



Facilitating affordable housing through the planning system

Kate Breen

Twelve months ago, the Victorian Government released two important policy documents: *Homes for Victorians*, and the ‘refreshed’ *Plan Melbourne 2017–2050*. While there is always room for improvement, these two documents are a significant and long-overdue step towards a whole-of-government strategy to increase social and affordable housing for lower income Victorians.

Within these documents, the State Government has recognised that wide ranging action and investment is required to address this significant and growing economic and social issue. This includes investment in public housing renewal, setting affordable housing requirements when selling surplus government land, supporting shared equity home ownership, and establishing financing and funding supports for not-for-profit housing agencies to increase social housing supply.

Of particular interest to planning professionals, land owners, developers and local governments is the acknowledgement by the State that the land use planning system has a role to play in facilitating social and affordable housing. This is highlighted in Direction 2.3 of *Plan Melbourne* to ‘increase the supply of social and affordable housing’ with four key policies intended to achieve this outcome:

1. Utilise government land to deliver additional social housing
2. Streamline decision-making processes for social housing proposals
3. Strengthen the role of planning in facilitating and delivering the supply of social and affordable housing
4. Create ways to capture and share value uplift from rezonings.

In its commitment to strengthen the role of planning, the Government has recognised that a clearer legislative framework and definition is a critical first step. To this end, in 2017 the Government introduced changes to the *Planning and Environment Act 1987* to include a new Objective “to facilitate the provision of affordable housing”, a definition of affordable housing, and confirmation that a responsible authority “may enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing”. (Parliament of Victoria (2017) Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017, Assented to 26 September 2017). These provisions come into effect from 1 June 2018.

Defining Affordable Housing

For the purpose of the Planning and Environment Act, affordable housing is now clearly defined, being “*housing, including social housing, that is appropriate for the housing needs of any of the following: very low income households, low income households; moderate income households*”. Social housing refers to housing owned, controlled or managed by a participating registered agency (declared by the Director of Housing under the *Housing Act 1983, Section 4*).

Further clarification of the definition is required if it is to be clearly and consistently understood and applied. Internationally and interstate, this process includes defining



the income ranges for very low, low and moderate-income households and setting out rental and purchase price points that are considered appropriate and affordable for these households.

Of note, the changes to the Act provide for the Minister for Planning to set out the income bands through a Notice published by the Governor in Council, however the Minister is explicitly excluded from setting price points. It is therefore critical the Government find another means to publish price points if there is to be a clear and measurable means for industry, local government and tribunals to interpret and apply the definition and enable proposals to be assessed against.

Supporting voluntary negotiations

Setting an objective and a definition in the Act does not miraculously result in new affordable housing supply. Importantly, while the changes to the Act mean that the facilitation of affordable housing is a legitimate objective that responsible authorities should give regard to, the Government has also been explicit in highlighting that these changes do not introduce or equip local councils to establish a mandatory ‘inclusionary zoning’ requirement on privately owned land.

The Government has however recognised that for some time now an increasing number of Councils have sought to negotiate the inclusion of affordable housing, particularly in large rezonings, and that these discussions have often lacked clarity and legislative weight, with many deals falling over, often fought out in VCAT.

Clarity of definition is one aspect of improving this process. The Government has also undertaken to develop Guidelines and a best practice ‘Model Agreement’ to better support these voluntary discussions. The Guidelines are unlikely to explicitly set out the incentives that a Council may make available, or the exact end outcome (percentage or type of affordable housing for instance) that is acceptable, as this would contradict the voluntary nature of a negotiation, but they should hopefully support a more informed negotiation.

Impact

What does this then mean in practice; for land owners or developers submitting an application where a Council seeks an affordable housing outcome? The acknowledgement that the planning system has a role to play is a step forward. The introduction of a definition in the Act is long-overdue and should support more consistent understanding across sectors if it is further refined through the publication of income bands and price points. The Guidelines should support Councils and applicants to start discussions on a clearer footing but, as the changes do not provide for a Council to set a mandatory requirement, a period of negotiation will continue to be required.

Needless to say, a 'voluntarily entered Section 173 agreement' must be voluntarily entered and agreeable to all parties – a difficult task when there is no obligation or clear system of incentives in place.

While these initiatives are therefore important steps forward and, coupled with new investment through the Social Housing Growth Fund, could enhance the likelihood of more successful negotiations, they are not a clear and transparent system of requiring or incentivising affordable housing in the market. A percentage of negotiations will therefore fail or still end up in VCAT, although hopefully there is an increase in more successful, albeit small, negotiated contributions being made towards affordable housing supply.

Other policy commitments may have a bigger impact, particularly the development of a value capture tool will be developed, however this is a contentious proposal and requires careful consideration of a range of factors in its

development and implementation. Changes to CBD controls and proposed floor area uplift systems for Fishermans Bend are clearer and systemised approaches where value and outcomes are clearly communicated in advance and could become models for other areas.

An important foundation has been set through changes to the Planning and Environment Act to support a greater emphasis on the facilitation of affordable housing through the planning system. Time will ultimately tell whether this will have any meaningful impact on desperately needed new affordable housing supply. ●

Kate Breen is Director of Affordable Development Outcomes, specialising in supporting industry and governments to find workable strategies to deliver affordable housing, and can be contacted at Kate@affordabledevelopmentoutcomes.com.au

Professor Jason Byrne appointed to University of Tasmania

Irene Duckett RPIA (Fellow)

PIA Tasmania welcomes the University of Tasmania's appointment of Jason Byrne to the position of Professor in Human Geography and Planning. His previous appointment was at Griffith University, Gold Coast campus.

Prof Byrne gained his PhD at the University of Southern California (Los Angeles) where he was a fellow in the Center for Sustainable Cities – prior to that he was a Senior Fellow with the Johns Hopkins University Institute for Policy Studies in Baltimore, USA. Jason's research interests include: urban nature and urban ecology; park and green-space planning; environmental equity and justice; open space and residential density; ecological sustainability; and social equity in climate change adaptation.

Earlier in his career, Prof Byrne practised as a town planner and environmental policy officer with the Western Australian

Government in the then-Department of Planning and Urban Development and Water and Rivers Commission.

The University of Tasmania offers the PIA accredited Master of Planning and Jason will be teaching KGA511 Planning Theory, Process and Practice and co-teaching KGA522 Regional Planning, with Dr Kate Booth Course Coordinator for the Master of Planning and Grad Dip Enviro Planning programs.

Jason has played a strong role with PIA Queensland in promoting best practice in urban and environmental planning. He was the recipient of the PIA Queensland award for cutting-edge research and teaching (2014) and the PIA national award in the same category (2014) for his co-edited book – Australian Environmental Planning. Last year PIA Queensland awarded Jason and his colleague Dr Tony Matthews an award for cutting-edge research and teaching for their Urban Squeeze radio show on ABC radio. Jason and Tony were also awarded PIA Queensland's (2017) overall planning excellence award for the show. Episodes can be accessed via SoundCloud: <https://soundcloud.com/abc-gold-coast/sets/urban-squeeze> ●

Irene Duckett is President PIA Tasmania.

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