

Inclusionary Zoning

97%

of survey respondents agree that

ACTION

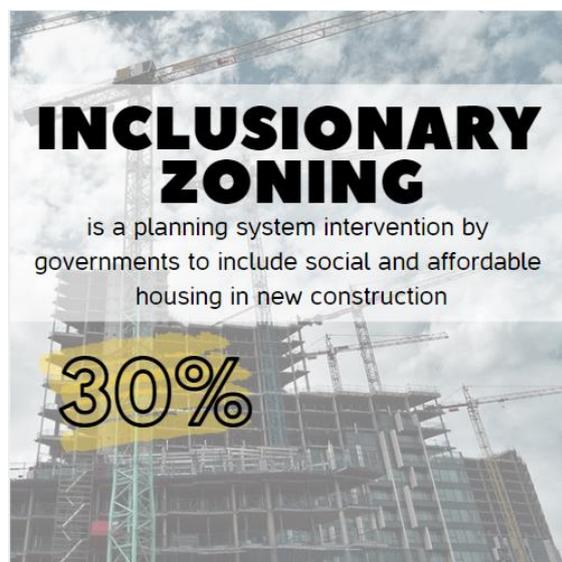
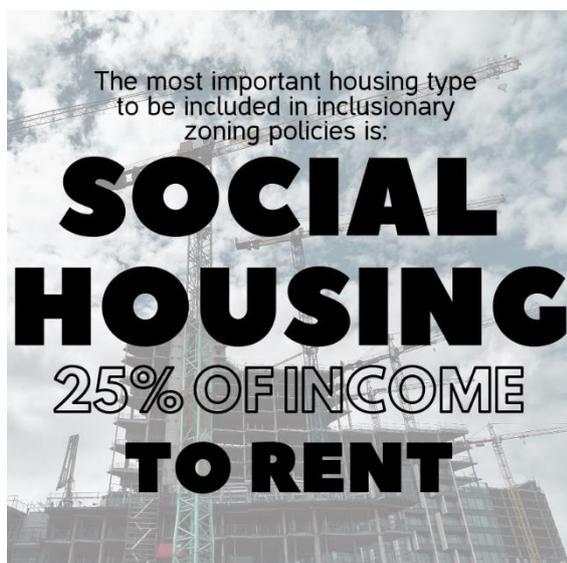
is needed to improve

**HOUSING
AFFORDABILITY**

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Key Findings



- Incentives are required to achieve social and affordable housing – 81% of survey respondents agreed.
- There are inconsistent approaches to inclusionary zoning between jurisdictions.
- There is strong support for mandatory inclusionary zoning¹.
- Survey respondents are concerned about the loss of affordability after the first purchase.
- Data should be collected on the retention or loss of affordability created through inclusionary zoning.
- The public does not have good understanding of inclusionary zoning and education is required.

¹ In the Northern Territory there should be mandated social and affordable housing outcomes for residential developments in Crown Land releases.

Introduction

A key part of the National Shelter Policy Platform is the supply of social housing directly funded by governments. Our examination of inclusionary zoning across Australia is intended to be an enhancement of traditional methods of achieving social and affordable housing, not a replacement of direct government investment in social housing. Social housing is critical for people living on low incomes who require a subsidy to achieve an affordable home. The need for improvement in the delivery of social and affordable housing was a theme repeated throughout our survey responses.

Aims

This project aims to examine current inclusionary planning policies that deliver social and affordable housing supply across Australia. It will compare State/Territory and Local Government policies established across the country to identify the challenges and opportunities for inclusionary zoning. This document reflects our investigation to inform our consideration of policy objectives and advocacy.

The results and final report will be used to build a coalition of support around encouraging National leadership on inclusionary zoning, strategies and mechanisms to assist National Shelter Council members and stakeholders to lobby the Federal Government, State/Territory Governments and other stakeholders, providing a call to action.

Definitions

Inclusionary zoning: In this report, inclusionary zoning is defined as, “a land use planning intervention by government that either mandates or creates incentives so that a proportion of a residential development includes a number of affordable housing dwellings” (Australian Housing and Urban Research Institute, 2017). This project is concerned with inclusionary zoning and the role it may play to provide for, subsidise or complement the development of social and affordable housing.

Inclusionary zoning is one planning mechanisms which can be developed to increase affordable housing. Others include:

- Planning concessions – planning rules are relaxed for affordable housing development or to enable low-cost market housing;
- Density bonuses – additional development potential is offered in return for an affordable housing contribution; and
- Negotiated agreements – in Australia often termed Voluntary Planning Agreements (VPAs), these involve affordable housing contributions being negotiated on a case-by-case basis (possibly under a broader policy framework)².

Affordable housing: Housing is generally considered to be ‘affordable’ if the household members are not living with housing stress after they have paid for their housing, irrespective of whether they

²https://www.ahuri.edu.au/data/assets/pdf_file/0019/17272/AHURI_Final_Report_No297_Supporting_affordable_housing_supply_inclusionary_planning_in_new_and_renewing_communities.pdf

are renting or buying. There are a number of measures of affordability. One of the most widely used is that a low-income or moderate-income household (bottom two household income quintiles) should not pay more than 30% of their gross income on housing.

Housing affordability: A general term, used in reference to the whole housing system, expressing the relationship between housing costs (prices, mortgage payments or rents) and household incomes.

Housing stress: A household is living with 'housing stress' if its income is in the bottom 40% of household income quintiles and is paying more than 30% of its income on housing. This may also be referred to as 'housing unaffordability'. See also 'Affordable housing'.

Community housing: Housing that is managed and sometimes owned by a not-for-profit organisation.

Homelessness: The Australian Bureau of Statistics definition of homelessness is that when a person does not have suitable accommodation alternatives, they are considered homeless if their current living arrangement is in a dwelling that is inadequate, has no tenure, if their initial tenure is short and not extendable, or does not allow them to have control of, and access to space for social relations.

National Rental Affordability Scheme (NRAS): NRAS addresses the shortage of affordable rental housing by offering financial incentives to the persons or entities to build and rent dwellings to low and moderate-income households at below-market rates for ten years, subsidised by Commonwealth and State/Territory Governments.

Value capture: Value capture occurs when governments enforce a tax on the increase in value of a parcel of land because of an action by government, such as the land being rezoned to a higher value use (e.g. from farmland to residential housing); the building of more efficient local transport access; or the building of local amenities such as schools or cultural centres.

Methods

This project uses a variety of methods to examine the current challenges and opportunities for the improvement of inclusionary zoning across the country. A review of current approaches to inclusionary zoning was conducted in each of the States and Territories, drawing on local knowledge and published research.

Primary data was collected through a National survey, developed by a focus group of stakeholders. The aim of the survey is to identify how to overcome the barriers from different stakeholder perspectives. The survey results were analysed and used to form a series of recommendations.

Is Affordability Temporary?

Across Australia there are few mechanisms to ensure that when inclusionary zoning creates affordable housing, that affordability is ongoing as affordability is often only available to the first purchaser in a build to sell model. The arrangement for City West in New South Wales provides a perpetual rental housing supply at a relatively small scale.

Supporters and Detractors

Inclusionary zoning has been a contentious issue in many jurisdictions. We wanted to identify groups who supported, and those who oppose, inclusionary zoning. The picture emerging is complex and complete with inconsistencies.

Local Governments across Australia have differing views of inclusionary zoning and many are supportive of inclusionary zoning but there is not a unified position across Local Governments councils or Local Government Associations.

Inclusionary zoning is not always opposed by property councils and developers however there are some prominent developers who are strong supporters. Property industry peak bodies have mixed views about inclusionary zoning. The Property Council of Australia, responding to an AHURI report on inclusionary zoning commented that, “The plans recently finalised by the Greater Sydney Commission included an affordable rental housing target for new residential development of between 5 and 10 per cent, where financially viable, and this seems a measured response to a difficult problem”³.

The Housing Industry Association has a clear opposition to inclusionary zoning stating that, “Inclusionary zoning policies and affordable housing quotas add costs to an already over-taxed and over-regulated housing industry”⁴.

Developers talk about the need for certainty over time frames to enable accurate costings of new construction. There is a sense that industry will oppose inclusionary zoning in principle but accept it as a condition if it provides certainty, is clear in its objective and provides options for the delivery of affordable housing rather than mandating its inclusion in every development.

State Government housing departments have tended to be neutral on the role of inclusionary zoning as a contributor to affordable housing highlighting their narrow role which has been restricted to providing “welfare” housing to the lowest income, highest need households and therefore less interested in mechanisms which might intervene in markets and housing production.

National Shelter and its member organisations, not-for-profit organisations, academics and most community housing providers support the development of inclusionary zoning in planning legislation. We see planning mechanisms as recognising affordable and social housing as essential infrastructure required to ensure productivity in the workforce and economic, cultural and social participation by lower income households.

³https://www.propertycouncil.com.au/Web/Content/News/NSW/2018/Property_Council_responds_to_AHURI_Research.aspx?WebsiteKey=148a29fb-5ee5-48af-954b-a02c118dc5fd

⁴ <https://hia.com.au/-/media/HIA-Website/Files/Media-Centre/Policies/Subsidised-Affordable-Housing.ashx>

Our Data

In conducting this project National Shelter asked its members organisations and partners to complete a template on the various State and Territory approaches to inclusionary zoning.

