*Eligible for social housing*

The original decision made by DCJ Housing confirmed that Ms Smith is eligible for social housing.

*In urgent need of housing*

The policy supplement states that:

A client has an urgent housing need if they are experiencing unstable housing circumstances. This includes:

…

* living in crisis or emergency accommodation

Ms Smith has provided a support letter from her current refuge accommodation provider dated 11 April 2021. That letter confirms that Ms Smith has been residing in refuge since 2 April 2021.

Given the above, Ms Smith is in urgent need of housing as she has provided evidence that she is currently in refuge or crisis accommodation.

*Unable to resolve housing need in the private market*

The policy supplement sets out a number of factors that DCJ Housing should consider in deciding whether Ms Smith can resolve her housing need in the private market.

The first-tier decision made by DCJ Housing refers only to Ms Smith’s calculated rental affordability and states that there are private properties available to rent that meet Ms Smith’s housing needs. That finding is based on DCJ Housing’s decision that Ms Smith had not established a locational need for the CS2 allocation zone. In those circumstances, DCJ Housing conducted web searches of available rental properties and found 4 properties in the western suburbs that were at or below Ms Smith’s rental affordability of $370 per week.

Attached to these submissions are web searches of private rental properties at or below $370 in the CS2 allocation zone. As is apparent from those searches, there are no two bedroom properties available to rent at or below that weekly rental price. Further, Ms Smith has made considerable attempts to find a suitable and affordable private rental property. Attached to these submissions is a rental diary completed by Ms Smith showing the real estate agencies she attended and the properties for which she applied.

It is apparent that DCJ Housing’s decision that Ms Smith was unable to resolve her housing need in the private market rests on their further decision that she had not established a locational need for the CS2 allocation zone. Given the evidence that Ms Smith has provided as to her inability to rent a private property in the CS2 allocation zone, she would be unable to resolve her housing needs in the private market should she establish a location need for that allocation zone.

**Locational need for the CS2 allocation zone.**

The DCJ Housing policy supplement sets of the criteria to establish a locational need for a high demand area, such as the CS2 allocation zone.

The effect of the policy is to require the applicant to establish:

* They live with an ongoing medical condition;
* The applicant needs to live in close proximity to services and/or supports; and
* The requested area will have a direct benefit in terms of the applicant’s or their household’s wellbeing.

*Living with an ongoing medical condition*

The DCJ Housing policy supplement states that a person will have an ongoing medical condition that:

* is due to an intellectual, psychiatric, sensory or physical condition or combination of conditions, and
* is permanent or likely to be permanent, and
* results in:
	+ a substantially reduced capacity of the person for communication, learning or mobility, and
	+ the need for ongoing support services, or
	+ an inability to obtain housing from the private rental market.

Ms Smith has provided a letter from her treating psychologist, Dr Susan Williams, dated 13 April 2021. In that letter, Dr Williams states:

“Jane has been diagnosed with post-traumatic stress disorder and chronic depression. Her conditions have a significant impact on her functioning and at times she can need a high level of support. Jane started treatment in April 2017, and she successfully manages her condition through regular counselling sessions, assistance from her local services and the support of family and friends.

Further, Ms Smith has provided a medical assessment dated 4 May 2021, completed by her general practitioner, Dr John Smyth. In that assessment, Dr Smyth identified Ms Smith as living with post-traumatic stress disorder and chronic depression and in answer to question 5 stated that the likely duration of the conditions is “*Long (5 years or more).*”.

In answer to question 16 “Does the client need to live in a particular area to access support services?”, Dr Smyth stated:

Yes – CS2 allocation zone. Patient needs to maintain access to counselling and support services.

Given the above, the opinion of Ms Smith’s treating doctors is that she lives with an ongoing medical condition, in the sense that it is a psychiatric condition that is permanent or likely to be permanent and that as a result Ms Smith has a need for ongoing support services.

*Living within close proximity to services or supports*

The DCJ Housing policy supplement states that:

Depending on their individual circumstances and requirements, a client may need to live in close proximity to one or more of the following:

* a hospital specialising in the treatment of a particular medical condition or disability
* special schools for children with an intellectual, psychiatric or physical disability
* a specialist who has continuously treated the client’s condition or disability
* culturally appropriate services
* disability support services
* home support services
* mental health services
* social supports
* employment.

