

Draft Amendment C182dare – Preston Market Precinct

Affordable Housing Review
April 2022



Part 1: Overview

Objective

Affordable Development Outcomes was engaged by the Victorian Planning Authority (VPA) to review previous advice provided in relation to Draft Amendment C182dare – Preston Market Precinct ('the draft Amendment') as set out in 'Preston Market Affordable Housing Affordable Housing Strategy' ('the strategy'), taking into consideration:

1. Proposed revised yield for the precinct;
2. Submission received during public consultation as they relate to the strategy; and
3. Affordable Housing outcomes negotiated and considered by planning panels on other sites since 2019.

This report sets out the advice and recommended changes to the Affordable Housing strategy and associated planning controls for the Site for the consideration of the VPA, City of Darebin ('Council') and landowner ('the parties').

Background

In 2019 Affordable Development Outcomes was engaged by the VPA and Council to provide advice on Affordable Housing need in the municipality and to prepare a draft Affordable Housing strategy ('the strategy') for the Site as part of the planning review process.

The resulting strategy proposed a 10 per cent Affordable Housing inclusion which was subsequently reflected in the November 2021 version of proposed Schedule 1 to Clause 37.08 Activity Centre Zone – Preston Market Precinct draft Clause 4.2 - Provision of affordable housing, set out at **Attachment 1**.

A draft Affordable Housing Section 173 Agreement was also prepared by Harwood Andrews under instruction by the VPA to reflect the strategy and proposed Schedule.

Summary of Council and Landowner Feedback

It is understood that following initial discussions in 2020 a negotiation between Council and the landowner on an Affordable Housing strategy for the Site was not progressed. In 2021 Council released 'Heart of Preston' which set a Council aspiration for 20 per cent Affordable Housing for the Site.

Consultation undertaken by the VPA in 2021 on the draft Amendment included publication of the strategy and the associated draft planning controls. The following landowner and Council feedback was received in relation to the strategy:

Council	Preston Market Developments
<ul style="list-style-type: none">• Strongly supports inclusion based on established evidence of demand.• Notes Affordable Housing objectives enshrined within the Planning and Environment Act 1987.• Notes the private sector has a role in responding to need and should make a contribution towards Affordable Housing supply but is not expected to meet all of the demand.	<ul style="list-style-type: none">• Supports the provision of Affordable Housing.• Believes that the provision should reflect the level provided on similar sites elsewhere in Melbourne while also providing for flexibility.• <i>"Must also be set at a level that does not place significant financial hurdles on a development, such as that proposed within the exhibited documents."</i>
<ul style="list-style-type: none">• Notes the strategy recommended maximum outcome of 10% of dwellings no longer represents Council's position,	<ul style="list-style-type: none">• Notes no mandatory requirement within the Scheme for the provision of Affordable Housing.



Council	Preston Market Developments
which is set out in <i>Heart of Preston</i> and is for 20 per cent Affordable Housing.	<ul style="list-style-type: none"> Considers requirements at clause 4.2 of proposed ACZ Schedule will result in mandatory provisions within the Scheme. Notes there are no benchmarks within the municipality to consider what an appropriate level of Affordable Housing might be for the Site.
<ul style="list-style-type: none"> Submits that agreement in relation to an Affordable Housing contribution must be reached prior to the amendment being approved and that: <ul style="list-style-type: none"> The agreement should be reflected in the planning controls for the precinct; The contribution must be set out in the form of a Section 173 agreement. 	<ul style="list-style-type: none"> Does not support current wording of clause 4.2 of the draft ACZ Schedule and suggested it is unclear, cumbersome and unnecessarily prescriptive.
<ul style="list-style-type: none"> The current drafting of the schedule does not provide certainty as to the amount of Affordable Housing being delivered on the site. Council is particularly concerned by the fourth option, which in their view, allows for an undefined, alternative method. Position that Contribution options proposed in the ACZ schedule should be resolved prior to the approval of the amendment and only the selected option should be included in the planning controls. 	<ul style="list-style-type: none"> PMD commissioned independent research indicates that dwellings are required for very low, low and moderate income earners. PMD research indicates provision of 5% Affordable Housing is sufficient (Note: research not provided to enable review) Notes several panel reports have recognised and acknowledged that a 5% contribution of Affordable Housing is appropriate in most cases.
<ul style="list-style-type: none"> Seeks following changes: <ul style="list-style-type: none"> ACZ Affordable Housing requirement increased to minimum 20% delivered on-site, with both the State Government and the developer providing funding to achieve this. ACZ updated to reflect the agreement struck between Council and the landowner regarding an Affordable Housing contribution. Ensure that this agreement reflects Council's position of 20 per cent Affordable Housing provision on the site, with a percentage weighted toward newly-arrived migrants. 	<ul style="list-style-type: none"> Notes they would agree to the delivery of up to 5% of the Site's total residential yield as Affordable Housing, but on the proviso that this provision would not operate as a 'flat' requirement to the satisfaction of Council but would instead provide flexibility within the context of one of several predetermined options pursuant to an Affordable Housing plan.

