

## **Statutory Framework for Housing Overview**

All levels of government contribute to shaping local housing markets and have a role to play in promoting better housing outcomes. Commonwealth taxation policies, commonwealth and state housing assistance programs, state and local land use and transportation planning processes and infrastructure programs, are just a few examples.

Whilst the primary responsibility for housing policy and housing funding lies with federal and state/territory governments, local governments may play a role in facilitating housing delivery and retaining existing affordable housing. In preparing and implementing a local housing strategy, local government operates within a larger institutional and funding framework and may draw on resources provided by federal and state government.

In this section some of the key roles and responsibilities of the various tiers of government in relation to housing in general are described, before examining the specific issue of affordable housing.

This section sets the context for the role of local government in housing by considering the roles national, state/territory and local governments currently play in housing and housing assistance; introduces the metropolitan and regional strategies in NSW; and examines the statutory framework for local government's role in housing.

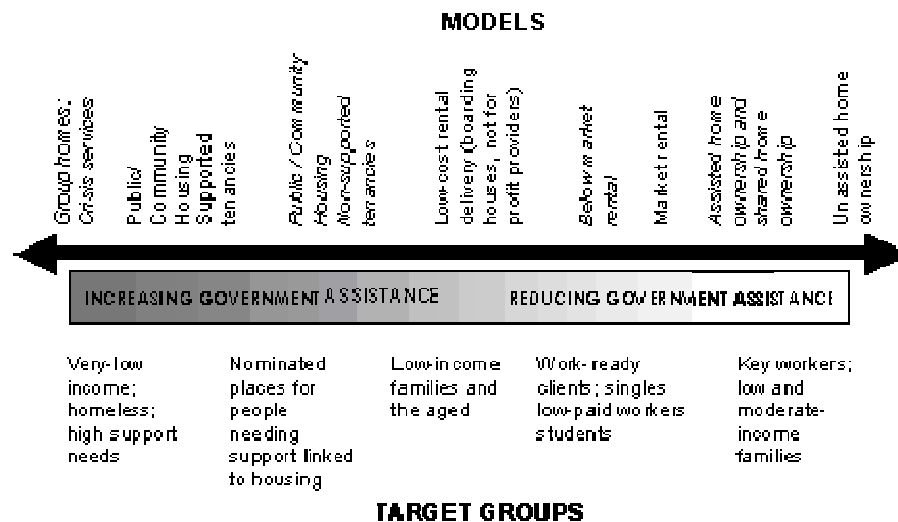
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### **Affordable Housing Overview**

The term 'affordable housing' applies to housing that is appropriate to the needs of a household and within their means to pay for it.

The stock of affordable housing has deteriorated across most of metropolitan New South Wales and in many regional areas over the last decade or so. At the same time, parts of the state, particularly non-metropolitan areas, have been experiencing a divergence between the type of housing available and the needs of the population. The result is a shortage of suitable accommodation for local communities in most areas. The availability, form, location and affordability of housing are critical areas in which supply and demand often differ.

The diagram below shows the continuum of affordable housing options and shows how government responds to varying community needs for financial assistance and levels of support linked to housing.



There are many existing programs that help households gain access to affordable housing. The main large-scale programs in NSW are described below.

### State and Commonwealth responsibilities in NSW - Program Details

#### Public and community housing

The NSW [Department of Housing](#) makes public housing and, in partnership with non-government organisation, community housing available to eligible low-income households and those with special needs throughout NSW. In 2004/05 there were around 142,000 public and community housing dwellings in NSW. Vacated housing and new dwellings are allocated to those with the greatest need. A range of crisis, short and long term housing with or without support services is provided.

The [Office of Community Housing](#) has the charter to undertake the strategic development of the community housing sector and promote client-focused and efficient service delivery. The Office is entrusted with ensuring the community housing system is effectively managed, operates in the public interest, and is accountable to Government. The Office is also responsible for regulating community housing providers.

#### Housing for Indigenous people

In addition to mainstream programs outlined above, there are special housing programs for Aboriginal and Torres Strait Islander households. About 4000 dwellings for Indigenous households are owned by the Aboriginal Housing Office and managed by the NSW Department of Housing. About another 5000 dwellings are owned and managed by local Aboriginal organisations.

