

7.1.11 HOUSING PROPOSAL - 65A POWER AVENUE, CHADSTONE

Responsible Manager:	Mark Gibson, Manager Property and City Design
Responsible Director:	Peter Panagakos, Director City Development

RECOMMENDATION

That Council

1. **Notes the recent letters received from HousingFirst Limited (HousingFirst) advising Council that they are unable to proceed with the Agreement to Lease and Lease for Council's land at 65a Power Avenue, Chadstone for the provision of social housing (Proposal) as a result of inadequate funding being available from the State and Federal Governments;**
2. **Notes that HousingFirst have proposed three alternative options for the Proposal, as included in Attachment 2, to proceed:**
 - a) **Transfer ownership of the land to HousingFirst upfront.**
 - b) **Council make a contribution to the cost of developing the site.**
 - c) **Council waives the planning requirements to increase yield, and reduce development contributions in lieu of delivery of social and/or affordable housing;**
3. **Resolves that the alternative options as outlined above by Housing First are not viable and acceptable and vary significantly from Council's intent, previous resolutions and conditions for the Proposal;**
4. **Directs the Chief Executive Officer or her delegate to write to HousingFirst to advise them that Council is unable to agree to their proposed alternatives for the Proposal and that Council will not proceed with the Proposal;**
5. **Directs the Chief Executive Officer or her delegate to write to local Members of Parliament, State and Federal Ministers and other policymakers, including both the State and Federal Ministers for Housing to express Council's disappointment in the funding criteria changes which have resulted in the Proposal no longer being viable and to ask the Ministers how they intend to support Social Housing Proposals on leased land.**

INTRODUCTION

This report provides an update on the social housing proposal on Council's land at 65a Power Avenue, Chadstone (Proposal), particularly the recent communications received from HousingFirst Limited (HousingFirst). HousingFirst have advised, that they are unable to proceed with the agreement to lease and lease as contained in Council's initial Expression of interest proposal. This is mainly due to changes of the funding models introduced by State and Federal Governments, HousingFirst have requested significant changes to the Proposal.

This report includes a recommendation that Council's Chief Executive Officer or her delegate write to HousingFirst to advise that Council are unable to agree to their proposed alternatives and writes to local Members of Parliament, State and Federal Ministers and other policymakers, including both the State and Federal Ministers for Housing to express Council's disappointment in

the funding criteria changes which have resulted in the Proposal no longer being viable and to ask the Ministers how they intend to support Social Housing Proposals on leased land.

BACKGROUND

At its meeting on 31 October 2023, Council received a report from the Committee of Council established to consider submissions on the Proposal and resolved (among other things) as follows:

“...3. Accepts the Committee’s recommendation to direct Council’s Chief Executive Officer or her delegate to proceed to negotiate an agreement to lease and lease with HousingFirst Limited for the provision of Social Housing for part of Council land known as 65A Power Avenue, Chadstone.

4. Notes that the negotiations referred to in Item 3 above will include:

a. Seeking the changes to the proposal to lease from HousingFirst Limited as resolved by Council at Item 5 of its 25 July 2023 report on this matter; and

b. The terms and conditions as resolved by Council at Item 6 of the same 25 July 2023 report.

5. Having complied with its obligations under Section 115 of the Local Government Act 2020 and Council’s Community Engagement Policy, authorises the Chief Executive Officer or her delegate to sign all documentation required to effect the agreement to lease and lease with HousingFirst Limited for the provision of Social Housing for the Land.”

Following the above resolution, officers wrote to HousingFirst Limited informing them of Council’s decision and on completion of the proposed documentation for an Agreement to Lease and Lease, these were sent to Housing first in January 2024.

It was some time before HousingFirst responded to the lease documents.

On 21 June 2024, officers received a letter from HousingFirst (**Attachment 1**) informing us that they will be unable to proceed with the Project under the proposed lease model. This letter advised that they did not consider the lease model financially viable due to “the current funding and macro environment and the lack of available capital funding grants”.

Officers sought further clarity from HousingFirst, who responded with a second letter on 27 June 2024 (**Attachment 2**), which broadly outlined the changes introduced by the State and Federal Governments relating to funding provided to Registered Housing Providers for delivery of social housing.

Given their inability to proceed with the Agreement to Lease and Lease on the current basis due the funding changes, HousingFirst proposed in their second letter a number of alternatives to enable them to proceed with the Proposal. These are discussed below.

