



**Policy:**

**Affordable Housing Contributions**

**2020**

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2020/17217	24/07/2020	Final version for consideration by Council

### **Further Document Information and Relationships**

*List here the related strategies, procedures, references, policy or other documents that have a bearing on this Policy and that may be useful reference material for users of this Policy.*

### **Related legislation, policies, procedures, statements, documents**

- Draft Procedures to Affordable Housing Contributions
- NSW *Environmental Planning and Assessment Act 1979* - Section 7.32 & Section 7.11
- NSW Environmental Planning and Assessment (Planning Agreements) Direction 2019
- NSW State Environmental Planning Policy No 10: Retention of Low Cost Rental Accommodation
- NSW State Environmental Planning Policy No.70 Affordable Housing (revised Schemes)
- Byron Local Environmental Plan 2014 – Clause 6.7 Affordable housing in residential and business zones
- Byron Shire Draft Residential Strategy
- Byron Shire Council Community Participation Plan
- NSW Department of Planning & Environment Practice Note Planning Agreements 2016
- NSW Department of Planning & Environment [Guidelines for Development Affordable Housing Contribution Schemes \(NSW Govt. Feb 2019\)](#)
- NSW Department of Planning & Environment [A guide to preparing planning proposals](#)

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*



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## **1. Background**

The Byron Shire Residential Strategy sets out a land-use vision that includes housing affordability.

Analysis informing the Residential Strategy identified limited opportunities for the market to meet the demand for affordable housing in Byron Shire and significant underlying demand for affordable housing. The analysis concluded that there is a gap between the current needs and supply of rental accommodation for very low, low, and moderate income households and so the collecting of affordable housing contributions if development remains viable, by Council, is warranted.

## **2. Purpose & Scope**

The Byron Shire Affordable Housing Contribution Policy (AHCP) offers a framework to advocate for, facilitate, provide and manage affordable housing contributions in Byron Shire.

This policy is accompanied by Procedures to Affordable Housing Contributions, to allow for more responsive approaches, including shorter review cycles and realistic resource allocations on procedural matters.

The policy is relevant to all areas of Council. This policy does not replace the roles and responsibilities of other tiers of government in the delivery of affordable housing and does not override existing laws, statutory requirements or regulations.

This policy is not legally binding, however it is intended that the Council and all persons dealing with Council in relation to affordable housing contributions will follow this policy to the fullest extent possible.

## **3. Objectives**

The objectives are to:

- i. ensure that the Council's affordable housing contributions framework is efficient, fair, transparent and accountable.
- ii. encourage and adopt innovative and flexible approaches to the provision of affordable housing in a manner that is consistent with Byron Shire Council's strategic and infrastructure plans and as so enabled under *the Act*.
- iii. give local communities greater clarity about affordable housing contribution schemes in Byron Shire by Council.
- iv. give local communities greater clarity about affordable rental housing planned for their local area.
- v. establish a framework governing the use of Planning Agreements by Council for affordable housing contributions.
- vi. identify the circumstances in which Council will and those where Council will not consider entering a Planning Agreement for affordable housing contributions and the scope of contributions acceptable to Council.
- vii. supplement, but not replace, or be in lieu of the application to development of Byron Shire Developer Contributions Plan established under *the Act*.

- viii. give all stakeholders in the development greater involvement in determining the type, standard and location of affordable housing.
- ix. allow the community, through the public participation process under *the Act*, to agree to the redistribution of the costs and benefits of development in order to realise the community preferences for the provision of affordable housing.

#### **4. Statements of Intent**

One of the objectives of *the Act* is to promote the delivery and maintenance of affordable housing. To do this *the Act* incorporates a number of enabling mechanisms and sets terms under which contributions for affordable housing can be required.

In the case of Byron Shire, Council has or is in the process of activating the following mechanisms:

- Local Environmental Plan 2014 Additional local provisions Clause 6.7 Affordable housing in residential and business zones to enable imposing conditions relating to providing, maintaining or retaining affordable housing - currently operational.
- Voluntary Planning Agreements with negotiated terms for affordable housing contributions as part of the early implementation affordable housing project.
- SEPP 70 Affordable Housing Contribution Scheme for lands that undergo an upzoning.

Regulations, SEPP 70, S119 Directions and the [Guidelines for Development Affordable Housing Contribution Schemes \(NSW Govt. Feb 2019\)](#) help to inform the terms under which contributions for affordable housing can be accepted/required. [Environmental Planning and Assessment \(Planning Agreement\) Direction 2019](#) requires Council to prepare and publish a policy that sets out the circumstances in which it may seek a Planning Agreement in connection with affordable housing.