Table 1 describes responses from a template developed to elicit the varied approaches across jurisdictions in Australia.

State/Territory	Voluntary or Legislated	Rental or Purchase	Designated areas or general	Temp or in perpetuity	Target
SA	Legislated	Mainly purchase	New Developments	First purchase	General population
ACT	Legislated	Both	General	In Perpetuity	General population
VIC	None	N/A	N/A	N/A	N/A
NT	None	N/A	N/A	N/A	
QLD	Occasional (2007-13)	Both	Designated areas (ULDA)	Temporary	
WA	Voluntary	Mainly purchase	Designated areas	In perpetuity	Mix of Low-moderate income home owners Specific purpose tenants
TAS	None	N/A	N/A	N/A	N/A
NSW	Occasional (SEPP 70)	Rental	Specific to LGA	In Perpetuity	City West low-moderate income renters

Current Research

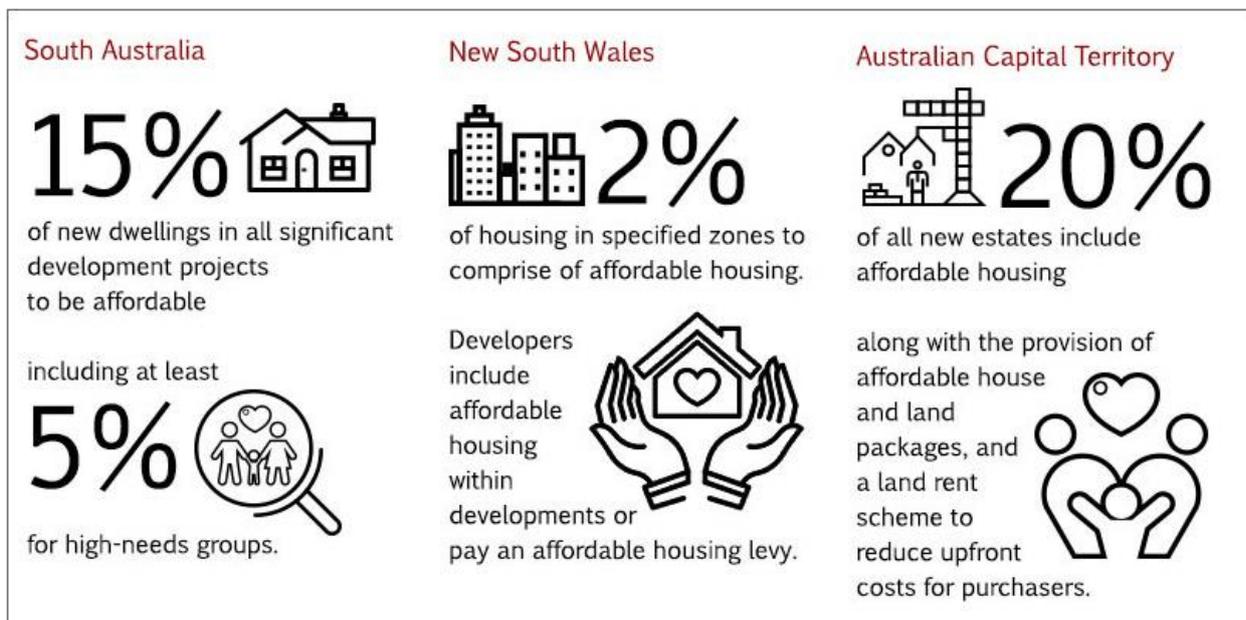
Gurran et al. (2018)⁵ have looked at the range of planning instruments used across Australia to prepare the below table of the various jurisdictional differences:⁶

State/ Territory	Inclusionary Zoning	Density bonus/planning concessions/negotiated agreements	Govt. land able to support affordable housing schemes*
ACT	15-25% target, new land release	Yes, applying to affordable home ownership	Yes
NSW	In designated parts of inner Sydney	Statewide policy, to encourage affordable rental housing	On ad hoc basis
NT	No	Smaller lot sizes in Multiple Dwelling Residential zones	Yes
QLD	No	Small lots able to support more diverse / supply	Limited
SA	15% target for residential zones (applied on rezoning)	Incentives and concessions to support achievement of target	Yes
TAS			Limited
VIC	Pilot to be introduced	Negotiated agreements used to deliver affordable housing in some areas of inner Melbourne	Limited
WA	No	Local authorities enabled to introduce planning concessions and incentives; for example, Density Bonus included in Fremantle Planning Scheme (2017)	Yes

⁵ <https://www.ahuri.edu.au/research/final-reports/297>

⁴ https://www.ahuri.edu.au/data/assets/pdf_file/0019/17272/AHURI_Final_Report_No297_Supporting_affordable_housing_supply_inclusionary_planning_in_new_and_renewing_communities.pdf

⁵ <https://www.ahuri.edu.au/policy/ahuri-briefs/Understanding-inclusionary-zoning>



A policy brief by AHURI and snapshot of the most significant inclusionary zoning programs above.⁵

State and Territory Responses

South Australia

Currently, South Australia has the most significant inclusionary zoning targets with a 15% target that has been in action for fourteen years. In all significant development projects, 15% of new dwellings are to be affordable, including at least 5% for high-needs groups (AHURI, 2017). This requirement was introduced in The Housing Plan for South Australia when South Australia’s Development Act 1993 was amended to enable provisions for affordable housing.

The commitment to provide affordable housing is made through a legally binding Land Management Agreement (LMA) and the criteria are re-assessed annually to ensure these requirements are met.

The Development Act 1993 and Regulations include explicit references to affordable housing. The Objects of the Act include an objective ‘to promote or support initiatives to improve housing choice and access to affordable housing within the community’ (Section 3(a)). Affordable housing (as set out in the Planning Strategy) is specifically highlighted for consideration in Strategic Directions Reports and Development Plans (sections 30(1) (c) (iia), 101A (2) (b) (iia) and 23(3) (a) (vii)).

Affordable housing is designed and priced to cost people living on a low or moderate income no more than 30% of their gross income in repayments. Otherwise priced at \$354,000 or less (if key criteria are met, the price can be up to \$407,100 - the criteria are published in the Government Gazette) (South Australian Government, 2018). This price point does not assist households in the bottom two income quintiles.

The legislation reinforces affordable housing as a planning issue and Local Governments should address how the affordable housing targets set out in the Planning Strategy will be implemented. The Regulations under the Development Act 1993 require that an affordable housing development proposal be referred to the Minister for Housing to determine that the development meets the affordable housing criteria under the South Australian Housing Trust Act 1995.

Inclusionary zoning is to be included in South Australia if a significant development is within a designated affordable housing zone in a Local Government development plan. However only 17% of total dwelling approvals within major new residential development areas of South Australia between 2005 and 2015 have been dedicated to affordable homes, 63% of which have been on State Government land or supported by other government incentives or subsidies (Australian Housing and Urban Research Institute, 2015).

Some of the implementation issues found by researchers from AHURI include the wording of the policy, that developers “should” provide affordable housing rather than stating “must”. As a result, developers can contest this policy and that it is inconsistently enforced by Local Government planning authorities. The second factor mentioned by the researchers from AHURI is that many of the infill demonstration projects are developed on State Government land, with grants or support from schemes such as National Rental Affordability Scheme (NRAS). Without financial incentives or subsidies, it is difficult for a developer to replicate an affordable housing project on private land.

Eligible buyers are able to purchase affordable dwellings for the purpose of affordable rental housing. Affordable housing providers, such as the South Australian Housing Trust, a registered housing association, or a registered housing co-operative under the South Australian Co-operative and Community Housing Act 1991 (SA) and persons (natural or corporate) approved to provide affordable rental under the National Rental Affordability Scheme can be considered eligible (AHURI 2015). If a house is rented out by a community housing provider or bought by a provider for affordable rent, there is a rent threshold that is applied and recalculated annually.

As far as we know, there is no mechanism to ensure benefits are ongoing for home purchasers – the first purchaser of new construction receives the affordability benefit. For NRAS properties, the rental affordability is ongoing, however, NRAS is currently discontinued.

Some examples of affordable housing projects in South Australia can be found in the table below.

