

SEPTEMBER 2024

**Affordable
Housing
Contribution
Schemes
in
Transport
Oriented
Development
precincts**

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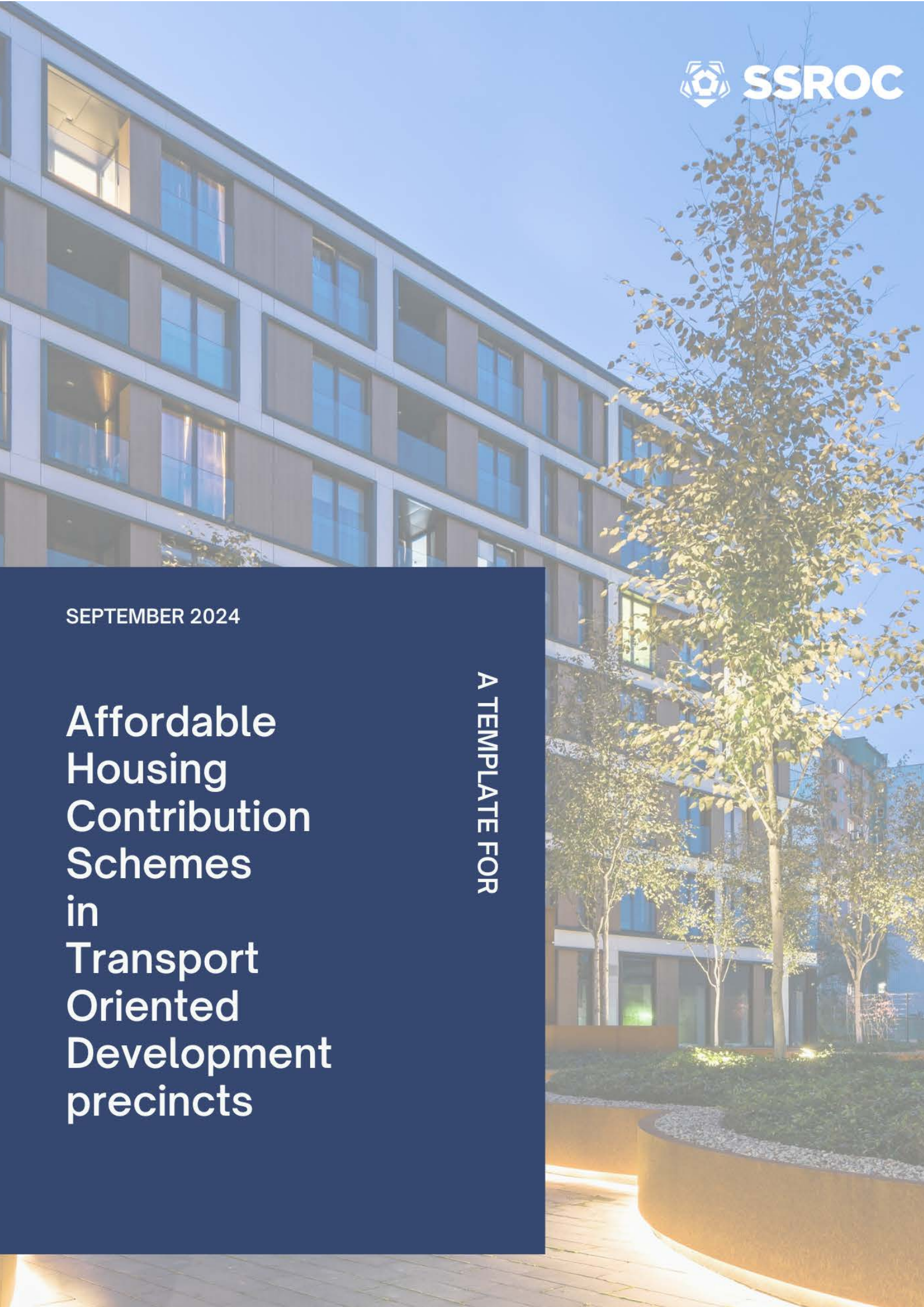


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1. About the Program

The [TOD Location] Affordable Housing Program (this Program) is to provide the background, requirements and operational detail for the affordable contribution provision in the [name of council] Council local environmental plan [applicable LEP reference] that operates in [locality].

This Program was adopted by The Minister on [date] and comes into effect on [date 2024].

