THE McKELL INSTITUTE

Be the disruptor: Victoria's opportunity to up-end the property market in favour of fairness

Submission to the Victorian Legislative Council's Legal and Social Issues Committee Inquiry into the rental and housing affordability crisis in Victoria

July 2023

Dear committee members,

A game-changing policy direction is urgently needed to ease mounting housing affordability pressure. The situation has reached a fever pitch for homeowners and renters.

This crisis must be the catalyst for a fundamental shift in the rental and broader housing market through bold reform.

The McKell Institute has advocated for a fairer housing market since our landmark inaugural report, *Homes for All*, in 2012.[1] We continue to drive progressive policies for affordable and accessible housing and calling on all levels of government to shift levers within their powers.

This submission focuses on the state government acting as the disruptor our housing sector urgently needs.

Unpicking what is driving this crisis is complex, and likely to be controversial, but tinkering around the edges without overhauling policy settings will have little lasting impact.

Therefore, we implore the Committee to support moves to fundamentally shift the market.

We urge every member of parliament to recognises their role in pushing for change in a worsening housing system that is leaving more Victorians vulnerable.

The Andrews Government has a nation-leading track record in delivery and will leave deep imprints on Victoria from its social reforms and landmark infrastructure projects. The Government can fix the housing crisis by expanding on its social reform and delivery agenda.

By shaking up rental market ownership structures and investigating a range of supply and delivery models, the market can start to work for the people it is meant to house.

We look forward to collaborating with the Legal and Social Issues Committee and contributing productive ideas to deliver the housing security all Victorians have a right to.

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About the McKell Institute

The McKell Institute is an independent, not-for-profit research institute dedicated to identifying practical policy solutions to contemporary challenges.

www.mckellinstitute.org.au

Summary

The Legal and Social Issues Committee's Inquiry into the Rental and Housing Affordability Crisis in Victoria will investigate challenges facing Victorian renters and factors causing the rental and housing affordability crisis in Victoria.

Given the premise of this inquiry, we are acting on the presumption that there is broad agreement that Victoria is in the depths of a housing crisis. Therefore, this submission does not seek to quantify and define the problem.

This submission focuses on how the Victorian Government can be the disruptor – that is, how the government can use policy and legislative changes to shift how the rental and property markets operate to promote affordability.

We use the term housing affordability as a general term expressing housing costs in relation to household income. We use the term affordable housing as defined by the Australian Housing and Urban Research Institute (AHURI) as housing priced so that low to moderate income owners- both renters and mortgagees- can meet living costs without struggling. This is regarded as being about 30 per cent of household income.[2]

Part 1 of this submission examines opportunities for the rental market to be overhauled.

Part 2 of this submission outlines how the direction of planning in Victoria needs to embrace a multitude of solutions to increase supply, density, and promote affordability through increased housing options available to residents.

Key Points

1. The structure of our rental market ownership is skewed against renters.

2. The impact of negative gearing and self-managed super funds goes against their original intentions and are harming renters.

3. Short-stay accommodation has become more attractive to property owners than offering their properties on the private renal market, which must change.

4. There is room for substantial institutional investment into the rental market, which has the potential to deliver some equilibrium to the market.

5. Brownfield sites undergoing precinct planning must have stronger affordable and social housing requirements.

6. The Victorian Government has an opportunity for creating lasting change through optimising government-owned land.

7. “Not in my backyard” attitudes have stymied growth in urban areas ripe for infill development.

Recommendations

1. The short-stay industry must be regulated, taxed, and treated as commercial properties.

2. All tiers of government need to collaborate and regulate the short-stay industry so that landlords have a reason to offer their properties to the private rental market.

3. Surplus government-owned land needs to be investigated for its housing suitability first and foremost.

4. Government-owned land should stay in government hands, otherwise it is lost forever.

5. Victoria needs broader economic and planning measures that can deliver more homes, including a broader mix of partnership models and build-to-rent projects.

6. Incentives for developers to build amenities for public benefit in exchange for increased volumes must be implemented state-wide, and be a feature of newly planned precincts.

