



c/- Chair, Nicola Foxworthy
Level 1, 112 Balmain Street
CREMORNE 3121

Ms Jude Munro
Chair
Ministerial Advisory Council on Planning Mechanisms for Affordable Housing
c/- fiona.k.delahunt@delwp.vic.gov.au

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Dear Chair and Members of the Ministerial Advisory Committee

The **Affordable Housing Industry Advisory Group** ('the **Advisory Group**') is pleased to provide the following submission to inform the **Ministerial Advisory Committee on Planning Mechanisms for Affordable Housing** ('the **MAC**') in its considerations and provision of advice to the Minister for Planning on possible models and options to facilitate the supply of Affordable Housing through the Victorian planning system.

The Advisory Group invites the MAC to meet with it to discuss its submission and to further inform its consideration of the range of the opportunities, constraints, model structures, cost impacts and implementation requirements of potential new planning system approaches to ensure any new approach is able to enable diverse industry co-investment, delivery and management of Affordable Housing in Victoria at scale.

Introduction

The Advisory Group comprises representatives from across Victoria's residential property and community housing sectors that share a view that Affordable Housing is essential to Victoria's productivity and liveability and that greater focus and investment by governments is required to deliver new Affordable Housing supply.

The Advisory Group aims is to draw on its member's extensive on-the-ground experience to inform policy development and support a more systemised approach being taken by governments that enables the various parts of industry to effectively co-invest, deliver and manage outcomes.

The Advisory Group welcomes the MAC's establishment and a comprehensive exploration of the potential ways that the Victorian planning system could be effectively structured to facilitate Affordable Housing.

The Advisory Group recognises that the land use planning system is one tool the State Government can utilise as part of a suite of actions required to address this critical social and economic issue. Of note:

- In isolation, planning is not expected to deliver the level of Affordable Housing outcomes required, which will continue to depend on significant government investment, particularly to support the most vulnerable households in need. Governments need to provide long-term clear commitments, underpinned by significant investment and resourcing, structured to maximises outcomes from and coordination between the range of financial, funding, land, asset and planning tools the government has control over;

- The structure and implementation of any approach must be cognisant of wider relationships and co-dependencies between market practice and government policies, including the current structure and operation of the Victorian planning system;
- It is critical that the roles, requirements and potential impact of any model on key stakeholders are understood to ensure industry is enabled to participate, co-invest, deliver and manage outcomes over time and at scale;
- It is critical that planning system mechanisms require Affordable Housing outcomes to be managed in a regulated setting to ensure that value created is appropriately protected and managed over time. The Advisory Group note that the registered housing sector is currently be the only sector with the skills and experience and strong government oversight to ensure built form outcomes will realise appropriate, affordable and allocated Affordable Housing directed to households in need.

As the timeframe did not allow the Advisory group to undertake specific analysis and response to the MAC's terms of reference, this submission draws on extensive work undertaken by the Advisory Group that directly relates to the questions of potential planning models, feasibility, impact and implementation. This includes:

- Development of an overarching policy position titled 'Enabling industry co-investment in a sustainable Victorian Affordable Housing system', key points of which are reflected in this submission;
- The attached **Discussion Paper** '*Advancing Land-Use Planning Approaches to Facilitate Affordable Housing*', which explores three potential planning models as well as discussion on a potential value capture approach in rezonings;
- Provision of detailed advice to DELWP to inform the Affordable Housing definition translation and the development of the current State Government guidance in relation to voluntary planning negotiations;
- Facilitation of industry engagement and input into the Fishermans Bend Taskforce and subsequent Planning Panel investigations of potential Affordable Housing mechanisms;
- Development and delivery of an Affordable Housing Masterclass, supporting local government to understand and apply the new definition and voluntary planning guidance with an objective to support successful negotiation and agreements;
- Advice to DHHS, DELWP and IMAP in relation to the development of new affordable rental models being proposed to apply under voluntary planning negotiations; and
- Provision of advice to the recent West Melbourne Structure Plan planning amendment process on the proposed Affordable Housing inclusion.

The Advisory Group is currently undertaking a project to explore the concepts of value creation and value share in relation to changes in planning controls and Affordable Housing delivery. This work includes feasibility testing of value creation and the potential value share outcomes in terms of Affordable Housing delivery in a defined planning and development scenario, drawing on actual market data to inform modelling. A Report is expected to be finalised in December and will be provided to the State Government and the MAC to further inform your investigations.

