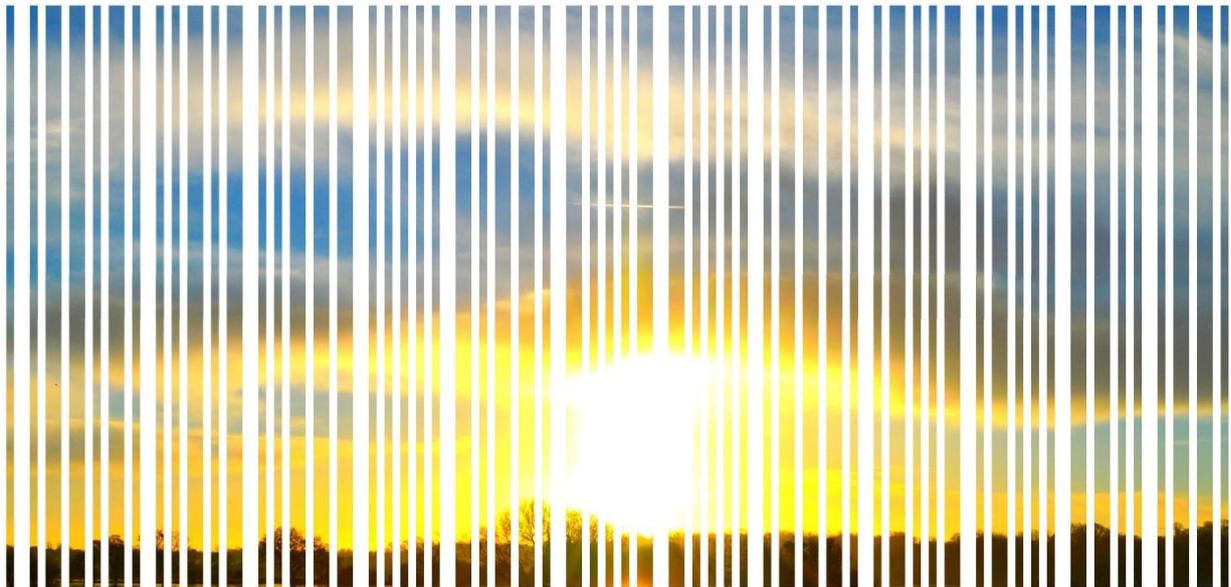




CLEAN SLATE PRISONER DEBT PROJECT

Future iteration scoping report



June 2016

Brimbank Melton Community Legal Centre
(a program of Comm Unity Plus Services Ltd)

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1. INTRODUCTION

The Clean Slate Pilot Project aims to lower recidivism rates by reducing prisoner debt and fines. By relieving the financial pressure experienced by ex-prisoners on release into the community, we hope that ex-prisoners will be less likely to return to crime to fulfil their financial obligations.

Clean Slate was developed in response to the high level of unmet civil legal need of Victorian prisoners and utilised Brimbank Melton Community Legal Centre (BMCLC) lawyers' expertise in debt and fines. Phase 1 of the project was funded by Comm Unity Plus Services Ltd and was piloted at the Dame Phyllis Frost Centre (DPFC) between June 2014 and March 2015. The scoping project report was funded by Victoria Legal Aid (VLA) to ensure the learnings from the project are documented and a model is developed to support capacity building and expansion of the Clean Slate Project.

122 female prisoners participated in the Clean Slate Pilot Project. To date, the Project has resulted in:

- the waiver of more than \$200,000 of prisoner debt;
- participation by 20 companies (banks, telecommunications, water, energy companies, debt collection and credit reporting agencies and the Energy and Water Ombudsman of Victoria);
- all clients given an additional opportunity to call outstanding infringement warrants into the Deemed Served Program, allowing the infringement penalty to be converted to a custodial sentence and served

concurrently with clients' existing sentences;

- 15 clients calling in additional infringement warrants and serving these concurrently with sentences already on foot; and
- the beginning of developing a new notification system with energy and water retailers and the prison, for prisoners to avoid further energy and water debt, with the prison and retailers.

This project will help to continue to reduce Victoria's growing prison population's recidivism rates. The expansion of the project will allow the benefits already experienced by prisoners in the Brimbank / Melton / Bacchus Marsh catchment to reach prisoners around the state.

Clean Slate uses an innovative and efficient model that maximizes participant numbers and the outcomes achieved, a model that has the potential to influence significant systemic reform.

This scoping report will outline the potential outcomes of expanding Clean Slate across the state, which includes the following:

1. To ensure a shared understanding and knowledge of the aims, objectives,

methodology and outcomes of Clean Slate between community legal centre (CLC) and VLA staff working in prisons in order to minimise duplication and to ensure the ease of adapting key learnings of the project;

2. To improve and increase access to civil law assistance by utilising Clean Slate's recommendations (detailed further below);
3. To enhance the pre-release community legal education component of Clean Slate through collaborations and partnerships, improving prisoners' knowledge and confidence in dealing with post-release legal issues;
4. To share Clean Slate knowledge and mechanisms among CLC and VLA staff in order to enhance the effectiveness of negotiations with concerned creditors (including financial service providers, telecommunications and energy companies and others);
5. To facilitate collaboration through the sharing of professional development opportunities and resources within the financial and legal sector;
6. To also explore referral pathways for clients to other areas of law as required.