Project Name	Description	AH Target	Total AH Dwellings (estimated)	Outcomes to date
Bowden	Higher density urban infill project located on 16.4 hectares of former industrial land adjacent to the city’s western parklands— 2,400 dwellings, over 3,500 residents	15%	360	Two affordable housing projects underway, aiming to provide accommodation for city workers in both rental and purchaser markets (rent to buy)

Lightsview	Lightsview Inner-city land development covers approximately 100 hectares—2,200 allotments; approximately 2,700 dwellings accommodating 5,000 residents	15%	405	290 affordable homes sold by 2016
Playford Alive	500+ hectares 40,000 + residents	15-25%	2600	37 affordable dwellings for sale
Tonsley	61 hectares; 1,200 residents	15%	78	NA
The Square at Woodville West	13 hectares— approximately 425 new dwellings	35% AH for sale + rental 15% for social housing	170	NA
Port Adelaide Renewal Project	2,000–4,000 additional dwellings and 4,000–8,000 residents	15%	600	NA
Glenside Land Release	Urban renewal project 16 hectares of land 1,000 dwellings	15%	150	NA

Australian Housing and Research Institute, 2018

During 2017-18, 263 affordable homes were delivered including for home ownership and social rental by community housing providers. Inclusionary zoning is very limited in scope in South Australia – it rarely includes social housing and the numbers are too low to make a dent in the need for affordable housing, especially for people living on low incomes. Often any affordable homes achieved stand out for the wrong reasons – they are of lesser quality, size and amenity and are unpopular with developers and home purchasers.

Western Australia

The Metropolitan Redevelopment Authority (MRA) has a policy (DP9) that proposes that 12% of all new residential dwellings in developments of over ten dwellings should be affordable. The affordable housing can be shared equity or social housing but to date have all been shared equity. The developer sells the affordable housing to the State Government (generally the Housing Authority) at construction cost according to an agreed cost chart and the Housing Authority then sells a share of the (market) value of the dwelling to an income restricted eligible buyer to recoup their cost outlay. Dwellings are retained as affordable in perpetuity through a restrictive covenant on title and through partial State ownership. Resale must be to another income eligible buyer. 99 affordable dwellings have been built through this policy. MRA has also delivered affordable housing

through a peppercorn land lease to St. Barts in East Perth for the construction of 148 beds for people experiencing homelessness.

The Western Australian Government's land and development agency, Landcorp, also has an inclusionary zoning approach. Landcorp has a policy to dedicate at least 15% of land and housing to supply affordable housing outcomes. In 2016/17 it supplied 29% of lots at or below the Real Estate Institute WA metropolitan lower quartile lot price of \$200,000.

Under the MRA and Landcorp policy, inclusionary zoning is implemented in specific areas. The developed dwellings built under the policy are mostly for purchase. There is early work underway for a concept called 'Restricted Resale Affordable Housing' policy at the MRA that proposes to keep housing as affordable in perpetuity.

Recent changes to State Planning Policies include the incentives contained in the State Apartment Design Policy could be considered a form of voluntary inclusionary zoning.

In addition, voluntary approaches to inclusionary zoning have occurred in Western Australia, as Local Governments can vary their development standards.

Other opportunities include the soon to be released leasehold strata scheme arrangements that should create up to 99-year leases for affordable ownership and rental opportunities. Draft regulations are currently out for consultation. The draft regulations outline the requirement for ongoing benefits and perpetuity.

Inclusionary zoning in Western Australia is mostly limited in scope and hasn't been rolled out across the State more widely, but there are pockets of examples as described above.

Northern Territory

There is no inclusionary zoning in the Northern Territory per se, however there are examples of inclusionary zoning outcomes involving Crown Land. The Northern Territory system is unique as the Territory Government is responsible for planning policy and development consent, rather than Local Governments.

The Territory Government owns significant tracts of Crown Land. While there are some parcels of vacant Crown Land in city locations, the majority is in outlying suburbs or on the fringe of urban areas. Most of the city area is privately owned or freehold title and the absence of inclusionary zoning legislation means that there are limited opportunities (such as head leasing) to incentivise a social and affordable housing component.

Most new developments in the Territory occur through the release of Crown Land on the urban fringe and it is reasonable to look at whether similar outcomes to those sought under inclusionary zoning schemes can be achieved without inclusionary zoning. Affordable and social housing developments mandated for greenfield developments within reasonable proximity of the city given the relatively small size of Territory urban communities are available. The use of Crown Land has been subject to mandated conditions around housing affordability for example, the release of Crown Land in Zuccoli required proponents to provide a minimum of 34 diverse dwellings for eligible first

home buyer initiatives and a minimum of 17 dwellings for social housing purposes as part of a “salt and pepper” mix.

Crown Land in the Territory is managed under the Crown Lands Act 1992, the Leases of Crown Land Policy and Release of Crown Land policies of the Territory Government. Given substantial Crown Land reserves are available for new developments over the coming forty years, the Territory Government is well placed to achieve de facto inclusionary zoning outcomes through leveraging Crown Land releases for prescribed purposes, including achievement of a proportion of low-cost housing outcomes. These initiatives are overseen by Crown Land Estate (CLE), a unit within the Department of Infrastructure, Planning and Logistics in consultation with Territory Government agencies such as Housing. CLE administers land releases via calls for expressions of interest which stipulate the objectives (including social objectives) that the release of land for lease or sale is seeking to achieve, having regard to strategic land use plans, community infrastructure, and plans for community and/or commercial purposes. In the case of Zuccoli stage 5, an average price point for new lots has been set and are typically smaller dwellings subsidised through a mix of market and affordable homes. There have also been some public housing redevelopments which have achieved similar outcomes. Occasional social housing head leasing programs of dwellings in private sector developments in the city and other suburban areas are used from time to time. Most recently, agreement in principle has been reached for 172 head-leased dwellings, consisting of 128 new builds, for social housing purposes including for people living with disabilities and older people.

There are several significant parcels of Crown Land in and around Darwin and other urban areas that will meet demand for decades to come (e.g. Holtze and Kowandi). The Territory Government does not have the same urban development pressures as other Capital Cities given the Crown Land it can leverage.

There are also significant new developments on freehold title e.g. Muirhead (Defence Housing Australia), The Heights, Durack (Peet). Incentives such as a new national rental affordability scheme or Territory Government head leasing programs could encourage further development of social and affordable housing where required.

In Darwin, recent median house price falls of up to 25% have been interpreted by many as an alleviation of affordability issues and there is little or no discussion of inclusionary zoning in the Territory, unless it is set down by the Crown Lands Estate or the Chief Executive Officer of Housing (in some circumstances) when releasing land for development or seeking renewal of public housing estates under the Request for Proposals process.

There are no regulations for urban infill development in terms of providing a proportion of social and affordable housing. With lengthy public housing wait lists and only a small affordable housing supply, more ambitious objectives in future land releases should be considered by Government (i.e. increased proportion of social and affordable housing in RFP objectives). In practice, requirements for handing back a proportion (e.g. 5%) of dwellings to the Department of Housing for public housing is included as a commercial factor in the consideration of purchase price. The commercial value of the land is generally reduced accordingly and is priced in.

The fragility of the Territory economy, the large commercial and residential vacancy rates in Darwin, and concerns around investment and business confidence being hit by any new tax, levies or

development assessment conditions would be cited barriers to the introduction of inclusionary zoning. There is little likelihood that the Territory Government would consider inclusionary zoning with the current oversupply of rental stock which is still unaffordable for low to moderate income earners.

Queensland

Inclusionary zoning is not legislated in Queensland. The Queensland Department of Housing attempted to introduce inclusionary zoning in the early 2000's as part of a broader State Planning Policy on Affordable Housing, Residential Development and Community Wellbeing but it was not endorsed by State Government. There was also a separate attempt by the Brisbane City Council to include inclusionary zoning in the draft West-End Woolloongabba Local Area Plan in the early 2000's but this was not endorsed by the Queensland Government.

In 2007 the Urban Land Development Authority (ULDA) was established as a supply side response to housing affordability. A statutory authority, the ULDA, was governed by its own legislation had a specific remit to explicitly deliver affordable housing outcomes for low income and moderate-income households. The ULDA was only active in areas declared by the Minister (Urban Development Areas (UDAs)) and development schemes relevant to UDAs included targets for the delivery of affordable housing. This housing could be provided by the private market in some areas, and in other areas was delivered directly by the ULDA, generally for both rental and purchase, that was affordable for households on the median household income for that local area. The approach of the ULDA was to provide more affordable housing supply into the market without a subsidy. The housing provided by the ULDA was not specifically targeted to those in need and could be purchased or rented by households on any income. Additionally, there was no retention mechanism because no explicit subsidy was provided by Government. In 2013 the ULDA became Economic Development Queensland (EDQ) and resulted in a change of powers and functions including the removal of the main purpose being housing affordability and affordable housing.

It is stated in the Queensland Housing Strategy (2017-2027) Action Plan, 'Where surplus State land is developed for residential purposes, introduce inclusionary requirements so a proportion (5–25%) of new dwellings will be designated for social and affordable housing, including Priority Development Areas and Economic and Community Development zones.'

The same action from the Housing Strategy is also included as a key commitment by Queensland in the National Housing and Homelessness Agreement (NHHA) (Queensland). An agreed approach to implement inclusionary requirements is also included the National Housing and Homelessness Agreement (Queensland), with a further key commitment for Queensland to deliver 'an agreed approach to implement inclusionary zoning requirements' to be 'developed with Economic Development Queensland and Properties Queensland in 2018-19'.

The Queensland State Infrastructure Plan (SIP) (21016) includes an outcome that 'where large surplus State land sites are disposed in the market for residential purposes, 15 per cent of new dwellings are designated for social/affordable housing'.