About the Advisory Group

The Advisory Group was formed in 2016 and comprises of representatives from across Victoria's residential property and community housing sectors, including peaks bodies CHIA-Vic, the Urban Development Institute of Australia (Victoria) and the Property Council of Australia (Victorian Division), major developers, housing agencies, financiers and industry advisors. A list of the current membership is provided at **Attachment 1**.

The Advisory Group aims draw on industry expertise to inform government decision making to support the development and implementation of policies, including planning related approaches, that can enable industry co-investment and delivery of outcomes at scale.

The Advisory Group does not purport to have a single voice on any one policy question or proposition, rather it aims to highlight opportunities and points of agreement and difference across the industry to support robust policy development and critically, effective implementation of policy and investment. It particularly brings experienced cross-industry insights and shared consideration of the structure and implementation of potential models with an objective to ensure they are reasonable, viable with consideration to a range of market factors and can be delivered.

Key Advisory Group members the UDIA, Property Council and Community Housing Industry Association of Victoria are all making direct submissions to the MAC and the Advisory Group encourages the MAC to continue to engage with each peak as well as collectively through the Advisory Group forum to ensure the range of stakeholder views are fully understood and collectively explored.

Situating Planning Mechanisms in Context

The Advisory Group emphasises that to realise an effective and scaled Affordable Housing system that adequately responds to demand, governments must provide for and support:

- Significant, long-term, stable and coordinated whole-of-government investment;
- An efficient housing market and associated regulatory, financial, planning and development environment;
- Conditions that support private, public and not-for-profit sector investment;
- Overarching Affordable Housing plans and supply targets and direction as to priority built-form typology and locations;
- Streamlined and adequately resourced decision-making;
- Leadership in community engagement and education;
- Targeted and appropriately managed and regulated long-term Affordable Housing outcomes; and
- Monitoring and evaluation.

The Advisory Group advocate that to be effective, policies must be:

- Underpinned by principles of fairness, certainty, stability and transparency;
- Developed with a sound understanding and application of development economics and feasibility and the inter-relationship and/or dependencies between multiple and complex market factors;
- Cognisant of industry limitations, opportunities and requirements to participate and leverage opportunities;
- Able to support industry to work to their capabilities and strengths and to participate and apply innovation; and
- Part of a wider and coordinated systemised approach that maximises value and outcomes.

The application of planning system approaches to facilitate Affordable Housing is noted by the Advisory Group as one tool that is available to the State Government to direct, encourage or require outcomes.

The Advisory Group does not expect planning mechanisms in isolation will feasibly address the significant unmet demand and reinforces the importance of planning not being seen as a replacement for the need for direct Federal and State Government investment. Planning interventions, whether voluntary or mandatory must form part of a wider systemised approach.

The roles and requirements of different stakeholders illustrated below, provides a recommended framework for considering and testing the potential roles and expectations of different entities under any new model.

	Federal, State & Local Government	Developers	Asset Owners	Financiers & Institutional Investors	NFP Housing Developers
Key Stakeholders and Role	<ul style="list-style-type: none"> -Leadership, long term vision -Legal conditions & policy framework -Financing & funding -Appropriate regulation -Safety net (support for those in need) -Efficient regulation and land use planning 	<ul style="list-style-type: none"> -Market delivery -Housing supply, diversity, affordability & sustainability -Affordable housing product -Market risk / return -Investment -Innovation 	<ul style="list-style-type: none"> -Invest and divest in land assets -Facilitate land use response to market requirements -Market risk / return 	<ul style="list-style-type: none"> -Investment & finance -Market risk / return -Innovation 	<ul style="list-style-type: none"> -Social investor & landlord -Affordable housing supply & management -Tenant support -Investment -Quality standards -Measured risk / social return
Requirements to Operate Effectively	<ul style="list-style-type: none"> -Community support -Industry participation -Partnerships -Effective administration 	<ul style="list-style-type: none"> -Resourced market -Certainty & stability of market & government conditions -Supportive planning process -Labour force, supplies -Access to finance -Capacity to innovate 	<ul style="list-style-type: none"> -Resourced market -Planning certainty -Incentives to divest 	<ul style="list-style-type: none"> -Certainty & stability of market & government conditions -Access to funds -Liquidity -Nature of security 	<ul style="list-style-type: none"> -Partnerships -Access to stable, long term funding (subsidy) -Low cost financing -Flexible tenant selection -Opportunities to extract value & be involved early -Capacity to innovate -Flexible asset management

