



AM GC81: EVIDENCE OF MARCUS SPILLER REGARDING SOCIAL & AFFORDABLE HOUSING



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SUMMARY OF EVIDENCE

1. I (Marcus Spiller) have been instructed by the City of Port Phillip to provide expert evidence in respect of the social and affordable housing aspects of Am GC81.
2. My evidence, in summary, is set out below.
3. It is essential that Fishermans Bend have an adequate stock of social and affordable housing if the planned development of the district is to be deemed sustainable. This is made clear in Plan Melbourne and the draft Fishermans Bend Framework.
4. The draft Framework identifies a target of 6% social and affordable housing for Fishermans Bend, which is elaborated as 2,200 dwellings in accompanying technical notes. The originally released GC81 documents do not make clear what the mix of 'social' and 'affordable' housing within this 6% - 2,200 dwelling target might be. However, I am advised that information subsequently circulated by DELWP indicates that the 6% target is intended to relate to *social* housing¹.
5. A target of 6% for *social* housing in Fishermans Bend is too low in my opinion. The average propensity to require *social* housing across Australia and Victoria is 10% of all households.
6. Based on long established trends for investment in social housing via the State Department of Health and Human Services, there is little or no prospect of the required social housing in Fishermans Bend being provided through 'traditional' Government social housing programs.
7. This means that, in large part, the task of equipping Fishermans Bend with sufficient social housing will need to be borne by asset contributions generated through the development approval process.
8. The development approval system can deliver the required contributions through two approaches;
 - **value sharing**, where proponents are required to pay for additional development capacity above a nominated threshold with social housing contributions, and
 - **inclusionary requirements**, whereby proponents are obliged to incorporate a certain proportion of social housing in their developments or pay cash in lieu so that this housing may be provided elsewhere in Fishermans Bend.
9. These contributions rely on distinctly different planning rationales and can be operated in tandem.
10. Moreover, value sharing and inclusionary requirements for social and affordable housing are entirely separate from, and additive to, other forms of development contribution which are routinely operated through the planning system including charges under the DCP provisions of the Planning and Environment Act and permit conditions to mitigate adverse impacts of particular developments.
11. Through its floor area uplift (FAU) scheme, Am GC81 makes provision only for the value sharing approach to generating social housing in Fishermans Bend. I strongly support this feature of the Amendment package. However, by themselves, these

¹ Social housing is stock in Government or community sector ownership which is permanently available to lower income groups at an affordable rental. Affordable housing covers other forms of assisted and lower cost accommodation directed at moderate income as well as lower income groups. They can include innovative tenure arrangements like co-operative rental and shared ownership. Examples of 'affordable housing' include the now retired National Rental Affordability Scheme (NRAS), Build to Rent housing and government sponsored or private shared equity schemes.

provisions cannot be relied upon to generate the required social housing in the district.

12. The FAU mechanism represents a contingent approach to the provision of social housing. By definition, if proponents forsake the opportunity of a floor area uplift for whatever reason, the district will be left without an adequate stock of this housing, endangering the sustainability of Fishermans Bend.
13. A complementary inclusionary requirements mechanism for social housing provision is therefore essential. As noted, this would require proponents to incorporate a certain quantum of social and affordable housing floorspace for each square metre of saleable floorspace in the development or pay cash in lieu of this.
14. The inclusionary requirement rate will vary depending on the proportion of the targeted social housing to be delivered through this mechanism. Assuming that the 2,200 target in the draft Framework is for *social* housing only, and 48.5% of this quantum were to be generated through an inclusionary requirement (with the remainder being contributed via FAU (48.5%) and conventional government procurement (3%)), the provision rate would be 0.016 m² of social housing for every 1 m² of saleable floorspace of any land use type. The cash in lieu rate would be approximately \$142 per m² of saleable floorspace.
15. The inclusionary requirement can readily work in tandem with the FAU mechanism. A proponent would be obliged to factor the inclusionary requirement rate into their feasibilities and would have the option to purchase additional development capacity above the threshold floor area ratio (FAR) prescribed for their site by transferring additional social housing units at zero consideration.
16. The effective price for additional development capacity under the Fishermans Bend FAU scheme appears to be significantly higher than the equivalent scheme that applies in the Central City under AmC270.
17. The Fishermans Bend FAU provisions require proponents to 'gift' one social housing unit for every 8 saleable units above the FAR. This effectively means that the land value component of each saleable dwelling is set at 1/8th of the market price for these dwellings. That is, Residual Land Value (RLV) per m² is assumed to be 12.5% of Gross Realisation Value (GRV) or market price of each m² of saleable floorspace.
18. In the Central City FAU, RLV per m² is set at 10% of GRV. Assuming an average GRV per dwelling of \$591,500 (65 m² at \$9,100 per m²), the effective price of each additional m² of saleable floorspace under the Fishermans Bend FAU scheme is \$1,138 (\$9,100 x 12.5%) compared to \$910 were a 10% RLV to GRV ratio to be used. In other words, the price for FAU development rights in Fishermans Bend is 25% higher than in the Central City.
19. My assessment is that neither the proposed FAU scheme nor its operation in conjunction with an inclusionary requirements scheme is likely to adversely impact the rate of development of Fishermans Bend in the medium to long term. So long as the residual land value of sites after application of the affordable housing provisions plus all other planning contributions, including DCP charges and open space requirements, is greater than the present value of net rental income from the properties under their *current* industrial and commercial uses, it would be irrational for incumbent owners to withhold their land from bona fide developers.
20. I recommend that:
 - a. Consideration be given to further elaborating the target for social and affordable housing in Fishermans Bend to refer to a minimum of 10% of the total stock to be held by registered housing providers for permanent affordable rental by priority needs groups, while encouragement is given for a further 10% of housing to be provided for use by key workers, students and marginal home buyers.

- b. A mandatory inclusionary requirement for social and affordable housing be incorporated into GC81, to operate in tandem with the already proposed FAU scheme
- c. The mandatory requirement be calibrated to deliver 48.5% of the permanent social housing units currently targetted for Fishermans Bend, with the remainder being provided via the FAU scheme (48.5%) and conventional procurement via the tax transfer system (3%), implying a contribution rate of 0.016 m² (or \$142 cash in lieu) per square metre of saleable floorspace (of all land use categories)
- d. The inclusionary requirement rate be recalibrated in future when and if a 10% social housing target is adopted and/or government investment in social housing changes, and
- e. The FAU scheme be refined to align with the financial assumptions built into the equivalent provisions currently applicable in the Central City via AmC270 to the Melbourne Planning Scheme, namely that each square metre of saleable floorspace above FAR should be 'priced' at 10% of GRV per square metre, implying a 'social housing gifting ratio' of 1:10 rather than the 1:8 included in GC81.

1. INTRODUCTION

1.1 Credentials

21. My full name is Marcus Luigi Spiller and I am a Principal and Partner of SGS Economics & Planning Pty Ltd (SGS), based in the firm's Melbourne office at Level 14, 222 Exhibition Street, Melbourne, VIC, 3000.
22. I hold the following academic qualifications:
 - PhD (Global Studies, Social Science and Planning), RMIT University, Melbourne, 2009
 - Master of Commerce (Economics), University of Melbourne, 1986
 - Bachelor of Town and Regional Planning, University of Melbourne, 1978.
23. I have extensive experience in public policy analysis as an urban economist and planner. I specialise in metropolitan strategic planning, housing policy, urban infrastructure funding and the links between urban structure and national economic performance. I have provided advice to all tiers of government and the private sector related to the dynamics of housing, transport, employment, infrastructure and the general economy in cities.
24. I have previously presented expert evidence at Planning Panels Victoria hearings.
25. Additional information regarding my qualifications and experience is included in Attachment A.

1.2 Instructions

26. I have been instructed by the City of Port Phillip to provide expert evidence regarding the social and affordable housing provisions of Am GC81.
27. My instructions were set out in a written brief from Council. These are reproduced at Appendix B.

1.3 Evidence preparation

28. My evidence is primarily based on the GC81 controls and accompanying explanatory and background documents.
29. The opinions in this expert evidence statement are my own.

2. EVIDENCE

2.1 Social and affordable housing is essential to sustainable development in Fishermans Bend

30. Social housing and affordable housing must be seen as an essential 'platform' or 'infrastructure' for sustainable development in Fishermans Bend.
31. The importance of social and affordable housing to sustainable development is recognised in Plan Melbourne 2017 and is explicitly acknowledged in the draft Fishermans Bend Framework. One of the 8 sustainability pillars of the draft Framework is the achievement of '*an inclusive and healthy community*' whereby "*Fishermans Bend will be a community for people of all ages and backgrounds. It will provide a range of dwelling options for all types of households including family living and affordable housing*". (p 27)
32. The draft Framework targets a specific social and affordable outcome for 2050 by which "*at least 6% of all housing in Fishermans Bend is affordable for low to moderate income households*" (p 45). Elsewhere, in the Fishermans Bend Technical Fact Sheet #1, the Task Force explains that this 6% target represents delivery of 2,200 affordable housing units (p 1).
33. It is not clear from the originally released GC81 documents whether the 2,200 dwellings in question are to be *permanently* affordable to low and moderate-income groups, as distinct from for sale dwellings that are sized and specified to provide a more affordable price for buyers, or which involve subsidies to enable purchase by a first generation of eligible low and moderate-income buyers. However, I am advised that DELWP has distributed supplementary information indicating that the intention is for the 2,200 target to relate to *social* housing only. This is housing in government or community sector ownership made available to low income groups at affordable rentals.

2.2 How much social and affordable housing in Fishermans Bend is enough?

34. In my view, it is beyond question that Fishermans Bend will need an adequate stock of permanently affordable housing if development of the district is to be deemed to be sustainable in line with planning and wider government policy.
35. My opinion is that the 6% target in the Fishermans Bend Framework is too low, especially if it embraces a broad spectrum of potential occupiers of social and affordable housing.
36. Analysis of historic census data by SGS Economics & Planning Pty Ltd (SGS) – reproduced below - indicates that a minimum of 10% of the housing stock in Fishermans Bend would be required in the form of *social* housing just to meet the requirements of the highest need groups in the Victorian income distribution.
37. For each category of household in need, SGS makes an assumption about the percentage of enumerated households that should be factored into an overall affordable housing requirement target. For example, 100% of homeless households sleeping rough or in supported accommodation are assumed, by SGS, to be in need of permanent affordable housing, whereas 85% of low income households in rental stress are factored into the target. This adjustment reflects the possibility that some

of these lower income households may be in transitional need or have other options. Such adjustments make for a conservative overall target; that is, the percentage target is lower than it otherwise might be.

