

Winda-Mara Housing Program (WHMP) Tenant Purchase of WMAC House Policy

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WMHP Tenant Purchase of WMAC House Policy

Winda-Mara Aboriginal Corporation ('WMAC') and Winda-Mara Housing Limited ('WMHL') work together to deliver safe, secure and affordable housing solutions for eligible Aboriginal and Torres Strait Islander community members living in far southwest Victoria.

The activities, principles, policies and elements that contribute to and regulate the housing schemes of WMAC and WMHL are collectively referred to as the Winda-Mara Housing Program ('WMHP').

The WMHP's policies and procedures are designed so that its practice and service delivery align with the following cultural statement:

Our vision is to create a thriving community where Aboriginal and Torres Strait Islander people have access to safe, affordable, and culturally appropriate housing. We aspire to empower individuals and families through improved health, education, and wellbeing, fostering a strong sense of identity and pride in our cultural heritage. Through collaboration and sustainable development, we aim to build a future where every member of our community has the opportunity to flourish and succeed.

1. Introduction

WMAC is committed to providing home ownership options for eligible Aboriginal and Torres Strait Islander renters of its affordable housing program.

WMAC recognises that encouraging eligible renters to purchase their rental properties is an important step towards improving the quality of life and living standards of Aboriginal and Torres Strait Islander people.

Indigenous Business Australia reports that the benefits of Aboriginal and Torres Strait Islander home ownership are far-reaching and generate ripple effects that benefit all Australians and the broader economy. The feeling of agency that home ownership creates is known to generate better social outcomes, including health, education, employment, safety and self-esteem.

WMAC aims to help break the cycle of intergenerational disadvantage by building assets for Aboriginal and Torres Strait Islander people that can be passed on to future generations.

In addition, WMAC uses the proceeds from the sale of its rental houses to improve and grow its affordable and social housing portfolios, including funding capital maintenance on existing houses and the purchase and/or building of new houses.

2. Scope

This policy applies to all residential tenancies owned and managed by WMAC. This policy is restricted to applications for full ownership of a WMAC rental house by purchasers.

2.1 Out of Scope

This policy does not apply to social houses owned by WMHL.

Shared equity agreements and rent to buy schemes (leasing agreements that afford renters the right to buy a house at the end of a pre-determined rental period, at a price agreed prior to signing the agreement) etc are not available and are therefore out of scope.

3. Purpose

The purpose of this policy is to provide guidance to WMHP tenants, staff, directors and management. The policy:

- sets out the underpinning rationale, principles and governance arrangements for the sale of WMAC rental houses to renters;
- provides guidance to WMAC whether to consider, approve or decline an application by a WMAC housing renter to purchase a WMAC rental house; and
- supports WMAC to 'right-size' its portfolio with new, fit-for purpose houses by selling existing houses which are not required due to age, location, heritage or conservation constraint, or limited redevelopment potential.

4. Principles

- All decisions made in accordance with this policy will be made within the provisions of the WMAC Conflict of Interest Policy, WMAC Code of Conduct and WMHP Customer Service Charter, and any relevant legislation.
- Sales to renters will be effectively managed to reduce the risk that the purchaser will lose their house at a later date and need to re-enter the social housing system.

5. Purchaser Eligibility

Only tenants who meet all the criteria are likely to have their application approved.

The main applicant:

- must be the current tenant of the property and must have signed the WMHP Rental Agreement;
- must have lived in the rental home for at least five years;
- must not own, or have an interest in, any other real property; and
- must not have any outstanding rental arrears or other charges owing to WMAC.

Applicants who have been paying subsidised rent (not market rent) must also have appropriately confirmed their household income for the purposes of rent calculation within the last five years of their tenancy. If there have been any discrepancies in disclosure of household income that have not been addressed, the applicant will be given the opportunity to 'make good' on rental discrepancies.

The applicant(s) must:

- have the funds, for example, savings and/or a loan pre-approval, to purchase the house; and
- organise their own finance and conveyancing on the sale.

However, in line with its principles to support home ownership, WMAC will assist the applicants to connect with appropriate funding agencies, such as Indigenous Business Australia (IBA), to obtain the necessary finances to purchase the property.

6. Property Eligibility

Not every house owned by WMAC can be purchased by a renter. WMAC will only sell a house where this will benefit its housing portfolio.

There are a range of strategic reasons why WMAC may wish to sell a property. These include:

- generating funding for other better quality or more housing;
- increasing the proportion of the portfolio which is fit for purpose for social housing and an older tenant cohort;
- increasing utilisation, reducing under-occupancy and reducing maintenance costs;
- deconcentrating social housing;
- extracting maximum value from, and/or avoiding properties becoming land locked or isolated by, neighbouring or adjoining development.;
- any other reason the Board may determine from time to time.

While WMAC will consider applications from tenants to purchase a WMAC rental house, WMAC will not agree to sell the property if it is needed for strategic portfolio purposes, for example if it is needed for future redevelopment to create more rental or social houses.