Figure 1: Roles and Requirements of Key Stakeholders to operate effectively, Affordable Housing Industry Advisory Group Position Paper (2016)

Planning Approaches to Facilitating Affordable Housing (TOR 4(b))

The inclusion of an objective of planning to facilitate Affordable Housing and the associated definition were important foundational steps that reflected the State Government view that the planning system has a role in delivering Affordable Housing.

The Advisory Group consider the planning system to be particularly beneficial in supporting the distribution of appropriate built-form outcomes in the right locations. There is however no uniform view across the Advisory Group membership as to how the planning system should be specifically utilised to facilitate Affordable Housing, and whether this should be by way of voluntary or mandatory provisions.

The Advisory Group notes that there can be some tendency when Affordable Housing and planning interventions are discussed for different concepts to be conflated and/or for international examples to be highlighted as a reason for why significant percentages of Affordable Housing should be achievable without any clear understanding the underlying value basis and structure of those models, the vast majority of which depend on a clear additional planning value such as an additional floor area bonus, or other government incentives such as tax-credits in the USA.

The Advisory Group recommend that in considering planning policy related interventions, there is a clear distinction and understanding of a range of concepts and questions, including:

- What value basis is expected to support the costs of Affordable Housing delivery, and how much of this value is expected to be generated as a direct result of the planning process, model or planning incentive;
- How much Affordable Housing could be reasonably delivered as a direct result of the application of different planning models, separate from any leveraging that is subsequently able to be realised by the sector to enhance outcomes and begin to more adequately respond to demand;
- What other government tools could be utilised and connected to arrangements facilitated by the planning system and the subsequent total impact of the various interventions; and

- The optimal investment, ownership and management structures – which do not need to be the same entity and will require specific consideration of the appropriate regulatory requirements for each aspect.

In relation to Terms of Reference 4(b), the Advisory Group highlights the attached **Discussion Paper** which was developed by the Advisory Group to provide further insights and analysis, particularly feasibility assessment of different planning models using hypothetical development scenarios.

The Paper considers potential interventions, the range of potential challenges or barriers to implementation, the indicative feasibility and the potential impact of each model (how much Affordable Housing might be delivered). It also includes a chapter on the range of sector views and positions at the time in relation to the application of a value share approach in a rezoning. The structure of each model and outcomes of the feasibility modelling, is highlighted below.

	Planning Provision	Potential zoning application	Minimum development size	Affordable housing contribution	Estimated \$ value to affordable housing / 100 units	Estimated # affordable housing dwellings / 100 units*	Estimated contribution to affordable housing supply per annum**
Priority, Independent Development Assessment Provision	<ul style="list-style-type: none"> • Voluntary (opt-in provision) • Application assessed by Independent (expert) Development Assessment Panel • Guaranteed assessment period (3 months maximum) • Removal of third-party appeal • Value share in form of contribution to affordable housing 	Mixed Use; Activity Centre; and/or Residential Growth Zones	40	\$ into a fund or translated into a floor area contribution	\$130,000	0.3 units	Low
Additional Floor Area & Priority Development Assessment Provision	<ul style="list-style-type: none"> • Voluntary (opt-in provision) • Provision of additional floor area • Application assessed by Independent (expert) Development Assessment Panel • Guaranteed timeframe (3 months maximum) • Removal of third-party appeal • Value share in form of contribution to affordable housing 	Comprehensive Development; Mixed Use; Activity Centre; and/or Residential Growth Zones	40	Delivered on-site	\$1,250,000 - \$2,054,000 (10 – 20% uplift)	3.3 – 5.4 units	Moderate
Discounted (Affordable housing) Provision	<ul style="list-style-type: none"> • Sale of a percentage of units (within agreed locations or meeting agreed criteria) at discount to Market Value into an affordable housing purpose (modelling on 30 per cent discount) • Applied with sufficient advance notice to market for development over 100 dwellings • Lower percentage to be sold in year one (modelled to commence on 1 per cent total stock) to incrementally increase overtime. 	Comprehensive Development; Mixed Use; Activity Centre; and/or Residential Growth Zones	100	Delivered on-site	\$180,000	1 unit (Year 1) increasing to 5 units in Year 5	Moderate

*Based on feasibility assessment of 100-unit development

** Low is considered less than 100 dwellings, Moderate between 100 and 500 dwellings, High, over 500 dwellings. Subject to detailed analysis.