1.1 Program Objectives

- Encourage the development of affordable rental housing to meet the housing needs of very low to moderate income households who live and/or work in [TOD Location].
 - recognise affordable rental housing as critical infrastructure necessary to support sustainable and diverse communities and long-term economic growth in the [name of council] Council local government area and the [name of TOD precinct].
 - assist to implement the affordable rental housing targets of identified in the Greater Sydney Region Plan *A Metropolis of Three Cities* (March 2018) and associated strategic planning and housing policies.
 - ensure that, as the cost of housing increases in the [locality], affordable rental housing is provided for very low to moderate income households.
 - ensure there are opportunities for very low to moderate income households, who have a connection with the [locality and TOD precinct] precinct, to live in the precinct and surrounding parts of the LGA. This includes a focus on indigenous communities with an historical working and/or living connection to [locality].
 - ensure there are opportunities for very low to moderate income earners, especially those who are also essential and key workers who work in the [locality] to live in the community in which they are employed.
 - facilitate opportunities for community housing providers (CHPs) to grow and manage the supply affordable housing within the [locality] and the [name of TOD precinct]¹.
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1.2 Legislative basis for affordable housing contributions

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

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

¹ The TOD amendment to the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) imposes conditions of consent and for affordable housing in residential flat buildings and shop top housing in TOD locations. The affordable housing is required to be managed by a registered CHP, who must apply the Affordable Housing Guidelines.

Local environmental plans contain controls for the calculation, levying and management of affordable housing contributions in the [\[name of council\]](#) Council LGA. The LEP specifies the contribution amount and the area of application, with other details in the Program.

In respect to the [\[locality\]](#) TOD Precinct, it is submitted that development in the Precinct will satisfy the requirement for the collection of affordable housing contributions under Section 7.32 of the Act on the basis that:

- 1.2.1 the proposed development will reduce the availability of affordable housing within the area.
- 1.2.2 the proposed development will create a need for affordable housing within the area.
- 1.2.3 the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site or significant changes to the planning controls that increase development capacity.

1.3 Relationship to other Programs

A requirement under another environmental planning instrument or a planning agreement that requires the development to provide more affordable housing prevails over the rate of affordable housing contributions in this program for the [\[name of TOD precinct\]](#).

This affordable housing contribution scheme, once adopted, will replace the provisions of Chapter 5 of the Housing SEPP and Section 86A of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation). In the initial twelve months from the date of the Program's adoption, the rate of affordable housing contributions required by this Program will be equivalent to the rate of contributions required under Chapter 5 of the Housing SEPP.

The existing infill affordable housing provisions under Chapter 2, Part 2, Division 1 of the Housing SEPP will continue to apply and may be applied to development in [\[name of TOD precinct\]](#). Affordable housing delivered to satisfy the requirements of Chapter 2, Part 2, Division 1 of the Housing SEPP does not count towards the satisfaction of the requirements of this scheme.

1.4 Where does this Program apply?

This program applies to land shown within the [\[name of TOD\]](#) Precinct, as identified in Figure 1.

[Map of TOD precinct as agreed by DPHI to be added here or at an Appendix.](#)

Figure 1 – [\[name of TOD precinct\]](#).

1.5 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 the efficient, equitable, prosperous and sustainable functioning of the area.

Offering more housing choices, including housing that is affordable for very low to 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 very low to moderate income households to find housing that is affordable, resulting in increased levels of households in housing stress.

Key indicators demonstrating need in [\[name of council area\]](#) for affordable housing:

- the Local Government Area that includes the TOD precinct is identified in the Housing SEPP 2021 as having a need for affordable housing;
- there is unmet demand for social and affordable housing in the Local Government Area;
- a significant proportion of very low to moderate income households are in housing stress;
- very low to moderate income households are being displaced because of the lack of affordable housing;
- it is difficult for key and essential workers to meet their housing needs;
- very low to moderate income households cannot afford to purchase or rent housing in the Local Government Area;
- the amount of affordably priced housing is declining; and
- 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 rental housing is provided in well located areas.

The evidence base prepared to support this Program is available on:

- Council's website [\[link to Council's LSPS and Local Housing Strategy\]](#)
- Homes NSW Local Government Kit [Local Government Housing Kit](#)

[\[A summary of this local information should be provided in this section. There is no need for more detail beyond a one to two page summary. If Council chooses, more information could be provided in an appendix.\]](#)

1.6 Affordable Housing Principles

The [\[locality\]](#) TOD affordable rental housing principles are:

- 1.6.1** affordable rental housing is to be provided and managed within the [\[LGA\]](#) so that a socially diverse residential population, representative of all income groups, can stay in the [\[LGA\]](#).
- 1.6.2** affordable rental housing is to be provided in the above area that prioritises residents with a connection to the [\[locality\]](#) through either local employment, or a history of living in the

LGA, including for Indigenous communities. [This principle is optional and should reflect the housing and employment needs identified in the Local Housing Strategy].