The [Aboriginal Housing Office](#) administers the special purpose Indigenous housing programs.

#### Commonwealth Rent Assistance

CRA is an income supplement paid to eligible private renters who are Centrelink clients. Centrelink administers rent assistance: see [Policy information](#).

## **State assistance for private renters**

The NSW Department of Housing assists clients to establish and maintain a sustainable tenancy in the private sector using the [Rentstart](#) scheme, through which the Department pays 75% or more of the rental bond and the tenant pays the balance. People in severe financial and housing circumstances may be eligible for Rentstart Plus and provided with up to the full bond; up to 2 weeks advance rent (3 weeks for furnished accommodation); or up to 4 weeks rent arrears; and up to 4 weeks rent in temporary accommodation.

## **Assistance for home buyers**

*The First Home Owner Grant Scheme:*

The [First Home Owner Grant Scheme](#) (FHOGS) is fully funded by the NSW Government and administered by the Office of State Revenue (OSR). It was established to assist first home buyers to purchase their first home by providing a \$7000 grant. Eligible first home owners can receive the grant regardless of their income, the area in which they are planning to buy or build, or the value of their first home. The grant is not means tested and no tax is payable on it.

*First Home Plus Scheme:*

The [First Home Plus Scheme](#) is administered by NSW Office of State Revenue. The Office of State Revenue also administers the First Home Owners Grant provided by the Australian Government and managed by the States.

For first-time buyers, the NSW Government provides full transfer duty and mortgage duty exemptions for dwellings valued up to \$500,000 and partial exemptions for dwellings valued from \$500,000 to \$600,000.

Purchasers of land receive a full stamp duty exemption for land valued up to \$300,000 and a partial exemption for land valued from \$300,000 to \$450,000.

*Advice on Home Purchase:*

The Department of Housing offers [advice on home purchase](#) and administers a program that offers [mortgage relief](#) for eligible mortgagors experiencing temporary financial hardship.

An example of an affordable home purchase project is given on the [Centre for Affordable Housing](#)'s website.

As set out above, federal, state and territory governments are responsible for providing public housing assistance to people on very low incomes, particularly those with special needs. Increasingly however, budgetary restrictions resulting from a continuing decrease in CSHA assistance and an increase in housing need has meant that many of these households must now rely on the private housing market.

## **NSW Affordable Housing Initiatives**

The NSW Government has developed a number of other measures to increase the supply of affordable housing. In November 2006 the importance of affordable

housing was confirmed by placing it among the NSW State Plan's priorities as NSW State Plan Priority E6: Housing Affordability. These measures include:

#### *Affordable Housing Innovations Fund*

The NSW Government has set aside \$49.8 million in funding for an [Affordable Housing Innovations Fund](#) (AHIF) to increase the supply of affordable housing. This is made up of \$39.4 million for debt equity partnership projects with community housing organisations and \$10.4 million to provide 70 new rental properties for low-to-moderate income earners in St Marys in Western Sydney.

This investment will encourage the growth of the community housing sector and enable community housing providers to attract private investment and financing, thus maximising the amount of affordable housing which can be provided.

#### *Leveraged long term leasing*

In addition, the NSW Government will pilot the provision of long term leases to community housing providers. Long term leases of 35 years will raise private finance by providing certainty for lenders that borrowers have a long term income stream with which they can service debt. The six hundred long term leases which will be piloted are estimated to raise some \$11M in secured private sector finance. These funds will be used to purchase or develop affordable housing.

### **Local Government and Affordable Housing**

Local government can promote better housing outcomes through activities that are within their domain to direct. As discussed in the [The Scope of a Local Housing Strategy](#) section of this Kit, these activities can encompass strategic planning, the regulation of housing supply and form, infrastructure planning and pricing policies, rate setting and community service delivery. The exercise of these functions can create opportunities for additional housing, guide the form of housing in response to needs, and influence the cost of production and the availability of services.

Some local governments already have housing policies in place, such as [Canada Bay](#) and [Port Macquarie](#).