It is noted that the above comments were made in relation to the original proposed scheme and strategy and may therefore be subject to change.

Key Changes since 2020 Strategy

Following public consultation, in March 2022 the VPA advised proposed changes to the scheme including a reduction in yield from approximately 2,200 dwellings to 1,200 dwellings.

Since the strategy was prepared the State Government has commenced the 'Big Housing Build', comprising \$5.3 b in State Government investment for Social and Affordable Housing to be delivered primarily through the registered housing sector. This investment provides further comfort that subject to delivery timeframes, a housing agency will be able to access funding to purchase dwellings at a discount.

Changes to the Planning Scheme to provide a streamlined approval process for majority Social Housing developments were also made as a result of the investment.



The other key change since the strategy was developed in 2020 is the rapid emergence of Build-to-Rent (BTR) as a new form of rental housing in Victoria, which, if pursued on the Site, will have implications for how an Affordable Housing outcome could be realised as:

- Under a BTR development the ownership of dwellings remains with the landowner or investor and cannot be transferred to a Registered Housing Agency ownership. A discounted sale option is therefore not feasible;
- There is therefore no clear accountability mechanism for agreed Affordable Housing outcomes over time if dwellings are not owned or managed by a Registered Housing Agency. Consideration of how the owner is best held accountable for providing an agreed discount and tenant allocation and reporting on outcomes is required;
- Whilst BTR can provide benefits such as security of tenure, it does not deliver dedicated Affordable Housing without discounting and targeting of leases to very low to moderate income households in need of assistance. A process of setting a discounted rent and allocation to eligible over time is therefore required; and
- It is understood the BTR market is predominantly developing a premium product with new build and on-site services adding to the market rent. A higher discount is therefore likely to need to be required to BTR product to ensure affordability of any agreed Affordable Housing within a BTR development.

Affordable Housing Review (March 2022)

In March 2022 the VPA sought a review of the Affordable Housing strategy and related provisions in light of the proposed changes to the Site yield, comments received during the public consultation, and the BTR context.

The review considered whether the strategy remains appropriate and reasonable, and/or if refinements should be made noting the change in yield, recent Affordable Housing agreements on other sites, and council and landowner feedback.

The review specifically assessed if:

1. The inclusion of Affordable Housing continues to be strategically justified for the site;
2. A 10% obligation is a reasonable and strategically justified percentage of Affordable Housing to be facilitated by a landowner; and
3. The proposed delivery models remain relevant, and/or whether changes are required to the Schedule to improve clarity, minimise options, and support realisation of outcomes.



Review and Recommendations

Framework for an Affordable Housing Strategy

In line with matters gazetted under the Planning and Environment Act, the following criteria set out on page 11 of the strategy was reapplied in the review to assess and ensure that a proposed Affordable Housing strategy and controls will result in dedicated and appropriate Affordable Housing for intended recipients:

Will the built form result in housing that will be:

- *Appropriate, in terms of a response to housing need and built form type, size and location; and*
- *Affordable, either achieving a reasonable Affordable Housing price point for Eligible Households that meet defined income eligibility either to purchase, or rent; and*
- *Allocated to very low, low or moderate income households?*

In assessing options regards is also required to be given the process of achieving this outcome (delivery models); the intended ownership and management of the Affordable Housing; and to how to ensure there are adequate safeguards to ensure the criteria will be met. The percentage of Affordable Housing also requires consideration and links to the way in which the Affordable Housing is expected to be delivered.

Strategic Justification for the Inclusion of Affordable Housing

Strategic Context and Evidence of Demand

The review has reaffirmed that Part A (Context) and Part B (Affordable Housing Needs Assessment) of the strategy remains relevant and establishes a clear strategic evidence and policy basis for the inclusion of Affordable Housing on the Site.

The review also identified that:

- There was general Council and the landowner support for the inclusion of Affordable Housing with difference in opinion primarily relates to the percentage and delivery models.
- Whilst since 2018 there was a slight improvement in the percentage of private rental dwellings that were affordable for very low income households as outlined at **Attachment 2**, the supply and rates are still very low and affordability remain a considerable challenge for very low for very low income households, particularly singles and couples. Any short-term trend of improved affordability is expected to be largely due to covid-19 related impacts. New dwellings are noted to generally have a higher market rent than historical and median prices of a local area.