If WMAC identifies the property as 'not for sale', then that decision is binding and is not able to be appealed (refer to WMHP Complaints, Feedback and Appeals Policy and Procedures).

7. Applications

Before the purchaser lodges an application to purchase their rental house, they should ensure they have sufficient funds to cover the sale price of the house plus other purchase costs like conveyancing and stamp duty.

The purchaser must complete an Application to Purchase a WMAC Rental House (the 'application') which is available from WMHP. WMHP staff will assist applicants to fill out and lodge this form if required.

The application form is lodged with WMHP by mail or electronically.

7.1 Application Consideration Process

Applications are referred to the WMAC Housing Subcommittee for consideration of eligibility.

The WMAC Housing Subcommittee will confirm that the purchaser does not have any arrears with WMAC (refer to WMHP Arrears Policy) and the information the purchaser has provided about their tenancy and any co-applicants is accurate. The Subcommittee's findings will be endorsed in accordance with Terms of Reference before submission to the WMAC Board for deliberation.

The Board may seek further supporting information from any WMAC Program, agency or person that it deems necessary.

Where the Board determines that a purchaser has provided false or misleading information in relation to any part of their application, the Board may refuse to sell the house to the purchaser or withdraw any uncontracted offers of sale to that purchaser.

After consideration, the Board will determine by resolution whether to approve or reject the application. This determination will be binding and is not able to be appealed.

8. Setting the Fixed Sale Price

Following the Board's receipt of the application, it will determine the sale price using the following process:

- The Board will have an independent valuer inspect the home to provide a fair market value.
- At a minuted Board meeting, the Board will set the market value for the property. In doing so, the Board will take into account:
 - the independent valuer's report;
 - the present value of capital improvements funded by the tenant (if these modifications were pre-approved by WMAC); and
 - any other factor the Board considers to be relevant from time to time.
- Having set the market value for the property, the Board may use its discretion and apply a discount to the market value of no less than 10 per cent.
- A final fixed sale price will be agreed by resolution of the Board.

Previous rental payments will not be considered in the calculation of the fixed sale price.

9. Where Application is Approved

- If approved, WMAC will write to the purchaser and make an offer at the fixed sale price agreed to by the Board.
- The applicant has 30 calendar days to accept or refuse the offer to purchase the property at the offered sale price.
- Where a tenant does not respond to an offer, the offer will expire after 40 calendar days.
- An applicant's decision to refuse the Board's offer will not affect their tenancy or their rights as a tenant in any way.

- The renter must continue to make rental payments until the date of settlement. Urgent and essential repairs, as defined in the Residential Tenancies Act 1997 and WMHP Maintenance and Repairs Policy will be arranged by WMAC until settlement is completed.

10. *Accepting the Offer*

To accept the offer, the purchaser must:

- accept and sign the letter of offer;
- arrange their own conveyancer or solicitor to complete the purchasing process; and
- send the signed letter of offer along with the name and contact details of the conveyancer or solicitor to WMAC within 30 days of the date of the letter of offer.

WMAC will work with and assist the purchaser to complete the conveyancing process if needed, up until settlement.

11. *Where Application is Not Approved*

Where the Board decides not to accept the application, or not to sell the applicant's rental property, it will let the purchaser know in writing.

Should the property a tenant is renting not be available to purchase, the tenant may apply to the Board to purchase another of WMAC's rental properties that is vacant. If this application were to be successful, the tenant would be required to vacate their current rental within 28 days of settlement of the purchased property. The vacated house must be returned to WMAC in a well-maintained condition in alignment with the Residential Tenancies Act and other related WMHP Policies (refer to WMHP Vacating a Property Policy).

12. *Reviewing Decisions*

Decisions about WMAC's property portfolio, including whether or not to sell a house, are internal policy decision for WMAC. As such, there is no formal internal review process for these decisions and there is no basis for an appeal to the Housing Appeals Office.

WMAC may consider requests to revisit applications at its discretion e.g. where a tenant's financial capacity has change, where further evidence can be provided in support of the application, or where a claim of unfair treatment has been made.

13. *References*

13.1 *External or Statutory Requirements*

This policy complies with the following external legislation or requirements:

- *Sale of Land Act 1962* (Vic)
- *Housing Act 1983* (Vic)
- *Residential Tenancies Act 1997* (Vic)

- Victorian Civil and Administrative Tribunal Act 1998
- Residential Tenancies regulations 2021

13.2 Internal Requirements and Forms

This policy refers to the following internal documents, which are available in the WMP Document Register:

- Application to Purchase a WMAC Rental House
- WMAC Code of Conduct
- WMAC Conflict of Interest Policy
- WMAC Complaints, Feedback and Appeals Management Procedure
- WMAC Complaints and Appeals Policy
- WMHP Vacating a Property Policy
- WMHP Customer Service Charter
- WMAC Housing Subcommittee Terms of Reference
- WMHP Modifications Policy

14. Review of Policy

This policy will be reviewed every two years or earlier if the legal, regulatory, and contractual environment requires.

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