1.1 **commUnity+** AND BMCLC JUSTICE REINVESTMENT FRAMEWORK

Research shows that smart investment which tackles the causes of crime can be cost effective. Justice reinvestment is a new approach that redirects money spent on prisons to community-based initiatives which aim to address the underlying causes of crime. It promises to cut crime and save money¹.

Brimbank Melton Community Legal Centre is operated within the over-arching justice reinvestment framework of **commUnity+**. The framework applies the principles of justice reinvestment across several community development and service programs in order to enhance the lives of members of the community in Melbourne's west.

commUnity+ maintains a commitment to justice reinvestment and its program design and service provision is carried out in a manner consistent with that commitment. The justice reinvestment framework is applied consistently across all stages of each of the **commUnity+** programs, with priority placed on "tailored programs in <our> communities to strengthen them and address the causes of crime to mitigate against individuals being caught up in the criminal justice system"².

1 Federation of Community Legal Centre. (2015). *Smart Justice Reinvestment Fact Sheet*, p1.

2 Senate Legal and Constitutional Affairs Committee Secretariat. (2013). *Value of a justice reinvestment approach to criminal justice in Australia*, p55.

Figure 1: **commUnity+** Justice Reinvestment Framework



2. THE NEED TO EXPAND CLEAN SLATE PROJECT

2.1 VICTORIA'S PRISONER POPULATION AND RECIDIVISM RATES

In recent years Victoria's prison population and recidivism rates have experienced significant growth. Accompanying the overcrowding of Victoria's prisons is a range of complex issues and demands that are placed on Corrections Victoria, the court system, community services, families and the prisoners themselves.³

Currently 13 prisons operate in Victoria, with a new 1,300 prisoner capacity medium-security prison under construction in Ravenhall expected to open late 2017.⁴ In the four years from 2009 to 2012, the Victorian prison population rose by just under 11 per cent. In the subsequent three years between 2012 and 2014, this growth more than doubled to 25 per cent.⁵

In its recent investigation into the provision of rehabilitation programs and transitional services for offenders in Victoria, the Victorian Ombudsman highlighted a number of issues, including:

- whether services provided to prisoners are effective in reducing re-offending;
- the impact of increasing prisoner numbers on these services;
- whether there are any particular groups within the prisoner population that are not being adequately supported;
- the consistency of programs delivered to Aboriginal and Torres Strait Islander prisoners; and
- whether programs for women prisoners were sufficiently tailored to their needs.⁶

The following figures provide the findings from the data collected from the Clean Slate Project – Phase 1, highlighting the high number and the kinds of debts of prisoners.

3 Reference: Glass, D. (2014). *Investigation into the rehabilitation and reintegration of prisoners in Victoria - Discussion Paper*, p 3.

4 Reference: Department of Treasury and Finance. (2015). *Ravenhall Prison Project*.

5 Reference: Glass, D. (2015). *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, p4.

6 Reference: Victorian Ombudsman's Office. (2014). *Ombudsman Investigation into the Provision of Rehabilitation Programs for Offences in Victoria - Media statement*.

