

# **International practice in planning for affordable housing: lessons for Australia**

authored by

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# EXECUTIVE SUMMARY

This research project examines the ways that planning systems and planning policies impact on the provision of affordable housing. By reviewing international practice in planning for affordable housing and identifying opportunities to apply this practice within Australia, the research aims to enhance the way in which the urban planning system in Australia contributes to affordable housing outcomes. This positioning paper is the first research output of this project. It presents the review of international practice in planning for affordable housing and establishes a methodological framework for the subsequent empirical component of the study.

The report has been prepared during a period of lively national debate about the overall impacts of urban planning regulation on housing supply and affordability<sup>1</sup>. Underpinning this debate are concerns about the housing supply implications of urban containment policies (Beer 2004); perceptions that the planning system is too complex, leading to expensive delays (HIA 2003); and arguments that planning related charges and fees are excessive (PCA 2006).

In the midst of these challenges, Australia's housing, planning and local government ministers have agreed on a Framework for National Action on Affordable Housing, which recognises an important role for the planning system in achieving affordable housing, within the broader goal of sustainable communities:

“The land use planning process can influence the supply and range of housing produced both in new development and redeveloping areas. Planning Ministers agree that planning and providing for affordable housing utilising planning mechanisms is an important contributor to sustainable communities based on the triple bottom line approach to sustainability, through providing economic, environmental and social improvements” (HPLGM 2005, p. 5).

Consistent with this perspective, in chapter 2 of this report we draw on the international research and literature to conceptualise the planning system as a framework for reconciling the range of public objectives and private interests associated with the urban development process, including the need for environmental protection, economic growth and social equity. Equitable access to affordable housing is a central urban planning policy goal, and the urban planning process ensures the necessary infrastructure and the climate of certainty needed to support investment in new housing supply.

However, some aspects of the planning system have the potential to undermine affordable housing objectives. International experience and emerging practice within Australia highlight a need to address any systemic barriers to the production of affordable housing within the land use planning system, to counteract any supply constraints arising from essential environmental regulations. In such circumstances, specific planning strategies may be required to offset negative impacts upon affordable housing of the planning and urban development process, and to generate additional affordable housing opportunities.

Australian and international practices in planning for affordable housing are examined in Chapters 3 and 4 of this report, respectively. We classify the strategies that we have identified in Australia and elsewhere according to whether they aim to protect, promote or directly provide new affordable housing through the planning process.

Chapter 5 presents our conceptualisation of the spectrum of planning approaches that emerge from the review of practice. Our analysis shows that strategies within the planning system operate at one of three scales.

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<sup>1</sup> Research for this study was conducted between July 2006 and April 2007.

What we describe as system wide strategies are intended to enhance the overall capacity of the planning system to promote affordable housing goals. These strategies focus on the overall operation of the land use planning framework as determined by central government legislation and policy. Depending on the jurisdiction, this legislative and policy framework might emanate from a state, territorial/provincial or national government, but is often implemented by local government units. To date, most system wide approaches have been geared to improving the capacity of the planning system to deliver an adequate and timely supply of serviced residential land – for instance, by seeking to simplify planning approval requirements and provide for faster approval times. Other strategies might include removing excessive development controls that preclude lower cost housing forms.

The second scale of operation that we identify relates to the processes and methodologies underpinning plan making and development assessment that are geared to improving how land use planning processes identify and respond to housing needs. This might involve, for example, collaboration between and across levels of government that enable the focus of planning to shift from administrative boundaries to housing markets or sub markets. Such an approach can assist in more comprehensively identifying need and housing market dynamics within a local area or region, and in establishing corresponding targets for new affordable housing supply. It can also help to determine the viability of particular implementation options for achieving these targets at the site, local and regional level.

The third scale we identify relates to planning mechanisms or levers for affordable housing contained within, or implemented through, specific land use plans or development decisions. In contrast to ‘system wide’ approaches that focus on the performance of the planning system; and methodological or procedural strategies that assist in the way that decisions are made for affordability (but do not presuppose a particular regulatory framework); planning mechanisms are regulatory constraints or incentives embedded within a specific land use plan or development decision. They are geared to achieving particular affordable housing outcomes – for instance, to protect low cost stock (through constraints on redevelopment of certain housing), to promote low cost housing in the private market (through specific incentives), or to generate additional land or capital for dedicated, regulated affordable housing supply (through voluntary or mandated developer contributions).