Others include affordable housing clauses in their Local Environmental Plans, such as Blue Mountains Council, Waverly (in their Bondi Junction Centre LEP) and Randwick Council.

Many of the activities undertaken by local government, particularly their urban planning and community services functions, already have a significant impact on housing outcomes. Undertaken strategically, these functions can help local government to address the housing needs of the whole community. See the Housing Kit's companion document on [Using Planning and Planning Mechanisms for Affordable Housing](#).

## National State Territory and Local Government Roles

The Productivity Commission notes that each level of government has different roles in housing and housing assistance in Australia:

*“The Australian Government provides Commonwealth Rent Assistance (CRA) and shares responsibility with State and Territory governments for housing assistance provided under the Commonwealth State Housing Agreement (CSHA). The Australian Government also influences the housing market through other direct and indirect means, including taxation and home purchase assistance.*

*State and Territory governments provide housing assistance under the CSHA, such as assistance for the homeless, public housing, community housing, Indigenous rental housing, private rental assistance and home purchase assistance. Some also contribute to the delivery of housing assistance through mechanisms such as home lending programs and joint ventures with the private sector. State and Territory governments are also responsible for land taxes, stamp duties and residential tenancy legislation. Local governments implement planning regulations and are sometimes involved in providing community housing.”*

([Report on Government Services 2006](#): Volume 2, Steering Committee for the Review of Government Service Provision, Productivity Commission, Canberra).

Further information about housing assistance available in NSW and the [Council of Australian Governments'](#) directions on affordable housing are set out in more detail in the [Affordable Housing](#) section of this Kit

Traditionally then, state and national governments have been responsible for providing housing assistance to people on very low incomes, particularly those with special needs. Increasingly however, resource limitations mean that many of these households must rely on the private housing market.

While local government is not equipped to take over the roles traditionally played by state/territory and national governments, there is considerable scope for councils to direct the activities that are within their domain to promote better housing outcomes for their communities. This is discussed further in [The Scope of a Local Housing Strategy](#) section of this Kit.

It is also important to recognise that many of the activities currently undertaken by local government, particularly their urban planning and community services functions, already have a significant impact on housing outcomes. It is important to undertake these roles as strategically as possible to address the housing needs of the whole community.

## Metropolitan and Regional Strategies in NSW

The key policy instruments for managing and integrating development in New South Wales are the metropolitan and regional development strategies described below. These strategies consider such issues as service and infrastructure delivery, environmental sustainability, housing demand and economic development. These provide the broader context within which local housing strategies are to be formulated.

## **Sydney Metropolitan Strategy**

The [Sydney Metropolitan Strategy](#) is the NSW Government's long-term plan to maintain Sydney's role in the global economy, and to plan for growth and change. The Government will use the Metropolitan Strategy to respond to the growth and change that will occur in the Greater Metropolitan Region (GMR) of Sydney over the next 25 years.

In consultation with local government, [subregional planning strategies](#) are currently being prepared for the ten Sydney subregions identified in the Metropolitan Strategy:

- Sydney City
- Inner North
- Inner West
- South
- East
- North-east
- North
- North-west
- West Central
- South-west.

These strategies will address the distribution of housing and employment. Local councils will use subregional planning to develop strategies for towns, villages and neighbourhood centres.

## **Regional strategies**

Other regional strategies are being introduced with the same purpose as the sub-regional plans — though they also include the specific purpose of planning for sustainable natural environments, and the promotion of rural resource production. The six regional plans under preparation include Lower Hunter, South Coast, Far-north Coast, Illawarra, Central Coast and Mid-north Coast. For further information see the Department of Planning's [Plans for action in Regional NSW](#).

For a broader summary of key planning instruments in NSW as they relate to housing, see the Kit's companion document, NSW Statutory Planning Framework for Housing Provision.

## **The Statutory Framework for Local Government**

Local government's role in relation to housing is defined by the powers and responsibilities conferred on it by the [Local Government Act 1993](#), the [Environmental Planning and Assessment Act 1979](#) and a number of other statutes. The legislation most relevant to the housing responsibilities of local government is outlined below.

