



NSW Government moves towards a state-wide framework for inclusionary zoning

Shelter NSW update

December 2018

Proposed amendment to State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) – state-wide application

The NSW Government has proposed amendments to SEPP 70 so that it will have state-wide application. If approved, the proposal would allow every local council across New South Wales to develop schemes for mandatory affordable housing dedications and/or contributions. This is a form of inclusionary zoning that is consistent with the approach recommended in the Greater Sydney Commission's Region and District Plans.

A copy of the Explanation of Intended Effect, Draft Guideline for Developing and Affordable Housing Contribution Scheme and a Frequently Asked Questions document can be found on the [Department of Planning and Environment's website](#).

What is SEPP 70?

SEPP 70 is a NSW planning instrument that identifies a need for affordable housing in specified local government areas. Currently the areas included are Canada Bay, City of Randwick, City of Ryde, City of Sydney, City of Willoughby, Inner West and Northern Beaches councils. SEPP 70 is listed on the NSW Government [legislation website](#).

Being included in SEPP 70 allows a council to require an affordable housing dedication (of land or dwellings) or contribution (of money) as part of the development approval process in specified precincts. This requires a scheme that is authorised and included in a council's local environmental plan/s (LEP), which must be approved by the Department of Planning and Environment. The requirements are set out in the *Environmental Planning and Assessment Act 1979* (the Act) at [section 7.32](#).

Inclusion in SEPP 70 does not impose any positive obligation upon a council. It enables a council to consider and apply to use the Act's inclusionary zoning provisions that would otherwise not be available

to them. The current limitations of SEPP 70's coverage means councils that are not yet identified as being in need of affordable housing (that is to say, not specified in the instrument as such) are discouraged from seeking inclusion. Councils with a genuine need for the Act's inclusionary zoning provisions must undertake complex and costly analyses of affordable housing demand, and demonstrate how a contributions scheme would operate in their local context, with no guarantee of approval and inclusion in SEPP 70.

What change is being proposed?

Quite simply, the NSW Government proposes to amend SEPP 70 so that it will have state-wide application. Councils will no longer be required to seek inclusion, so the administrative burden and uncertainty of seeking inclusion will no longer be a barrier to councils developing inclusionary zoning schemes.

Additionally, the proposal would make some technical amendments: to ensure the definition of "affordable housing" takes account of housing price and income differences between the Sydney metropolitan region and the rest of New South Wales; and to clarify that affordable housing produced under an inclusionary zoning scheme is to be made available to a mix of very low, low and moderate income households, or any combination thereof.

Shelter NSW supports this proposal

It is the long-stated view of Shelter NSW that SEPP 70 should be expanded to include all of the Sydney metropolitan councils, and that regional councils should be entitled to seek inclusion where there is a need. The Government's proposal goes further – if approved it will ensure SEPP 70 applies to all councils across the state. Councils could then get on with the job of developing their Affordable Housing Contribution Schemes, and ultimately working towards increasing the supply of affordable housing in New South Wales.

Shelter NSW encourages all interested parties to write to the Department of Planning and Environment [via their specified web-link](#) and express strong support for the proposal. The deadline for comments is **December 19th 2018**.

Further, we encourage you to contact your local council and ask them to commence work on an Affordable Housing Contribution Scheme, if they have not already done so. You may wish to draw your council's attention to the [Draft Guideline for Developing and Affordable Housing Contribution Scheme](#) and Shelter NSW's recent update on [Local Government, Planning and Affordable Housing Supply in NSW](#).

Want to find out more?

Please get in touch with Ned Cutcher, Senior Policy Officer on 02 9267 5733 (ext 11) or ned@shelternsw.org.au if you would like to discuss this update.