

**STATE ELECTION 2006: SPHERES OF INFLUENCE CONFERENCE 9/11/05**  
**CATHOLIC SOCIAL SERVICES VICTORIA**  
**Presentation by Gary Spivak City of Port Phillip**  
**Affordable Housing Mechanisms**

### **Setting the scene**

Housing stress is growing and I will not try to demonstrate this as there is a wealth of information available on this topic.

In the 20 minutes I have I will focus on mechanisms that will assist providers of affordable and social housing to facilitate their work and also indicate what I think will not be effective.

### **The role of Local Government**

I will start with this as I am from local government and its roles can influence housing affordability outcomes.

For 20 years people have been promoting the potential of local government in undertaking various housing roles such as:

- research on need
- preparing strategies
- supporting social housing through the planning process
- having supportive planning schemes and
- facilitating and providing community housing.

This role was promoted as recently as the National Housing Conference in Perth in October.

The track record of local government has proven that in general terms this has been ineffective as:

- **Most municipalities have:**
  - no housing strategies
  - strategies that fail to address affordable housing
  - strategies that are not implemented or clash with other strategies
  - strategies that are undermined at times, eg. support for social housing projects in their neighbourhoods
  - few municipalities are providers of community housing.
- **Local government tends to be parochial** and
  - Do not approach housing affordability strategically
  - Respond to local pressures on councilors from opponents to social housing

- **Local government is unstable** by its very democratic nature. Being the closest level of government to the people, it is also vulnerable from election to election to:
  - Failure to carry through on long-term strategies, programs or projects over a 3-5 or more year period
  - Program reversal
  - Ongoing, consistent housing roles
- **Many municipalities do not mainstream supportive policy** within their policy frameworks of:
  - Planning schemes and Municipal Strategic Statements
  - Corporate plans
  - Housing strategies

and have these policies supported by the whole organization.

- **Many municipalities are resource poor** so affordable housing is:
  - A low budget priority
  - Subservient to what is seen as core roles.
- **Most councils have no dedicated housing officers** so responsible officers:
  - Cannot devote enough time to housing matters
  - See housing as competing with other, more important responsibilities.
- Many councils **find addressing housing need too complex** and overwhelming and a State responsibility.
- Face **specific constraints** or project initiatives (I will return to this).

So let us not keep promoting the potential of local government generally but look at specific measures that will make a difference.

## 1. External provider vehicles

Most active municipalities in Australia have established or are investigating the establishment of dedicated housing companies or housing associations as vehicles to fund, develop, own and manage community housing. This includes:

- Adelaide
- Brisbane

- Melbourne
- Sydney
- Subiaco (Perth)
- Waverley (Sydney) and
- Port Phillip

So even municipalities with a resource and strategic capacity to be direct providers or have been direct providers in the past are seeking external provider vehicles.

This makes sense given the nature of local government.

## **2. Affordable Housing Associations**

In Victoria the DHS-Office of Housing has registered five Affordable Housing Associations to date:

- Melbourne Affordable Housing Ltd.
- Community Housing Ltd.
- Supported Housing Ltd.
- Loddon Mallee Housing Service Ltd.
- Port Phillip Housing Association Ltd.

And has allocated an initial \$70M to fund new community housing projects above and beyond its commitments under the Commonwealth-State Housing Agreement.

These associations will:

- Receive a majority of the joint venture growth funding from the Office of Housing for accelerating the growth of the community housing sector
- Be able to joint venture with the OoH, private developers, other municipalities and other community organizations
- Be able to access more non-government capital funding through leveraging bank finance
- Be regional so that there is no part of Victoria that in principle cannot be serviced.
- Over time be a conduit for capital funding for other, smaller providers of community housing if this becomes the policy direction of the Office of Housing .

Local government especially and any other party such as private developers and charitable organizations can:

- channel support and/or resources to these associations to achieve their affordable housing objectives or

- joint venture with them to achieve affordable or social housing projects.

This is where we should be channeling our efforts in achieving new community housing rather than trying to reinvent the wheel as associations provide the necessary infrastructure to achieve new community housing.

### **3. Not In My Backyard**

As areas gentrify, opposition to social housing intensifies. Local government often supports opposition or does not actively oppose it as local councilors fear an electoral backlash.

This results in social housing being:

- Terminated
- Scaled back
- Delayed and ultimately costing more
- Hit with restrictive and unreasonable planning permit conditions by municipalities.

This will provide a major obstacle to the role of Affordable Housing Associations in many urban areas.

Designating social housing as a section One use under the Planning and Environment Act 1987, involving the building and works but not the use being subject to a permit, is inadequate as an alternative as objections to the use are often disguised as objections on valid planning grounds.

Instead the State Government could issue an Order of Council to exempt social housing from requiring a planning permit subject to compliance with State planning policy such as ResCode and appropriate zoning. Perhaps another condition could be meeting Office of Housing design standards.

A precedent exists relating to hospitals, schools and similar uses that are already exempt from requiring a planning permit under section 16 of the Act. For example in 1988 an order was gazetted under section 16 from the Governor in Council exempting the Minister for Health, Minister for Education and Minister for Conservation, Forests and Land from compliance with planning schemes.

