



AFFORDABLE HOUSING CONTRIBUTION
SCHEMES **RESILIENT SYDNEY PROJECT**

STANDARD TEMPLATE AND
RESOURCES



Urbanista



Urbanista Australia Pty Ltd 2023

This package of resources has been prepared for Resilient Sydney by Urbanista Australia Pty Ltd to assist councils to prepare Affordable Housing Contribution Schemes. The authors have taken all due care in the preparation of this material. However, Urbanista and its associated consultants are not liable to any person or entity for any damage or loss that has occurred, or may occur, in relation to that person or entity taking or not taking action in respect of any representation, statement, opinion or advice referred to herein.

Project team:

Linda Blinkhorn
Reeve Cocks
Prof Peter Phibbs
Jaime McNamara
Rebecca Richardson

Urbanista

www.urbanista.com.au

ACN: 614 192 228

Suite 66, No 89 Jones Street,

Ultimo NSW 2007

Ph. +61 2 9211 3033

on the lands of the Gadigal people
of the Eora Nation

STANDARD TEMPLATE AND RESOURCES

This resource package comprises:

A **Standard Template** provides standard provisions for councils to include in their Affordable Housing Contribution Scheme (AHCS). The template follows the format set out in Appendix 3 of the Department of Planning and Environment '[Guideline for Developing an Affordable Housing Contribution Scheme](#)' and includes explanatory notes for additional guidance, particularly where local provisions or locally relevant data is required.

An accompanying **AHCS Compendium** provides further information. This is primarily derived from the shared knowledge of councils with an existing scheme. These insights will assist councils preparing a scheme for the first time.

AHCS Resources supplement the package providing a compilation of some affordable housing clauses used in LEPs and provisions applied in current AHCSs.

USING THE RESOURCE PACKAGE

This resource package is designed to simplify and demystify the preparation of an Affordable Housing Contribution Scheme (AHCS).

The **AHCS Template** provides a structured, partially pre-populated framework for an AHCS formatted in keeping with the structure set out in the Department of Planning and Environment '[Guideline for Developing an Affordable Housing Contribution Scheme](#)' (referred to in this document as the DPE AHCS Guideline).

It comprises:

- Standard text for councils to use where common wording is applicable across AHCSs.
- Grey shaded text indicating where locally or regionally specific references/input is required.
- **Explanatory notes** giving additional guidance for developing customised local provisions or where locally relevant data is required.
- **Optional Provisions** that can be used or adapted where relevant and appropriate.

The accompanying **AHCS Compendium** provides further information and examples.

- Examples of approaches derived from councils with an existing scheme.
- Implementation tools to assist councils in:
 - o structuring implementation frameworks
 - o managing contributions and affordable housing assets
 - o partnering with Community Housing Providers

The **AHCS Resources** supplement the package providing a compilation of some practical examples of:

- LEP affordable housing contribution provisions
- AHCS provisions

TEMPLATE

[COUNCIL OR COUNCILS]

AFFORDABLE HOUSING CONTRIBUTION SCHEME

[DATE]

Urbanista

PRELIMINARY

Acknowledgement of Country

[It is suggested that Council include an appropriate Acknowledgement of Country.]

Publication and authorship details

[Council to include relevant details]

Table of Contents

1. BACKGROUND AND STRATEGIC CONTEXT	7
1.1 OBJECTIVES OF THE SCHEME	7
1.2 WHERE DOES THE SCHEME APPLY?	7
1.3 WHAT TYPES OF DEVELOPMENT DOES THE SCHEME APPLY TO?	8
1.4 OVERVIEW – AFFORDABLE HOUSING NEED	8
1.5 LEGISLATIVE BASIS FOR AFFORDABLE HOUSING CONTRIBUTIONS.....	9
1.6 RELATIONSHIP TO OTHER AFFORDABLE HOUSING PROVISIONS IN THE LGA	11
1.7 AFFORDABLE HOUSING PRINCIPLES	12
1.8 DEFINITIONS.....	13
2. AFFORDABLE HOUSING CONTRIBUTIONS	15
2.1 CONTRIBUTION RATES	15
2.2 DEDICATION OF DWELLINGS	16
2.3 EQUIVALENT MONETARY CONTRIBUTION	16
2.4 DEVELOPMENT THAT IS EXEMPT FROM THE AHCS	17
2.5 CONDITIONS OF CONSENT FOR AFFORDABLE HOUSING.....	18
3. ADMINISTRATION AND IMPLEMENTATION	19
3.1 HOW TO MAKE A CONTRIBUTION	19
3.2 INDEXING OF PAYMENTS	21
3.3 PROCESS FOR THE DISTRIBUTION AND MANAGEMENT OF CONTRIBUTIONS	22

