

## Supporting infill affordable rental housing

### STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP) encourages investment in new affordable housing by:

- Providing floor space incentives for villa, townhouse and residential flat building development projects in accessible locations where these uses are already permitted, if the projects include affordable rental housing.
- Setting clear standards for developing new affordable housing projects.
- Ensuring affordable rental housing is designed to be compatible with its locality.

#### **What is the Affordable Rental Housing SEPP?**

The State Environmental Planning Policy (Affordable Rental Housing) (AHSEPP) was introduced on 31 July 2009 to increase the supply and diversity of affordable rental and social housing throughout NSW.

The AHSEPP promotes infill affordable rental housing in existing residential areas that are accessible by public transport. Developments are required to be well-located and to be designed to be compatible with the character of the locality.

The NSW Government made amendments to the AHSEPP on 20 May 2011 after in a review of the AHSEPP that was carried out after it had been in effect for a year.

Feedback during the review revealed general community support for a State planning policy to encourage more affordable rental housing, but also highlighted the need for the NSW Government to work more closely with councils and the community on identifying the most appropriate locations for new affordable housing.

The information contained in this fact sheet reflects the current policy.



#### **Why do we need affordable housing?**

Throughout NSW there is a strong need for a range of affordable housing options amongst the community. This is reflected in figures which show that in February 2010 there were over 47,000 people in NSW on waiting lists for suitable housing accommodation.

It is essential that government at all levels, private industry and the non-government sector work in partnership towards finding innovative ways to provide more affordable housing.

### GENERAL INFORMATION ABOUT INFILL AFFORDABLE RENTAL HOUSING

#### **What is affordable rental housing?**

Affordable rental housing is housing for very low, low and moderate income earning households. These are currently households with an annual income of up to about \$80,000. This includes people who have no place to live, people on low and moderate incomes and key workers who need to live close to their employment.

#### **What is infill development?**

The term 'infill affordable rental housing' includes dual occupancy, multi-dwelling housing or residential flat building development. In the context of the AHSEPP it relates to development that contains a percentage of affordable dwellings as provided for in Division 1 of the AHSEPP.

#### **Where is infill development permitted?**

Under the AHSEPP, affordable rental housing projects can only be proposed by the private sector in locations where this type of development is currently permissible.

The planning incentives that encourage affordable rental housing development apply to infill development in areas where dual occupancies, multi-dwelling housing or residential flat buildings are permissible and which are accessible to public transport.

#### **What is the assessment process?**

Typically, the council's standard development application process applies, and applicants will need to lodge their applications with the local council.

Infill proposals must also take into account relevant provisions of any local environmental plans and development control plans applicable to the area. In this way, the assessment of proposals is required to consider appropriate design and environmental factors.

#### **Who is the consent authority?**

Proposals are determined by the relevant local council or, if they have a capital investment value of more than \$5 million, by the Joint Regional Planning Panel.



## **INFILL DEVELOPMENT PROVISIONS**

The following provides an overview of the infill development planning controls in the AHSEPP:

**Character of the local area:** Requirement to ensure proposals are designed to be compatible with the character of the local area.

#### **Accessibility requirements:**

##### **(a) Sydney Region**

- Within 800m walking distance of a railway station or a Sydney Ferries wharf;
- Within 400m walking distance of a light rail station; or
- Within 400m walking distance of a bus stop used regularly between 6am and 9pm Monday to Friday, and 8am to 6pm on weekends.

##### **(b) Outside of Sydney Region**

Must be within 400m walking distance of land within a B2 Local Centre or B4 Mixed Use zone, or within an equivalent land use zone.

**Floor space ratio:** As specified in the relevant local planning controls plus a bonus of a minimum of 0.2:1 and up to 0.5:1 (or 20%, whichever is greater).

**Proportion of affordable housing:** Between 20% and 50% of the gross floor area of the development.

**Height:** As specified in the relevant council policy.

#### **Minimum dwelling sizes:**

- 35m<sup>2</sup> for a bedsitter or studio
- 50m<sup>2</sup> for a 1 bedroom dwelling
- 70m<sup>2</sup> for a 2 bedroom dwelling
- 95m<sup>2</sup> for a 3 or more bedroom dwelling

**Affordable housing management:** The affordable rental housing component is to be secured for a minimum of 10 years and managed by a registered Community Housing Provider (CHP).

