



# Supporting affordable housing supply: inclusionary planning in new and renewing communities

Inquiry into increasing affordable housing supply: evidence-based principles and strategies for Australian policy and practice

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## Acronyms and abbreviations used in this report

ACT	Australian Capital Territory
AHURI	Australian Housing and Urban Research Institute Limited
ARHSEPP	Affordable Rental Housing State Environmental Planning Policy (NSW)
CHP	Community Housing Provider
C-M-O	Context-Method-Outcome
COAG	Council of Australian Governments
DA	Development application
DCLG	Department of Communities and Local Government (UK)
DoPE	Department of Planning and Environment (NSW)
EPRA	East Perth Redevelopment Authority
IH	Inclusionary housing
IZ	Inclusionary zoning
GFC	Global Financial Crisis
LGA	Local Government Area
NAHA	National Affordable Housing Agreement
NRAS	National Rental Affordability Scheme
NSW	New South Wales
MRA	Metropolitan Redevelopment Authority
QLD	Queensland
SA	South Australia
SHI	Social Housing Initiative
SRP	Supporting Research Project
UK	United Kingdom
US	United States
VIC	Victoria
VPA	Voluntary Planning Agreement
WA	Western Australia

## **Glossary**

A list of definitions for terms commonly used by AHURI is available on the AHURI website [www.ahuri.edu.au/research/glossary](http://www.ahuri.edu.au/research/glossary).

# Executive summary

## Key points

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- This study examined how land use planning mechanisms can support affordable housing inclusion within new and renewing communities.
  - It found that 'inclusionary planning' tools leverage significant quantities of affordable housing supply in many parts of the UK and US. For instance, 12,866 affordable housing units (43% of total affordable housing output) were delivered through inclusionary planning requirements in England between 2015–16. About 12 per cent of annual housing completions in San Francisco are affordable dwellings produced through inclusionary zoning or impact fee requirements. Similar schemes apply to more than 500 cities across the United States.
  - In comparison to this international practice, inclusionary planning for affordable housing is not as widespread in Australia. However, South Australia delivered 5,485 affordable homes between 2005–15 through an inclusionary planning target applying to new residential areas. This amounts to around 17 per cent of total housing supply in that state.
  - In NSW, a planning incentive scheme introduced in 2009 has yielded around 2,000 affordable rental dwellings in Sydney, equivalent to about 1 per cent of the city's total supply.
  - Across all jurisdictions examined, planning system tools can support affordable housing supply, but additional funding or subsidy is usually required to produce homes affordable to those on low and very low-incomes.
  - Planning system tools for affordable housing supply work best when part of a wider whole-of-government strategy to address the continuum of housing needs.
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## Key findings

There is growing interest in the potential for inclusionary planning approaches to help deliver affordable housing supply in Australian cities and regions. Within wider government strategies for affordable housing supply, inclusionary planning approaches can play a role in requiring or incentivising dwelling units, land, or financial contributions towards affordable housing projects.

### Examining outcomes in NSW and South Australia

This study examined two of the longest standing approaches in the Australian context: South Australia's 15 per cent inclusionary target (introduced in 2005); and the voluntary incentives that apply in NSW, the most notable of which is a density bonus for infill affordable rental housing (introduced in 2009). It found that:

- Around 17 per cent of total dwelling approvals within major new residential development areas of SA (2005–15) have been dedicated affordable homes. Of these, a mix of different housing types across the continuum of housing needs and options have been delivered, including social and affordable rental housing and low-cost home ownership. Around 3,685

or 63 per cent of the total 5,485 affordable homes/sites delivered to date have been on government land, and/or supported by other government incentive or subsidy (e.g. the former NRAS scheme).

- In NSW, despite much greater population growth and housing affordability pressures, voluntary planning incentives have delivered a much smaller proportion of affordable homes (between 0.5–1% of Sydney's housing supply 2009–17). In relation to the continuum of housing needs, only affordable rental accommodation is able to be delivered under this mechanism, and the dwellings are only required to remain 'affordable' (offered at up to 80% of market rent) for 10 years.
- The NSW planning system includes provisions to enable low-cost market housing—particularly accessory dwellings (granny flats) and boarding houses in residential areas, irrespective of local planning controls. These provisions have seen significant take up (over 13,000 dwellings and rooms since 2009), equating to nearly 5 per cent of total housing output in the Sydney metropolitan region. This housing is not subject to access or affordability requirements by government nor is there any analysis of the appropriateness of these housing types for particular target groups.
- When compared to international practice, both the South Australian and NSW schemes seem modest. In England and Scotland, the general expectation is for 20–40 per cent of new housing developments to be affordable housing across the continuum of needs and options (with volume and mix determined in relation to housing need and market context). These affordable housing requirements have been supported by funding or financial incentives for affordable housing development. In the United States, more than 500 cities have inclusionary planning schemes in place, and additional incentives and financial subsidies are available for affordable housing development.

## **Policy development options**

- There is potential to extend inclusionary planning approaches across Australia. Affordable housing inclusion can be mandated when land is rezoned for residential development, when planning rules are varied for particular projects, or following significant infrastructure investment.
- Voluntary planning incentives can encourage affordable housing inclusion as part of incremental residential development within the existing planning and development control framework. Incentives can also provide more flexible options to support delivery of mandatory affordable housing requirements. When planning rules are varied to allow for development of lower cost housing forms (e.g. boarding houses), an affordable housing requirement ensures that benefits are passed on and homes are affordable to target groups.
- Greater planning certainty could be provided for affordable housing developments which meet defined local planning rules.

## **Defining the affordable housing requirement**

- Inclusionary requirements can be set to support varying proportions of affordable housing as part of mixed developments, depending on the availability of other subsidy, the target group, and the market context. The objective of the inclusionary requirement is to help address the (locally defined) 'affordability gap', which is the difference between the market value of appropriate dwellings, and the affordable price/rent threshold for the target household.
- By securing access to land at 'pre-zoned' values, or by generating 'free' land (through increased development potential), planning system mechanisms should reduce the subsidy

required to meet the difference between affordable housing **production costs** and the **affordable price/rent**.

- In lower value markets, the 'affordability gap' will be lower, because of lower land values. However, in higher value markets, once the **land component** of the cost of producing the affordable housing unit is controlled, the higher affordability gap will also be reduced by the implicit 'planning subsidy'. For the developer, the cost of foregone profits should be passed 'back' to land sellers in the form of a lower land price, thus not affecting the overall viability of the scheme.
- The 'affordability gap', and the subsidy requirements to meet this gap, will differ depending on the target group and the local housing market. For moderate income groups, an implicit planning subsidy might be the only intervention required to secure an affordable outcome because moderate income groups are able to meet the construction and related costs associated with producing their home. But for low and very low-income groups, inclusionary planning can ensure access to well-located land and help reduce the overall costs (including other subsidy) of social and affordable rental housing provision.

## The study

This study examined recent Australian and international practice in planning for affordable housing within new and renewing communities. It was informed by the larger conceptual framework for the *Inquiry Panel: Increasing affordable housing supply: evidence-based principles and strategies for Australian policy and practice*, and the housing evaluation research approach (Milligan, Phibbs et al. 2007). Within this framework, mixed methods for data collection and analysis were applied, focusing in particular on inclusionary planning schemes used in South Australia and in NSW, but with reference to the long history of inclusionary planning approaches in the UK and US.

Key data used in the study was collected from systematic reviews of policy and program documents (legislation, local policy documents and government-issued guidance material) in addition to a manual collection of statistics on development applications and dwelling approvals. As well, a total of 19 face-to-face or telephone interviews were held with state and local planning officers, affordable housing developers, and urban planning consultants in Australia and four planners in the San Francisco Bay area, between May 2016 and April 2017.

To compare affordable housing outcomes delivered through the different planning system approaches across case study jurisdictions, we used the 'continuum of housing needs' and models or options to meet these needs (Milligan, Phibbs et al. 2007). This continuum provided a basis for comparing the extent to which specific affordable housing types delivered through planning mechanisms serve the needs of different target groups, from very low-income groups and those with high support needs through to low and moderate-income earners.

# 1 Introduction

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- This study examined recent Australian and international practice in planning for affordable housing within new and renewing communities, focusing on South Australia's 15 per cent inclusionary housing target and voluntary incentives for affordable housing in NSW, as well as recent practice in the UK and the US.
  - Key data sources included policy documents, government reports, and development approval data as well as 23 interviews with planners and affordable housing developers and consultants.
- 

Policy interest in how the land use planning system might support or inhibit affordable housing supply has grown in recent years, both in Australia and internationally (Gibb 2013). Inclusionary planning models (which secure dedicated affordable housing outcomes for low and moderate-income earners during the residential development process) can extend resources and increase affordable housing supply in well-located areas (Whitehead 2007). In many jurisdictions, planning approaches to boost affordable housing supply have become both more important and more contentious in the post-Global Financial Crisis (GFC) period.

In particular, there have been concerns about the financial impact of mandatory developer obligations under difficult market conditions, but also arguments that the planning system could do more to stimulate affordable housing supply (Joseph Rowntree Foundation 2015). These unfolding policy and research debates in the United Kingdom (UK) (Mulliner and Maliene 2013; Joseph Rowntree Foundation 2015), the United States (US) (Wiener and Barton 2014), and parts of Europe (Tasan-Kok, Groetelaers et al. 2013) call for re-examination of a decade of Australian practice in supporting affordable housing supply through the planning system.

## 1.1 Purpose of the research

In this context, this project investigates established Australian and international practice in delivering affordable housing supply through the planning system. Using case studies and primary evidence of outcomes over time, the project distils principles for designing inclusionary planning models to enable and increase affordable supply under different policy and market scenarios and cycles. Specifically, the project reviews recent international practice in using the planning system to support new affordable housing supply models and initiatives, with specific reference to the UK and comparable jurisdictions in the US; assembles quantitative and qualitative data on longer term affordable housing supply outcomes from different inclusionary planning models established in Australia between 2005–09 (classified as 'mandatory', 'voluntary', and 'market enabling'); and identifies the policy settings, market conditions and other factors that have influenced affordable housing outcomes under different inclusionary planning models, and the implications for extending principles for successful practice to other jurisdictions and market settings.

The Project sits within a wider Inquiry Program, as one of three supporting Research Projects examining existing and potential approaches for generating new affordable housing supply under different policy and market scenarios. The Inquiry Program investigated strategies and initiatives that governments have used to leverage affordable housing supply in a constrained funding and increasingly market-driven context, focusing on whole-of-government state-level strategic approaches (Rowley, James et al. 2017); the planning system (this project); and, the case study project level. A focus of the Inquiry Program, and this project in particular, is on Australian approaches that are sufficiently well established to be reviewed. International

insights, particularly from the UK and to a lesser degree the US, also inform the Inquiry, particularly in terms of inclusionary planning approaches to secure affordable housing supply.

## **1.2 Policy context**

Despite a chronic shortage of affordable housing supply, Australian governments have been slow to support affordable housing provision through the land use planning and development process. This stands in distinct contrast to other countries where the practice is more prevalent (Calavita and Mallach 2010; Gurran and Whitehead 2011). Australia's first pilot inclusionary schemes emerged in the mid-1990s in the context of the Federal Government's Building Better Cities program which funded a number of demonstration projects including urban renewal efforts in Sydney's Pyrmont Ultimo and in East Perth. Both of these included requirements for modest affordable housing to form part of the overall redevelopment. It resulted in an ongoing inclusionary zoning requirement which is embedded in the local planning instrument applying to Pyrmont Ultimo. The approach was subsequently extended to the major urban renewal precinct surrounding Green Square which lies between the Sydney CBD and the airport. Overall, however, the NSW Government has been reluctant to allow local authorities to impose mandatory requirements for affordable housing through the planning process (Williams 2015). Similarly, at the Federal level, the primary focus of efforts designed to address affordability through planning have been around measures to increase overall land and housing supply. In fact, in 2012 the Council of Australian Governments (COAG) working party on housing supply and affordability expressed the view that inclusionary zoning would be counter-productive to overall supply efforts, operating as a deterrent to new development with costs likely to be passed on to prospective home buyers (COAG Reform Council 2012).

However, using the planning system to support affordable housing supply has been an important part of wider government housing strategies in Western Australia and the Australian Capital Territory (Rowley, James et al. 2017), for instance, by enabling innovative subdivision and housing designs which translate to development cost savings able to be passed on to eligible home purchasers or affordable housing developers. Similarly, access to well-located land at a lower or nil cost represents a significant contribution towards the viability of affordable housing development (Randolph, Milligan et al. (2018), Supporting Research Project C). Inclusionary planning levers can help secure these opportunities as part of mixed tenure projects. An inclusionary planning model has formed part of housing policy in South Australia since 2005, and a series of reforms introduced in NSW in 2009 opened new opportunities to secure affordable housing through the planning process in that state (Davison, Gurran et al. 2012).

Most recently, the Federal Government has indicated that inclusionary zoning models could be used by state and local governments to help boost the supply of affordable rental housing, particularly in the context of other levers (e.g. infrastructure to support new residential development), and finance or subsidy to enable capital investment in the affordable sector (Morrison 2017).

However, considerable uncertainty remains about the implementation of inclusionary planning models in Australia and, in particular, which planning models are most effective in supporting overall housing supply, as well as in delivering homes that are affordable to lower and moderate income groups. Concerns that some planning approaches might discourage new development, or make it more expensive, need to be carefully considered.

### **1.2.1 Affordable housing and the planning process**

The term 'affordable housing' may have different meanings for policy-makers, researchers, and program administrators. Consistent with the wider Inquiry on *Increasing Affordable Housing*

*Supply* and other recent AHURI research, we adopt the following definition of 'affordable housing' as housing provided subject to access and affordability requirements set by government. This includes:

- rental housing priced at below market rents and earmarked for eligible low to moderate-income households
- owner-occupied housing for eligible households that is provided under a subsidised loan or shared equity arrangement and/or is legally encumbered with covenants that impose an affordability requirement (Milligan, Martin et al. 2016).

This can include homes delivered through the planning system for affordable rent or purchase, but is distinguished from low-cost market housing more widely by i) a requirement that the affordable outcome be delivered as a condition of planning approval or other contractual arrangement, and ii) a requirement that access be restricted to eligible households.

In this project we also report on initiatives implemented through the planning process that are designed to enable more diverse housing forms. These diverse housing types are often more economical to produce because of savings in land and/or construction costs. We report on these approaches in this report because they have formed part of the wider practice in planning for affordable housing through 'market enabling' mechanisms, particularly in NSW. We describe these as 'diverse' and 'lower cost market housing' as distinct to dedicated 'affordable housing'. It is important to note, however, that 'lower cost' refers to the costs of land and building construction rather than prices or rents, which are set by the market. Savings in the form of lower rents or house prices may not necessarily be passed on to target groups, unless there are specific access or affordability requirements set by government.

### **1.2.2 Inclusionary planning approaches—terminology and key concepts**

In this project, the term 'inclusionary planning' is used to refer to a spectrum of models and approaches for securing or leveraging affordable housing through the planning and urban development process. Within this broad term, specific approaches can include:

- 'inclusionary zoning (IZ)'—where development within a designated zone contributes towards affordable housing according to a fixed formula
- 'density bonuses'—where additional development potential is offered in return for an affordable housing contribution
- 'planning concessions'—where planning rules are varied for affordable housing development or to enable low-cost market housing
- 'negotiated agreements'—where affordable housing contributions are negotiated on a case-by-case basis (although a policy framework to inform these negotiations may still apply)
- 'impact fees'—where financial contributions from developers are paid to offset the impact of a project on affordable housing demand or supply.

Whether or not these approaches are suitable for a specific jurisdiction will depend on overarching planning law, as well as particular housing market and development contexts (Gurran, Milligan et al. 2008). It is also helpful to consider the primary objective of the approach—whether it be to 'protect' existing sources of lower cost market housing (or offset its loss), for instance in an urban renewal context; to 'promote' new affordable and lower cost housing supply through voluntary measures and by enabling more diverse dwelling stock across the market; and/or to 'provide' dedicated affordable supply through mandatory contribution requirements (Gurran, Milligan et al. 2008; Davison, Gurran et al. 2012). The approaches listed above are also part of wider housing supply and affordability strategies geared towards



unlocking land for residential development and removing barriers to diverse and affordable housing provision.

Government-owned sites are often used to deliver affordable housing outcomes, which are factored into the overall master planning process of this land. In many cases, inclusionary planning mechanisms are demonstrated on these government sites and implemented through the residential development process under joint venture arrangements. Since affordable housing requirements reduce the value of undeveloped land, it is necessary for central agencies to permit government land developers or asset managers to accept lower returns in situations where significant affordable housing outcomes are delivered.