The review subsequently reaffirmed that the inclusion of Affordable Housing should form part of the amendment, regardless of changes to yield, on the basis:

- The realisation of Affordable Housing is a key objective of planning with Affordable Housing objectives established and supported for the site for a considerable period including during previous planning reviews;
- There is extensive evidence of high demand for Affordable Housing within Preston and the City of Darebin and evidence that without intervention, the market will not provide below-market cost housing targeted to lower to moderate income households;
- The inclusion of Affordable Housing is strongly supported by Council and is supported in-principle by the landowner subject to the detail (noting this support was indicated in relation to the earlier scheme);



- Whilst private sector is not expected to be solely responsibility for addressing all of the Affordable Housing demand, it is considered reasonable that as a result of a planning amendment that the objectives of planning are realised which will require the landowner to contribute to the realisation of Affordable Housing;
- The amendment is a critical planning stage and mechanism that impacts on development opportunity and value and is the appropriate time to ensure the objectives of planning are embedded; and
- The landowner did not have to realise an Affordable Housing obligation in the first permitted sites.

Percentage of Affordable Housing

The strategy proposed 'up to 10 per cent' Affordable Housing with a range of delivery options.

Consultation highlighted considerable difference as to what percentage of Affordable Housing should be provided with:

- Council view that the evidence of demand requires a high percentage response, proposed to be 20 per cent of residential yield; and
- The landowner noting that any outcome must be feasible and referred to other site agreements in putting forward a proposed 5 per cent requirement.

All these factors are important considerations in setting a percentage. The way in which a percentage is delivered is also a critical consideration – with gifting of completed dwellings having a higher cost impact than selling at a discount. Neither party indicated how they expect Affordable Housing will be realised.

In assessing what may be an appropriate percentage for the Site, the review has taken into consideration the original analysis and recommendations; the proposed changes to the site yield; the assumed impact this will have on development opportunity and value; and Affordable Housing agreements on other sites summarised at **Attachment 3**.

Other site examples range from 5% to 10% Affordable Housing, with a range of delivery scenarios including gifting of land through to discounted sale of dwellings. These examples are considered to provide an indication and examples of agreed contributions rather than set a precedent.

The review confirmed that the strategic reasons for including Affordable Housing set out in the 2020 strategy remain relevant but that the change in yield is considered a significant change necessitating a reassessment of the percentage of Affordable Housing that is reasonable and able to be delivered.

Following review, it is recommended the Affordable Housing percentage is reduced from **10% to 6%** of total residential yield.

This recommendation is made on the basis that whilst there remains clear strategic justification; a planning policy basis for the inclusion; and evidence of high demand for Affordable Housing in Darebin:

1. The original strategy for 'up to 10%' was an aspirational target that reflected an expectation of considerable value uplift from the rezoning to 2,200 dwellings and that was intended to support negotiation between the parties, and if realised, to achieve a range of Affordable Housing outcomes for low to moderate income households, including lower percentages depending on the delivery model.
2. The reduction in yield is reasonably assumed to impact on development feasibility and the capacity for a landowner to set aside land to achieve 10% Affordable Housing. It is understood other community benefits continue to be required to be realised.
3. Other site agreements have established that between 5% and 10% is a reasonable and feasible contribution to be facilitated as a result of a rezoning.



4. The landowner proposed a 5% contribution based on their assessment of need and their understanding of other site agreements. It is noted this position was made prior to the change in yield and the position may therefore change.
5. An contribution of 6% is reflective of:
 - The site and planning history of the Site and long-standing expectation of Affordable Housing inclusion as an objective of site planning and development;
 - A reasonable expectation that there has been an increase in land value as a result of earlier rezoning that embedded Affordable Housing objectives; and
 - That there was no Affordable Housing outcome established for the first permit approvals.
6. Realisation of 6% Affordable Housing is expected to be realised by the landowner making a combination towards the total cost and value of the Affordable Housing, not funding and gifting the total 6% of dwellings.
7. The Schedule should continue to provide a (revised) option for less than or more than 6% of dwellings at an equivalent contribution value to a discounted sale, enabling the landowner to elect the most feasible model subject to approval of the responsible authority. i.e. the landowner could propose 5% delivered at a higher discount, or 10% at a lower discount.

Delivery Models

In response to the feedback that the models in the strategy were overly complex and reflecting that at this point the parties have not reached agreement, changes to the way in which the Affordable Housing could be realised and the related discount are recommended, discussed below.

The 2020 strategy proposed the following delivery options:

- Gifting of land for 10% of dwellings;
- Gifting of 3% of completed dwellings;
- Discounted sale of 6% completed dwellings;
- Any other discounted arrangement that would provide the equivalent value as if 3% of dwellings were gifted.

The rationale for the range of options and percentage outcomes included to:

- Provide for an ideal maximum (10%) outcome if the landowner elected what was assessed to be a lower cost of option of gifting land, thereby supporting a significant outcome in response to the evidence of need and Council objectives;
- Reflect that the gifting of land may not be achievable or a preferred option of the landowner and therefore other options were required but that options such as gifting of dwellings had a higher cost implication than gifting of land and therefore would result in a lower percentage of dwellings; and
- To support flexibility for the landowner to elect how they would deliver at a future point in time whilst providing certainty as to the percentage and a framework for delivery to ensure appropriate and genuine Affordable Housing was realised.

Reflecting the highest need is experienced by very low and low income households, the gifting and discounted sale options were also structured to ensure a minimum outcome was targeted at these income groups with ownership and management by an appropriately qualified Registered Housing Agency.