1. BACKGROUND AND STRATEGIC CONTEXT

1.1 OBJECTIVES OF THE SCHEME

The objectives of this AHCS are to:

- I. recognise affordable housing as critical infrastructure to support sustainable and diverse communities and economic growth in the [LGA/Region];
- II. contribute to meeting the housing needs of very low to moderate income households who live and work in the LGA, [add target cohorts if appropriate];
- III. provide clarity and certainty regarding the requirements for provision of affordable housing in the LGA.

Explanatory Note

These objectives are relevant to all schemes. Councils may wish to include additional objectives relevant to local circumstances. Some examples of additional objectives are set out in the accompanying AHCS Compendium.

1.2 WHERE DOES THE SCHEME APPLY?

The Scheme applies to land within the [precinct/suburb/LGA/LGAs] as identified in the [LEP/AHCS] at [include reference].

Explanatory Note

Identifying areas in the scheme (and not in the LEP) provides greater flexibility for additional areas and/or sites to be added. Nevertheless, it is open for councils to choose to identify where the AHCS will apply in their LEP instead of in the AHCS and the Department of Planning and Environment is supportive of this approach.

1.3 WHAT TYPES OF DEVELOPMENT DOES THE SCHEME APPLY TO?

The Scheme applies to all new [residential development/residential and mixed-use/commercial].

Explanatory Note

Most schemes will apply to residential and/or commercial development. Specific types of development and small-scale work can be excluded under 2.4 below.

1.4 OVERVIEW – AFFORDABLE HOUSING NEED

Housing is critical to basic human needs for shelter, security and connection within communities. The availability of a suitable range of housing is vital to [insert LGA/LGAs] ability to function in an efficient, equitable, prosperous and sustainable way.

Offering more housing choices, including housing that is affordable for low and moderate income households is needed to support a socially diverse and inclusive community and to help the local economy function, for example by ensuring sufficient workers are available for local businesses.

In recent decades, continued escalation in house prices and rents across the Sydney Greater Metropolitan Region and in many regional areas of NSW has made it difficult for low and moderate income households to find housing that is affordable resulting in increased levels of households in housing stress.

The evidence base for [Council/Councils] shows:

- There is unmet demand for social and affordable housing in the LGA;
- A significant proportion of low and moderate income households are in housing stress;
- Low and moderate income households are being displaced because of the lack of affordable housing;
- The types of households that need affordable housing include [insert e.g.,]
- It is difficult for key workers to meet their housing needs;
- Low and moderate income households cannot afford to purchase or rent housing in the LGA;
- The amount of affordably priced housing is declining;
- There is a mismatch between the stock profile and household size.

Specific interventions are therefore needed to ensure that a diversity of housing, including affordable housing is provided.

The evidence base prepared to support this scheme is available on [council's website/DPE Housing Evidence Centre (insert link)].

Explanatory Note

The template provides for an overview of housing need rather than a detailed analysis. Data can quickly become out of date and its inclusion in the scheme will likely require frequent updating to ensure the scheme is compliant and support implementation. This will then trigger further council approval of amendments to the scheme, even if changes are limited to updating data.

The preferred approach is for schemes to provide the overview and make the evidence base developed to support development of the scheme available on council's website and/or held by the Housing Evidence Centre.

The statements of housing need set out in this section are based on the key questions in the standard evidence base developed by Urbanista as part of the Resilient Sydney AHCS Project. Councils can select, add or adjust these statements based on circumstances in their LGA/region.

1.5 LEGISLATIVE BASIS FOR AFFORDABLE HOUSING CONTRIBUTIONS

This Scheme applies in accordance with the requirements in the Environmental Planning and Assessment Act 1979 (the Act).