### **1.2.3 The continuum of housing needs and options**

The quantum and range of 'affordable housing' options able to be produced through these planning mechanisms depend both on market conditions and the availability of other resources or subsidy. With reference to the continuum of housing needs and options, inclusionary planning mechanisms can contribute towards traditional social rental housing, affordable rental housing, and affordable home ownership. In addition, planning concessions that vary prevailing development standards or override local codes, can be used to support lower cost forms of housing delivered by the market, such as accessory dwellings ('granny flats'), single room occupancy units ('boarding houses'), smaller apartments or detached dwellings, and smaller residential lot subdivisions. These diverse housing types may be more economical to produce because of savings in land and or construction costs, but savings in the form of lower rents or house prices may not necessarily be passed on to target groups, unless they are developed by an affordable housing provider, or subject to specific access or affordability requirements set by government.

### **1.2.4 'Mandatory' affordable housing requirements versus 'market-enabling' approaches**

There have been two major reviews of Australia's inclusionary planning models at five-year intervals, both undertaken by AHURI researchers (Gurran, Milligan et al. 2008; Davison, Gurran et al. 2012). Since 2012, Australian practice appears to have evolved in two distinct ways, consistent with wider international trends in planning for affordable housing (Calavita, Mallach et al. 2010; Schuetz, Meltzer et al. 2011; Crook, Henneberry et al. 2016). First, the dichotomy between voluntary (incentive-based) and mandatory mechanisms has become clearer, highlighted by the comparison between the South Australian (mandatory) and NSW (voluntary) approaches. The second practice-based evolution can be described as 'market enabling'—the introduction of mechanisms or levers that are designed to overcome localised or other regulatory barriers to housing development overall and affordable housing in particular. Both mandatory and voluntary (including market-enabling) approaches are guided by different principles—the former seeks to secure affordable housing supply by embedding requirements within the process of land rezoning, such that cost impacts should be borne by landholders, rather than by developers. The latter seeks to ensure that affordable housing requirements are not perceived as a land or development cost, but rather, that incentives operate to encourage residential development overall while including affordable and lower cost market housing in particular.

## **1.3 Research methods**

This project uses mixed methods to examine inclusionary planning approaches for supporting affordable housing supply. Drawing on the larger conceptual framework for the *Inquiry Panel: Increasing affordable housing supply: evidence-based principles and strategies for Australian policy and practice*, the project uses a housing evaluation research approach (Milligan, Phibbs

et al. 2007) to examine affordable housing outcomes delivered under different inclusionary planning models. It focuses in particular on inclusionary planning schemes used in South Australia and in NSW, but contextualises these models with reference to approaches used elsewhere in Australia as well as in the UK and US. The 'context–mechanism–outcome' (CMO) framework (Milligan, et al. 2007) was used to provide a basis for systematically examining and comparing these approaches and outcomes across different jurisdictions and at different scales of operation.

Also in keeping with the wider Inquiry, the 'continuum of housing needs' and models or options to meet these needs, provides an important conceptual reference for examining the affordable housing outcomes delivered through the planning system, with reference to different target groups (from very low-income groups and those with high support needs through to low and moderate income earners) (Milligan, Phibbs et al. 2007).

More widely, whenever drawing on comparative cases and international practice, it is important to recognise the significant differences between countries in terms of historically evolved systems of government, law, settlement, housing provision and development (Quilgars, Elsinga et al. 2009). In designing the method for case study data collection and comparative analysis, and in interpreting implications of US/UK policy for Australian policy and practice, this study was guided by insights and methodologies of comparative housing research (Kemeny 1999; Stephens 2011). This is discussed further in section 2 of this report.

### **1.3.1 Research questions**

The specific questions guiding this research project are:

- 1** What have been the outcomes of key inclusionary planning models implemented in Australia over the past decade, in terms of overall affordable housing supply over time, particular target groups addressed, the design and location of dwellings, and the extent of government subsidy?
- 2** How have different types of inclusionary housing models (e.g. 'mandatory', 'voluntary', and 'market-enabling') been received by industry/community stakeholders, or performed differently under different market settings or cycles?
- 3** How can inclusionary housing schemes support other government initiatives to boost affordable housing supply?
- 4** What are the principles for effective design of inclusionary planning schemes, and the key design considerations for application under different policy/funding contexts and housing market conditions?

### **1.3.2 Data collection**

Data collection and analysis proceeded from an updated review of inclusionary planning approaches applied across the Australian states and territories, as well as primary examination of planning mechanisms and affordable housing delivery outcomes in two Australian case study jurisdictions (South Australia and NSW). The two Australian case studies were selected owing both to the longevity of their respective policies (meaning that it was possible to examine evidence of outcomes), and the contrasting nature of the adopted approaches (one being mandatory and the other being incentive-based). The South Australian Government's inclusionary housing requirement, introduced in 2005, requires that 15 per cent of all housing in significant residential developments (including urban renewal and greenfield contexts) should be affordable to low or moderate-income earners (Gurran, Milligan et al. 2008; Davison, Gurran et al. 2012). A decade after its implementation, the model provides a benchmark against which to compare outcomes of alternative approaches developed in other jurisdictions. A particular counterpoint for comparison is the suite of voluntary provisions introduced in NSW since 2005.

These include Voluntary Planning Agreements and the State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP).

### **1.3.3 Case study approach**

For these case study reviews, structured interviews were held with a total of 19 state and local planning officers, affordable housing developers, and urban planning consultants. Potential interviewees were identified based on their professional role and were invited to participate in the research via an email invite sent to their professional email address. Interviews were conducted face-to-face and by telephone, and ran for 30 minutes to 1.5 hours. The interviews were audio recorded and later analysed against the research questions.

In both states, key data was also derived from an analysis of policy and program documents (legislation, local policy documents and government-issued guidance material) on planning levers/requirements; secondary data published by government agencies, where available, on affordable housing dwelling approvals and units produced over time; analysis of online government registers of applicable development applications; and manual collection of statistics on development applications and dwelling approvals from online development application registers for a selection of local government areas.

Contextual data on comparative rates of new development, and housing market characteristics, by LGA, was derived from a number of published sources. In South Australia, this included the State Planning Policy library and associated guidance notes, as well as data provided by Renewal SA. For NSW, this included the NSW Government's quarterly Rent and Sales Report, and data from the Department of Planning and Environment on dwelling approvals and completions over time.

### **1.3.4 International comparison**

In addition, a review of recent developments in planning for affordable housing inclusion in the UK and in parts of the US was also undertaken for this project, to situate the Australian experience in comparison to international practice. The UK was selected owing to the longstanding use of S106 (England) and S75 (Scotland) to secure contributions of affordable housing as part of new development. The longevity of these schemes enabled us to examine how they have operated across different housing market cycles, and to draw out potential lessons for Australia. An expert analysis and update of progress in the UK was led by Professor Kenneth Gibb (University of Glasgow) drawing on primary and secondary sources of information on the design of the English and Scottish schemes as well as delivery outcomes in terms of affordable housing supply. The US practice review involved secondary research on inclusionary planning models used in that country, as well as a primary analysis of specific techniques and outcomes in the San Francisco Bay Area of California. The State of California has long authorised a density bonus for projects incorporating affordable housing, however, in recent years the City of San Francisco has sought to increase the effectiveness of this policy through a hybrid mandatory and incentive-based approach, while in Oakland the bonus model has proved ineffective despite intense housing affordability pressures over the past five years. In addition to a review of planning documents and housing data from the San Francisco Bay Area, interviews were held with a total of four local government planning professionals for this component of the study.

Further details about the research methods used in this project are provided in the following sections.

## 1.4 Structure of this report

From this introductory section, the following sections of the report are as follows.

- Section 2 details international practice in planning for affordable housing, comparing recent experience and outcomes in the UK and the US.
- Section 3 begins by providing an overview of Australian approaches to planning for affordable housing, providing context for the detailed South Australian and NSW case studies. The South Australian case is then discussed in detail, including the key features of the planning model used to secure affordable housing as part of new residential development, available data on outcomes to date, and views from planning professionals, policy-makers, and housing providers about the operation of the scheme.

The NSW case follows, compiling available data about the mechanisms used to secure affordable housing through voluntary agreements and through planning concessions and bonuses, as well as perspectives from planning professionals and affordable housing developers.

- Section 4 considers the evidence of the outcomes achieved across the different schemes, in relation to the continuum of housing needs and models or options to meet these needs, having regard to the particular market and development contexts in which each approach has operated. Potential implications for policy development to more effectively use inclusionary planning approaches for affordable housing supply, are identified.

## 2 Planning mechanisms to support affordable housing supply—international practice

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- The long and evolving history of planning for affordable housing supply in the United Kingdom and the United States offers important lessons for Australia.
  - Since the 1990s, England has used the planning system to secure social housing, subsidised rental, or low-cost home ownership opportunities as part of mixed tenure housing projects.
  - Detailed local housing needs and market analyses inform this practice, ensuring that overall housing programs address local needs and that inclusionary targets are feasible.
  - There are 512 inclusionary planning schemes across the US. These are mainly mandatory inclusionary zoning programs, voluntary incentives, and impact fees for affordable housing inclusion.
  - The City of San Francisco in the US State of California combines an inclusionary zoning requirement with density bonus incentives, ensuring that around 12 per cent of all new housing is affordable for very low, low, and moderate-income earners.
  - Research on inclusionary housing practice in both the US and UK reveals that schemes gain traction over time. Private developers accept inclusionary requirements when they are known in advance and levied in a consistent way.
- 

There is a long and significant tradition of using the planning system to secure affordable housing as part of new and renewing communities across many cities of the US and the UK, (Gurran, Milligan et al. 2008; Calavita and Mallach 2010). However, following the GFC, in the context of concern about the feasibility of new housing development projects, many jurisdictions have reviewed inclusionary planning practice (Morrison and Burgess 2014; Wiener and Barton 2014). Financial austerity measures that reduce subsidies for low-cost housing (Whitehead, Scanlon et al. 2014) have also had implications for leveraging affordable homes through the planning process (Crook, Henneberry et al. 2016). At the same time, this reduced funding environment has made the potential role of the planning system in leveraging affordable housing opportunities alongside general supply programs increasingly important. In this section of the report, the most recent practice in planning for affordable housing inclusion across parts of the US and in the UK is outlined, and potential lessons for Australia identified.

### 2.1 Comparative housing and urban studies

There has been much cross-fertilisation between different countries in the evolution of housing and urban policy overall, and between inclusionary planning models in particular (Austin, Gurran et al. 2014). Policy-makers have always 'learned from overseas', which has led to processes of 'policy transfer' from one country or jurisdiction to another (McCann 2011; Stead 2012). In practice, these processes are rarely linear or complete (i.e. policies and programs are adapted and reformed as they move to different institutional, cultural and political contexts) (McCann and Ward 2015; Peck and Theodore 2010), and have differing degrees of success. When policies

are transferred without a deep understanding of the contextual factors mediating success, the outcomes are often very different and may even be counterproductive (Evans 2009). To avoid shallow and ineffective forms of 'policy transfer', it is important to pay close attention to contextual settings, which, in relation to housing and urban policy, include systems for housing provision and urban regulation, housing tenure patterns, market dynamics and settlement structure (Gurran, Austin et al. 2014; Gurran and Bramley 2017).

Comparative housing research methodologies provide a basis for learning from the experience of other countries by identifying and considering the housing system contextual factors that affect implementation (Stephens 2011). To ensure that comparisons between countries are valid, contextual differences become an explicit part of the analysis, calibrated for 'conceptual equivalence' (Quilgars, Elsinga et al. 2009). For this study, the key factors influencing inclusionary planning practice across the international and Australian case studies include:

- the role of different levels of government in the land use planning system
- the allocation of development entitlements within these land use planning systems (i.e. whether they are implied through land use zoning or reserved until planning consent)
- the significance afforded to housing as a policy priority when plans are made and development proposals assessed
- traditions and techniques for development contributions/infrastructure funding through the planning process
- the availability of funding for affordable housing development, and the consequent scale of the affordable housing sector.

We make reference to these key contextual factors in considering how inclusionary planning schemes have operated internationally, in the case studies presented below.

## **2.2 Planning for affordable housing in the UK**

This section begins by briefly outlining the market and policy context for those less familiar with the UK's housing system. It then describes the key mechanism used to negotiate affordable housing contributions with developers (through 'planning gain' housing agreements) and sets out the way this approach has evolved in England in recent years. The empirical impact of this approach and implications for other jurisdictions are then considered.

### **2.2.1 Housing market context and recent policy changes**

Under the UK's 'devolved' system of government, England, Scotland, Wales, and Northern Ireland have developed slightly different approaches to housing assistance and land use planning. However, a number of overarching themes frame the housing market and changing policy context across the UK:

- **Austerity**—to reduce high levels of public deficit and national debt, successive governments since 2010 have sought to cut spending. This has had a major consequence for capital spending on new social housing construction as well as housing benefits (paid to eligible households) and working age social security entitlements.
- **Housing supply problems**—post-GFC, total housing supply, already on a long-term downward trend, was a major casualty (Department for Communities and Local Government 2017a), with projections of household numbers considerably exceeding new supply estimates. In England, it is estimated (Wilson, Barton et al 2017: 8), that between 2014 and 2039, average household growth will be 210,000 per annum, made up largely of the impact of growing life expectancy and about a third of all growth due to migration into the UK.

- **Lack of access to home ownership**—rates of home ownership were falling in the UK before the GFC, largely thought to be due to increasing affordability problems. However, the decline worsened after the GFC, with corresponding growth in the rental market. It is currently predicted that private renting will become London’s biggest tenure by 2025 (Greater London Authority 2017) and in Scotland, private renting has nearly trebled since 1999 (Scottish Government 2017).
- **Continued growth in house prices and rents**—in a low inflation environment, house prices continue to grow in real terms though there have been major regional differences in how local markets have recovered relative to their previous peaks in 2007 or 2008 (e.g. a much weaker performance in the north and in Scotland and Wales). With continuing very low interest rates, those with a mortgage face typically manageable housing costs—the issue is much more about access to a first mortgage and vulnerability to future rate increases. OECD evidence suggests that rental affordability is a critical issue for UK low-income households in the market rental sector, but not for the 17 per cent of households who remain in social housing.

The UK voted in June 2016 to leave the European Union. ‘Brexit’ has and will continue to have major social, political and economic effects for the UK and this will inevitably include the housing sector. If, as the majority of economists predict (Financial Times 2017), GDP growth is damaged, the currency weakens and net out migration worsens, this will weaken housing demand and impact on construction labour and imported supplies.

### 2.2.2 Planning gain and negotiated agreements for affordable housing supply

A distinctive feature of UK housing is the very low price elasticity of supply, that is the housing system does not respond to rising prices in general by increasing output (Barker 2004). Nor is the market set up to provide sufficient affordable supply.

- The UK Government seeks to overcome this overall unresponsiveness while also seeking to leverage new housing production which is specifically affordable to those on lower incomes. This includes:
  - a wide range of discounted, subsidised and ‘social’ housing products provided by housing associations with deeply subsidised rents and indefinite tenancies
  - affordable rented housing that may only be modestly discounted compared to market rents (in Scotland a version of this program, called ‘mid market’ rent, is targeted at key workers, operates under private renting tenancies, and has income caps for applicants even though rents are sub-market)
  - various forms of low-cost home ownership including shared ownership (part-owned, part sub-market rent), shared equity (the government retains a stake in the housing which can be reclaimed and recycled after sale, or reduced by owner purchase before sale (referred to as ‘staircasing’)), new build starter homes (discounted) in England, and even (currently) help to buy mortgage guarantee homes in Wales.