38. Using this method, SGS has estimated that the minimum affordable housing stock permanently required in all regions of Australia should be no less than 10 per cent. This national figure, the calculation of which is explained in Table 1 using 2011 Census data, is the *minimum* total affordable housing required as a proportion of *all* households including those already in social housing. As mentioned, this number is established by determining the overall need as a percentage of all households and adopting a minimum percentage target (between 85 – 100 per cent) to realistically prioritise dwelling delivery.
39. Given the difficulty for the Australian Bureau of Statistics’s national Census in reaching vulnerable cohorts such as those experiencing housing crisis, the identified minimum affordable housing stock requirement (rounded down to 10 per cent) is likely to be a conservative one that does not fully account for the true extent of need.
40. It is noteworthy that the minimum permanent affordable housing stock requirement in Victoria, calculated on this method, is almost the same as the national figure in percentage terms (see Table 2).
41. The ABS is yet to release the full set of data from the 2016 Census to enable re-estimation of the need for social housing. The only dataset currently available relates to the count of people sleeping in ‘improvised dwellings, tents or sleeping out’. This number almost tripled nationally in the 5 years to 2016, from 6,813 to 18,987.
42. Given static incomes and continuous increases in dwelling prices across most of Australia and certainly in Victoria, I would expect that the need for social housing across these jurisdictions will have increased from the already conservative 10% social housing stock requirement estimated by SGS on the basis of 2011 data.
43. Use of a national or Victoria-wide target of 10% social housing for a local district like Fishermans Bend is appropriate because:
 - Planning for social housing provision in a large regeneration area like Fishermans Bend should take a long-term view – 50 years plus.
 - Over this time frame, the current differentiators of the regional housing market and demography may change many times over; in other words, there is little point in estimating the permanent need for affordable housing in the district and environs based on current conditions.
 - Rather, planning for social housing in Fishermans Bend should allow for the best available estimate of the *average* propensity of a household to be in social housing need.
 - The national statistics on housing need provide this measure of average propensity to be in housing need.
44. Beyond the highest need sector catered for by a 10% minimum social housing stock, there is an acknowledged requirement for housing that is affordable to key workers, students and other moderate income or transitional groups that are essential to a diverse, prosperous and healthy community, as targetted by Sustainability Goal 3 of the draft Fishermans Bend Framework.
45. I note that the City of Port Phillip submission proposes a 6% target specifically for social housing in Fishermans Bend (based on maintaining the City’s current proportional representation of social housing), with a further 14% of housing in the district targetted for affordability to other low to moderate income households. This additional affordable housing would comprise both affordable rental (e.g. ‘Build to Rent’ and ‘Rent to Buy’) and affordable home ownership models (‘Shared Equity Housing’ and ‘Community Land Trusts’).

TABLE 1 PERCENTAGE REQUIREMENT FOR PERMANENT AFFORDABLE RENTAL HOUSING IN AUSTRALIA

Housing priority group	No. of households	% all households (8,339,035)	% minimum target	Minimum social housing requirement	% minimum requirement
Homeless households - Improvised dwellings, tents or sleeping out (2011)	6,813	0.1%	100%	6,813	0.1%
Homeless households - Supported homeless accommodation, staying with other households, boarding houses, temporary lodging, severely crowded dwellings (2011)	37,855	0.5%	90%	34,070	0.4%
Marginal households - other crowded dwellings, improvised dwellings, caravan parks (2011)	30,132	0.4%	85%	25,612	0.3%
Low income in severe rental stress	171,797	2.1%	85%	146,027	1.8%
Low income in rental stress	329,833	4.0%	85%	280,358	3.4%
Households in existing social housing	422,481	5.1%	90%	380,233	4.6%
Total					10.47%

Source: SGS Economics & Planning, based on Census of Population and Housing 2011

TABLE 2 PERCENTAGE REQUIREMENT FOR PERMANENT AFFORDABLE RENTAL HOUSING IN VICTORIA

Housing priority group	No. of households	% all households (2,031,227)	% minimum target	Minimum social housing requirement	% minimum requirement
Homeless households - Improvised dwellings, tents or sleeping out (2011)	1,092	0.1%	100%	1,092	0.1%
Homeless households - Supported homeless accommodation, staying with other households, boarding houses, temporary lodging, severely crowded dwellings (2011)	8,532	0.4%	90%	7,679	0.4%
Marginal households - other crowded dwellings, improvised dwellings, caravan parks (2011)	6,534	0.3%	85%	5,554	0.3%
Low income in severe rental stress	62,977	3.1%	85%	53,530	2.6%
Low income in rental stress	86,326	4.2%	85%	73,377	3.6%
Households in existing social housing	80,705	4.0%	90%	72,635	3.6%
Total					10.53%

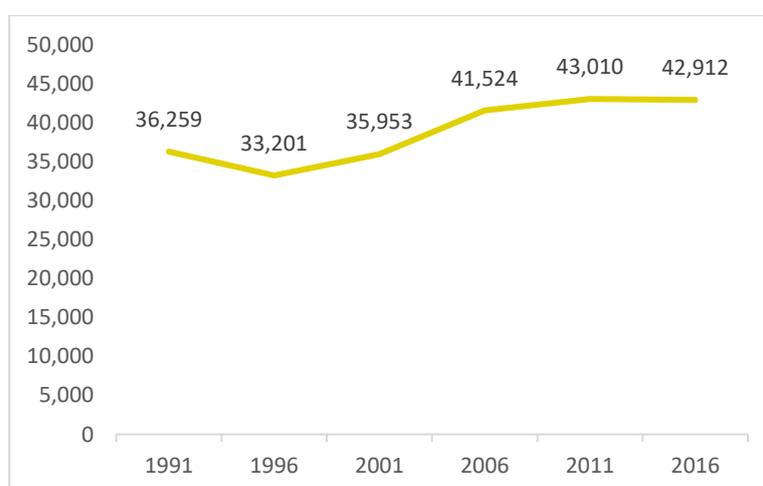
Source: SGS Economics & Planning

46. I support the thrust of the Council's submission, though, for the reasons I have outlined, a 6% target specifically for social housing must be seen as very low.
47. My evidence is primarily directed towards the sufficiency of Am GC81 in generating affordable housing to permanently address the needs of the highest priority groups in the community as per Table 1 and Table 2 above. That is, my focus is on the provision of an adequate stock of *social* housing in Fishermans Bend.
48. Theoretically, the needs of these groups can be met in one or combination of two ways – (1) income transfers to bring market rents down to affordable levels and (2) the provision of social housing, that is, housing permanently provided at an affordable rent by the Government or Government licenced not for profit community landlords. In the context, of Fishermans Bend, where *local* community diversity is a paramount planning objective, it is essential that the district feature an adequate stock of social housing.
49. This brings into question the appropriateness of the 6% target in the draft Framework. By itself, it is already below the minimum social housing stock requirement for the district. If the 6% target nominated in the draft Framework is expected to cover a spectrum of housing beyond social housing to include affordable accommodation for 'higher' moderate income groups like key workers, it is too low by an even greater margin.
50. A target of 10% permanent *social* housing in the district, plus a margin for additional *affordable* housing to be delivered in a variety of ways, as alluded to in the City of Port Phillip submission, would be more appropriate.

2.3 The tax transfer system won't deliver the required housing

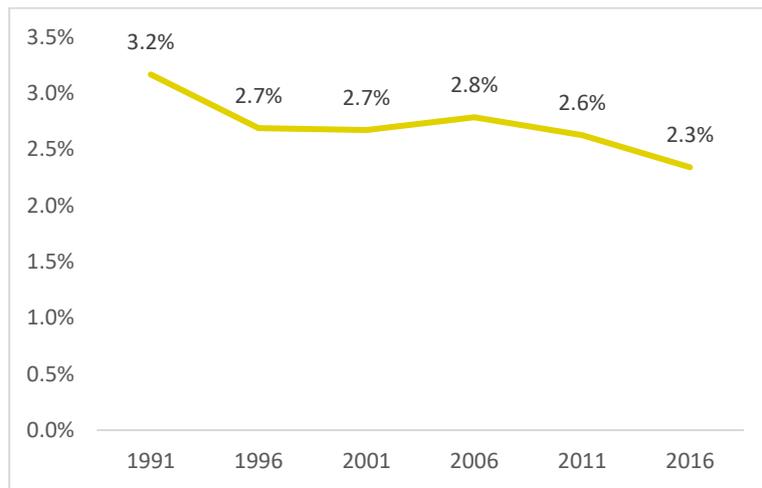
51. Social housing can be created in several ways including;
 1. government acquisition and operation
 2. government provision of up-front and/or recurrent subsidies to registered non-government providers
 3. regulatory requirements for mandatory inclusion of social housing in new development, and
 4. value capture or sharing, involving the sale of regulated development rights in return for social housing provision.
52. The bulk of Victoria's social housing was generated through the first two of these methods. These can be referred to as 'tax/transfer' strategies, as they involve the redistribution of resources raised through the general tax system towards particular social ends.
53. Methods 3 and 4 are relatively recent additions to the Victorian policy scene, and have been seen as supplementary, rather than base load, mechanisms for providing social housing, notwithstanding their more extensive use in overseas jurisdictions (for example, the UK) and NSW (Ultimo Pymont and Green Square – see below).
54. The evidence is that while they were once dominant, methods 1 and 2 cannot be relied upon to deliver anything approaching 6% social housing let alone my recommended 10% social housing in Fishermans Bend.
55. Figure 1 shows that, according to ABS Census data, there was a net increase of some 6,500 occupied social housing units in metropolitan Melbourne between 1991 and 2016, an average increase of 266 dwellings per year. This is likely to be an over-estimate of the growth in the social housing stock, as the 1991 (and 1996) Census did not separately identify community sector landlords as a tenure category, meaning that some occupiers of social housing at the time would have categorised themselves in the private rental sector.
56. The stock of occupied social housing units in metro Melbourne actually fell, albeit marginally, between 2011 and 2016. This occurred during a period of acknowledged housing affordability crisis in the metropolis.
57. In proportional terms, the demise of social housing provision in metropolitan Melbourne is even more stark, falling from 3.2% of the total occupied housing stock in 1991 to 2.3% in 2016 (see Figure 2)