The range of percentages and delivery options set out in the strategy were intended as a basis for the Council and the landowner to review and confirm, which could have then resulted in changes.

The review highlighted that the options set out in the strategy and the associated Schedule wording are unnecessarily complex particularly given the proposed change in the percentage of Affordable Housing proposed to be realised.



It is also understood that a BTR and therefore long-term lease arrangement are more likely to be a market delivery model for the landowner and therefore how Affordable Housing could work in this context needs to be reflected.

In light of this context and analysis, the following changes to the strategy are recommended:

1. Remove the specific option to gift land as this is not expected to be pursued given the revised scale of development and subsequent development opportunity.
2. Change the discounted sale option to only focus on sale of completed dwellings to registered housing agency at a discount for the total 6% of dwellings rather than allowing for half to be sold through an Affordable Home Ownership arrangement. This change simplifies the option and reflects that with limited new supply, there is a greater need to ensure all of this housing is targeted to households in the highest need, which is best achieved by Housing Agency ownership. It is also recommended the discount is established to provide a clearer framework on expectations, reflective of other site agreements (discussed below).
3. Include a specific delivery option to lease completed dwellings, with detail on targeting, discount and term to be set out (discussed below).
4. Retain the option for the landowner to elect to provide a lower (or higher) percentage at an equivalent value to the discount that would otherwise be provided under the discounted sale option (discussed below).

Retention of a Flexible Model

Unless the parties agree to one or more specific delivery models at the amendment stage, a flexible option is recommended to be retained in the Schedule with modifications to the wording to ensure there is a clear framework for a future landowner and Council to assess a proposal against.

The inclusion of a flexible option could for example, result in the gifting of less than 6% of dwellings, or the gifting of land or a targeted affordable homeownership outcome that achieve more than 6% of dwellings as Affordable Housing.

Of note, any alternative model would be subject to the landowner demonstrating to the satisfaction of the responsible authority that the outcome will be of equivalent or greater value than the discounted sale model and align to the criteria under the Act and be allocated and affordable for eligible households in need for an appropriate period. The Section 173 Agreement is recommended to provide further details on how the value would be calculated and what criteria would need to be met for any alternative proposal.

Inclusion of this option further justifies the need for a defined discount to be set in the controls to provide a basis for calculating the minimum value of a contribution under an alternative delivery model.

Inclusion of a Lease model

Inclusion of a lease model with a defined discount to rent, 'life of building' term and requirement for a minimum level of Registered Housing Agency involvement is recommended on the basis:

- Since the original proposal was developed, BTR models have increasingly been adopted by developers in Victoria and is understood to be under consideration by the landowner.
- Setting a defined discount to rent sets a clear affordability outcome and avoids any future debate as to what an appropriate discount. Whilst there is some risk a greater discount to future BTR rents is required to ensure affordability, certainty of how affordability is recommended to be prioritised by establishing a discount at the planning approval stage. This will also ensure alignment to the criteria under the Act that affordability is considered at planning approval stage.
- A 'life of building' requirement will ensure a private owner delivers an appropriately long-term Affordable Housing use in line with the objectives of the Act and that is generally comparable to if housing was otherwise owned by a Registered Housing Agency.



- Involvement of a Registered Housing Agency at minimum in the Affordable Housing rent setting and income eligibility checking will provide assurance that the planning obligation will be realised over time and reduces the obligation on Council to monitor compliance. This is expected to be structured as a fee-for-service arrangement between the landowner and a housing agency.

It is also recommended, but not proposed to be a requirement in the controls, that the landowner also considers and where possible involve a Registered Housing Agency management of any leased Affordable Housing. As this can however challenge the single on-site BTR management model, Registered Housing Agency direct management of Affordable Housing tenancies under lease is not proposed to be a planning requirement.

Discount to sale or rent

The review identified a need for greater certainty as to what discount dwellings would be sold or rented if leased in order to provide enough assurance that the Affordable Housing will be delivered and result in genuine affordability for households in need of assistance.

An analysis of discounts required to support affordability was done as part of the original strategy development (pages 29 – 30) indicated:

- Moderate income and most low income (as defined by the Act using 2020 income eligibility) were considered to not require discounts to average median rents in Darebin in 2020 as rents were largely considered to be affordable.
- Very low and some low income households were in significant housing stress and were therefore the priority groups for Affordable Housing in Darebin.
- An average 41% discount to rent was assessed as being required to support very low and low income households currently unable to afford rental housing in Darebin.

An updated analysis outlined below with reference to 2021 median rents in Darebin¹ reaffirmed that moderate income households are not in high need of assistance, with no or limited discounts required, and that very low and low income households are at greatest need of dedicated Affordable Housing responses in Darebin.

Of note, this analysis does not reflect any potential premiums applied to BTR leases that may result in future projects. It is subsequently considered conservative as to the discount that may be required.