7. Capture the value gained from infrastructure development and rezoning uplift as a revenue stream for more social housing.

8. The government needs to shift public perception of density and build support for more development.

Part 1: Making the rental market work for renters

Key Points

- The structure of our rental market ownership is skewed against renters. Australia's landlord profile is far too narrow, with the majority of rental properties owned by private investors.
- The impact of negative gearing goes against its original intended purpose of encouraging more rental properties, and is instead harming renters.
- Short-stay accommodation has become more attractive to property owners than offering their properties on the private renal market, which must change.
- There is room for substantial institutional investment into the rental market, which has the potential to deliver some equilibrium to the market.

Rental market pressures make it harder for people on low incomes to have secure housing, for single-parent families to have long-term tenancies, for young people to live close to where they study, and for workers to live near their jobs- which has been well-documented in the media in recent years and a catalyst for this inquiry.

Victoria is not the only state under pressure- the rental market has tightened across the country. A rental vacancy of around 3 per cent is regarded as "balanced" – and Victoria's rental market has been 1 per cent or less for almost a year.

In Victoria, almost 30 per cent of households are renting from private landlords, 2 per cent rent public housing.[3] This is on par with the other states.

In June this year, the median weekly rent in Carlton was $750 per week, $650 in North Melbourne, $883 in Parkville.[4] The minimum weekly rate for a cleaner is $914. For a registered nurse with a masters degree, it is $1171 per week.[5] This is prohibitive for many nurses, cleaners, other essential hospital workers and students to live close to work and university.

Rents have risen because of rising interest rates and low stock availability. A contributing factor to the tight vacancies has been a rise in owners taking their property out of the private rental market, and choosing to rent to holiday tenants instead. The number of short-stay rental listings in Melbourne alone jumped 37 per cent in the 12 months to April this year.[6]

Nationally, 83 per cent of Australia's residential investment properties are owned by small-scale investors.[7]

There are only 1 per cent of property investors in Australia with six or more investment properties, and about 7 per cent who own three or more. Ownership of Australia's rental properties is concentrated in private ownership to small-scale investors.

Therefore, when we see an interest rate rise or regulations around rentals change, it is the majority of Australia's rental property ownership which is impacted. Any changes made to how the rental market operates must be done with this in mind. It is also why governments, state and federal, need to broaden the investor profile – so that renters aren't quite so vulnerable to a single pool of landlords.

Rent freezes and blanket rental controls have been found ineffective internationally and discourage landlords from keeping their property in the market and keeping it well-maintained. As AHURI notes, research done to date is based on econometric studies of measures after their introduction, specific to each case. [8]

Research investigating the impact of rent measures in the US show there is indeed a positive for renters who are not unfairly displaced, however there have tended to be negative broader market impacts. [9]

It would be prudent for the Victorian Government to monitor the Canberra model, which limits how much the rent can be increased each year to CPI plus a maximum of 10 per cent[10] and consider a similar limit in line with other measures to increase the amount of rental stock available.

Regulating short-stay accommodation would encourage existing housing stock to be added to the rental market and have a positive short-term flow on effect.

The taxpayer-subsidised move from tenants to holidaymakers

Negative gearing was designed to keep landlords in the private rental market regardless of weekly or monthly rental prices. Investors were guided by capital gains and long-term rental yields, making investment property ownership attractive in places with low asking rents.

These days, for landlords, short-term renting is a more attractive than long-term leasing. Weekly asking rents are higher for short-stays. The landlord can make money off their own holiday home, staying there themselves when they choose. They can renovate, and deduct the cost from their tax bill. There is greater flexibility to increase asking prices in line with market demand. Interest rate rises can be covered through higher rents and can also contribute to an overall saving at tax time through negative gearing.

