

**FISHERMANS BEND PLANNING REVIEW PANEL: DRAFT AMENDMENT
GC81**

SUPPLEMENTARY INFORMATION NOTE

SIN NUMBER:	8
DATE:	28 March 2018
PRECINCT:	N/A
FRAMEWORK REFERENCE:	Affordable housing is referenced at page: <ul style="list-style-type: none">• 15 (context)• 27 (Framework goals)• 37, 39 and 40 (sustainability goal 3)• 50 (sustainability goal 3)• 51 (sustainability goals – references 6% affordable housing target)• 55 (objective 3.5)• 84 (definition)
SUBJECT:	Provision of further information regarding Affordable Housing and intentions regarding the operation of the CCZ in respect of social housing
REQUEST:	Provide further information to the Panel regarding the approach to Affordable Housing in the draft Framework and how Affordable Housing has been addressed in decisions of Panels and VCAT

RESPONSE:

The draft Framework’s approach to the provision of affordable housing

1. The Fisherman Bend Framework (**draft Framework**) and the draft Amendment GC81 (**draft Amendment**) seek provision of 6% affordable housing across the Fishermans Bend area (**affordable housing target**).
2. The draft Amendment seeks achieve the affordable housing target via two

mechanisms:

- (a) a voluntary Floor Area Uplift (**FAU**) scheme which will allow exceedance of the relevant maximum Floor Area Ratio (**FAR**) in the proposed Capital City Zone Schedule for provisions of a public benefit in the form of gifting affordable housing to a Registered Affordable Housing Association and secured through a Section 173 Agreement.
 - (b) A provision in the draft local planning policy relating to Fishermans Bend (at clause 22.27 of the Port Phillip Planning Scheme and clause 22.15-2 of the Melbourne Planning Scheme) which provides that it is policy to encourage ‘...the provision of 6% affordable housing through a range of housing models, typologies and occupancies across Fishermans Bend.’
3. This approach has been informed by the current legislative and policy context of affordable housing.
4. In summary, while State, and some local, planning policies encourage the provision of ‘affordable housing’ which is defined in various ways, the existing statutory framework to require the provision of affordable housing does not sufficiently provide the statutory basis to *mandate* the provision of affordable housing via the planning system.
5. The absence of clear statutory objective to facilitate the provision of affordable housing has resulted in the Victorian Civil and Administrative Tribunal and reports of Planning Panels Victoria and Advisory Committee Reports expressing reluctance to mandate conditions on landowners requiring the provision of affordable housing contributed to no established practice regarding timing and types of affordable housing requirements.
6. A review of VCAT decision and Planning Panel and Advisory Committee reports revealed the most common mechanism is via a permit condition requiring entry into a section 173 agreement. However, generally such a condition has only been imposed where the applicant has agreed.
7. The proposed approach in the Amendment is consistent with current practice. It encourages the provision of affordable housing and will facilitate, as appropriate, the imposition of a conditions requiring entry into section 173 agreements securing provision of affordable housing.
8. It is not the role of the Amendment to propose a new legislative framework addressing affordable housing. That requires a State-wide, co-ordinated whole of government approach. It would be inappropriate for the Amendment to propose an affordable housing scheme or mechanism different from the status quo. To do so would prejudice the development of Fishermans Bend at the expense of the rest of metropolitan Melbourne, and the State more broadly.
9. The existing statutory framework (see **Attachment A**) already provides the necessary justification for policies and controls which encourage the provision of affordable housing.
10. However, the commencement of the *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017* (HA Act) on

1 June 2018 will provide an additional objective of the PE Act to ‘*facilitate*’ the provision of affordable housing in Victoria and provides a definition of affordable housing. See **Attachment B** as to the relevant provisions. The insertion of these new provisions will provide further statutory support for the provision of affordable housing in Victoria and for this to be addressed in Planning Schemes.

11. The draft Framework adopts the Plan Melbourne affordable housing definition which is as follows:

‘...Housing that is appropriate for the needs of a range of very low to moderate income households, and priced (whether mortgage repayments or rent) so these households are able to meet their other essential basic living costs.’

12. The draft Amendment as exhibited did not define ‘affordable housing’.
13. The revised CCZ Schedule responding to the submissions of the Councils has proposed to define Public Benefit (for the purpose of applying the FAU) as including the provision of ‘social housing’ as one of the three categories of Public Benefit. The term social housing is defined in the revised CCZ as follows:

Social Housing has the same meaning as in the *Housing Act 1983*.

14. The Minister’s proposed revisions to the CCZ would provide clarity that it is the intention to provide, *social housing* as a Public Benefit in return for a Floor Area Uplift (FAU).

Rationale for 6% contribution

15. The proposed policy specifies a target of 6% provision of affordable housing over a range of housing types, models and occupancies.
16. This figure is considered to be fair and reasonable having regard to the following:

- The City of Port Phillip currently seek a 6% contribution via its existing planning policies.
- A review of relevant Victorian Civil and Administrative Tribunal decisions and also reports of Planning Panels in Victoria reveal a range of different figures which have been sought by Responsible Authorities, supported by varying levels of justification.
- A 6% affordable housing target is consistent with the level of contribution required in relevant decisions of the Tribunal and Planning Panels which generally range between 5 and 10%.
- The expert evidence of Dr Marcus Spiller and the background report Fishermans Bend Urban Renewal Area: Options for Delivery of Affordable Housing prepared by Judith Stubbs and Associates (June 2013) informing the draft framework in fact support higher contributions.

Implications on feasibility

17. The proposed policy and FAU will not adversely impact development

feasibility having regard to the following:

- The private sector will be provided with an incentive to deliver affordable housing in return for a FAU.
- The proposed mechanism is not mandatory. Landowners may elect whether to participate in the provision of Affordable housing – the developer may opt in or out.
- The proposal provides greater certainty in terms of contribution amount and mechanism making it easier to factor into development feasibilities.

ATTACHMENTS:

Attachment A – Legislative and policy context (existing)

Attachment B – **Recent policy and legislation**

Attachment C – Review of relevant cases and Panel reports