- 1.6.3 affordable rental housing that is provided is to be made available to a mix of households on very low to moderate incomes.
- 1.6.4 affordable rental housing that is provided is to be rented to very low to moderate income households at rents that do not exceed a benchmark of 30% of their actual gross household income.
- 1.6.5 dwellings made available for affordable rental housing are to be managed so as to maintain the continued provision of affordable rental housing.
- 1.6.6 support good practice by the registered Recommended CHP.
- 1.6.7 affordable rental housing is to consist of dwellings constructed to a standard which, in the opinion of the consent authority, is consistent with other dwellings in the [locality] and surrounds.

1.7 Amending this Program

Amendment to this Program relating to contribution rates will generally require amendment to the enacting LEP.

Amendments and/or updates to the information provided in Section 4, the Distribution Plan, and at the appendices may occur from time to time, following adoption by Council, and will not require an LEP amendment.

1.8 Terms used in this Program

Affordable housing

Affordable housing is defined by the Environmental Planning and Assessment Act 1979 as:

“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”.

Affordable rental housing

Under this Program, Affordable rental housing or Affordable rental dwelling is affordable housing that is owned and/ or managed by government, a local council, a Recommended Community Housing Provider, or an Eligible Community Housing Provider and rented to very low to moderate income households.

[Council Name] Council Local Government Area

The [council name] Council Local Government Area (LGA) refers to the area within the “LGA Boundary” shown in the [council name] Council Local Environmental Plan 2012 Land Application Map, as published in the NSW Government Gazette on 9 December 2022 as updated from time to time.

Council / council name / LGA name

References to [council name] are references to the [council name] organisation. References to the Council are references to the Council of the [council name], that is, the elected representatives. References to the [council locality] are references to the [council name] Council local government area.

Development application

References to development applications in this Program refer to both development applications and any application for the modification of a development consent.

Eligible Community Housing Providers

Eligible Community Housing Providers (CHP) are not-for-profit community housing providers that are classified as a Tier 1 or Tier 2 providers under the National Regulatory Code.

Gross Floor Area

Total gross floor area of the building development for residential flat buildings or shop top housing in the Transport Oriented Development Area.

Local Environmental Plan (LEP)

Reference to various LEPs in this Program apply to any LEP that replaces it, so long as the affordable housing provisions remain substantially unamended.

Recommended CHP

Recommended CHPs are the community housing providers identified in Schedule 1 of this Program. A Recommended CHP is also classified as a Tier 1 or Tier 2 provider under the National Regulatory Code. Only one Recommended CHP is required.

Very low to moderate income households

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—Greater Capital City Statistical Area² according to the Australian Bureau of Statistics:

- Very low-income household – less than 50%
- Low-income household – 50% or more but less than 80%
- Moderate-income household – 80% to 120%.

Key and Essential Workers

Key and essential workers are ‘employees in services that are essential to a centre’s functioning but who earn low to moderate incomes,’ and that the work roles require people being physically present at a work site rather than being able to work from home³.

Living close by to one’s work is particularly important in healthcare, emergency services and some community and welfare support roles in order for workers to cover shifts, quickly respond to increases in service demand and attend emergency situations.

Key and/or essential workers are taken to include the following occupations:

- Teachers (all types from early childhood to secondary school and special education)
- Registered Nurses
- Midwives
- Social Workers
- ICT Support Professionals
- ICT Support and Telecommunications Technicians and Trades

² Or Rest of NSW Statistical Area, if applicable

³ <https://www.ahuri.edu.au/analysis/brief/key-workers-and-commuting-during-covid-19>

- Ambulance Officers and Paramedics
- Enrolled and Mothercraft Nurses
- Welfare Support Workers
- Child Carers
- Educational Aides
- Aged and Disability Carers
- Nursing Support and Personal Care Workers
- Fire and Emergency Service Workers
- Police
- Prison Officers
- Bus and Coach Drivers
- Train and Tram Drivers
- Delivery Drivers
- Commercial Cleaners
- Laundry Workers.

This list may change from time to time.

Affordable Housing Guidelines

The NSW Affordable Housing Ministerial Guidelines published by the Department of Community and Justice and approved by the Minister for Families, Communities and Disability Services from time to time.

Registered community housing provider

Has the same meaning as in the Community Housing Providers (Adoption of National Law) Act 2012, section 13.

Registrar of Community Housing

The Registrar of Community Housing appointed under the Community Housing Providers (Adoption of National Law) Act 2012, section 10.

