10 October 2019

Committee Secretariat – Planning Mechanisms for Affordable Housing
Attn. Fiona Delahunt
Executive Director, Forward Policy and Business Strategy
Department of Environment, Land, Water and Planning

By email: [redacted]

Dear Fiona

Ministerial Advisory Committee on Planning Mechanisms for Affordable Housing

UDIA Victoria Preliminary Submission

The Victorian Division of the Urban Development Institute of Australia (UDIA Victoria) is a non-profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria's public service. We are committed to working with both industry and Government to deliver housing, infrastructure and liveable communities for all Victorians.

UDIA Victoria welcomes the opportunity to provide input to the Ministerial Advisory Committee on Planning Mechanisms for Affordable Housing (the Committee), examining possible models and options to facilitate the supply of affordable housing in Victoria. We recognize the Committee has been given a particularly narrow brief, defined to isolated planning solutions.

UDIA Victoria's view however is that a real solution for Victoria's shortage of affordable housing at volume will require a whole of government response predominantly driven by fiscal initiatives.

UDIA Victoria considers affordable housing to be critical economic infrastructure essential to Victoria's productivity and liveability. Indeed, housing affordability is a key element of our current Advocacy Agenda, which seeks to ensure policy and planning decisions prioritise housing affordability by facilitating development and healthy housing supply, providing investment certainty, and ensuring that policy considers affordability impacts.

Demonstrating this commitment, UDIA Victoria has been an active member of the Affordable Housing Industry Advisory Group (AHIAG) since its establishment in 2016. In 2019 we delivered the *Introduction to Property Development Economics for Affordable Housing* course, on behalf of the Department of Environment, Land, Water and Planning's (DELWP).

In providing the advice set out in this submission, we wish to highlight the following:

- Whilst there is a role for industry in delivering the housing Victoria needs, industry should not be paying the cost of 30 years of underinvestment in social and affordable housing, and the ability of the planning system to address the current level of need is limited;
- The question of how best to address 'affordable housing', as defined by the *Planning and Environment Act 1987,* cannot reasonably be separated from the importance of ensuring an

adequate supply pipeline, as a key driver of housing affordability in the broader market;

- Victoria's apartment development market is facing unprecedented challenges, reflected by the incredibly low building approval rates. Unless the drivers of this market are addressed in a whole of government approach, any affordable housing policy response relying on the apartment development market to deliver will ultimately fail;
- Any new planning mechanism to increase the delivery of 'affordable housing' (as per the definition in the *Planning and Environment Act 1987*), may result in an increase to the median house price in Victoria in order to facilitate an unknown and unmeasured level of affordable housing for some. To avoid a net negative effect on housing affordability, any mechanism must be carefully assessed on its impact:
    - on commercial feasibility, and the ability to secure project finance, using a risk-adjusted return model. Any impacts must be matched by equivalent incentive measures,
    - on the median house price in Victoria, through restrictions on supply either through moderating development activity, or artificially constraining development yields; and
    - on the ability of affordable housing associations to partner with industry to deliver increased volume of housing stock.

To assist the Committee's review, this submission will set out the:

1. need for a whole of government approach;
2. current planning policy context;
3. effectiveness of the newly established voluntary affordable housing negotiation framework; and
4. UDIA Victoria's position with respect to specific planning mechanisms designed to support both delivery of affordable housing and promote housing affordability.

Given the narrow timeframes associated with this consultation, we note this submission is preliminary in nature, as we undertake a more fulsome member engagement process. We would be happy to provide further advice on specific matters during the Committee's term – particularly the review of the benefit and cost, of any mechanisms being considered by the Committee.

A summary of our recommendations is provided at **Attachment 1**.

1. A Whole of Government Approach is Critical

The supply and cost of housing is one of Victoria's biggest challenges. Despite record low interest rates, short-term government incentives like NRAS and a once-in-a-generation capital injection of $5.2 billion under the Nation Building Program, housing remains out of reach for too many Victorians.

There are multiple factors driving housing affordability in Victoria – it follows that in order to introduce measures to increase the delivery of 'affordable housing', those market drivers affecting the supply and cost of housing must first be understood.

In recent years, there have been multiple changes to government policy, regulation and taxation settings which have directly reduced the health of the new housing market. These include:

- Building and planning design requirements reducing development yields and driving up construction costs;

- Stricter lending requirements affecting the ability to secure project finance (and hence increasing cost of development finance as private lenders step into the space vacated by the big four banks), as well as the purchasing power of individual owner-occupier and investor purchasers;
- Various controls limiting and disincentivising foreign ownership and investment, further affecting the ability to secure the pre-sales required to secure project finance;
- Increasing construction and infrastructure delivery costs, largely impacted by the infrastructure delivery boom; and
- The introduction and increase of new infrastructure contribution costs, fees and charges.

In addition to pushing up delivery costs, the combined effect has resulted in a significant slowing of the commencement of new builds across Victoria, and specifically a sharp decline in new apartment building approvals in FY18/19 from FY2017/18 levels:

- Victoria wide, total building approvals for dwellings declined 21% to 59,724 from 75,634;
- Inner Melbourne experienced significant declines:
    - Four storey plus dwelling approvals declined by 58.7% to 4,895 from 11,855
    - Town house approvals declined by 41.8%
- Middle Melbourne experienced an overall decline of 27.3%, with a total of 13,603 approvals.

Further detail of each of the recent policy and regulatory changes that are having a direct impact on the pipeline of new dwellings in Victoria in general, and Melbourne in particular, is provided in **Attachment 2**.

Acknowledging the critical role of institutional investors and listed property trusts in Victoria's housing market. Institutional investors, such as superannuation property funds, are the key to unlocking scale in the delivery of affordable housing. Demonstrating this scale, at August 2019, $57 Billion was invested in Australian listed property and $99 billion in unlisted property (Association of Superannuation Funds of Australia (ASFA).