As referred to above, Ms Smith has provided a letter from her treating psychologist in Waverley, Dr Susan Williams. In that letter, Dr Williams states:

Jane has been my patient since 2017 and attends a counselling session with me on an average of 1 to 2 times per month.

In a letter from Dr Smyth dated 13 March 2021, Dr Smyth states:

I have been treating Jane and her family at my practice in Bondi Junction for more than 10 years. I believe that having stable and ongoing access to her treating doctors is very important for Jane’s mental health.

Further, Ms Smith has provided a letter from Heather Simons, her support worker at Bondi Families Support Service, dated 24 April 2021. Ms Simons describes the support that her service provides to Ms Smith and her children and states:

Jane and her family have been engaged with us for the past 2 years. Jane appears to get a real benefit from coming into the Centre and comes every week. Jane has told me how much she values the program and what a big role it has played in her supporting her and her kids.

Ms Smith has also provided a short statement from her mother Jocelyn Smith, who lives in Coogee and helps Ms Smith care for her children. In that statement, Jocelyn says:

I help Jane out after school by looking after the kids. They are able to get a bus to my place and then I drive them home. When Jane isn’t feeling as good, I do a bit more and sometimes have the kids stay over. If Jane lived further away I don’t think I’d be able to do as much and the kids wouldn’t be able to come round in the afternoon.

Finally, Ms Smith has provided a letter from the principal at Bondi Public School, where her eldest daughter Dana is in year 2. That letter states that Dana is enrolled in an assisted learning program that helps her with her reading and writing development. The principal’s view is that continuing in that program is “an important part of Dana’s continuing development and learning”.

In our view, the evidence provided by Ms Smith establishes that she needs to live within close proximity of service and supports is the CS2 allocation zone. Specifically, she needs to access:

* a specialist who has continuously treated her condition (her psychologist Dr Williams)
* mental health services (her treating GP, Dr Smyth)
* social supports (Bondi Families Support Service and her family support)

Whilst Ms Smith’s daughter does not live with an intellectual disability, the view of her school principal is that it is important to her learning and development for her to continue in the assisted learning program at Bond Public School.

*Living in the allocation zone will have a direct benefit on wellbeing*

The DCJ Housing policy supplement states that:

The client must show that the requested area will have a direct benefit in terms of the health or wellbeing of themselves or other members of their household. As part of the assessment process, the housing provider will consider:

* the severity of the person’s medical condition or disability, and
* whether the medical condition is permanent or likely to be permanent, and
* the mobility of the person affected, and
* what living skills the person has, and
* the impact of an alternative location on the person’s health or wellbeing, and
* how often the person needs to visit medical services or specialists, and
* the type of care or support received from family or friends, and
* if, and how easily, the person can travel to these services and supports, and
* if, and how easily, these services can be accessed in other areas

In our view, it is apparent from the evidence provided by Ms Smith and referred to above, that continuing access to her services and supports will have a direct benefit on her and her children’s wellbeing.

Ms Smith lives with serious mental health conditions that impact her daily life. She has been able to effectively manage that condition through longstanding and ongoing engagement with medical professionals in the local area. Ms Smith has established relationships of trust with those professionals and cannot simply replicate those relationships if she were forced to change to new doctors.

Further, Ms Smith has gained significant benefit from her engagement in the programs offered by Bondi Families Support Service and those programs play an important role in maintaining the stability of her and her children’s life.

Finally, Ms Smith’s daughter Dana is benefiting from her participation in the assisted learning program at her primary school and that participation is important to her ongoing development.

**Preferable decision**

Given the above, in our view Ms Smith has established that she meets the eligibility criteria for priority housing. She is eligible for social housing, in urgent need of housing and she has a locational need for the CS2 allocation zone, an area in which she cannot resolve her housing needs in the private market.

In those circumstances, we ask the Committee to recommend that DCJ Housing change their original decision and approve Ms Smith for priority housing.