## **Preliminary findings**

Chapter 6 presents the preliminary findings of the study. As summarised below, these address:

- The rationale for using planning approaches to help to retain and provide affordable housing;
- A comparative assessment of international practice in this area;
- Our assessment of the potential applicability of the spectrum of approaches in the Australian context; and
- Implementation conditions.

*What is the rationale for the use of the land use planning system in retaining and providing affordable housing?*

Five common policy arguments emerge across the jurisdictions reviewed here to support a strategic use of the land use planning system in retaining and providing affordable housing:

1. The need to remedy regulatory and systemic barriers to the production of affordable housing within the land use planning system;

2. The need to minimise and offset the impact of urban planning and residential development processes on the availability of low cost housing;
3. The need for planning systems to provide for and facilitate greater housing variety to respond to the growing diversity of households, to achieve social mix and to support labour market needs;
4. The potential to leverage more subsidised housing stock for low income people, in better locations; and, in some cases,
5. The opportunity to recapture some of the gain associated with planning decisions or to create additional gain through incentives, and to apply this profit to achieving public objectives, such as the provision of dedicated affordable housing.

The relative importance of each of these themes varies across the jurisdictions reviewed, and each argument itself supports a particular role for the planning system in relation to affordable housing. The first two arguments thus have been influential in the United States and Canada, and support a particular role for the planning system in facilitating residential growth and reducing barriers to the supply of lower cost housing. The last two arguments have won some support in the United States but largely define the approach to planning for affordable housing in the United Kingdom, where the planning system is a key tool in acquiring land for affordable housing provision, and, to a lesser degree, in offsetting the costs associated with this provision. As we have shown, these rationales are also well established in the Netherlands. In Australia the third argument – that planning systems should provide for housing diversity and support economic prosperity through a sufficient supply of housing for different social groups – has been largely accepted. The majority of local initiatives relating in some way to affordable housing goals seek to do so by permitting more diverse housing forms associated with lower market entry points. The case study component of this study will shed additional light on the formulation of specific policy arguments and the potential to expand the role played by the planning system in promoting affordable housing in Australia.

*What is the role of the land use planning system in retaining and providing affordable housing in the United Kingdom, Ireland, the United States, Canada and the Netherlands?*

Many international jurisdictions are more advanced than Australia in their use of the land use planning system in retaining and providing affordable housing. In this project we focus on the United Kingdom, Ireland, the United States, Canada and the Netherlands to highlight the range of approaches that can be used. Both North America and the United Kingdom (particularly England) have relatively long histories of practice and research on planning for affordable housing within statutory contexts that are analogous to those in Australia. In Ireland, recent and extensive reforms to planning legislation to achieve a greater supply of affordable housing illustrate an important new strategy for ensuring mixed tenure in new residential development (Lawson and Milligan 2007). Contrasting to these examples, the Netherlands demonstrates the potential for far greater synergies between the planning system and the provision of affordable housing. Additionally, the recent transformation of a government led to market based system of housing provision makes evidence of overall market performance in this case study uniquely interesting.

*Which of the planning approaches used internationally, if any are likely to be most suitable for application across the different Australian States and Territories?*

We recognise that differences in governance structures, policy orientation and institutional arrangements, together with the local political, social, cultural and

economic factors within which these operate, can mean that experiences in one jurisdiction are not directly transferable to another. However, by examining the approaches developed within a range of countries and in response to diverse regulatory and market settings, it is possible to identify a spectrum of potential approaches that could be further developed for implementation within different Australian contexts.

An overview of these approaches to planning for affordable housing and the planning (regulatory) and residential development (market) scenarios within which they are likely to be appropriate is provided below. Strategies have been grouped by the three scale classification that was derived from our analysis of the spectrum of approaches to this issue, described earlier.

#### **System level approaches**

- Planning system enhancements to promote an efficient supply of residential land for development (responsive to surges and falls in demand), and initiatives to reduce any production costs associated with complex planning controls, uncertainty, lengthy approvals processes or inappropriate charges.
- Strategies to remove regulatory barriers to the development of affordable housing from unnecessarily restrictive development standards, and positive intervention to ensure that a greater diversity of dwelling types is permissible within statutory controls. These strategies are important both within established and developing residential areas, and may help offset a flat market.