There is a great reliance on the Community Housing sector to deliver and manage affordable housing. This largely ignores the significant investment capacity of the private market which could help to provide affordable housing solutions at scale.

We note the gap in the private market affordable rental housing market since the closure of the NRAS program, which has largely closed off private investor purchase of housing for affordable rental. The Permanent Rental Affordability Development Solutions (PRADS) model proposed by Housing All Australians seeks to address this gap. Noting that Housing All Australians has provided a submission to the MAC, we will not duplicate the discussion in our submission. However, we do note that the Inner Melbourne Action Plan (IMAP) has commissioned a piece of work investigating the PRADS model, and we urge the MAC to discuss this further with the IMAP.

UDIA Victoria has participated in the Victoria Government's Parliamentary Advisory Group on Build to Rent (BTR). Whilst BTR in Victoria could provide a pathway for the efficient delivery of integrated affordable housing at volume, substantial subsidies will be required (in addition to any tax equalization measures) in order to attract the level of domestic institutional investment required to establish affordable housing outcomes this emerging asset class.

The delivery of Affordable Housing at scale requires industry (private and not-for-profit housing sectors and their financiers) to have the capacity, opportunity and conditions precedent in place to enable them to co-invest and deliver.

Whilst a positive initiative, the Social Housing Growth Fund, and its target of providing 2,200 dwellings over 5 years, is inadequate given that according to Infrastructure Victoria, the outstanding demand for social housing alone is in the order of 30,000 dwellings. The program requires both significant expansion and be aligned with other efforts – for example, outcomes negotiated under voluntary affordable housing agreements - to enable the certainty required for successful delivery.

We understand that the many high-quality funding applications from the Community Housing Sector and its finance and development partners exceeded the available 2019 tranche of funding, with high-quality applications not able to be funded. We encourage the State Government to extend the funding to all suitable projects, so as to provide certainty to both registered housing providers and other stakeholders.

In the short term, we encourage the State Government to bring forward the capital contribution to the Social Housing Growth Fund (Growth Fund) already incorporated into the Budget Forward Estimates. The approval of the accelerated delivery would:

- Provide a new home for 5% of the households on the State's Housing Register. The biggest single reduction since the Rudd Governments social housing stimulus
- Provide the biggest single boost to community housing since the Rudd governments social housing stimulus
- Attract $1.2 Billion in private and community investment into social and affordable housing
- Create 1,375 direct FTE jobs and nearly 2,000 associated jobs
- Build the capacity and balance sheet of the Community Housing sector in the State enabling further leverage for affordable housing outcomes

Recommendations

1.1 A whole of government approach underpinned by significant capital investment from government is required to address housing affordability – planning mechanisms alone are not a solution.

1.2 Address finance and regulatory policy affecting supply and housing affordability:

The levers immediately available to the State Government to moderate the sharp decline in the delivery of new dwellings in the coming two to three years include the following:

- Reinstate the stamp duty concession for investors purchasing dwellings off-the-plan;
- Remove the foreign purchaser stamp duty surcharge;
- Maintain the existing Land Tax Rate without an increase; and
- Exclude new dwellings from the Vacancy Tax where they have not sold or failed to settle.

1.3 Facilitate private market investment in affordable housing:

- Support the development of emerging models that enable private investment in the delivery and management of affordable housing, and
- Continue to investigate support for the Build to Rent sector, and the level/model of subsidy or support that would be required to accommodate affordable housing provision through Build to Rent models, which ultimately have the capacity to substantially increase the scale of delivery of integrated affordable housing product.

1.4 A significant expansion of the Social Housing Growth Fund is required. In the short term, we recommend the State Government brings forward the capital contribution to the Social Housing Growth Fund already incorporated into the Budget Forward Estimates, to allow funding for any project that qualifies, sooner; and

1.5 Align direct funding mechanisms with other efforts to deliver affordable housing so as to provide the certainty required to enable the housing industry and institutional investors to invest in affordable housing.

2. Dial Up the Efficacy of Victoria's Current Planning Policy Settings

It is the role of the State Government to provide clear policy direction and housing growth targets for local government, and to put accountability measures in place to ensure that local housing policy responds to those objectives.

A key tenet of *Plan Melbourne 2017-2050 is* to facilitate long-term growth and housing choice in the right locations. Plan Melbourne recognizes that in order to achieve this aim, housing needs to be planned at a regional scale, making adequate provision for future housing needs by defining housing change areas and redevelopment areas, directing new development and densification to areas well provisioned with infrastructure, and collecting and reporting on information on changing housing preferences to inform future planning decisions. These objectives are captured in Policies *2.1.3 - Plan for and define expected housing needs across Melbourne's regions*, and *2.1.4 - Provide certainty about the scale of growth in the suburbs*.

Action 1 - Land use framework plans and Action 19 - Metropolitan regional housing plans to guide housing growth, in Plan Melbourne's Five Year Implementation Plan are critical for the successful achievement of this policy intent, yet neither have been prepared to date in line with the Implementation Plan.

As UDIA understands it, the Land Use Framework Plans not yet released but under development since 2017, have failed to include the level of housing growth guidance required by Plan Melbourne.

Plan Melbourne identifies the Metropolitan Regional Housing Plans as a short-term action specifically intended to inform updates to local housing strategies and planning schemes. These plans were, following an assessment of capacity, to identify the preferred locations for the delivery of medium- and higher-density housing and determine the additional aggregate housing supply able to be delivered, for each metropolitan region. Further, the plans were to identify the particular housing diversity and affordability issues that need to be addressed, including in areas of social inequality and disadvantage.

Whilst DELWP have been developing a suite of research tools so that local governments can better understand the housing context, the State has to date not delivered metropolitan regional housing plans. UDIA Victoria questions whether it is the intention of the Andrews Government to deliver on this action in this term of Government.

We propose the introduction of housing targets to establish a delivery model for both general supply and affordable housing supply under a performance measurement and accountability framework.