The approach utilised by the Queensland State Government through the ULDA and subsequently EDQ was not inclusionary zoning in the proper use of the term. There were targets for affordable housing for low to moderate income households but there were no measures in place to ensure that

housing that was affordable for the target group was made specifically available to them. The approach increased the supply of more affordable housing into the overall market. This housing was generally smaller (1 bedroom) and did not have a carpark. No subsidy was attached to the delivery of this housing.

There appears to be no outward facing progress of the inclusionary requirement for affordable housing outcomes on surplus Government land as stated in the Housing Strategy and State Infrastructure Plan. Under the ULDA model more affordable housing was for both rent or purchase. There was no mechanism to identify that housing was more affordable or was targeted, it was more affordable because no subsidy was attached to the product.

Previous attempts by the Queensland Government to implement inclusionary zoning (circa 2002) were part of a larger policy initiatives by the Department of Housing to implement a State Planning Policy for Affordable Housing, Residential Development and Community Wellbeing.

New South Wales

There is a growing push to expand inclusionary zoning in New South Wales which is community driven and the State Government has pursued it in a way that may not produce the strongest outcomes. State Government can claim to be supportive of inclusionary zoning however it has left all the technical work and implementation of relevant schemes to Local Governments. Implementation will happen on an ad hoc basis where it happens at all.

The Greater Sydney Commission's (GSC) Regional and District plans (2018) recommended the implementation of Affordable Rental Housing Targets of approximately 5%-10% of uplift in new developments allowed by rezoning in the greater metropolitan region, "subject to viability".

There is no specific planning mechanism to achieve inclusionary zoning, however there are provisions in the Environmental Planning and Assessments Act 1979 (NSW) that allow conditions to be attached to development consent enabling a Local Government to levy for affordable housing contributions (funds) or dedications (dwellings) where the affected area is identified in Statewide Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) – aka SEPP 70. Prior to March 2018 only two metropolitan-based Local Government Areas were listed in SEPP 70, and this was then expanded to seven.

In March 2019 the State Government extended coverage of SEPP 70 to all Local Government Areas in New South Wales, both metropolitan and regional. The Guideline for the Development of an Affordable Housing Contribution Scheme sets out a preferred methodology for determining the viability of a contribution rate. The Guideline also specifies that a contribution scheme may apply where uplift is produced by rezoning, making it unclear how the policy could apply in precincts where some capacity for uplift remains under the current zoning because not all land has been redeveloped yet.

The extension of SEPP 70 does not mean Local Governments are required to implement an Affordable Rental Housing Target, but it appears it will be the only mechanism available to those who wish to do so. Those Local Governments will need to produce precinct based Affordable Housing Contribution Schemes, based on the published guideline, for approval in their Local Environmental Plans. It is evident that the GSC's recommended target of 5-10% of uplift subject to viability will be applied by Government in considering proposed schemes for approval.

SEPP 70 does not specify whether a contribution or a dedication is preferred and this is left to Local Governments and community housing providers to determine within their various partnerships and agreements. A relevant scheme is currently in use in the City of Sydney, where the preference is for monetary contributions in lieu of dedicated affordable housing. Other schemes are in development and it is clear not all Local Governments and community housing providers will follow the City of Sydney's model, which will result in a diverse and complex system that could lead to uncertainty for property developers. Such uncertainty increases the likelihood of proposed schemes being challenged on "viability" grounds.

Section 7.32 of the Environmental Planning and Assessments Act 1979 (NSW) allows a consent authority to apply inclusionary zoning conditions as part of a development approval, if the affected land is identified in SEPP 70 and the Local Government has made provision for such a scheme in their Local Environment Plan (LEP). The schemes will be set out in Local Governments' LEPs. Currently only one has a scheme in their LEP and several others are in the process of developing schemes for approval and inclusion in their LEPs, so it is very much a live policy area.

Developers will need to comply with schemes that are approved and included in LEPs, as contributions or dedications will become a condition of development consent. Approval of schemes is likely to be subject to the GSC's recommended target of 5-10% of uplift and subject to viability. There is to be a tool for determining liability. An example of the effectiveness of inclusionary zoning is the relationship between City West Housing and the City of Sydney and it is likely that other schemes will be developed in the coming years.

Inclusionary zoning can technically apply to both purchase and rental of properties but in practice it applies to rental housing in New South Wales. There are barriers to affordability of housing in Sydney that make inclusionary zoning for home purchase an unlikely prospect. Some other Local Governments have existing relationships with community housing providers through their Voluntary Planning Agreement policies and these will translate well to inclusionary zoning schemes once developed and approved.

Strictly speaking there is nothing to ensure dwelling procured through the inclusionary zoning process are held for affordable rental housing in perpetuity. The involvement of community housing providers as either asset owners or tenancy managers means most assets are subject to ongoing affordability until/unless they are divested. The expectation is that local portfolios of affordable dwellings would continue to grow in any event. Inclusionary zoning is limited in scope in New South Wales but is an important part of the equation to improve housing affordability for people living on low incomes.

Victoria

There is no mandatory inclusionary zoning for social or affordable housing in Victoria, however, development contributions for affordable housing may be secured via the planning system through four routes as follows.

Floor Area Uplift (FAU), or density bonus schemes, where developers can pay for additional height/density by transferring some of the additional units to a registered housing agency (like a housing association) at zero consideration. These relatively recent schemes are in place in Fisherman's Bend (late 2018) and the Central City area (2017) but are yet to deliver any social housing.

Non-mandatory Affordable Housing Targets are in place in major brownfield areas (Fisherman's Bend (operating in tandem with the FAU scheme) and Arden Macaulay). Proponents are not obliged to meet targets but (supposedly) must show good cause if they are not going to fulfil these objectives. The targets in both Fisherman's Bend and Arden Macaulay are set at 6% covering the span of housing types from homeless through to affordable housing for key workers. Affordable housing is defined in the planning legislation.

Value sharing at the rezoning stage, when industrial land is up-zoned to residential or mixed use plays out when planning authorities build in a value sharing obligation delivered in the form of transferred affordable housing or housing made available at a discount to registered providers. This approach has been applied in a handful of locations including the Amcor site at Alphington and the Don site at Altona North. These sites have yielded very low affordable housing outcomes – less than 1.5%. However, there is scope to increase these requirements in future re-zonings as stakeholders become better educated about the scale of value uplift involved.

Inclusionary zoning in Victoria has had negligible outcomes to date. The State Government has focussed on a voluntary agreements approach. There is lots of talk and lots of training about how to negotiate agreements but in the absence of mandatory requirements, progress is slow.

Affordable housing for so called inclusionary zoning purposes is defined in the planning legislation. It can cover purchase, but most policy discussion is around rental. In FAU arrangements, stock is expected to be transferred at zero consideration to registered providers. Other agreements can feature a blend of permanent and time limited affordable housing contributions. Ad hoc mechanisms have been used sporadically to secure permanent affordability for home-buyers but such instances are so rare in Victoria as to be inconsequential.

Inclusionary zoning, if applied in the orthodox way, as per Ultimo Pyrmont and Green Square in NSW could generate a substantial but minority contribution – say around one third of an overall requirement of 10% - 15% social housing across a city or region.

Value sharing is also warranted on top of what this Ultimo Pyrmont style inclusionary zoning scheme might generate. However, in principle, value sharing should be able to be applied to a broad range of public benefits, not just affordable housing.

Australian Capital Territory

The Australian Capital Territory Government has set housing targets⁷ for both in-fill (urban renewal) and Greenfields sites but there is no set, consistent inclusionary zoning mechanism in place to support their achievement. The targets are to be set annually by an interdepartmental group comprised of staff from the following Directorates: Chief Ministers' Treasury and Economic Development (Land Release) Environment, Planning & Sustainable Development, Housing and Community Services, City Renewal Authority and Suburban Land Agency.

The housing targets are prescribed in a regulation which requires that they be tabled annually and published on the following website as part of the Territory Government's Land Release Program:

⁷ <https://www.planning.act.gov.au/topics/land-release>

The Territory Govt is reviewing the Territory Plan⁸ and public consultation on this is anticipated to commence in late March which will provide an opportunity for sweeping Residential Zoning reform.

Inclusionary zoning is general (In-fill and Greenfields) rather than specific to designated areas although there is no mechanism or incentives. Requirements for projects to qualify are not yet specified but the Territory is examining 'Value Uplift Recapture' and waivers of its Lease Variation Charge⁹ in exchange for affordable housing quotas.

It is too early to tell if inclusionary zoning is effective in the Territory. To date, social housing targets have resulted in a net reduction of social housing in new developments relative to total stock and this is particularly pertinent in the inner north and south close to jobs and transport corridors. Almost 1,300 tenants were 'decanted' with zero social housing going back into these urban renewal sites.

The situation in the Territory may change when the next 1,000 public housing sites slated for demolition are replaced and blocks of land commence being sold in the new suburb of Whitlam (500 blocks are slated for allocation to public and community housing – including shared equity purchase).