Greater Melbourne	Very low (50% median)				Low (80% median)				Moderate (120% median)			
Household type	Mid point of income band	30% income / week	Gap income capacity and median rent	Discount Required	Mid point of income band	30% income / week	Gap income capacity and median rent	Discount Required	Mid point of income band	30% income / week	Gap income capacity and median rent	Discount Required
Single (studio)	\$26,200	\$151	-\$149	50%	\$34,061	\$197	-\$103	34%	\$52,391	\$302	\$2	0%
Single (1 BR)	\$26,200	\$151	-\$169	53%	\$34,061	\$197	-\$123	41%	\$52,391	\$302	-\$18	6%
Couple (1 BR)	\$39,290	\$227	-\$93	29%	\$51,081	\$295	-\$25	8%	\$78,586	\$453	\$133	0%
Couple (2 BR)	\$39,290	\$227	-\$183	45%	\$51,081	\$295	-\$115	28%	\$78,586	\$453	\$43	0%
Family (2 BR)	\$39,290	\$317	-\$93	23%	\$71,511	\$413	\$3	0%	\$110,026	\$635	\$225	0%
Family (3 BR)	\$55,000	\$317	-\$183	37%	\$71,511	\$413	-\$87	17%	\$110,026	\$635	\$135	0%
			Average discount	39%				26%				6%

As the matters under the Act require housing need to be considered, the analysis subsequently highlights that moderate income households are generally not facing housing stress and therefore an Affordable Housing outcome on the Site needs to be targeted to very low and low income households that cannot otherwise participate in the market (or face housing stress) in order to address the criteria of responding to housing need.

Inclusion of a defined discount in the Scheme is recommended to provide certainty to all parties as to how the Affordable Housing would be realised if sold or leased and is expected enable targeting and affordability for those households in greatest need.

Inclusion of a discount also provides a basis for calculating and assessing any alternative delivery arrangement.

¹ REIV Median Unit Rents, as at March 2022. 1 BR: \$320/wk, 2BR: \$410/wk, 3 BR: \$500/wk. For modelling purposes \$300/wk for studio is also assumed.



A30% discount to the purchase price if sold to a Registered Housing Agency and to rents under a lease model is recommended to be reflected in the Schedule.

This discount takes into consideration the evidence of what discounts are estimated to be required to achieve affordability; the Council objective to maximise the percentage of Affordable Housing; and the need to ensure deliverability if sold at a discount to a Housing Agency.

Whilst a greater discount would reduce the risk that a housing agency could not purchase, the availability of Big Housing Build funding and other project examples indicates a 30% discount can be leveraged by a Housing Agency and result in a sale.

Timing of Agreement and Reflection in Controls

Council submission to the VPA consultation highlighted the need for certainty as to how Affordable Housing would be delivered prior to the gazettal and the reflection of this agreement in a subsequent Section 173 Agreement.

The review concurs with Council that in line with State Government expectations, an agreement should be reached prior to gazettal, with sufficient detail as to what percentage Affordable Housing and how the contribution will be realised set out in the Schedule.

As noted by the landowner, the inclusion of Affordable Housing requirements in the Schedule as a result of an agreement will have the effect of mandating the requirement. This is assessed as being appropriate if the inclusion is by agreement prior to the rezoning - effectively locking in a voluntary agreement. This view was shared by the Planning Panel in the Altona North Precinct 15 Amendment and is reflected in several amendments where an Affordable Housing requirement is now embedded in the controls.

In absence of agreement to a single delivery model, it is recommended the Schedule set out the recommended options by which the percentage could be realised and a requirement that a Section 173 Agreement is entered to confirm the obligation and the process for the landowner to then nominate a specific delivery model.

On review of the draft Schedule I recommend that the Section 173 Agreement is required to be entered prior to a permit being granted to subdivide land or construct a building or construct and carry out works in any precinct.

Summary of Recommendations and Proposed Changes

Following review and taking into consideration VPA, landowner and council feedback, I recommend that the amount of Affordable Housing to be required to be delivered on the Site as a condition of rezoning is reduced from 10% to 6% of total residential yield, and the outcome and the way in which Affordable Housing could be realised is amended in the Schedule and reflected in a Section 173 Agreement to the following:

Prior to a permit being granted to subdivide land or construct a building or construct and carry out works in any part of the precinct, the landowner is to required enter a Section 173 Agreement with the responsible authority providing for the facilitation of six per cent of dwellings as Affordable Housing as defined by the Planning and Environment Act 1987 by way of:

- 1. Sale of completed dwellings to a Registered Housing Agency at a 30 per cent discount to independent market value; or*
- 2. The leasing of completed dwellings to Eligible Households in need of Affordable Housing at a 30 per cent discount to building market rent, to be made available on this way for the life of the building, with rent-setting, housing allocation and assessment of affordability for tenants to be overseen by agreement with a Registered Housing Agency; or*
- 3. Any other delivery arrangement for up to 6 per cent of total dwellings where the landowner demonstrates to the satisfaction of the Responsible Authority that:*