Whilst the above *Plan Melbourne* actions are intended to provide policy direction for the management of housing growth, even if delivered in line with the Plan Melbourne requirements, they will not in themselves ensure that local government considers housing policy and planning in line with State and regional housing objectives.

To this end, UDIA Victoria recommends that State Government develop:

- clear numerical housing targets, across Victoria
- a system to coordinate and track achievement of those targets, and

- accountability measures with meaningful implications for municipalities that do not achieve those targets.

Numerical targets should be set for both general housing and affordable housing supply. Specifically, affordable housing targets must specify the proportion of housing to be achieved via the planning system, as well other mechanisms. These targets then should drive the development and assessment of local housing policy and focus and prioritise both State and Local policy efforts and investment for the delivery of affordable housing across a spectrum of initiatives.

Greater London provides a useful case study of robust housing targets and enshrined meaningful and impactful obligations on government (with industry) to deliver on these targets. Further detail on the Greater London example is provided in **Attachment 3**. The City of Vancouver's Housing and Homelessness Strategy is another example where numerical housing targets have been based on analysis of need, and a system is in place to support achievement of those targets.

Income Ranges in Governor in Council Orders

The current Governor in Council (GIC) Orders for the Specification of Income Ranges are too narrow for the purposes of the affordable housing definition, and insufficiently address significant variations in median house price across the state, and in Metropolitan Melbourne particularly. We note that South Australia has higher income bands than Victoria, capturing in them a broader range of key workers (an employee that provides essential services – education, public health and safety), despite significantly lower median house prices.

UDIA Victoria recommends that the GIC Orders are revised to:

- include an "inner metropolitan Melbourne" category, recognizing the significant variance in median house prices across the Melbourne Metropolitan area, and
- extend the moderate-income band to include critical key workers.

Determining affordable housing price points for purchase

Although recognising that the Planning and Environment Act 1987 does not provide scope to specify price ranges for the purchase or rent of housing, there is scope to require a methodology for calculating the sale price of the product that meets the definition of affordable housing. We recommend that the Valuer General determines an appropriate methodology that considers not only percentage of household income but also yield outcomes, which should be set out in a practice note. Further, we would recommend legislative change to allow for the definition of price points in future.

Recommendations

2.1 Deliver Land Use Framework Plans and Metropolitan Housing Plans in line with Plan Melbourne.

2.2 Introduce housing targets – both general supply and affordable housing measures – performance measurement and accountability measures.

2.3 Revise the Income Ranges in Governor in Council Orders.

2.4 Define a methodology for determining affordable housing price points for purchase.

3. The Voluntary Affordable Housing Framework

Through the relationships established both as members of the AHIAG, and through the delivery of the Introduction to Property Development Economics for Affordable Housing course, UDIA has developed an understanding not only of those matters critical to the development industry in the discussion of affordable housing, but also an understanding of the needs of other stakeholders, and of what is required to develop effective delivery partnerships.

Over five sessions, the course attracted 169 attendees across 21 Councils, 5 State Government departments and agencies, as well as registered housing agencies and private sector. As evidenced by the course attendance (and attendance at the AHIAG Masterclass), local governments across Victoria, in all settings, have embraced their new responsibilities in facilitating affordable housing agreements. However, they are operating in a policy guidance, and knowledge vacuum, which is leading to confusion, unnecessary duplication, considerable delays in the preparation of planning scheme amendments and permit negotiations, and ultimately to the preparation of policies and approaches that are counterproductive, not necessary resulting in delivered outcomes.

State and local government planners have little to no prior understanding of property development economics (not traditionally part of a planning degree or on-the-job training), impacting their understanding of the impact that planning decisions can have on market dynamics, the flow on effects on supply and affordability, as well as their ability to negotiate with the development industry to secure outcomes that will be deliverable.

Industry's understanding of the voluntary affordable housing framework varies considerably. For those who have experienced negotiations under the framework, the inconsistency between LGAs in approach and lack of understanding of the commercial implications of affordable housing agreements is incredibly frustrating. There is very little consistency in how affordable housing negotiations are approached in each local government area (LGA), so what may be a successfully negotiated outcome in one municipality has very little likelihood of being accepted in another. We have heard:

- Approaches to the provision of incentives are frequently tokenistic or absent, failing to recognize the implications of having additional, voluntary provisions introduced following the sale of land, and how the cost of providing the affordable housing outcome affects development viability
- Permit conditions requiring affordable housing agreements being placed on permits where no strategic justification exists, and where not previously negotiated
- Development proponents are being required to sign agreements to provide affordable housing before an application to rezone land will be entertained –breaching the intent of affordable negotiations to be voluntary
- Officer requests for a voluntary agreement, and resulting negotiations occurring in the absence of Council support, only to be abandoned where Council support is not secured
- A lack of flexibility – ignoring the role of affordable purchase, discounted sale, private rental arrangements, or other innovative models
- Negotiations can typically take 6-12 months, with delays exceeding 12 months not uncommon
- Requirements in Section 173 Agreements being too onerous to attract and secure a community housing delivery partner as they ignore the portfolio management requirements of registered housing agencies. Unhelpful requirements include (but are not limited to) in perpetuity requirements, preventing future sale of dwellings, or specific requirements for the housing to house a specific cohort of resident – be that by income bracket or by needs (e.g. disabled persons, or sole parents). These requirements have been proposed even where there is no significant investment by the LGA involved to help facilitate the outcome. The current application process to secure grant funding also provides the Registered Housing Agencies with little certainty
- Sound, transparent and acceptable cash in lieu alternatives linked to affordable housing outcomes most often are not in place (trusts are rare), limiting the potential to secure an

outcome towards affordable housing where direct delivery in a specific development is not appropriate

- Planning Permit Requirements, and agreements, being challenged successfully at VCAT, or worse – the development ultimately abandoned.

The above raises serious questions as to the efficacy of the voluntary affordable housing negotiation framework in its current form.

