

# SHELTER NSW FACTSHEET



## Some terms used in urban policy

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**Affordable housing** — Housing is generally considered to be ‘affordable’ if the household members are not in housing stress after they have paid for their housing, irrespective of whether they are renting or buying. One of the most widely used indicators of housing stress, that is, of housing *unaffordability*, is that a low-income or moderate-income household should not pay more than 30% of their gross income on housing. In NSW planning law, the term is used in a different way and means ‘housing for very low income households, low income households or moderate income households’; the *State Environmental Planning Policy (Affordable Rental Housing) 2009* elaborates that a very low-income household is one with a gross income of less than 50% of the median household income for the ABS Sydney Statistical Division, a low-income household has between 50–80%, and a moderate-income household has between 80–120%.

**BASIX** — the Building Sustainability Index, a state government tool used to assess the performance of a building against a range of environmental sustainability standards. The standards cover water consumption, greenhouse gas emissions, and thermal performance, and include matters like use of recycled water, roofwater tank, native-plant landscaping, solar water heater, wall/ceiling insulation, etc. Developers (applicants) must submit a BASIX certificate with their development application. The certificate is generated online from the Department of Planning and Environment website.

**Betterment** — the unearned ‘windfall’ going to a landowner whose land increases in prices due to planning schemes or public works

**Brownfield** — a term used for land and developments where the site is in an established urban area but the original industrial use is no longer suitable to today’s needs or demands, e.g. pre-development Pyrmont, Darling Harbor, parts of Homebush Bay (Sydney) and Honeysuckle precinct (Newcastle); brownfield sites might have experienced some form of environmental contamination

***Building the State* package** — a suite of tax-expenditures and tax-transfers aimed at incentivating the construction of dwellings and associated economic infrastructure, introduced in the State Budget for 2014-15 on 17 June 2014

**Built environment** — the physical, human-made aspects of human settlements, especially villages, town and cities; it includes buildings, related infrastructure (e.g. roads, bridges, water supply systems, energy supply systems) and green space

**Certifying authority** — a body that may assess a development application and determine that it meets relevant planning and building standards; the authority can be a local council or a private firm

Code-assessable development — a development that can be assessed on the basis that it meets the requirements of relevant planning policies, land-use plan, and development controls (including policy documents specifically branded as ‘codes’ like BASIX and the NSW Housing Code) and for which a positive assessment of compliance means it is approved; these developments are not generally advertized and the public may not object; the term is not yet in formal use in current NSW planning law but the Government’s 2013 white-paper on the planning system used it

Complying development — a type of code-assessable development that applies to smaller developments (that are considered not to have negative environmental impacts)

Concurrence — the agreement of a third party to a settlement between two other parties, e.g. the consent by the department of planning or minister for planning to a decision of a council

Consent authority — a governmental or quasi-governmental body that may give consent to a development (including to developments that are non-complying); it could be a local government council, an independent hearing and assessment panel, a regional assessment panel, a state government agency or the minister for planning

Density — In the case of housing, this is a measurement of the number of dwellings in a given area of land, e.g. hectare. Other measures of density are *population density* (number of people living on a given area of land) and *activity density* (number of residents plus the number of jobs for a given area of land).

Density bonus — a concession to a developer in the form of more liberal development controls (than the norm) that would allow the development to be denser than it would otherwise be; the consent authority gives the concession in exchange for something. For example, a local council might consider that in specific circumstances there would be a net public benefit to allow a development go ahead according to standards that are weaker than the controls applicable to similar developments generally, in return for a compensating action (e.g. a contribution to a council affordable housing scheme). The standards that could be used are those about: lot sizes, floor space, building heights, setbacks, landscaping, or car-parking requirements. The standards trade-off that is usually referred to is the standard/control. Density bonuses could be particularly useful in built-up areas with high land values, which are characterized by multi-unit and medium-density housing, and where there is little scope for upzoning because of the existing built-up nature of the area; they are less useful in low-rise low-density residential areas whose character is sought to be preserved.

Developed land — land used for housing is called developed if it has had changes made to it to establish sewerage, roadways, etc.

Development — the use of land, the subdivision of land, the erection of a building, the carrying out of a work, or the demolition of a building or work

Development application (DA) — an application by a proponent (an individual or company) to undertake an activity on a parcel of land, e.g. to build a house. Sometimes called a *land use application*. An application for a *certificate on complying development* is not considered a development application. Before 1998 there was a separate building application (BA) required for building work, as distinct from use of the land.

Development assessment — the process by which a proposal for a development is assessed for its merit against legal and other public interest criteria. Also called development *appraisal*

Development consent — a positive decision on a development application. The consent can be unconditional or conditional. The entity giving the consent is called the ‘consent authority’. The opposite of development consent is development *refusal*. The agency giving the consent might be a different entity from the entity doing the development assessment.