Figure 2: Number of reported debts vs creditor – Banks & Major Lenders



Figure 3: Number of reported debts vs creditor – Debt Collectors

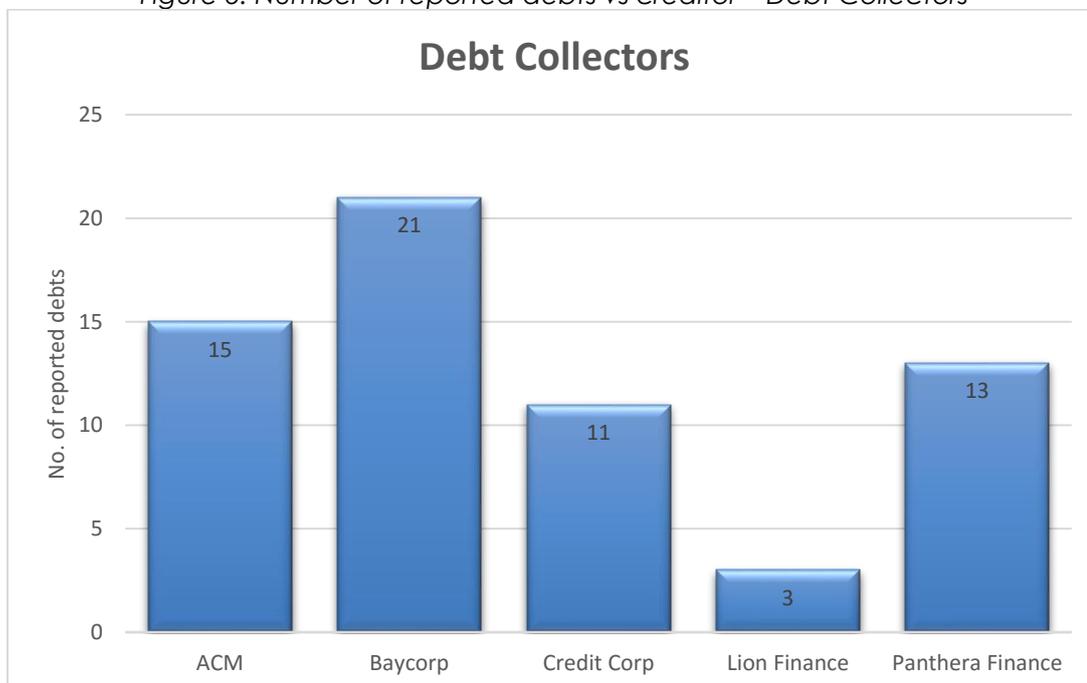


Figure 4: Number of reported debts vs creditor – Telecommunications Companies

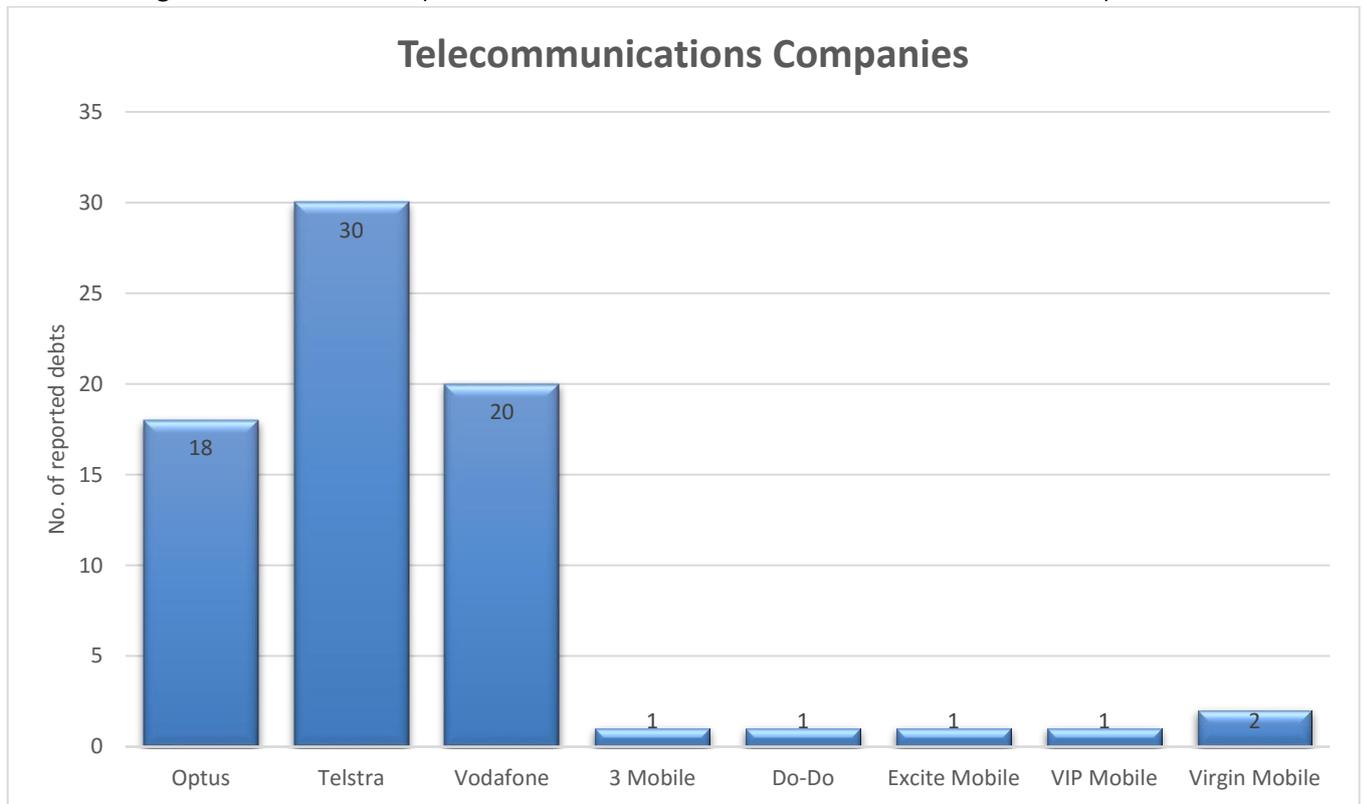
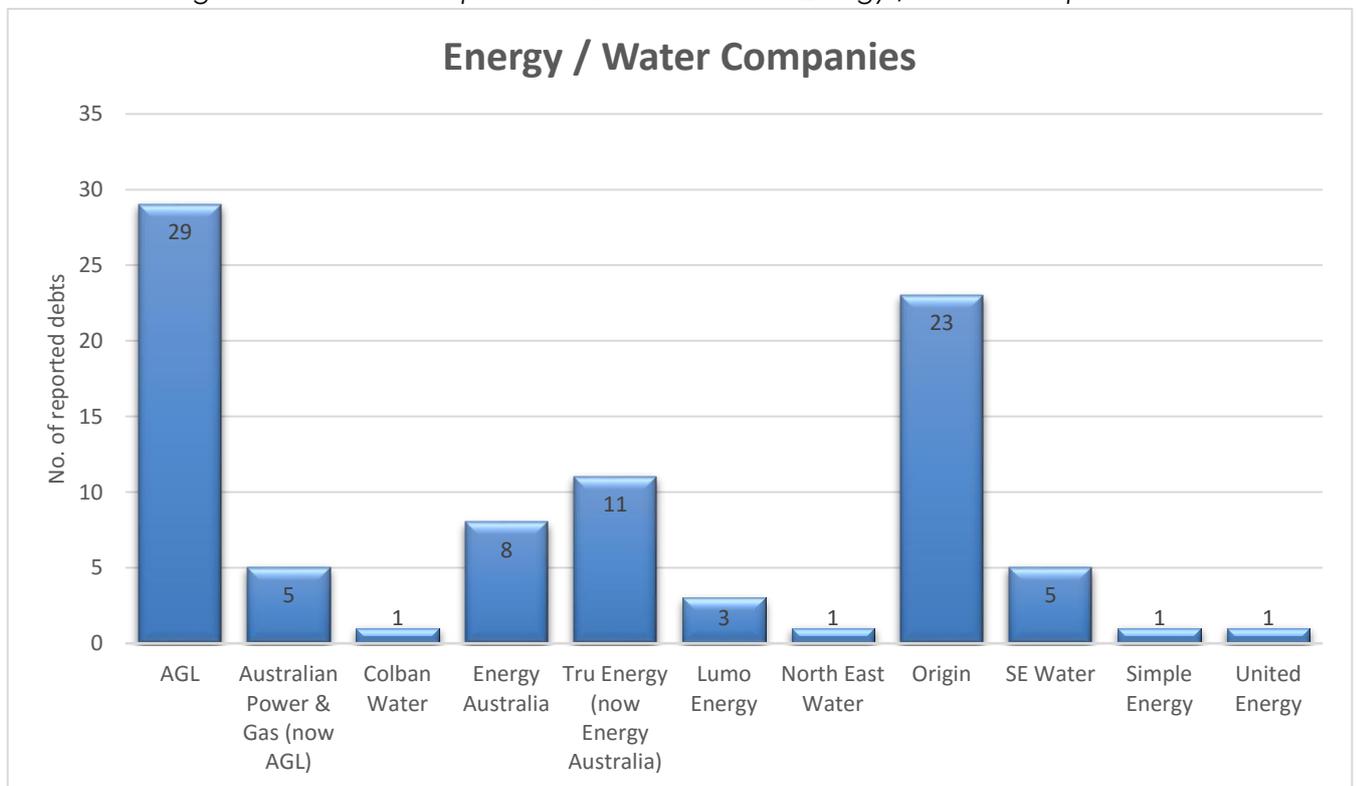