The State Environmental Planning Policy (Housing) 2021 recognises that all local government areas within NSW are areas where there is a need for affordable housing.

The objects of the Environmental Planning and Assessment Act 1979 (the Act) set out in section 1.3 include:

- to promote the social and economic welfare of the community and a better environment via the proper management, development and conservation of the State's natural and other resources;
- to promote the delivery and maintenance of affordable housing.

Division 7.2 of the Act allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument.

Together with the State Environmental Planning Policy (SEPP) Housing 2021 (the Housing SEPP), Division 7.2 provides the statutory basis for levying contributions under Affordable Housing Contribution Schemes (AHCSs) as follows:

- State Environmental Planning Policy (SEPP) Housing 2021 recognises that there is a need for affordable housing within all local government areas in the State.
- Section 7.32 of the Act allows for the collection of contributions for affordable housing where such a need has been identified in a planning instrument and where one of the requirements of that section is satisfied.

In respect to [insert precinct as applicable], development in accordance with the Local Environmental Plan will satisfy the requirement for the collection of affordable housing contributions under section 7.32 of the Act on the basis that:

[Select / delete as appropriate]

(a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area.

(b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area.

(c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site.

(d) the regulations so provide.

Explanatory Note

Section 7.32 of the Act allows for the collection of contributions for affordable housing where a need has been identified in a planning instrument and one or more of the provisions in sub-sections (a) to (d) applies.

To make clear section 7.32 is satisfied, it is desirable for the AHCS to set out the provisions of sub-section (a) to (d) that are applicable.

Where a scheme applies in combination with an uplift in planning potential, sub-section (c) will be fulfilled. Further, the Evidence Base prepared to support the introduction of the AHCS can establish that sub-sections (a) and/or (b) are met.

An illustration of this approach is the Bays West Precinct draft Affordable Housing Program. It highlights that section 7.32 (a)-(c) is met and the accompanying needs analysis sets out the basis upon which this is established.

Further details are included in the AHCS Compendium.

1.6 RELATIONSHIP TO OTHER AFFORDABLE HOUSING PROVISIONS IN THE LGA

[Identify provisions relevant to the region, LGA and/or locality]

Explanatory Note

An affordable housing contribution scheme is often developed following an assessment of housing needs. This may be undertaken as a discrete study or as part of a Local Strategic Planning Statement, Local Housing Strategy or Affordable Housing Strategy/Policy.

The relevance of this scheme in the broader strategic planning context and its relationship to other affordable housing initiatives can be outlined here. Sample provisions are provided below.

Optional Provisions

This Scheme has been prepared in the context of Council's broader strategic planning framework with particular focus on directions related to housing.

Relevant strategic planning documents include:

- The [insert details] Regional and/or District Plan which establishes actions and targets for affordable housing.
- The [insert details] Regional Housing Study examining regional housing issues, needs and responses.
- [Council] Local Strategic Planning Statement has identified the housing needs and future opportunities for the LGA. [Add relevant detail as relevant].
- The [Council] Local Housing Strategy further explored the need for responses to local housing needs. Specific initiatives include [Council to include].
- The [Council] Housing Needs Analysis examining affordable housing requirements and gaps in provision a range of affordable housing to meet current and emerging needs.
- The [Council] Affordable Housing Strategy setting out responses to identified issues and needs.

Examples are set out in the AHCS Compendium.

1.7 AFFORDABLE HOUSING PRINCIPLES

This scheme is guided by the following principles which are required under clause 15 of the Housing SEPP to be considered by a consent authority before imposing a condition under the Act, section 7.32:

- (a) Affordable housing must aim to create mixed and balanced communities,
- (b) Affordable housing must be created and managed so that a socially diverse residential population, representative of all income groups, is developed and maintained in a locality,
- (c) Affordable housing must be made available to very low, low and moderate income households, or a combination of the households,
- (d) Affordable housing must be rented to appropriately qualified tenants and at an appropriate rate of gross household income,
- (e) Land provided for affordable housing must be used for the purposes of the provision of affordable housing,
- (f) Buildings provided for affordable housing must be managed to maintain their continued use for affordable housing,
- (g) Affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area

Explanatory Note

The principles help to explain the parameters of the scheme such as how the objectives relating to affordable housing in the EP&A Act and Housing SEPP will be achieved, who can access the housing, where housing can be provided and how any additional surpluses from rental income will be expended. They assist in ensuring that housing provided under a Scheme is genuinely targeted to lower income households in need of affordable housing.