Figure 2: Overview of Potential Planning Provisions and indicative impact and value, Affordable Housing Industry Advisory Group Discussion Paper (2017)

The Report identified that, based on a number of assumptions, there may be between \$130,000 and \$1.24 million in monetary value equivalent or between 0.3 and 5 Affordable Housing dwellings that could be hypothetically provided by private landowners towards Affordable Housing outcomes from a single permit approval assuming the models applied to a development of 100 units and subject to site size, planning and commercial circumstances.

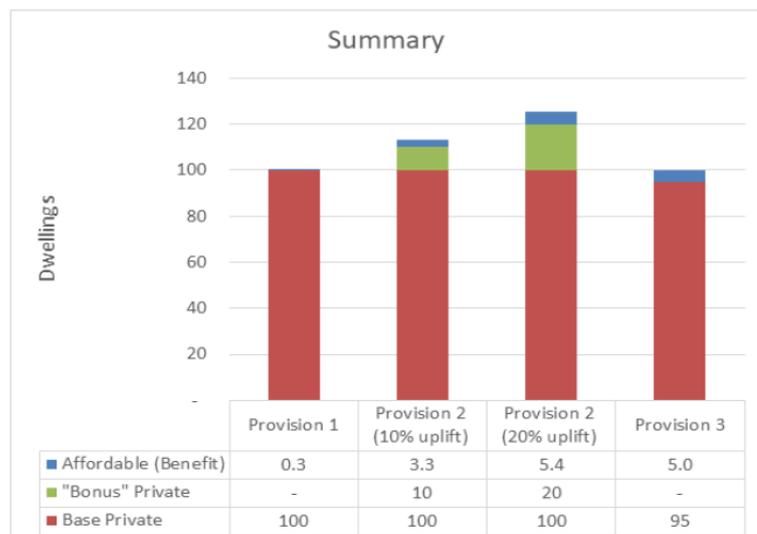


Figure 3: Indicative Affordable Housing Outcomes by development type and planning model, Discussion Paper (2017)

Subject to the structure, application, and rate of market adoption, it was estimated that these provisions could potentially result in an estimated 250 new Affordable Housing dwellings being delivered per annum in Greater Melbourne. Whilst a small contribution relative to the estimates of unmet and forecast demand, this is greater than planning practices at the time.

The Discussion Paper also highlights the range of potential barriers and challenges to implementing different provisions, which directly responds to the MAC Terms of Reference 4 (b) and 4(c), and highlights that at the time, (2017), there was not common agreement across sectors as to whether a mandatory requirement should be implemented in a chapter on rezonings and value share arrangements.

Of note, there was a general level of support for provisions that have a clear additional value offer (in addition to the planning approval and rezoning) and are clearly voluntary, subject to their structure, whilst mandatory requirements or value share models in rezonings were not uniformly supported.

The Advisory Group would welcome the opportunity to discuss the approach and findings set out within the Discussion Paper with the MAC in detail.

Current Planning Models (TOR 4(a))

As the MAC is aware, to date two types of planning approaches in relation to Affordable Housing facilitation are currently being progressed in Victoria:

1. Voluntary and clear incentive-based floor area uplift arrangements in the Capital City and Fishermans Bend Urban Renewal Area;
2. Responsible Authorities seeking to include requirements through the planning approval process, which should, under State Government guidance, be agreed through negotiations with a landowner

The Advisory Group note that both approaches are underpinned by that a premise that the planning system is creating a value to the landowner that is appropriate, feasible and voluntarily agreed to be shared towards an Affordable Housing outcome, secured via the planning system.