Figure 5: Number of reported debts vs creditor – Energy / Water Companies



The Taking Justice into Custody report stated that prisoners frequently report outstanding debt, with those in its analysis sample ranging from \$175 - \$15,000⁷.

A Clean Slate client illustrated the conundrum succinctly:

“If I don’t need to pay these debts, I won’t have to steal or get in trouble again as soon as I’m out... I might actually stay out this time.”

2.2 LEARNINGS FROM THE NATIONAL BULK DEBT PROJECT

The development of the Clean Slate model was informed by key learnings that emerged from the National Bulk Debt Project. The learnings include:⁸

- Historically, communication between financial counsellors, lawyers, financial institutions and debt collectors has not always been consistent and pragmatic. Addressing this issue would assist in reaching pragmatic resolutions for clients;
- More education is needed to inform financial institutions and debt collectors of the social circumstances surrounding debt; and
- Greater community participation in projects such as bulk debt projects

⁷ Justice Action Debts of Prisoners and the Mentally Ill/Cognitively Impaired - Justice Action Submission to the Law Reform Commission. (2011, February).

⁸ Reference: Maron, J. (2012). *The National Bulk Debt Project - Alternative Law Journal*.

provides a stronger negotiating position and maximises impact.

2.3 KEY LEARNINGS FROM THE CLEAN SLATE PILOT ROUND

The pilot project:

- Assisted around 130 female prisoners;
- Achieved the waiver of approximately \$200,000.00 in debt to various creditors, including banks, telecommunications companies, water and energy providers and debt collection and credit reporting agencies;
- Enabled 15 clients to concurrently serve additional infringement warrants as part of the Deemed Served Program; and
- Instigated the development of a new energy and water provider notification system that enables prisoners to avoid further energy and water debt.

A number of valuable key learnings emerged from Clean Slate’s pilot round, including the following:

- The information sessions and questionnaire model, which was suggested in early discussions with DPFC staff, was an efficient and effective method of engaging with a large number of clients quickly. This enabled BMCLC community lawyers to see 122 clients in only five visits to DPFC, highlighting the efficiency of the ‘bulk’ element of Clean Slate.
- As awareness and interest grew, so did the number of information session to participants. To manage demand,

back-to-back sessions were scheduled for each visit, with a special session run in Vietnamese for the relatively high number of Vietnamese speaking prisoners.

- Obtaining clients' credit reports was a key feature of Clean Slate. The development of a positive relationship with a credit reporting agency allowed the required information to be sent to the agency in bulk, reducing turnaround and collation time.
- Discussions with companies suggest that outstanding debts that do not appear

on clients' credit reports may not warrant pursuing through Clean Slate. Outstanding debts or defaults that do not appear on credit reports do not prevent clients from obtaining credit (except where a client seeks to obtain credit from the same company to which they have an outstanding debt). A credit report indicating a debt has been waived (e.g. through Clean Slate) may lead some companies to decline credit, as the purpose of the credit reporting system is to protect creditors and go some way to limiting borrowers' ability to incur unmanageable debt.