**Council controls:** All relevant policies that apply to the land and/or development type.

**Subdivision:** Subdivision is permissible with consent.

#### **Parking requirements – CHPs:**

- 0.4 car spaces per 1 bedroom dwelling
- 0.5 car spaces per 2 bedroom dwelling
- 1 car space per 3 or more bedroom dwelling

#### **Parking requirements – Private schemes:**

- 0.5 car spaces per 1 bedroom dwelling
- 1 car spaces per 2 bedroom dwelling
- 1.5 car space per 3 or more bedroom dwelling

**Site area:** minimum of 450m<sup>2</sup>.

**Landscaped area:** Minimum of 35m<sup>2</sup> for CHPs, or 30% of the site area in all other cases.

**Solar access:** Living rooms and open spaces of 70% of the dwellings require a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

**Design controls:** Seniors Living Urban Design Guidelines or SEPP 65 - Design Quality of Residential Flat Development.

#### **Deep soil zones:**

- Minimum of 15% of the site area
- Minimum dimensions of 3 metres
- At least two-thirds of the deep soil zone is to be located at the rear of the site

## INFILL DEVELOPMENT INCENTIVES

### What is the floor space bonus for flats?

The FSR bonus is available for residential flats containing affordable units, but only in areas already zoned for flats. The floor space bonus is not permitted on any land that contains a heritage item.

The bonus is 0.5:1 (or 20%, whichever is greater) on top of the existing maximum FSR allowed by the existing local planning controls.

The amount of bonus floor area that a housing provider may be granted is dependent on both the existing maximum FSR allowable on the land and the percentage of affordable housing that will be offered as part of the housing development.

The minimum amount of affordable housing a provider must offer in order to be granted bonus floor space is 20 per cent of the total gross floor area.

### If the existing maximum Floor Space Ratio is 2.5:1 or less:

The floor space bonus (FSB) is determined by the proportion of the total gross floor area which is for affordable housing. If housing providers offer more than 20 per cent of the total development's gross floor area as affordable housing, they are awarded more floor space based on the formula **floor space bonus = (AH/100):1**. (AH represents the proportion of gross floor area in the development which is for affordable housing.)

The highest FSB under this method is 0.5:1 in addition to the existing maximum floor space ratio.

### If the existing maximum Floor Space Ratio is greater than 2.5:1

The floor space bonus where the existing FSR is greater than 2.5:1 is based on a sliding percentage scale, rather than a sliding ratio scale.

This is because a flat rate bonus produces less and less of a benefit as the existing FSR increases beyond 2.5:1.0. This would make affordable rental housing less viable in the very accessible and central areas where large FSRs are used.

The percentage increase in FSR allowed is determined by a formula, up to a maximum bonus FSR of 20%.

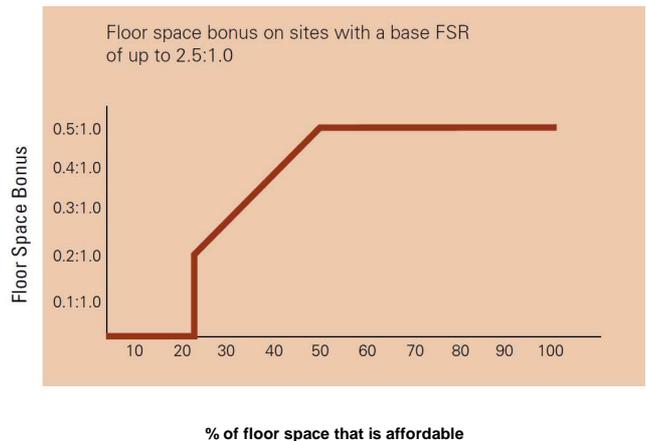
Affordable rental housing is the percentage of gross floor area in the development that is going to be affordably rented.

### Example 1

The council planning controls allow a floor space ratio of 2:1 on the property being developed (so the floor space in the building can be two times the size of the land).

The developer will allow for 50% of the gross floor area to be available as affordable rental housing for 10 years.

This provides a floor space bonus of 0.5:1, giving a total floor space ratio of 2.5:1 for the project.