Councils may vary or add principles to facilitate the provision of affordable housing or as relevant to their local circumstances. One area not specifically addressed in the principles set out in the Housing SEPP that councils may choose to address is the location of affordable housing to be provided under the Scheme. Must housing be in proximity to the precinct where development is taking place? Must it be provided within the LGA or will provision within an adjoining LGA be permitted?

Optional Provisions

- Affordable housing must be provided within the LGA or within an adjoining LEP but only where council is satisfied it will meet the principles of the Scheme.

- Disposal of and reinvestment in affordable housing assets may occur over time to enable cost effective responses to changing housing needs or other circumstances provided that any proceeds from the sale of affordable housing delivered under the scheme be used for the provision of affordable housing within the [Locality/LGA/region].
- Surpluses from the management of affordable housing are to be used for the purpose of delivering, improving or replacing affordable housing or for providing additional affordable housing.

1.8 DEFINITIONS

Terms used in this scheme are defined below:

Explanatory Note

Councils should select the definitions of terms used in the Scheme from the definitions below and add/adjust as appropriate.

Affordable housing	<p>As defined in section 1.4 of the Environmental Planning and Assessment Act (the Act), affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.</p> <p>Clause 13(1)(a)(ii) specifies that for the purposes of section 1.4 of the Act, a very low, low or moderate income household pays no more than 30% of the gross income in rent.</p> <p>NSW Ministerial Guidelines provide the details of these income thresholds.</p>
Affordable rental housing	<p>Affordable rental housing means affordable housing that is owned and managed by government, a registered community housing provider, or an eligible community housing provider (or Council) and rented to very low, low or moderate income households or a combination of households.</p>
Affordable housing levy contribution	<p>Affordable housing levy contribution means the percentage of the gross floor area required as affordable housing under the Affordable Housing Contribution Scheme.</p>

Approved Affordable Housing Contribution Scheme Map	Approved Affordable Housing Contribution Scheme Map means the Affordable Housing Contribution Scheme Map included in section 1.2/Schedule 1.
Contribution rate	Is the rate that is used in the calculation of the monetary contribution for a relevant development and is adjusted to take into account indexation.
Distribution Plan	A plan supplementing this AHCS providing details about the process for allocation or transfer of contributions, including criteria for selection of one or more community housing providers to receive funding or property.
Eligible Community Housing Provider	An Eligible Community Housing Provider (CHP) is a community housing provider that is registered under the National Regulatory Code.
Evidence Base	An analysis of housing in the [region or LGA] which establishes the need for affordable housing and satisfies the requirements under section 7.32 of the EP&A Act for the collection of contributions for affordable housing.
Key workers	[Council may choose to include a locally appropriate definition of key worker.]
Recommended Community Housing Provider	A recommended community housing provider is an eligible CHP identified in [insert schedule number or other reference] to receive contributions under this Scheme.
Very low to moderate households	As referenced in State Environmental Planning Policy (Housing) 2021, very low to moderate income households are those households whose gross incomes fall within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW: <ul style="list-style-type: none"> - Very low-income household < 50% - Low income household 50% -80% - Moderate income household 80% to 120%.

2. AFFORDABLE HOUSING CONTRIBUTIONS

This Section describes how affordable housing contributions are determined and satisfied through monetary contributions and dedication of dwellings and land.

2.1 CONTRIBUTION RATES

[Council to add rates as determined following feasibility assessment.]

Explanatory Note

The affordable housing levy contribution to be applied under the AHCS will be determined following assessment of the financial viability of the target(s) set by council having regard to the identified housing needs, Council's strategic planning framework and objectives for affordable housing and the broader planning context outlined in 1.6.

Under section 2.1C of the DPE AHCS Guideline, councils are required to undertake feasibility assessment by applying a residual land value test over a range of sites within an area identified for inclusion under the AHCS in accordance with Appendix 2 of the Guideline. Where rates differ between residential and commercial floorspace, between areas, or between development types, justification must be provided.