Residential flat buildings and shop top housing

Residential flat buildings and shop top housing includes build to rent⁴ residential accommodation.

Transport Oriented Development Area

Land identified as a “Transport Oriented Development Area” on the Transport Oriented Development Sites Map.

Transport Oriented Development Sites Map

The State Environmental Planning Policy (Housing) 2021 Transport Oriented Development Sites Map.

⁴ <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714#ch.3-pt.4>

2. Affordable housing contributions

As a condition of development consent, all residential flat buildings and shop top housing in the [name of precinct] TOD precinct must contribute to affordable housing according to the rates and thresholds provided in the Program.

[Clause ref] of [LEP ref] allows for landowners and developers to satisfy an affordable housing contribution requirement by making:

- An in-kind contribution of finished affordable housing dwellings,
- A contribution of land for development as affordable housing,
- An equivalent monetary contribution payment, or
- A combination of these forms of contribution.

Affordable housing contribution rates provided in the Program are in addition to other contributions applicable to the LGA, including local contributions (s7.11 or s7.12) and state and regional infrastructure (Housing and Productivity) contributions.

This Section describes the operational detail for the collection and distribution of affordable housing contributions within the [name of precinct], including the equivalent monetary contribution amounts for in lieu of affordable housing floorspace.

Due to the added the complexity of negotiating with Council and CHPs and related transaction costs for developers around in-kind dwelling contributions together with high ongoing strata costs and unknown risks for CHP property and tenancy management, monetary and land contributions for affordable housing are often preferred.

2.1 Contribution rates

[Clause ref] of [LEP ref] specify the following contribution rates:

Date of lodgement of development application	Contribution rate to affordable housing of the gross floor area of the building development	Threshold: The building development needs to have a gross floor area of
1 July 2024 to 30 June 2025	2%	2,000 square metres
1 July 2025 to 30 June 2026	3.5%	1,000 square metres
1 July 2026 onwards	5%	1,000 square metres

Table 1

[Table 1a becomes Table 1, in precincts where the average cost of new two-bedroom apartments is equivalent of over \$900,000 in 2024/25].

Date of lodgement of development application	Contribution rate to affordable housing of the gross floor area of the building development	Threshold: The building development needs to have a gross floor area of
1 July 2024 to 30 June 2025	2%	2,000 square metres
1 July 2025 to 30 June 2026	6%	1,000 square metres
1 July 2026 onwards	10%	1,000 square metres

Table 1a

2.2 Calculating the monetary contribution in lieu of affordable housing floorspace

The rate at which a monetary contribution is to be taken to be equivalent to affordable housing floorspace is to be calculated in accordance with this section.

It is necessary to ‘monetise’ the cost of Affordable Housing contribution of Gross Floor Area into a dollar value.

The following two-step process describes the ‘monetisation’ of Affordable Housing contributions.

1. Estimate the baseline cost of purchasing a strata-titled dwelling in the [locality] postcode (2xxx). This is considered to be a close proxy for residential prices that could be achieved in the [locality] TOD Precinct. The methodology for calculating the baseline cost is detailed in Appendix B.
2. Convert the estimated baseline cost into contribution (%) rates. This establishes a dollar value of the monetary contributions.

The [council name] Council LEP 20XX (appropriate abbreviation) establishes the affordable housing contribution rate as it applies to land in the TOD precinct. The rate for the [locality] TOD will be \$x,xxx/sqm of gross floor area as at [date].

The monetary contribution rate will updated annually as set out in section 3.2. Council’s website will contain the current rates for this scheme as indexed from time to time.

2.3 Satisfying a contribution by the dedication of land and dwellings

An affordable housing contribution requirement may be satisfied by dedication, free of cost, of affordable rental dwellings to a Recommended CHP, by Council applying a condition of consent that requires Council be satisfied that those dwellings are transferred to a Recommended CHP to be used as affordable housing in perpetuity. Affordable rental dwellings resulting from a contribution are to be provided in the development in accordance with the following requirements:

- affordable rental dwellings are to align with the Affordable Housing Principles set out in this Program;