In England, particularly since the 1990s, and increasingly in other parts of the UK, these types of affordable homes have been secured through negotiated planning obligation agreements with developers. Secured when planning permission is granted, these agreements work to capture some of the development value that is created upon the granting of residential development permission (referred to as ‘planning gain’). Although governed by national legislation, these ‘Section 106’ agreements as they are called in England<sup>1</sup> are hypothecated, locally negotiated

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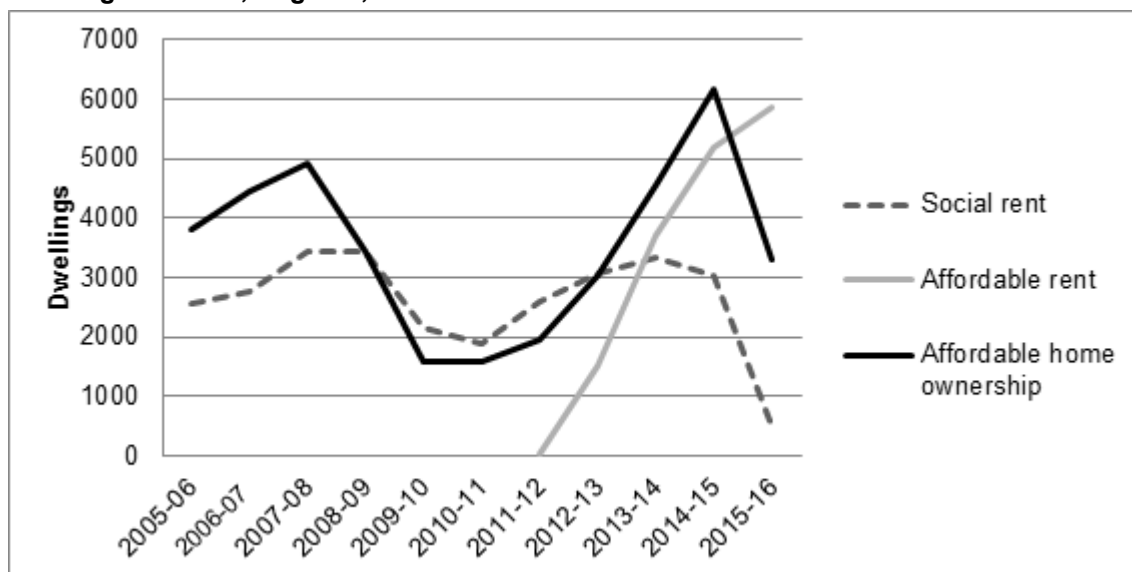
<sup>1</sup> The term ‘Section 106 agreement’ refers to the appropriate section of the 1990 town planning legislation in England. The equivalent power is called a Section 75 agreement in Scotland.

agreements for different infrastructure, including affordable housing. The basic system is one where local planning authorities identify a level of unmet housing need which forms the evidence base for seeking contributions of affordable housing. Private housing developments beyond a certain size are then required to make a contribution to that unmet need (supporting affordable housing supply in different ways consistent with local need), with exact requirements determined in relation to site-specific considerations, including financial viability (Crook, Henneberry et al. 2016).

Generally, these agreements are 'in kind', and are typically delivered in the form of land on which affordable homes may be built or units that are incorporated as part of a wider scheme. The obligation may also be met as a 'commuted sum' (financial payment). In either case, the objective is to support a level of affordable supply in addition to the private housing implied by the development that will receive planning permission and is thus a social 'return' to the local community. The negotiation allows discretion and promotes a sensitive 'fit' with local context (Crook, Henneberry et al. 2016). However, unlike the certainty offered by a pre-set requirement, the substantive negotiation toward the end of the process is resource intensive, contestable, and can reduce certainty for both sides (Oxley, Brown et al. 2009).

Cumulatively, this policy has delivered many tens of thousands of affordable units across England over time, or around 17 per cent of total affordable housing output in England from 2005–06 (Figure 1 below). Internationally, by most measures, the approach has been successful in the context of a planning system that separates land ownership from land use rights (Gurran and Bramley 2017). Unlike a zoning system whereby land use rights are implied (or established) by the designation of a land use zone, under the discretionary UK system, local planning authorities determine permissible land use changes via the planning permission system. Permitted changes should be consistent with the context of the local development plan (underpinned by detailed assessment of local housing needs and market capacity) as well as the wider local and national planning policy framework. Affordable housing is a 'material consideration' in this national policy framework. This creates a statutory basis for requiring affordable housing to be included as part of new development through legally binding planning agreements made when permission is granted.

**Figure 1: Affordable housing supply delivered through the planning system (nil grant) via 'S106 agreements', England, 2005–06 to 2015–16**



Source: authors, derived from Department for Communities and Local Government 2015, 2017b.

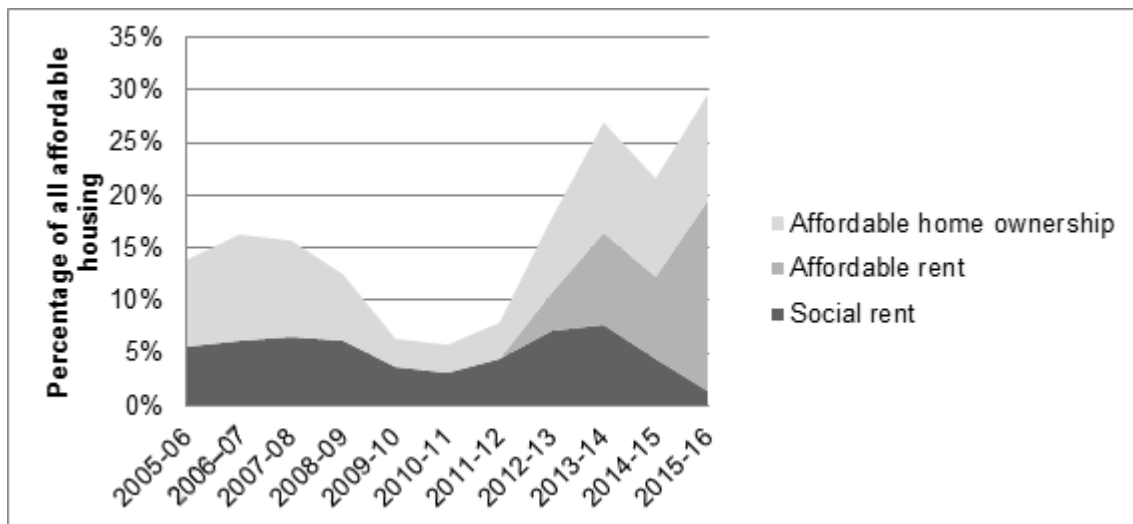


Housing associations were initially the main beneficiaries of planning agreements for affordable housing inclusion. The approach reduced the overall public sector cost of delivering social housing by lowering land costs in light of expected contributions. However, the model did not entirely remove the need for capital finance to construct units or personal (household rental) subsidy. One of the main benefits of the model, however, was in changing the geography of new affordable supply—moving it away from mono-tenure estates and into mixed housing developments across the country (Crook, Henneberry et al. 2016; Whitehead 2007).

### 2.2.3 Evidence of impacts on rates and patterns of affordable housing supply

In the context of declining funding for new social housing development, the planning system is playing a larger role in overall affordable housing supply in England, despite reduced output (Figure 2 below). The quantum of affordable homes delivered solely through S106 agreements has risen over the decade from 6,390 dwellings in 2005–06 to 14,370 in 2014/15; although falling to 9,640 by 2015/16 (Table 1 below).

**Figure 2: Section 106 agreements for affordable housing as a proportion of total affordable housing supply, England 2005–06 to 2015–16**



Source: authors, derived from Department for Communities and Local Government 2015, 2017b.

Figure 2 above shows that, as a proportion of all affordable housing supply, S106 agreements were responsible for almost 30 per cent of affordable outputs delivered (with nil additional grant), although the type of supply generated in this way has shifted from social rented housing (from around 5% for much of the decade) to 'affordable' rent (18%) in 2015–16. Affordable rented housing is let by local authorities or private registered providers of social housing, to households eligible for social rented housing, and subject to rent controls requiring a rent of up to 80 per cent of the local market rent.

**Table 1: Affordable Housing Output through Section 106 Planning System Agreements (Nil Grant), England, 2005–06 to 2015–16**

	Social rent	Affordable rent	Affordable home ownership	Total
<b>05–06</b>	2,550		3,810	6,360
<b>06–07</b>	2,750		4,440	7,190
<b>07–08</b>	3,450		4,910	8,360
<b>08–09</b>	3,430		3,440	6,870
<b>09–10</b>	2,140		1,590	3,730
<b>10–11</b>	1,900		1,590	3,490
<b>11–12</b>	2,600	40	1,940	4,580
<b>12–13</b>	3,080	1,520	3,030	7,630
<b>13–14</b>	3,330	3,700	4,540	11,570
<b>14–15</b>	3,020	5,180	6,170	14,370
<b>15–16</b>	490	5,850	3,300	9,640
<b>Total</b>	<b>28,740</b>	<b>16,290</b>	<b>38,760</b>	<b>83,790</b>

Source: authors, derived from Department for Communities and Local Government 2015, 2017b.

In total, Department of Communities and Local Government (DCLG) statistics report that 83,790 affordable dwellings were secured solely through the planning system between 2005–06 and 2015–16 (Table 1, Department for Communities and Local Government 2015, 2017b). Given that the planning agreement process also plays a large role in leveraging sites and units for affordable housing developers to use or purchase (Crook, Henneberry et al. 2016), the total contribution of the planning system to affordable housing output in England is properly understood to be even greater.

There is an evaluative literature on the use of planning obligations to secure more affordable housing (e.g. Austin, Gurrán et al. 2014; Brownhill, Cho et al. 2015; Crook, Henneberry et al. 2016; De Kam, Needham et al. 2014; Gurrán and Bramley 2017; Morrison and Burgess 2014; Newhaven Research 2008). The main conclusions are that the program built a lot of affordable homes over a sustained period, reduced the public sector cost, contributed to mixed communities and changed the geography of the location of affordable homes.

In terms of the types of affordable housing delivered, the policy began to shift towards intermediate home ownership tenures (rather than social housing provided by housing associations) prior to the economic crisis. After this time, concerns about development viability have led to rule changes orienting the schemes towards other less obviously affordable programs such as affordable rental and discounted starter homes. Burgess and Monk (2016) argue that the future of affordable housing through planning obligations will turn on the interaction between local house prices (and hence developer interest), viability and local planning policy and practice. The strengthening of the viability test for affordable housing inclusion has exacerbated the pro-cyclical nature of the policy (Burgess and Monk 2016).

### **2.2.4 Planning for affordable housing elsewhere in the UK**

The use of planning agreements for affordable housing started later in the rest of the UK, but was hampered by the weakened market conditions after 2007/08. Enthusiasm for such policies in all devolved nations, based on the English experience, remained strong however. In

Scotland, for instance, the use of local planning agreements to support affordable supply (referred to as S75 agreements) remains a key expectation and one that conforms to the original notion of the English model—even if the numbers, relatively and absolutely, are much less significant. As part of housing policies aimed at delivering 50,000 affordable homes during the life of the current parliament (2016–21), the Scottish Government is considering a range of further planning and fiscal measures to encourage developers in addition to S75 agreements including possible tax charges on vacant and derelict land and the introduction of compulsory sales orders (in addition to compulsory purchase). The Scottish Government has not followed the UK Government in lessening the focus of planning agreements on social and affordable housing supply, although in other respects developing innovative ways to support private renting.

### **2.2.5 Potential lessons for other jurisdictions**

In thinking about the lessons this discussion has for other jurisdictions, the starting point must be to draw out the pitfalls as well as the possibilities of policy transfer and lesson-learning comparatively in a policy sphere that is institutionally rich, varied and does not readily transfer between quite different countries. However, it remains the case that different planning, welfare and housing regimes all try to use the planning system to support affordable housing supply (Austin, Gurran et al. 2014, also point out that Anglo-Saxon planning systems may have diverged in the last 60 or 70 years, but this is one policy goal and set of mechanisms that suggests convergence). There are, therefore, common lessons that can be drawn from UK policy, the challenges it has faced, and its implementation.

Key lessons include the relatively long bedding-in period of S106, which highlights the need to understand that inclusionary planning approaches require time to gain momentum and acceptance. However, the evidence from England is that, over time, genuine scale in supporting affordable housing supply through this mechanism is possible. One of the important features of inclusionary planning approaches is the capacity to transform the geography of new social housing.

Another important feature of the English and Scottish model is the detailed housing needs and market data, which provides a basis for identifying affordable housing targets and determining site-specific planning agreements.

## **2.3 Incentives and mandatory approaches in the United States**

A variety of inclusionary schemes have emerged across the different state and local jurisdictions of the US over more than 40 years (Schuetz, Meltzer et al. 2009; Calavita and Mallach 2010). In 2014, the Centre for Housing Policy identified 512 inclusionary housing programs across 27 states and the District of Columbia (Centre for Housing Policy 2014) although there is no comprehensive data on the number of affordable housing units delivered via these schemes.

The different approaches to planning for affordable housing in the US, and key outcome indicators are summarised in Table 2 below. As shown, these approaches are quite different to the negotiated planning agreements used in the UK. Rather than being determined on a site-specific basis (albeit within the context of needs-based targets for affordable housing inclusion) as in the UK, the US approach is very much determined when overarching rules for land use and development control are defined. It is at this plan-making stage that development rights are primarily assigned, such that development consistent with land use zoning requirements and development controls (on height, floor space etc.) will usually be approved. In this context, land use value 'uplift' occurs when planning rules change, rather than when development permission is granted (as is the case in the UK model).

For this reason, there have been strong arguments to embed affordable housing requirements when land is rezoned for new or higher density residential developments. This is particularly so when the rezoning process is part of a wider process of renewal and gentrification that raises land values, benefiting property owners but potentially displacing lower income renters. Density bonuses allow additional development potential, but only if the development includes an affordable housing contribution. The rationale for this type of incentive is that additional density might be acceptable in specific circumstances, but is not unilaterally desired for the locality. Therefore, only the developments opting to gain additional density under the defined circumstances should also be expected to include affordable housing.

'Impact fees' (known as development contributions in Australia) are levied to offset the additional impact created by new development, including the need for local parks or community facilities (Burge and Ihlantfeldt 2006). As in the UK, there is a strong tradition in many parts of the US of including an affordable housing component in impact fees applying to residential and commercial development (Calavita and Mallach 2010). Impact fees can be the mechanism used to operationalise an inclusionary zoning scheme, or payments made in lieu of unit obligations in larger projects.

'Barrier removal' approaches seek to facilitate lower cost, diverse, and affordable housing. In some jurisdictions, affordable housing developers may build projects that would otherwise contravene local zoning laws, if a particular locality fails to provide sufficient affordable housing supply (Hananel 2014).

**Table 2: Inclusionary housing approaches in the US**

Mechanism	Description	Example
Inclusionary zoning	Requirement that development in applicable zone include AH	Montgomery County (Maryland) = 50 per cent of total AH—15,000 units since 1970s
Impact fees	Development contribution requirement for local AH fund— all development or commercial only  Can operationalise inclusionary zoning schemes as a fee in lieu requirement	Commonly used in California (around 3,000 units pa from all schemes)
Density bonus	Bonus floor space/additional height for developments including AH	California—State government policy (outcomes data not available)  New York City—2,888 units between 2005 and 2013 (19% of total housing in designated area)
Barrier removal	Affordable housing developments anywhere despite plan, if AH falls beneath a threshold	Boston, MA (250,000 units +) since 1974

Sources: Calavita and Mallach 2010; Department of Housing and Community Development 2014; Kontokosta 2014; New York City 2014.

Debates since the GFC have focused on the impact of US inclusionary schemes on development viability (Schuetz, Meltzer et al. 2011) as well as the need for low-cost home ownership versus affordable rental dwellings (Hickey 2013). There have also been ongoing concerns that inclusionary requirements operate as a form of development 'tax' which

discourages development and increases prices overall by depressing supply and adding to development costs. However, systematic studies have generally failed to demonstrate examples of inclusionary housing schemes operating to deter development or inflate house prices in the US (Schuetz, Meltzer et al. 2011).

Further, there appears to have been an increasing adoption of inclusionary planning approaches across many parts of the US. For instance, recognising the impact of major investment in transit projects, and widespread upzoning for higher density and infill housing around transit stops, many cities have used inclusionary policies to retain or create new affordable housing during major renewal and infrastructure investment processes (Centre for Transit Oriented Development 2009). New York City has recently adjusted its long-term voluntary density bonus scheme to impose a mandatory inclusionary zoning requirement on new development (New York City 2016). The City of San Francisco has also introduced changes to its inclusionary zoning and density bonus programs, raising inclusionary requirements, but also offering more generous density bonuses for projects incorporating an even higher affordability quantum.

The following sections look more closely at approaches to planning for affordable housing in the San Francisco Bay area (primarily the cities of San Francisco and Oakland). Population and housing market pressures, as well as the combination of planning mechanisms used to address affordable housing, made the San Francisco Bay Area a useful case study to examine how these approaches have performed over time, and potential lessons for Australia. Further, California has a long history in trying to use the planning system to secure affordable housing, primarily through a density bonus model which is analogous to the density bonus introduced in NSW under the *State Environmental Planning Policy Affordable Rental Housing 2009*. Overall, a total of 29,281 affordable housing units were created through inclusionary programs (density bonuses and inclusionary zoning schemes) across at least 81 Californian municipalities between 1999–2006, primarily in the San Francisco Bay area, southern California, and the Sacramento region (Callavita and Mallach 2010) with participation growing to around 145 municipalities by 2014 (approximately 25% of the state) (Wiener and Barton 2014).

