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**PLANNING AND AFFORDABLE HOUSING**

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**ABSTRACT**

*Affordable housing is becoming an accepted part of planning policy. However, a key challenge remains how affordable housing can effectively be delivered through a planning system. One of the most effective means of delivering affordable housing is through the use of not for profit housing companies. Regulated not for profit affordable housing providers can provide an implementation vehicle to deliver affordable housing, by owning and managing the housing, to ensure it is provided to eligible people in perpetuity. This is a model that is used successfully in the United Kingdom.*

*In Queensland, a number of housing companies have established in recent years. However, there is still much to be done in bringing planning and affordable housing together. This paper will consider how planning can engage with affordable housing providers to help deliver affordable housing through the planning system. Drawing on experience in the United Kingdom, as well as experience in developing the emerging Logan Housing Company and the emerging planning scheme for Logan City, this paper will explore the challenges for planning in providing an effective implementation framework to deliver affordable housing, and how this might be achieved through effective engagement with affordable housing providers.*

**INTRODUCTION**

This paper considers how affordable housing can be delivered through planning systems, and in particular, how planning systems can utilise not-for-profit affordable housing providers as vehicles to implement affordable housing policies. The paper firstly considers the relationship between planning and affordable housing, and what affordable housing means. It then explores the range of mechanisms that can be used to provide for affordable housing through a planning system and examines the nature and role of affordable housing companies. Finally, it considers the opportunities created by integrating planning and affordable housing, and the challenges this poses for current planning systems.

**AFFORDABLE HOUSING**

Affordable housing is becoming an established part of planning policy. However, there is no common definition of affordable housing. Different definitions and approaches are used in different jurisdictions. For the purpose of this paper affordable housing means housing that is provided to people,

who meet predetermined eligibility criteria, on the basis that their household income does not allow them access to private market housing. This might be in the form of proportion of income (social housing), discounted market rent, shared equity (where part is owned and part is rented), or discounted market housing. It does not include unfettered market housing.

Under this definition, affordable housing does not constitute 'development' as commonly defined in planning systems. Affordable housing deals with the financial capacity of the occupiers of land to live in the premises. This is not a development matter. Further, affordable housing is not something that must be dealt with by a planning system. Other means, such as direct government investment and funding, may achieve the same ends.

Whilst it is not something that must be dealt with by planning, there are good reasons for integrating the provision of affordable housing into a planning system. It provides for affordable housing to be delivered when development comes forward and for it to be integrated with market housing, leading to more mixed and balanced communities, and helping avoid the social problems that have been associated with areas of concentrated social and affordable housing. However, because affordable housing does not constitute development, traditional planning tools designed to regulate development are not necessarily effective. To effectively integrate affordable housing, the systems supporting the planning system need to be enhanced.

## **APPROACHES TO PROVIDING AFFORDABLE HOUSING**

There are a number of approaches commonly used to address housing affordability through planning, which can broadly be put into two categories: market based approaches, and direct intervention approaches. The former, I argue, should not be considered affordable housing strategies as they do not guarantee the provision of affordable housing, as defined.

### **Market Approach - Increase Supply and Reduce Costs**

The Queensland Affordable Housing Strategy seeks to provide for affordable housing by ensuring 'land and housing is on the market quickly, and at the lowest cost.' It seeks to achieve this through a variety of means including: establishing an urban land development authority to bring land to the market quickly; improving the planning and development assessment process; increase the supply of land ready for development; and regulating infrastructure charges.

This encapsulates a market based approach to affordability; increasing supply and reducing costs. However, I argue these are not affordable housing strategies; there is no guarantee this approach will provide that housing will become more affordable for those in need, or that housing will maintain its affordability over time.

## Supply

Strategies aimed to secure more land for residential development and achieve a greater mix and diversity of housing seek to bring down the cost of residential land and provide greater market choice in housing product. However, sound planning principles provide that land use plans provide for an appropriate supply of residential land and mix of housing to meet the projected growth demands and demographics of an area. This is not an affordable housing strategy.