## **The Local Government (General) Regulation 2005**

The [Local Government \(General\) Regulation 2005](#) (clause 200) requires councils to prepare Social Plans that promote the wellbeing of their communities. A key indicator of such wellbeing may be the provision of a diversity of housing to meet community needs, including affordable housing. Local government areas are diverse in terms of

their population, demographics, physical size, level of urbanisation, resources, infrastructure, etc. Consequently the requirements for the content of Social/Community Plans are framed broadly to allow for local variation in approach, and councils are encouraged to consult their communities to identify their needs and plan accordingly.

## **The Environmental Planning and Assessment Act and Regulation**

The [Environmental Planning and Assessment Act 1979](#) and the [Environmental Planning and Assessment Regulation 2000](#) regulate the planning and development assessment functions of councils. The Act sets out NSW's planning framework and the accompanying powers and responsibilities of state and local government, including the preparation of state, regional and local environmental plans and regulation of development processes.

In response to rising housing costs and a decline in housing affordability, the NSW Government amended the Environmental Planning and Assessment Act 1979 in 1999 to make provision and maintenance of affordable housing a specific objective of the Act. For further information see the Kit's companion document [Using Planning and Planning Mechanisms for Affordable Housing](#).

Local councils therefore have a variety of responsibilities that affect housing, based on their statutory obligations to identify community needs through social planning and the regulation of residential development through urban planning.

Many of the local community services provided by councils specifically help or support people to access appropriate housing or remain in their existing accommodation. Planning for infrastructure to support residential development can also have a significant impact on housing outcomes, including the appropriateness of housing (its amenity and access to services), and the cost and value of housing.

It is up to each council to decide exactly how it wants to document its housing objectives and strategies, and the instruments and processes it will use. However, for them to be effective, it is important for housing strategies to be integrated with Council's overall management planning processes, not just its Social Plan or Residential Strategy.

This approach is consistent with an integrated planning and reporting project being undertaken by the [Department of Local Government](#). The project focuses on better integration of statutory planning and reporting processes under the Local Government Act and the Environmental Planning and Assessment Act. Integration will not only avoid duplication and inconsistencies, but will facilitate a more effective response to housing need.

Given the primary importance of housing to the communities served by local government, it is important for councils to adopt a comprehensive housing strategy, rather than a traditional land use planning approach. Considering better housing outcomes to be outside council's mainstream business could lead to a lack of momentum in implementation and to the risk that housing strategy will be overlooked entirely.

## **Linking Local Housing Strategies to other Council Planning**

Local housing strategies should be closely linked to council's other planning responsibilities and processes. It may not even be necessary to prepare a separate Local Housing Strategy. Rather, elements of the strategy might be incorporated within council's existing strategic processes and plans:

- A local social planning process could include a focus on housing needs and responses.
- A local environmental study to support a land use planning process should include an analysis of potential residential land capacity and constraints; population trends and corresponding housing needs; and sustainable residential design appropriate to the local context.
- A council's statutory land-use plans could provide legal support for local housing objectives, by incorporating them in the overall aims of the plan, and by including specific mechanisms to achieve them through the planning process.
- A local economic strategy could develop mechanisms to attract appropriate workers or new residents through specific housing policies, such as housing for retirees, rural residential housing, or employee housing.
- Council's corporate plan may need to include provisions to support and operationalise housing related initiatives.
- A combination of these approaches, tailored to the circumstances of your council, is likely to be appropriate. However, to ensure that council's specific housing objectives and initiatives are not 'lost', it is important to regularly review and update the key elements of the housing strategy.

The best approach for developing, documenting and implementing a Local Housing Strategy will depend largely on how council is organised and operates. A council may develop a stand-alone housing strategy that covers all relevant activities of council and directs how strategies will be implemented and enforced through those various areas. Local housing strategies can provide a framework to coordinate council's various responsibilities in relation to housing. They can provide a common information base to inform the various housing decisions of council and facilitate collaboration between different council sections involved in housing.