### **2.3.1 Inclusionary planning in California and the San Francisco Bay Area**

The cities of San Francisco, Oakland, and Berkeley make up the San Francisco Bay Area. Like other local communities in California, each is required to have a 'housing element' within their comprehensive plan (which articulates strategic spatial planning direction for implementation through zoning, development controls, infrastructure investment, and so on). Broad discretion is given to the local government in preparing the housing element, but it must be certified by the state Department of Housing and Community Development. The housing element must address the projected number of housing units needed in line with demographic forecasts, identify appropriate sites for this housing to be constructed, and indicate potential to accommodate the 'regional fair share' of affordable housing need for all income groups (Garde 2016). The state law does not require that the affordable homes be constructed, only that the locality has identified appropriate sites that can accommodate affordable units.

The state further requires that a density bonus for affordable housing be available at local levels (found in California Government Code Sections 65915–65918). The bonus is set on a sliding scale up to a maximum of 35 per cent bonus for developers who voluntarily choose to incorporate affordable housing in their projects. Bonuses are offered for any of the following:

- five per cent of units affordable for very low-income households (incomes 50% and less of area median)
- ten per cent of units affordable to lower income households (incomes 80% or less of area median)

- ten per cent of units affordable to moderate-income households (120% of area median income), but only if the project is common interest for sale development, or
- ten per cent of the units for transitional foster youth, disabled veterans or homeless persons and restricted to very low-income rents.

These different bonuses show how the cost/subsidy needed to deliver particular affordable housing types affects the extent to which particular quantities of affordable supply can be secured through the planning system in relation to the continuum of housing needs.

Bonuses can be denied by cities if they believe that the affordable component can be achieved without the density bonus (Garde 2016). California also retains a requirement in redevelopment law that at least 15 per cent of housing developed in redevelopment project areas be affordable to low and moderate-income households (Rose and Lin 2015).

In addition, state planning law allows local governments in California to adopt other voluntary or mandatory inclusionary housing provisions, subject to limitations. These limitations require the local government to demonstrate that mandatory requirements are not likely to negatively affect overall housing development within the locality. Mandatory inclusionary requirements can be provided on-site, as affordable homes for sale to eligible households, as a fee in lieu, or as off-site provision of units.

A recent study of inclusionary housing in Southern California found that 48 cities (more than a quarter of all local government areas) have adopted local ordinances or policies for affordable housing, of which the majority contain mandatory affordable housing requirements. Supplementing to these mandatory requirements (typically on or off-site provision of for sale dwellings, or an impact fee type payment in lieu), most cities offer their own density bonus schemes (in addition to the Californian bonus program), as well as incentives relating to design flexibility, fast track processing, fee waivers or reductions.

### **2.3.2 San Francisco**

San Francisco has a population of around 829,000 people and a total housing stock of approximately 386,000 dwellings (San Francisco Housing Data Hub 2017). Approximately two-thirds of residents are in rental accommodation, and a third are owner occupiers. About 40 per cent of both renters and home owners pay more than 30 per cent of their income on housing costs, and are classed as 'housing cost burdened'. These affordability pressures have intensified significantly over the decade and particularly since 2011–12.

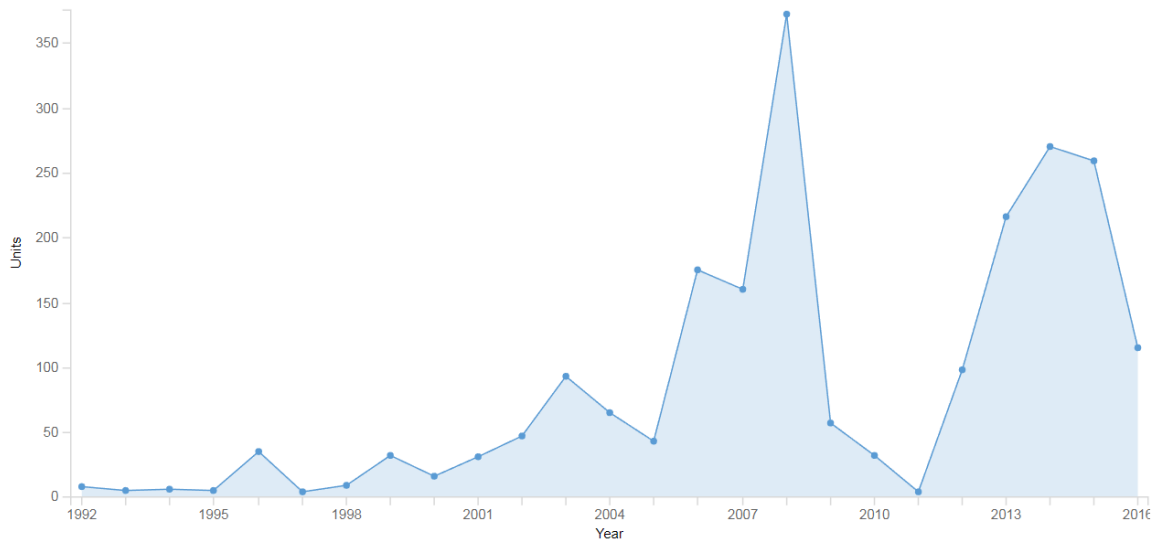
The City operates several programs to support affordable developments and to assist low and moderate-income households meet their housing costs. These include support for financing and developing affordable housing projects, assistance for first home buyers, public housing, rent control and subsidies, and inclusionary housing programs.

The primary inclusionary housing program in San Francisco operates under Section 415 of the city's Planning Code. It requires new private housing developments with 10 or more housing units to include affordable housing units or pay a fee in lieu. The units, called 'Below Market Rate' (BMR) units, may be for affordable rent or purchase to eligible householders (households earning between 55–120% of area median incomes). The requirements are as follows:

- an affordable housing fee, which is based on the number of units in the project and the estimated difference in cost between what target groups can afford, and the cost of construction
- on-site provision of 12 per cent of total units
- or
- off-site provision at a rate of 20 per cent of the total project.

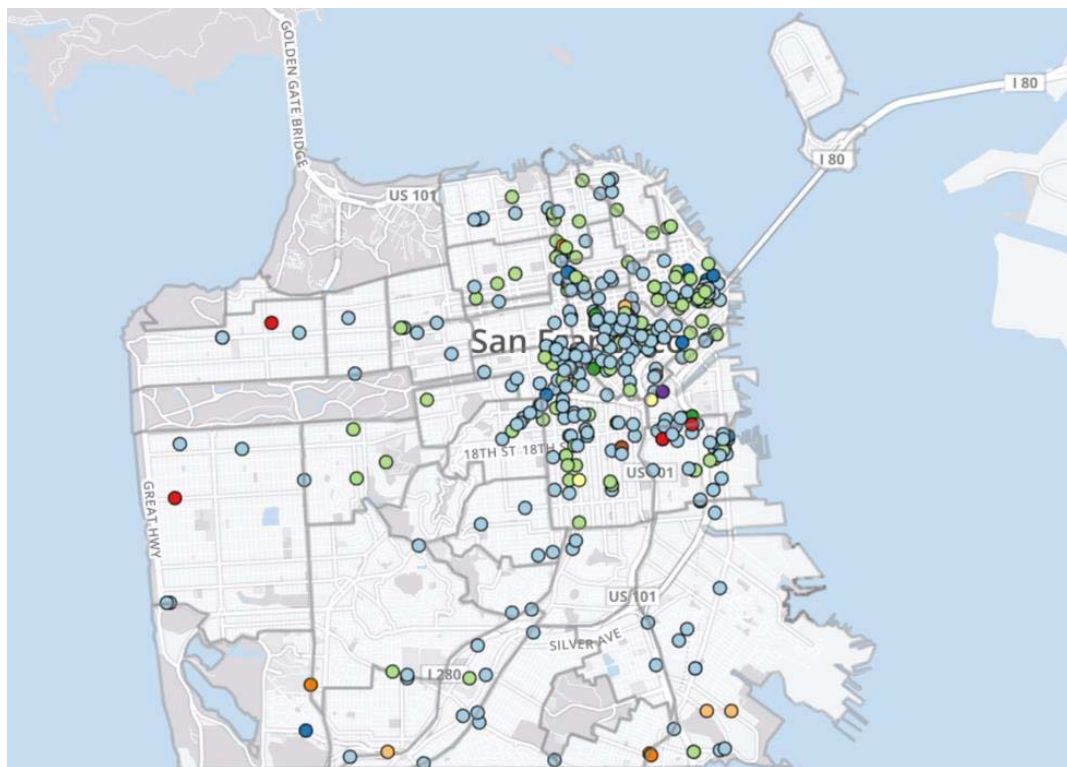
Developers may also choose a combination of the above options, or to dedicate land. As shown in Figure 3 below, the inclusionary requirements have delivered around 150–250 affordable units per annum in recent years, although production patterns vary markedly between years. This output represents around 12 per cent of annual new housing supply, and has been delivered in centrally-located (downtown) areas (Figure 4 below).

**Figure 3: Affordable housing units created via inclusionary requirements in San Francisco, since 1992**



Source: San Francisco Housing Data Hub 2017.

**Figure 4: Location of affordable housing units provided by developers as part of San Francisco’s inclusionary housing scheme, 1992–2016**



Source: San Francisco Housing Data Hub 2017.

Despite its potential value, interviewees advised that the Californian density bonus has not been taken up in San Francisco. This is despite the fact that developers would qualify for the bonus which offers a maximum of 35 per cent additional density for a minimum 12 per cent on-site affordable housing units and up to an additional 8 per cent affordable housing units on-site for very low, low or moderate-income households. The bonus was not seen to be workable in the San Francisco development context.

However, the City has recently introduced a local variation of the density bonus. The new scheme operates on around 30,000 parcels of land within the City, but avoids areas that have recently been upzoned (so as to not further intensify density in those locations). Under this scheme, an additional two stories are available for projects incorporating 30 per cent affordable housing, or three stories for projects that are 100 per cent affordable. Across all schemes, the homes must remain permanently affordable (i.e. affordable for the life of the building itself).

It is too early to assess the outcomes of this bonus scheme, however interviewees advised that they anticipated two important benefits:

- Given that developers already need to provide 12 per cent of a project as affordable, the potential to increase the affordable component and achieve additional height and floor space is expected to encourage/ bring forward some housing development activity.
- The inclusionary zoning requirement (which also applies as a development impact fee to commercial projects) is conceived as a way of reducing pressure on land values in San Francisco.

### **2.3.3 Oakland**

Oakland has traditionally been a lower demand housing market in the San Francisco Bay Area. However, over the past five years house prices and rents have risen dramatically. By 2010, 70 per cent of low-income renters were spending more than 30 per cent of their incomes on rent, and there are concerns about the quality and resilience of their housing (Rose and Lin 2015). In this context, the City of Oakland has commenced a multi-pronged housing strategy that aims to re-house and/or prevent displacement of current residents; produce new affordable housing, and improve the 'habitability' conditions of existing homes. The City is also subject to Regional Housing Needs Assessment requirements set by the State of California, which project a need for 14,765 new housing units between 2015 and 2023, across specific affordability goals:

- very low-income (up to 50% of AMI), 2,059 units; low-income (51–80 per cent of AMI), 2,075 units
- moderate-income (81–120% of AMI), 2,815 units
- above-moderate (>120% AMI), 7,816 units.

However, in the post GFC period (2007 to 2014), only 25 per cent of Oakland's regional housing production goals were achieved (3,697 housing units) (Rose and Lin 2015). Thus Oakland's housing strategy must source funding for dedicated affordable housing while also seeking to generate increased overall supply.

In this context the Californian density bonus for affordable housing has not been taken up in Oakland to date. Interviewees advised that high density housing sites are already available under the planning scheme, but not viable despite rising house prices and sharp affordability pressures.

The City recently introduced a differential development contribution fee that will require developers to contribute to an affordable housing fund. The fee is set according to three specific geographic locations which correspond with housing market characteristics and development



feasibility. There is a provision that allows fee relief on the basis of viability. The development contribution will phase in gradually over time, because of the stock of housing approvals already issued and because of a decision to increase the fee amounts gradually to allow time for the market to adjust.

**Table 3: Geographic areas for contributions fees and fee amounts per unit for multifamily housing (to be phased in)**

Zone	Location	Fee amount (2016)	Fee amount (2017)	Fee amount (2018)
1	Downtown, parts of North Oakland, and the Oakland Hills	\$7,000	\$13,000	\$24,000
2	West Oakland, parts of North Oakland, neighbourhoods located directly east of Lake Merritt, and the Coliseum site	\$5,550	\$10,500	\$19,250
3	The East Oakland neighbourhoods not included in Zones 1 or 2	\$750	\$750	\$3,750 (2018) \$6,750 (2019) \$13,000 (2020)

Source: City of Oakland 2016.

The affordable housing impact fee does not apply if affordable housing is already included in the development. On a case-by-case basis the impact fee may also be waived where affordable housing is being provided off-site. The minimum percentage of affordable units required for the on-site or off-site options are:

- moderate-income: 10 per cent
- low-income: 10 per cent
- very low-income: 5 per cent.

Over 10 years the city anticipates that \$65 million will be collected towards affordable housing through these provisions.

### 2.3.4 Potential lessons for other jurisdictions

The San Francisco and Oakland cases provide a number of potential lessons for Australia:

- Density bonus regimes are only effective where existing density is not being 'taken up', and most appropriate where there is an argument for selective densification rather than wholesale area rezoning.
- Impact fee requirements can be effective levers for affordable housing provision either as part of a new project or as part of a discrete local scheme.
- Urban renewal activities can create significant value. The challenge is to secure affordable housing within lower value markets while also stimulating housing supply in these locations.
- Inclusionary planning requirements can help reduce inflationary pressure on residential land values.

## 2.4 Summary and policy implications

When assessing the potential implications of these international cases for the Australian context, it is important to consider contextual factors including the role of different levels of government in land use planning; the significance of housing as a policy priority when plans are made and development proposals assessed; whether or not the system is primarily codified or discretionary; traditions and techniques for development contributions/infrastructure funding through the planning process; the availability of funding for affordable housing development, and the consequent scale of the affordable housing sector. Table 4 below summarises these features in comparison to Australia.

**Table 4: Comparison of key contextual factors across the UK, US and Australia**

Contextual factor	UK	US	Australia
<i>Responsibility for land use planning</i>	National, local—local level draft plans and issues consent	States and territories responsible for planning law, local governments' set zones and development controls and issue planning consent	States and territories responsible for planning law, local governments have limited responsibilities for plan-making and development assessment
<i>Significance of housing in the planning process</i>	A national planning priority	Varies; Californian state planning law requires local authorities to plan for affordable housing	Planning objectives may refer to housing/affordable housing, but limited provisions to require affordable housing in plan-making or development assessment
<i>Codified or discretionary process</i>	Discretionary	Codified (zoning)	Mixed
<i>Development contribution processes and techniques</i>	Negotiated	Fixed	Mixed
<i>Funding for affordable housing development, scale of the affordable housing sector</i>	Significant	Established, diversified	Limited, emerging

Source: authors.

These differences between the three broad systems for land use planning and affordable housing provision are not inherently better or worse. However, it is necessary to understand the differences in order to assess which policies might be transferrable to other settings and the types of adaptations that might be needed.

With these important differences in mind, Table 5 below summarises the context for inclusionary planning approaches in the US and UK as well as key outcomes.

**Table 5: Selected inclusionary housing approaches and outcomes—UK, US**

Context	Mechanism	Application	Outcomes	
UK—Discretionary planning system + tradition of capital funding /rental assistance to support affordable housing provision	Negotiated mandatory planning requirement	England— 'S106'—targets typically between 20–40 per cent of new supply	12,866 dwellings 2015/16—43 per cent of total affordable housing supply (England)	
		Scotland—'S75'—nominal 25 per cent requirement	Delivered as affordable rent, affordable and shared home ownership, and social housing	
US—States define planning systems, zoning based; large and diverse affordable housing development sector	Inclusionary planning schemes	Various—512 inclusionary housing programs across 27 states	N/A	
		Density bonus	California State planning policy—7–35 per cent density bonus for projects having a minimum of 5 dwellings, and delivering between 13–20 per cent affordable housing (two-story limit)	N/A
			San Francisco—local bonus in addition to state bonus Deliver at least 30 per cent affordable housing, gain additional two stories 100 per cent affordable housing, additional three stories	Not yet taken up in isolation to inclusionary zoning requirements
		Inclusionary zoning	San Francisco—12–20 per cent of housing projects to be affordable housing (12% on-site; 20% if off-site)	3,821 units since 1999 Mix of very low, low, moderate-rental housing and some affordable home purchase
	Impact fees	San Francisco— \$46,230 (affordable housing component of impact fee, per dwelling) Oakland, differential contribution requirements according to market context and viability (from \$750–24,000, per dwelling by 2020)	Has supported construction of around 16,000 affordable housing units (San Francisco) Mix of very low, low, moderate-rental housing and some affordable home purchase (San Francisco)	

Source: authors.

