

Social and affordable housing reform

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

Where will this new policy apply?

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

This includes accessible land (e.g. 800m walking distance from a railway station or light rail station) in Greater Sydney, Wollongong, Newcastle and certain land in regional NSW within 800 metres of nominated business (or equivalent) zones.

How do developers use the new SSD pathway?

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

To be declared SSD, a minimum 15 per cent of the development's total gross floor area must be for affordable housing and the CIV must be more than \$75 million.

What are the bonuses and when do they apply?

Developments that provide at least 15% of the total gross floor area as affordable housing for a minimum of 15 years will be eligible for a floor space bonus of 30% and a height bonus of 30%

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

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

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

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

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

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

The proposed height and FSR bonuses will apply to developments that include at least 15% of the total gross floor area as affordable housing, regardless of the capital investment value.

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

The bonuses are not a right and are only available to apply to a development where 15 per cent of the total gross floor area is provided as affordable housing. The 15 per cent is not adjusted pro rata to match the quantum of the bonus applied by an applicant.

The bonuses, unless otherwise specified, do not override or remove the requirement for a proposal to comply with any control that applies to the land and development.

How is the affordable housing treated – i.e., dedicated, sold to a CHP, managed by a CHP and owned by the developer or third party, etc?

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

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

The Government proposes to exempt all social and affordable housing from the payment of any state housing and infrastructure contributions.

It is not proposed to exempt projects containing social and affordable housing dwellings from existing contribution requirements under any relevant local section 7.11 or section 7.12 contribution plans.

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

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

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

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

The requirement for an architectural design competition to be held or for a development to be considered by a design review panel is not proposed to be changed as part of the Government's policy announcements.

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

Are any sustainability targets attached to this proposed new policy?

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

Does the bonus apply on the total GFA (e.g. in a mixed-use development) or only 30 per cent bonus on the residential GFA?

The bonus FSR will only apply to the residential GFA component of a development. The height bonus will apply on top of the total permitted building height in the relevant EPI.

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

An in-lieu monetary contribution option or in-perpetuity model is not currently being considered as part of the announced changes to the in-fill affordable housing provisions.

How will modifications to existing approved developments which seek to take advantage of the new bonus provisions be dealt with – i.e., through the SSD process, local councils or the regional panel?

The EP&A Regulation provides that the consent authority for a development application will be the consent authority for any subsequent modification application.

Will there be savings provisions in place?

The Minister will make a final decision regarding any savings and transitional provisions prior to the making of the SEPP.

Will projects with approval for multiple stages (some of which have not yet begun) be able to amend their approval to take advantage of these new provisions?

The EP&A Act allows for the modification of approved development applications, including concept DAs with multiple stages.

The extent that an approved development application can be modified would be subject to the relevant consent authority being satisfied that the development to which the consent as modified relates is substantially the same for which consent was originally granted.

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

Any proposal is still subject to a full merit assessment by the consent authority. The proposal will require the consent authority to be satisfied that there are no unreasonable adverse off-site impacts in the locality because of any additional height or floor space adopted in a proposal.

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

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

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

- residential development valued at more than \$75 million will be eligible for a new state significant development (SSD) pathway, providing it includes at least 15 per cent of the total gross floor area as affordable housing
- amendments to the existing in-fill affordable housing provisions under the Housing SEPP to introduce a new floor space ratio (FSR) bonus of 30 per cent and a height bonus of 30 per cent for residential developments with at least 15 per cent of the total gross floor area provided as affordable housing.

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

Parking rates are already outlined in the infill affordable housing division of the Housing SEPP. No changes to these rates are proposed.

Is the 15 per cent on top of existing local council requirements or do council requirements contribute to the 15 per cent?

Any local requirement would need to be met in addition to the minimum 15 per cent affordable housing requirement in order to qualify for the FSR and height bonus.

What is the definition for affordable housing? Should we use the National Housing Accord affordable housing definition?

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

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

What are the benefits to the developer of keeping affordable housing for 15 years?

The proposed approach to affordable housing helps make it feasible for developers to keep building affordable housing.

It also means affordable housing is integrated in market developments, reducing the stigma around this type of housing, supporting diverse communities and inspiring ongoing innovation in the design of affordable housing.

Should the affordable housing be retained in perpetuity?

Social and affordable housing is often delivered in perpetuity. This is particularly the case in projects delivered by LAHC and some CHPs. Other planning levers are available that contribute towards the delivery of affordable housing in perpetuity through funds collected under local affordable housing contribution schemes.

Affordable housing delivered under the Housing SEPP in-fill affordable housing provisions provides developers financial incentive and flexibility to contribute towards the demand for affordable housing, while still retaining ownership of the existing asset.

What changes are proposed for infrastructure contributions?

Social and affordable housing will be exempt from state infrastructure contributions when delivered through the Housing SEPP.

Will the private sector be able to manage more affordable homes to take some of the heavy lifting off Community Housing Providers (CHP)?

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

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

Will there be broader consultation on the Housing SEPP amendments?

Many of the proposed changes to the Housing SEPP were exhibited from November 2022 to January 2023. The proposed amendments build on some of the changes that have already been exhibited.

Councils and peak bodies expressed strong support for increasing the delivery of social and affordable housing in their submissions. The reforms proposed to the Housing SEPP are designed to do that.

It is expected that targeted consultation will occur over the coming months to ensure that the final policy is able to deliver on the Government's stated intentions.

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

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

Isn't this just a repeat of the Part 3A pathway that was repealed in 2011?

These reforms do not change what is permissible on the land. Unlike Part 3A, any development application will need to consider the relevant planning controls under existing instruments (noting that the bonuses being delivered as part of this reform will increase heights and FSR by 30 per cent from the pre-determined limits).

Under these reforms, residential development valued at more than \$75 million that includes at least 15 per cent of the total gross floor area as affordable housing will have access to the State Significant Development pathway, which has been operating since 2011.

When will these changes come into place?

The reforms will come into effect through a Housing SEPP amendment later this year.

LAHC, AHO and Landcom

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

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

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

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

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

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

What do the changes mean for Landcom?

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

- an SSD pathway for developments of over 75 homes (equivalent to approximately \$30 million capital investment value) that include at least 50 per cent affordable housing
- a new ability to self-assess affordable housing developments of up to 75 homes.

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

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

Self-assessment powers will be new for Landcom. The department will work with Landcom to ensure appropriate governance arrangements and design guidance are in place, prior to implementation.

Councils

Will any councils be exempt from the policy?

The policy will apply statewide to all applicable development.

It is intended that this policy will have broad application. However, the Government will be identifying specific areas/precincts that will be exempt from the application of the policy. Exemptions from the policy will be by exception only. More advice on exemptions will be communicated shortly.

How can councils be confident they will still be involved in the assessment process?

These reforms do not change where housing is permitted.

Both SSD and self-assessment planning pathways will require consultation with councils and communities.

What resources are we providing to local councils?

The department will continue to liaise with councils to ensure they are equipped with information and engaged with the department as we draft the amendments to the Housing SEPP.