A similar provision is found in the Victoria Planning Provisions, State Planning Policy Framework, clause 16.04 that prevents the need for a planning permit for crisis accommodation or community care units for

facilities up to 10 beds to encourage their use and maintain their anonymity. That includes womens' refuges.

#### **4. Melbourne 2030**

I have long argued that the State should require local government to adopt minimal affordable housing roles so there is at least a uniform approach to addressing affordable housing need.

These roles should comprise:

- Documenting local housing need
- Encouraging and supporting social housing projects
- Providing support for projects at the planning permit stage including approvals within reasonable periods (3 months, not 6-12 months)
- Encouraging and supporting private sector affordable housing initiatives
- Dedicating resources to implementing strategies supportive of social and affordable housing
- Identifying and promoting land opportunities for social housing.

To some extent Melbourne 2030 has started to set similar requirements on local government through:

- Setting objectives requiring provision of affordable and social housing in general and in particular in activity centers under its Housing Plan and Activity Centre Plan
- Reiterating this requirement in Direction No. 9 under the Planning and Environment Act after October 2002 that is binding on:
  - State departments
  - Local Government
  - VCAT and
  - Planning panels.

This is applauded as it establishes housing affordability as an important metropolitan planning issue for the first time.

It is short on details on how local government and other parties can achieve the objectives. This will be addressed by Regional Housing Statements by designated groups of municipalities required under M2030

However, the slow process of seeking uniform approaches (but not necessarily answers) could be addressed by issuing a revised Direction that provides some minimal roles necessary to progress the objectives as mentioned but also including:

- Developing structure plans that identify opportunities to for affordable housing (this is being undertaken to some extent now)
- Land packaging of local government, State, statutory authority, Commonwealth and private land to facilitate developments
- Offering first options on developing local government land such as car parks to the Office of Housing and Affordable Housing Associations to acquire or joint venture with other parties such as private developers. (eg. air space development, under grounding car parks and building over them).

## **5. Inclusionary zoning**

Council has long supported the need for developer contributions for affordable housing.

The State Government has identified affordable housing as an issue that needs to be investigated.

It has released a research report in May 2005 called *Housing Research for a Fairer Victoria* that identifies trends and issues including the increasing need for and use of a number of policy mechanisms for achieving affordable housing outcomes.

We understand that there will be an announcement soon that will progress how planning mechanisms can be used to achieve affordable housing. We welcome this State leadership on such an important area.

Council, through the work of the Inner Regional Housing Working Group that has prepared the Inner Regional Housing Statement under M2030, supports the use of planning mechanisms for this end.

In particular, inclusionary zoning is identified in the Statement as a mechanisms for seeking developer contributions.

Inclusionary zoning is where a contribution requirement is based on a zoned area or region and for designated development types Developers through the planning permit process contribute to

general affordability problems and a formula is used to determine the amount of contribution. This differs from an impact exaction that targets specific developments that directly causes the loss of affordable housing.

We support inclusionary zoning as the planning mechanisms to use because it:

- Minimizes market distortions
- Is more equitable and less arbitrary as it can be applied regionally rather than be development specific
- Is more sustainable in contributions compared with limited potential for impact exactions
- Can avoid legal problems experienced with SEPP 10 and s 94 contributions in NSW
- Is more transparent for developers and creates more certainty- can be built into front-end feasibility studies.

Emerging principles behind the Statement's inclusionary zoning are that:

- It should be regionally applied
- It could be introduced as a planning overlay similar to heritage overlays
- It should be mandatory for targeted developers, not optional
- Contributions should be flexible to include cash or land or units in developments (although in my view units donated in new private developments involve the recipient owner becoming part of body corporates which has its own problems)
- There should be no set aside of affordable units by developers under regulatory agreements that expire after an agreed period (this only defers affordability problems as has been the experience in the USA where this form of contribution is favoured)
- Contribution requirements should be transparent

In Port Phillip we believe the Port Phillip Housing Program provides the best vehicle for holding and expending contributions from Port Phillip developments.

## **6. Local Government Act**

For any local government willing to joint venture with an Affordable Housing Association, the Office of Housing or a private developer under Melbourne 2030, in most cases this is technically illegal.

Section 193 of the Local Government act prohibits local government from entering into an arrangement that could be:

- A joint venture
- A partnership
- Profit sharing
- A union of interests
- Co-operation or
- Reciprocal concession

Without the approval of the Minister for Local Government and the treasurer unless the arrangement was with another local government. This issue is not acknowledged as it is an unintended consequence.

This clause is required to prevent municipalities undertake excessively risky arrangements that could threaten the viability of municipalities. History is littered with examples of municipalities getting into trouble by being entrepreneurial.

However, of unintended consequence is that all the community housing joint ventures between local government and the State or Commonwealth under joint venture programs going back to the Local Government and Community Housing Program in the early 1980s have been illegal.

Future joint ventures under M2030 or some forms of support for housing associations that could involve local government interests, eg. donation of land, may also be technically illegal without consideration as to whether it comes under s 193 by the way the arrangements are structured and if due process under the Act is not followed.

It would be suitable for the State to address this anomaly by issuing guidelines associated with s 193 relating to affordable or social housing top clarify the grounds under which exemptions or approvals may be granted.

Thank you