Under Australia's taxation laws, landlords can claim a number of rental expenses as deductions. Rental properties are "negatively geared" if the expenses are more than income earned. Deductions can include:

- Net rental losses
- Interest on loans
- Capital works and renovations

One of the country's highest-profile tax advisers explains all the different deductions a short-stay landlord can claim on their website, from furniture and appliances, the mortgage, rates and utilities, insurance, right down to professional photography for the listing and food such as "breakfast provisions" for the guest.[11]

Property managers, cleaners, linen providers, real estate photographers, florists, interior decorators, gardeners are just a few of the business owners advertising their services to short-term landlords by highlighting their services as tax deductions.

Post-pandemic, more people have chosen to live outside of major cities where the cost of housing has become prohibitive. We have seen more people moving outside of inner city areas. People who bought investment properties when interest rates were at record lows are now incentivised through higher weekly takings from short-stays, and through the taxation system to negatively gear.

The AirBnb CEO and founder made headlines when he said that his internationally successful short-stay platform had evolved well beyond his original intention. Originally it was for people to rent a spare room from each other. It has morphed into something quite different. "It wasn't about empty homes, it was about people staying with each other… if I could do it over again, I would hold on to those values."

In regional areas, AirBnbs amounts for one night are on par with a week's rent to tenants on the private rental market.

Internationally, many cities with rising rents and low vacancies have regulated short-stay accommodation. Some use a licensing system, or encourage longer-term leasing by banning short-term rental agreements.

Short-stay accommodation has been regulated since 2014 in Paris. Primary residences may be rented for up to 120 days per year, anything more than that attracts fines. This model has allowed people to rent out their properties when they are on holidays themselves, in keeping with the original intentions of AirBnB.[12]

The spike in properties being used short-term accommodation is only one factor constraining the rental market. But it is grossly unfair that holiday accommodation is allowed to flourish without restriction from any level of government in Victoria.

Case study: Ballarat's rental market
At the time of writing, in June 2023, the median weekly rent for a house in Ballarat was $420[13] and the vacancy rate was about 1 per cent. Real estate agents were reported in the media as having unprecedented crowds flock to inspections.[14] Midweek AirBnb rates for a three-bedroom home around central Ballarat, outside of the school holidays, ranged from $270 to about $420 a night, with a few high-end properties charging $700+ per night. An AirBnb search for a week-long stay in Ballarat for two adults and two children yielded 193 properties ranging from $740 a week to $2200.

Part 2: Optimising the planning and development system

Key Points

- The planning scheme is the heaviest lever a state government has for driving social and economic change through the built environment.
- There is a growing appetite for institutional investment into build-to-rent projects.
- The government's own land sales process is focused on revenue, not housing provision, which is a lost opportunity.
- Victoria's Big Build infrastructure program offers opportunities for value capture and major increases to housing supply in precincts around major projects.
- Building support for density means bringing the community onboard, rather than setting up lengthy and expensive planning disputes.

The state government has levers to pull

Planning policy levers which can influence housing provision across Melbourne include, but are not limited to:

- Inclusionary zoning
- Developer benefit and trade-off schemes
- Brownfield and infill development
- Density targets
- Value capture, particularly around new transport infrastructure

Fiscal levers which can be changed and considered include, but are not limited to:

- Creating a portable bond system for renters
- Shifting to a broad-based land tax
- Low-interest loans to housing providers and developers
- Build-to-rent schemes

An even bigger build for Victoria: how infrastructure delivery can fund housing

Under a joint property development model, major residential, commercial property developments are constructed in exchange for building station precincts, using the air rights or surrounding land.

Internationally, joint property developments have delivered new railway station precincts in densely populated cities, such as Hong Kong, Tokyo, and Singapore. Melbourne Central is a good example of how this has already worked in Victoria.

While our population and rail network are much smaller, the Suburban Rail Loop offers similar opportunities.

Value capture represents one of several development models available when significant economic gains can be achieved through infrastructure construction. State governments and councils can also employ planning regimes as an alternative method. Offering planning approval as an incentive can be a powerful tool for persuading private developers to either undertake construction themselves or provide funding for new infrastructure projects.

The politics surrounding value capture can be complex.