- affordable rental dwellings are owned by a registered not-for-profit CHP;
- affordable rental dwellings are provided in the LGA in perpetuity;
- affordable housing must be managed by a registered CHP;
- affordable rental dwellings are rented to very low, low and moderate income households for an absolute maximum of 30 per cent of gross household income;
- all rent received from the affordable rental dwellings after deduction of management and maintenance costs is to be used for the purpose of improving, replacing, maintaining or providing additional affordable rental housing in the local area. This includes the investment of monies to meet cyclical maintenance costs and all rates and taxes payable in connection with the dwelling;
- affordable rental dwellings are designed and constructed to a standard which, in the opinion of the consent authority, is generally consistent with other dwellings in the LGA, that is, they are not differentiated as affordable housing compared with the design of other housing;
- each affordable rental dwelling is to have a total floor area of not less than 50 square metres, excluding any associated carparking, with any remainder being paid as a monetary contribution to Council;
- the location, size and quality of affordable housing dwellings are to be to the satisfaction of Council and the receiving CHP. To facilitate a satisfactory outcome the developer should work with Council and the Recommended CHP early on in design stage. 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 multiple affordable rental dwellings are provided in a larger development and depending on the scale, the amenity benchmarks established by the NSW Apartment Design Guideline (or any subsequent Guideline that may apply from time to time) are to be achieved. For example, 70% of the affordable housing dwellings should achieve adequate solar access.
- where multiple affordable rental dwellings are provided, these dwellings should be configured as whole buildings/sections of buildings/whole floors to minimise strata liabilities and maximise the efficiency of tenancy management for the CHP, if at all possible;
- where only part of a contribution is satisfied by dedicating dwellings, any remaining floor area must be paid as an equivalent monetary contribution or equivalent land contribution; and
- 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.

Information about the process for dedicating dwellings for affordable housing is provided on the council's website.

An affordable housing contribution requirement may be satisfied by dedication, free of cost, of land zoned for residential use in the TOD precinct to Council, or by applying a condition of consent that requires Council be satisfied that the land is transferred to a Recommended CHP. If the land is not to Council's and the CHP's satisfaction, Council may require changes to the development application, or that the contribution be made by way of an equivalent monetary contribution.

2.4 Development that may be exempt from making a contribution, or have a reduced contribution requirement

The LEP contains the provisions for where a contribution requirement will be applied to development.

The following development is excluded from a requirement to make an affordable housing contribution:

- Development for the purposes of residential accommodation that is used to provide community housing, Aboriginal housing, public housing or group homes. If the development is mixed use, only the community housing/public housing/group homes component will be excluded in the calculation of a development contribution.
- Alterations and additions to an existing dwelling house, including extensions involving the provision of additional bedrooms.
- Development for the purposes of residential accommodation that will result in the creation of a residential total floor area of less than [2,000 square metres or as defined by Council in Table 1]. To clarify, where additional floor space is in conjunction with a change of use of existing floor space, existing floor space is not excluded, and the contribution is calculated on the entirety of floor space in the development (existing and new floor space).

2.5 Where a contribution has been previously paid

If an affordable housing contribution has already been made on existing total floor area, then a subsequent contribution is generally not required unless:

- 2.5.1** it is being demolished and being replaced with floor space of the same or a different use. In this case, a contribution will be applied to all of the total floor area, including the replacement floor area; or
 - 2.5.2** for existing floor space, the previous contribution was for a non-residential purpose and the new total floor area is for a residential purpose. In this case the difference in the contribution rates will apply.
-

2.6 Refunds for demolition or changes in use

Local environmental plans require that the consent authority must not refund an affordable housing contribution to the applicant where there is a change in use or demolition of floor area.

The same applies where affordable housing dwellings are provided on site, in that the dwellings (as replaced) are to remain the property of the CHP.

2.7 Conditions of Consent

A contribution requirement forms part of a development consent. In all instances the consent authority will require evidence that the condition of development consent relating to affordable housing has been satisfied prior to the granting of any construction certificate.

In circumstances where no construction certificate is required, evidence that the condition of development consent relating to affordable housing will be or has been met will be required by the consent authority before commencement of use/occupation.

3. Administration and Implementation

3.1 How to make a payment

Monetary contributions must be paid to Council prior to issue of any construction certificate. In circumstances where no construction certificate is required, payment is required prior to commencement of use/occupation. The procedure for making payment is provided in the condition of consent.

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.

Larger scale projects, with staged development applications, may have their own discrete contribution requirements.

3.2 Adjustment of equivalent monetary contribution amounts

Monetary contribution amounts are adjusted on an annual basis, being the first day of March, with reference to movements in the third quartile strata dwelling sales price in the [locality] Council LGA as detailed in NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata⁵.