It is useful here to refer to the process followed by Clean Slate in its pilot stage.

Figure 6: The Clean Slate pilot stage process



3. FUTURE EXPANSION OF CLEAN SLATE

With the benefit of analysis and reflection upon the outcomes and achievements from Clean Slate's pilot round, we are able to make recommendations for the potential expansion of the model.

3.1 STAGES OF EXPANSION - THE THREE STAGE APPROACH MODEL

We recommend the expansion of Clean Slate to enable access to the program for a far greater number of people and, in accordance with our model of piloting and evaluation, we recommend that the expansion take place in stages.

3.1.1 STAGE ONE - PILOT ROUND

The first stage of Clean Slate was constituted by the successful first round of the project, which is discussed further in other parts of this report. That pilot stage, conducted on a relatively small scale in one prison, was by design a testing ground for expansion. Given the success of the pilot round, it was deemed to be of benefit to progress beyond the first stage.

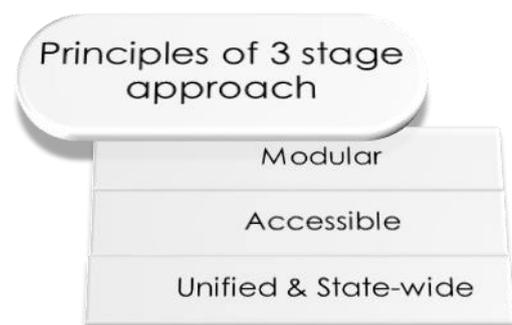
3.1.2 STAGE TWO - CONTROLLED EXPANSION

The second stage is currently underway, with the program having been expanded to a cautious but exciting extent. The second 'round' of Clean Slate, at the client intake and assessment stage of the process in early 2016 involves people in custody at both Dame Phyllis Frost Centre and Langi Kal Kal, a minimum security prison farm for men near Beaufort in regional Victoria. This represents the first expansion of Clean Slate outside of the

direct catchment area of BMCLC, and it has been facilitated and supported by the Central Highlands Community Legal Centre (CHCLC), as well as financial counsellors in the area.

The second stage is anticipated to serve a similar number of people as the pilot stage. We will only be providing services to similar number of clients because a lot of time has to be spent forming relationships and partnerships with the staff of a new prison location. Time factor allocated for these activities are important irrespective of whether we are duplicating the activities at each prison.

Figure 7: 3 Stage Approach



3.1.3 STAGE THREE - A MODULAR, ACCESSIBLE, UNIFIED STATE-WIDE PROGRAM

The third stage would see Clean Slate's project model adjusted slightly to allow for a drastically greater expansion following the key principles:

Modular

The model will involve information and processes packaged in modules for ease of understanding and use by CLC and VLA offices throughout Victoria. These modules would enable partner to conduct stages of the project in collaboration with BMCLC, taking advantage of existing relationships in their local areas, while exploiting the knowledge, experience, processes and infrastructure at BMCLC;

Accessible

The modular nature of the project would mean more lawyers, financial counsellors and legal assistants and administrative staff would be empowered to access its processes and take advantage of its benefits. It would also, importantly, enable more people in custody access to civil

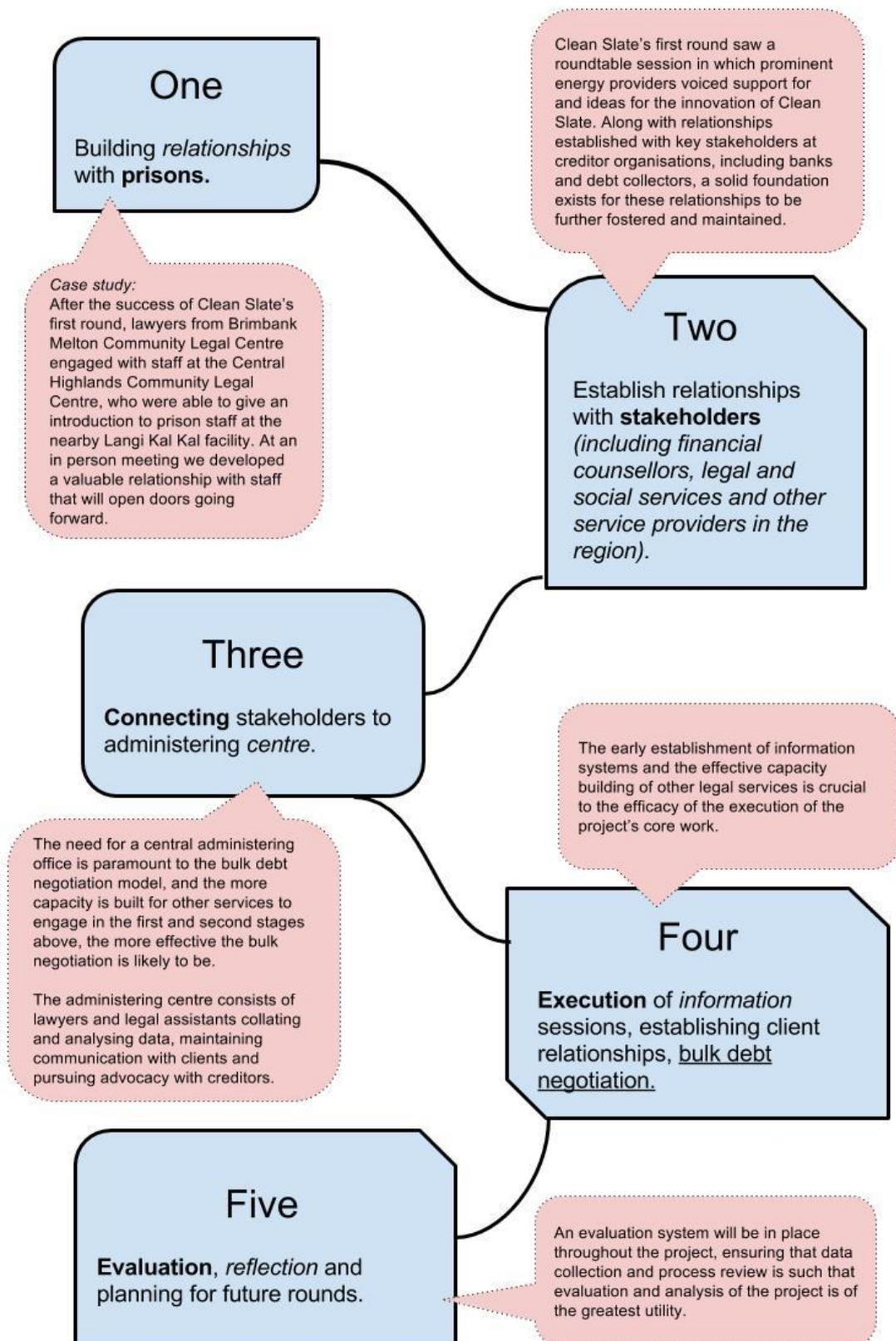
justice, which is of particular importance in today's climate;