Communities often resist high-density development vehemently, with little acknowledgment that low-density housing impedes effective public transportation. Consequently, the success of value capture heavily relies on the government's ability to persuade the community that high-density development is not only beneficial but also necessary.

The government's own backyard

The government has worked on a model of demonstrating values from the sale of surplus land based on how much money can be made. Government agencies, such as VicTrack, have key performance indicators for their land sales, and their land sale program focuses on sites able to attract the highest revenue.

Similarly, the Commonwealth's Property Disposal prioritises sale of surplus land based on monetary value. The federal policy states that land for suitable housing "should include affordable housing initiatives, such as inclusionary zoning, where practical", however there is no impetus for land to be proactively identified for housing under the policy.[15]

While this may represent a good quantitative return for the taxpayer, this is a lost opportunity and shows that despite some changes in the last decade, the existing government land management system lacks a strategic direction delivering for Victorians.[16]

While the Department of Housing's land sales system allows revenue raise through land sales to be redirected to new public housing stock, a more sophisticated version that is part of whole-of-government land strategy focused would provide greater benefits.

Victorian government agencies are required to offer land to other government agencies – council, state and federal – on a first right of refusal basis, and if it is not bought, it can be offered to the commercial market.

State government departments are responsible for the management and auditing of their own land and Land Use Victoria oversees the first right of refusal process.

The government does own land which is not 'vacant' but is delivering negligible community benefit and may offer opportunities for development. For example, properties along rail and road corridor that have low-grade commercial properties with tenants paying market rent that would be much better used for future housing development.

Detailed recommendations

1. The short-stay industry must be regulated, taxed, and treated as commercial properties.

All tiers of government need to collaborate and regulate the short-stay industry so that landlords have a reason to offer their properties to the private rental market.

This approach will address issues and boost rental supply, fostering a balanced and sustainable housing market.

The number of nights per year owners can rent out their properties. Properties exceeding this limit should be classified as commercial residential premises, regulated, and taxed accordingly.

Victoria needs a comprehensive framework involving local governments and reforms in planning and consumer affairs legislation to regulate short-stay accommodation.

This has been done in many cities all over the world, so that housing markets are not operating unfairly against locals.

2. All tiers of government need to collaborate and regulate the short-stay industry so that landlords have a reason to offer their properties to the private rental market.

The McKell Institute has long called for an end to negative gearing. Unfortunately, it is not the policy of the current Federal Government to scrap the measure. However, public sentiment is shifting and the housing crisis is building anger that taxpayers are supplementing second and subsequent properties.

Given the impact short-term accommodation and empty properties have on overall affordability, it is not acceptable for taxpayers to contribute to their ownership or upkeep.

Scrapping negative gearing on short-term and empty housing would disincentivise owners who are choosing not to put their properties into the rental market. It would also deliver savings to the Commonwealth budget.

This recommendation has made it into this Victorian-based submission because it is critical for making the rental market fairer. Real progress can be made nation-wide if we have all levels of government doing that they can and calling on their interstate, council and federal counterparts to join this effort.

3. Surplus government-owned land needs to be investigated for its housing suitability first and foremost

The *Victorian Budget 2023/24* has flagged a new approach to land use planning, paving the way for increased density and optimising under-used government-owned land.[17]

The McKell Institute Victoria welcomed investment into the Land Coordinator General function, based in the Department of Premier and Cabinet, to expand and develop a new government-owned land database.

The office of the Land Coordinator General must be charged with identifying land suitable for housing as a priority, above selling land for the highest price.

Surplus land previously acquired for infrastructure projects is a prime example of the opportunities available.

4. Government-owned land should stay in government hands, otherwise it is lost forever.

We urge the Victorian Government to retain ownership of land ripe for housing and enter into leasehold agreements with institutional investors and the community and social housing sectors.

Once public land is sold off, it's out of the people's hands forever. Optimising surplus or under-used government land is a rare chance to boost housing supply while keeping public land in public hands.