#### **New methodologies / frameworks**

- Comprehensive methodologies for identifying housing need, and for determining corresponding targets for new affordable housing supply. These targets relate to actual need and must be distinguished from the specific level of contribution sought from private developers in relation to a particular site or proposal.
- Strong methodologies for determining the viability of different affordable housing contribution requirements on particular sites, under different market conditions and drawing on different planning based cost offsets, or other subsidies.

#### **Planning mechanisms or tools**

- Planning mechanisms or levers to protect existing sources of affordable housing, through social impact analysis frameworks and demolition or change of use controls – both of which are particularly important during periods of rapid population growth in existing urban areas and high amenity destinations.
- Planning levers or incentives to encourage preferred residential development types likely to be accessible to lower income earners – for instance, additional floor space incentives for shop top or mixed commercial/residential development within town centres; or student housing in areas well located to transport.
- Voluntary incentives for private developers to achieve additional development potential or to offset costs, in return for contributing to a local affordable housing fund. This strategy is likely to be most effective in accumulating direct contributions for affordable housing during a buoyant market, where there are high land values and high levels of development activity.
- Voluntary incentives for affordable housing developers building new social or affordable housing stock (meeting defined criteria), to offset development costs. This approach is indicated in any market scenario but may have broader benefits in a flat or declining market.
- Mandatory requirements for private developers to contribute to affordable housing (in cash or kind). This approach is likely to yield the highest value contributions for affordable housing within a buoyant market and where land values are high,

particularly when the mechanism is applied as widely as possible (e.g. within a local/regional housing market or, provided there is flexibility in determining the viable level of contributions within different market scenarios, on a state and national scale).

- Mandatory requirements for private developers to contribute to affordable housing, in cash or kind, but with the amount and form of the contribution determined through a negotiated agreement. In Australia, this negotiated approach may be particularly effective where the planning authority is being asked to vary a planning requirement to permit the development – for instance, when there is an application for change of use, a rezoning, or other application to vary a planning control.
- A negotiated agreement for private developers to contribute to affordable housing within a particular site. There is often an opportunity to negotiate such contributions as part of a detailed master planning process, or where a site is in public ownership.

### **Implementation conditions**

The preliminary evidence from our review of international approaches to planning for affordable housing suggests that strategies will be most effective when:

- Supported by a strong central government policy mandate and reinforced by the necessary planning legislation;
- Situated within a clear local (and regional) policy framework supported by a demonstrated needs analysis;
- Designed to maximise synergies between affordable housing and other potentially competing planning objectives and strategies, and where this is not possible, used as a mechanism to offset any adverse impact of other essential planning provisions on affordable housing;
- Designed in relation to a sound method for economic appraisal to ensure that planning requirements are both viable for the developer and reflect maximum value for the affordable housing objective;
- Developed and implemented by staff who have the requisite training and experience; and,
- Used in conjunction with other subsidies or financial incentives for affordable housing development.

In sum, the international experience reviewed here demonstrates the importance of promoting affordable housing objectives through system wide approaches, better needs assessment and planning methodologies, and specific planning levers or mechanisms. Planning mechanisms for affordable housing have proved crucial for securing land for affordable housing development and achieving the broader goal of socially mixed communities. While the evidence shows that these mechanisms do not replace the need for dedicated funding for affordable housing supply, planning levers can maximise the outcomes of this expenditure and complement other financial incentives or subsidies to support affordable housing development.

The next, empirical stage of this research will provide the basis for verifying these preliminary findings, and yield operational details needed to transfer successful examples more broadly to the Australian context.

# 1 INTRODUCTION

International experience in Western Europe and North America demonstrates that the urban planning system can be a very important tool in retaining and increasing affordable housing supply. In many North American and European cities and regions, planning mechanisms are being used to protect low cost rental housing stock, reduce existing planning barriers associated with the provision of new affordable supply through the private housing market, and leverage funds to directly provide new subsidised housing stock for low to middle income groups. Yet despite increasing housing affordability challenges in Australia, the urban planning system here has played a relatively limited role in protecting or promoting affordable housing supply.

This research project for the Australian and Urban Housing Research Institute (AHURI) undertakes a comparative review of international practice in planning for affordable housing and identifies opportunities to apply this practice to Australia. The positioning paper is the first research output of this project. It presents a review of existing research on the role of the legislative planning system in the provision of affordable housing within Australia and internationally, and establishes a methodological framework for the subsequent empirical component of the study.