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:

New Contribution Rate = Current Contribution Rate x (MDP2/MDP1)

Where:

- MDP1 is the third quartile strata dwelling sales price used to establish the current contribution rate
 - MDP2 is the third quartile strata dwelling price for the current period, being established in the most recently published Rent and Sales Report.
-

3.3 Adjustment of a monetary contribution amount on a development consent

Where a condition requiring a monetary contribution has been imposed, the contribution amount must be adjusted over time. That is, if a consent is issued in June 2021 and the applicant does not wish to pay the contribution and develop the site until August 2024, the contribution amount will need to be adjusted to the period in which it is paid.

⁵ Rest of State

Monetary contributions are adjusted by the [Council name] and confirmed with the applicant prior to payment being made.

The formula for adjusting a contribution amount in a condition if consent is:

Monetary Contribution = Base Contribution Amount x (R2/R1)

Where:

- R1 is the contribution rate that applied at the time of consent.
- R2 is the contribution rate that applies at the time of payment.
- The Base Contribution Amount is the amount obtained from the Notice of Determination of the development application.

3.4 Use of contributions

3.4.1 How in-kind contributions are to be used

In-kind contributions of affordable housing dwellings are to be given/dedicated, free of cost, to a Recommended CHP, or as otherwise provided in a Distribution Plan adopted by Council.

Where dedication is in accordance with this Program, in the circumstances that no Recommended CHP is willing to accept the in-kind contribution, then it may instead be given/dedicated by the developer to another Eligible CHP according to the terms of any planning agreement endorsed by Council. In-kind contributions are to be retained in perpetuity and are to be owned, managed and recycled in accordance with the Affordable Housing Principles and in a manner consistent with this Program.

Where no Recommended CHP (or Eligible CHP) is willing to accept the in-kind contribution of dwellings, a developer may elect to make their affordable housing contribution as a monetary contribution, in accordance with this Program.

Where the dedication of affordable housing dwellings is proposed, then the location, size and quality of dwellings must be to the satisfaction of the Council and the receiving CHP.

3.4.2 Consult with Recommended and Eligible CHPs

Where a developer intends to provide an in-kind affordable housing contribution by dedicating finished dwellings to a Recommended CHP, the developer must first consult with the Provider to establish if they are willing to receive the dedicated dwellings.

In circumstances where no Recommended CHP agrees to accept the dedication, and confirmation of that position is provided in writing to Council, the developer may consult with other eligible not-for-profit providers (Tier 1 or Tier 2) to establish an agreement for a community housing provider to accept the dedication of finished affordable housing dwellings.

The purpose of the consultation is to canvass potential issues and reach in-principle agreement about how the affordable housing dwelling/s are to be provided by the developer to the CHP. Key issues for discussion include, but are not limited to:

- the requirements of the community housing provider in regard to the finished dwelling, for example fit out requirements, preferred layouts, location of the dwelling in the development, and so on;

- the community housing provider is to have a full understanding of the likely strata requirements that will be in place once the development is complete;
- contractual arrangements with regards to the dedication of the dwellings, including discussion about what might be cause for terminating the agreement.

Development application

The development application to the Council must:

- state the amount (the quantum of total floor area) of affordable housing to be dedicated, and any residual amount for which a monetary contribution is required to be paid;
- clearly identify on the plans the affordable rental dwellings proposed to be dedicated, noting the Council must be satisfied that dwellings receive adequate amenity relative to the rest of the development i.e. it is not acceptable that all of the affordable housing in the development have the lowest amenity;
- demonstrate the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program;
- provide details of the agreement that has been reached between the developer and the CHP about the dedication of the dwellings or alternative arrangements in a relevant planning agreement.
- if it is not a Recommended CHP that will receive the contribution, evidence that all Recommended CHPs have declined to accept the dedication of the dwellings is required; and
- evidence that the receiving CHP has agreed to accept the dwellings, the terms of the agreement, and the requirements of the Program are understood, including the requirement for in perpetuity management of the dwellings for affordable housing to be rented to very low to moderate income households for no more than 30% of their income.

3.4.3 Assessment

The Council will:

- undertake assessment of the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program and any comment provided by the Recommended CHP, and
- if necessary, where the proposed dwellings are not appropriate for the purpose of affordable housing, discuss with the developer amendments to improve the dwellings, or identify preferable dwellings, or instead require a monetary contribution.

3.4.5 Securing the dwellings

Where the dwellings proposed for dedication are supported, a condition of consent requiring dedication of the affordable housing dwelling(s) will be imposed by the consent authority.

Prior to transferring the affordable housing dwelling(s) to a Recommended CHP, the Council will register on the title a covenant ensuring the affordable housing dwellings are:

- owned and managed by a CHP in accordance with the Program, and

- rented to very low to moderate income earners for a rent no more than 30% of gross household income.