5. Victoria needs broader economic and planning measures that can deliver more homes, including:

- A broader mix of models developed in partnership with government, which could include drawdown and ongoing covenants, development to investment loan facilities and non-bank lending.
- Built-to-rent projects, and build-to-rent-to-buy developments. The United Kingdom's build-to-rent model shows how working with the private sector and financiers gives government the opportunity to increase development without taking on lending risk.
- Joint property developments that deliver social and affordable housing with infrastructure projects. Partnerships that deliver residential and commercial properties close proximity to train stations offer long-term benefits, encouraging more residents and employees to use the facilities, thus allowing transport projects to achieve greater efficiencies through economies of scale. See case study below- Funding development through infrastructure

6. Incentives for developers to include amenities offering public benefit in exchange for increased volumes needs to be standard across Voictoria's planning scheme, and be a feature of newly planned precincts.

The Victorian Government worked with the City of Melbourne to gazette the central city planning provisions in 2016, which included provisions for developers wanting to build above and beyond the prescribed rules. A developer may negotiate building beyond the plot ratios specified for most of the Hoddle Grid if their project offers a public benefit, such as open space, childcare, laneways or affordable housing.[18]

This model should be expanded by working with councils, who could determine the community benefits needed and the instances where a developer can propose an outcome which delivers a higher development yield.

This approach has the added benefit of requiring delivery when the project is constructed and has capacity to encourage community support for new developments.

7. Capture the value gained from infrastructure development and rezoning uplift as a revenue stream for more social housing.

Fishermans Bend is Victoria's best example of why land rezonings should have a windfall gains tax attached, after values soared to more than three times their value from the stroke of the then Minister for Planning's pen.[19]

Victoria now has a windfall gains tax where land values increase following a rezoning.[20] However, this should be revisited to capitalise on property value increases from major infrastructure projects for properties that record a value increase beyond a specified threshold amount. See case study below- London Crossrail.

8. The government needs to shift public perception of density and build support for more development.

New development around well-serviced inner urban areas will continue to face ongoing opposition from the public, councils, and unmanageable caseloads for VCAT without work from government to build public support.

The City of Vancouver is an example of a city that incorporated consultation and work to build public support as part of a suite of planning reforms to improve housing affordability through increased supply. See strategic planning case study below, the City of Vancouver's 'housing reset'.

A new housing affordability plan needs to be a part of the broad and ongoing consultation underway across the major transport infrastructure projects.

For example, the North East Link Authority conducted early consultation and drop-in sessions in 2018, years before construction began, which drew more than 2500 people. These sessions outlined the route, tunnelling options, freeway upgrades and urban design concepts. More than 100 meetings were held with community groups, sports clubs and schools.

The North East Link sessions gave people face-to-face interaction with engineers, urban designers, noise experts, traffic modellers and infrastructure planners. Local Members were involved in the sessions, talking to residents about their concerns.

Similar consultation is happening from the early stages of project planning across our major projects and is now underway for the Suburban Rail Loop.

A concise housing strategy, which includes value capture measures around our major projects, should be a central part of planning work for new major infrastructure projects.

This would provide opportunities for housing gains to be a point of early engagement with residents, community groups and businesses. Housing staff would ideally be on hand to talk about future housing development which could be built around the new major infrastructure projects.

Public engagement is already happening. We need to make affordable housing part of it.

Case studies

Partnerships case study: Funding development through infrastructure

Unlike most railways in the Western world, Hong Kong's Mass Transit Railway Corporation (MTRC) operates without government subsidies and is self-funded.

The funding for the Hong Kong rail system comes from rent paid by tenants and property development, making the MTRC an incredibly successful real estate business.

Established in 1975, the MTRC profits doubled from property operations between 1998 and 2013, surpassing the initial investment made in railways.

Its network is 218.2 km, with 84 stations and 68 light rail stops, and the MTRC has collaborated to development shopping malls around 12 of its stations. The MTRC Corporation receives a share of the mall profits, which then reinvested into the network.

While Hong Kong's population and density is obviously far greater than Melbourne's, its success over the past 48 years is why similar opportunities should be explored for the Suburban Rail Loop.

