

Social and affordable housing reforms

This document answers frequently asked questions about the government's announced social and affordable housing reforms

Where will this new policy apply?

The bonuses will apply to the same land that the current in-fill affordable provisions apply to.

The policy applies to accessible land, which is defined under the Housing SEPP as 800m walking distance from a railway station, metro, light rail station or ferry wharf, and 400m walking distance of a bus stop used by a regular bus service in Greater Sydney, and Cessnock, Maitland, Port Stephens, Newcastle, Wollongong, Kiama, Shellharbour and Central Coast local government areas. On other land in NSW, an accessible area is defined as land within 800 metres of nominated business (or equivalent) zones.

How do developers use the new state significant development (SSD) pathway?

Applicants interested in understanding more about SSD for a potential project can review the department's [State Significant Development Guidelines](#).

To be declared SSD, the CIV must be more than \$75 million in the Greater Sydney region (including the Central Coast local government area) and more than \$30 million on other land. The development must deliver affordable housing under the state policy. The policy encourages proponents to provide more affordable housing in order to attract a larger proportionate density bonus.

What are the bonuses and when do they apply?

Developments that provide at least 15% affordable housing will receive a planning bonus of up to 30% additional height and 30% additional floor space.

If the full height and floor space bonus cannot be realised on a particular site due to local constraints and environmental impacts, bonuses of between 20-30% are available if the development delivers 10-15% affordable housing.

More information and examples can be found in the In-fill Affordable Housing Practice Note.

Application of the 30 per cent FSR and height bonuses would be applied to the maximum permissible FSR and height of buildings standards applying to the land. The proposed height bonus will only apply to developments for the purposes of residential flat buildings or shop top housing.

Site-specific and other planning controls, as well as site constraints, may limit what can be delivered on a particular site.

What will happen to current development applications that are eligible for the new SSD pathway?

Development applications that have been lodged, but not yet determined, before the new SSD pathway is introduced are not identified as state significant development. The relevant council, Sydney district or regional planning panel remains the consent authority.

Refer to [section 2.21 of Part 2.5 of the Planning Systems SEPP](#) for further information.

If the project is less than \$75m, can you still receive bonuses but not be assessed through the new SSD pathway?

For projects that meet the criteria under the SEPP, the height and FSR bonuses will apply to developments that include the required affordable housing component, regardless of the capital investment value. The available height and FSR bonuses are proportional to the required amount of affordable housing. More information and examples can be found in the In-fill Affordable Housing Practice Note.

What happens where development control plan (DCP) controls, the Apartment Design Guide or an overshadowing requirement might not enable a 30 per cent increase in height or FSR? Does the new policy prevail and bonuses take precedence? Or is there a pro rata reduction in affordable housing and bonus to accommodate what GFA/height can be achieved?

The bonuses are not a right. Some sites may not be able to accommodate additional height and/or floor space due to local impacts.

The bonuses, unless otherwise specified, do not override or remove the requirement for a proposal to comply with any control that applies to the land and development in the Local Environmental Plan (LEP).

How is the affordable housing treated – ie, dedicated, sold to a community housing provider (CHP), managed by a CHP and owned by the developer or third party, etc?

Affordable housing dwellings delivered under the Housing SEPP in-fill affordable housing provisions must be used for the purpose of affordable housing and managed by a CHP for a minimum 15 years. There is no existing or planned limitation on the ownership status of those dwellings.

If other contributions such as section 7.11 and section 7.12 are to still apply, will these apply for the net amount of market dwellings – ie, excluding the affordable housing dwellings – or will contributions be levied on all total dwellings?

There are no changes proposed to the operation of relevant section 7.11 or section 7.12 contributions plans. These contributions plans are prepared by councils.

Social and affordable housing delivered under the SEPP is exempt from state-level infrastructure contributions.

Is the CIV calculated on the total proposal – ie, including other uses (in the case of mixed use) and the 30 per cent bonuses?

The nominated CIV thresholds for the SSD pathway relate to the part of the development that is residential development only.

The EP&A Regulation defines a development or project CIV as including all costs necessary to establish and operate the project, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment, other than the following costs:

- (a) amounts payable, or the cost of land dedicated, or other benefit provided, under a condition imposed under the EP&A Act, Division 7.1 or 7.2 or a planning agreement
- (b) costs relating to a part of the development or project that is the subject of a separate development consent or project approval
- (c) land costs, including costs of marketing and selling land
- (d) GST, within the meaning of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth.

Does this pathway still require design competitions, design review panels and the like to occur?

The requirement for an architectural design competition to be held or for a development to be considered by a design review panel is not proposed to be changed as part of these reforms.

SSD projects will be subject to consideration by the State Design Review Panel.

Are any sustainability targets attached to this proposed new policy?

No new or additional sustainability requirements are proposed above existing requirements that currently apply.

Does the bonus apply on the total FSR (e.g. in a mixed-use development) or only the residential FSR?

Where the proposed residential development meets the requirements of the division, the bonus FSR and the required affordable housing component are calculated based on the FSR applying to the whole site. The height bonus will apply on top of the total permitted building height in the relevant EPI where the building is a residential flat building or shop top housing.

Will there be an option through the SSD assessment process to offer an affordable housing cash contribution or a smaller number of dwellings in-perpetuity?

An in-lieu monetary contribution option or in-perpetuity model is not an option under the announced changes to the in-fill affordable housing provisions.

Will there be savings provisions in place?

Savings and transitional provisions are included under Schedule 7A of the Housing SEPP.

How will the new system deal with conflicts between the delivery of the new bonus provisions and the impact on local amenity (shadowing, blocking view lines, solar access etc)?