FIGURE 1 OCCUPIED SOCIAL HOUSING – METROPOLITAN MELBOURNE 1991 - 2016



Source: ABS Census data, SGS calculations

FIGURE 2 SOCIAL HOUSING AS % OF TOTAL OCCUPIED HOUSING STOCK – METROPOLITAN MELBOURNE 1991 - 2016

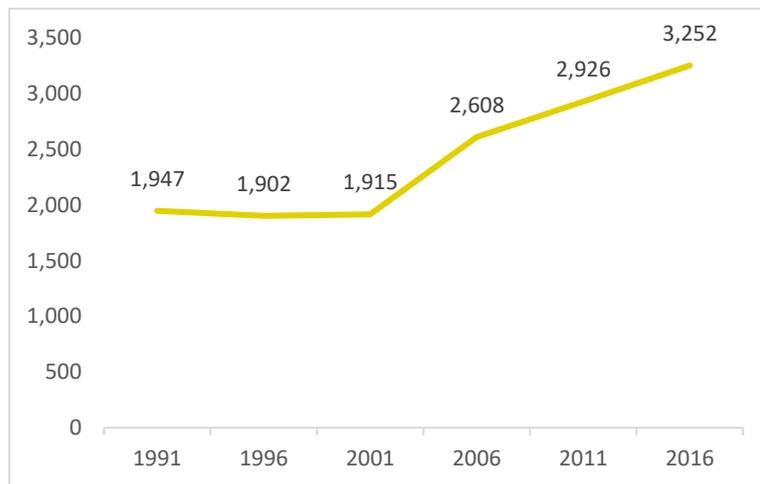


Source: ABS Census data, SGS calculations

58. In the inner city (as defined by the IMAP councils²), the supply of social housing, as measured by occupied dwellings in the Census has increased marginally from 11,184 in 1991 to 12,623 in 2016, implying an average annual net addition of 58 units. Proportionally, social housing has fallen from 7.6% of all dwellings (occupied and unoccupied) to 4.7%.

59. Figure 3 and Figure 4 show that both the City of Melbourne and the City of Port Phillip have experienced stronger growth in social housing by comparison to the metro area and inner-city region. But even in these two municipalities, the net annual addition to the social housing stock since 1991 has been 67 units.

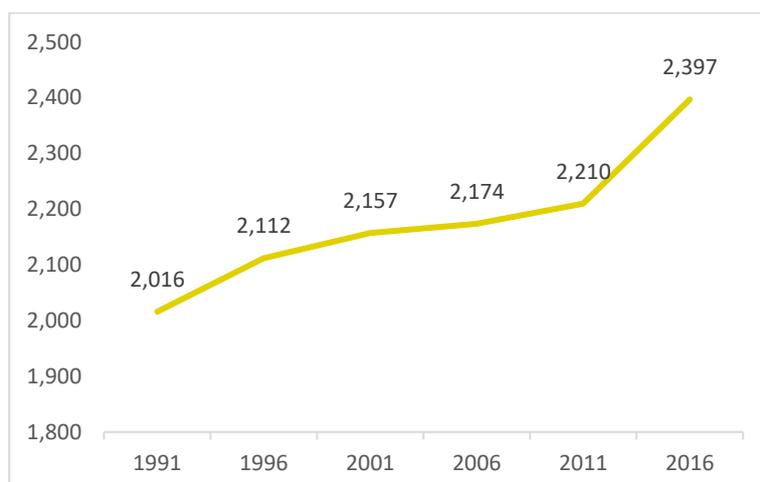
FIGURE 3 OCCUPIED SOCIAL HOUSING – CITY OF MELBOURNE



Source: ABS Census data, SGS calculations

² IMAP comprises the Cities of Melbourne, Maribyrnong, Yarra, Port Phillip and Stonnington.

FIGURE 4 OCCUPIED SOCIAL HOUSING – CITY OF PORT PHILLIP



Source: ABS Census data, SGS calculations

60. In March 2017, the Victorian Government released a comprehensive policy to tackle the problem of housing affordability in the State³. This included a range of measures to boost the supply of social housing. For its part, the Commonwealth Government also announced some social housing initiatives in the 2017/18 budget. These State and Commonwealth Government measures are summarised in the following table.
61. The flagship initiative amongst those listed in Table 3 is the formation of the Victorian Social Housing Growth Fund by the State Government. This \$1 billion fund is expected to generate annual returns of around \$70 million which will be deployed in capital acquisition of social housing and/or payments to investors to leverage private sector investment in social housing.
62. If social housing is to be provided in perpetuity, direct capital acquisition by Government or housing associations is financially most cost effective. This is because there is no 'leakage' of the available capital in dividends to private investors.
63. Were the nominated annual funding of \$70 million per year to be dedicated to direct social housing acquisition, a stock increment of some 3,500 dwellings would be amassed over 25 years (assuming a total acquisition cost of \$500,000 per unit).
64. This is little more than half the stock increment experienced in the metropolitan area over the past 25 years, and, in any case, is expected to serve the whole of Victoria not just Melbourne.
65. Beyond the Social Housing Growth Fund, my experience tells me that the resources otherwise made available by the State and Commonwealth Governments for social housing is only enough to replace worn out existing stock.
66. As noted, 6% dedicated *social* housing target in Fishermans Bend would represent about 2,200 dwellings. Provision of this social housing through the tax transfer system would consume more than half the resources ear-marked by the State and Commonwealth Governments for social housing stock expansion in the entire State over the next 25 years. This is a highly improbable allocation of resources to Fishermans Bend.
67. As big as it is, the Fishermans Bend renewal area will account for only 2.16% of projected population growth in Victoria between 2018 and 2050 (80,000/3.69

³ The policy package is entitled 'Homes for Victorians'

https://www.vic.gov.au/system/user_files/Documents/housing/FINAL%20PDF%20DTF046_Q_housing01.pdf

million⁴). If Fishermans Bend attracted a proportional share of the social housing expansion enabled by the Social Housing Growth Fund, this would provide the renewal district with a total of 76 dwellings of this type over 25 years (\$70 million per year / \$500,000 State average procurement price = 140 dwellings per year x 2.16% = 3.02 dwellings per year in Fishermans Bend x 25 = 76).

68. Seventy-six social housing units procured through ‘traditional’ government programs would fulfil only approximately 3% of a 2,200 nominal social housing target for Fishermans Bend.

TABLE 3 OVERVIEW OF STATE AND COMMONWEALTH GOVERNMENT SOCIAL HOUSING INITIATIVES

Homes for Victorians initiatives	
Victorian Social Housing Growth Fund	\$1 billion fund invested that produces approx. \$70m p.a. for: 1. Capital for new social and affordable housing on non-government land (DHHS/Treasury will run annual funding rounds) 2. Rental subsidies for properties leased on the private market.
Loan Guarantee	Up to \$1 billion available as a loan guarantee program, to help Housing Associations access finance at affordable interest rates.
Loan Facility	A \$100 million revolving loan facility providing low cost, long-term subordinate loans to Housing Associations
Public housing transfer program	Management transfer of 4,000 public housing properties. \$3 million in establishment grants.
Inclusionary housing	Pilot on surplus government land to deliver 100 social homes (developer to receive discount on land) In major developments: voluntary arrangements with developers and land owners to provide affordable housing in exchange for rezoning. Social housing provided at nil cost, affordable housing at discount.
Public Housing Renewal Program	\$185 million for complete replacement of social housing on nine sites in Brunswick, North Melbourne, Heidelberg West, Clifton Hill, Brighton, Prahran, Hawthorn, Northcote and Ascot Vale.
Social Housing Pipeline	Range of previously announced initiatives including tender involving new social housing on vacant and underutilised
Rooming Houses	Further \$20 million for upgrades to DHHS owned rooming houses \$10 million already allocated, remaining \$10 million by EOI process
Victorian Property Fund	Up to \$100 million in grants over next four years
Commonwealth budget 2017/18	
National Housing Infrastructure Facility	\$1 billion made available in grant and loan funding to address infrastructure chokepoints that are impeding housing development in critical areas of undersupply. To be administered by the National Housing Finance and Investment Corporation
National Housing and Homelessness Agreement	Additional funding of \$375 million over three years to fund front line homelessness services
Tax incentives for private investment in affordable housing	Managed investment funds which provide affordable housing (managed by registered affordable housing providers) will qualify for a 60% (as opposed to the standard 50%) discount on measured capital gain for taxation purposes.
National Housing Finance and Investment Corporation	Will issue affordable housing bonds to provide cheaper and longer-term finance for the community housing sector

Source: CHIAV and SGS

69. On the one hand, planning policy requires that Fishermans Bend be equipped with sufficient social housing to ensure social sustainability. At the same time,

⁴ According to Victoria in Future (2016), the State’s population is projected to grow from 6.27 million in 2018 to 9.96 million in 2050.

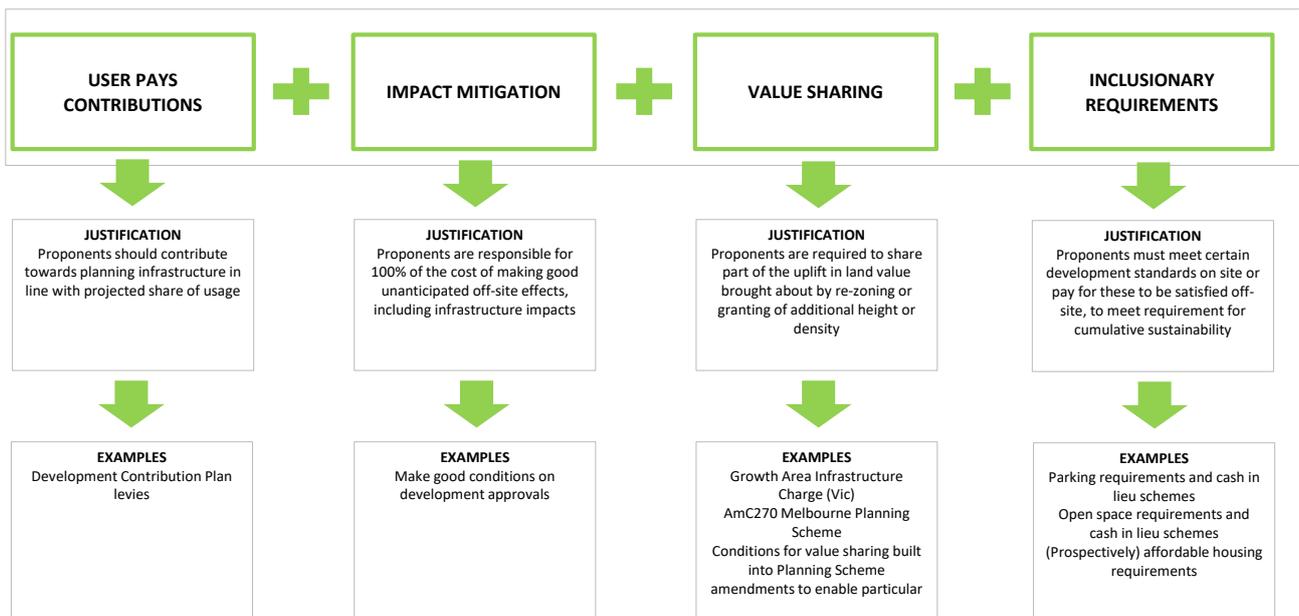
governments are unlikely to ensure this outcome will be achieved through traditional procurement via the tax transfer system.