This policy sets how Council intends to operate the contribution framework in Byron Shire, in doing so Council:

1. accepts a need for intervention to improve the supply of affordable housing for households on very low, low or moderate incomes in the future.
2. commits to implementing and promoting a developer affordable housing contribution framework as enabled by *the Act*.
3. commits to examining scope for the application of a SEPP 70 Housing Contribution Scheme clause as part of any upzoning initiated by Council such as a change in floor space ratio or zone.
4. favours affordable housing contributions that improve the supply of smaller dwellings (1- 2 bedroom) such as self contained units in retirement villages, residential flat buildings and multi-dwelling housing suited to smaller households.
5. in all cases, will determine the affordable housing contribution form, in order to:
  - a) support a more even distribution of affordable housing within urban areas

- b) improve housing choice, diversity and equity, and
  - c) promote affordable housing principles.
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- 6. supports the Residential Strategy in identifying affordable housing contribution scheme investigation areas where a need and a general likely viability to contributions are established.
  - 7. seeks the concurrent application of a SEPP 70 Affordable Housing Contribution Scheme clause over land subject to an upzoning.
  - 8. supports, where appropriate, use of LEP Maps to help illustrate what is the preferred affordable housing contribution form for certain land.
  - 9. supports a target of about of up to 140 rental units for very low to moderate income households via development affordable housing contribution schemes in the urban areas over the next 15 to 20 years.
  - 10. supports engaging with developers on Planning Agreements for the provision of affordable housing however, acceptance of an offer to enter into a Planning Agreement is at the absolute discretion of Council.
  - 11. commits to implementing LEP 2014 Additional local provisions Clause 6.7 Affordable housing in residential and business zones to enable imposing conditions relating to providing, maintaining or retaining affordable housing.
  - 12. commits as part of the Residential Strategy monitoring and review ongoing research, analysis and monitoring of local needs for affordable housing in the Shire.
  - 13. respects in setting contribution rates, the NSW government policy position of a need for a developer's ability to achieve an investment return in order to maintaining a sustainable development market and continued housing supply.
  - 14. guides the Residential Strategy to set a minimum affordable housing contribution rate for areas based on Council's understanding of development feasibility.

## **5. Strategic and legislative context to the Policy**

### ***North Coast Region Plan 2036***

Direction 25 Deliver more opportunities for affordable housing

5.1 Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing.

### ***Byron Shire Draft Local Strategic Planning Statement***

A Liveable Shire

Local Priority 3: Support housing diversity and affordability with housing growth in the right locations.

## ***Byron Shire (draft) Residential Strategy***

Policy 2: Improved housing choice, diversity and equity

Direction 2.1: Enable opportunities for innovative new residential forms and models that give a sense of place, promote environmental stewardship and encourage social, economic and cultural diversity and equity.

Direction 2.2: Facilitate and promote growth in the proportion of rental and to buy housing aimed at the lower end of the market, including those with very low incomes.

### ***Other legal/statutory/policy considerations***

As discussed in the Policy and accompanying procedures.

## **6. Review**

This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it; or when Council's related policies, functions, structure or activities change; or when technological advances or new systems change the way that Council manages the dedication of land to Council or application of contributions.

Any updates may cover additional matters to those covered in this Policy or provide more detailed information or guidance on specific matters covered in this Policy.

## **7. Terminology**

*Affordable housing means the same as in State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*

*affordable housing condition* means a condition that may be imposed on development consent, under section 7.32 of *the Act*, requiring the dedication of land or a monetary contribution for the purpose of providing affordable housing.

*affordable housing contribution scheme (AHCS)* means a scheme referred to in section 7.32 (3) (b) of *the Act* set out in or adopted in a local environmental plan.

*affordable housing contribution scheme investigation area* means in the case of the ACHP, an area supported for investigation the implementation of an affordable housing contribution scheme.

*affordable housing principles* means the principles as identified in *Schedule 2 of State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*

*Council* means Byron Shire Council

*development application* has the same meaning as in *the Act*

*development contribution* means the provision made by a developer pursuant to Part 7 *the Act* or under a Planning Agreement, being a monetary contribution, the dedication of land free of

charge or the provision of a material public benefit to be used for or applied towards a public purpose

*LEP means the Byron Shire Local Environmental Plans*

*Planning Agreement* means a voluntary agreement between one or more planning authorities and a developer: (a) who seeks to change an environmental planning instrument (which may be for rezoning or other purpose); or (b) who has made, or proposes to make a development application

*the Act* means the *Environmental Planning and Assessment Act 1979*

*upzoning* means a change of zone to enable residential development or a change of planning controls (such as floor space ratio) which enables greater residential density on a site