Unified and State wide

Maintaining a centralised infrastructure, with one administrative office serving each of the other locations around the state will result in efficiency and consistency in the approach. The administrative office would be responsible for the maintenance and analysis of data collected by the other centres and, importantly, would be responsible for negotiations with creditors. With the benefit of the experience of the National Bulk Debt Project, we know that what we see intuitively is right: there is significantly greater power in numbers. If centres were divided and approaching banks and energy providers independently of one another, the Clean Slate model would be substantially weakened and every client of the project would be disadvantaged.

Following on the next page is a visual representation of the model described above.

Figure 8: The Way Forward – A vision for Clean Slate's Future



4. CAPACITY BUILDING FOR GREATER EFFICACY

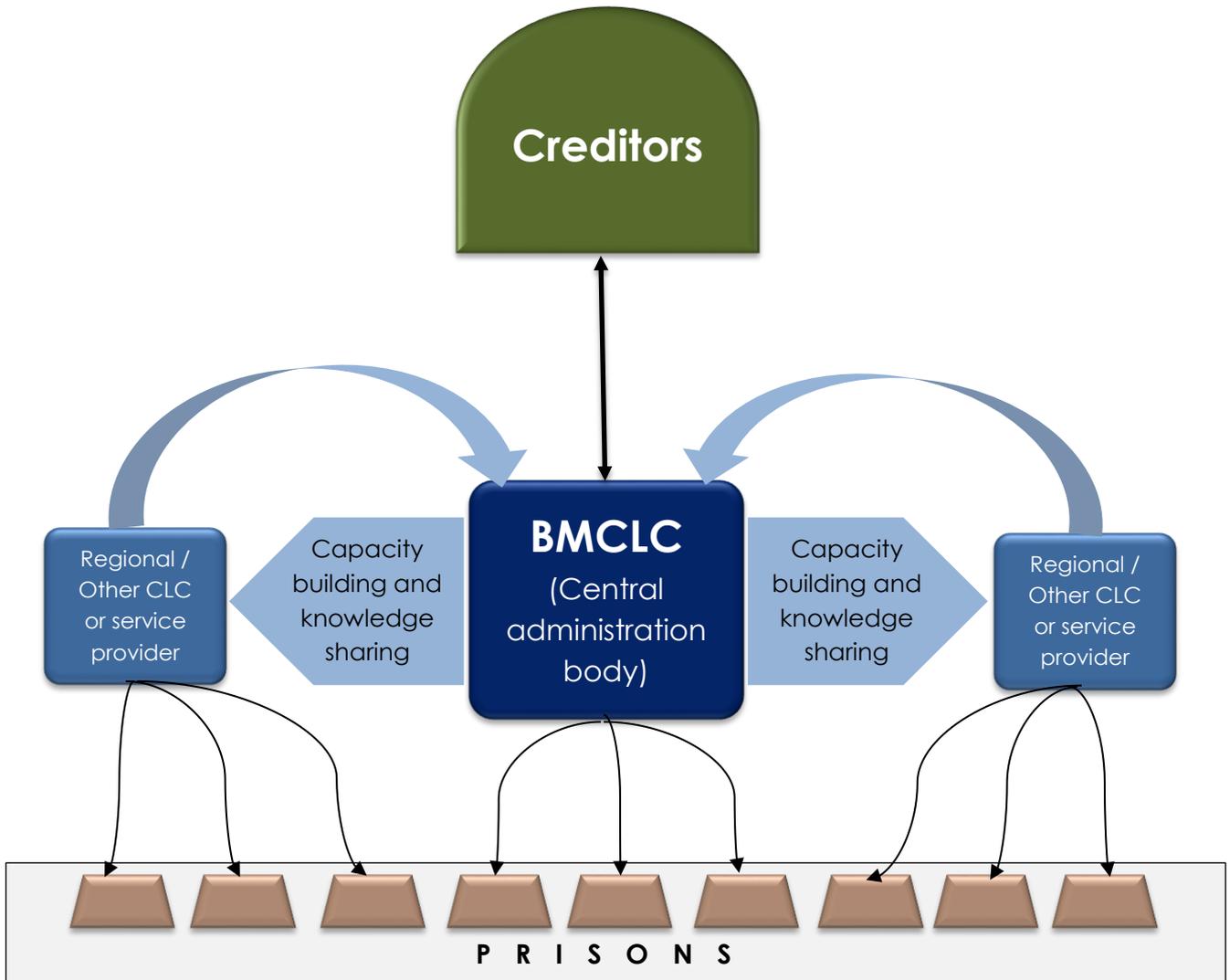
In order to use bulk debt negotiation to meet the significant need for civil law assistance in Victorian prisons, a model of central administration with capacity building and knowledge sharing to third party service providers, including CLC and VLA offices, should be employed.