- (i) The contribution towards Affordable Housing is of an equivalent or greater value than the contribution the landowner would otherwise make under option 1 (30% discount), noting that this may result in less than 6% of dwellings;*
- (ii) The dwellings will respond to the Matters published under the Act and result in dwellings that are appropriate, affordable and allocated to Eligible Households in need of Affordable Housing within the City of Darebin;*
- (iii) The dwellings will be retained in an Affordable Housing use for the life of the dwelling, or if the dwelling is sold, that the original investment made by the landowner (calculated on a proportional basis), is to be reapplied in new Affordable Housing in the City of Darebin under similar terms.*

The Section 173 Agreement should subsequently set out further details including:

- Dwelling mix;
- Timeframes for delivering the obligation; and
- Requirements on the landowner should option 3 be pursued.

To remove ambiguity the clause should also only define Affordable Housing as per the Act.



Attachment 1: Draft Clause

November 2021 version of draft Clause 4.2 (subdivision) – *Provision of affordable housing*

Provision of affordable housing

Prior to the issue of a statement of compliance for a subdivision that creates a residential lot, the owner of the land must enter into an agreement with the responsible authority for the provision of affordable housing, which must provide for the following:

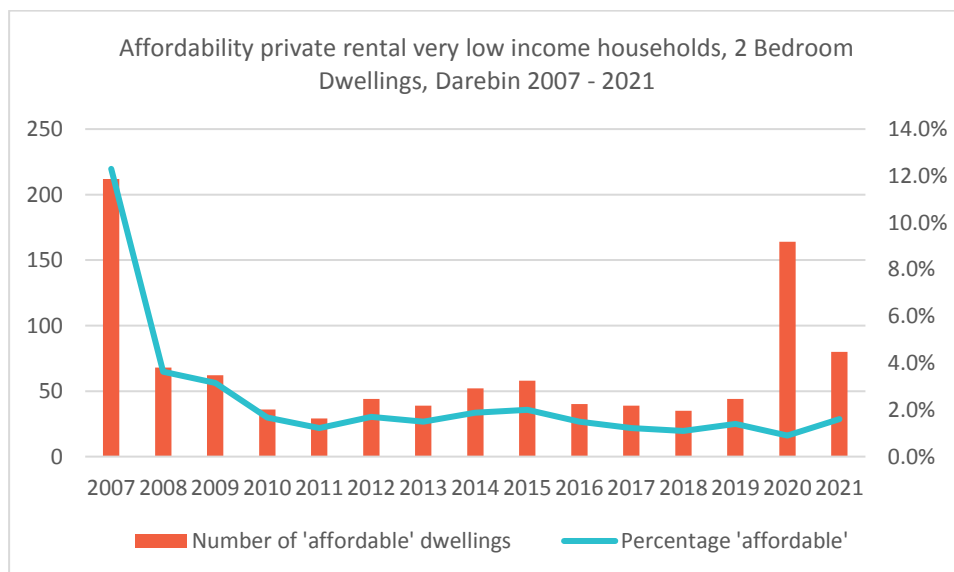
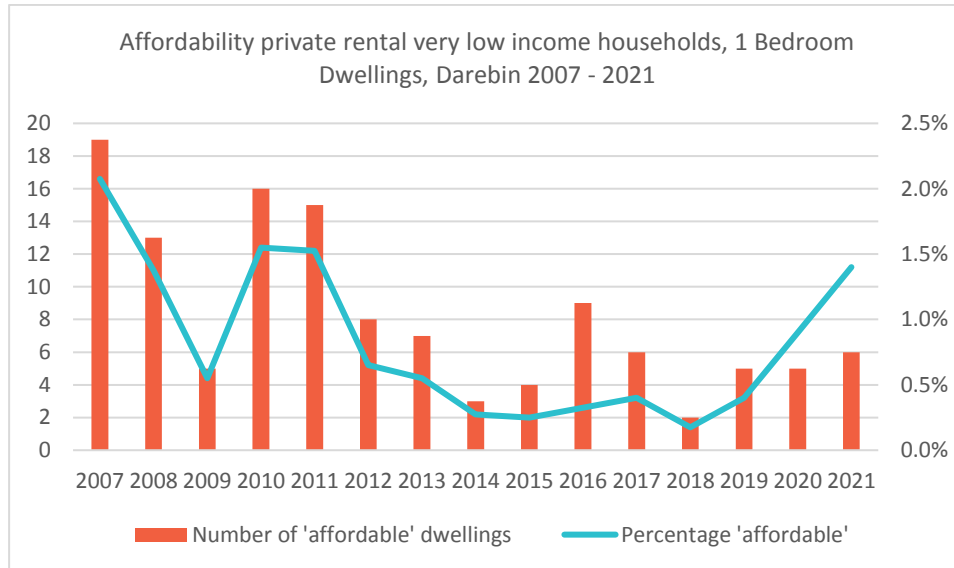
- The landowner must make a contribution towards affordable housing (Affordable Housing Contribution) to the satisfaction of the responsible authority.
- For the purposes of the agreement “affordable housing” is to have the same meaning as any definition of that phrase contained within the Act, or any other definition as agreed between the landowner and the responsible authority.
- The agreement must include terms which provide for the manner in which the Affordable Housing Contribution is to be made, including when and how the contribution is to be made.
- The agreement must provide for an Affordable Housing Contribution of up to 10% of the precinct’s total residential yield that is to be made by the landowner by way of one of the following options:
 - a) The transfer of land that has the demonstrated capacity to support the development of 10% of the site’s total residential yield as affordable housing dwellings, to a Registered Housing Agency at nil consideration for the Agency to develop and rent and/or sell completed dwellings to eligible households. An average 65m²/ unit is proposed to be used to calculate the amount of land to be provided; or
 - b) The construction and transfer of title of 3% of dwellings to a Registered Housing Agency at nil consideration for the Agency to rent to eligible households; or
 - c) The sale of 6% of completed dwellings by way of:
 - i. Sale of a minimum 3% of completed dwellings to a Registered Housing Agency at an appropriate discount to the market rate, for the Agency to rent to eligible households;
 - ii. Sale of a maximum 3% of completed dwellings to eligible households under an appropriately regulated affordable home purchase arrangement, with the contribution provided by the landowner (the ‘social equity contribution’) to be appropriately secured, managed and reinvested on future sale or refinancing by the original purchaser; or
 - d) Any other delivery arrangement where the landowner demonstrates to the satisfaction of the responsible authority:
 - i. The contribution is of an equivalent value to affordable housing that would otherwise be provided by the landowner under option b) (3% gifting of dwellings) by way of a discount to dwelling sale price and/or to rent over a period of time;
 - ii. That the dwellings will respond to the matters published under the Act and result in dwellings that are appropriate, affordable and allocated to eligible households; and
 - iii. That the dwellings will be retained as affordable housing for a minimum 30 year period, or equivalent period calculated with regards to the number of dwellings to be provided.