## Costs

Strategies aimed at reducing costs seek to reduce land holding costs and fees and charges so these savings can be passed on to end purchasers. However, with regard to the making development assessment processes more efficient, the objective of any planning system should be to have a highly efficient and effective DA process; this is not an affordable housing strategy. Further, with regard to fees and charges, I argue this is not a legitimate planning implementation policy. Fees and charges are to reflect the value of the service; application fees reflect the cost to assess applications and infrastructure charges reflect the cost to provide necessary infrastructure. If these costs are not borne by the developer, they are borne by the rate payer. Therefore any waiving of fees will simply become a public subsidy. The effect of this is the same as if the relevant authority simply offered a subsidy for affordable housing development. This might be a legitimate affordable housing strategy, but it is not achieved through a planning mechanism.

## **Direct Approaches - Incentives and Requirements**

Direct approaches to address affordable housing include policies that seek to encourage or require a proportion of new development to be dedicated as affordable housing.

## Incentives

Incentives may be in the form of bonuses with regard to density and height, or relaxations with regard to car parking and open space requirements, where affordable housing is provided. These incentives apply where a specified proportion of affordable housing is provided as a part of development. The policy aims to provide a financial advantage to development involving affordable housing by providing for a greater development yield than for solely market housing. This greater development yield may help cross subsidise the affordable housing units.

For the incentives to apply the affordable housing is to be secured for a period of time through: covenants on land; negotiated agreements between the local authority and developer; or, provision by a government or not-for-profit housing entity. This approach is used in Brisbane and Gold Coast City Councils, in other jurisdictions, and is being considered for the emerging Logan Planning Scheme.

However, I argue there is a flaw in the logic of bonuses that may undermine their effectiveness. If a building of a certain height and density is appropriate/not appropriate in planning terms, it is appropriate/not appropriate regardless of the income level of the people inhabiting it; the question of affordable housing should be irrelevant. The policy appears to rely on making development decisions on the basis of non-development related matters. There is a significant risk this approach to providing for affordable housing may successfully be challenged and rendered ineffective.

### Requirements

An alternative to incentives is to provide specific requirements for affordable housing. This provides for the mandatory inclusion of affordable housing in particular circumstances; applicable development that does not provide the required affordable housing is to be refused.

This approach is not widely used in Australia. In Queensland, with the exception of particular entities such as the ULDA, it is not used. Further, local governments that have sought to include provisions in development plans to require affordable housing, have rightly had them removed by the State government on the basis that the Queensland planning system does not have the systems in place to adequately deal with it. However, in South Australia, the Government's Housing Plan provides for a target of 15% affordable housing in all significant new development. Supporting legislation has been enacted and systems have been put in place to deliver these targets through the planning system.

In the United Kingdom, affordable housing requirements have long been an accepted and significant part of the planning system. In Greater London, for example, the affordable housing provisions in the London Plan require 50% of major residential development to be dedicated as affordable housing. This is in addition to provisions providing for the increased supply of housing and an appropriate mix of housing stock to meet the needs of the area. The affordable housing generally is to be managed by registered social landlords (RSLs), which are not-for profit affordable housing providers. The housing is secured through a legal agreement that attaches to land and binds the local government, developer, and successors in title. The agreement requires the developer to transfer the affordable housing units to a RSL before occupying market units. This agreement needs to be in place before development approval is given.

The RSLs are regulated by central government and compete for central government funding. Developers reach a commercial agreement with a RSL for the transfer of the units. Generally, the payment the RSL makes to the developer will cover construction costs, meaning the developer would only generate a commercial yield from 50 units of a 100 unit development. However, the policy provide that if applying the full affordable housing requirement would render a development financially unviable, the affordable housing requirement may be lowered to an amount negotiated between the

developer and the local authority. This significantly complicates the development assessment process. Financial viability assessments and relevant experts become an increasingly important part of the development assessment and appeals process. Further, development approvals become susceptible to changed market conditions. However, the approach guarantees that affordable housing is secured in major development.

## **HOUSING COMPANIES**

The UK approach to delivering affordable housing relies on, among other matters, having a market of regulated not-for-profit affordable housing providers. Affordable housing companies are not-for-profit organisations dedicating to providing and managing affordable housing. Companies generally use income from rents to manage and maintain their properties and any surplus to finance further expansion. The companies are structured to be tax efficient and seek access to granting and funding when available. Property under the control of an affordable housing company is secured as affordable housing to be managed in accordance with the company's constitution and obligations under relevant legislation and/or supplementary funding agreements. Even if a particular dwelling is sold, the proceeds are to be reinvested accordingly.