Co-developing land in conjunction with delivering the Suburban Rail Loop stations would provide increased housing around new stations as they are being delivered, generating efficiencies for the rail project, suburban economies and the housing market.

Value capture case study: London's Crossrail

The London Crossrail project has been partially funded through a value capture tax on commercial landlords along the 100-kilometre rail corridor.[21]

The project was the biggest upgrade to the UK's rail network in more than 70 years and will accommodate 200 million passengers on the Elizabeth Line, running from Reading and Heathrow in the west, through central London, to Shenfield and Abbey Wood in the east.[22]

The new line delivered significant uplift to property values. Construction commenced following the project's receipt of royal assent in 2008, coinciding with a notable surge in office rents in Shoreditch and Clerkenwell, skyrocketing 123 percent. Paddington rents comparatively rose 45 percent in the same year.[23]

The Greater London Authority introduced a business rate supplement on commercial properties.

The project was forecast to deliver an extra 10 per cent capacity for London's rail network and contribute £42 billion to the UK economy over the next 60 years, after costing an estimated £19 billion - well above the initial £14.8 billion budget.

Of the 41 stations along the Elizabeth line, 10 were newly built, and that's where the most substantial property value increases have been recorded. Residential properties were exempted from this levy, but it is worth noting home values were projected to rise at a minimum of 13 per cent along the rail line.

There was also a small levy on organisations that will directly benefit from the project, such as Heathrow, City of London and the Canary Wharf Group, and a contribution from developers working on regeneration projects in London through a special levy.

Strategic planning case study: The City of Vancouver's 'housing reset'

Internationally, Vancouver is regarded a leader in planning- largely thanks to its density around infrastructure.

Vancouver, the biggest city in Canada's British Columbia Province, has a broader metropolitan population projected to be about 2.8 million by the end of 2023. From around 2014, the city had been regarded as having a housing "crisis", resulting in the need for broad strategic change through major policy intervention.[24]

The City of Vancouver's Housing Vancouver strategy, released in 2018, is a 10-year plan based on three main targets:

1. Addressing speculative demand and creating the right supply
2. Protecting existing affordable housing
3. Support for vulnerable residents

This is to be achieved through a range of levers, designed to cumulatively shift the market. This included a rezoning policy, rental incentive programs, inclusionary zoning, and value capture programs which have density targets.

Vancouver's policy goals have included an emphasis on measurability. Annual report cards and data books are released each year. Clear targets are set for the public and private, residential and commercial markets. A regular bulletin outlining density bonus contributions is released.

Before Vancouver shifted planning policies towards urban densification, Vancouverites historically valued the large family home the same way Melburnians- and Australian families- largely do. Over time, Vancouverites were able to move beyond viewing density as the enemy.

The City of Vancouver worked to demonstrate to the public how low-density neighbourhoods were unsustainable and unaffordable, and that increasing supply and bringing different types of housing to these areas was critical. The city then got to work increasing density in these areas, in line with the rest of the city.

More than 2400 visited the City of Vancouver's online discussion forums into housing affordability, more than 400 people joined in workshops. A two-year 'housing reset' process public engagement and research identified how affordability could be tackled, which informed recommendations for innovation and partnerships.[25]

Vancouver’s broader urban density is about 2400 people, this jumps to 5740 people per square kilometre around the inner city.[26] Melbourne’s density is about 500 people per square metre.

The density difference between Vancouver and Melbourne is a marked difference in how these cities have been planned. Housing-related policies spark concern among existing residents- while most people theoretically approve of affordable housing, they simply don’t want extra housing around them.[27]

Any major change in planning policy draws significant scrutiny. A policy shift needs substantial stakeholder engagement, which the Vancouver model also offers.

A similar approach in Victoria to bridge the gap between housing need and supply, and to deliver more housing options- particularly through increased density and build-to-rent.

Vancouver's density offers a blueprint for building more housing in Melbourne given how much further our urban growth sprawls.

Plan Melbourne specifies maintaining low-density development in specified areas which retain neighbourhood zoning, and this is a key difference between the two policies –which must change.

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