Economic Development Directorate data suggests the previous scheme of up to 20% of homes in Greenfield sites being affordable to purchase by people earning <\$150K per year (price thresholds set per square metre dwelling) did ensure more Canberrans were able to purchase during a time of record high home-purchase prices in developments subject to this target than across the Territory generally. The Territory Government has published its indicative Land Release Program for 2018/19 – 2021/22¹⁰ and targets are outlined in the document for social and affordable housing over forward estimates.

As of October 2018, the new social and affordable housing target (minimum of 15% of blocks/dwellings in Greenfield and urban renewal sites) includes rental housing. This quota supersedes the previous scheme (up to 20% of sites in Greenfields Developments) available for purchase below specified price thresholds based on square metres of the dwelling.

Properties purchased under the previous Affordable Home Purchase Program have been on-sold to investors and let at Median Area Market Rent (12 months and 1 day after purchase) and Treasury and Economic Development Directorate Data demonstrated that home purchase incentives (2007/08 – 2014/15) had generally been going to households in income quintile three when the intended target was households in income quintile two. The Territory Government has established a central register for applicants for Territory Level Home Purchase Assistance and Shared Equity Schemes designed to prevent nepotistic double-dipping and on-selling.

As the targets were adopted by Cabinet in October 2018 it is too early to cite specific examples. Unfortunately, the urban renewal sites where 1,288 public homes once stood would have provided

⁸ [Territory Plan](#)

⁹ [Lease Variation Charge](#)

¹⁰ https://www.planning.act.gov.au/topics/land-release/land_supply_strategy/ilrp-2018/indicative-land-release-program-2018-19-to-2021-22

an ideal opportunity for inclusionary zoning as height restrictions were relaxed allowing density to triple the anticipated number of replacement dwellings – but the social housing target in these sites is zero. Another 1,000 properties (9% of the current portfolio) are slated for demolition and ‘asset recycling’ through the second tranche of urban renewal overseen by the Public Housing Taskforce.

The Territory Government has committed to investigating caveats on title deeds to ensure affordable and social rentals are not on-sold and let at Median Area Market Rent. There is no specific mechanism in place other than the aforementioned database. Proposed actions are outlined in Goals 1 & 5 of the Housing Strategy. The Territory Government has acknowledged the need to track affordability across time and believes the database will be a starting point from which future tracking can expand.

The Territory Government has committed \$101 million over four years (2018/19 – 2022/23) to fund construction of 400 new public housing dwellings and support the refurbishment or renewal of a further 1,000. There will also be assistance provided to the community housing industry to incentivise expanding its role to support the achievement of the 15% affordable and social housing targets going forward. There will be more clarity around the specific role inclusionary zoning will play when the Territory Plan and Zoning reforms are progressed in 2019 and 2020.

Tasmania

Tasmania’s planning system is silent on affordable housing, which is typically seen as outside the scope of our planning system. Tasmania’s planning system needs to play its part in meeting our housing needs by encouraging affordable housing in our cities and towns but has not yet happened. Despite Tasmania’s current housing crisis, there continues to be a deep-seated resistance to using planning mechanisms such as inclusionary zoning to address the chronic shortage of affordable housing.

Tasmania has seen little policy development in the area of inclusionary zoning. We have historically relied on public housing to deliver at the least affordable end of the market. Until recent years the private market remained relatively affordable (especially in comparison to some mainland cities) for both renters and purchasers, although people on the lowest incomes always struggled with the costs of housing and other living expenses.

Until recent years, housing development in Tasmania moved slowly. Demand was not expanding, turnover of properties was low, broad acre land supply was good, and house prices were low. This situation meant low margins for developers, so there were low levels of housing release and what occurred was typically small scale. Successive State Governments tended to avoid interventions, such as inclusionary zoning, that might (or be perceived to) reduce the commercial margins on housing development.

The neglect of the planning system to address the chronic and critical shortage of affordable housing in Tasmania is no longer appropriate. There have been seismic shifts in Tasmania’s housing market over the last five years with, for example, Tasmania’s revenue from stamp duty increasing by one hundred million dollars. Rents are outpacing people’s incomes, and rental stress is at an all-time high, affecting over 8,000 households across the State.

Tasmania now has a buoyant housing market, with increased opportunity for developer gain, so larger scale developers who previously had focused on the commercial sector are increasingly looking to move back into residential development. This new profitability means developers can arguably afford to deliver on social obligations if an appropriate legislative framework to allow this is established.

There is an opportunity to leverage from the increased investment in residential development to deliver inclusionary zoning. Inclusionary zoning is a way for private development to make an effective and important community contribution as a shared partner in the development of our towns and cities. While the planning system cannot solve the entire housing crisis in Tasmania, it is part of the range of tools that should be deployed to increase appropriate supply in appropriate locations.

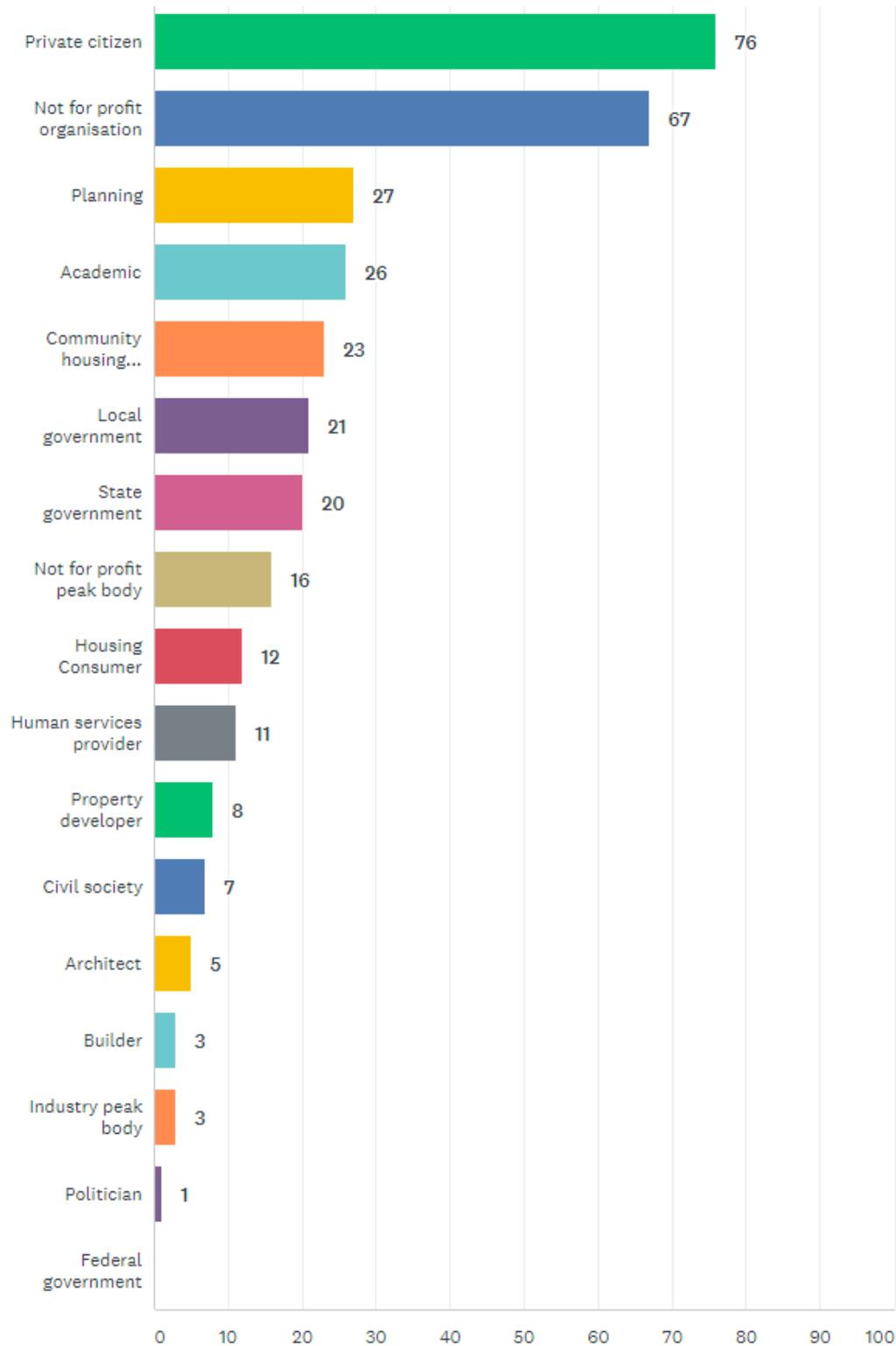
Inclusionary zoning is not legislated in Tasmania. The Housing Land Supply Act 2018 – allows the Minister to fast track rezoning of public land to make it available to the Director of Housing. This is purely an expedited process, the rezoning and development of Government owned land for public or social housing can take place under the existing planning system but was significantly slower prior to this legislation. This pathway is open to Crown Land, it does not capitalise on opportunities through private developments.

While there are some local initiatives around master planning in relation to new affordable housing developments, this is not part of any formal inclusionary zoning within the Tasmanian planning system. There have been some investigations around 'shop top' accommodation, but no outcomes yet.