There are a number of significant affordable housing companies being established. For example, the Brisbane Housing Company (BHC) is a success story in Queensland. It was established just over eight years ago in 2002 and has built an impressive development portfolio. At the end of last year it had developed over 1,000 units of accommodation, over 900 of which it continues to own and manage. It is on track to develop a further 550 units by 2012 and has submitted funding applications which, if approved, would see the company completing over 3,000 units by 2014.

Further, Logan City Council and the Queensland State Government are currently in the process of establishing the Logan Housing Company to provide affordable housing options in Logan. The company will be an independent entity and the equivalent of the BHC. Establishing the Logan Housing Company (LHC) is a key step in providing opportunities to deliver more affordable housing in the city that better meets the needs of residents. There is an increasing need for more housing that fills the gap between existing social housing and private market housing. Further in Logan City there is a significant amount of aged existing social housing stock that no longer meets current needs. There is a prime opportunity for the LHC to utilise these existing social housing assets, and regenerate them over time into modern, well planned communities with improved mixes of housing types and tenures.

## **OPPORTUNITIES**

There are opportunities to effectively deliver affordable housing through planning systems, if we choose to do so. However, we need to have directed policy and effective implementation mechanisms.

One of the most effective means of implementing affordable housing policies is by utilising the growing number of significant affordable housing providers, as an implementation mechanism, to secure affordable housing over time. Implementing affordable housing policies creates challenges in: defining affordable housing; determining who is eligible; and ensuring the housing is secured as affordable housing. In the absence of a managing entity the planning system will need to establish, maintain and enforce these criteria. Affordable housing companies provide an implementation mechanism that will secure the housing and manage it to ensure the housing is provided to those who are eligible over time.

Directly providing for affordable housing through the planning system ensures that affordable housing is delivered as development comes forward and encourages/requires developers to facilitate affordable housing within new development. It can provide a supply of affordable housing units for the not-for-profit sector to acquire and enable affordable housing providers and developers/builders to more effectively work together in partnership. Further, there are opportunities, particularly where changes to development plans significantly increase the development potential of sites, for requirements for affordable housing to capture some of the value uplift or development potential, to facilitate new affordable housing that is mixed with new market housing. However, direct policy to require affordable housing needs to be tempered and balanced by considerations such as the implications on matters of financial viability and the complexity of the development assessment process; the policy should not amount to a development tax.

## **CHALLENGES**

Currently in Queensland, and in most jurisdictions in Australia, the planning system does not provide a framework to adequately implement affordable housing policy. If affordable housing is to be addressed effectively through planning, planning systems need to be enhanced to provide a framework to facilitate affordable housing strategies. This requires the planning system to:

1. Clearly define the principles for what affordable housing is, as distinct from market housing;
2. Explicitly provide that provisions in development plans requiring the provision of affordable housing are lawful;
3. Provide for legal agreements that attach to land to secure affordable housing in perpetuity and regulate the terms on which it is provided;

4. Explicitly provide that regulated not-for-profit affordable housing entities are an acceptable means of securing affordable housing;
5. Support a network of affordable housing entities to provide the vehicle to deliver affordable housing in new development;
6. Ensure affordable housing policies adequately take account of issues such as financial viability and the complexity this might add to the planning process.

## **SUMMARY**

Affordable housing will continue to be an increasingly important issue. Planning has a significant role to play in providing for mixed and balanced communities with diverse housing options including more high quality affordable housing. However, we need to adequately define the principles of what constitutes affordable housing to ensure the planning strategies used to address it will be effective. Further, the planning systems need to be given the tools to implement effective strategies. As a part of this, planning should seek to utilise not-for-profit affordable housing providers as a vehicle through which affordable housing is delivered. This will provide an effective means for planning to deliver its affordable housing aspirations. To achieve this we need governments at all levels to work together to put in place the necessary mechanisms to allow affordable housing policies to be effectively implemented through planning systems.

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