

**TO: Curlewis Bellarine Pty Ltd and APD Projects ('Developer Group')**

**RE: Jetty Road Stage 2 proposed amendment - Affordable Housing proposal**

Thank you for engaging Affordable Development Outcomes to assist in determining an appropriate and deliverable Affordable Housing arrangement as part of the Jetty Road Stage 2 planning amendment.

This advice relates to the following parcels of land which comprise part of the proposed amendment:

- 91-125 Coriyule Road, Curlewis, owned by Curlewis Bellarine Pty Ltd; and
- 1421 Portarlinton Road (and adjoining parcels), Curlewis owned by Curlewis Land Pty Ltd

Collectively referred to as 'the Site' and controlled by the above landowners ('Developer Group (DG)') for the purposes of this proposal.

This letter sets out:

- Affordable Housing context and framework for a planning agreement;
- Recommended Affordable Housing inclusion for agreement between the Site landowners and City of Greater Geelong ('Council'); and
- Recommended wording to be incorporated into a schedule to the Development Plan Overlay (DPO).

I understand this advice will be shared with Council as the basis for finalisation of an agreement and progression of the amendment.

The Affordable Housing proposal is based on the following indicative site yields, subject to planning amendment and permit approval:

Curlewis Bellarine Pty Ltd	Approximately 400 lots
Curlewis Land Pty Ltd	Approximately 527 lots

### **What is Affordable Housing**

Affordable Housing is defined in the *Planning and Environment Act 1987* (the Act) as "housing, including Social Housing, that is appropriate for the housing needs of any of the following - very low, low, and/or moderate income households" (Section 3AA(1)).

Social Housing is defined under the Housing Act and refers to the ownership and/or management of dwellings by the State or a registered housing provider. In practice, and as a result of the funding relationship between registered housing providers and government, 'Social Housing' is primarily rented to very low and low income households.



A list of gazetted ‘matters’ under the Act provides a framework for assessing the appropriateness of a proposed built form for Affordable Housing use. The key criterion is that a dwelling should be:

- Responsive to the evidence of housing need;
- Appropriate in terms of tenure, dwelling type, size, amenity and location;
- Affordable in terms of rent or mortgage repayments, with the commonly accepted benchmark that lower income households should not pay more than 30 per cent of income on housing costs;
- Allocated to eligible households that earn below the government established income bands; and
- Managed as Affordable Housing for an appropriate period.

A range of programs fall within the Affordable Housing spectrum (Figure 1) and could be facilitated on the Site.

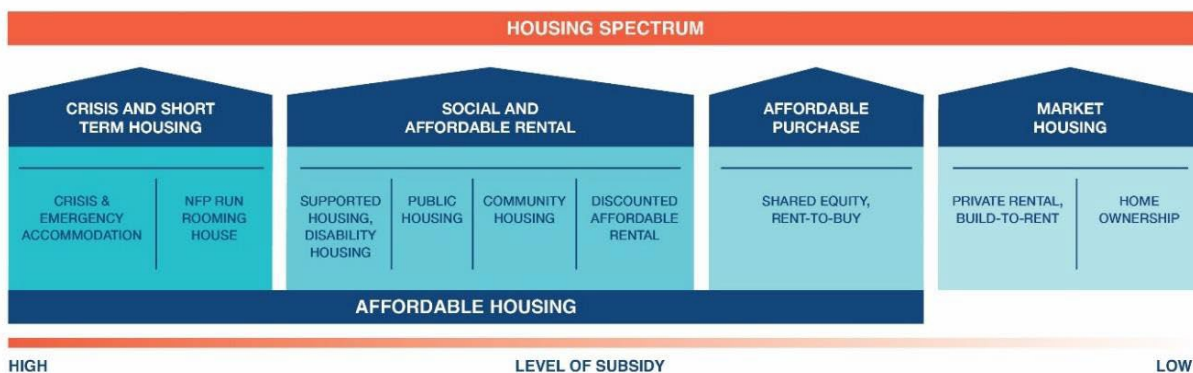


Figure 1: Housing Spectrum (Source: Affordable Development Outcomes)

## Legislative and Policy Context

The Act establishes that ‘to facilitate the provision of Affordable Housing’ is an objective of planning, and sets a definition, income eligibility and list of matters that must be considered to determine if a proposed built form will achieve appropriate Affordable Housing.