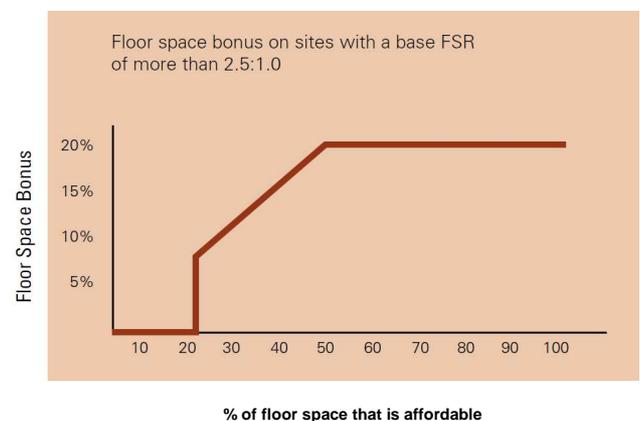


### Example 2

The council planning controls allow a floor space ratio of 5:1 on the property being developed (so the floor space of the building can be five times the area of the site).

The developer will allow 40% of the gross floor area to be affordably rented. The floor space bonus is therefore 16% (40/2.5).

This allows the development to achieve a total FSR of 5.8:1 (a 16% increase in the existing FSR of 5:1).



## FREQUENTLY ASKED QUESTIONS

**Q. Do other local council planning controls continue to apply?**

- A.** If the SEPP does not explicitly override a local council planning control, then the local council planning control continues to apply.

**Q. What happens if there is a conflict between a local environmental plan and the AHSEPP?**

- A.** If there is an inconsistency between the AHSEPP and the relevant council's LEP, the provisions of the AHSEPP will override those in an LEP to the extent of the inconsistency.

**Q. Do section 94 development contributions apply?**

- A.** The AHSEPP does not affect the levying of development contributions under section 94 of the *Environmental Planning and Assessment Act 1979*.

**Q. Does BASIX apply?**

- A.** The AHSEPP does not change the application of the Building Sustainability Index (BASIX) requirement.

**Q. Who monitors and enforces that a component of the development is being used for affordable housing as required?**

- A.** The AHSEPP restricts who may occupy the affordable housing component of the development, and requires that a registered Community Housing Provider (CHP) manages the affordable housing component.

The occupant restriction and requirement for management by a registered CHP is a condition of consent, and is registered on title. Registered CHPs are subject to a regulatory code established through regulations under the *Housing Act 2001*.

Enforcement of the occupant restriction is by the local council.

**Q. How is the management and administration of the affordable housing units determined?**

- A.** The management and administration of the affordable housing units is determined as a commercial arrangement negotiated between the developer and registered CHP. The AHSEPP requires that the dwellings be used for affordable rental housing for 10 years and managed by a CHP.

**Q. Should evidence of an agreement with a registered CHP be provided at the development application stage?**

- A.** The consent authority should be satisfied by written evidence that the affordable housing component of the development will be managed by a registered CHP. The conditions of consent should refer to the specific dwellings which are identified for affordable rental housing on the stamped approved plans.

Prior to an occupation certificate being granted, evidence should be provided to the consent authority demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

**Q. Where can I find a list of CHPs?**

- A.** The Centre of Affordable Housing provides a list of registered CHPs. The list is available at: <http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/Managing+Affordable+Housing/Community+Housing+Providers.htm>

**Q. Do I need a site compatibility certificate for development under the SEPP?**

- A.** Generally, no. Only development under Division 5 of the AHSEPP requires a site compatibility certificate.

**Q. What is the situation with voluntary planning agreements?**

- A.** The AHSEPP does not affect voluntary planning agreements (VPAs). A developer and a consent authority can still enter into a VPA for the provision of affordable housing either under the AHSEPP or any other environmental planning instrument.

**Q. Why is a height standard not set for the infill development provisions?**

- A.** Height controls formulated by local councils were considered the most appropriate standards to ensure the built form of new development is generally in keeping with that of other development in an area. Variations under State Environmental Planning Policy No.1 – Development Standards can be considered on a case by case basis by the council.

## FURTHER INFORMATION

An updated version of the AHSEPP, incorporating the changes set out in the amending SEPP, is available on the NSW legislation website:

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

The State Environmental Planning Policy (Affordable Rental Housing) Amendment 2011 and fact sheets on the recent changes can be found on the Department's website: [www.planning.nsw.gov.au/affordablehousing](http://www.planning.nsw.gov.au/affordablehousing)

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