It has only been 16 months since the introduction of the voluntary negotiation framework. Without a central, public register of the agreements, that tracks delivered outcomes, it is impossible to reliably gauge the number and distribution of affordable housing units delivered under the framework, or to understand the additional costs to industry, government, and the public associated with its implementation.

UDIA Victoria recommends that the MAC look to international examples for how a whole of government approach can be used to develop a suite of tools to help deliver affordable housing outcomes. UDIA Victoria delegates recently visited the District of Columbia in the United States on our international study tour and heard about their experience in encouraging supply of affordable housing. **Attachment 4** provides a snapshot of the "toolkit" of incentives and approaches that have been developed for the New Rochelle urban development area, to provide a range of options that may suit different development contexts.

Recommendations

3.1 Develop State policy guidance for use by local government, in the development of Social and Affordable Housing strategy (covering planning and non-planning matters), and affordable housing planning policy. This should be supported by education and training on the affordable housing system, and property development economics.

3.2 Develop a model toolkit for local government, that considers the relative success of international models, and:

3.2.1 Identifies the matters that should be contained in a social and affordable housing strategy (that covers planning and non-planning matters),

3.2.2 Identifies the matters that should be contained in an affordable housing planning policy, and critical principles emphasizing the voluntary nature of the provisions.

3.2.3 Identifies how local government can develop a suite of incentives to offset the commercial impact of the affordable housing provision – including the time value of money cost associated with additional delays caused by extensive negotiations.

3.3 Revise the standard template section 173 Agreement for voluntary affordable housing negotiations to limit the matters contained within them, to allow flexibility in how the negotiated extent of affordable housing is provided, so as to protect the commerciality of developments and ensure supply.

3.4 Introduce a reporting system for voluntary affordable housing agreements to provide transparency, and a mechanism by which outcomes can be measured.

4. Value Capture and Inclusionary Zoning

There are various existing value capture mechanisms in use in Victoria that contribute to the cost of infrastructure projects that are typically introduced at the time of rezoning land, including the Growth

Areas Infrastructure Contribution, Development and Infrastructure Contributions, open space contributions and user charges.

Associated value capture mechanisms that do not directly contribute to the cost of infrastructure projects, but do provide revenue for State and Local Governments, include land taxes, stamp duty, capital gains tax and Council rates, the Metropolitan Planning Levy and permit application fees.

UDIA's position on value capture mechanisms are driven by the following principles:

- The value capture discussion must be distinguished by value capture on government-held land, as opposed to value capture on privately held land;
- Value captured on government land should be maximized, remain directly in the housing market, and not be directed to general revenue. There are a number of mechanisms by which this value can be retained – including long term lease of land for the purpose of affordable housing, which will result in a greater affordable housing outcome than has the potential to be realized under the current program for delivery of affordable housing on government land, or by offering land to market with an inclusionary housing component reflected in a lower land price;
- Rezoning alone does not provide value - value is only created by direct government investment;
- the value created must be measurable, and the proportion of value captured must be matched with incentives and not diminish the ability for value to be realised; and
- value capture should not be introduced after the value creation has already been realised.

In general, UDIA Victoria supports value capture mechanisms where new infrastructure creates value that is captured to contribute to the cost of that infrastructure.

However, we do not consider value capture tools to be the appropriate mechanism for the delivery of affordable housing on privately held land, and do not support yet another value capture mechanism that is linked to a rezoning and a perceived creation of value.

We note that the assumption of created value has been explored as part of the Planning Panel process for the West Melbourne Structure plan (Melbourne C309), through which an assumed increase in value as a result of the introduced controls was questioned by Council's economic consultants, noting that the imposition of mandatory floor area ratios and height limits is likely to lead to an 'efficiency' in the market – i.e. a reduction in land values. UDIA notes the Panel Report is due to be released imminently. The AHIAG has commissioned Urbis to undertake a review of Value Capture using West Melbourne as a case study and note that the resulting report should be completed during the tenure of the MAC.

Development uplift provisions are now in place in the Central City under DDO 10 introduced under Amendment C270, and in Fishermans Bend. However, we consider that the commercial floorspace outcomes achieved through C270 uplift provisions are not comparable to the residential market context and should not be used to measure the efficacy of such provisions. We further note that the inactivity in Fishermans Bend due to the absence of an ICP means that Fishermans Bend is not a useful case study. We understand that of the applications currently with DELWP, none have sought an uplift in return for an affordable housing outcome.

The sensitivity of fluctuating markets must also be considered. Commercial values are currently looking more attractive, and we are seeing the conversion of approved apartment developments to commercial space; today's apartment market simply cannot sustain the introduction of further requirements if housing supply is to increase.

UDIA also takes the position that development process itself adds value to land in response to a rezoning (in addition to GAIC, DCP, ICP) in that it is making efficient use of land in accordance with the objectives of the Planning and Environment Act, and in doing so will also need to demonstrate that it is delivering a net community benefit as part of any approval process.

Recommendations

4.1 Voluntary value capture mechanisms are matched by incentive mechanisms of demonstrated equivalent value

4.2 The Central City and Fishermans Bend development uplift provisions are not suitable for use as case studies on the efficacy of uplift provisions.

4.3 Mandatory requirements for the provision of affordable housing are best suited to government land, and affordable housing outcomes on government land should be maximized.

4.4 Mandatory inclusionary zoning provisions are not supported on privately owned land. However, should Government introduce such requirements:

- It is critical that any mandatory provisions are transitioned to allow the market to adjust. The transition provisions should be such that development is still viable, and to prevent against cost impact on dwellings. It is critical to ensure that the unintended consequence of this is not an increase in the median house price – which will occur if there is a shock to the market. We recommend a period of 5 to 10 years, with the requirements being gradually phased in to increase to the ultimate target over that time.
- A contextual assessment must be undertaken prior to the introduction of controls to ensure that value is actually being created by the planning intervention, and measuring it to understand the level of capture that retains development viability, and
- Equivalent value incentives such as yield increases or dispensations for other requirements must be provided.