3.4.6 How monetary contributions are to be used

Monetary contributions are to be given to Recommended CHPs in accordance with an adopted Distribution Plan. Monetary contributions received are to be transferred by Council on a quarterly basis to the Recommended CHP.

3.4.7 How land contributions are to be made and used

Where a developer intends to provide land in the TOD precinct in lieu of a monetary contribution for developing affordable housing dwellings to a Recommended CHP, the developer must first consult with the provider to establish if they are willing to receive the dedicated site.

The total contribution must be equivalent to the value of the monetary contribution, provided as land and/or monetary. The land must be valued time of the contribution.

Where the dedication of land is proposed, then the location, size and suitability of land must be to the satisfaction of the Council and the receiving CHP.

Where dedication is in accordance with this program, in the circumstances that no Recommended CHP is willing to accept the contribution of land, then it may instead be given/dedicated by the developer to another Eligible CHP according to the terms of any planning agreement endorsed by Council. In-kind contributions are to remain in perpetuity and to be owned and managed in accordance with this program.

4. Distribution Plan and Recommended CHPs

4.1 Process for establishing the Distribution Plan and Recommended CHPs

A Distribution Plan refers to any plan adopted by the [Local Council] for the distribution of affordable housing contributions arising from the Program.

Prior to the commencement of new development within [locality] that is subject to this Program, all Tier 1 and Tier 2 CHPs who operate in [Council name] Council will be invited, via an Expression of Interest process, to make an application to be identified as a Recommended CHP for an initial 10-year period.

The following assessment criteria and considerations will be applied to applications:

- eligibility of the CHP with respect to the organisation's NRSCH registration and not-for-profit status⁶;
- financial position of the CHP, as evidenced by a financial health check prepared by an appropriately qualified professional or the financial information from the most recent compliance report from the Registrar of Community Housing;
- current owned housing stock, current housing stock being managed on behalf of a third party and relevant partnerships;
- membership of the CHP's Board;
- track record of procuring development sites, undertaking development activity, managing social and/or affordable housing;
- understanding of local housing needs and demonstrated ability to work collaboratively with Council to deliver local housing outcomes in and around the [locality] precinct;
- demonstrated commitment to achieve realistic affordable housing targeted outcomes, as evidenced by a detailed business plan showing how funds received from contributions and any other sources would build upon their track record;
- demonstrated commitment to increasing the amount of affordable housing for Aboriginal and Torres Strait Islander households;
- demonstrated ability and willingness to contribute materially towards the affordable housing projects. This includes access to redevelopment sites in the locality that could be made available to affordable housing and ability to source housing finance that would complement contributions from the Program for growing the [locality] affordable housing supply i.e. evidence they will not be entirely reliant on contribution funds; and
- demonstrated understanding of the requirements of the Program and capacity to consult with developers about the proposed dedication of dwellings.

⁶ To maximise leverage potential from contributions eligibility is limited to not-for-profit registered CHPs

- Proposed communication and partnering strategy for affordable housing program projects. This should include project openings that acknowledge Council’s funding role and support.

Generally, only 1 CHP will be identified as the Recommended CHP in the first 10-year period. Applications by CHPs to be included as a Recommended CHP in this Affordable Housing Program outside of the review period will not be considered.

Prior to the commencement of development in [locality], and once the Recommended CHP is appointed, Council will agree a Distribution Plan of the allocation of funds for the first 10-year period and, if relevant, area or land for distribution/dedication.

4.2 Monitoring and Review of Recommended CHPs and Distribution Plan

At the end of the first 10-year period, a review of the Recommended CHP and Distribution Plan will be undertaken. CHPs will be selected through the same EOI process outlined in Section 4.1. Once the Recommended CHP(s) is/are appointed (or reappointed), the Distribution Plan is to be reviewed, considering the following matters:

- patterns of contribution receipts.
- any submission made by any CHP already identified as a Recommended CHP.
- expected future contributions.
- current pipeline development projects.
- Identified opportunities to improve the operation of the Distribution Plan; and
- opportunities to increase the amount of affordable housing resulting from the Distribution Plan.

The Recommended CHP will provide Council a mid-term 5 year report identifying potential opportunities for developing further collaboration with Council and any areas for improving the efficiency and effectiveness of the program.

4.3 Development Consent Conditions

Under the scheme the following development consent conditions need to be met. These include:

- 4.3.1 the dedicated affordable housing, and the affordable housing arising from developer’s monetary contributions and/or the dedication of land is to be managed as such in perpetuity, and
- 4.3.2 that the affordable housing is managed by a registered CHP, who must apply the Affordable Housing Guidelines, with households paying no more than 30% of gross income in rent, and
- 4.3.3 that notice of a change in the registered CHP who manages the affordable housing must be given to the Registrar of Community Housing and Council, and the consent authority if this is not the Council, no later than 3 months after the change.