In Tasmania, inclusionary zoning is a mechanism that could be used within the planning system to increase supply of affordable housing. Planning plays an important role in guiding and shaping our communities. Other States have adopted progressive approaches to addressing their housing needs through their planning systems. It is time to modernise Tasmania's planning system to help deliver much needed affordable housing for Tasmanians.

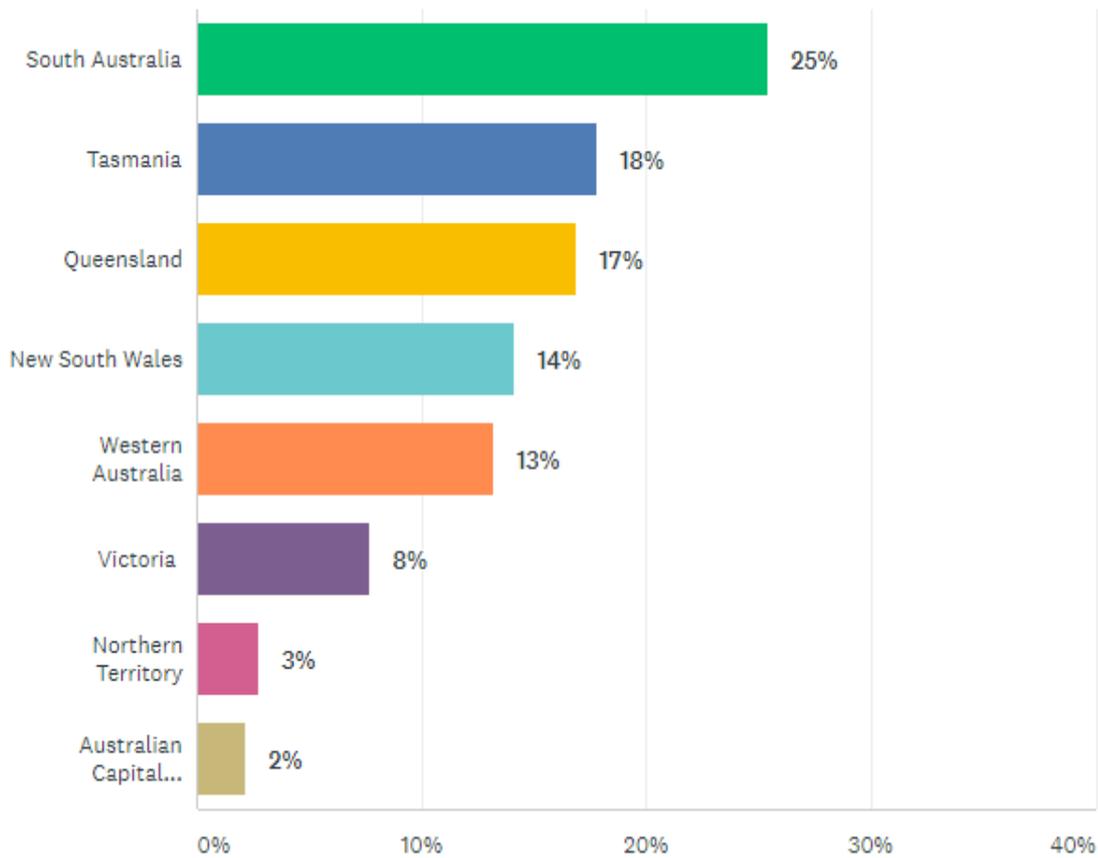
Survey Results

1. Select the category that best describes you

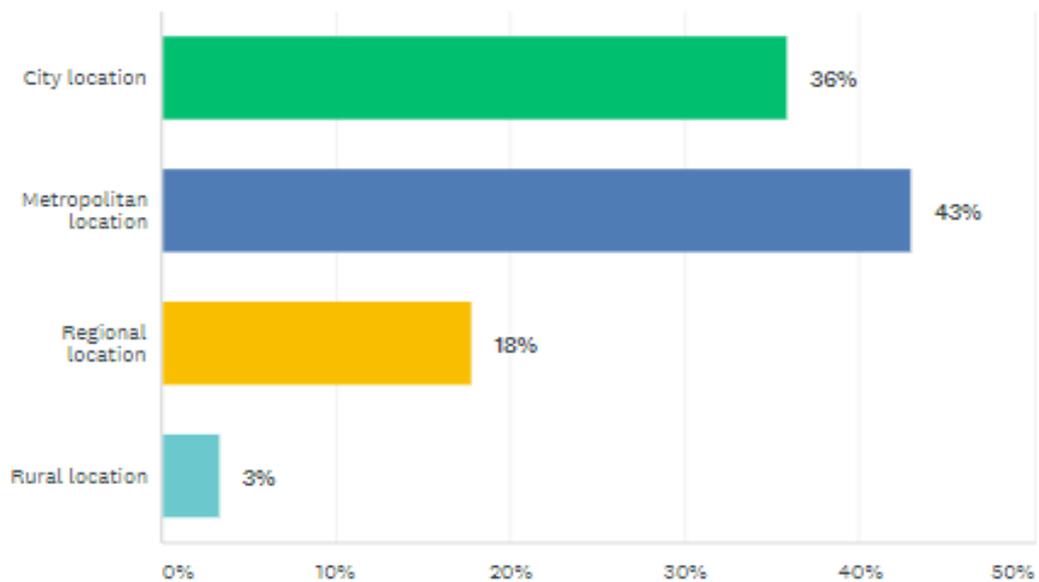


The respondents represent a range of professions resulting in a variety of perspectives and industry views. Interestingly, many private citizens completed the survey, which shows that housing policy and inclusionary zoning issues are of interest and concern to the wider community. There was a total of 326 respondents.