DISCUSSION

Proposed Alternatives

The three alternatives proposed by HousingFirst are as follows:

1. Transfer ownership of the land to HousingFirst upfront.
2. Council make a contribution to the cost of developing the site.
3. Council waives the planning requirements to increase yield, and reduce development contributions in lieu of delivery of social and/or affordable housing.

These proposed alternatives are not considered viable and are beyond the scope of Council's intentions for the Proposal. Officer responses to these alternatives are provided below.

Officer Response to Alternative 1 - Transfer ownership of the land to HousingFirst upfront

Since the planning stage of the Proposal, it has never been Council's intention to transfer its land to a Registered Housing Provider and Council's planned contribution to the Proposal has always been in the form of a peppercorn lease agreement.

Council's intentions have been clear right from the start, as is reflected in all of Council's resolutions on this matter and detailed in the Expression of Interest (**EOI**) documents on the Proposal. This option is a significant departure from Council's original EOI and the Proposal.

Whilst, in a practical sense, the long-term lease model of the Proposal could be seen as not much different to a transfer of the land, any transfer would be considered a sale under the Local Government Act 2020 (**LGA**) and would therefore require Council to initiate a new process based on this request and comply with the LGA statutory requirements, including the community consultation process.

Council would also need to understand its position in relation to transferring land below market value. Notably, Council whilst seeing great benefit in the Proposal, has always placed an emphasis on the importance of maintaining ownership of the land.

Officer Response to Alternative 2 - Council make a contribution to the cost of developing the site.

The Monash Affordable Housing Strategy (**Strategy**) speaks to a number of strategies to facilitate affordable housing, such as Council making contributions in the form of providing land. However, the Strategy does not provide for financial contributions from Council towards developments. As discussed above, Council's contribution towards the Proposal was always intended to be in the form of the long-term lease of the land to HousingFirst.

As with Alternative 1, this is a significant departure from Council's intentions for the Proposal and would require Council to initiate a new process, in addition to first understanding what elements would be involved in such a process, including costs and risks. Further, such funding is considered to be within the responsibilities of the State and Federal Governments.

Officer Response to Alternative 3 - Council waives the planning requirements to increase yield, and reduce development contributions in lieu of delivery of social and/or affordable housing.

It is unclear as to what increase in yield or waiver of planning requirements HousingFirst are seeking or how agreeing to waivers of planning requirements addresses their issue of ineligibility for State funding.

The impact of building design, building height and development yield occurs regardless of the end-user or tenant of a development. Whilst there is some scope in the planning system to reduce provisions (such as car parking), based on the likely tenants for this development, exemptions from the applicable planning requirements in order to increase the financial viability or yield is not appropriate. It should be noted that at present there are no development contributions payable for development in Monash.

In addition, Council has already resolved on certain design requirements for the Proposal enforced through the lease agreement. As with the other two alternatives proposed, this option is not in-line with Council's intentions for the Proposal and would require the initiation of a new process. Council has also always sought to impose any necessary restrictions in consultation with the community to ensure that any development of the land was considered appropriate beyond just the normal planning restrictions, particularly as Council was allowing a development to occur on its own land and can control such matters.

Social Housing in Monash

As advised by HousingFirst, changes to the funding models mean that the Proposal is no longer viable. These funding models and the associated criteria are administered at both State and Federal levels and it is disappointing that these changes have clearly not considered impacts to social housing proposals on leased land. Council should seek further clarity on this decision and inform the State and Federal governments how this change has impacted Council's ability to deliver social housing in Monash.

POLICY IMPLICATIONS

Council has made a number of commitments to advocate for an increase in social housing and affordable housing supply in Monash as well as the broader East and South-East region, including the following:

- Monash Social Housing Framework 2020 – 2025;
- Regional Local Government Homelessness and Social Housing Charter 2020;
- Monash Affordable Housing Strategy;
- Monash Open Space Strategy 2021; and
- Municipal Health and Wellbeing Plan 2021–2025.

SOCIAL IMPLICATIONS

The Proposal sought to address the growing concern among the community for additional social housing to address homelessness, as well as deliver upon Council's commitment to address the

significant shortfall of social housing by contributing to improving the health, wellbeing and safety of people experiencing homelessness in Monash.

CONSULTATION

Council has completed two rounds of consultation in relation to the Proposal, both on the EOI and the Agreement for Lease and Lease with HousingFirst.

There is no further consultation required given that Council is not making a decision on a new or amended proposal and is acknowledging that the development as originally proposed is unable to proceed.