The following diagram attempts to illustrate this model, with Brimbank Melton Community Legal Centre (BMCLC) acting as the central administration body for data collection, data analysis, client communication and maintenance and negotiation with creditors. The central body (BMCLC) would also lead the reporting on, and evaluation, of Clean Slate.

The benefits of collaborating with other centres and stakeholders within this model are many. They include:

- The provision of training to lawyers and legal staff at third party centres;
- The ability to take advantage of knowledge held by third party centres, including local knowledge and contacts, as well as expertise in the respective offices and their employees;
- The enrichment of the project in general, with many practitioners from different social, geographical and practical backgrounds working together;
- The ability to service a drastically greater number of people in Victoria's prisons;
- The resulting strength in advocating position when negotiating in bulk with a greater number of clients and higher debt amounts (see above discussion of the National Bulk Debt Project).

Figure 9: Capacity Building Model



5. KEY FINDINGS AND RECOMMENDATIONS

1. The Clean Slate Project should be rolled out to the entire state using the three stage approach;
2. The retention of projects such as Clean Slate in prisons is likely to contribute to the facilitation of prisoner rehabilitation and the reduction of recidivism rates;
3. Clean Slate could easily and effectively be expanded to include the participation of Victoria Legal Aid and other Victorian Community Legal Centres;
4. There is an urgent need for innovative, increased provision of civil legal assistance to Victoria's prison population; and
5. To best service the need for increased provision of civil legal assistance in Victoria's prison population, additional collaborations and partnerships between prison services and the wider sector, including banks, energy, water, telecommunication providers and others would be vital.

In continuing to roll out the Clean Slate program, unique opportunities are provided to enable BMCLC and other agencies and stakeholders to enhance

and further develop the model in a number of ways, including:

- Obtaining credit reports for all clients and giving consideration to only pursuing the waiver of debts listed on credit reports. This will reduce the resource-intensity of companies searching for non-existent debts or waiving debts that do not negatively impact clients;
- Additional community legal education being delivered to clients transitioning out of prison on civil law issues including debt, fines, housing, tenancy rights, Centrelink, discrimination and family law;
- Pursuing systemic change with the assistance of telecommunications, energy and water companies to develop, among other things, a better way to manage connection and supply with regard to ex-prisoners;
- Pursuing retention of the Deemed Served Program; and
- Further exploring and developing the expansion of the Clean Slate bulk delivery model to include other CLC and VLA offices.

6. LOCATING PRISONS AND LEGAL SERVICES IN VICTORIA

The maps below show the geographic locations of legal services, including CLC and VLA, as well as Victoria's prisons.

One aspect of the rationale for Brimbank Melton Community Legal Centre commencing the Clean Slate program in the first instance was its location in the outer western suburbs of Melbourne where a high concentration of prisons exists as demonstrated in the maps below.

Although some outreach legal services are provided in certain places and contexts, two factors can place constraints on the utility of outreach work to address the legal need of Victorian prisoners, in particular civil law need.

1. Anecdotal evidence from our centre and its lawyers suggests that most legal service providers provide outreach services as a secondary or auxiliary service to their core business; and
2. Given financial and temporal constraints on legal service providers, regardless of the priority placed on outreach work, actually performing outreach work brings with it many logistical, monetary and other obstacles. It is important to note the time saved through efficiency created by bulk debt compared to individual casework provides a lot of benefit for the legal sector and improves civil law access for prisoners.