## 1.1 The need for new responses to the affordable housing shortfall in Australia

There are increasing pressures to develop new responses to the growing housing affordability challenge in Australia. These pressures include:

- The tightening supply of traditional forms of public or social housing and declining commitment of public resources for housing (Milligan and Phibbs 2007);
- Declining access to home ownership for those on the margins of affording this tenure, and a loss of low cost private rental housing, particularly in high value well located areas (Yates *et al.* 2004a);
- Concerns about the macro economic and labour market impacts of a shortage of affordable housing” (Berry 2006a & b); and
- Increased evidence of socio-spatial polarisation in Australia’s major cities, with low and moderate income earners effectively “priced out” of the housing market in many formerly affordable suburban areas (Yates *et al.* 2004a).

It is important to understand the role already played by the urban planning system in influencing housing affordability outcomes, as well as the potential to enhance and strengthen this role through proactive interventions to retain and promote new affordable housing supply. This has been recognised at the national level through the development of a Framework for National Action on Affordable Housing (the Framework) adopted by Australian Housing, Planning and Local Government Ministers in August 2005 (HPLGM 2005). The release of this Framework signals a commitment from all jurisdictions and spheres of government to collaborate on a strategic approach to addressing the shortfall in affordable housing across Australia, through a combination of possible new policy initiatives and affordable housing delivery models (Milligan and Phibbs 2007). A commitment to considering how to better use the planning system to support affordable housing objectives is an important component of the Framework (HPLGM 2005).

### 1.1.1 *Housing affordability and the urban planning system*

Urban planning decisions impact on housing affordability within the private market. Decisions relating to the location and release of residential land; the configuration and design of residential development; the costs of contributing to local infrastructure and obtaining development approval; and the strategic policies governing urban renewal

and redevelopment may all affect the cost of producing new housing and the price of housing across the market. For instance, the documented loss of low cost rental housing in metropolitan and many non metropolitan areas of Australia (Yates *et al.* 2004b) is associated with urban renewal and gentrification processes that are facilitated partially by metropolitan and local planning policies. Constraints on the release of land, compulsory infrastructure costs and charges associated with new residential development, and lengthy development assessment times have all been recognised as factors impacting on the rising cost of home purchase and thus declining access to home ownership by younger generations (Productivity Commission 2004). Similarly, excessive development controls and restrictive covenants designed to protect residential property values in certain areas reduce the availability of affordable housing (HUD 2005, Purdon and Burke 1991). The urban planning process can also impact on public sector provision of affordable housing. For instance, past planning decisions regarding the physical location and configuration of public housing in Australia, when combined with policies to target public housing tightly to the most needy households, have contributed to spatial concentrations of disadvantage. This has occurred in Australia and overseas.

None of the housing affordability issues discussed above is unique to Australia (Lawson and Milligan 2007). Yet in comparison to international practice in several comparably developed countries, strategies to actively influence affordable housing outcomes through urban policy and planning are relatively undeveloped in Australia. With the exception of the establishment of the State Land Commissions in the early 1970s, which helped stabilise the market during a period of rapid land speculation towards the end of that decade, few urban policy initiatives in Australia have included an explicit affordable housing agenda (Milligan 2003). Until recently, State planning policy and legislation has been largely silent on the issue of affordable housing, and has provided little support to local governments wishing to pursue affordable housing through their own development control functions (Gurran 2003; Milligan *et al.* 2004). Nevertheless, local government advocates in Australia have been quite proactive in encouraging local councils to promote affordable and appropriate housing in their areas, and a small but growing number of councils across the country have developed innovative and significant approaches. The recent commitment of Australian governments to an integrated framework for affordable housing suggests it is timely to build on this work within a broader policy, financing and regulatory model for increasing affordable housing supply (HPLGM 2005; see also Milligan 2005 for promotion of an integrated approach).

## **1.2 Aims and questions**

The key aim of this research is to explore the way in which the urban planning system in Australia can better contribute to affordable housing outcomes, through a comparative review of international practice. The following questions guide the research, in relation to this overall aim:

- What is the rationale for and role of the land use planning systems in retaining and providing affordable housing in the United Kingdom, Ireland, The United States, Canada and the Netherlands?
- Which planning approaches or interventions have been identified in these nations/regions as having a potentially negative impact on the supply of affordable housing?
- What potential is there to make property based covenants for affordable housing better integrated with the land use planning process?
- How do planning mechanisms intersect with the broader policy, legislative, and financial frameworks supporting affordable housing supply in each international

case study and within which governance, spatial and housing market contexts are specific tools most effective?