70. It follows that if planning policy objectives are to be met in Fishermans Bend, regulatory requirements and value sharing *must* play the senior role in meeting social housing targets for the district. There is no other source of funding for this purpose.

2.4 Value sharing and inclusionary requirements are different from, and additive to, other forms of development contribution

71. Regulatory and value sharing mechanisms to generate social housing in Fishermans Bend are respectively forms of ‘development contribution’. They need to be understood in the context of the gamut of development contributions which might apply in the district, including DCP charges and open space levies.
72. Conceptually, any requirement for a development contribution will fall into one of four mutually exclusive and additive categories – user pays charges, impact mitigation payments, value sharing requirements and inclusionary provisions. An overview of these categories, including the relevant principles for cost apportionment, is provided in Figure 5. I will briefly elaborate on each development type in turn.

FIGURE 5 TYPES OF DEVELOPMENT CONTRIBUTION



Source: SGS Economics & Planning Pty Ltd

Development contribution type 1 - User pays charges

73. This category of development contributions is applied in Victoria via the ‘DCP’ and ‘ICP’ provisions of the Planning and Environment Act.
74. These contributions are premised on the *user pays principle*. This requires proponents to contribute cash or in-kind towards infrastructure benefitting their project, with the contributions linked to the proportion of usage of the infrastructure items in question. A nexus between the development and an infrastructure item is established when residents, workers or visitors of the development *make use of* the planned facility, and fair cost apportionment is established by aligning share of cost

with share of usage. Funds collected must be used for the delivery of the planned infrastructure or they must be returned to the current owners of the land which generated the user pays revenues. This is the accountability principle built into the DCP/ICP provisions of the Act.

75. This category of development contribution is not relevant to the provision of social and affordable housing in Fishermans Bend, as there is no direct 'usage' nexus between approved developments and social housing. In any case, the legislation and DCP/ICP guidelines do not sanction social and affordable housing as chargeable items.

Development contribution type 2 - *Impact mitigation payments*

76. Proponents of development in Fishermans Bend may be legitimately required to make compensatory payments or off-setting contributions to mitigate the unanticipated adverse effects of their projects on the natural, built or social environment. For example, if a development incorporates significantly more site coverage and would therefore result in stormwater runoff that exceeds the parameters which had been built into an area wide contribution scheme (DCP) for drainage, that particular proponent may reasonably be requested to meet 100 per cent of the cost of, say, an off-site retarding basin or tank to manage the additional flows.
77. This requirement is premised on the '*exacerbator pays*' principle where the party responsible for the damage must meet the full cost of making it good (even though others may subsequently benefit from the off-site retention facility). This is clearly distinct from the 'user pays' principle where, as noted, costs are shared according to projected share of usage.
78. As impact mitigation payments are applied to deal with unanticipated adverse effects of development they cannot be pre-notified in Planning Schemes. Instead, they are applied on a case by case basis via conditions on development consents.
79. This category of development contribution is unlikely to be relevant to the provision of social housing in Fishermans Bend. The 'impacts' of development can extend to displacing or destroying affordable housing stock which forms part of the established social fabric of a neighbourhood, but I am not aware of any such risk in the Fishermans Bend district.
80. In any case, impact mitigation cannot expand the stock of affordable housing; rather, it can merely compensate for a loss.

Development contributions type 3 - *Value sharing requirements*

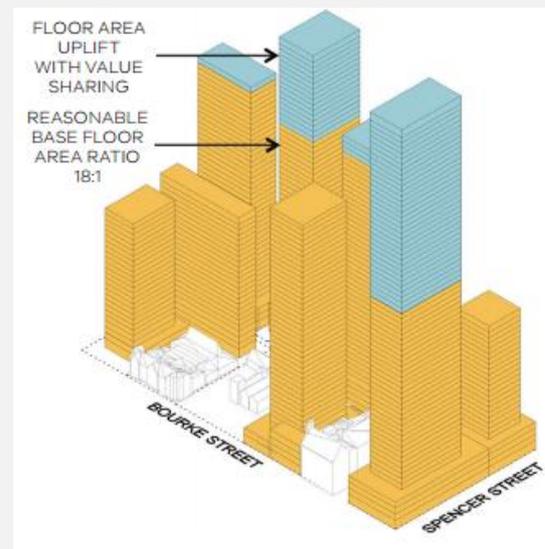
81. Value sharing requirements are premised on another, separate and distinct, principle relating to the efficient regulation of community sanctioned development rights.
82. Regulation of land use and development through planning schemes in Victoria represents a form of restriction on market access necessitated by the objective of economic efficiency. The State deliberately and systematically rations access to 'development rights' via planning regulations. Governments apply this rationing because it is expected to generate a net community benefit (that is, an efficiency or welfare gain) compared to allowing urban development to proceed on a 'laissez faire' basis.
83. The value of regulated development rights is capitalized into the price of land. For example, other things equal, a piece of land which is enabled for use as a major shopping centre will be more valuable than land without this privileged access to retail centre development rights. Similarly, land enabled for a multi-storey apartment building will be worth more than otherwise equivalent land designated for a single

household dwelling, and so on. And land zoned for mixed use residential will be more valuable than land designated for industrial uses.

84. As occurs with other regulated markets, for example, commercial fisheries, mineral exploitation, broadcasting bandwidth and so on, it is appropriate to charge a licence fee for access to these regulated development rights⁵.
85. Development contributions towards social housing provision under this value sharing frame are clearly relevant to Fishermans Bend and have been incorporated into the GC81 planning controls via the FAU provisions.
86. This follows the establishment of the principle of value sharing in Am C270 to the Melbourne Planning Scheme, approved in December 2016. Under this principle, access by a proponent to additional development capacity above a nominated threshold is contingent upon the delivery of a public benefit of equivalent value (see Figure 6).
87. In effect, proponents pay a licence fee for the additional development rights on offer above a base floor area ratio (FAR). In the case of Am C270, this fee is calibrated to the residual land value associated with each additional unit of development.
88. I will return to the Fishermans Bend version of the FAU scheme later in this statement of evidence.

FIGURE 6 VALUE SHARING AND AFFORDABLE HOUSING PROVISION – AM C270 MELBOURNE

Through this amendment, the Victorian State Government has explicitly sanctioned value sharing linked to the granting of additional development rights to proponents of high rise developments in the Capital City Zone. The amendment introduced new built form provisions and specified a value sharing scheme for the Melbourne Capital City Zone. This provides for the delivery of public benefits (such as social housing provision) based on floor area uplift. Clause 22.03 of the Scheme sets out how 'Floor Area Uplift and Delivery of Public Benefit' mechanism is to operate (see schematic below).



Source: DELWP, 2016 http://delwp.vic.gov.au/_data/assets/pdf_file/0017/363113/1611-C270-

⁵ See Spiller, M., Spencer, A. and Fensham, P. (2017) Value capture through development licence fees, Occasional Paper published by SGS Economics & Planning Pty Ltd, February 2017

Development contributions type 4 - Inclusionary provisions

89. Inclusionary provisions are premised on minimum acceptable standards of development with the proponent sometimes having the option to fulfil the required performance standard off-site through a cash or in-kind contribution. Cash-in-lieu schemes have been operated for the fulfilment of car parking requirements for decades and are now formalised in the Victorian Planning Provisions (VPP). Cash payments in lieu of provision of 5 per cent (or more) of land for public open space upon approval of subdivision is another example of the 'inclusionary standards' premise for requiring cash or in-kind contributions from a development proponent.
90. Again, this premise is quite different to the other rationales for requiring cash or in-kind contributions (user pays, impact mitigation and value sharing) and could reasonably be applied in addition to all three of these other measures.
91. As is made clear in the draft Fishermans Bend Framework, social and affordable housing is a *must have* environmental attribute of the district to ensure sustainable development, in much the same way as open space provision is. This broad interpretation of the essential attributes of a sustainable place is sanctioned by the expansive definition of 'environment' applied in modern town planning practice. 'Environment' is now taken to include the social as well as the natural and built form aspects of development.

2.5 The FAU provisions in Am GC81 are desirable but not sufficient

92. The GC81 planning scheme amendment incorporates FAU provisions with the following key features:
 - Proponents can 'purchase' additional development capacity on their site, above the nominal FAR set out for the area/neighbourhood in question, by transferring title of finished housing units in the development to registered housing associations at zero price.
 - The price of these additional development rights is fixed at 1 transferred social housing unit for every 8 additional saleable units secured by the proponent.
 - The social housing that is generated via these provisions will be exempt from DCP charges (but the for-sale FAU housing and commercial floorspace will continue to be liable for these charges).
 - Height limit policies will apply regardless of whether a development incorporates social housing generated through the FAU scheme.
93. I support the inclusion of the FAU provisions of the Amendment as a wholly appropriate form of value sharing consistent with the typology of development contributions I have outlined.
94. However, I have three concerns about the GC81 FAU provisions. Firstly, they embody a degree of conceptual confusion. This relates to the intersection between the FAU scheme and prospective DCP provisions applying in Fishermans Bend.
95. Secondly, I am concerned that the FAU provisions will not deliver an adequate flow of social housing, bearing in mind that government provision of social housing in the district via methods 1 and 2 in paragraph 51, cannot be relied upon. This issue relates to the effective price of the additional development rights on offer to proponents.
96. Finally, there is a question mark on the GC81 FAU scheme in terms of the quantum and density of development required in Fishermans Bend to generate social housing.
97. I now discuss each of these concerns in turn.