We note the work that the AHIAG has previously undertaken examining the relative value of incentives, scale of outcomes and effect on feasibility, set out in the discussion paper *Advancing Land-Use Planning Approaches to Facilitate Affordable Housing* (October 2017) (provided to the MAC in the AHIAG submission). The discussion paper provides a useful analysis, however UDIA note that due to the age of the analysis and the changing market in the intervening period, the feasibility assessment should be considered indicative only and not be relied upon to reflect the current day situation.

5. Flexibility and Certainty

There is a need to provide flexibility in how affordable housing outcomes are provided. Rigid direct delivery models that cannot respond to varied development contexts are not supported.

Not all developments are suitable – or indeed 'appropriate', as defined by the *Planning and Environment Act 1987* - for affordable housing.

We note the importance of ensuring that any planning mechanisms that may be developed, incorporate sufficient flexibility to respond to new and innovative models for affordable housing delivery that may emerge over the life of that mechanism.

Listed companies and investment funds have fiducial responsibilities; in order to invest in a project, they must be able to secure the returns they need for their investors, and returns must be comparable to alternative property investments. It is therefore critical that a risk-adjusted return model is adopted when assessing the impact of proposed planning controls on development feasibility.

Recommendations

5.1 Any affordable housing provision must include the option of cash equivalency payments, with clear calculation methodology. This must be accompanied by a transparent model with delivery accountability measures.

5.2 Any provisions must be flexible enough to accommodate innovative housing models that may emerge over time, providing opportunities for delivery beyond the community housing sector.

5.3 Any assessment of impact on development feasibility must take a risk-adjusted return approach to have a realistic basis of the impact of the controls on the ability for a development to proceed.

6. Other Planning Mechanisms

UDIA Victoria has been calling for more code assessment pathways to facilitate low impact infill development of modest scale since 2017. Whilst we support DELWP's current efforts to investigate a VicSmart Plus pathway, and note the significant benefit provided by streamlining the notice and assessment process for single dwellings on lots less than 500m2 (as documented in the Development of a VicSmart Plus assessment pathway Discussion Paper (September 2019), we urge the department to expand the scope to include applications for two dwellings on a lot (regardless of lot size). Justification for this position is set out in **Attachment 5**.

Current restrictions on the development of secondary dwellings in Victoria's Planning system, and the resulting planning process, is particularly onerous, and the current definition of 'dependent person's unit' too narrow. Victoria's planning system must provide a simpler pathway for families and individuals to age in place, provide better housing choices for young adults living at home, or to provide an additional income stream whilst also providing alternative, affordable housing choices. Victoria's demographics are changing, as are consumer trends. In addition to providing easier pathways for individual property owners to redevelop to suit their own needs, we would expect that a change to the current planning restrictions on secondary dwellings / multi-generational housing, fonzi-flats and granny flats would encourage innovation in volume-built product and assist with housing density and diversity in Victoria's greenfield areas.

To this end, we recommend that secondary dwellings are included as an eligible category for any resulting VicSmart Plus pathway.

The Victorian Planning Authority has recently undertaken a review of the Small Lot Housing Code (SLHC) and its application. In particular, we note our support of the review's recommendation that a new micro-lot category is developed for the SLHC, and recommend that this work is funded, and prioritised so as to support the development of an affordable purchase category of housing.

Recommendations

6.1 Extend VicSmart Plus investigations to include a code assessment pathway for two dwellings on a lot

6.2 Development of Secondary dwellings should be included in the VicSmart Plus provisions

6.3 Develop a new micro-lot category for the Small Lot Housing Code

7. Next steps

We urge the Committee to ensure that all options recommended to the Minister have been subjected to a regulatory impact statement that explores the cost impact of any targeted affordable housing measures, on housing supply and affordability more generally.

We note that UDIA Victoria has reviewed and support the AHIAG submission to the MAC.

UDIA Victoria is currently undertaking extensive consultation with our membership on mechanisms to support affordable housing and note that further information may emerge in the coming weeks. We therefore request that this submission is considered preliminary in nature, and that the MAC may accept a further submission to inform its recommendations to the Minister.

We welcome the opportunity to meet with the Committee to present our submission in more detail. We would also be happy to provide any further information upon request, and look forward to providing a more in-depth review following the release of the Discussion Paper.

Should you wish to discuss any of the matters raised in this submission, please contact Kate Weatherley, Senior Policy Advisor at kate@udiavic.com.au.

Yours sincerely

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Encl.

- Attachment 1 – Summary
- Attachment 2 – Housing Policy Context and Financial Policy Context
- Attachment 3 – Greater London case study - housing targets
- Attachment 4 – Washington DC, New Rochelle
- Attachment 5 – Code Assessment for two dwellings on a lot

Attachment 1

Submission Summary

Overarching principles informing the UDIA Victoria submission

- Whilst there is a role for industry in delivering the housing Victoria needs, industry should not be paying the cost of 30 years of underinvestment in social and affordable housing, and the ability of the planning system to address the current level of need is limited;
- The question of how best to address 'affordable housing', as defined by the *Planning and Environment Act 1987,* cannot reasonably be separated from the importance of ensuring an adequate supply pipeline, as a key driver of housing affordability in the broader market;
- Victoria's apartment development market is under unprecedented pressure from all sides, reflected by the incredibly low building approval rates. Unless the drivers of this market are addressed in a whole of government approach, any affordable housing policy response relying on the apartment development market to deliver will ultimately fail;
- Any new planning mechanism to increase the delivery of 'affordable housing' (as per the definition in the *Planning and Environment Act 1987*), may result in an increase to the median house price in Victoria in order to facilitate an unknown and unmeasured level of affordable housing for some. To avoid this, any mechanism must be carefully assessed on its impact:
    - o on project feasibility, and hence ability to secure project finance, using a risk-adjusted return model. Any impacts must be matched by equivalent incentive measures,
    - o on the median house price in Victoria, through restrictions on supply either through moderating development activity, or artificially constraining development yields, and
    - o On the ability of affordable housing associations to partner with industry to deliver increased volume.