- To what extent do the different Australian States and Territories currently use their planning systems (at State, regional, and local levels) to promote affordable housing objectives, and what policy or legislative settings support or impede these goals?
- Which of the international approaches considered, if any, are likely to be most suitable for application across the different Australian States and Territories, and what broader policy, legislative or financial interventions may be needed to support an expanded use of the planning system to promote affordable housing in Australia?

### **1.3 Research approach**

The research approach for this project is defined by three main stages:

1. A review of existing research, literature and practice on planning for affordable housing within Australia and within comparable international jurisdictions;
2. Case study examination of international and Australian examples of planning approaches for affordable housing and examples; and,
3. Comparative evaluation of planning approaches and planning options suitable for implementation under current legislative arrangements in each Australian jurisdiction, as well as priorities for broader policy, legislative, and financial mechanisms to support the use of the planning system for affordable housing in Australia.

The review of existing literature on planning for affordable housing includes a theoretical framework for understanding the role of the land use planning system in relation to housing production, costs and affordability, and existing empirical work on the development and implementation of planning and affordable housing.

Our review of international practice focuses on North America (primarily the United States) and the United Kingdom (primarily England), both of which have relatively long histories of practice and research on planning for affordable housing spanning three decades. We also include Ireland, where new attempts to achieve a greater supply of affordable housing have resulted in significant changes to the planning system and the role of local government (Lawson and Milligan 2007). Finally, the Netherlands, which has well-established practice of actively planning for affordable housing is included to illustrate the potentially wide ranging role for the planning system and to help conceptualise the scope of that role.

The four Australian jurisdictions selected for analysis (New South Wales, Queensland, South Australia and Victoria) have each begun to develop new policy and/or planning approaches for affordable housing at state or metropolitan levels, and this project offers an opportunity to examine the local implementation of these provisions.

The research approach for this positioning paper has included a review of the English language literature, policy, and planning documents relating to the jurisdictions analysed, including a primary analysis of the key state level and metropolitan regional policy and planning documents relating to the selected Australian jurisdictions. The final report will include empirical work focusing on specific case studies within each international jurisdictions and each of the selected state jurisdictions in Australia. As well as an analysis of primary legislation, policy, and planning instruments relating to each case, this component of the study will include face to face and or telephone interviews with policy makers and planners. In the case of the Netherlands, interviews with academic experts have also contributed to the analysis presented in this positioning paper and will inform the overall analysis contained in the final report.

### 1.3.1 *Conceptual equivalence in comparative research*

Comparative research provides a basis for extending knowledge and developing new ideas, as well as yielding a broader evidence base from which to evaluate arguments and possible courses of action (Golland and Oxley 2004). But one of the challenges of comparative studies, particularly within the social policy discipline, is ensuring the validity of the comparisons being made and implications drawn. Differences in governance structures, policy orientation and institutional arrangements, together with the influence of local political, social, cultural and economic factors ('the context') within which these operate, can mean that experience in one jurisdiction is not directly transferable to another (Lawson and Milligan 2007). Seeking to establish "conceptual equivalence" in relation to key aspects of the process or governance structure being analysed can provide a method for comparison between different jurisdictions (Golland and Oxley 2004, Milligan 2003).

In terms of the land use planning and residential development process, key aspects of assessing conceptual equivalence might include the role of the state in land regulation, the spatial scale at which planning is carried out and the relative significance of land use plans themselves (for instance, plans are binding in some nations but are guiding instruments in others, where decisions follow a detailed process of negotiation). Specific contextual factors that may also mediate the impact of a planning policy or strategy include urban densities and settlement networks, population and household growth rates, tenure mix and cultural norms (such as a preference for detached housing for home ownership), as well as wider demographic trends and economic cycles. We have used the notion of conceptual equivalence in this study to help identify and define comparable elements of the housing policy and planning framework in each of the international jurisdictions reviewed. This approach has informed our assessment of policy-relevant factors underlying planning and housing affordability outcomes.

### 1.3.2 *Defining affordable housing*

Affordable housing is defined differently in the jurisdictions and across the various policy, planning, program and research contexts in which the term is used. Most definitions of affordable housing include a reference to what comprises affordability and to the target group or groups for whom affordable housing is intended (Milligan and Phibbs 2007). In this report we use the following definition of affordable housing adopted by the Housing, Planning and Local Government Ministers in developing the Framework for National Action on Affordable Housing:

"Affordable housing is housing which is affordable for low and moderate income households across home ownership, private rental as well as public rental tenures" (HPLGM 2005, p.1).