### 2.4.1 Policy implications

Although operating in different planning and housing policy contexts, the outcomes of longstanding inclusionary planning models in parts of the US and the UK offer a number of potential implications for designing inclusionary housing policies in Australia:

- International experiences indicate that inclusionary housing requirements can take time to embed. However, over the longer term, they can deliver significant volumes of affordable housing, as is demonstrated in the case of S106 in England. This process of embedding requires models to remain consistent over time (although the specific types and tenures of housing sought might be adjusted over time and in different locations in light of housing need and market conditions).
- Strong national/state level mandates for governments to plan to meet the housing needs of diverse groups provides support for a strategic framework for local inclusionary housing schemes and consistency across local jurisdictions
- Affordable housing requirements should reflect evidence of local housing need, as well as market context and consideration of economic viability (as in the UK). Affordable housing requirements that are scaled to take account of the 'depth' of subsidy required to deliver housing at different price-points (as in California) can maximise outcomes while also taking account of the costs of provision.
- Government grants and subsidies (UK) and planning bonuses and incentives (California) that support, or work in conjunction with, mandatory inclusionary housing requirements, can extend overall supply and affordability outcomes.

### **3 Planning mechanisms to support affordable housing supply in Australia**

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- States and territories limit the extent to which affordable housing can be supported through the planning process in Australia.
  - Inclusionary zoning and density bonus schemes apply in South Australia, NSW, the ACT, and local authorities in WA are now able to implement a density bonus mechanism.
  - Government land has been used to support affordable housing inclusion as part of major urban renewal or master planning processes in many jurisdictions.
  - The outcomes of Australia’s inclusionary planning schemes remain modest, in world terms.
- 

#### **3.1 Overview of inclusionary planning mechanisms in Australia**

Australia’s state and territorial planning systems reflect aspects of both the British and North American traditions. As in North America, land use zoning prevails in Australia, with implied development entitlement for projects complying with applicable controls. However, planning authorities often exercise discretion in deciding whether to permit particular proposals, particularly when projects are significant or contentious. Typically, there are also provisions for enabling non-complying proposals to be approved by varying prevailing rules or standards. In theory, therefore, there are several potential ways in which inclusionary planning approaches could be defined and implemented in Australia—when land is rezoned; when rules are varied to permit a particular development (i.e. 'density bonuses'); or simply when development approval is granted (a fixed or negotiated contribution requirement).

In fact all of these approaches have been operationalised in parts of Australia, but in very limited ways. As shown in Table 6 below, inclusionary zoning requirements have been implemented in only three jurisdictions, while planning concessions or density bonuses to secure affordable housing exist in four. Government land has been used as part of wider redevelopment and master planned schemes, to generate some affordable housing supply, but only South Australia and the ACT seem to situate this approach within a consistent policy framework (Gurran and Bramley 2017).

**Table 6: Summary of Australian approaches for supporting affordable housing supply through the planning process**

State/territory	Inclusionary zoning	Density bonus/planning concessions/negotiated agreements	Govt. land able to support affordable housing schemes*
ACT	15–25 per cent target, new land release	Yes, applying to affordable home ownership	Yes
NSW	In designated parts of inner Sydney	Statewide policy, to encourage affordable rental housing	On an ad hoc basis
NT	No	Smaller lot sizes in Multiple Dwelling Residential zones	Yes
QLD	No	Small lots able to support more diverse / affordable housing supply	Limited
SA	15 per cent target for residential zones (applied on rezoning)	Incentives and concessions to support achievement of target	Yes
TAS			Limited
VIC	Pilot to be introduced (2017)	Negotiated agreements used to deliver affordable housing in some areas of inner Melbourne	Limited
WA	No	Local authorities enabled to introduce planning concessions and incentives; for example, Density Bonus included in Fremantle Planning Scheme (2017)	Yes

*Note: \*including via government land development organisations*

Source: adapted from Gurran and Bramley 2017.

Previous reviews have shown that the major constraint to the use of the planning system for affordable housing supply is restrictive state legislation. Local councils in some areas may also oppose inclusionary planning approaches in the face of opposition from local residents to endorse affordable housing schemes (Davison, Gurran et al. 2012; Ruming 2014). Nevertheless, as highlighted by earlier AHURI research, inclusionary schemes have often been driven by local government in Australia (Gurran 2003). Table 7 below summarises major inclusionary housing initiatives and available information on outcomes.

**Table 7: Key inclusionary housing initiatives, Australia (1980–2017)**

State	Project/ Scheme	Mechanism	Timeframe	Units
Victoria	<i>Port Phillip Housing Association (formerly St Kilda)</i>	Negotiated planning agreements, council land	1985–	560+
NSW	<i>State Environmental Planning Policy 2009 Affordable Rental Housing</i>	Levy for redevelopment of low-cost rental stock Density bonus for affordable rental housing Diverse housing and social housing permitted in residential zones	(initiative began in mid-1980s)	N/A
	City of Sydney inclusionary housing schemes (enabled by measures in Sydney Local Environmental Plan 2012)	Inclusionary zoning requirement (between 0.1–3% of residential/commercial floor area/per square metre)	1996–	100 (Green Square) 450 (Ultimo Pyrmont)
	City of Sydney/Redfern Waterloo Development Authority (now within state development organisation, Urban Growth)	Negotiated contributions	2006–	\$32 million (from Carlton United Brewery site, but used in Redfern Waterloo development area)
	Canada Bay NSW	Voluntary negotiated agreement	2007	24
	Randwick, NSW	Mandatory contribution	2006	15
	Waverley, NSW	Incentive (density bonus) Planning agreements (10% of all agreements contribute to affordable housing fund)	Early 1980s	28
	North Sydney NSW	Contribution requirement (certain areas)	1998 (prior scheme from late 1970s)	41 2 boarding houses
	Willoughby NSW	Contribution requirement considered (when land rezoned)	1999	10 (by 2008)

State	Project/ Scheme	Mechanism	Timeframe	Units
QLD	Brisbane Housing Company	Able to use planning concessions and bonuses to support affordable housing program	2002	1,500+
SA	New residential areas, residential 'upzonings'	15 per cent affordable housing inclusionary requirement	2006–	4,016 low-cost home ownership dwellings (by 2013)
ACT	New residential areas, renewal areas	20 per cent inclusionary requirement (new land releases including land rent)	2007–	286 affordable sites sold 2014–2015; 2,643 land rent sites 2011–2015
WA	City of Cockburn Cockburn Coast	Density bonuses or development concessions can be gained for the provision of affordable accommodation for rent or purchase (applied voluntarily).	2009	No units to date

Source: adapted from Gurran and Bramley 2017 (originally adapted from Gurran, Milligan et al. 2008, Davison, Gurran et al. 2012).

As shown, the major schemes have operated in South Australia and NSW (Davison, Gurran et al. 2012). While NSW approaches have focused on affordable rental housing, most dwellings secured through the South Australian model are offered for sale to eligible moderate income earners. In the ACT, the leasehold system of land has been used to leverage affordable housing targets of between 15–20 per cent in new build and urban infill contexts, achieved via smaller allotments and building diversity typologies which reduce costs, and a 'land rent' scheme (Gurran and Bramley 2017, drawing on ACT Planning and Land Authority 2010, Economic Development Directorate 2015).

In Western Australia, there has been growing interest in the potential for local government to promote affordable housing (Department of Housing 2010; Department of Planning 2013). However, in practice this has been interpreted as provision for a diversity of dwelling types and sizes as well as the potential for local government to introduce voluntary development incentives for affordable housing (Western Australian Planning Commission 2014). Restrictions limiting the use of ancillary dwellings, such as granny flats to family members, were relaxed in 2015 (Department of Planning and Western Australian Planning Commission 2015). The East Perth Redevelopment Authority (now part of the Metropolitan Renewal Authority) has used inclusionary zoning on its redevelopment sites with an aim of generating 15 per cent affordable land or dwellings appropriate for those on low-to-moderate incomes.

Overall, the Affordable Housing Strategy in Western Australia encourages, but does not actively promote, any specific planning-based mechanisms to support affordable housing delivery by the private sector. Developments on government-owned or sold land or in partnership with government are required to produce a minimum of 15 per cent affordable land or dwellings (Department of Housing 2010). However, the WA Government has resisted formal inclusionary



zoning approaches in favour of voluntary measures (Department of Housing 2010; Western Australian Planning Commission 2014).

The following sections turn to a more detailed examination of inclusionary housing requirements imposed in South Australia and in NSW.

## **3.2 Mandatory inclusionary housing requirements—South Australia**

Of the Australian jurisdictions, South Australia has the most broad-based and consistently applied approach to affordable housing inclusion through the planning and residential development process. Implemented since 2005, when the South Australian Government announced a target of 15 per cent affordable housing for significant development sites, the target has been progressively introduced through local plan amendments and on major development sites when areas are rezoned for residential or higher density homes. State policy and local planning law now provide a framework for both a mandatory inclusionary zoning model to secure affordable housing in major new development and renewal contexts, as well as planning incentives and concessions to encourage affordable homes in contexts where it is not compulsory.

This section of the report draws on interviews with policy-makers, planners, and affordable housing developers, as well as published and unpublished South Australian Government reports, policy documents and planning instruments, to describe the inclusionary zoning approach and outcomes. The section updates previous research undertaken on the South Australian planning model in the early years of its operation (Gurran, Milligan et al. 2008) and in 2012 (Davison, Gurran et al. 2012).

### **3.2.1 The South Australian model**

South Australia's Strategic Plan includes a number of housing targets to 'lead the nation in the proportion of homes sold or built that are affordable by low and moderate-income households' and to have the lowest proportion of groups in housing stress. These targets were reinforced by *The 30-Year Plan for Greater Adelaide* (Government of South Australia 2010) which specifies that 15 per cent of homes in significant new development and growth areas should be affordable, of which a third should be affordable for high needs households. This amounts to a total of 38,700 new affordable dwellings distributed across the eight regions of Greater Adelaide over a 30-year period (to 2040). The targets were reiterated in the Plan's 2017 update (Government of South Australia 2017).

### **3.2.2 Operation of the model**

The long-running model has operated under provisions of the South Australian *Development Act 1993* and associated Regulation (2008), which enable affordable housing to be considered when development applications are assessed and when local Development Plans are made. (Note that at the time of writing, the new *Planning, Development and Infrastructure Act 2016* introduced changes to the planning system, but the 2008 Regulation remains in force.)

Within this system, affordable housing means 'dwellings appropriate to the needs of households with low and moderate incomes (i.e. up to 120% of gross annual median income)' and can include homes offered for sale at or below nominated price points, sold to an eligible buyer, and subject to a legally binding agreement ensuring that requirements are met. Affordable housing providers, such as the South Australian Housing Trust, a registered housing association, or a registered housing co-operative under the South Australian *Co-operative and Community Housing Act 1991* (SA) and persons (natural or corporate) approved to provide affordable rental under the 'National Rental Affordability Scheme' are also considered eligible buyers and are

able to purchase dwellings delivered in this way for the purpose of affordable rental housing. The criteria for affordable housing (including price points) are published in the *Government Gazette* and are reviewed annually.

**Table 8: Affordable price benchmarks, South Australia (2016)**

Affordability indicators (June 2016)	Greater Adelaide and Regional Cities	Rest of the State
House and land purchase price (GST inclusive)	\$320,000	\$255,000
Land purchase price (inclusive of GST)	\$144,000	\$114,750

Source: Mullighan, S. 2016.

Dwellings providing for dual occupancy living, incorporating energy or water efficiency features, or on small allotments within close proximity of public transport, may be offered at a price point which is 15 per cent higher than the affordability criteria. Similarly, dwellings offered for sale along with a financing product that increases eligible buyers' purchasing capacity (for instance via a shared equity arrangement) are also able to be offered at a price point that is 15 per cent higher than that specified by the *Gazette*.

An affordable housing rent is also calculated annually. This rent threshold applies when a community housing provider or investor purchases a property to provide as affordable rental housing.

The model is operationalised by *South Australian Planning Policy* which includes specific provisions for affordable housing to be included in significant new developments and growth areas. These include areas identified to be of state significance, areas subject to specific planning processes such as transit corridors and transit-oriented developments, rezoning which significantly affects housing potential (including greenfield growth areas and major residential developments), and residential developments on surplus government land (Government of South Australia 2011).

Areas subject to the inclusionary target are designated within local development plans (the primary planning instrument in South Australia) via a spatial *Affordable Housing Overlay*. This overlay works in conjunction with the General Residential Development 'module' which applies generally to residential development across all of the zones in which it can take place. The overlay must be included when the Suburban Neighbourhood, Urban Corridor, Urban Core or Suburban Activity Node zones are introduced to new areas, as well as in any existing area where potential dwelling yield is increased due to a zoning change (e.g. regional, district or neighbourhood centres, or mixed use areas). Country townships and rural areas must also adopt the affordable housing overlay. Where applicable, the overlay applies to all projects incorporating residential components of 20 dwellings or more, including mixed use developments, aged/retirement living, multi-unit, and detached dwellings.

Policies for affordable housing are articulated through provisions relating to General Residential Development. These policies are general in nature and seek to 'encourage and enable voluntary contributions of affordable housing in all residential and mixed use areas', and include incentives to encourage this voluntary provision (Government of South Australia 2011: 3). Local authorities are able to add additional local incentives to encourage affordable housing, including concessions on allotment sizes, building height, setbacks and car parking. The incentives are able to operate even in areas where the 15 per cent affordable housing overlay does not apply.

Finally, the policy requires that affordable housing should be integrated with other new dwellings in the development to avoid 'inappropriate concentrations of social housing'; and be of a standard 'at least consistent with other dwellings in a development; for instance, 'in appearance, construction, materials, energy efficiency and water conservation measures' (Government of South Australia 2011: 2).

### **Sales and marketing**

The process for advertising and selling dwellings that are subject to the inclusionary requirement is an integral part of the model. Properties must be offered to eligible purchasers for 30 days (formerly 90 days) before they are able to be released on the open market. The limited period for sale manages the risks to the developer that an eligible purchaser will not come forward, although there are concerns that 30 days may not be sufficient for households to obtain finance. The houses are advertised on commercial real estate sites (domain.com.au and realestate.com.au) but can also be accessed via the government's 'property locator' website (<https://www.sa.gov.au/topics/housing/affordable-houses-to-buy/how-to-locate-an-affordable-home>). Home buyers are also able to access finance via the SA Government's HomeStart, which includes low deposit products for eligible purchasers.

In summary, the South Australian inclusionary planning model combines both mandatory requirements for affordable housing in specific circumstances—significant new and renewing areas and projects involving more than 20 dwellings, as well as incentives to encourage affordable homes whether or not a formal target applies. It is supported by a delivery infrastructure which connects eligible purchasers to affordable products and finance.

### **3.2.3 Evidence of supply outcomes and affordability**

Data from Renewal SA for 2016 indicates that 2009 affordable homes have been built and a further 3,476 homes committed under the 15 per cent affordable housing requirement (Renewal SA 2016a). Table 9 below provides a summary of projects being managed by Renewal SA which are delivering affordable homes under the policy.

**Table 9: Urban renewal projects and affordable housing, South Australia**

<b>Project Name</b>	<b>Description</b>	<b>AH Target</b>	<b>Total AH dwellings (estimated)</b>	<b>Outcomes to date</b>
Bowden	Higher density urban infill project located on 16.4 hectares of former industrial land adjacent to the city's western parklands—2,400 dwellings, over 3,500 residents	15 per cent	360	Two affordable housing projects underway, aiming to provide accommodation for city workers in both rental and purchaser markets (rent to buy)
Lightsview	Inner-city land development covers approximately 100 hectares—2,200 allotments; approximately 2,700 dwellings accommodating 5,000 residents	15 per cent	405	290 affordable homes sold by 2016
Playford Alive	500+ hectares 40,000 + residents	15– 25 per cent	2,600 (approx.)	37 affordable dwellings for sale

Project Name	Description	AH Target	Total AH dwellings (estimated)	Outcomes to date
				Small lot affordable project, known as Town Life Living, won the <i>Best Affordable Development</i> and <i>Best Medium Density Development</i> at the State UDIA awards and the National UDIA Award for <i>Affordable Development</i>
Tonsley	61 hectares; 1,200 residents	15 per cent	78 (approx.)	N/A
The Square at Woodville West	13 hectares— approximately 425 new dwellings	35 per cent AH (for sale and rental) + 15 per cent for social housing	170	N/A
Port Adelaide Renewal Project	2,000–4,000 additional dwellings and 4,000–8,000 residents	15 per cent	600	N/A
Glenside Land Release	Urban renewal project 16 hectares of land 1,000 dwellings	15 per cent	150	N/A

Source: Renewal SA 2016a, 2016b.