A key difference between the two current approaches is the underlying value proposition and the specific understanding as to what value or incentive is provided by the planning process, and in turn, what Affordable Housing outcome is reasonably able to be generated (including the methodology to determine this), and the actual level of voluntary nature of the arrangement in practice. Further comments on each model are noted below.

Given the relative newness of both policies, there is limited public information on the effectiveness of these approaches and their impact. Advisory Group members would welcome an opportunity to inform the MAC on their organisational experiences, and to understand and discuss any preliminary findings of the MAC and DELWP investigations into the efficacy of these current approaches and how they may be potentially enhanced and/or expanded.

CBD and FBURA Floor Area Uplift

Anecdotally the Advisory Group understand there has been limited take-up of the Floor Area Uplift in the CBD directing outcomes to Affordable Housing. The newness of controls in FBURA are not expected to result in outcomes for some time. Both these approaches are noted to be premised on a proposed additional value creation with a clear methodology to then apply to determine the value share arrangement, and a principle of voluntary adoption. It is noted there was some industry contention at the time as to whether the CBD base floor area was appropriate or set artificially low and whether the overarching new provisions will support market take-up.

The realisation of Affordable Housing outcomes in these areas will be dependent on a range of commercial considerations by a landowner as to whether the incentive and the additional market floor space is commercially attractive and feasible, and the broader availability, cost and terms of development finance and investment. The CBD controls also allow for other public benefits to be delivered which could be perceived as more favourable, particularly if they could generate other value.

It is unclear how the 6% Affordable Housing aspiration in Fishermans Bend will be implemented (separate to the Floor Area Uplift for Social Housing) and whether this is subject to the voluntary planning guidance and process.

Further guidance to the market on Affordable Housing characteristics and management in both situations could potentially support greater take-up over time, particularly in the CBD.

Voluntary planning negotiations

The Advisory Group provided significant input to DELWP in relation to the development of the current voluntary planning guidelines. In preparing this advice the Advisory Group noted:

- The need for the value proposition to be clearly identified by the Responsible Authority and appropriate translation of this into a viable Affordable Housing arrangement;
- The importance of clear voluntary agreement, which may entail negotiation as to the amount and type of Affordable Housing and that may require councils to adjust overarching policy aspirations on a site-by-site basis;
- The absence of State Government publication of the evidence of Affordable Housing need and subsequent locational and building typology priorities, instead relying on Councils to each undertake needs assessments to justify intervention; and
- The need for increased capacity building and expertise within local government to develop and understand development feasibility and economics, viable value creation and share calculations and propositions, and to successfully negotiate an outcome; and
- The importance of ensuring appropriate regulation and management of the value that is generated and committed to an Affordable Housing purpose. The not-for-profit housing sector continues to be emphasised by the Advisory Group as the primary, appropriate and most qualified end-recipient and/or manager of this value over time, supporting value to be retained in Affordable Housing purpose over time and committed to Affordable Housing use.

Whilst support for voluntary negotiations and guidance on process is welcome, the absence of Affordable Housing price points and methods or tools to calculate value of an incentive and a subsequent reasonable 'share' of this in terms of Affordable Housing is expected to continue to result in a mix of outcomes being agreed and potentially challenged over time.

The Advisory Group developed Masterclass sought in part to address some of these challenges and to build primarily local government knowledge and capacity to apply the new definition and voluntary planning framework through enhanced understanding of industry requirements to participate.

Discussions at the Masterclass highlighted that there continue to be a number of key issues and gaps in capacity and process relating to the likely implementation and delivery of voluntary planning approaches, including:

- Lack of guidance and practical difficulties in determining and providing additional value-enhancements within the context of current planning policy and practice;
- Views held within some Council's that a rezoning was an appropriate value creation action without regards to the land transaction history or viability of any Affordable Housing ask, noting the difficulties in taking into account market speculation;
- Varying expectations as to what Affordable Housing should be achieved without regards to site and development circumstances, market factors and commercial terms, and what are appropriate conditions in relation to the retention of outcomes in the area;
- Reluctance by some Councils to adjust their target percentage leading to discounted sale models being developed that may depend on government funding; and
- Key issues in the understanding and translation of the voluntary aspect by Council decision makers.

The Advisory Group recommends that the MAC consider what further guidance and support the State Government could provide to Local Government on planning incentives Councils could offer, including the value of the different models and their indicative translation into viable Affordable Housing percentages and delivery arrangements.