As part of the Resilient Sydney AHCS Project, Urbanista has scoped further work required to develop a more streamlined approach to assessing viability and determining appropriate contribution rates. Further guidance to assist councils to assess feasibility and arrive at appropriate rates is proposed to be included in this Template when available. While such guidance is not yet available, the AHCS Compendium provides examples from existing schemes.

For completeness and ease of updating, this Template proposes that rates be specified in the AHCS in keeping with the DPE AHCS Guideline. However, councils may take the view that it is more transparent to include rates in their LEP instead.

Where improvements in feasibility are projected, for example in response to planned augmentation of infrastructure, councils may wish to introduce a stepped rate, whereby the initial rate is increased in one or more tranches (additional to the indexing of contributions as addressed in section 3.2 below). This approach places the market on notice of future increases in the rate, as illustrated in the following example.

Optional Provisions

Minimum proportion of the gross floor area of the building used for affordable housing to satisfy Clause x(2)

on land within Area reference	DA lodged	Affordable Housing Contribution	
		<u>before xx/month/yr</u>	<u>after xx/month/yr</u>
A		U%	X%
B		V%	Y%
C		W%	Z%

2.2 DEDICATION OF DWELLINGS

[Council to add as relevant]

Explanatory Note

Council may wish to specify specific requirements relating to dwellings to be dedicated. This may include minimum standards for dwellings; restrictions on the transfer of certain dwellings e.g. where strata fees are above a level that is sustainable for affordable housing or if accommodation is not in a form that meets the housing needs identified in the Evidence Base; and council's process for agreeing to the selection of dwellings to be transferred.

Council may also choose to require the dwelling to be transferred directly to a community housing provider as discussed under 3.3 below.

Refer to Part C of the AHCS Compendium for an example of requirements for the dedication of dwellings applied by the City of Sydney.

2.3 EQUIVALENT MONETARY OR LAND CONTRIBUTIONS

This section describes the rate at which a monetary contribution or a contribution of land is to be taken to be equivalent to floor area for the purposes of the affordable housing levy contribution.

[Council to add as relevant]

2.4 DEVELOPMENT THAT IS EXEMPT FROM THE AHCS

The following development is exempt from the affordable housing contribution scheme:

[Council to specify]

Explanatory Note

It is typical to exempt community infrastructure and small-scale development from the application of an AHCS.

Optional Provisions

The following development is exempt from the affordable housing contribution scheme:

- development of community facilities, public roads or public utility undertakings;
- development for the purposes of social and affordable housing and group homes/supported accommodation¹;
- a dwelling house and/or residential development, refurbishment or repair below a specified dollar value or under a certain size, for example:
 - the erection of a new building the gross floor area of which is less than [200] square metres;
 - alterations to an existing building that will result in the creation of less than [200] square metres of gross floor area that is intended to be used for the purpose of residential accommodation;
 - alterations to an existing building that will result in the creation of less than [60] square metres of gross floor area that is intended to be used for a purpose other than residential accommodation;
 - the demolition of existing floor area and the subsequent creation, whether for the same or a different purpose, of less than [200] square metres of gross floor area;
 - a change of use of less than [60] square metres of existing floor area of a building.

¹ Subject revision of the Housing SEPP, updating of terminology may be required.

2.5 CONDITIONS OF CONSENT FOR AFFORDABLE HOUSING

[Council to develop in accordance with scheme].

Explanatory Note

Conditions of consent will be required for the following:

- ◆ Provision of affordable housing dwellings
- ◆ Payment of a monetary contribution
- ◆ Dedication of land.

The scheme may outline what will be included in the conditions of consent, for example:

Optional Provisions

Conditions of consent for one or more **affordable housing dwellings** being provided may specify:

- The total floor area of the dwellings to be dedicated as affordable housing;
- The total floor area of the development used for residential (or residential and commercial) purposes that was used to calculate the contribution;
- The affordable housing dwellings to be dedicated must be shown on the approved plans, and referenced in the affordable housing condition;
- A requirement that an affordable housing covenant be placed on the title of the land;
- A requirement that prior to the granting of a construction certificate, evidence be provided by way of a written legal agreement to transfer title of the affordable dwelling(s) to the Council;
- A requirement for details of fittings and fixtures to be provided to council (where dwelling are provided) prior to issue of a construction certificate.