Development control plan (DCP) — a plan developed by a local council to set specific controls on developments within its local government area; the Government's 2013 white paper on the planning system proposed they be subsumed into local land-use plans

Development standard — a provision that specifies requirements or sets standards about aspects of a development, including requirements or standards about: (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point; (b) the proportion or percentage of the area of a site which a building or work may occupy; (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work; (d) the floor space of a building; (e) the intensity or density of the use of any land, building or work; (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment; (g) the provision of facilities for the standing, movement, parking, servicing, maneuvering, loading or unloading of vehicles; (h) the volume, nature and type of traffic generated by the development; (i) road patterns; (j) drainage; (k) the carrying out of earthworks; (l) the effects of development on patterns of wind, sunlight, daylight or shadows; (m) the provision of services, facilities and amenities demanded by development; and (n) the emission of pollution and means for its prevention or control or mitigation (from *Environmental Planning and Assessment Act*)

*Environmental Planning and Assessment Act 1979* — the main piece of legislation that regulates land-use planning and development assessment; in 2013 the Government proposed it be repealed and replaced with the *Planning Bill 2013* and the *Planning Administration Bill 2013* but it has not had the Legislative Assembly consider the *Planning Bill* again following amendments made to it by the Legislative Council in November 2013

Environmental planning instrument (EPI) — a policy document that deals with a matter of environmental planning, e.g. land use, floor space ratio, building heights, and that has a legal basis in the *Environmental Planning and Assessment Act*; examples are a state environmental planning policy and a local environmental plan. A development control plan is not an EPI.

Exempt development — a minor development with minimal environmental effects that does not need either approval from a council or an assessment, e.g. a small backyard shed

Floor space ratio (FSR) — the ratio of the gross floor area of a building to the total area of the site where the building is located or proposed to be built

Grayfield — a term used for land and developments where the site is in an established urban area but the original built form is considered no longer suitable to today's needs or demands, because the uses are obsolete or the land is underutilized, e.g. suburbs with *fibro-belt* cottages suburbs in Sydney that could be developed with higher-density housing

Greenfield — a term used for land and developments where the site is not being used for urban purposes (dwellings, industry, offices, etc.) but for nonurban uses, e.g. farming, bushland

Gross floor area — the sum of the areas of each floor of a building

Group home — a dwelling that is occupied as a single household with or without paid supervision or care — whether or not the people in the household are related or payment for board and lodging is required; and that is used to provide either (a) *permanent* housing for people with a disability or people who are socially disadvantaged, or (b) *temporary* accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people

Growth center — an area of land designated for urban development or redevelopment under the *Growth Centres (Development Corporations) Act*

Growth center development corporation — a type of state government agency, whose remit is to promote, coordinate, manage and secure the ‘orderly and economic development’ of a designated growth center or centers, e.g. UrbanGrowth NSW Development Corporation

High-density housing, medium-density housing, low-density housing — these terms are used to refer to housing densities of more than 60 dwellings a hectare (high density), between 25 and 60 dwellings a hectare (medium density), or fewer than 25 dwellings a hectare (low density) respectively

High-rise housing, medium-rise housing, low-rise housing — these terms are used to refer to the height of buildings in terms of the number of storeys: dwellings of 6 storeys or more are high-rise, 4 or 5 storeys are medium-rise, and 3 storeys or less are low-rise

Housing Acceleration Fund — a state government scheme to finance economic infrastructure in certain sites where new housing estates are proposed

Improved value of land — the amount of money land could be expected to sell for taking into account any ‘improvements’ (physical things like houses, fences, levelling, filling, etc.) on it

Inclusionary housing — a planning mechanism to ensure affordable housing is not excluded from a particular location because of environmental-planning controls or market forces (dwelling costs) by requiring contributions from land developers as a condition of development consent, with the contributions being either units of affordable housing or an equivalent monetary amount. Where the planning instruments require a minimum proportion of affordable units to be provided in new housing developments in land zoned for residential purposes, the units to be provided are often referred to as ‘set asides’ in the USA. An inclusionary housing approach does not necessarily require the need to establish a strict ‘nexus’ between a particular development and demand for affordable housing. It might be associated with incentives (development concessions) to the developer, or it might not (in which case it is a form of tax); where it is not associated with incentives, it is often argued for on the basis of betterment or value capture. It is sometimes called ‘inclusionary zoning’, because the provisions are included in the EPI that sets the zones for land in the relevant locality.