In relation to Affordable Housing inclusions at the amendment stage:

- The Act and Planning Policy Framework do not mandate the inclusion of Affordable Housing as a condition of rezoning.
- State Government guidelines and VCAT precedent establish that the inclusion of Affordable Housing must be voluntarily agreed, and that approval of an amendment or a permit should not be withheld if an agreement to Affordable Housing cannot be reached.<sup>1</sup> State guidance also notes the need for an agreement to be commercially feasible;
- There is no dwelling percentage, discount rate or Affordable Housing delivery model established by the State Government with each agreement site, landowner and council specific;
- City of Greater Geelong has stated planning and policy objectives to increase the supply of Social and Affordable Housing and to negotiate with landowners as part of the rezoning process;
- The DG engaged by Affordable Development Outcomes have expressed a willingness to facilitate an Affordable Housing outcome in accordance with the objectives of the Act, subject to approval of the amendment and proposed yield, and the Affordable Housing percentage and terms of a requirement being commercially feasible;
- Upon rezoning the landowners are subject to paying the Windfall Gains Tax calculated at a tax rate of 50% of the total land value uplift. This impacts on the contribution that a landowner can consider making in relation to Affordable Housing;

<sup>1</sup> Victoria Government Department of Environment, Land, Water and Planning (2020) <https://www.planning.vic.gov.au/policy-and-strategy/affordable-housing>, accessed February 2020

- The terms of an agreement are expected to be recorded in the planning controls and subsequently, a Section 173 Agreement. The effect of this is to mandate a voluntarily made agreement as a subsequent condition of development.

This document sets out an Affordable Housing Strategy for the Site, developed in consultation with the DG with regards to the above context.

## Guiding Principles

It is proposed that the following principles guide finalisation of an Affordable Housing agreement between the DG and Council:

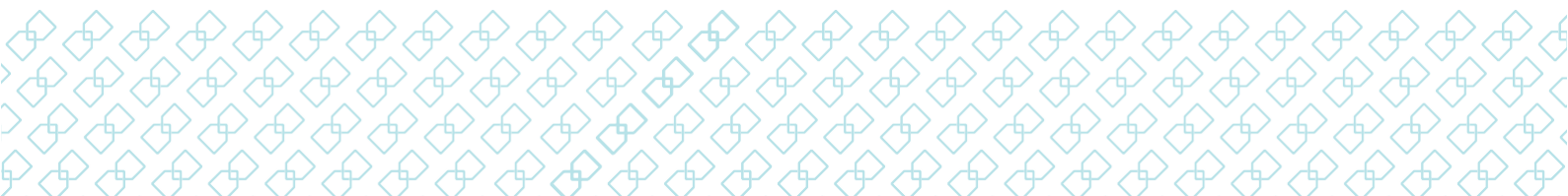
1. It is appropriate that, as a result of the rezoning of the Site, the landowners contribute to addressing Affordable Housing need in the City of Greater Geelong, noting that addressing the full extent of Affordable Housing demand ultimately requires significant investment from Federal, State and Local Governments.
2. Details of an agreement to an Affordable Housing contribution at an amendment stage must be supported by each of the landowners and Council. The practical effect of an agreement will be a binding obligation on each landowner as a result of the gazettal of the amendment.
3. A proposal at the amendment stage must be reasonably expected to result in housing that is appropriate, affordable and allocated to very low, low and moderate incomes as defined by the Act and with reference to the gazetted list of matters.
4. An Affordable Housing inclusion in the controls should be readily calculable. The controls should establish a clear framework to guide delivery of the inclusion whilst also providing for a degree of flexibility in terms of delivery options reflecting the amendment and development timeframes and diversity of Affordable Housing delivery, ownership and management models.
5. Affordable Housing delivered on the Site should prioritise allocation to households requiring housing assistance and that have a connection to the Curlewis local area and/or City of Greater Geelong.
6. Registered housing agencies are presently the most appropriate owners or managers of any Affordable Housing delivered as a result of the agreement and should be prioritised as managers, and where appropriate, owners of Affordable Housing arising from the agreement.
7. The decision on which delivery model to adopt and registered housing agency to partner with is the landowner's decision, subject to the landowner demonstrating alignment to the planning controls and terms of a Section 173 Agreement. These decisions can be made following the approval of the amendment and further consultation with Council.
8. The final decision on which households are to be housed should sit with a registered housing agency, taking into consideration income eligibility, affordability, housing need and local connection.
9. Resulting Affordable Housing built form should be appropriately integrated and not externally distinguishable from market housing. Some clustering of Affordable Housing may be appropriate if supported by a registered housing agency.