However, it may not be necessary to prepare a separate Local Housing Strategy. As long as specific housing strategies adopted by council are underpinned by specialised research and consultation about housing needs within the community, elements of a strategy can be incorporated within council's existing strategic processes and plans.

Some councils may choose to document housing needs and strategies through council's Social Plan, which would in turn identify supporting strategies to be implemented through council's other departments.

## **Guidelines for Social and Community Planning and Reporting**

The Department of Local Government has Social/Community Planning and Reporting Guidelines to help councils ensure that services are responsive to community need and diversity. The Guidelines help councils uphold the social justice principles of access, equity, participation and rights and address communities' needs directly, or in cooperation with other agencies and organisations.



Councils are required to undertake a social/community planning process and produce and update a Social Plan every five years. The Plan should include:

- demographic data;
- human needs assessment;
- information about the specific needs of seven target groups: Aboriginal and Torres Strait Islanders, children, people with disabilities, young people, older people, people from culturally and linguistically diverse backgrounds, women;
- assessment of previous social/community plan;
- identification of priority initiatives to include in management plan.

As local government areas have diverse populations, demographics, physical sizes, levels of urbanisation, resources, and infrastructure, the Guidelines do not prescribe in any detail what must be contained in social/community plans, but encourage councils to consult their communities to identify their needs and plan accordingly. See the Social/Community Planning and Reporting Manual, which includes references to housing and housing.

Where the thrust of housing policy relates primarily to council's urban planning functions, it may be most suitable to identify housing objectives and strategies within council's planning instruments.

The following table summarises various local government roles and responsibilities in NSW and their relationship to housing outcomes in the community.

<b>Local government role</b>	<b>Relationship to housing outcomes</b>
<b><i>Corporate planning</i></b>	
Resource allocation	May include: <ul style="list-style-type: none"> <li>• council resource allocation to support housing initiatives</li> <li>• different rates and charges for low-cost or community housing providers</li> <li>• grants to local housing groups or initiatives</li> </ul>
<b><i>Urban Planning</i></b>	
Land use zoning	<ul style="list-style-type: none"> <li>• availability of residential land</li> <li>• location of housing in relation to transport, services, and employment opportunities</li> <li>• cost/value of residential land</li> <li>• configuration of residential development, density</li> </ul>
Setting development controls	<ul style="list-style-type: none"> <li>• appropriateness of housing for community needs (household size, adaptability to life stage) and community expectations (amenity, cultural heritage protection)</li> <li>• cost of new housing and renovations</li> <li>• environmental impact of housing</li> <li>• protection of existing housing stock</li> </ul>
Development application processes	<ul style="list-style-type: none"> <li>• efficiency of approval processes</li> <li>• consideration of housing impacts as part of social and economic impact assessment for development proposals</li> </ul>
<b><i>Infrastructure planning</i></b>	

Levying contributions for infrastructure	<ul style="list-style-type: none"> <li>• cost of housing</li> </ul>
Planning and providing infrastructure	<ul style="list-style-type: none"> <li>• timely availability of appropriate services</li> <li>• value of housing</li> </ul>
<b>Social Planning</b>	
Preparation of Social Plan	<ul style="list-style-type: none"> <li>• identify community housing needs regarding access, equity, participation and rights (many councils include a specific housing needs assessment and identify strategies to address these housing needs)</li> </ul>
Provision of local community services	<ul style="list-style-type: none"> <li>• support groups with particular housing needs (youth, homeless people, the aged)</li> <li>• support people to remain in existing housing</li> <li>• coordinate support, provide access to information about available services</li> </ul>
Research	<ul style="list-style-type: none"> <li>• maintain data on local housing needs</li> </ul>
<b>Integrated community building activities</b>	
Master planning	<ul style="list-style-type: none"> <li>• work with private/public developers to encourage appropriately designed and affordable housing and address diverse community needs in urban release or renewal areas</li> <li>• ensure this housing is located near services, transport, and employment opportunities</li> </ul>
Neighbourhood renewal	<ul style="list-style-type: none"> <li>• work with private/public property owners, developers, and residents to enhance amenity, appropriateness, safety and sense of community in residential areas, through physical design and community building.</li> </ul>