A question of equity and fairness is also increasingly raised, noting that not all Councils are pursuing negotiations with a range of percentage outcomes and models being pursued.

Value Creation / Value Share Mandatory Approaches

The Advisory Group has ongoing discussions on the potential circumstances and structures under which a mandatory Affordable Housing requirement could be placed, either across the market or in certain circumstances such as major rezonings. These discussions have continued to highlight the divergent range of views on the concepts of mandatory inclusionary zoning, development contributions or 'value share' models.

It is noted that Plan Melbourne committed the Government to develop a value capture tool in relation to rezonings and Affordable Housing, which in practice could translate to a mandatory requirement in certain planning circumstances or could be a negotiated outcome.

The Advisory Group Discussion Paper explores this concept, and notes two different views are generally found across industry:

- A position that the rezoning of land to a higher and better use provides an uplift in land value that can only occur as a result of a government decision, and that this value should be shared on the basis there is sufficient value-uplift created; and
- A counter argument that the application of a planning control or zoning change is, in itself, not sufficient justification and true 'value share', and that other value needs to be created or supported by Government to justify a value sharing arrangement in the instance of a rezoning.

Putting aside the fundamental differences in views, the Advisory Group emphasise that should government decide to put in place a mandatory requirement, it must require careful consideration as to how the cost of delivery is expected to be met and how this will occur in practice, reflecting that development is a market enterprise operating within a largely discretionary planning system. As noted, there is no uniform Advisory Group member position on whether a mandatory inclusionary zoning requirement across the market or a value share requirement in rezonings should be applied.

Factors such as the timeframe for implementation, any transition period, the amount and mechanism to provide the Affordable Housing, and the dependency on other investment and market activity are particularly critical.

The Advisory Group is currently undertaking a 'Value Creation and Value Share in Affordable Housing' project to further investigate these concepts in relation to a proposed change in planning controls. The project includes an industry survey and feasibility analysis of a proposed planning control by Urbis on behalf of the Advisory Group. It is expected this report will further respond in greater detail to the MAC Terms of References and will highlight the range of challenges, key considerations and potentially options in relation to developing and applying a value share model.

The Advisory Group has also recently written to the Minister for Planning highlighting the opportunities that it considers could be further investigated. This included the potential for an Affordable Housing component in major rezonings on sites declared as significant and managed by the VPA, or in major precincts, on the basis it was coupled with direct State Government investment. The Advisory Group would welcome the opportunity to discuss this or other concepts with the MAC.

Invitation to Meet

Responding to the level of Affordable Housing need requires a concerted, coordinated and systematic approach, underpinned by large scale government investment. Planning is acknowledged as one tool that, subject to the specific structure and implementation, could support new Affordable Housing outcomes being realised, that in turn could be optimised by government and industry co-investment. The Advisory Group is keen to utilise its extensive member experience to inform the considerations of how any model could be appropriately structured and implemented.

The Affordable Housing Industry Advisory Group welcome the opportunity to inform the Ministerial Advisory Committee and the State Government in its assessment of potential planning tools to facilitate Affordable Housing and invite the MAC to meet with group representatives to discuss the submission and the potential benefits, costs, opportunities, constraints and potential implementation structures of different models with regards to their impact on different key industry stakeholder's capacity to participate and deliver.



Nicola Foxworthy,

Chair

E: nicola@cehl.com.au

P: 0409 409 231

Attachments

1. Advisory Group membership as at October 2019
2. Discussion Paper 'Advancing Land-Use Planning Approaches to Facilitate Affordable Housing'

ATTACHMENT 1 - ADVISORY GROUP MEMBERSHIP

	Organisation
1.	Common Equity Housing Ltd
2.	Urban Development Industry Association (Vic)
3.	Property Council of Australia (Victoria)
4.	Planning Institute of Australia (Victoria)
5.	CHIA-Vic
6.	Grocon
7.	Community Sector Banking
8.	Bank Australia
9.	Frasers Property
10.	ISPT
11.	Housing Choices Australia
12.	Housing First
13.	National Affordable Housing Consortium
14.	Unison
15.	MGS Architects
16.	Haven Home, Safe
18.	Burbank Group

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ATTACHMENT 2 - DISCUSSION PAPER