FAU versus DCP obligations

98. As I have sought to explain, payments for additional development rights under a FAU scheme and obligations to pay DCP levies are not interchangeable 'taxes' on development. They are premised on entirely separate rationales. One (FAU) applies a de-facto licence fee for access to a regulated development opportunity and the other (DCP) applies a simple user charge for infrastructure that will be used by the development in question.
99. The exemption of FAU generated social housing (and, potentially, other forms of affordable housing) from DCP levies represents an unwanted conflation of development contribution types. This is likely to confuse and compromise sound policy making in this area in the years ahead, by creating unnecessary debate about appropriate cost apportionment principles.
100. Moreover, this conflation is unfair and inefficient. In a DCP, the cost of infrastructure is distributed across all users according to projected share of usage. Arbitrarily excluding one group of users, namely the social and affordable housing generated through the FAU mechanism, could mean that either the DCP levies for everybody else will be too high. That is, they will offend the rules of user pays cost apportionment established over many years in approved DCPs. Alternatively, the financial burden arising from social and affordable housing's share of infrastructure costs will need to be picked up by some other party, including, perhaps, the State Government or the general ratepayers in Port Phillip and Melbourne.
101. It would be preferable, in my opinion, to charge all development equally in accordance with the principles of fair cost apportionment in DCPs, and then provide explicit, tax payer or rate payer funded, rebates to developers providing social and affordable housing, if the intention is to further subsidize this category of housing.

The effective price of additional development rights

102. Under the GC81 FAU provisions, proponents are, in effect, required to pay 12.5% of Gross Realisation Value (GRV⁶) in land value for each additional unit they secure for development and sale ($1/8 = 12.5\%$).
103. I note that the equivalent FAU schedule in Am C270 to the Melbourne Planning Scheme prices additional development rights at 10% of GRV. The cost of securing additional development rights under Am GC81 would seem to be relatively high, and on the face of things, may be so high as to significantly dampen any incentive for proponents to provide social housing.
104. This is a serious concern as the FAU scheme is the *only* specific mechanism in GC81 geared to the provision of social housing in Fishermans Bend. As I have shown, there is no obvious source of social housing provision outside of the development process that is likely to contribute substantially to the achievement of the social housing target set for the district.
105. To test the efficacy of the FAU scheme in GC81 I sought and was furnished with a report prepared by Charter Keck Cramer (dated August 2, 2017) for DELWP. I understand that this report was a key input in determining the 1:8 social housing 'gifting' ratio built into the Fishermans Bend FAU scheme.
106. The CKC (2017) report contains a number of case study development projects in which the analysts test how many affordable housing units a proponent could afford to gift to an appropriate receiving authority in return for an increase in development capacity above a nominated FAR.

⁶ GRV is the sale price for units offered on the open market.

107. The built form gross floor area (GFA) for the FAR and FAR+FAU scenarios in each of the 8 case studies in Fishermans Bend were given to the CKC analysts by DELWP.
108. CKC (2017) calculated the number of gifted dwellings that would absorb 100% of the increase in residual land value associated with the DELWP nominated increase in development capacity above the FAR base case for each site in turn.
109. For this purpose, each gifted unit was costed at \$300,000. This, as I understand it, is a provisional estimate of construction cost and is “free of any levies, contributions, marketing and commissions etc” (page 16, CKC, 2017).
110. On this basis, the 8 case studies returned affordable housing gifting ratios as listed below⁷.

163-169 Ferrars Street, Southbank (Montague), Land Area 703 sq m.

Additional FAU Units (No.)	9
Affordable Housing Units (No.)	3
Affordable Housing ratio	1 to 3

51 Thistlethwaite Street, South Melbourne (Montague) - Land Area 3,153 sq.m.

Additional FAU Units (No.)	53
Affordable Housing Units (No.)	19
Affordable Housing ratio	1 to 3

248 – 254 Normanby Road, Southbank (Montague) – Land Area 2,024 sq.m.

Additional FAU Units (No.)	130
Affordable Housing Units (No.)	30
Affordable Housing ratio	1 to 5

203 - 205 Normanby Road, Southbank (Montague) – Land Area 1,222 sq.m.

Additional FAU Units (No.)	28
Affordable Housing Units (No.)	8
Affordable Housing ratio	1 to 4

162 – 188 Turner Street, Port Melbourne (Lorimer) – Land Area 20,941 sq.m.

Additional FAU Units (No.)	817
Affordable Housing Units (No.)	na
Affordable Housing ratio	na

53 – 195 Williamstown Road, Port Melbourne (Wirraway) – Land Area 17,160 sq.m.

Additional FAU Units (No.)	115
Affordable Housing Units (No.)	32
Affordable Housing ratio	1 to 4

365 Plummer Street, Port Melbourne (Wirraway) – Land Area 19,313 sq.m.

Additional FAU Units (No.)	344
Affordable Housing Units (No.)	24
Affordable Housing ratio	1 to 10

277 – 281 Ingles Street, Port Melbourne (Sandridge) – Land Area 24,147 sq.m

Additional FAU Units (No.)	139
Affordable Housing Units (No.)	22
Affordable Housing ratio	1 to 5

⁷ Note that a gifting ratio was deemed to be impractical for one of the sites (162-188 Turner Street) due to scale issues and the peculiarities of the development schemes for the FAR and FAR + FAU scenarios.

111. Extrapolating from the CKC (2017) study, and ignoring the outlier (365 Plummer Street), developers could typically afford to provide 1 gifted unit for every 3 to 5 units enabled by the FAU. On this basis a gifting ratio of 1:8 seems reasonable.
112. I have reservations about the CKC (2017) analysis. The gifted units were costed into each case study feasibility study at \$300,000 as explained, but they will be worth \$585,000 in the hands of the receiving authority or on the open market, assuming a unit size of 65 m² and a GRV rate for social housing of \$9,000 / m².
113. In an accounting sense, the gifting of completed units should figure in the developer's feasibility study at the market price, not the cost price. Certainly, the Boards of public companies would want to see the analysis done in this way before approving business cases for projects of this type.
114. Using the CKC analysis as a base, I have recalculated the 'gifting' ratio using market value rather than construction cost for transferred social housing units. This returned significantly higher gifting ratios as follows.

163-169 Ferrars Street, Southbank (Montague), Land Area 703 sq m.

	CKC	SGS
Additional FAU Units (No.)	9	9
Affordable Housing Units (No.)	3	1
Affordable Housing ratio	1 to 3	1 to 9

51 Thistlethwaite Street, South Melbourne (Montague) - Land Area 3,153 sq.m.

	CKC	SGS
Additional FAU Units (No.)	53	53
Affordable Housing Units (No.)	19	10
Affordable Housing ratio	1 to 3	1 to 5

248 – 254 Normanby Road, Southbank (Montague) – Land Area 2,024 sq.m.

	CKC	SGS
Additional FAU Units (No.)	130	130
Affordable Housing Units (No.)	30	15
Affordable Housing ratio	1 to 5	1 to 9

203 - 205 Normanby Road, Southbank (Montague) – Land Area 1,222 sq.m.

	CKC	SGS
Additional FAU Units (No.)	28	28
Affordable Housing Units (No.)	8	4
Affordable Housing ratio	1 to 4	1 to 7

162 – 188 Turner Street, Port Melbourne (Lorimer) – Land Area 20,941 sq.m.

	CKC	SGS
Additional FAU Units (No.)	817	817
Affordable Housing Units (No.)	na	na
Affordable Housing ratio	na	na

53 – 195 Williamstown Road, Port Melbourne (Wirraway) – Land Area 17,160 sq.m.

	CKC	SGS
Additional FAU Units (No.)	115	115
Affordable Housing Units (No.)	32	16
Affordable Housing ratio	1 to 4	1 to 7

365 Plummer Street, Port Melbourne (Wirraway) – Land Area 19,313 sq.m.

	CKC	SGS
Additional FAU Units (No.)	344	344
Affordable Housing Units (No.)	24	13
Affordable Housing ratio	1 to 10	1 to 26

277 – 281 Ingles Street, Port Melbourne (Sandridge) – Land Area 24,147 sq.m

	CKC	SGS
Additional FAU Units (No.)	139	139
Affordable Housing Units (No.)	22	12
Affordable Housing ratio	1 to 5	1 to 12

115. This casts doubt on the whether the 1:8 ratio in the GC81 FAU scheme will consistently induce proponents to offer social housing in return for greater development capacity.

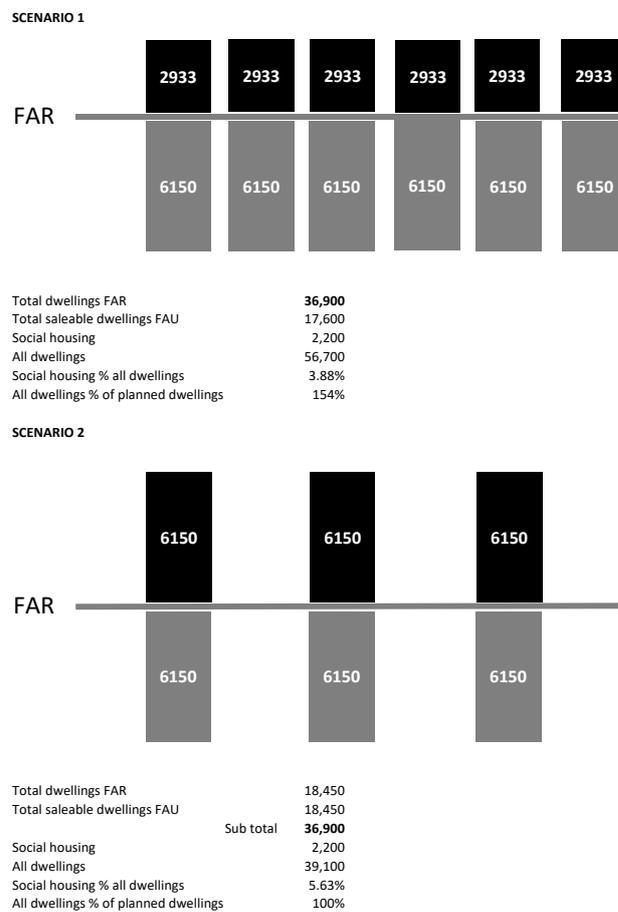
116. If gifted dwellings are factored in at market value, as is my preference, a provision ratio of 1:10 would be more appropriate. This ratio aligns with the equivalent provision in the FAU scheme introduced by Am C270 to the Melbourne Planning Scheme.