In addition to these projects, the majority of which involve government land, it is unclear whether incentive policies to support voluntary affordable housing beyond overlay areas have delivered any additional affordable supply. A search of the South Australian development register revealed 44 applications lodged between November 2014 and July 2015 for 199 dwellings, however no other applications appear after this time.

### **Types of affordable housing supply**

Interviewees revealed that the majority of affordable housing delivered through the planning targets has been affordable housing for purchase in suburban locations. In those locations, developers have been able to achieve the affordability benchmark by reducing lot and dwelling sizes and through design modifications. This has been a key factor in the high degree of developer acceptance of the policy—developers have been able to increase their yields by providing smaller lots and houses, allowing for additional dwelling yield without compromising project viability. As one interviewee noted, the minimal difference between market and affordable prices in many locations means that the targets are not difficult to achieve and that developers have seemed able to absorb any costs associated with compliance. However, while

outer urban locations have the advantage of requiring little developer, landowner or public subsidy to achieve price benchmarks, as one interviewee noted, the homes may not be affordable when housing and transport costs are taken together. There was also concern expressed by some interviewees that there may be an oversupply of homes in some fringe locations.

A major challenge for implementing the affordable housing requirement on private, infill sites has been the nature of the housing market in Adelaide. As one interviewee suggested, the market for apartments is comparatively weak in Adelaide, and examples were given of affordable apartments not being taken up within the statutory timeframe. Developers of apartment developments also require a high volume of presales (e.g. 80 or 90%) before they can commence construction. This can mean that households may have to wait for long periods of time (e.g. two years) to move into their dwelling, and also that households may no longer be eligible or in need of affordable housing by the time the project is complete. For these reasons, interviewees suggested that the affordable housing requirement has been flexibly applied to private, infill developments, with the full 15 per cent more likely to be enforced where developments vary local planning controls and/or are granted a density bonus.

Where the policy has been most successful in terms of delivering a mix of affordable housing (different tenures and levels of need), has been on government-owned, infill sites. On these sites, the mandatory 15 per cent requirement has been enforced through land management agreements.

### ***Community housing sector perspectives***

From the perspective of the community housing sector, the 15 per cent affordable housing requirement is important as it identifies a need for affordable housing as part of new development and triggers a commitment from developers when they are bidding for land or putting proposals forward. It has also helped affordable housing providers to know what development opportunities exist or are coming forward, and has enabled CHPs to form partnerships with developers.

In particular, CHPs have been able to acquire land and properties at below market rates on these government-owned sites. In the St. Clair development, for example, Unity Housing was able to acquire 52 units across five different development projects. The 15 per cent requirement signified to developers that they would need to partner with affordable housing providers early on. Unity Housing was able to partner with AV Jennings and Buildtec, and worked with those developers from the early stages of the projects, meaning that Unity was able to select allotments and units and have a say in elements of the design. Unity's early commitment to buy dwellings off the plan (supported by NRAS and other grant funding) helped the developers to meet their presales requirements and to fund the early stages of the project as they moved into market sales. Unity was also able to purchase the dwellings at a submarket rate owing to the volume of purchases and early commitment. In the Bowden development, Unity was able to acquire land at 'a good value' and partnered with Buildtec on a multi-storey apartment development. Unity was able to purchase more than half the units in the building through a combination of NRAS funding, other grants and borrowing. The project was able to stack up as a result of Unity's commitment to take over half the units off the plan. All of the units acquired by Unity at St Clair and Bowden are being provided as affordable rental housing.

### ***Implementation issues***

While the above outcomes have been positive, interviewees highlighted two factors that are likely to influence the effectiveness of the policy in coming years. The first is that in extending the 15 per cent target to private land through the Affordable Housing Overlay (applied at land rezoning), the wording of the policy is that developers 'should' provide affordable housing. The use of 'should' rather than 'must' has meant that the requirement has been contested by

developers and inconsistently enforced by local planning authorities. There was also a suggestion that developers may not be delivering the affordable housing that they commit to, and that more rigorous processes are required for ensuring delivery.

The second factor was the importance of a grant or other funding sources (such as the NRAS and nation building stimulus funds) in delivering affordable housing on many of the early infill demonstration projects. In the St. Clair development, for example, one interviewee noted that there were seven different financial contributors in order to make a town house development including affordable housing viable. Multiple interviewees questioned whether such developments, which also used government land, would be replicable on privately-owned sites in the absence of financial incentives or subsidies. An interviewee from a CHP noted that while the 15 per cent requirement had helped their organisation to increase their stock over the past 10 years, CHPs would have difficulty accessing that potential source of new dwellings without a funding stream/grants.

### **Affordable housing supply outcomes**

Table 10 below summarises the affordable housing supply outcomes delivered under the different inclusionary mechanisms under operation in SA. As shown, the South Australian approach is comprehensive, underpinned by state targets for affordable housing inclusion, which are able to be implemented through local plan amendments to require affordable inclusion as well as concessions and incentives. Outcomes include a mix of affordable home ownership and affordable and social rental properties.

**Table 10: Selected inclusionary housing approaches and outcomes—SA**

Context	Key mechanisms	Outcomes
SA—State targets for affordable housing inclusion (15% affordable housing in new residential areas)	Inclusionary zoning overlay for new residential areas and government land	17 per cent affordable housing delivered across new housing developments in SA (5,485 dwellings completed/committed 2005–15)
Total dwelling approvals in new residential areas: 31,862	Planning incentives and concessions for voluntary inclusion	Mix of affordable home ownership (47%), affordable rental (22%—purchased by NRAS private investor); social rental (i.e. purchased by SAHT or CHO 31%).  Majority on government land; 1,800 dwellings/lots delivered via inclusionary mechanism (rezoning)  101 voluntary (incentivised) affordable homes

Source: the authors, unpublished data from Renewal SA (30 September 2016).

In total, the inclusionary zoning overlay has yielded 5,485 completed or committed dwellings across the continuum of housing needs and options including affordable home ownership, affordable rental, and social rental. A recent review of the inclusionary approach found high support across the development industry:

*Developers, builders and industry body participants expressed positive views about the 15 per cent policy, and many see South Australia as progressive when compared with other states. A consensus view was that the introduction of the 15 per cent policy itself has been good for the state and has led to positive outcomes for the affordable housing market—such as finance solutions, design and building material innovations for smaller allotments—and reinforced relationships between public, community and private agencies (Renewal SA 2016: 7)*

However, some advised that the potential to secure affordable housing through planning mechanisms was eroded by the introduction of zone or development control changes and concessions that were not linked to an affordable outcome:

*Some changes to zoning such as height and density have resulted in unintended consequences such as inflated land values and one-off vendor profits that have no future value capture for affordable supply. Where government applies profitable benefits to land holders or developers such as stamp duty exemptions, zoning uplifts and parking, there needs to be a stronger link to value capture that targets affordable housing outcomes. (Renewal SA 2016a: 8)*

In proposing improvements to the policy, some developers suggested that a licensing system could be used to distinguish developers who commit to housing products with high long-term sustainability, quality and cost efficiencies (Renewal SA 2016a). Interviewees in our study also suggested that the administrative requirements to manage affordable housing commitments be loosened in development contexts where the market offerings already meet affordable price thresholds.

### **3.3 Voluntary and incentive-based planning mechanisms—NSW**

In contrast to the mandatory inclusionary requirement used in SA, the focus in NSW has been on voluntary provisions to incentivise affordable supply. To this end, a suite of measures have been progressively introduced since 2005. Voluntary Planning Agreements (introduced under state planning law in 2005) are able to be negotiated when plans are amended or developments assessed, and can include contributions for affordable housing. At the time of introduction, the voluntary agreements were seen to be an alternative to the mandatory inclusionary zoning requirement that has applied to designated areas of inner Sydney (Pyrmont/Ultimo and Green Square) since the late 1990s (Davison, Gurran et al. 2012; Williams 2015). The voluntary approach was extended in 2009, with the introduction of *State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP)*. The ARHSEPP introduced a density bonus for affordable housing as well as planning concessions to enable more affordable forms of market housing, including boarding houses and secondary dwellings.

#### **3.3.1 Voluntary planning agreements**

Voluntary planning agreements (VPAs) were introduced into NSW state planning law through the *Environmental Planning and Assessment Amendment (Development Contributions) Act 2005*. The 2005 Act provided legal recognition of voluntary planning agreements although, in practice, informal agreements between planning authorities and developers were already occurring (Williams 2015). As outlined in Section 93F of the *Environmental Planning and Assessment Act*, VPAs are defined as voluntary agreements entered into by a planning authority and a developer under which the developer is required to make a land or monetary contribution for a public purpose or provide a material public benefit. VPAs can be entered into when a change to an environmental planning instrument is sought or a development application is made. Public benefits provided under VPAs can include provision for, or funding of recurrent costs for, public amenities or services, transport or other infrastructure, and affordable housing. They can also be entered into for conservation purposes and to monitor the planning impacts of development.

#### **3.3.2 Operation of the model**

The VPA model is broadly based on the British approach to extracting planning gain. VPAs typically apply to development proposals that require a land rezoning or where variations to development standards, resulting in a higher development yield, are sought. An aim of VPAs is

to allow the value uplift from development consent to be shared between the developer and the public. However, planning authorities may not require developers to enter into a planning agreement or refuse development consent due to failure to offer or enter a VPA.

### 3.3.3 Evidence of supply outcomes (VPAs)

Over the past decade, VPAs have become an attractive and flexible alternative to traditional development contribution requirements for local roads, public space, or other infrastructure works. However, the use of VPAs for affordable housing has been limited (Johnston 2014; Williams 2015), and is not systematically reported. To determine the extent to which the mechanism has been used to secure affordable housing in NSW, it was necessary to undertake a manual review of actual VPAs. To narrow this review, we first examined local government policies pertaining to the making of VPAs, where these policies exist.

Around half (26)<sup>2</sup> of Sydney's local government areas have VPA policies in place, and of these policies, 19 refer to affordable housing (either in describing the purpose of VPAs or potential public benefits). The latter included the VPA policies of higher value inner and middle ring suburbs (i.e. Canada Bay, Ku-ring-gai, Leichhardt, Marrickville, Mosman, North Sydney, Randwick, Ryde, Waverley, Warringah, Willoughby and Woollahra), as well as Gosford, Wyong, Liverpool and Parramatta local government areas. This suggests that local governments have seen potential to use the negotiated framework for affordable housing outcomes. Waverley Council, for instance, clearly defines how value uplift from planning bonuses is to be calculated and used for affordable housing. Randwick Council has specified sites where VPAs for affordable housing will be considered (Richardson 2016).

To estimate the total number of VPAs that have delivered affordable housing, manual searching of the NSW Government and local council VPA registers, was necessary. A total of 236 VPAs for residential or mixed use development projects are listed on the state register, but only two agreements record affordable housing benefits: the St Mary's Development in Blacktown (Lendlease) and the Kolotex and Labelcraft sites in Leichhardt.

A review of the VPAs contained in Sydney Metropolitan Region council registers<sup>3</sup> revealed considerable differences in the overall number of VPAs that have been negotiated, and in the extent to which they have been used to secure affordable housing. Only four registers (Canada Bay, Leichhardt, Ryde and Penrith) included VPAs for affordable housing, and in each case, the number of units or monetary contribution was relatively small. Canada Bay has secured the largest volume of affordable units, totalling 24 across four schemes. Leichhardt and Penrith have secured monetary contributions for affordable housing of over \$450,000 and \$1.5 million respectively. Ryde has secured two units and a monetary contribution of \$125,000.

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<sup>2</sup> When the research was carried out, there were 43 local government areas in Greater Metropolitan Sydney. The number has been reduced following amalgamation in late 2016, however, the policy framework as described here remained in place at the time of writing.

<sup>3</sup> Thirteen local councils in metropolitan Sydney have online registers for VPAs.



**Table 11: Local voluntary planning agreements and affordable housing, NSW**

Local Government Area	Location	Dwelling completions (2012–16) (NSW DoPE)	Number of VPAs in register	VPAs for affordable housing	Affordable housing units	Financial contributions for affordable housing
Blacktown	Outer	8,505	66	0		
Canada Bay	Middle	3,215	27	6	24	
Campbelltown	Outer	3,133	2	0		
Fairfield	Outer	1,183	3	0		
Hawkesbury	Outer	503	9	0		
Leichhardt	Inner	477	2	2		\$450,000
North Sydney	Inner	1,891	6	0		
Penrith	Outer	5,185	9	3		\$1.5 million
Ryde	Middle	3,996	25	2	2	\$125,000
The Hills Shire	Outer	5,142	4	0		
Willoughby	Middle	1,174	4	0		
Wollondilly	Outer	1,172	10	0		
Wyong	Outer	2,455	13	0		
<b>Total</b>		<b>38,031</b>	<b>180</b>	<b>13</b>	<b>26</b>	<b>\$2,075,000</b>

Source: authors (dwelling completions data derived from NSW Department of Planning and Environment 2017).

Researchers have suggested a number of possible reasons for the limited use of VPAs for affordable housing. Williams (2015) notes that only a small number of councils have actively sought affordable housing through VPAs, and that within these council areas, schemes that have been the subject of VPAs for affordable housing have been small infill developments, limiting the potential yield of affordable units. He also illustrates how, prior to the formalisation of VPAs in 2005, developers had strongly resisted mandatory inclusionary zoning schemes in Sydney. Therefore, it is somewhat unsurprising that they have not voluntarily opted to provide affordable housing (Williams 2015). Councils have also been wary of the approach as the willingness of council to allow variations to their planning controls can be seen as undermining their legitimacy (Gilbert and Rosen 2015; Gurrán, Milligan et al. 2008).

Our interviews with planning and housing practitioners revealed a number of other reasons why use of VPAs for affordable housing has been limited. First, VPAs, in general, are very resource intensive, and come with high legal costs. They also require councils to have staff with appropriate skills to manage negotiations. Second, there is a lack of clarity around how potential affordable housing contribution requirements should be determined. Interviewees pointed out that while the Environmental Planning and Assessment Regulations define procedures for determining and administering VPAs, they do not explain how the value uplift from a rezoning or planning variance should be quantified or shared. Our review of council VPA policies found that while some councils, such as Waverley, clearly define their method of valuing planning bonuses and their expectations regarding value sharing in their VPA policy, most councils do not, meaning that there is a lack of clarity regarding how it should be determined.

The interviews also revealed a number of reasons why affordable housing is not being prioritised by most councils in negotiating VPAs. One interviewee highlighted that while VPAs for affordable housing are enabled by the state legislation, there is no overarching state policy

that requires councils to include affordable housing as a potential public benefit. Therefore, some opt not to include it. Interviewees also suggested that community opposition to affordable housing development may also be a factor in councils' decisions. It was suggested that councils tend to favour public benefits that are seen to benefit the whole community, such as a park, whereas affordable housing is seen to only benefit the recipient households. For these reasons, affordable housing has tended not to be prioritised, except by a few councils where there has been political interest and leadership in affordable housing.

### **3.3.4 State Environmental Planning Policy (Affordable Rental Housing)**

The State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP) was introduced in mid-2009. Its aim is to 'provide a consistent planning regime for the provision of affordable rental housing' across local governments and to facilitate the delivery of new affordable rental housing (both market and rent-controlled). Wider aims include facilitating the retention and mitigating the loss of existing affordable housing; facilitating an expanded role for the not-for-profit sector; and supporting local business centres by facilitating housing opportunities near employment. It provides a range of incentives in the form of liberalised development controls (expanded zoning permissibility and non-discretionary development standards) and density bonuses to encourage affordable rental housing. The planning concessions offered in the ARHSEPP were designed to enable affordable housing development under a number of funding streams that were available at the time the policy was introduced, including the Nation Building Economic Stimulus Package and the National Rental Affordability Scheme (Davison, Gurrin et al. 2012). While many of the incentive mechanisms contained in the ARHSEPP were designed for private developers, there are also divisions targeted to community housing providers and government developers.

### **3.3.5 Operation of the model**

The incentives contained in the policy seek to encourage two broad types of 'affordable' housing. The first type is affordable rental housing for which rents are set at below market rates and eligibility is restricted. This includes:

- dwellings for which rents do not exceed 30 per cent of gross household income for households earning less than 120 per cent of the gross median income for the Sydney metropolitan region
- or
- properties rented at below 20 per cent of market rent to eligible low and moderate-income households.

The housing is required to meet the affordable rental criteria for 10 years.

The second type of 'affordable' housing encouraged under the policy are specific types of housing that are assumed to be more affordable owing to reduced size or amenity. These include boarding houses, group homes and secondary dwellings ('granny flats').

