

# LEASING LAND OR DWELLINGS

## A model to deliver Affordable Housing



Photo courtesy of Haven Home Safe

### OVERVIEW

- **Leasing land (council land or private entity owned land)** provides the Registered Housing Agency with rights to develop and use the land. The Registered Housing Agency will need to secure funding and financing for the development and manage costs over time.
- **Leasing dwellings involves a private entity landowner** building the dwellings, then appointing a Registered Housing Agency to manage the leasing of the Affordable Housing dwellings, or directly managing the leasing of the Affordable Housing dwellings.
- **At the end of the lease term**, the Registered Housing Agency may be responsible for terminating tenancies / handing back vacant properties, subject to Residential Tenancy Act regulation.

### KEY STRENGTHS

- Supports Affordable Housing where land or dwelling cannot be gifted or sold to a Registered Housing Agency.

### KEY WEAKNESSES

- Requires consideration of responsibilities and risk over lease term, and in relation to tenancies at end of lease period.
- Can impact on feasibility as Agency is unable to use the land to secure finance.
- Leasing of land is generally not a high priority model for Registered Housing Agencies due to the time-limited nature and inability for the Agency to use the land to secure finance. However, it may be attractive in scenarios where the site is very well located and will support a reasonable amount of Affordable Housing supply relative to resourcing and effort.

CHIA Vic has developed two template lease agreements - an [agreement for lease template](#) and a [head lease template](#). Both templates are available on the [CHIA Vic website](#).

## LEASING COUNCIL OWNED LAND

- Leasing land to a Registered Housing Agency at a below market return, including at a 'peppercorn' or nominal rate (i.e. \$1 per year).
- A council can enter a lease for up to a maximum term of 50 years<sup>1</sup>.
- At the end of the lease term, the land, and depending on the terms of the lease, any assets constructed or brought onto the land revert to council control or must be removed from the land, unless a new lease or a sale agreement is reached.
- It is not feasible to lease 'air rights' of vacant space above a council lot, as the Registered Housing Agency cannot develop this space in isolation from council's land use.

<sup>1</sup> Section 115 of the *Local Government Act 2020*



Landowner:  
Council



Level of resourcing  
to implement:  
High level resourcing  
the first time the model  
is applied by a council

### BEST SUITED TO SCENARIOS WHERE:

- Council's key objective is to retain the asset.
- Council has multiple assets, and other models (such as gifting) are not feasible and/or are not acceptable to the community.
- Sites where the transfer of title would be complex (for example, where community facilities to be owned by council will be delivered on site).
- There is reasonable expectation the land will be required for another purpose at a future point.

Check out the full report *Options for Delivering and Securing Affordable Housing on Local Government Land* to learn more about leasing council land for Affordable Housing, including a case study example.

## LEASING LAND OR DWELLINGS THROUGH THE PLANNING SYSTEM

- At the end of the lease term, the land, and any assets constructed or brought onto the land, revert to full landowner control.
- Detailed consideration of the lease terms is required, including what discount to rent will be provided.
- More complex arrangement to structure and assess and requires detailed consideration of terms of agreement and ongoing management.

### LEASING DWELLINGS

- Leasing dwellings enables an Affordable Housing contribution in Build-to-Rent (BTR) developments where dwellings will be held in single private ownership, or when the requirement for Affordable Housing in the building is short-term.
- Leasing dwellings requires careful consideration of different management arrangements:
  - **Registered Housing Agency management provides the highest level of assurance** to council that outcomes will be appropriately managed and allocated to households in need.
  - **Private real estate agent** management will likely require council to implement and monitor a mechanism (e.g. Section 173 Agreement) to ensure appropriate use and compliance over time. Currently there is no regulation of privately owned and managed Affordable Housing tenancies other than under standard Residential Tenancy Act requirements.



Landowner:  
Private entity



Level of resourcing  
to implement:  
moderate to high

### KEY STRENGTHS OF MODEL

- Provides Registered Housing Agency with access to land or properties to manage without needing to source funding or financing to acquire land if land is leased, or develop housing if dwellings are leased.
- Supports Affordable Housing when gifting is not feasible due to the number of dwellings desired by council to be delivered as Affordable Housing.

### KEY WEAKNESSES OF MODEL

- Reinvestment of contribution in Affordable Housing, or the municipality, at the end of the lease term is not realised.

Check out the full report *Options for Delivering and Securing Affordable Housing Through the Planning System* to learn more about providing a planning system Affordable Housing contribution by leasing land or dwellings, inc. a case study example.