2.6 Implied development quantum and density

117. My understanding is that the FARs nominated in the draft Framework create an envelope which is broadly aligned to the projected population of the renewal district. For the FAU scheme to be effective in generating social housing – say 2,200 units - development would have to greatly exceed projected population levels and/or take place on fewer sites at significantly greater densities than the base FARs. The two extreme scenarios are represented schematically in Figure 7.

118. The first of these scenarios could be regarded as implausible, given that Fishermans Bend will be competing with many other inner-city regeneration and infill precincts. The second scenario raises urban design questions which are beyond my competence, but I note them as matters for further investigation in the appraisal of GC81.

FIGURE 7 TWO SCENARIOS FOR GENERATING SOCIAL HOUSING FROM FAU



Source: SGS Economics & Planning Pty Ltd

2.7 Implementing inclusionary requirements in tandem with value sharing

119. I conclude that the FAU provisions in GC81 require adjustment and, in any case, cannot be expected to carry virtually all of the task of meeting social housing requirements in Fishermans Bend.

120. In the absence of any other realistic source for social housing provision for Fishermans Bend, it is necessary to introduce additional regulatory measures for this purpose, namely the application of a mandatory social housing inclusionary requirement. This would oblige proponents to include a given ratio of social housing

units in their projects or pay cash in lieu for the provision of the required number of social housing units elsewhere in the district.

121. The desirability of such a mechanism, operating in conjunction with the FAU scheme, is underlined in Strategy 3.5.3 in the draft Fishermans Bend Framework (p 55)
122. Because the inclusionary requirement is premised on the sustainability of Fishermans Bend as a whole, it should apply across *all* development floorspace that is commercially marketed. That is, it should apply to commercial, industrial and retail floorspace as well as residential development. And it should apply to all saleable FAU floorspace.
123. This is analogous to open space inclusionary requirements. It is not uncommon for the full spectrum of development types to contribute because open space is essential for the functionality of all these land uses in a well-planned urban environment. Provision of social housing, and affordable housing for that matter, has a similar functional relationship with wider urban development in a district. It does not have an exclusive relationship with residential development.
124. Affordable housing inclusionary requirements of this type have been operated in other jurisdictions in Australia for decades and the cost apportionment principles are well developed⁸. In the context of Fishermans Bend, a similar mechanism is required that would specify the rate of m² of social housing provision per m² of commercially marketed floorspace and provide a cash in lieu option, which would be indexed to dwelling acquisition price movements in the district.
125. I have estimated the likely scale of these inclusionary rates based on the quantum of development nominated in the draft Framework and a range of scenarios regarding the proportion of the social housing provision task to be carried by this mandatory requirement versus other mechanisms. These estimates are shown in Table 4.
126. If the inclusionary requirement were geared to deliver 2,200 *social* housing units, proponents would be obliged to incorporate 0.033 m² of social housing floorspace for every 1 m² of saleable floorspace. If this could not be achieved on-site for a good reason (for example, the development is a purely commercial land use), the cash in lieu rate of \$293 per m² would payable. In either case, these assets would be transferred to registered Housing Associations at zero consideration and secured via a S173 Agreement.
127. If the inclusionary requirement were expected to generate only a third of the targetted quantum of 2,200 social housing units, the incorporation rate would be 0.011 m² per square metre of saleable floorspace or \$97 per m² cash in lieu.

TABLE 4 ILLUSTRATIVE INCLUSIONARY REQUIREMENTS RATES

	6% target met	2,200 target met	50% of 2,200 target met	33% of 2,200 target met
Total saleable residential floorspace (planned)	2,800,000	2,800,000	2,800,000	2,800,000
Total saleable employment floorspace (planned)	1,600,000	1,600,000	1,600,000	1,600,000
Total saleable floorspace	4,400,000	4,400,000	4,400,000	4,400,000
Social housing units to be delivered through mandatory requirements	2,552	2,200	1,100	726
Social housing units floorspace (@ 65 sqm per unit)	165,901	143,000	71,500	47,190
Acquisition value for social housing units	\$585,000	\$585,000	\$585,000	\$585,000
Total acquisition cost for targetted social housing units (\$m)	\$1,493	\$1,287	\$644	\$425
Inclusionary sqm rate for social housing per sqm of saleable floorspace	0.038	0.033	0.016	0.011
Inclusionary \$ rate for social housing per sqm of saleable floorspace	\$339	\$293	\$146	\$97
Social housing as % of all housing	6%	5%	2%	2%

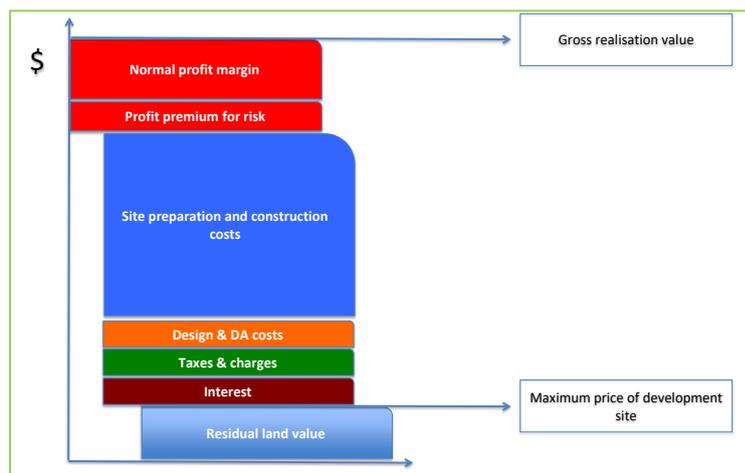
Source: SGS Economics & Planning Pty Ltd

⁸ See Spiller, M. and Anderson-Oliver, M. (2015) Revisiting the economics of inclusionary zoning, Occasional Paper published by SGS Economics & Planning Pty Ltd, April 2015

2.8 Impact on development in Fishermans Bend

128. Development of land in Fishermans Bend will proceed if developers can secure sites at prices equal to or less than the Residual Land Value (RLV) given when their requirements for profit and risk plus all construction and project delivery costs, including development contributions, are deducted from their anticipated sales or Gross Realisation Value (GRV) of their finished product. This equation is illustrated in the following diagram.

FIGURE 8 RESIDUAL LAND VALUE



Source: SGS Economics & Planning Pty Ltd

129. Current owners of potential development sites can be expected to sell their land to a bona fide developer (or any other buyer for that matter) if the price offered is sufficiently greater than the returns from continued ownership under the current usage of the site. That is, it would make sense for a land owner to sell if the net proceeds of the sale are greater than the capitalised value of current net income returns from the land in question. The prospective seller's judgement must allow for the risk attached to realising a greater sale in the future were any current offer to be spurned.
130. Am GC81 will affect development feasibility to the extent that it influences site development capacity, through the FAR policy for example, and the profile of costs that need to be built into the RLV calculation, for example, public open space requirements, DCP levies and any inclusionary provisions for social housing.
131. It could be that the package of measures in Am GC81, plus an inclusionary requirement for social housing, will reduce the value of land in the district (calculated on a RLV basis) compared to current development controls.
132. This will not necessarily forestall development. The landowners in question may regret the loss of apparent value compared to the pre-Am GC81 situation, but economically rational behaviour would see them sell their land to a bona fide developer so long as there remains a sufficient premium on investment returns from retaining ownership under current uses. This latter tendency will prevail regardless of whether the property owner is a long-standing holder of the title or a more recent purchaser that has acquired the property with a view to on-selling to a developer.
133. If bona fide developers have already acquired properties at pre-Am GC81 prices, any reduction in development capacity or any additional costs via inclusionary requirements for affordable housing, could render the project unviable *for them*. A

developer caught in this situation will either have to proceed with a reduced margin, which is unlikely, or cut their losses and off-load the site to another developer. In both cases, development would proceed.

134. To illustrate the implications of a mandatory inclusionary requirement for social housing in Fishermans Bend (operating alongside the FAU scheme), I have devised a simplified model which compares the estimated RLV for a given site for a developer with the value of the same land were it to be retained indefinitely under its current usage (see Table 5).
135. For the purposes of this illustrative model, the social housing provision target of 2,200 dwellings has been adopted, notwithstanding my earlier observations that this is an insufficient provision ratio.
136. The model further assumes that 3% of the social housing provision target of 2,200 will be met via traditional government procurement with the remaining 97% split evenly between delivery via the FAU scheme and delivery via mandatory inclusion provisions.
137. In the hypothetical case study shown in the table, the application of the mandatory social housing requirement reduces land value by 16% (\$142/\$910). The value of this land, may have been further dampened by the introduction of a FAR control, inserted here at a nominal figure of 4.5 compared to unlimited FAR in the pre-Am GC 81 situation. Nevertheless, a developer on the assumptions shown would be willing to pay up to \$6.91 million for the site compared with a capitalised return of \$2.92 million for a land owner opting to retain current usage of the site indefinitely.

TABLE 5 HYPOTHETICAL CASE STUDY – PROJECT VIABILITY WITH MANDATORY SOCIAL HOUSING REQUIREMENTS

			Source
Total planned (for sale) dwellings	dwellings	36,900	Am GC81 docs
Social housing target	% of for sale dwellings	6%	SGS
Social housing provision (rounded)	dwellings	2,200	Calculated
Total dwellings in Fishermans Bend	dwellings	39,100	Am GC81 docs
Social housing contributed by FAU	% of social housing	48.5%	Nominal
Social housing contributed by mandatory inclusionary requirement	% of social housing	48.5%	Nominal
Social housing contributed by tax transfer system	% of social housing	3%	Nominal
Social housing contributed by FAU	dwellings	1067	Calculated
Social housing contributed by mandatory inclusionary requirement	dwellings	1067	Calculated
Social housing contributed by tax transfer system	dwellings	66	Calculated
Typical Gross Realisation Value (GRV) - residential	per sqm	\$9,100	CoPP
Residual Land Value (RLV) % of GRV		10%	SGS
Gross RLV - residential	per sqm	\$910	Calculated
Inclusionary affordable housing requirements rate	per sqm	\$142	Calculated
Net RLV - residential	per sqm	\$768	Calculated

HYPOTHETICAL CASE STUDY			
Site area	sqm	2,000	Nominal
Floor area ratio - existing use (warehouse/industrial/commercial)		0.8	Nominal
Floor area - existing use (warehouse/industrial/commercial)	sqm	1,600	Calculated
Ind / commercial rent	per sqm	\$100	CoPP
Annual rent		\$160,000	Calculated
Rent capitalisation rate		5%	Nominal
Present value of investment as continuing warehouse / industrial / commercial	\$million	\$ 2.92	Calculated
FAR as residential development site		4.5	Nominal
Floor area of res development	sqm	9,000	Calculated
Value as residential site (floor area residential x net RLV)	\$million	\$ 6.91	Calculated
Premium/shortfall as development site	\$million	\$ 3.99	Calculated
Premium/shortfall as % of continuing value as industrial/commercial		137%	Calculated

Source: SGS Economics & Planning Pty Ltd

138. A key parameter in this hypothetical example relates to current rent levels on the site. Table 6 shows how this factor impacts on the premium which a land owner would receive in disposing of the site to a developer versus retaining the current rent flows from their property indefinitely. In this hypothetical example, the owners of commercial and industrial properties would need to be confident of long run rentals of \$200 / m² plus to rationally turn down a sale to a bona fide developer.