2. State/Territory of Respondents

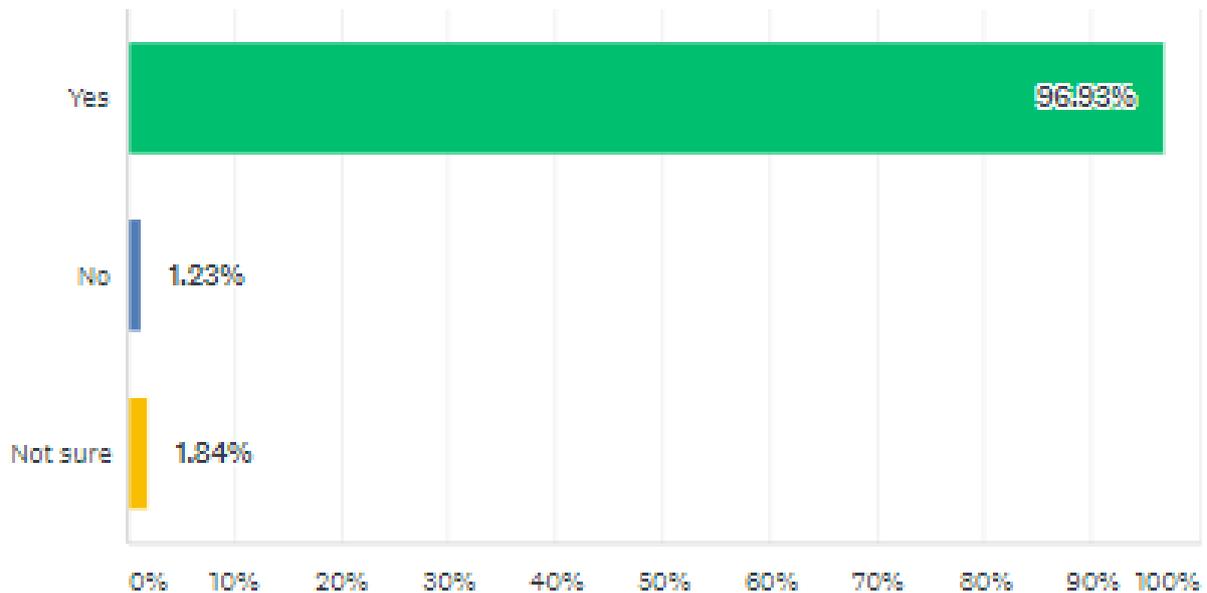


3. Location of Respondents



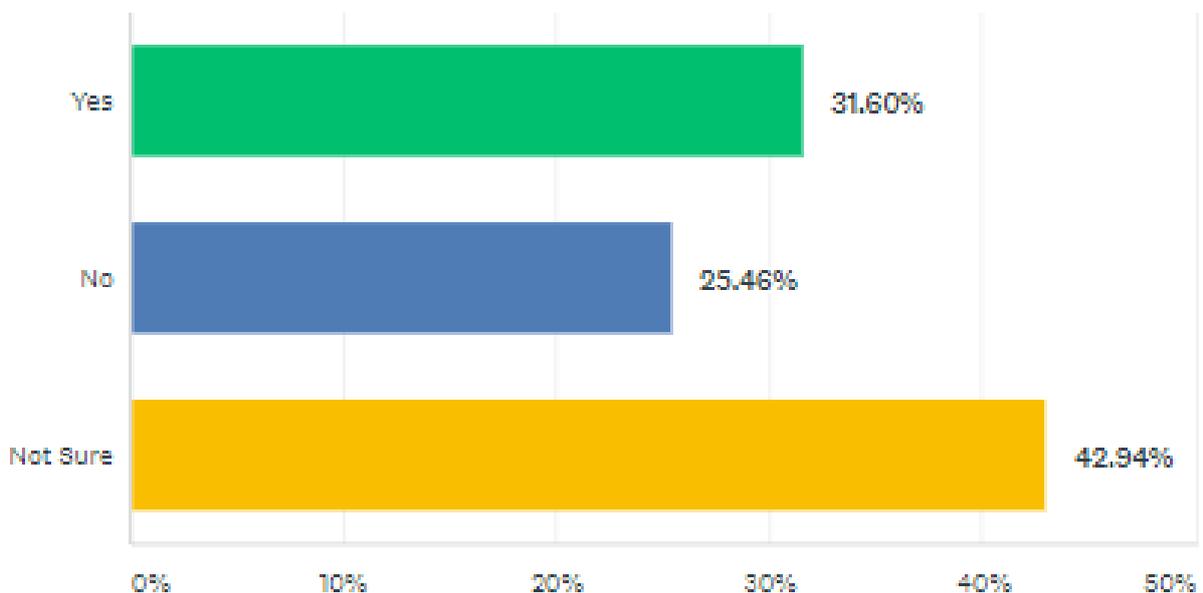
Respondents provide insight from across Australia, representing each State and Territory and metropolitan and regional locations.

4. Do you think that action needs to be taken to improve housing affordability in your State/Territory?



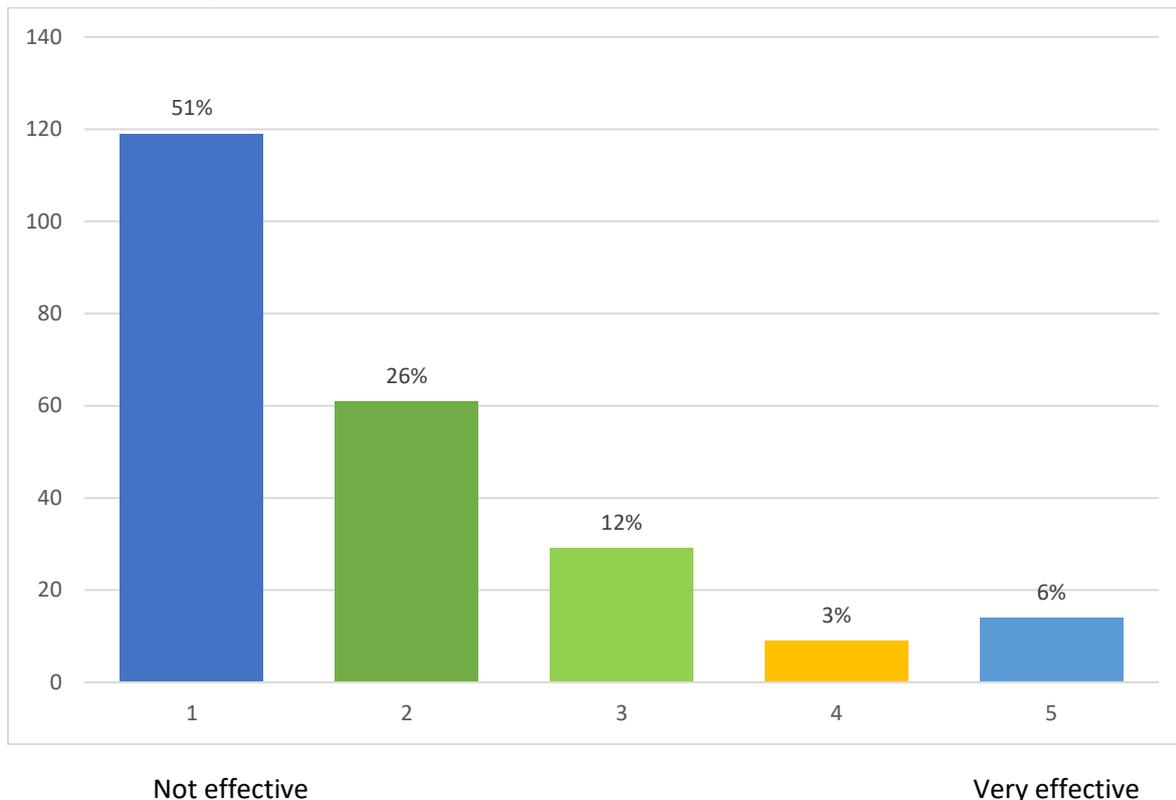
Overwhelmingly, 97% of respondents think that action needs to be taken to improve housing affordability across Australia.

5. Is inclusionary zoning included in your State/Territory?



The results show that many respondents were unsure if inclusionary zoning was included in their State. This result may be due to the high number of private citizens who completed the survey who may not be aware of current housing policies, or due to models like inclusionary zoning not directly referred to as such.

6. How effective is it? (1 being not effective and 5 being very effective)



In areas where inclusionary zoning is included, results show that the majority of respondents don't believe it is effective for encouraging the development of social and affordable dwellings.

7. Inclusionary zoning policies should provide the following types of housing (rank options with 1 most important and 4 least important)

⋮	1	↕	Social housing to rent (25% of household income)
⋮	2	↕	Social housing to rent (30% of household income)
⋮	3	↕	Affordable housing (80% of market value) to rent
⋮	4	↕	Affordable housing (80% of market value) for purchase

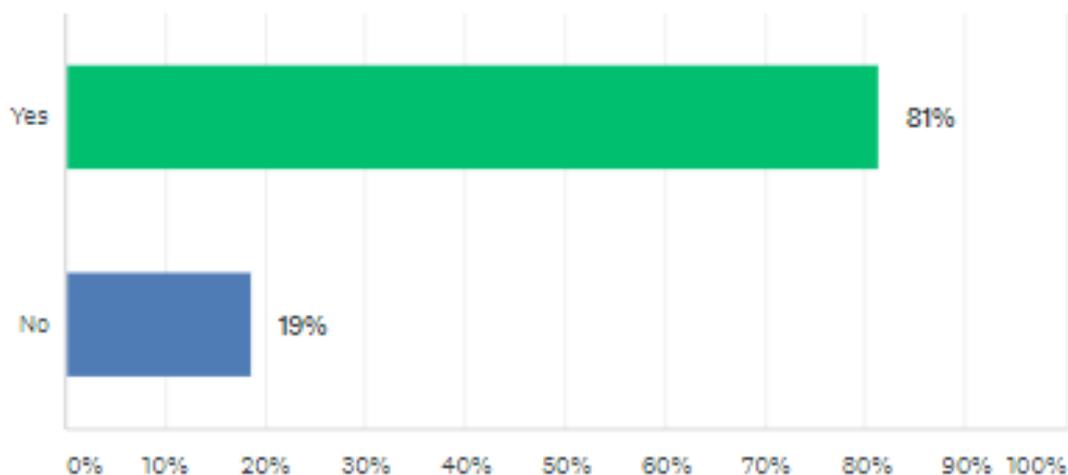
Social Housing to rent (25% of household income) is the most important inclusionary zoning policy according to respondents, followed by social housing to rent at 30% of household income, then affordable housing to rent and of least importance, affordable housing to purchase.

8. If you agree that governments should create or improve their inclusionary zoning policies, please rank the following mechanisms from 1 being the most important to 5 being the least important.

⋮	1	Mandatory Inclusionary Zoning
⋮	2	National housing strategy
⋮	3	Greater incentives for the provision of affordable housing
⋮	4	National leadership
⋮	5	Voluntary Inclusionary Zoning

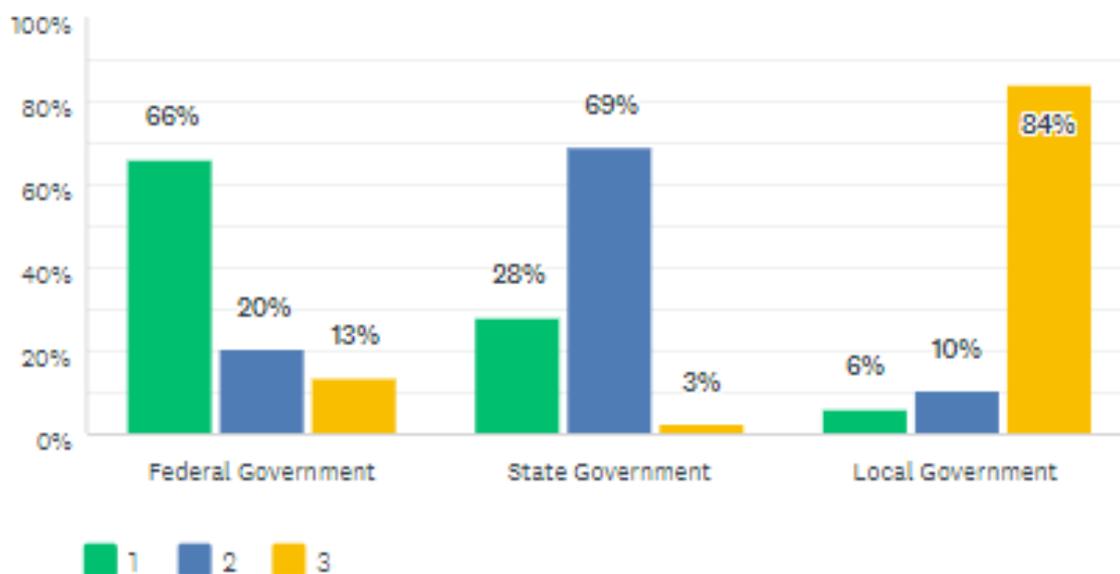
It is evident that voluntary inclusionary zoning is considered the least important mechanism for inclusionary zoning policies by respondents. The most popular option being mandatory inclusionary zoning. National leadership and a National Housing strategy were also important.