HUMAN RIGHTS CONSIDERATIONS

Housing is a basic human right. The lack of access to appropriate and affordable housing may impinge on many human rights that are protected under several international treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. These rights include the right to:

- an adequate standard of living
- privacy
- social security
- education
- freedom from discrimination
- to vote
- liberty and security

FINANCIAL IMPLICATIONS


The initial Proposal was cost neutral for Council, with the provision of land being the extent of the contribution. Council was due to receive a nominal annual rent payment of \$1.00 from HousingFirst and they were responsible as Lessee for constructing a development for the provision of social housing and also the payment of all outgoings associated with the land.

The alternatives proposed by HousingFirst for the Proposal could result in a financial contribution from Council. Further investigations would be required to determine the extent should Council wish to proceed with the alternatives.

There are no financial implications for Council if the Proposal does not proceed and the land remains as is.

CONCLUSION

Council is unable to proceed with the Proposal based on the alternatives proposed by HousingFirst. The report recommends that Council writes to HousingFirst to advise them of



Councils position on the matter, as well as writing to the State and Federal Governments to advise them that changes to the funding criteria have resulted in the Proposal no longer being viable, and how the provision of social housing on leased land may be supported and provided.

ATTACHMENT LIST

1. First Letter to City of Monash regarding the Proposal [**7.1.11.1** - 1 page]
2. Second Letter to City of Monash regarding the Proposal [**7.1.11.2** - 4 pages]



Stefan Van Vuuren
Acting Property Co-ordinator
Property
City of Monash

Via email

21 June 2024

Dear Stefan,

Re: 65A Power Avenue Lease and development

Regarding the Expression of Interest for proposed leasehold arrangements at Power Avenue, unfortunately, we are unable to proceed with the proposed leasing structure.

After careful consideration we have concluded that, given the current funding and macro environment and the lack of available capital funding grants, the leasehold structure is no longer financially viable, despite its significant social amenity merits.

We appreciate your understanding with the above matter and value our long-standing relationship with the City of Monash. Should Council wish to revise the proposed leasehold structure, we remain open to revisiting this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Clive".

Clive Bowden
Acting CEO

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HousingFirst Ltd. ABN 13 116 093 004 | Trustee for Port Phillip Housing Trust. ABN 19 604 981 200



27 June 2024

Monash City Council
295 Springvale Rd, Glen Waverley
VIC, 3150

Attention: **Stefan Van Vuuren - Property Team Leader**
Email: stefan.vanvuuren@monash.vic.gov.au

Dear Stefan,

RE: COUNCIL LEASE AGREEMENT, FOR THE 65A POWER AVENUE, CHADSTONE

Following my letter dated June 21, 2024, I acknowledge your request for additional details regarding why the project, under the lease structure, is not currently considered feasible for developing social housing at 65A Power Avenue, Chadstone. We are pleased to provide further information and confirm that, for the reasons outlined below, we do not believe we can proceed with the project without change to the previously agreed terms. To aid our explanation, we have included a diagram (Attachment 1).

To deliver new social or affordable housing, the rental income from social or affordable housing renters does not cover the operating costs and project development costs. Therefore, a subsidy is required to fund the gap, to make these projects feasible regardless of their location, typology, and scale.

The government funding rounds released in late 2023 and early 2024 at both the State and Federal levels for social and/or affordable projects were 'availability payment' based (an annualised per dwelling subsidy paid on occupation for a term of 25 or 30 years) as opposed to 'capital funding' based (lump sum funding upfront, or during the construction of the dwellings). Capital Funding is now almost exclusively being used for Regional Funding (where economics of social and affordable housing development are more challenging) and for the delivery of small projects (usually less than 10 dwellings).

Unfortunately, the availability payment funding model (explained below), combined with higher borrowing costs, the significant escalation in construction costs since our agreement and the requirement for cross-collateralisation of project debt on leased land, has made it unfeasible for HousingFirst to proceed with the project under the current conditions (see Attachment 1 for a

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summary of these factors). We do not anticipate these conditions changing sufficiently in the foreseeable future to make the Power Avenue project viable unless Council could consider the following:

1. Transfer of ownership of the land (upfront);
2. Contribution to the cost of developing the site to significantly reduce the cost to HousingFirst and Government;
3. Waivers under the planning requirements to increase yield, and reduce development contributions in lieu of the delivery of social and/or affordable housing.