TABLE 6 VALUE PREMIUM FOR SELLERS OF DEVELOPMENT SITE (VERSUS RETENTION WITH CURRENT RETURNS)

		GRV per sq m
		\$9,100
Current rent / sqm for industrial & commercial	\$50	373%
	\$100	137%
	\$200	18%
	\$300	-21%
	\$400	-41%

Source: SGS Economics & Planning Pty Ltd

139. Similarly, the FAU scheme will have no bearing on project feasibility for as long as the quantum of developable floorspace under the FAR (and therefore GRV) are sufficient to provide an adequate premium on the present value of returns from the land under its current use. This condition could hold even if the nominal FAR introduced by the draft Framework ‘restricts’ development compared to what was possible pre GC81.

140. As I explained earlier, whether the FAU scheme induces the provision of community benefits, including social housing, depends on the pricing of the additional development capacity on offer. If this price (12.5% of GRV) is greater than actual RLV on a given site in Fishermans Bend, developers will forsake the opportunity for additional density. But they may still proceed with the FAR component of the project.

141. This is a hypothetical analysis, albeit based on realistic assumptions and scenarios. The principal conclusion to be drawn is that a negative impact on residual land values – should they occur - will not necessarily disrupt or discourage the flow of development in Fishermans Bend.

142. Moreover, the fact that some parties may suffer a reduction in land value is not a material planning or economic issue, providing development does proceed.

2.9 Recommended changes to AmGC81

143. I recommend that:

- a. Consideration be given to further elaborating the target for social and affordable housing in Fishermans Bend to refer to a minimum of 10% of the total stock to be held by registered housing providers for permanent affordable rental by priority needs groups, while encouragement is given for a further 10% of housing to be provided for use by key workers, students and marginal home buyers.
- b. A mandatory inclusionary requirement for social and affordable housing be incorporated into GC81, to operate in tandem with the already proposed FAU scheme
- c. The mandatory requirement be calibrated to deliver 48.5% of the permanent social housing units currently targetted for Fishermans Bend, with the remainder being provided via the FAU scheme (48.5%) and conventional procurement via

the tax transfer system (3%), implying a contribution rate of 0.016 m² (or \$142 cash in lieu) per square metre of saleable floorspace (of all land use categories)

- d. The inclusionary requirement rate be recalibrated in future when and if a 10% social housing target is adopted and/or government investment in social housing changes, and
- e. The FAU scheme be refined to align with the financial assumptions built into the equivalent provisions currently applicable in the Central City via AmC270 to the Melbourne Planning Scheme, namely that each square metre of saleable floorspace above FAR should be 'priced' at 10% of GRV per square metre, implying a 'social housing gifting ratio' of 1:10 rather than the 1:8 included in GC81.

APPENDIX A: PLANNING PANELS

VICTORIA EXPERT WITNESS

DECLARATION

a) The name and address of the expert

Marcus Luigi Spiller

SGS Economics & Planning Pty Ltd

Level 14, 222 Exhibition Street

Melbourne

b) The expert's qualifications and experience

PhD (Global Studies, Social Science and Planning), RMIT University, Melbourne, 2009

Master of Commerce (Economics), University of Melbourne, 1986

Bachelor of Town and Regional Planning, University of Melbourne, 1978

Dr Spiller is a founding partner at SGS. He has extensive experience in public policy analysis as an urban economist and planner. Marcus specialises in providing high level advice on metropolitan strategic planning, housing policy, infrastructure funding and the links between urban structure and regional economic performance.

Marcus is a past National President of the Planning Institute of Australia and a former Board member at VicUrban (now called Development Victoria). He has served on the Commonwealth Government's Housing Supply Council and the equivalent body set up by the NSW Government. Marcus has been appointed an Adjunct Professor in the School of Global, Urban and Social Studies at RMIT University and an Adjunct Professor in the Faculty of Built Environment at UNSW. He is also an Associate Professor at the University of Melbourne.

c) The expert's area of expertise to make the report

Marcus is a leading adviser in urban infrastructure policy, including funding mechanisms. He has been involved in the formation of development contributions legislation in most Australian jurisdictions, though he does not necessarily endorse all recent initiatives in this area. He argues for a clear separation of user charges, betterment levies, impact mitigation payments and inclusionary zoning provisions in planning legislation.

Marcus is the co-editor of an internationally published book on infrastructure funding and management. (Wellman, K., and Spiller, M. (2012) *Urban Infrastructure: Finance and Management*, Wiley).

Marcus is also a widely quoted expert on the role of the planning system in generating contributions towards affordable housing. His list of publications includes:

Spiller, M. and Anderson-Oliver, M. (2015) *Revisiting the economics of inclusionary zoning*, Paper presented to the Australian Housing Researchers Conference, Hobart, February 2015

He has consulted extensively on how affordable housing contributions can be efficiently and equitably effected via development approval processes. Clients have included IMAP, the NSW Government and most recently, Hobsons Bay, Maroondah and Maribyrnong Councils.

d) Other significant contributors to the report and where necessary outlining their expertise

Research staff at SGS have performed various literature reviews and calculations under my instructions and supervision.

e) Instructions that define the scope of the report

My instructions in this matter were provided in writing by the City of Port Phillip (see Appendix A)

f) The facts, matters and all assumptions upon which the report proceeds

All these matters are detailed in my evidence statement.

g) Reference to those documents and other materials the expert has been instructed to consider or take into account in preparing the report, and the literature or other material used in making the report

All these matters are detailed in my evidence statement.

h) Provisional opinions that have not been fully researched for any reason (identifying the reason why such opinions have not been or cannot be fully researched)

These matters are detailed in my evidence statement.

i) Questions falling outside the expert's expertise and also a statement indicating whether the report is incomplete or inaccurate in any respect

These matters are detailed in my evidence statement.

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

Name Dr Marcus Spiller

Date March 5, 2018

APPENDIX B

Project Brief

Amendment GC8I Expert Witness services

1. Fishermans Bend

Fishermans Bend is one of several priority precincts identified in Plan Melbourne and plays a central role in accommodating significant growth. Plan Melbourne designates Lorimer, Wirraway, Sandridge and Montague precincts within Fishermans Bend as priority major urban renewal precincts (mixed use precincts) comprising more than 250 hectares of land.

2. Draft Fishermans Bend Framework and Amendment GC8I

The draft Fishermans Bend Framework has been created to provide direction for development and establishes benchmarks for high quality design and development outcomes.

To support the implementation of the draft Framework, a suite of planning controls has been prepared to provide detailed planning guidance for new development. These controls once introduced into the City of Melbourne and City of Port Phillip Planning Schemes, will replace the current interim planning measures.

Amendment GC8I to the Port Phillip Planning Scheme proposes to translate elements in the draft Fishermans Bend Framework into planning terms and address the following key issues for Fishermans Bend:

- Identifies the preferred land use, form and intensity of urban development in each of the four mixed use precincts, including new floor area ratios and maximum height controls.
- Identifies and safeguards potential key transport alignments and services and the preferred locations for public open space and community infrastructure.

In summary, the Amendment implements the built form and land use elements of the draft Fishermans Bend Framework (October 2017) as follows:

- Amending Clauses 21.1, 21.02, 21.03, 21.04, 21.05 and 21.06 of the Municipal Strategic Statement
- Replacing Clause 22.15 of the Local Planning Policy Framework with a new Clause 22.15 to guidance on how to evaluate and exercise discretion in the assessment of planning permit applications. This includes; employment, dwelling densities, community and diversity, design excellence, active street frontages, energy, urban heat island, water management, waste management, public open space, new streets and laneways, smart cities, sustainable transport and floor area uplift.
- Replacing the Capital City Zone – Schedule 1 with a new Schedule 1 which outlines land use and development outcomes.
- Replacing Design and Development Overlay – Schedule 30 with a new Schedule 30 which outlines built form controls. This includes; building heights, setbacks and

separation, overshadowing, wind, site coverage, active street frontages, adaptable buildings, building finishes and landscaping.

- Replacing Schedule 1 to the Parking Overlay with a new Schedule 1 to set maximum car parking rates to foster sustainable transport outcomes.
- Introducing a new Schedule 2 to the Development Plan Overlay to protect areas of strategic importance to ensure development achieves defined outcomes.
- Amending schedules to clauses 61.03 and 81.01.
- Introducing new Planning Scheme Map Nos. 2DPO, 3DPO, 1EAO, 2EAO, 3EAO, IESO

The Framework and Amendment specifically seeks for the delivery of affordable housing through the following:

- Inclusion of a 6% Affordable Housing Target, directed at low to moderate income households.
- Use of development incentives (via a Floor Area Uplift mechanism) to facilitate the provision of social housing as a priority 'public benefit'.
- Exploring establishment of an affordable housing trust mechanism, and provision for cash-in-lieu contributions to offer flexibility to the development sector.

Amendment GC81 was out for public comment between 31 October and 15 December 2017, to which both Council has made a submission (<http://www.portphillip.vic.gov.au/EI66431%2017%20%20FINAL%20Draft%20Submission.pdf>)

A planning review panel has been appointed to consider the submissions and a public hearing will be held starting on the 19th February 2018, and concluding in early May.

3. Affordable housing need in Port Phillip and Fishermans Bend

Council's affordable housing strategy, *In Our Backyard - Growing Affordable Housing in Port Phillip 2015 - 2025* (the Strategy) highlights how the housing affordability problem has broadened and deepened over the last 10 - 20 years in Port Phillip, from affecting the lower 50 - 60 percent of the income range of residents in 1995, to affecting the lower 70 percent of the income range in 2015. Details of the housing affordability problem are outlined on page 16 of the Strategy.

The Strategy identifies that if no new social housing units are delivered in Port Phillip over the next decade, social housing as a proportion of the City's total dwellings will decline from the current 7.2 percent to a forecast 5.9 percent by 2025.