Under any of the options, a minimum of 3% of the dwellings must be utilised as rental housing suitable for a very low or low income household as defined under the Act.



ATTACHMENT 2 – Updated Needs Assessment

Updated Needs Assessment – Rental Affordability, City of Darebin



Source: DHHS Rental Report, Time Series, Presentation by Affordable Development Outcomes



Attachment 3: Other Site Agreements

Site, Council and Year of Agreement	Yield	% Affordable Housing	Control, Zoning and Yield	Affordable Housing Delivery
Clayton PMP Printing Site, City of Monash (2021)	3,000 dwellings	'Up to 10%' Affordable Housing	Amendment C156mona (approved). Comprehensive Development Zone Schedule to Zone	Controls require the landowner and council to enter an agreement to provide for the delivery of up to 10 per cent Affordable Housing by way of one of the following options: <ul style="list-style-type: none"> • Transfer of a land parcel or parcels with the capacity to support the development of 10 per cent of the site's total dwellings as Affordable Housing dwellings, to be provided to a Registered Housing Agency at nil consideration; or • Sale of four per cent of total dwellings as completed dwellings at a 50 per cent discount to the established market value to a Registered Housing Agency for use as Affordable (rental) Housing; or • The gifting of two per cent of total dwellings as Affordable Housing, delivered in the form of completed dwellings gifted to a Registered Housing Agency for use as Affordable (rental) Housing; or • Any other model that achieves ten per cent of total dwellings as Affordable Housing for a minimum 15-year period, on the condition that these dwellings are managed thorough an appropriately regulated management affordable housing arrangement.
East Village, City of Glen Eira (2021)	3,000 dwellings	5% Affordable Housing with agreement that the developer can seek to exceed 3,000 dwellings if they provide 10% of any additional dwellings as Affordable Housing.	Amendment C155glen (approved). Comprehensive Development Zone Section 173 Agreement for first 5% Affordable Housing Schedule 2 to Clause 37.02 CDZ for any development over 3000 dwellings.	Section 173 Agreement developed prior to amendment approval establishes a requirement on the developer to transfer land at no cost that has the capacity for 5 per cent of residential dwellings (150 dwellings) to a Registered Housing Agency to develop, or to construct and gift dwellings equalling 1,970 m2 to a Registered Housing Agency. Timeframes for delivery are set within the agreement. Schedule 2 to Clause 37.02 CDZ requires that a permit must not be granted to exceed 3,000 dwellings within the Precinct, until the owner of the land enters in an agreement under Section 173 to provide for 10% of the number of dwellings beyond 3,000 (1 in 10) to be provided as affordable housing dwellings.
81-95 Burnley Street and 26 Doonside Street, Richmond, (2020)	Approximately 500 apartments	10% Affordable Housing	Amendment C223 (approved). Mixed Use Zone Schedule 15 to Clause 43.4 DPO	Schedule 15 to Clause 43.04 DPO requires the owner must facilitate the provision of 10 percent of the total number of dwellings as affordable housing by: <ul style="list-style-type: none"> • Entering into an arrangement with a registered agency; and/or • Making other arrangements for the provision of affordable housing in conjunction with a not for profit entity to the satisfaction of the responsible authority; and/or • Making other arrangements for the provision of for the provision of affordable housing as defined at Section 3AA of the Planning and Environment Act 1987, to the satisfaction of the Responsible Authority.



