MORTGAGE INSTRUMENT

A mechanism to secure Affordable Housing contributions

Photo courtesy of Haven Home Safe

OVERVIEW

- A mortgage instrument is a written contract that provides a party, typically a lender, certain rights over a property value which can include rights to compel a sale in the event of a default.
- Mortgages can also be used to secure an interest or 'equity stake' and its repayment upon future sale of the land.
- Can be used to secure Affordable Housing contributions delivered on council owned land, and contributions delivered through planning system negotiations.
- Where **council has contributed land**, the **key rationale for applying a mortgage instrument** is that the council wants to retain a right to the value of its contribution and ensure a return should the land ever be sold or to ensure reinvestment by the Registered Housing Agency whilst not wanting to unduly impact on development financing.

Landowner: Registered Housing Agency or Special Purpose Vehicle (SPV). Individuals under an Affordable Home Ownership arrangement.

Level of resourcing to implement: Moderate in first instance depending on process to develop the associated legal agreement. Once developed the legal agreement can be applied as a standardised arrangement.

Responsibility for determining use of land at end of dwelling life: Registered Housing Agency. If land is sold, council's contribution as a proportional equity share is repaid and the (future) council is responsible for determining use of funds, unless an agreement with the Registered Housing Agency is in place requiring reinvestment.

Management of assets:
Registered Housing Agency.

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KEY STRENGTHS

- Commonly used financial mechanism to secure value of a land contribution should the land ever be sold.
- Does not limit the property value, use of the land, or owner's ability to secure and apply debt finance.
- Mechanism can support home ownership sales where other mechanisms such as Section 173 Agreement could impact on delivery.

KEY WEAKNESSES

- Not commonly used mechanism by councils – requires knowledge to understand how to apply and an agreement as to reinvestment if land is sold.
- Potential to be a disincentive for the asset owner to significantly invest in improvements over time if the mortgagee has a share in the future property value.
- Application requires a legal agreement to be in place and determination of agreement terms.
- Subject to agreement on investment, the council may need to decide on expenditure of any returned equity at a future point – no guarantee of reinvestment in Affordable Housing.

APPLICATION

- Placement of a mortgage to secure an Affordable Housing contribution is expected to be recorded a 'second mortgage' (with a primary lender as the first mortgagee).
- A mortgage can secure a payment to council on terms defined by the agreement. For example, where council has contributed land, council could secure an agreed 'equity share' percentage of the total property value, post-completion, requiring payment back to council of this percentage should the land ever be sold.
- Council will need to consider what it would do with any return if the property was to be sold in the future. This could include a requirement for re-investment in new Affordable Housing or could provide the council at that time to determine the desired investment. Realisation of long-term Affordable Housing outcomes are therefore subject to other agreements and/or future council decisions.

A mortgage instrument could be applied by:

- A council to secure an interest in a development where it has contributed the land.
- A council in partnership with a Registered Housing Agency, to secure the value of a landowner contribution made through a planning system negotiation.
- A Registered Housing Agency to secure an interest in an Affordable Home Ownership arrangement it has facilitated where there is subsidy provided to support affordability.
- The Director of Housing where there is agreement with a Registered Housing Agency because of a funding agreement.

Check out the full reports *Options for Delivering and Securing Affordable Housing on Local Government Land and Options for Delivering and Securing Affordable Housing Through the Planning System* to learn more about utilising a mortgage instrument to secure Affordable Housing contributions.

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