Key Issues:

- **Availability Payments vs. Capital Grants:** Unlike capital grants, which provide upfront project funding, availability payments from the government are spread over time (e.g., a 30-year operating timeframe) and necessitate borrowings by the Community Housing Organisation (CHO) to cover all project development costs (e.g., design, planning, and construction). While the subsidy generally covers the development and operating costs, this creates a significant financial liability from the outset for HousingFirst, as the CHO, which must fund the development phase and repay the debt over the lease period. This financial burden can be mitigated and the project made feasible if the financing structure is optimised through an ownership structure. Developing on leased land complicates this further, as outlined below.
- **Current Funding Programs:** Examples of availability payment funding include the Housing Australia Future Fund (HAFF) by Housing Australia and the Build and Operate Program (BOP) by the Victorian State Government. The only capital funding available under these programs is allocated to projects in regional and remote areas, or under circumstances where projects have unique needs that justify limited capital provision. Based on our assessment of the funding criteria for both State and Federal schemes, the Power Avenue project does not meet either of these criteria. In previous BOP rounds, such as Rapid Grants, capital funding was available for general social housing projects. When we submitted the Expression of Interest (EOI) for this project, we assumed such funding might continue, or that HAFF would adopt a capital funding model. However, this has not been the case, despite HousingFirst successfully securing capital funding for several projects.
- **Lending Challenges with Leased Land:** As mentioned above, securing lending over leasehold land presents additional difficulties for CHOs seeking low-interest loans from providers such as Treasury Corporation Victoria or Housing Australia's Affordable Housing Bond Aggregator. Significant lending, typically around 90% of the project's development costs, is necessary under the availability payment model. However, lenders require additional security beyond the leasehold, as they do not accept leaseholds as primary security. This requirement necessitates additional security over other assets in the CHO's property portfolio, further complicating the financial structure of such projects. Should a lender be able to securitise the land under an ownership model, this can be mitigated depending on the value of the land.
- **Value Concerns:** Under the conditions of the Council lease, at the end of the lease term, the land and buildings are returned to Council with significant residual value. Effectively, HousingFirst is funding a development, taking all operational risk (income and cost) with no residual value from an asset perspective at the end of the lease, despite its significant local community benefit and investment of large amount of funds (upwards of \$45m or \$865k per

unit where market dwellings can currently be acquired for in the range of \$500k - \$700k). Furthermore, developing on leased land prevents HousingFirst from leveraging the investment to create additional social or affordable housing in the City of Monash. This inability to leverage our investment further compromises the feasibility of the project.

- **Overall Project Cost Escalations:** In November 2022, our overall project cost projection was \$36.9m. However, due to rising consultant and construction costs in today's market, our budget will significantly increase, making it more challenging to stay within financial limits. Consequently, we now estimate an 8% overall cost increase for the project, reflecting the current economic condition of the market. It should be noted that this factor impacts both freehold and leasehold titles; however, when combined with the above challenges, it further affects project feasibility. The physical context of the site and its characteristics unfortunately add further to the cost of delivering this site as housing beyond other development sites. Site due diligence undertaken has shown that being adjacent to a railway line and initial assessment of ground conditions show that there will be the need for significant remediation of the site, re-location of existing infrastructure in the ground and installation of new infrastructure further adding to the cost to be incurred. These additional costs, together with the macro environment of the construction market, will render the project unviable in terms of the subsidy requirement to fund this.
- **Interest Rate Increases:** Interest rate rises from November 2022 (2.85% cash rate) to the current cash rate of 4.35% have further escalated borrowing costs adding to the financial challenges of the project. Higher borrowing costs affect developments on all land tenures.

We have thoroughly analysed the financial implications of what is mentioned above and have concluded that the project, in its current form, is not feasible within the current government funding framework without significant change to the proposal structure of the project and how it is funded.

We appreciate the support and cooperation we have received during the initial planning stages and remain committed to exploring alternative project land tenure and funding models that better align with our financial capabilities to deliver this project. For instance, the sale or transfer of Council land protected by a Section 173 agreement offers a more financially viable model, whether supported by a capital grant or an availability payment subsidy.

Thank you for your understanding, and I trust the above explanation meets your expectations. Should there be any further developments or changes that could make the project feasible in the future, we will not hesitate to communicate them.

Please feel free to contact me if you have any questions or need further clarification.

Yours Sincerely,



Clive Bowden
Acting CEO

Attachment 1 – 65A Power Ave Project Feasibility Diagram