Summary of Recommendations

1. A Whole of Government Approach is Critical

    1.1 A whole of government approach underpinned by significant capital investment from government is required to address housing affordability

    1.2 Address finance and regulatory policy affecting supply and housing affordability

    The levers immediately available to the State Government to moderate the sharp decline in the delivery of new dwellings in the coming two to three years include the following:

    - Reinstate the stamp duty concession for investors purchasing dwellings off-the-plan;
    - Remove the foreign purchaser stamp duty surcharge;
    - Maintain the existing Land Tax Rate without an increase; and
    - Exclude new dwellings from the Vacancy Tax where they have not sold or failed to settle.

    1.3 Facilitate private market investment in affordable housing

    - Support the development of emerging models that enable private investment in the delivery and management of affordable housing, and

- Continue to investigate support for the Build to Rent sector, and the level/model of subsidy or support that would be required to accommodate affordable housing provision through Build to Rent models, which ultimately have the capacity to substantially increase the scale of delivery of integrated affordable housing product.

1.4 A significant expansion of the Social Housing Growth Fund is required. In the short term, we recommend the State Government brings forward the capital contribution to the Social Housing Growth Fund already incorporated into the Budget Forward Estimates, so as to allow funding for any project that qualifies, sooner.

1.5 Align direct funding mechanisms with other efforts to deliver affordable housing so as to provide the certainty required to enable the housing industry and institutional investors to invest in affordable housing.

2. Dial Up the Efficacy of Victoria's Current Planning Policy Settings

2.1 Deliver Land Use Framework Plans and Metropolitan Regional Housing Plans, in line with Plan Melbourne requirements, in the short term

2.2 Introduce housing targets – both general supply and affordable housing measures – performance measurement and accountability measures

2.3 Revise the Income Ranges in Governor in Council Orders to:

- include an "inner metropolitan Melbourne" category, recognizing the significant variance in median house prices across the Melbourne Metropolitan area, and
- extend the moderate-income band to include critical key workers.

2.4 Define a methodology for determining affordable housing price points for purchase

3. Voluntary Affordable Housing Framework

3.1 Develop State policy guidance for use by local government, in the development of Social and Affordable Housing strategy (covering planning and non-planning matters), and affordable housing planning policy. This should be supported by education and training on the affordable housing system, and property development economics.

3.2 Develop a model toolkit for local government, that:

3.2.1 Identifies the matters that should be contained in a social and affordable housing strategy (that covers planning and non-planning matters),

3.2.2 Identifies the matters that should be contained in an affordable housing planning policy, and critical principles emphasizing the voluntary nature of the provisions.

3.2.3 Identifies how local government can develop a suite of incentives to offset the commercial impact of the affordable housing provision – including the time value of money cost associated with additional delays caused by extensive negotiations.

3.3 Revise the standard template section 173 Agreement for voluntary affordable housing negotiations to limit the matters contained within them, to allow flexibility in how the negotiated extent of affordable housing is provided, so as to protect the commerciality of developments and ensure supply.

3.4 Introduce a reporting system for voluntary affordable housing agreements to provide transparency, and a mechanism by which outcomes can be measured.

4. Value Capture and Inclusionary Zoning

4.1 Voluntary value capture mechanisms are matched by incentive mechanisms of demonstrated equivalent value

4.2 The Central City and Fishermans Bend development uplift provisions are not suitable for use as case studies on the efficacy of uplift provisions.

4.3 Mandatory requirements for the provision of affordable housing are best suited to government land, and affordable housing outcomes on government land should be maximized.

4.4 Mandatory inclusionary zoning provisions are not supported on privately owned land. However, should Government introduce such requirements:

- It is critical that any mandatory provisions are transitioned to allow the market to adjust. The transition provisions should be such that development is still viable, and to prevent against cost impact on dwellings. It is critical to ensure that the unintended consequence of this is not an increase in the median house price – which will occur if there is a shock to the market. We recommend a period of 5 to 10 years, with the requirements being gradually phased in to increase to the ultimate target over that time.
- A contextual assessment must be undertaken prior to the introduction of controls to ensure that value is actually being created by the planning intervention, and measuring it to understand the level of capture that retains development viability, and
- Equivalent value incentives such as yield increases or dispensations for other requirements must be provided.

5. Flexibility and certainty

5.1 Any affordable housing provision must include the option of cash equivalency payments, with clear calculation methodology. This must be accompanied by a transparent model with delivery accountability measures.

5.2 Any provisions must be flexible enough to accommodate innovative housing models that may emerge over time, providing opportunities for delivery beyond the community housing sector.

5.3 Any assessment of impact on development feasibility must take a risk-adjusted return approach so as to have a realistic basis of the impact of the controls on the ability for a development to proceed.

6. Other Planning Mechanisms

6.1 Extend VicSmart Plus investigations to include a code assessment pathway for two dwellings on a lot

6.2 Development of Secondary dwellings should be included in the VicSmart Plus provisions

6.3 Develop a new micro-lot category for the Small Lot Housing Code

Attachment 2

Housing Policy Context

The Victorian Government policy framework for affordable housing – Homes for Victorians: Affordability, Access and Choice – was introduced in March 2017 with the intention of securing a supply of affordable housing as the State's population grows. The stated aim of Homes for Victorians is to give every Victorian every opportunity to find a home, and to ensure housing accommodates population growth by facilitating the construction of more than 50,000 new dwellings each year.

Whilst UDIA Victoria supports the stated intention, and aims, of this important policy, we raised significant concerns at the time regarding the longer-term impacts of changes to the taxing of purchasers of new dwellings. Of particular concern was, and remains, the removal of OTP stamp duty concessions for investors which was intended to fund the tax exemption for first home buyers.