#### ***Infill affordable housing***

Developers of medium and high density infill developments (dual occupancies, townhouses and residential flat buildings) can achieve a density bonus by allocating at least 20 per cent of gross floor area for affordable rental housing (Part 2, Division 1, ARHSEPP). A greater density bonus is offered for developments that include at least 50 per cent of gross floor area as affordable housing. Units must meet the affordability requirements outlined above and the policy states that units are to be managed by a CHP.

The density bonus policy applies only where the proposed housing type (e.g. multi-unit) is permissible under the applicable zoning. Within the Sydney metropolitan region, sites must also

be in an 'accessible area'. An accessible area is defined as being within 400 m walking distance of a light rail station or bus stop or within 800 m walking distance of the entry to a rail station or ferry wharf.

In addition to the density bonus, Division 1 limits opportunities for planning authorities to refuse development applications for infill affordable rental housing. While a consent authority may grant development approval for projects that do not meet prescribed standards for minimum site area, landscaped area, deep soil zone, solar access, parking and dwelling size standards, where those standards are met, they cannot be used as the basis for refusal. As the standards apply state-wide, they prevent local governments from applying more stringent or exclusionary development standards.

However, local development standards relating to height and building setbacks still apply to affordable rental housing proposals, meaning that it can be difficult for developers to achieve the full floor space bonus, particularly on smaller infill sites. Planning authorities have discretion to vary height and building set back standards under NSW planning law, but projects need to satisfy the same limitations and tests applying to general applications (known as 'clause 4.6' variations). Affordable housing provision is not a specific ground for variation.

### **Boarding houses**

To promote lower cost market rental accommodation, boarding houses are permitted in residential and mixed use areas (Part 2, Division 3). Division 3 prevents consent authorities from refusing consent based on the density of proposed boarding house schemes where the floor space ratio of the proposed development is consistent with:

- the maximum floor space ratio for any form of residential accommodation permitted on the land
- or
- the existing maximum floor space ratio for any form of development permitted on the land (if a maximum floor area isn't specified).

This ensures that development that would otherwise be considered acceptable is not refused on the basis that it is a boarding house. As with Division 1, Division 3 also sets non-discretionary standards which, if met, cannot be used as a basis for development refusal. These non-discretionary standards include building height, solar access, private open space, parking and accommodation size (with rooms being a minimum of 12 m<sup>2</sup> for single accommodation and 13 m<sup>2</sup> for couples). While consent authorities may, on discretion, permit developments that do not conform to these standards (subject to Building Code of Australia requirements), they are prevented from refusing developments that do comply. As with infill affordable housing, the ARHSEPP makes these standards apply state-wide, meaning that local governments are unable to apply more stringent or exclusionary standards. The Division also defines state-wide standards for the design and operation of boarding houses, including the minimum number of rooms, minimum and maximum room sizes, maximum room occupancy, and management requirements. An on-site manager is required for boarding houses accommodating more than 20 residents.

Division 3 also provides a density bonus for boarding house developments, but only on-sites where a residential flat building would be permitted with consent. If a residential flat building is permitted on the site (and the site does not contain a heritage item), additional density is permitted, as follows:

- 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less
- or

- 20 per cent of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.

This is a valuable bonus because boarding houses permitted under the ARHSEPP are not subject to affordability or eligibility requirements.

### **Secondary dwellings**

The ARHSEPP also provides for secondary dwellings (or 'granny flats'), ensuring that they can be permitted in all residential zones with the exception of high density areas. The policy limits the maximum floor area of a principal and secondary dwelling to the local standard, and limits the total area of a secondary dwelling to 60 m<sup>2</sup>. Again, the state-wide policy overrides local planning controls that would otherwise prohibit secondary dwellings in residential zones, and limits the grounds for refusal.

### **Supportive accommodation and affordable housing on non-residential land**

Other Divisions in Part 2 of the ARHSEPP pertain to secondary dwellings, group homes, supportive accommodation, development by social housing providers and development by the government Land and Housing Corporation. Division 5, enables landowners/developers to apply to the Minister for a site compatibility certificate to enable development that includes a proportion of affordable rental housing on-sites not zoned for multi-unit residential. Under Division 6, the government Land and Housing Corporation is permitted to undertake some development without consent, including construction of smaller scale residential projects.

### **Objections to the ARHSEPP and 2011 amendments**

The ARHSEPP was strongly opposed by some councils and community groups in the years immediately following its implementation (Davison, Gurran et al. 2012). Key concerns were the failure of state government to consult with councils over the policy, the failure of ARHSEPP developments to make development contributions towards public infrastructure, and the incompatibility of ARHSEPP developments with councils' planning controls (Williams 2015). In 2011, the opposition minister at the time described the policy as '*an avenue for small-time developers to rip into local communities and change [their] entire face*' (Nicholls 2011).

Following a change in government, the ARHSEPP was significantly amended in 2011. While the policy had initially permitted residential flat buildings and townhouse developments under Division 1 in all residential zones, the update saw the removal of low-density zones from the criteria, except where the aforementioned development types are permitted. Greater parking standards and accessibility requirements were applied, and social housing development was made to comply with council requirements for resident notification. The floor space ratio bonus for infill affordable housing development was scaled back from 0.75:1 to its current level of 0.5:1. A new clause was also introduced requiring infill affordable housing development and boarding houses to be compatible with the character of the local area, as assessed by the determining authority on a discretionary basis (NSW Government 2013; Gilbert and Gurran 2013).

### **3.3.6 Evidence of supply outcomes (affordable rental housing)**

The main source of data on overall development applications in NSW is the Local Government Performance Monitoring Report series, which is published annually. The report does not, however, track development approvals under the ARHSEPP. Our consultation with the NSW Department of Planning and Environment confirmed that there is currently no source of comprehensive data on development activity under the ARHSEPP in NSW. In light of these limitations, and the ensuring need to manually collect data on individual development applications, we adopted a case study approach, examining the volume and outcomes of applications determined by the state-appointed regional planning panels (whose decisions are

reported online) and by a selection of metropolitan region councils representing different geographies and housing markets.

Our search of the planning panels online register revealed that as of January 2017, the Sydney Planning Panel and the former Joint Regional Planning Panels had determined 22 applications for infill affordable housing development in the Sydney metropolitan region and three in regional areas. Taken together, the applications proposed a total of 1,826 new units (1,557 in the metropolitan region), 1,030 of which (872 in the metropolitan region) were to be provided as affordable housing, over 55 per cent of proposed dwellings. The majority of proposals were by private sector developers (19 proposed schemes), while six were by Community Housing Providers (CHPs) or not-for-profit organisations. The proposed schemes ranged in scale from a 100 per cent affordable, 18-unit townhouse development by a CHP, to a scheme including 501 units (50% affordable) across 5 residential flat buildings, by a private developer.

Of the 25 schemes identified, 20 were approved by the SPP/JRPPs, and 5 were refused. In three of the five refused proposals, the proposed dwelling type was not permissible on the site (i.e. the land was zoned low-density residential or industrial) and, in all cases, the proposals failed to comply with a number of relevant development standards.

In total, 1,008 dwellings were approved (813 in the metropolitan region). This included 583 dwellings that were proposed to be dedicated as affordable dwellings (499 in the metropolitan region), equating to just over 57 per cent. A further 818 dwellings were refused, including 447 dwellings that were proposed to be affordable rental housing. Of the 583 affordable rental dwellings that were approved, 155 were by CHPs or not-for-profit housing providers, suggesting that they would be maintained as affordable rental housing beyond the 10-year period required under the ARHSEPP.

Our review of select local government development application registers revealed significant variation in the number of applications for infill affordable housing development between jurisdictions (see Table 12 below), as well as rates of approval.

**Table 12: Development applications for projects incorporating affordable rental housing**

Local Government Area	Multi-unit DAs determined (July 2009– June 2015)	DAs for infill affordable housing	Number of approved DAs for infill affordable housing
City of Sydney	177	6	5
Leichhardt	43	0	n/a
Marrickville	81	0	n/a
Randwick	92	7	5
Fairfield	87	7	4
Hurstville	108	11	1*
Ku-ring-gai	85	6	1
Hornsby	201	4	4
<b>Total</b>	<b>874</b>	<b>41 (5%)</b>	<b>19 (2%)</b>

\*determination not available for three applications.

Source: authors.

In undertaking a detailed review of the applications in each local government area, we encountered some limitations, including incomplete documents and records of outcome. In the table below, we focus on three local government areas where we were able to attain complete information for each development application. These three local government areas illustrate very different outcomes. In City of Sydney, development under the ARHSEPP was predominantly for 100 per cent affordable rental housing schemes by community housing providers, including a 104-unit scheme by City West. Of the six schemes in our sample, five were approved, and the application that was initially refused by council was later approved through the Land and Environment Court. In Randwick, by contrast, all of the developments using Division 1 of the ARHSEPP were by private developers/landowners. With the exception of one proposal on a site zoned for low-density residential, all of the proposals pertained to sites zoned R3 (medium density), and were relatively small in scale, including between 6 and 26 dwellings. They all proposed to allocate a proportion of dwellings for affordable rental housing, ranging from 21.3 per cent of gross floor area to 50 per cent. The majority (five of seven applications) were approved, with only one refused and one withdrawn. In Ku-ring-gai, development proposals using Division 1 of the ARHSEPP were also entirely by private developers/landowners. Our sample included several proposals by homeowners seeking to redevelop their own properties. The proposals ranged in size from 5 townhouses to 50 apartments. All but one of the proposals pertained to sites zoned R3 (medium-density residential) or R4 (high-density residential), and all were in proximity to public transit (predominantly rail). Nevertheless, five of the six proposals were refused by council. Two were later approved by the Land and Environment Court, and one still had an outstanding appeal at the time of our analysis.

**Table 13: Units by application outcome**

Local government area	Total units approved	Total affordable units approved	Proportion of affordable units
City of Sydney	242	231	95 per cent
Randwick	58	19	33 per cent
Ku-ring-gai	15	3	20 per cent

Source: authors.

### ***Evidence of growing take-up of density bonus***

While our analysis found examples for infill affordable housing development applications from the earlier years of the policy, that is 2009 and 2010, interviewees suggested that the policy has only become popular in the last four or so years. They suggested its use in the early years was limited because the density bonus did not provide sufficient incentive on its own to encourage development. However, in more recent years, high rents and considerable opportunity for capital gains over 10 years, has meant that infill affordable housing developments are now potentially lucrative. Developers who are able to hold properties over the 10-year affordability period are likely to make more than if they sold the properties at completion.

### ***Developer engagement***

Our interviews revealed that there are two main types of private developers who are building infill affordable rental housing. The first type of developer has considerable experience and enough capital that they can build and hold properties. Interviewees suggested that these developers look for sites with the intention of using the ARHSEPP, and will factor the density bonus in when assessing the feasibility and purchasing of the sites. Some of the latter include people with self-managed super funds who contract a builder/developer, either individually or as a consortium of investors. The second type are developers (often builder-developers) who have

a site that they have not necessarily acquired with the intention to use the ARHSEPP, but decide to use it as a means to get increase dwelling yield approved to improve the feasibility of their scheme (sometimes because they have paid too much for the site).

Our review of development applications contained in council registers showed that some sites had a history of either withdrawn or refused applications for medium or high-density development, suggesting that the decision to use the ARHSEPP does appear to have been a final attempt by the landowner/developer to gain approval and/or come up with a viable project. One interviewee gave the example of two developers in Ku-ring-gai who submitted development applications that exceeded the density limits on the applicable sites, were refused by council, and then came back with a development proposal under the ARHSEPP. In this example, one development was given consent by council, but the other was not. Our review of development applications contained in council registers also revealed examples of individual households applying to redevelop their own properties, as well as an example of neighbours proposing to amalgamate and redevelop their properties under the ARHSEPP. This suggests a third type of 'developer' who is using the policy which is homeowners.

### ***Implementation experience***

Interviewees cited a number of problems with the density bonus provisions. The first issue is that the units that are typically allocated for affordable rental housing are often the least desirable units in the development, meaning that they are small, typically ground floor, and may have less natural sunlight and ventilation (although there is evidence that some planning authorities actively prevent this type of outcome).

### ***Local opposition to affordable rental housing, and uncertainty in the planning process***

Both private and affordable housing developers have encountered resistance from communities and local councils to their developments, which typically centre on density. As one interviewee noted, the ARHSEPP was designed to override local planning controls, rather than to work with the planning system, which inevitably leads to questions about the integrity of local controls and planning issues around unanticipated development. Consequently, there is often a high degree of conflict around infill affordable housing applications and, as multiple interviewees noted, applications often end up in the Land and Environment Court. The high cost of lengthy assessment processes can 'eat into' the value of the density bonuses and planning concessions offered through the policy. On the other hand, it was also suggested that, in assessing applications, councils tend to focus on technical standards (i.e. the non-discretionary development standards defined in the ARHSEPP), which can miss the overall quality and merit of proposals.

### ***Compliance***

Another issue is compliance with the affordability requirements. Interviewees noted that some councils have failed to note the affordable housing requirement on the condition of consent. Even where the requirement is a condition of consent, there are often limited resources to check and enforce compliance. Interviewees suggested that compliance can become particularly difficult to enforce where sites or units are sold to other parties. The issue of compliance was seen to have become particularly problematic with the conclusion of NRAS, as compliance with affordability criteria is no longer linked to incentive payments.

### ***Take up by CHPs***

The density bonus provisions also being used by CHPs to undertake 100 per cent affordable rental housing developments. Both the density bonus and planning concessions, particularly reduced parking requirements, are reported to help make community housing projects more cost effective. The non-discretionary standards in the ARHSEPP have also helped to make the

development assessment process more predictable. However, as an incentive mechanism, the density bonus is not sufficient to enable development by CHPs. Where CHPs have used the ARHSEPP, they have typically done so in response to a government tender or a particular funding opportunity (e.g. NRAS) and or have used their own funds and borrowing capacity.

### ***Access to land***

The interviewees revealed two main problems that CHPs face when using the ARHSEPP. The first is that the policy (in contrast to an inclusionary zoning scheme) does not assist CHPs in accessing land. Interviewees identified access to sites as one of the main challenges for CHPs in NSW. CHPs that have undertaken development under the ARHSEPP revealed that they have tended to purchase sites on the open market (or in some cases, have redeveloped existing properties that they own). They are, therefore, potentially competing against developers who intend to develop 100 per cent market schemes.

Also, because private developers can use the density bonus provisions in the ARHSEPP, the policy is not seen to give CHPs an advantage in purchasing land. Owing to the price of land in Sydney, one of the CHPs we spoke to revealed that the sites they can acquire are typically in less desirable areas that are not as walkable and have less access to jobs. This is problematic, as there is less demand in these locations from moderate-income earners. A second issue that CHPs highlighted is that while they are producing 100 per cent affordable schemes, they receive the same density bonus as private developers who are allocating up to 50 per cent of gross floor area for affordable housing for ten years. Moreover, they are rarely able to use the full density bonus in the ARHSEPP due to council height and setback requirements. One interviewee suggested that the ARHSEPP might be improved for CHPs by allowing concessions on council height and setback requirements for 100 per cent affordable schemes by CHPs.

### ***Managing affordable rental housing***

In addition to undertaking their own development under the ARHSEPP, CHPs have also taken on the management of properties delivered under Part 2, Division 1 of the ARHSEPP by private developers. While this opportunity has been welcomed by CHPs, most interviewees noted that their organisation's preference is to own their own properties. Interviewees highlighted a number of challenges in managing properties delivered by private developers, one being that developers typically want the highest possible rental yield, which can misalign with a CHP's purpose. They pointed out that 80 per cent of market rent is not necessarily affordable, and that they typically need to offer properties at 65 per cent of market rent to make them affordable to even moderate-income households.

A second issue that was identified is that there is currently no requirement under the ARHSEPP for private developers to consult with CHPs over the design of dwellings that they commit to manage. Therefore, the units may not be appropriate or may not be affordable (owing to size and higher end finishes) even if offered at 80 per cent of market rent.

### **3.3.7 Evidence of supply outcomes (boarding houses)**

To determine the number of boarding houses and rooms that have been approved under the ARHSEPP, manual review of online registers and decisions was again required. The state planning panels online register listed six boarding house determinations since 2009; five in metropolitan Sydney and one in Newcastle. In total, the applications proposed 793 boarding house rooms (681 in metropolitan Sydney), with schemes ranging in size from 25 to 396 rooms. The three largest schemes (totalling 631 rooms) were explicitly for student accommodation.

Of the six schemes assessed by planning panels, five were approved, totalling 670 rooms (558 in the metropolitan region). Of the 670 approved rooms, 508 (over 75%) were explicitly for student accommodation. The one boarding house proposal that was refused was for a light industrial-zoned site where boarding houses were not permitted. Although all of the approved



boarding house proposals were recommended for approval by the applicable LGA, several attracted very high numbers of community submissions. A 100-room boarding house proposal in Wyong attracted 182 submissions and a 112-room boarding house (student accommodation) in Newcastle attracted 300 submissions. The remaining proposals, including the one that was refused, attracted between 6 and 12 submissions.