Site, Council and Year of Agreement	Yield	% Affordable Housing	Control, Zoning and Yield	Affordable Housing Delivery
245 – 251 Normanby Road, South Melbourne, City Port Phillip (2020)	342 apartments	6%	Planning Permit No. PA1500028	<p>Before the development starts, excluding demolition, bulk excavation and site preparation works, the owner must enter a Section 173 Agreement to the satisfaction of the responsible authority to provide for the following:</p> <p>6% of the total number of dwellings (rounded down to the nearest whole number) to be offered for sale to a Housing Trust or registered Housing Association or Housing Provider approved by Port Phillip City Council within a minimum period of three months and maximum of twelve months from the date the development commences, at a discount of 40% of the value of the dwellings as determined by an independent valuer at the time the dwellings are offered for sale and conditional on all dwellings (offered for sale) being:</p> <ul style="list-style-type: none"> • Transferred to one single Housing Trust or registered Housing Association or Housing Provider in one single transaction (i.e. all 6% sold to the same entity and in a single transaction); and • Managed as affordable housing in perpetuity by a single Housing Trust or registered Housing Association or Housing Provider; and • Set aside for occupation by low income residents to the satisfaction of Port Phillip City Council. <p>If twelve months after the development commences 6% of the total number of dwellings have not been sold in accordance with the above; 2.5% of the total number of dwellings (rounded down to the nearest whole number) must be transferred to a single Housing Trust or registered Housing Association or Housing Provider approved by Port Phillip City Council at no cost to the Housing Trust or registered Housing Association or Provider on the issue of the certificate of occupancy.</p>
203-205 Normanby Road, Southbank. City of Port Phillip (2020)	171 apartments	6%	Amendment C163port Permit approval Incorporated Plan	<p>Before the development starts, excluding demolition, bulk excavation and site preparation works, the owner must enter into an agreement under Section 173 to the satisfaction of the Responsible Authority that must provide for the delivery of at least 6% of the total number of dwellings for affordable housing by utilising one or more of the following mechanisms:</p> <ul style="list-style-type: none"> • Transferring dwellings to a registered housing agency or other housing provider or trust entity approved by the Responsible Authority at a minimum 35% discount to market value; or • Leasing dwellings as affordable housing under the management of a registered housing agency or housing provider or trust approved by the Responsible Authority at a minimum 35% discount from market rent for a



Site, Council and Year of Agreement	Yield	% Affordable Housing	Control, Zoning and Yield	Affordable Housing Delivery
				<p>period of not less than 30 years for the building approved under this control. The overall value of the leased dwellings must be equivalent or higher than option 1; or</p> <ul style="list-style-type: none"> Any other mechanism providing a contribution of equivalent or higher value than option 1 to the satisfaction of the Responsible Authority. <p>Dwelling mix and delivery timeframes are set in the control which also requires that the agreement must contain a mechanism for review of the minimum discount from market rent by reference to updated income and rental figures upon request by the Responsible Authority to ensure the housing continues to meet the definition of Affordable housing.</p> <p>The agreement may also provide that in lieu of delivering all or part of the affordable housing in accordance with Clause, the Responsible Authority may agree to payment of an equivalent amount of money to a registered housing agency or other housing provider or trust to be expended for affordable housing in the Fishermans Bend Urban Renewal Area provided the Responsible Authority and the City of Port Phillip are satisfied that:</p> <ul style="list-style-type: none"> i) the owner has made best endeavours to secure a registered housing agency recipient or other housing provider or trust for the affordable housing and has not been successful; and ii) the payment amount is equivalent to the value of the affordable housing that would otherwise have to be delivered less the value of any affordable housing provided within the development.
Altona North Precinct 15, Hobsons Bay (2018)	Approx. 3,000 dwellings	5% Affordable Housing	Amendment C088 (approved). Industrial 1 Zone (IN1Z) and Industrial 3 Zone (IN3Z) to Comprehensive Development Zone Schedule 2 to Clause 37.02 CDS	<p>Requirement for 5 per cent of dwellings to be sold at a 25 per cent discount to a Registered Housing Agency. Schedule 2 to Clause 37.02 CDZ sets out specific details governing the way in which the dwellings are to be sold and the discount calculated.</p> <p>In the case a sale cannot be realised, the developer is required to pay the equivalent of 25% of market value to a Housing Agency or Council Trust to use for Affordable Housing purposes in Hobsons Bay.</p>