While this approach offers a significant "leg up" for some, it does so at a significant cost to the rental and apartment markets. As these markets provide the bulk of affordable options, the medium and long term outcomes of this policy are likely to conflict with its stated objectives.

Specifically, we noted at the time that we anticipated the impacts on the residential development market would include a retreat in investors which would lead to a decrease in the supply of new dwellings available for purchase and rent, a less affordable rental market, and a reduction in the overall contribution of the residential construction sector to the Victorian economy, especially jobs.

There is evidence that this initiative, combined with other policy interventions and an overall tightening of availability of project and retail finance for residential projects, has had the perverse outcome of contributing to the reduction in the pipeline of new dwelling supply which will result in a lower supply of new dwellings in the coming two to three years.

Financial Market Context

Wide ranging changes to policy and regulation since April 2016 have directly impacted on confidence in the housing and urban development markets and the ability of Australian and international buyers to acquire either project or retail finance for residential products.

These changes include the following:

Federal factors

- Restriction of lending to foreign property buyers without a domestic income by Australian banks.
- Banks adopting stricter lending policies has reduced the level of construction funding available to the industry.
- The Australian Prudential Regulation Authority's (APRA) introduction of strict limits on interest-only loans with a loan-to-value ratio above 80% in addition to strong scrutiny of interest-only lending for loan-to-value ratios above 90%. This has primarily impacted investment loans as these are more commonly interest-only loans.
- APRA issued instructions to Authorised Deposit-taking Institutions to limit their exposure to interest-only loans to 30% of new residential loans (however this was removed in December 2018).
- The introduction of a New Dwelling Exemption Certificate, and a 50 percent cap on the sale of new apartments to foreign investors which was introduced in the 2017 Federal Budget.

Victorian Government

- Removal of the stamp duty concessions for investors purchasing dwellings off-the-plan by the Victorian Government.
- Introduction and increase of stamp duty and land tax surcharges on foreign purchasers of Victorian residential property.
- Introduction of the Annual Vacancy Fee for foreign investors by the Victorian and federal governments.
- Decreased height allowances and constraining built form controls introduced through the Melbourne Planning Scheme Amendment C270 in 23 November 2016.
- Uncertainty regarding the planning controls, planning processes and government investment in Melbourne's urban renewal precincts including the Fishermans Bend Urban Renewal Area.
- Building permit levy to address cladding, which we have calculated on one development will result in an additional $13,000 per apartment.

Role of Investors in the Supply of New Dwellings

Investors are vital to securing finance for apartment projects

Investors play an important role in securing finance for apartment projects and therefore the supply of new dwellings in an infill context. In particular, both domestic and foreign investors purchasing off-the-plan apartments enable the vast majority of apartment projects to progress from the concept stage to securing project finance to completion stage which can take two to three years. Without investor capital, many projects are simply not viable.

In the past few years, increasing the number of OTP sales has been an effective tool in meeting more stringent finance requirements to commence new apartment projects. Significant OTP sales assist in mitigating some of the cost, time, and risk involved in meeting finance requirements to commence construction.

Charter Keck Cramer provided evidence that between 2001-2009 in the CBD there were 35 projects, or 29% of all projects, that commenced construction with less than 60% pre-sales. Between 2010-2017 this number fell to just 7 projects or 6% of all new releases. In the 2017-18 financial year, approximately 50 – 60% of purchasers in the off-the-plan market were investors.

Removing the financial incentive to purchase off-the-plan for investors, coupled with further restrictions on access to finance, has negatively impacted on demand for apartments which has in turn reduced the number of apartment projects progressing to building approval stage.

Importance of private investors in the rental market

Australia's rental market is underpinned by private investment in private rental stock. According to the to the Australian Housing and Urban Research Institute's (AHURI) paper *Understanding what motivates households to become and remain investors in the private rental market*,[1] the private rental market is critical to supporting Federal and state housing policy which relies heavily on many low-income households being able to access affordable rental housing in the private sector.

The private rental market is a fundamental component of housing provision in Australia and has

[1] Seelig, T., Thompson, A., Burke, T., Pinnegar, S., McNelis, S., Morris, A. (2009) *Understanding what motivates households to become and remain investors in the private rental market*, AHURI Final Report No. 130, Australian Housing and Urban Research Institute Limited, Melbourne.

become especially significant in the context of the slowdown in the expansion of social housing provision (Seelig et al, 2009). According to the AHURI paper *Motivations of investors in the private rental market*[2], the private rental market:

- Houses approximately one-fifth of the population nationally, with a higher proportion in specific urban locations;
- Accommodates a greater number of lower income households than the public housing system;
- Performance in providing affordable and stable housing can impact tenants' well being physically and psychologically;
- Rental cost and supply may affect national and state social policy programs such as increased access to labour markets, spatially specific employment generation, and reduced public expenditure on public housing;
- Functions in a wider housing system context. What happens in the private rental market in terms of cost can have an impact on entry to home ownership and demand for public housing; and
- Acts as an important market for development, construction, finance and real estate industries.

As detailed above, the removal of OTP stamp duty concessions has contributed to a decrease in the number of new dwellings being built, especially apartments. As property prices increase, apartments tend to be the most affordable housing opportunities in appropriate locations i.e. close to existing infrastructure assets and services. The decrease in supply forecasted in response to this policy, and evidenced by the latest ABS data, will limit the number of dwellings available as affordable rentals, and fuel what is already a very competitive rental market.

As owner occupiers and first home buyers do not rent out their homes, the removal of OTP stamp duty concessions favours either those who fall within the social/affordable housing market or those who can afford a deposit for a home in the short term. Those who cannot afford a deposit but do not qualify for social housing will find it even more difficult to access affordable rental properties, including key workers and those who want to live close to their employment. Further, the average time to save a deposit for full ownership will significantly increase.

[2] T, Seelig., T, Burke., A, Morris. (2006) *Motivations of private investors in the rental market*, AHURI Positioning Paper No. 87, Australian Housing and Urban Research Institute Limited, Melbourne.