Our review of development application registers for select councils revealed that the volume of boarding house applications has differed significantly across councils, with particularly high volumes in inner-city councils (105 in the City of Sydney, 76 in Randwick and 45 in Marrickville, compared to 3 in Hornsby and 4 in Fairfield). These findings suggest that, particularly in inner-ring areas, the boarding house provisions in the ARHSEPP have been used significantly more than parts of the policy that encourage infill affordable housing.

Closer analysis of the applications we uncovered revealed that in inner-ring suburbs, a significant volume of applications were for change of use of an existing building with some alterations and additions, as well as extensions to existing boarding houses to create additional rooms. In the City of Sydney, the former accounted for almost three-quarters of applications, suggesting that many existing buildings are being converted to boarding houses under the ARHSEPP provisions. In our outer suburb LGA, proposals consisted entirely of demolition of single dwellings and new construction.

**Table 14: Boarding house rooms by development application outcome**

Local government area	Rooms in all applications	Rooms in approved developments	Rooms in refused developments	Rooms in withdrawn applications
City of Sydney	1,638	1,076	562	n/a
Leichhardt	211	151	60	n/a
Marrickville	730	107	623	n/a
Randwick	1,440	784	324	338
Fairfield	65	53	0	12
Hurstville	74	11	63	n/a
Ku-ring-gai	124	78	43	3
Hornsby	67	24	15	28

Source: authors.

Our analysis found boarding house applications to have a much higher rate of refusal than development applications generally, with over 50 per cent being refused in Hurstville (75%), Marrickville (67%) and Hornsby (50%). Table 14 above shows the total number of boarding house rooms proposed, approved, refused and withdrawn in each jurisdiction.

### **Boarding house developers**

The interviews revealed that the majority of boarding house development under the ARHSEPP has been undertaken by private organisations. Interviewees suggested that developers operating in the space include small-scale builder developers, some of whom have purchased sites with the intention to build a boarding house, and some who decide later to use the ARHSEPP in order to maximise their yield, as well as consortiums of investors (high net worth individuals) who are engaging in boarding house development and ownership as a long-term investment. Developers of boarding houses are typically self-financing (or only need a construction loan).

The interview findings suggest that the state-wide applicability of the ARHSEPP has both increased the amount of boarding house development that is occurring, and has enabled developers of boarding houses to move around to undertake development in different local government areas (although it was noted that projects are typically tailored to the local market).

### ***Boarding houses and affordability***

Interviewees noted that the target market for boarding house development varies by location. However, most interviewees indicated that a large number of boarding houses are being targeted to student and young singles, particularly in inner-city and accessible locations. Even in outer suburbs, examples of very high-end boarding house developments were given, with rooms priced at around \$400 per week. The latter are seen to be responding to unmet demand for studio and one-bedroom apartments which, in those locations, are generally not permitted. Two interviewees highlighted that while the ARHSEPP provisions for boarding houses were intended to address a social need, in practice they are addressing a housing market failure.

### ***Community housing provider perspectives on boarding houses***

Interviewees from the community housing sector suggested that the boarding house provisions in the ARHSEPP have made their development application process somewhat easier, and that the reduced parking requirements in the ARHSEPP have reduced project cost. Nevertheless, they stated that councils can still draw out the application process for ARHSEPP developments. Other interviewees claimed that the development application processes for boarding houses is still hard, that they attract very high levels of community opposition, and that applications often end up in the Land and Environment Court.

### **3.3.8 Evidence of supply outcomes (granny flats)**

Construction of secondary dwellings has increased significantly since the introduction of the ARHSEPP in 2009. The highest take-up has been in outer-ring suburbs, followed by middle-ring suburbs (Table 15 below). However, it is difficult to assess the extent to which the increase in granny flats is addressing particular housing needs. Unlike some jurisdictions, there is no limitation requiring secondary dwellings to serve the needs of the primary household, meaning that the homes may be rented formally or informally to a private tenant. However, there are no affordability requirements pertaining to these arrangements, and no data on the ways in which these dwellings are being used.

**Table 15: Volume of new second occupancy applications (incl. secondary dwellings) determined by metropolitan region councils**

<b>Year</b>	<b>Inner-ring suburbs</b>	<b>Middle-ring suburbs</b>	<b>Outer-ring suburbs</b>	<b>Total</b>
2007–08	105	332	353	790
2008–09	74	358	342	774
2009–10	62	439	409	910
2010–11	119	571	616	1,306
2011–12	68	565	623	1,256
2012–13	85	398	752	1,235
2013–14	92	982	1046	2,120
2014–15	154	906	1448	2,508
<b>Total</b>	<b>759</b>	<b>4,551</b>	<b>5,589</b>	<b>10,899</b>

Source: authors; data derived from NSW Department of Planning and Environment (2015).

Flexibility is inherent in the secondary dwelling provisions under the ARHSEPP, which allows ‘granny flats’ to serve the needs of the primary household as they change over time. Alternatively, the provisions also offer potential for households to gain additional income while providing a form of rental housing supply to the local market. In terms of dwelling output under the ARHSEPP, these have outnumbered all of the other forms of accommodation supported by the policy and amount to around 5 per cent of total housing supply in NSW between 2009–16. Nevertheless, the extent to which secondary dwellings can be said to address the continuum of housing needs, or represent an appropriate and affordable form of accommodation and tenure, remains unclear.

### 3.4 Summary of NSW voluntary inclusionary planning mechanisms and outcomes

Table 16 below summarises the key mechanisms used to encourage affordable housing provision in NSW and the outcomes, focusing particularly on the ARHSEPP and Voluntary Planning Agreements.

**Table 16: Selected voluntary inclusionary housing approaches and outcomes, NSW**

Context	Key mechanisms	Outcomes
NSW—Voluntary incentive mechanisms for affordable housing inclusion Total dwelling approvals Sydney 2009–16: 274,058	Voluntary negotiated agreements Density bonus and planning concession Planning concessions for diverse, lower cost housing	0.5–1 per cent of Sydney’s housing supply between 2009–17 delivered as affordable rental dwellings (1,287) across VPA and ARHSEPP Voluntary Planning Agreement outcomes (2009–17) 26 units (affordable rental) \$34.075 million (negotiated contributions towards local affordable housing funds) ARHSEPP outcomes 1,261* (affordable rental, 2009–17) 2,284 boarding house rooms (not necessarily meeting affordable rental criteria) 10,899 accessory dwellings

*\*These are conservative figures as local government approval data and VPA outcomes are not readily available and have to be manually collected.*

Source: authors; data on housing approvals for Sydney derived from NSW Department of Planning (2017a)

Across these two mechanisms, we estimate that between 0.5–1 per cent of Sydney’s housing supply has been delivered as affordable rental dwellings for lower income households. A significant proportion of these homes have been developed by CHPs, however overall the affordability requirement (for dwellings approved under the ARHSEPP) remains in place for only ten years. An additional 10,899 secondary dwellings have been produced and 2,284 boarding house rooms, however the extent to which these homes serve affordable housing need is unknown.

### 3.5 Policy implications

This section of the report has reviewed current Australian practice in planning for affordable housing, focusing particularly on practice and outcomes in SA and NSW. Policy implications arising from this review are as follows:

- Affordable housing supply outcomes through inclusionary planning mechanisms remain modest across much of Australia, reflecting the small number of schemes that are in place.
- The mandatory inclusionary housing scheme in operation in SA has contributed to a significant stream of affordable homes in that state, and has sustained high development industry support.
- The voluntary inclusionary incentives in NSW have gained support across sectors of the development industry, but take-up has been limited when considered in relation to total housing development, and affordable supply outcomes are limited and unclear.
- In comparison to local government in the UK and US, Australia's local planning authorities have generally not yet established systematic approaches to measuring housing needs and analysing local housing market trends. They are also limited in their capacity to respond to local needs through inclusionary planning measures because of constraints in state planning law.
- The SA inclusionary approach has enabled CHPs to access land and the opportunity to purchase dwellings at below market rates in desirable locations. By contrast, in NSW CHPs have typically had to buy sites on the market, where they are potentially competing with developers of market schemes, or developers who will only dedicate a proportion of dwellings for affordable housing.
- There is an opportunity to better align planning policy for affordable housing with other government housing policies, programs and initiatives.

## 4 Policy development options

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- There is significant potential to expand the use of planning mechanisms for affordable housing inclusion in new and renewing communities across Australia, through mandatory and voluntary measures.
  - The types of affordable housing generated through inclusionary schemes could be expanded to better reflect the continuum of housing needs and options.
  - Planning authorities can better support affordable housing development by providing certainty for complying proposals.
  - Planning system tools for affordable housing supply will work best if part of a wider whole-of-government strategy to address the continuum of housing needs.
- 

This report has reviewed approaches to planning for affordable housing used in parts of the UK, the US and Australia. In comparison to international practice, inclusionary planning approaches in Australia are limited. However, both the South Australian model (15% affordable housing requirement) and elements of the NSW approach (voluntary incentives) could be extended more widely. Options for extending this practice include:

- requiring affordable housing to be included within new housing developments, for low/moderate-income households or for affordable rental housing providers to purchase (applied when land is rezoned for residential development, when planning rules are varied for particular projects, or following significant infrastructure investment)
- including incentives for affordable housing inclusion as part of new development and in contexts where planning rules are not undergoing significant change (these can work in conjunction with mandatory requirements)
- providing greater planning certainty for affordable housing developments that meet defined local planning rules
- providing planning incentives for innovative housing types, tied to defined affordable housing outcomes (so that the value of any permitted variation to planning rules to support affordable housing development supports genuine affordable housing supply).

In building the suite of planning tools for affordable housing across the different Australian jurisdictions and at the local level, policy development considerations include the following measures.

### ***'On-site' inclusion versus financial contributions for affordable housing***

- Providing access to well-located land at sub-market cost for affordable housing development remains one of the most significant benefits able to be delivered through inclusionary planning mechanisms. For this reason, planning approaches should focus on securing affordable housing contributions on-site as much as possible. However, financial contributions may complement on-site inclusionary planning approaches as demonstrated by the longstanding development contribution system in San Francisco that has provided a significant stream of capital funding for affordable housing development.
- The location and design of affordable housing delivered through the planning system should be considered in relation to the local context and target group needs. While outer urban locations have the advantage of requiring little subsidy to achieve price benchmarks, the homes may not be affordable when transport costs are considered.

### ***Mandatory affordable housing contributions, supported by voluntary incentives and a certain outcome for compliant schemes***

- This study found that mandatory affordable housing requirements appear to deliver a much higher proportion of affordable homes than voluntary schemes over the long term. Mandatory affordable housing requirements work like other planning obligations that need to be factored into development costs prior to land acquisition, thus can be 'passed back' to land sellers as a lower land price.
- However, voluntary incentive mechanisms can play an important role by further offsetting any costs of meeting mandatory obligations. This study also found that the NSW voluntary density bonus helped make some projects more viable, thus potentially bringing forward some housing developments.
- Even mandatory affordable housing requirements must be used in conjunction with other government subsidy or support if affordable outcomes are to be delivered at a scale similar to that achieved internationally and commensurate with housing need, particularly in higher value housing markets. Without capital funding to subsidise construction in higher value markets, even affordable home ownership outcomes may be difficult to secure.
- Inclusionary housing schemes can be effective in both high value and lower value market conditions (and across market cycles), but the design of the mechanism and intended outcome should reflect the availability of additional subsidy to meet the 'gap' between an affordable price point and the cost of delivering the affordable home. Other considerations are the new value created by plan changes and/or new infrastructure development within a particular location, which offset the inclusionary planning requirement.
- Across all of the schemes reviewed, longevity and certainty in planning provisions for affordable housing have been critical in schemes gaining momentum over time. In NSW, both for-profit and non-profit housing developers have encountered resistance from communities and local councils to their developments. There is an opportunity to provide greater certainty of planning approval for affordable developments that meet applicable standards and to ensure that these standards remain consistent over time.

### ***Defining the affordable housing requirement***

- Inclusionary requirements can be set to support varying proportions of affordable housing as part of mixed developments, depending on the availability of other subsidies, the target group, and the market context. The objective of the inclusionary requirement is to help address the (locally defined) 'affordability gap', which is the difference between the market value of appropriate dwellings and the affordable price/rent threshold for the target household.

**Affordability gap = Market value (price or rent) – Affordable price or rent (for target household)**

Subsidy—through the planning system and other sources, then addresses the difference between the affordability gap and the actual cost of delivering the housing units.

**Subsidy gap = Market value (MV) – affordable price (AP) – cost of producing housing unit (PC)**

By securing access to land at 'pre-zoned' values, or by generating 'free' land (through increased development potential), planning system mechanisms should reduce the subsidy required to meet the difference between affordable housing production costs and the **affordable price/rent**.

- In lower value markets, the 'affordability gap' will be lower, because of lower land values. However, in higher value markets, once the **land component** of the cost of producing the

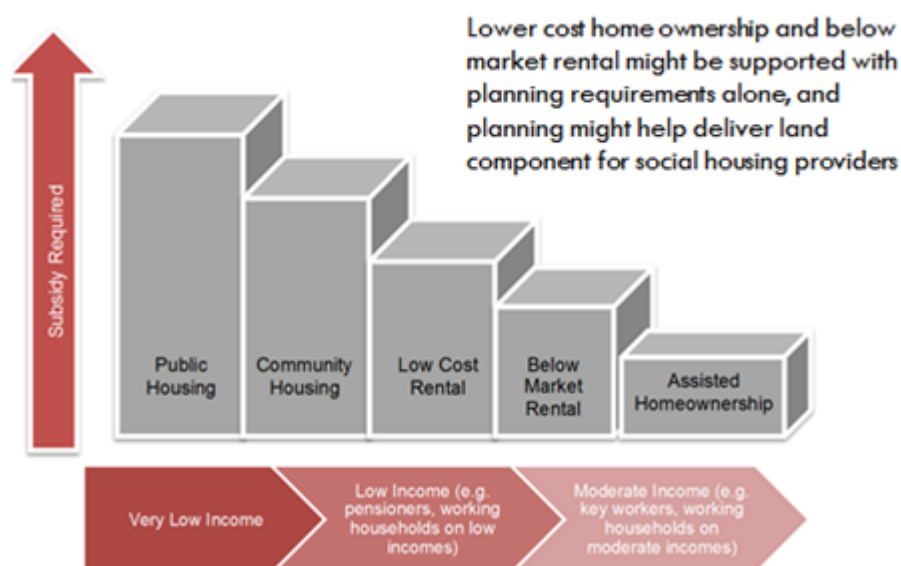
affordable housing unit is controlled, the higher affordability gap will also be reduced by the implicit 'planning subsidy'. For the developer, the cost of foregone profits should be passed 'back' to land sellers in the form of a lower land price, thus not affecting total viability of the scheme.

- The 'affordability gap' and the subsidy requirements to meet this gap will differ depending on the target group and the local housing market. For moderate-income groups, an implicit planning subsidy might be the only intervention required to secure an affordable outcome, even in higher land value settings, because the moderate-income groups are able to meet the construction and related costs associated with producing their home.

**The continuum of housing needs and options should inform inclusionary planning design**

- The continuum of housing needs and options provides a useful way to understand the ways in which affordable housing inclusionary requirements or targets can be set. For housing options that require little or no subsidy to deliver within a particular market—such as low-cost home ownership or discounted rental products—requirements and targets can be higher.

**Figure 5: Continuum of housing needs and options**



Source: authors.

**Preserving affordability created through inclusionary planning**

- Schemes can be designed so that the implicit affordable housing planning subsidy is retained. When the housing is to be provided as affordable rental accommodation, there can be a requirement that the affordability obligation is maintained in perpetuity or for a defined period of time. The longer the affordability requirement is to be maintained, the higher the affordability contribution, so this needs to be recognised when undertaking a viability assessment.
- When the housing is to be provided as low-cost or discounted home ownership, there are different arrangements for preserving affordability or preserving the subsidy (rather than the dwelling). The most common and flexible approach is to implement an equity sharing arrangement where the 'planning subsidy' is calculated and converted to an equity share which is then retained by an affordable housing entity. The equity share is then purchased back by the household over time or repaid when the unit is sold.

Other approaches include a community land trust model, where the dwelling is owned by the household but the land held in trust. This approach is not yet common in Australia. Restrictive covenants can also be used to maintain the unit as an affordable home ownership product; for instance, by limiting future sales to eligible owners, and/or by limiting price increases to a pre-determined range. However, restrictive covenants may raise problems for households seeking home finance.



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