Independent hearing and assessment panel (IHAP) — a body of experts set up by a local council to advise it on the merits of a merit-assessable development, and in some cases, to make the decision (determination) on the application

Infill — development that fills a gap in the existing built form; the site might not actually be vacant, it might be an underutilized or have a redundant use

Integrated development — a local development that requires the concurrence of a state government agency

Intermediate housing — affordable housing targeted to low-to-moderate income households (in contrast to very low to low income households)

Joint regional planning panel (JRPP) — bodies set up by the state government to determine certain development applications, including ‘regionally-significant’ development

Local development — development that requires a development application, e.g. industrial buildings, commercial buildings, public buildings, houses, changes of land use, and subdivisions of land

Local environmental plan (LEP) — a plan developed by a local council, but approved by the minister for planning, to set out the uses that land within a local government area (or a part of it) may be put to — the plan usually includes controls on floor space ratios, general controls for sensitive land (e.g. flood-prone land) and particular matters (e.g. affordable housing schemes); the Government’s 2013 white paper on the planning system proposes they be replaced by ‘local plans’ (i.e. the word ‘environmental’ was to be deleted)

Local Infrastructure Renewal Scheme — a scheme to subsidize the interest-rate costs on borrowings by local governments to pay for local infrastructure

Local plan — a plan developed by a local council, but approved by the minister for planning, to set out the uses that land within a local government area can be put to, to indicate the local infrastructure to be provided to support development, and to indicate guidelines and performance measures for development; the concept was proposed in the Government's 2013 white paper on the planning system; it would replace LEPs and DCPs

Low-rental residential building — a residential building that is a boarding house, a hostel, or a block of flats/apartments in which there is low-rental dwelling, a concept used in the *State Environmental Planning Policy (Affordable Rental Housing) 2009*

Master plan — a land-use planning brief that indicates the preferred use of land and overall approach to development, that provides guidance to later development applications; in NSW planning law, they have been subsumed into the DCP system, since late 2005

Merit-assessable development — a development that needs more consideration than a code-assessable development, including because of its potentially-negative impacts, and that is to be assessed by a consent authority who determines approval based on its merit; the term is not in formal use in current NSW planning law but the Government's 2013 white paper on the planning system used it

Nexus — the relationship between the action and the agent of the action; in NSW planning law, it is used to refer to the link between a cause or need, for example, loss of affordable housing from a development, and compensatory or mitigating response (e.g. provision of money towards new affordable housing)

Planning agreement — a voluntary agreement between a planning authority and a developer (hence, VPA — voluntary planning agreement), where the developer has sought a change to an environmental planning instrument, or has made, or proposes to make, a development application, and — in association with that action — where the developer offers to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, to the authority to be used for or applied toward a public purpose (*Environmental Planning and Assessment Act*, s.93F(1))

Planning gain — the benefits or safeguards, often for community benefit, e.g. affordable housing, community facilities or mitigation measures, that are secured by a development-consent condition and usually provided at the developer's expense; often triggered by betterment

Proponent — a person (or firm) proposing to carry out a development activity

Public priority infrastructure — major infrastructure projects that the state government will give priority to and streamline approval processes for

Real property — land, according to a traditional division of property into two main classes, real and personal, in England-derived law

Regional growth plan — a state government plan for the growth of a particular region; these were proposed in the Government's 2013 white paper on the planning system, and would replace the current regional strategies and strategic regional land-use plans prepared by the Department of Planning and Environment

Regionally-significant development — development that has an impact at a regional level not just a local level; in the planning process the concept of a 'region' is linked to specific parts of the state as identified by the Department of Planning and Environment; in the development-assessment process, the term is not specifically defined in law but a development might be imputed as having a 'regional' significance if it is a matter that a JRPP may be the consent authority for: such developments are typically expressed in terms of monetary value, e.g. all

general development worth more than \$20 million, affordable housing worth more than \$5 million

Secondary dwelling — a self-contained dwelling that (a) is established in conjunction with another dwelling (the principal dwelling); (b) is on the same lot of land as the principal dwelling; and (c) is located within, or is attached to, or is separate from, the principal dwelling

Section 117 direction — a ministerial direction to a local council on what to include (or not include) in a local environmental plan that is used by the minister for planning, given under section 117 of the *Environmental Planning and Assessment Act*

Section 94 contribution — a monetary payment or a dedication of land free of cost to a consent authority that is required to be given by a developer where the consent authority believes the demand is likely to increase the demand for public amenities or public services in the area. The money or land given must be used for an identified purpose according to a schedule of public works prepared by the authority. The authority's power to do this is given by section 94 of the *Environmental Planning and Assessment Act*. Construction of affordable housing is not a public amenity or public service for the purpose of this section.