Conditions of consent for a **monetary contribution** may specify:

- The monetary contribution required in accordance with the rates as specified under the scheme;
- The total floor area of the development used for residential purposes that was used in the calculations;
- The contribution period at the time of determination (i.e. for a consent dated [xxx], the contribution period is [xxx]);
- The method of adjustment (or indexing) of contribution rates (as outlined in the scheme);
- A requirement that the condition be satisfied (to Council's approval) prior to the issue of a construction certificate;
- Any other matters determined by Council.

Councils with existing schemes have developed the following tools to identify when a contribution is required, calculation of the contribution is accurate and to ensure compliance. These include:

- Process mapping (Northern Beaches)
- Tool for calculating contributions (City of Sydney)
- Standard Housing Transfer Deed (Willoughby)
- Standard conditions of consent.

These tools and examples of conditions of consent are included in the AHCS Compendium.

3. ADMINISTRATION AND IMPLEMENTATION

3.1 HOW TO MAKE A CONTRIBUTION

All development to which this Scheme applies is required to provide affordable housing. This requirement will be by way of a condition of development consent. The contribution may be provided in the form of one or more of the following:

- Dedication of affordable housing dwellings to Council / a nominated community housing provider in accordance with the principles outlined in section 1.7 above;
- A monetary contribution;
- Dedication of land.

A contribution requirement forms part of a development consent. Council will require evidence that the affordable housing contribution requirement is satisfied prior to granting of any construction certificate or complying development certificate.

Affordable housing dwellings

The location, size and quality of affordable housing dwellings are to be to the satisfaction of Council and/or the receiving community housing provider. If they are not to satisfaction, Council may require changes to the development application, or that the contribution be made by way of an equivalent monetary contribution.

Where part of a contribution is satisfied by dedicating dwellings, any remaining floor area must be paid as a monetary contribution.

All floor area to be dedicated for affordable housing is to be allocated as dwellings, that is, common circulation areas are not considered part of the contribution requirement. An exception to this is where all the affordable housing floor area is provided as a full floor of a development or as a stand-alone building.

Monetary contributions

Payment of contributions will be by unendorsed bank cheque to the Council prior to the issue of any Construction Certificate.

Where no construction certificate is required, evidence that the affordable housing contribution requirement is satisfied will be required by Council before commencement of use/occupation.

If a development requires multiple construction certificates, Council will require payment prior to the release of the first construction certificate relating to the development consent on which the contributions were levied.

Land for affordable housing

Council and a development proponent may agree that the affordable housing levy contribution be met through a dedication of land with any shortfall made up by way of a monetary contribution. The method for determining the equivalised value of land is set out in 2.3 above.

Explanatory Note

The form of contribution will impact implementation and delivery of affordable housing under the scheme. For example, monetary contributions may require a plan for holding funds until there is enough to acquire land and housing.

Where the contribution is made in the form of dwellings or land, ownership can be transferred directly to council's preferred owner (council or selected community housing provider).

Councils may favour one form of contribution over another depending on the local circumstances and the decision made regarding the ongoing ownership and management of affordable housing generated under the scheme.

(Further information on ownership and management options is set out in 3.3 below).

3.2 INDEXING OF PAYMENTS

The contribution rate to be paid will be indexed [xxxx] a year being [insert when indexing will occur], with reference to the most recent data published by the NSW Government for median strata dwelling price in [LGA] (currently detailed in the NSW Government Rent and Sales Report Table Sales Price – Greater Metropolitan Region) [or alternate benchmark for Councils outside GMR].

The Rent and Sales Report is available on the NSW Government, Department of Communities and Justice website.

The formula for adjustment of the equivalent monetary contribution amount is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times (\text{MDP2}/\text{MDP1})$$

Where:

MDP1 is the median strata dwelling price used to establish the current contribution rate

MDP2 is the median strata dwelling price for the CURRENT period, being established in the most recently published Rent and Sales Report

Explanatory Note

Indexing the contribution rate helps to ensure it reflects the costs of providing affordable rental housing. Some councils index the rate once a year, other councils more frequently. Unless housing markets in a location or region are changing rapidly, it is recommended that indexing the rate once a year would be sufficient to capture increases in housing costs.