9. Should incentives be provided to developers/builders to achieve inclusionary zoning requirements for the supply of social and affordable housing?



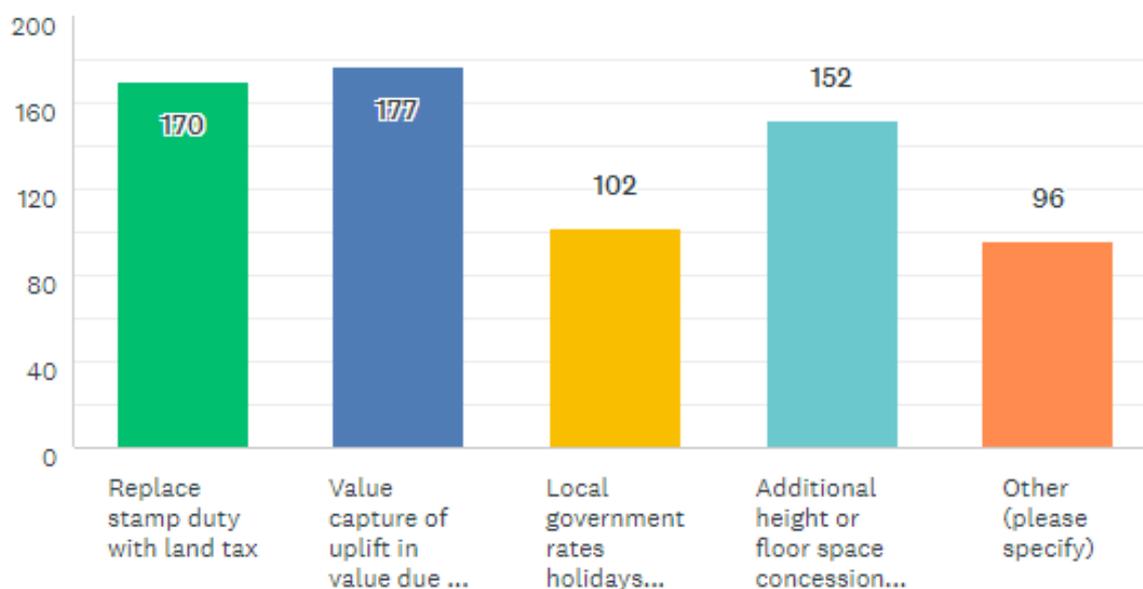
A high number, 81% of respondents, agreed that incentives should be provided to developers to achieve inclusionary zoning requirements for the supply of social and affordable housing.

10. If yes, who should provide the incentives? Please rank in order of preference)



Federal Government is the first preference to provide incentives indicated by 66% of respondents, followed by State Government then Local Government.

11. What incentives are required to improve the supply of social and affordable housing?



Respondents had the option of choosing multiple options to answer the question. Value Capture was the most voted upon incentive and Local Government rates holidays were the least popular choice.

There was an open text option available in addition to the above responses. Changes to land tax, tax incentives, use of land, reduction of government fees and charges and stamp duty were reoccurring themes that emerged in the responses.

12. Other comments

The open text answers to Question 12 were analysed thematically to produce key themes, listed in order of strength of the responses, from strongest to weakest as follows:

1. National Leadership

Respondents are calling for strong, consistent support by Federal Government as a pre-cursor to coordinate improved measures by State/Territory Governments and local governments to achieve more affordable housing outcomes for all household income levels. Strong National leadership and a National Housing Strategy are required to ensure the right housing system policy settings are in place and can be implemented and evaluated. One respondent said that “all levels of government must step up to achieve better social and affordable housing outcomes in new construction”.

2. Mandatory Inclusionary Zoning

There was strong support by respondents to introduce mandatory inclusionary zoning measures, rather than voluntary measures.

3. Retention of Affordability & Data

Respondents said that affordability should be retained over time when affordable home ownership properties are bought and sold. A smaller number of respondents added to this theme, stating that they did not want to disadvantage people who purchased an affordable property by disallowing any capital growth on their investment. Many respondents agreed that we should collect and keep data on housing outcomes for evaluation of any new policy measures.

4. Public Education

Respondents said that the public require education and lay-person language information about inclusionary zoning so that they can understand the issues that are relevant to them on this topic and form a view on any new or proposed government policies that emerge from this work.

5. Value Capture

Respondents said that when land is rezoned to include residential construction, any uplift in its value should be applied as an incentive for developers to achieve mandated social and affordable housing outcomes or it should be contributed to a fund that community housing providers can access to build social housing.

6. Build to Rent

Respondents said that inclusionary zoning measures should include build to rent products, so that renting affordably, whether at 80% of market rate or as a percentage of household income, are both included in future residential construction.

National Shelter Policy Platform

Following this National work on inclusionary zoning National Shelter will amend its policy platform (see Attachment 1) accordingly and advocate for the following:

- A Federal role in developing an inclusionary zoning element to a National Housing Policy;
- All jurisdictions to mandate inclusionary zoning;
- Inclusionary zoning to include options for social rental housing in all States and Territories;
- Incentives for inclusionary zoning to be provided by governments;
- Mandated levels of social housing in redeveloped social housing estates; and
- Properties provided under inclusionary zoning must be at a standard making them indistinguishable from other property in their local area.

State and Territory Shelters will advocate for inclusionary zoning be mandated within their jurisdictions and with National Shelter will develop and implement opportunities to educate the public on the meaning and purpose of inclusionary zoning.

Attachment 1 – Current National Shelter Policy Platform

Government Owned Land Release

Any government owned land release for development that is well located should achieve a minimum 30% affordable housing.

City Deals and Other Specific Measures

National Shelter welcomes the land release from the Commonwealth provided by City Deals and other land releases announced in the 2017 Federal budgetⁱ. Unlocking land and negotiating planning and financing reforms combined with the creation of the National Housing Infrastructure Facility (NHIF)ⁱⁱ are welcome reforms which will help to improve the land and financing available for affordable housing.

- National Shelter recommends that in any City Deal or Commonwealth land release and/or development drawing on the NHIF, that 30% of all housing developed be affordable housing with one third to be social housing, one third discounted (at least 20%) market rental and one third be affordable home purchase. Home purchases under such schemes should retain affordability for the lifespan of the house and not just be a windfall for the first purchaser.

City deals should establish an affordable housing target that is supported by two measures:

- Funding as one-off grant to help subsidise affordable housing (as NHIF and/ or city deals dollars)
- Government owned land as additional measure to subsidise affordable housing

Value Capture

An important component of planning is the creation of additional land value through rezoning or the development of new transport corridors, or value released through developments drawing on the NHIF. It is important that when the value of land is increased that a proportion of that increased value be captured for public use rather than being a windfall gain for land owners or developers.

National Shelter recommends that up to 50% of increased value and no less than 30% be captured to fund affordable housing development. Revenue raised via value capture to be held in a trust fund to be administered through the NHIF and distributed to CHPs.

Inclusionary Zoning

Inclusionary zoning is a feature of planning systems in some Australian jurisdictions including South Australia and to a lesser extent, New South Wales, and reports varied success. In South Australia some new developments are required to include 15% affordable housing with one third of that percentage for social housing. Inclusionary Zoning may also operate to relax or provide incentives to developers to include levels of affordable housing in developmentsⁱⁱⁱ. The literature on inclusionary zoning refers to the need for a simultaneous density bonus and other concessions to ensure this policy measure has a positive impact on the supply of affordable housing, but these are not currently available in South Australia. The majority of projects that achieve the 15% measure in South Australia are located on government land and it is difficult to ascertain evidence about how inclusionary zoning affects the capacity of industry participants to build affordable housing. The price point of some of the new builds in Adelaide is out of reach for people living on low incomes

(\$330,000+). So inclusionary zoning is important, but a range of other complementary measures are needed to better serve people living on low incomes and reduce homelessness.

- National Shelter recommends that the Commonwealth encourages and provide incentives to State and Territory governments to include inclusionary zoning provisions in planning legislation, mandating 30% affordable housing requirements in all new developments, with a range of complementary measures.

i <http://www.budget.gov.au/2017-18/content/glossies/factsheets.htm>

ii http://www.budget.gov.au/2017-18/content/glossies/factsheets/html/HA_12.htm

iii <https://www.ahuri.edu.au/policy/ahuri-briefs/Understanding-inclusionary-zoning>