A study commissioned by the State Government, *Fishermans Bend Urban Renewal Area: Options for Delivery of Affordable Housing*, Judith Stubbs & Associates, June 2013 identified the projected housing need in Fishermans Bend. The key finding from this study is that only 1.3% of new housing in Fishermans Bend is projected to be affordable to all households. Without government intervention and delivery mechanisms, it is projected that the private housing market will exclude:

- all very low and low-income renters and purchasers, comprising small households with singles and couples and family households with children.
- all moderate income renting and purchasing family households.
- two thirds of small moderate income purchasing households.

- one third of small moderate renting households.
- low income wage earners / key workers.

4. Draft Fishermans Bend Framework and Amendment GC8I

Key aspects of the draft Fishermans Bend Framework are:

- Introducing an incentive for the delivery of affordable housing (as a priority public benefit) via a Floor Area Uplift (FAU) on development sites. This will comprise one affordable housing unit (for transfer to registered 'housing associations') for every eight additional private dwellings (Objective 1.11, Strategy 1.11.3, page 40). Strategy 3.5.2 (page 55) refers to this further, and indicates that affordable housing units are to be transferred to 'housing providers'.
- Setting a target for 6% of all housing in Fishermans Bend to be affordable for low to moderate income households (Sustainability Goal 3- targets for 2050, page 51).
- Pursuing mechanisms to incorporate social and affordable housing as a proportion of new development, potentially operating in tandem with the proposed FAU scheme (Objective 3.5, Strategy 3.5.3, page 55).
- Exploring the option to collect 'cash-in-lieu' contributions instead of affordable housing in the form of units/apartments, and establishing a Fishermans Bend Affordable Housing Trust to manage use of cash contributions (Objective 3.5, Strategy 3.5.5, page 55).

The proposed provisions relating to affordable housing in GC8I are in:

- The Schedule to the Capital City Zone (Floor area uplift mechanism)
- Local Policy at Clause 22.15 – Fishermans Bend Urban Renewal Area Local Policy

A fact sheet (which sits outside the planning scheme) explains 'How to calculate Floor Area Uplift and Public Benefits in Fishermans Bend'.

5. City of Port Phillip Submission on the draft Fishermans Bend Framework and Amendment GC8I

The City of Port Phillip submission (December 2017) addresses Council's position on the draft Fishermans Bend Framework and Amendment GC8I. This includes two sections on housing diversity and housing affordability under Theme 1 of the *Fishermans Bend Vision 2016* - A diverse, connected community:

- Priority Outcome 1.1 – Housing choice to support a diverse, family friendly community.
- Priority Outcome 1.2 – Social and affordable housing that provides for low and moderate-income households.

In relation to social and affordable housing, the key recommendations of the submission are:

- Having a 6% social housing target and a 20% overall affordable housing target.

The 6% social housing target is to maintain the existing level of social housing across the inner region; and the 20% affordable housing target (inclusive of the 6% social housing) is to encourage a broader spectrum of affordable housing products for low to moderate income households:

- rental housing (eg. 'Build to Rent' and 'Rent to Buy')
- home ownership (eg. 'Shared Equity Housing' and 'Community Land Trusts').

- Use of both incentivised ('opt-in') and mandatory (inclusionary) planning mechanisms.

This aims to achieve certainty that affordable housing will be delivered and encourage a diversity of housing products. So as not to create an impediment to investment in Fishermans Bend, it is suggested that there can be a staged introduction of mandatory (inclusionary*) requirements to provide transparency and minimise market impacts in the short term, while a broader regional wide mechanism is established.

* It is noted that *Plan Melbourne 2017-2050 - Five Year Implementation Plan* identifies the exploration of inclusionary zoning and other mechanisms to capture and share value created through planning controls (Action 24).

- Use of an affordable housing trust to protect affordable housing 'unit' contributions in perpetuity (as well as provide flexibility for 'cash-in-lieu' contributions).

6. Purpose

Council is seeking an independent expert evidence service regarding affordable housing delivery in relation to the draft Framework and Amendment.

7. Project tasks and timeframe

The key task is to review the draft Framework and Amendment documentation and reference material with a view to the preparation of affordable housing delivery expert evidence in accordance with the 'Guide to Expert Evidence', prepared by Planning Panels Victoria.

In general, in the context of the projected housing needs in Fishermans Bend, your statement of evidence should address the need for the current affordable housing planning interventions, and the appropriateness of the policy and mechanisms proposed in the draft Framework and Amendment GC81.

Specifically, your statement of evidence should address the following matters:

- Review the draft Fishermans Bend Framework and Amendment GC81 in relation to affordable housing.
- The application of having a specific social housing target within a broader affordable housing target, such as that suggested in the City of Port Phillip submission.
- The suitability of the proposed development incentive (via a Floor Area Uplift mechanism) to facilitate the provision of social housing as a priority 'public benefit'.
- The need for introducing a mandated scheme (such as Inclusionary Zoning) to address housing need at Fishermans Bend, and the potential benefit of a regional application.
- The need for a range of affordable housing products at Fishermans Bend to respond to the broadening housing affordability problem, and the potential role of planning mechanisms to deliver these affordable housing products.
- The opportunity to establish an affordable housing Trust to hold social housing assets in perpetuity, and partner with multiple community housing organisations.

- The need for flexibility by developers to make cash and unit contributions.
- Review and comment on the City of Port Phillip submission and other public submissions from other stakeholders as they relate to affordable housing delivery (noting that the submissions will be provided, with the relevant sections highlighted).
- Respond to any specific directions made by the Panel.
- Based on the above, make any recommendations for changes (if required) to Amendment GC81.

Expert evidence is due for circulation by no later than 12th February 2018. A draft should be provided by COB Friday 2 February 2018 to allow time for review and any modifications if required.

You will be required to attend the relevant session of the Hearing during the week of 19th February 2018 to present your evidence, and answer questions from the Planning Review Panel and submitters.

8. Project outputs

The key project output is the review of material and the provision of expert evidence statement.

Electronic copies of the statement are required in Word and PDF format.

9. Submission

The response to this brief should include:

- A fee estimate (see item 11 below) including relevant hourly rates. This fee should include allowance for two meetings to be held with the City of Port Phillip officers and legal representatives, and a full day of attendance at the Planning Review Panel public hearing.
- The names of personnel who would be involved and their roles and responsibilities, qualifications, and other relevant professional experience.
- Declaration of any conflict of interest and how any conflict of interest may be managed.

10. Project management and further information

The Project Manager for this contract will be Gary Spivak, Housing Development Officer, who can be contacted on (03) 9209 6752 or Gary.Spivak@portphillip.vic.gov.au and Katrina Terjung, Manager Strategy & Growth, who can be contacted on (03) 9209 6815 or Katrina.Terjung@portphillip.vic.gov.au.

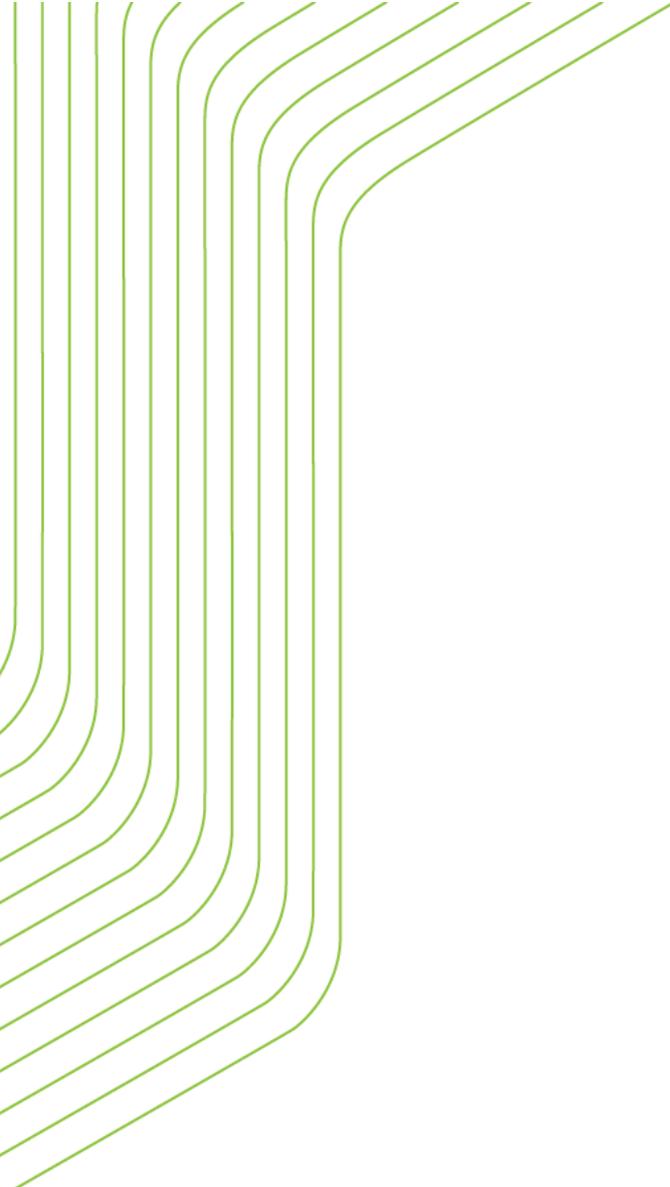
The following resources and materials will be made available to you for your review:

- *Fishermans Bend Framework - Draft for Consultation, October 2017.*
- Planning Scheme Amendment GC81 (upon appointment, the relevant sections of the controls will be highlighted).

- *Fishermans Bend - City of Port Phillip submission on the draft Fishermans Bend Framework and Amendment GC81*, December 2017.
- *City of Melbourne Submission to the Fishermans Bend Draft Framework and Planning Controls Consultation*, December 2017.
- *In Our Backyard - Growing Affordable Housing in Port Phillip 2015 - 2025*, City of Port Phillip, April 2016.
- *Fishermans Bend Urban Renewal Area: Options for Delivery of Affordable Housing*, Judith Stubbs & Associates, June 2013 (upon appointment, the relevant sections of the controls will be highlighted).
- UDIA Planning Sub-Committee on Inclusionary Zoning - table on the potential impacts of a range of developer incentives, and minutes of meeting 4, 17 May 2016.

11. Budget

The City of Port Phillip (CoPP) has allocated an indicative project budget ceiling of [REDACTED] inclusive of GST for this contract.



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