The indexing of rates should be flexible and informed by any recommendations of feasibility assessments.

Note that indexing may lead to a smaller rate when dwelling prices are decreasing.

3.3 PROCESS FOR THE DISTRIBUTION AND MANAGEMENT OF CONTRIBUTIONS

[Council to specify]

Explanatory Note

Part E of the AHCS Compendium provides guidance on partnering with a community housing provider (CHP).

Currently there are a range of approaches for distributing contributions. The principal options are to:

- ◆ **Collect monetary contributions to be applied toward the purchase of land, the development of affordable housing or the acquisition of land and housing.** Council may undertake these activities directly or, more commonly, by distributing funds to a nominated eligible community housing provider or providers. Council may enter a funding agreement with a CHP which sets out the terms upon which contributions must be applied. Council may elect to retain contributions until a sufficient funding pool is available for transfer to a CHP.
- ◆ ◆ **Collect contributions in the form of dwellings transferred to and held by council, with council entering an agency agreement with a CHP to lease and manage dwellings as affordable housing.** The agency arrangement may provide for the CHP to receive a management fee with council to receive any surpluses after maintenance and management costs are deducted. Alternatively, the CHP could head lease dwellings and retain surpluses after expenses for provision of additional affordable housing or related services. Roles and responsibilities, including in respect to long term asset management and responsibilities under the NSW Residential Tenancy Act, should be clearly articulated in a legal agreement.
- ◆ **Provide for contributions in the form of dwellings to be transferred directly to a CHP for affordable housing.** Council may enter a funding agreement with a CHP which sets out the terms governing the transferred property, including capacity to replace dwellings with alternative housing to respond to changing needs or conditions. An alternative approach is to place a restrictive covenant on title which limits the land owner's ability to use the property in a manner inconsistent to its terms or to dispose of the property without prior approval. However, as discussed further in Part E1 of the *AHCS Compendium "Partnering with a Community Housing Provider"*, the National Regulatory System for Community Housing in itself provides sufficient safeguards to ensure that assets continue to be used to deliver affordable housing.
- ◆ **Provide for contributions in the form of land to be transferred directly to a CHP for affordable housing.** Council is unlikely to be positioned to develop land as affordable housing itself because of lack core expertise in housing development and/or the limited availability of other funding sources to enable development. This approach though not commonly used to date, can be very helpful where the availability of land suitable for construction of affordable housing is in short supply, as it is in much of the metropolitan

area. As with the transfer of dwellings, councils may wish to apply a restrictive covenant on title or enter a funding agreement to further define the terms of any property transfer.

Some councils, such as the City of Sydney, principally collect monetary contributions which are distributed to nominated community housing providers to use the funds to purchase land, develop housing and manage it in accordance with requirements under council's scheme, while others such as Willoughby Council, have elected to retain ownership of affordable housing generated under its scheme, contracting management to a community housing provider.

Councils may choose to encourage contributions in the form of dwellings in order to ensure that housing is incorporated in development and as they do not have the expertise to acquire land and develop housing.

This will not be as much of an issue for councils that transfer ownership and management of housing to a CHP, as providers are specialists in developing and managing affordable housing.

Where the contribution is made in the form of dwellings or land to be retained by council for a period, it is recommended that land should be categorised as "operational" rather than "community" in order to support flexible and appropriate asset management. For example, if a particular property becomes difficult to maintain or subject to prohibitive strata fees, council may be best placed disposing of the property and applying proceeds towards the acquisition of more suitable stock.

Similarly, the terms of any ownership transfers to community housing providers should not be so restrictive as to prohibit sensible asset management. The terms covering transfers can be dealt within a Distribution Plan.

A ***Distribution Plan*** is an optional plan which a Council may elect to prepare to provide transparency and clarity about the process for allocation or transfer of contributions, including for example:

- criteria for selection of one or more CHPs to receive funding or property;
- framework for dispersal of funds;
- requirements relating to the transfer of assets;
- performance expectations for CHPs receiving and using the contributions (for example, this could include use of surplus or other funds to support leveraging of finance to deliver more affordable housing);
- monitoring and reporting on affordable housing outcomes to council;
- regular review of arrangements and process for council changes to the Distribution Plan.

Urbanista