## Affordable Housing Proposal

The Strategy has been developed with consideration to the State and Local Council planning framework and strategic objectives; site context and development potential; Affordable Housing need; examples of Affordable Housing inclusions on other sites; the requirement for the landowner to share in value uplift through the State's Windfall Gain Tax; principles outlined above, and the objectives and financial capacity of registered housing agencies.

The Proposal is for:

- 3.5% of total lots to be facilitated as Affordable Housing to be achieved by the sale of serviced land lots to a Registered Housing Agency at a 20% discount to the market value of each agreed land lot ('Affordable Housing Contribution'); or
- For any other number of lots or dwellings to be determined with regards to the translation of the value that would



otherwise be provided by the landowner under option (1), to either:

If the contribution is provided as a discount to serviced land lots, a total 32 lots is estimated to be facilitated on the Site as Affordable Housing based on the currently proposed Site yield of 927 dwellings across the 2 development sites listed above. This excludes any outcomes delivered on other landowner land subject to the amendment.

#### **Draft wording**

To assist in the finalisation, it is recommended the following proposed wording for the DPO schedule is considered and finalised for the purposes of public exhibition:

*Unless otherwise agreed to by the responsible authority, a permit must not be granted to subdivide land until an agreement under section 173 of the Planning and Environment Act 1987 has been entered into between the owner of the land and the responsible authority that provides for the following:*

*The landowner must contribute towards affordable housing (Affordable Housing Contribution) to the satisfaction of the responsible authority.*

*For the purposes of the agreement “affordable housing” is to have the same meaning as any definition of that phrase contained within the Act and ‘eligible households’ is defined by reference to income bands published under the Act or the Housing Act as deemed appropriate by a registered housing agency.*

*The agreement must include terms which provide for the manner in which the Affordable Housing Contribution is to be made, including when and how the contribution is to be made.*

*The agreement must provide for an Affordable Housing Contribution defined as:*

- 1) 3.5 per cent of residential yield facilitated by the sale of serviced land lots to a registered housing agency at a 20 per cent discount to each land lot; or*
- 2) Translation of the value of the Affordable Housing Contribution that would otherwise be provided under 1, to be provided by way of:*
  - i. Provision of completed dwellings at nil consideration or a discount to the market value to a Registered Housing Agency; and/or*
  - ii. Sale of completed dwellings to eligible households under a shared equity home ownership arrangement overseen by a registered housing agency where the Affordable Housing Contribution is appropriately secured and repaid upon a future sale or refinance and subsequently reinvested in new Affordable Housing in the City of Greater Geelong; and/or*
  - iii. Long-term renting of completed dwellings to eligible households at a discount to market rent, managed by a registered housing agency; and/or*
  - iv. Provision of a monetary contribution to a registered housing agency or housing trust nominated by Council, to apply to the development of Affordable Housing in the City of Greater Geelong; and/or*
  - v. Any other arrangement for the provision of Affordable Housing to the satisfaction of the Responsible Authority.*

*Under option 2:*

- The value of the Affordable Housing Contribution is the 20% discount that would otherwise be provided to serviced land lots under option 1, calculated by reference to independent valuation of the market value of a 300 square metre serviced lot in the estate, multiplied by the number of affordable housing lots that would otherwise be provided under option 1.*
- The discount to rent, shared equity contribution, and/or term of use is to be determined with regards to the Net Present Value of the Contribution that would otherwise be achieved under Option 1, and the number of dwellings to be facilitated.*