Section 94F — a section of the *Environmental Planning and Assessment Act* that allows consent authorities to require developers to make contributions to affordable housing (either in kind or cash) in circumstances where the authority considers the development would increase demand for affordable housing, or reduce affordable housing; the authority may only require these contributions if it jumps through certain hoops, e.g. it must have an affordable housing scheme in an LEP, it must get covered by a SEPP that stipulates that the local government area has a need for affordable housing, it must get covered by a SEPP that authorizes the imposition of such a condition. The section provides the legal basis for inclusionary-housing schemes in parts of Sydney City and Willoughby local government areas, whose schemes are predicated on value capture and planning gain, and for the compensation provisions for loss of low-rental residential buildings under the *Affordable Rental Housing SEPP*.

Social impact assessment — assessment of the social impacts or effects of a development

Standard LEP template — a document with the required structure and on some matters, content, that standardizes the local environmental plans prepared by local governments, as ordered by the state government. Local councils may, with the consent of the minister for planning (through the Department of Planning and Environment), include local provisions in their plan on matters not specified by the order. The template is formally known as the *Standard Instrument - Principal Environmental Plan*.

State environmental planning policy (SEPP) — a policy document of the state government dealing with a planning or environmental matter of state-wide interest, that must be considered during an assessment of a development application; the Government's 2013 white paper on the planning system proposed the document be replaced by a new document, called a *NSW planning policy*, which, unlike a SEPP, would not be statutory (i.e. would not have to be directly taken not account during development assessment). SEPPs that impact on affordable housing include *State Environmental Planning Policy 70 — Affordable Housing (Revised Schemes)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

State-significant development — development that has an impact at a state level, such as mines and manufacturing plants; warehousing, waste, energy, tourist, education and hospital facilities over a certain size or located in a sensitive environmental area; and developments in specific precincts identified by the government (e.g. Sydney Olympic Park, Barangaroo)

Strategic regional land use plans — plans that indicate preferred use of lands in regional (rural) areas, addressing issues around use of land for agriculture and competition for that land from mining companies

Subregional delivery plan — a state government plan to deliver the outcomes it desires from a regional growth plan to a part of that region; the Government's 2013 white paper on the planning system proposed the notion: they would replace subregional strategies (currently in draft form for subregions within greater Sydney)

Title — the different legal forms by which owners own land, e.g. Torrens title, strata title, common law title, community title, company title

Undeveloped land — land to be used for housing is called undeveloped, or 'raw', if it has had no changes made to it to establish sewerage, roadways, etc.

Unimproved value of land — the amount of money land could be expected to sell for if there are no 'improvements' (dwellings, fences, levelling, filling, etc.) on it

Upzoning — the change of planning and development controls on land to allow for more intensive use; the concept implies a change of the zoning only, from a zoning that allows for less intensive (and therefore less valuable) use to one that is more intensive —but the change in intensity might not be about the land-use as such (a rezoning), it might be about the development controls, e.g. from low-rise dwellings to medium-rise dwellings, in the same residential zone

Urban Activation Precincts program — a program to change the land-use plans and development controls for precincts identified by the state government as warranting more intensive development; it was announced with the State Budget of 12 June 2012

Urban consolidation — a government-promoted process of increasing the densities of dwellings in a neighborhood

Urban design — the process of making the physical form of human settlements (beyond the scale of an individual building)

UrbanGrowth NSW — a government trading enterprise whose remit is to undertake, or assist the Government in undertaking, strategic or complex urban development projects, to assist the Government in achieving its urban management objectives, and to be a responsible developer of residential, commercial and industrial land. — it is established under the *Landcom Corporation Act 2001* and is either the successor body to or the reworking of Landcom depending on how you look at it; this is not the same body as the similarly named UrbanGrowth NSW Development Corporation

Urban renewal — a slippery term that covers a range of interventions to change the built form and the economic and social character of a locality in an urban area (village, town, city). The locality does not necessarily need to be physically rundown to attract attention, it might just not have the 'right' planning and development controls to maximize development potential. There are three main state government programs that have urban renewal as their focus. One follows from the Urban Renewal SEPP 2010 and includes the activities of the UrbanGrowth NSW Development Corporation. Another is the Urban Activation Precincts program. The third is the activities of UrbanGrowth NSW, which is involved in precincts related to both those two mechanisms. Some local government councils also use the moniker of 'urban renewal' to refer to a range of activities in town centers. Local initiatives like those of heritage societies and Main Street activities involving small businesses can also have an urban renewal aspect.

Value capture — a process of recouping all or part of the increase in land value that follows from a government intervention, to be used for (usually) public purposes

White paper — a document indicating a government's intentions to take actions in major matters of public policy; the key white paper affecting urban policy in recent NSW history was *A new planning system for NSW — white paper*, released in April 2013

Zoning — the practice in land-use regulation of designating permitted uses of plots of land based on mapped zones that separate one set of land uses from another