Figure 10: Victoria's prison locations

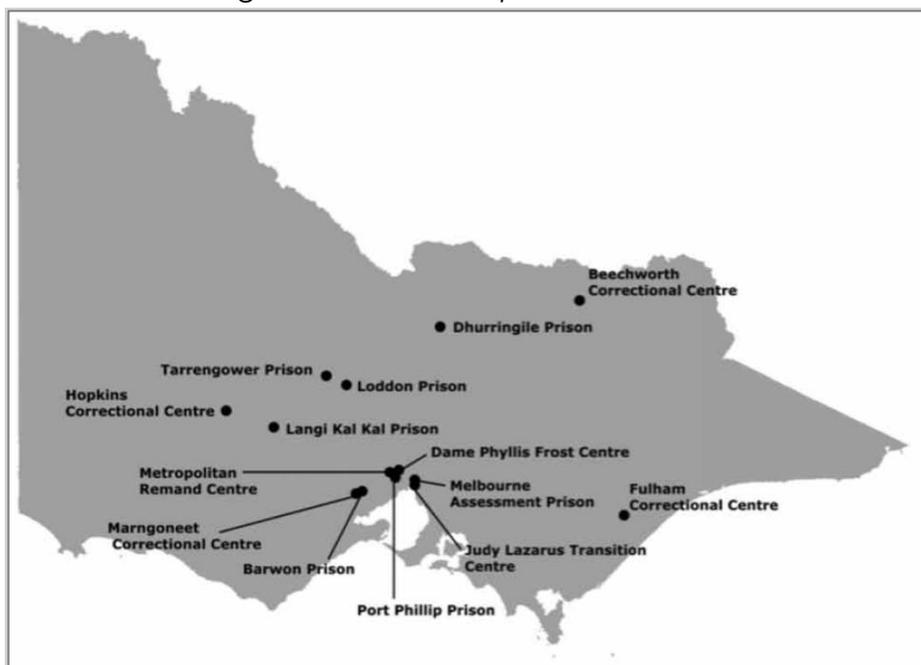
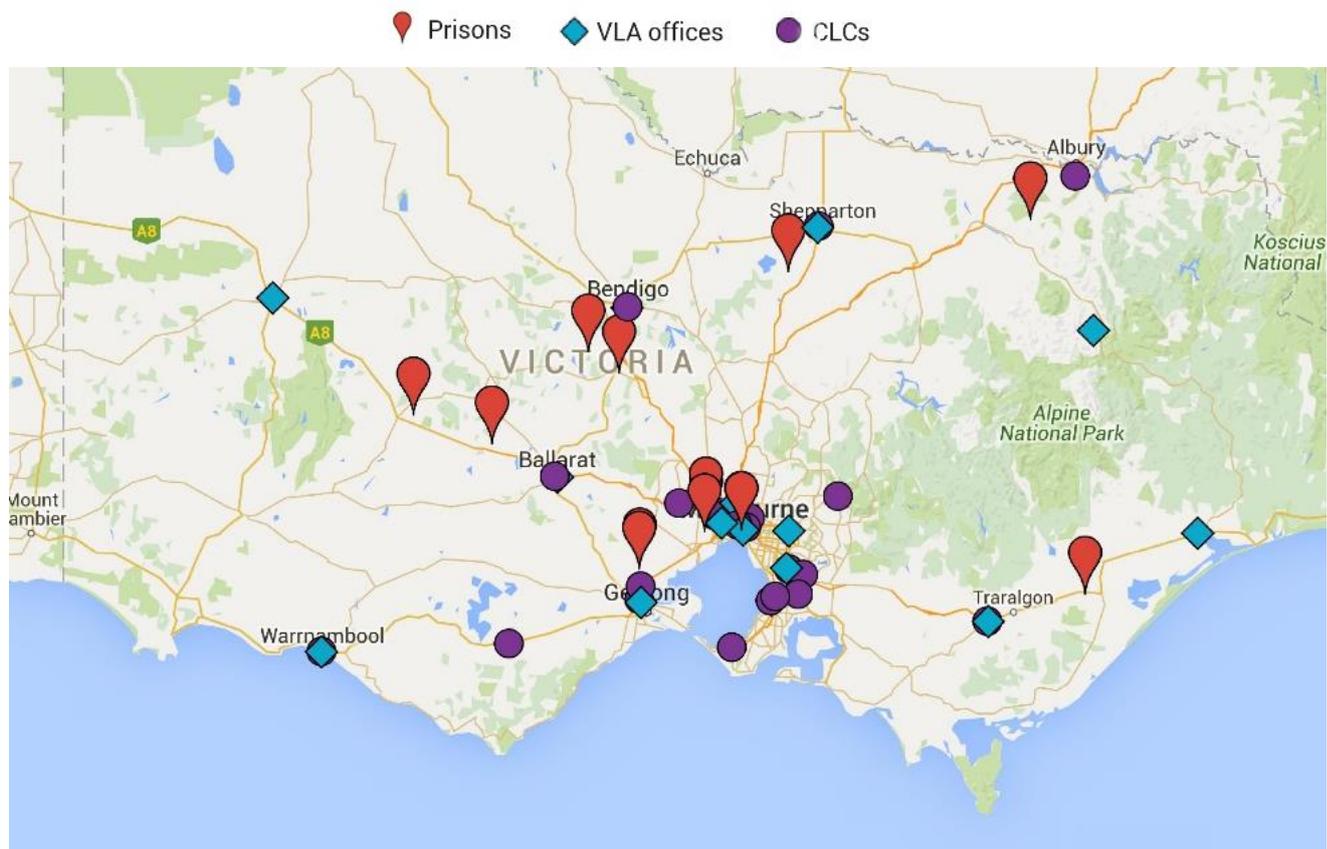


Figure 11: Locations of different kinds of legal services in Victoria



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