- *The number of Affordable Housing dwellings that can be realised under this option may represent less or greater than 3.5% of total lots on the site; and*
- *The landowner must demonstrate in their proposal how the delivery model will result in Affordable Housing that is appropriate in accordance with each of the matters set out under the Act.*

This proposal:

- Establishes an overarching, and reasonably high percentage in the controls, whilst allowing for a lower or higher percentage of dwellings, or a monetary contribution, at an equivalent value to be provided, reflecting different cost impacts of different delivery models landowners may adopt;
- Reflects the impact of the Windfall Gains Tax (among other taxes and charges) on the level of contribution that is viable for a landowner;
- Results in a financial obligation on each landowner either as a discount to sale of lots or dwellings; a shared equity contribution; or a discount to market rent for a defined period;
- Provide a clear reference point for Council and a landowner to calculate the value of a contribution, being a defined discount based on an agreed lot size and independent valuation at the time any alternative delivery model is proposed to be realised;
- Is intended to result in a registered housing agency being the owner of resulting lots and dwellings, or manager of dwelling outcomes, including having oversight and process of securing of any contribution that supports home ownership outcomes. Of note, any dwellings owned or directly managed by a Registered Housing Agency is technically defined as Social Housing and are likely to be allocated to Victorian Housing Register eligible households in line with Council objectives;
- Provides the landowner with the right to select their housing agency partner, reflecting the potential for strategic partnering objectives and requirements, whilst ensuring a regulated entity is involved and housing is targeted to people with a local connection;
- Provides for a landowner to determine, and Council to assess, a discount and term of use under option 2 with reference to the value of a contribution. This is expected to be readily tested by independent advice if required;
- Provides a monetary contribution option should defined options are not able to be achieved, or the landowner, with the advice of a registered housing agency, determines a monetary contribution is an appropriate outcome. Allowance for funds to be directed to a Council established trust is also considered under the monetary option.

### **Section 173 Agreement**

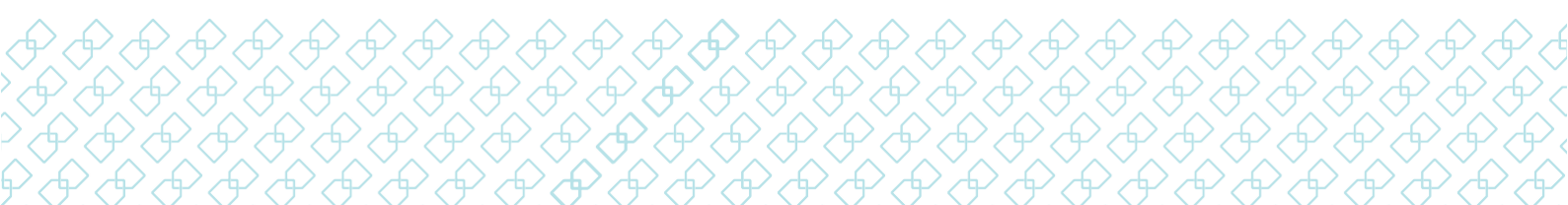
The Affordable Housing strategy is proposed to be reflected in a Schedule to the Zone, with detail subsequently reflected in a Section 173 Agreement between the landowner and responsible authority to be entered following gazettal of the amendment and prior to any subdivision.

The Section 173 Agreement is proposed to cover:

- Process for submitting a proposed delivery model;
- Timeframes by which delivery of Affordable Housing must be achieved, which may reflect stages;
- Method for calculating the value of option 1 if option 2 delivery models are proposed;
- Proof of delivery requirements to enable discharge of the Section 173 Agreement.

### **Summary and Recommended Next Steps**

Following consideration of a range of matters, including the objectives of Council, the windfall gains tax context, and the development models proposed by landowners, it is recommended Council agree to the guiding principles and support the provision of 3.5% of Affordable Housing by way of sale of serviced lots at a 20% discount, or by an alternative delivery



model of an equivalent value, with a range of options proposed.

A meeting to discuss is suggested to occur with Council to enable refinement and finalisation of the schedule wording.

Yours sincerely



**17 October 2022**