Any proposal is still subject to a full merit assessment by the consent authority. The proposal will require the consent authority consider the likely impacts of the development, which will include balancing local outcomes with the provisions of additional affordable housing. On some sites, it may not be possible for the full extent of the bonuses to be achieved.

Other development standards, planning controls and design guidance will continue to apply to help shape appropriate built form outcomes.

How will the proposed changes encourage private developers to deliver more affordable housing?

The proposed changes will incentivise private developers to build more affordable housing as part of general market developments. Key changes include:

- residential development valued at more than \$75 million in Greater Sydney or \$30 million on other land will be eligible for a new state significant development (SSD) pathway, providing it includes at least 10 per cent of the total gross floor area as affordable housing
- amendments to the existing in-fill affordable housing provisions under the Housing SEPP to introduce a new floor space ratio (FSR) bonus of up to 30 per cent and a height bonus of up to 30 per cent for residential developments with at least 10 per cent of the total gross floor area

provided as affordable housing. The required affordable housing component is proportionate to the bonus achieved on the site.

Will parking rates be stipulated in the policy or will the local council DCP rates continue to apply? And will these apply on a pro rata basis – ie, bonuses will get more parking?

The Housing SEPP includes a non-discretionary development standard for parking rates. Local parking rates still apply, however, if the development complies with the non-discretionary development standard rates under the Housing SEPP, the consent authority cannot require onerous minimum parking standard. Parking rates are already outlined in the in-fill affordable housing division of the Housing SEPP.

Is the 10-15 per cent on top of any existing local council requirements for affordable housing or do council requirements contribute to the 10-15 per cent?

Any local requirement would need to be met in addition to the minimum required affordable housing component under the Housing SEPP in order to qualify for the FSR and height bonus.

What is the definition for affordable housing?

Affordable housing is housing that is appropriate for the needs of a range of very low to moderate income households and priced so that these households are also able to meet other basic living costs such as food, clothing, transport, medical care and education.

To access planning concessions under the Housing SEPP, affordable housing dwellings need to be managed by a registered CHP for the purpose of housing eligible very low to moderate income households. These households are defined in the Housing SEPP. The rent charged to these households cannot be more than 30% of their income.

Should the affordable housing be retained in perpetuity?

The Housing SEPP in-fill affordable housing provisions have always applied a time limited affordable tenure period. Social and affordable housing is often delivered in perpetuity. This is particularly the case in projects delivered by LAHC and some CHPs. Other planning levers are available that contribute towards the delivery of affordable housing in perpetuity under local affordable housing contribution schemes through either direct dedication of housing or through funds collected. The reforms to the in-fill affordable housing provisions are an opt-in scheme and the policy does not preclude the Government undertaking other policy initiatives in this space.

What changes are proposed for infrastructure contributions?

Social and affordable housing will be exempt from the Housing and Productivity Contribution.

Will the private sector be able to manage affordable homes?

Private sector organisations can already manage affordable housing provided they are registered CHP.

Registered CHPs are not limited to public entities or not-for-profit organisations. CHPs are overseen by the NSW Registrar of Community Housing and must satisfy a range of eligibility requirements set out in conditions of registration.

Is DPE increasing its assessment team resources to ensure that they do not become the bottleneck in the delivery of housing supply?

The department is reviewing the resourcing implications of the new SSD pathways so that adequate resources are in place to enable the timely and thorough assessment of all SSD applications.

LAHC, AHO and Landcom

What do the changes mean for the Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO)?

The reforms will provide more certainty in the planning process for LAHC and AHO.

A new SSD pathway will apply to LAHC and AHO developments of more than 75 homes (equivalent to approximately \$30 million capital investment value).

At present, LAHC and AHO can self-assess social and affordable developments of up to 60 homes and 9 metres. This will be increased to permit the self-assessment of developments of up to 75 homes, and a height limit of 11 metres, unless the council already permits higher developments.

A new maximum floor space ratio will also be introduced of 0.65:1, for those lots that have a lesser maximum under the relevant environmental planning policy.

The minimum lot size for dual occupancies being delivered as complying development by LAHC, AHO and Community Housing Providers/Aboriginal Community Housing Providers will be reduced to 400m², as opposed to the minimum lot size specified in the relevant environmental planning instrument. This will make more land available for this type of development.

What do the changes mean for Landcom?

The reforms will enable Landcom to deliver more affordable housing through:

- an SSD pathway for developments of over 75 homes (equivalent to approximately \$30 million capital investment value) that include at least 50 per cent affordable housing, utilising the same provisions as LHAC and the AHO
- a new ability to self-assess affordable housing developments of up to 75 homes, utilising the same provisions as LAHC and the AHO.

Isn't there a risk of bad development by allowing these agencies to assess their own projects?

The LAHC and AHO have had self-assessment powers for some time. They are very experienced in self-assessment and have rigorous processes and governance structures already in place. Development by LAHC and AHO is subject to design guidance which seeks to ensure quality developments and good outcomes for tenants and communities.

Self-approval powers are new for Landcom. The Department of Planning and Environment has worked with Landcom to ensure sufficient governance and processes are in place to support good decision-making and accountability. Landcom is required to consider a published design guide, which was prepared in consultation with the Government Architect NSW.

Councils

Will any councils be exempt from the policy?

The policy will apply statewide to all applicable development.

It is intended that this policy will have broad application. It is noted that two local government areas have existing exemptions to the policy under their LEPs. How can councils be confident they will still be involved in the assessment process?

DAs under the SSD CIV thresholds will be assessed by the relevant council. Both SSD and self-assessment planning pathways will require consultation with councils and communities.

What resources are we providing to local councils?

The department will continue to liaise with councils so that they are equipped with information and engaged with the department on the Housing SEPP. The department has released a Planning Circular and a Practice Note relating to the in-fill affordable housing amendments in order to provide resources for consent authorities and proponents.