Attachment 3

METROPOLITAN LONDON HOUSING DELIVERY PRACTICE

Metropolitan London is a city with a proactive, comprehensive and regulatory approach to the supply of future housing, and there are key lessons that can be gained from understanding the way in which the city has developed housing delivery targets and the way these targets are reviewed and enforced.

The city is faced with what it describes as a 'housing crisis', brought about by a consistently increasing population and a lack of housing to cater to demand. Like Melbourne, London is challenged with a deficiency in housing stock that meets different community needs, is of quality design and is supported by social infrastructure essential to supporting a high quality of life.

Strategic planning in Metropolitan London is the shared responsibility of the Mayor of London, the 32 London Boroughs and the Corporation of the City of London. The Mayor of London plays an integral and meaningful role in the strategic planning of the city. It is the Mayor's responsibility to produce a spatial development strategy for the city (the 'London Plan'), the ongoing monitoring and review of which is a legal requirement.

The Plan contains a high-level detail in regard to housing provision, specifying average minimum housing supply targets for each of the 32 boroughs that make up Metropolitan London. Each borough has a different target, informed by a range of assessments of housing undertaken by the Greater London Authority.

The current Plan aims to achieve the delivery of 42,389 new homes annually within Metropolitan London, culminating in 423,887 new homes over 10 years. The inclusion of specific targets within the Plan is vital in giving weight to the Plan and committing the 32 boroughs to an appropriately determined figure to work toward.

The identification of housing targets presents a level of detail that Plan Melbourne could greatly benefit from. The adoption of specific stated, tested housing targets for each municipality would enshrine a shared contribution to housing supply across the city within Metropolitan policy guidance, in a transparent manner. It would result in a greater level of clarity as to the task for state and local government to collectively seek to achieve, giving a greater level of weight to the required Housing Outcomes of Plan Melbourne.

The involvement of the Mayor in regard to planning and the provision of housing is not limited to the preparation of the London Plan. The Mayor has significant powers in determining the approval of noteworthy planning applications within the London boroughs and is consulted on all planning applications that are of potential strategic importance to London, which are commonly known as 'referred' applications. An application is referable to the Mayor if it falls into a category defined by the Mayor of London Order (2008) "the Order". For example, commonly referred applications include those for the development of 150 residential units or more, and development over 30 metres in height.

Under the Order, the Mayor has both the power to direct refusal on an application that has been referred to him and also the power to direct that he will become the local planning authority for an application, in much the same way as the Victorian Minister for Planning can 'call in' applications and/or planning scheme amendment proposals. For the Mayor of London to be able to take over an application, it must meet the following tests:

- The development would have a significant impact on the implementation of the London Plan;

- The development would have significant effects that are likely to impact more than one London borough; and/or
- There are sound planning reasons for intervention.

Between 2009 and 2017, the Mayor has assumed the position of local planning authority and called in a total of 21 applications, out of the 3,062 applications of applications referred. The ability of the Mayor to become involved in applications of potential strategic importance, ultimately has an impact on London meeting the housing targets defined by the London Plan, and can greatly assist in the provision of additional housing, where the application is deemed appropriate.

The London Plan is stringently reviewed to ensure housing targets are being met. The Annual Monitoring Report (AMR) is a yearly publication by the Greater London Authority. It provides information on the progress being made in implementing the policies and addressing the objectives of the Plan, by showing how London is performing against 24 KPIs identified in the Plan.

he most recent AMR (September 2018), demonstrates that for the years 2016/2017, more than 45,500 dwellings were completed throughout London. This was 7% above the annual target outlined in the Plan. The AMR identifies boroughs that have met their targets and those which have not. As outlined below, consistent under-delivery has ramifications.

Whilst a borough faces the possibility of being 'named and shamed' by the AMR report for not reaching their housing targets, there are also broader repercussions in place. The Housing Delivery Test (the Test) has recently been introduced by the Ministry of Housing Communities and Local Government (MHCLG). This affects all local government areas in the UK, and is part of a nation-wide initiative to ensure new housing is delivered. The Test is conducted by the MHCLG for every local government area. Consequences of not meeting housing targets include:

- If delivery has been less than 95%, the Local Planning Authority (LPA) should prepare an Action Plan to address the reasons for the shortfall;
- If delivery has been less than 85%, the LPA should include a 20% buffer in their development plan, allocating 20% more land for development than is currently allocated in their 5 year pipeline;
- If delivery has been less than 75%, the 'presumption in favour of sustained development' is engaged. The council's locally agreed planning policies are overridden in favour of national planning rules. The concept suggests that planning applications should be granted unless development compromises certain protected sites, or where the adverse impacts would significantly and demonstrably outweigh the benefits.

In comparison, Plan Melbourne publishes a yearly report tracking the delivery of the plan, known as the 'Report of Progress'. However, notwithstanding this reporting process is in its relatively infancy, it would appear that it will become a higher level summary that tracks the progress of the 112 actions of Plan Melbourne, making no reference for example to statistics relating to the provision of new housing. The London AMR on the other hand is thorough to the extent that if housing targets are not being met, this is evident, and targets are re-aligned. Given lack of specific detail on housing delivery in the Plan Melbourne Report of Progress, it will not be possible to it to ascertain whether Plan Melbourne is making progress in the delivery of new housing and whether any actions need to be adjusted.

Attachment 4

Washington - New Rochelle “toolkit”

Major Tools

Local Programs

- Rent Control
- Housing Production Trust Fund
- Public Land Disposition
- Local Rent Supplements
- Matter of Right Development/Planned Unit Developments
- Inclusionary Zoning

Federal Programs

- Low Income Housing Tax Credits
- Tax Exempt Bonds
- Community Development Block Grants (CDBG)
- Housing Choice Vouchers
- Public Housing

Attachment 5

Separate attachment – UDIA letter to Andrew Grear, DELWP, 1 August 2018