4.4 Occupancy Conditions

Under the scheme the following conditions need to be met before an occupation certificate is granted. These include:

- 4.4.1 a restriction against the title of the property, that is being dedicated as affordable housing, relating to the development must be registered, in accordance with the *Conveyancing Act 1919*, section 88E to ensure that conditions of sub-sections 4.3.1 and 4.3.2 are met, and/or;
 - 4.4.2 evidence of payment of the monetary contribution has been paid to Council and/or
 - 4.4.3 evidence of the dedication of land for affordable housing has been transferred to Council's nominated CHP.
 - 4.4.4 evidence of an agreement with a registered CHP for the management of the affordable housing must be given to the Registrar of Community Housing.
 - 4.4.5 evidence that the conditions 4.4.1, 4.4.2, 4.4.3 and 4.4.4 have been met be provided to the Council and the consent authority if this is not the Council.
-

4.5 Scheme monitoring and reporting

4.5.1 Reporting by the Recommended CHP

Under the scheme the recommended CHP shall provide Council with an audited report that includes:

- An end of financial year statement of TOD contributions received in the past year including:
 - Monetary affordable housing contributions received from Council (showing dates and amounts received, total expenditure, carry forward from the previous year and closing balance)
 - Land and dwellings dedicated to the recommended CHP as affordable housing contributions from developers (showing addresses, dwelling numbers and types).
- A statement confirming the recommended CHP's current registration status under the NRSCH.
- A statement of TOD program outcomes and performance including:
 - Affordable housing projects in planning, including purchased building sites.
 - The number and bedroom type of affordable housing units under contract (purchase and/or construction)
 - The number and bedroom type of new affordable housing units under management.
 - Total The number and bedroom type of affordable housing units under management

- A de-identified list of each household's gross household income and the household rent paid at the time of reporting to show compliance with the rent model
- The average contribution cost per dwelling unit constructed during the financial year (total contributions applied divided by the number of completed units, excluding finance and other contributions).

The audited report will be provided to Council within three months of the end of each financial year.

4.5.2 Council Register of Contributions

Council shall maintain an online register of affordable housing contributions received and paid out/transferred to the recommended CHP for the TOD precinct as part of routine reporting.

The register shall have two parts:

- A register of monetary contributions with details of the DA to which they apply, and date of payment by the developer and date of the transfer payment to the Recommended CHP.
- A register of land dedicated free of cost with affordable housing dwellings or without dwellings with details of the DA to which they apply with the date of transfer to the Recommended CHP.

Schedule 1 - Recommended Community Housing Provider(s)

**Appendix A - Background information and affordable housing needs analysis in
[Council LGA]**

[This Appendix is optional with evidence provided in section 1.5]

Appendix B – Calculating the Baseline Cost of Affordable Housing

A base cost for delivering Affordable Housing can be inferred from the market value of a completed strata dwelling in any given particular area. This base cost effectively represents the cost which would be incurred to purchase a strata-titled dwelling in the private market for the purposes of use as Affordable Housing.

The third quartile sale price for strata dwellings in the [locality] postcode is a useful proxy for this base cost. In [mm/yy, the most current report]⁷, the third quartile strata dwelling price in the [locality] postcode was \$z,zzz,000 (as per the NSW Department of Communities and Justice Sales and Rents Report).

For the purposes of this Scheme, an average unit size of 80 sqm is assumed and a generic cost of procuring an Affordable Housing dwelling (strata) is calculated as follows:

$$\begin{aligned} &= \text{Third quartile Strata sales Price} \div \text{Average Strata Dwelling Size (GFA)} \\ &= \$z,zzz,000 \div 80 \text{ sqm GFA} \\ &= \$ww,www/\text{sqm of GFA.} \end{aligned}$$

Based on the above steps the cost of Affordable Housing in the [locality] postcode is calculated as \$/sqm GFA based on the third quartile strata dwelling price recorded in mm/yy and assumed average strata dwelling size.

Once a generic cost of Affordable Housing (on a \$ww,www /sqm GFA basis) is established, the percentage cost of Affordable Housing contributions can be calculated. At a percentage of 2%, the sqm rate is then realised as \$p,ppp/sqm Gross Floor Area.

⁷ <https://www.facs.nsw.gov.au/resources/statistics/rent-and-sales/dashboard>