Many different models of financing and delivering this housing are recognised within this definition, ranging from traditional social housing (owned publicly or privately through housing associations), as well as other forms of sub market and market housing for purchase or rent.

### 1.3.3 *Scales of Intervention*

In this research we identify opportunities to better promote affordable housing outcomes through planning, at three scales. The first scale includes *system wide approaches* to enhance the overall capacity of the planning system to promote affordable housing goals (for instance, by reducing complexity and delays, and by removing excessive development controls that act as a barrier to affordable housing). The second scale comprises *methodological or procedural approaches* that improve the way in which planning is carried out (for instance, new collaborations between and across levels of government; or approaches to identifying housing need and corresponding targets for new affordable housing supply with proposals for how such

targets could be achieved at the site, local, and regional level). Thirdly, we identify *planning mechanisms or levers* for achieving particular affordable housing outcomes (for instance, controls to protect low cost stock, regulation based incentives to promote low cost housing in the private market, or requirements to dedicate a proportion of development value or equivalent for affordable housing programs).

#### **1.4 Structure of the positioning paper**

This positioning paper contains six parts. The conceptual framework for the study is contained in chapter two: “Planning for Affordable Housing”, which explains key elements of the planning system and the broad scale impacts on housing outcomes. Also outlined are the main tools to offset any negative impacts of the planning process on affordable housing and to positively generate new affordable housing opportunities through spatial planning. Variations of these key tools are used in each of the international jurisdictions reviewed in this report. Chapter three summarises the extent of planning for affordable housing in Australia to date and highlights key priorities for further research and development. We turn to the international experience in chapter four, reviewing the research and literature on planning for affordable housing in the United Kingdom, Ireland, the United States and Canada, and the Netherlands. In chapter five the common themes arising through this international experience are analysed, comparing differences in approach and outcomes, and highlighting preliminary implications for Australia. The final chapter summarises key findings in the literature in relation to the broader questions guiding this project, and sets out the approach for the next empirical stage of the study.

## 2 PLANNING FOR AFFORDABLE HOUSING

In this chapter we establish the conceptual framework for the study. The chapter is divided into three sections. The first section introduces the basic features of the planning system, particularly in relation to the housing development process. The second section considers some of the potential negative impacts of the planning process on the supply and affordability of housing. The third section sets out key approaches that can be used to mitigate any unavoidable negative impacts and to generate new opportunities for affordable housing.

### 2.1 Components of the urban planning system

The term “planning” has different meanings in different contexts. In the context of urban and housing policy, the expressions “town and country planning”, “urban planning”, “land use planning”, “environmental planning” and, increasingly, “spatial planning” are used to refer to a formal process regulating the use of land and the development of the built environment, in order to achieve strategic policy objectives.

#### 2.1.1 Rationale for planning intervention

A primary justification for public intervention through the land use planning system relates to the potential negative impacts, or “externalities” of an individual’s activities in the private use of land upon neighbouring landholders and the broader community (Blake and Collins 2004, Bramley *et al.* 1995). For instance, if a development generates excessive traffic that cannot be accommodated by the existing road network, the resulting congestion causes an environmental cost to the immediate and surrounding community (Barker 2006). However, private development can make a positive contribution to the surrounding area, for example, when it is perceived to contribute to an attractive streetscape. While there is no mechanism within the free market to fully account for these spillover impacts of development, land use regulation provides an opportunity to address potentially negative spillovers and promote beneficial development (Barker 2006, p.25). In her recent review of the land use planning system in Britain, Kate Barker summarises the following additional rationales for planning intervention:

- to ensure the adequate protection and provision of public goods that would otherwise be underprovided by the free market, such as open space and community infrastructure;
- to overcome blockages to the essential development of land that may arise from monopolistic behaviour by land owners (planning interventions including the compulsory acquisition of land can help to address this problem);
- the pursuit of socially fair outcomes in urban development, such as the regeneration of areas suffering economic decline, the promotion of mixed communities within new and changing areas, and providing a mechanism for public participation and representation to protect all sectors of the community from developments that may have an unjust impact on them;
- the generation and dissemination of necessary information to inform the development process; and,
- the coordination of different but potentially complementary components of planning, such as the need to provide for new housing and infrastructure, and the need to protect the environment (Barker 2006, p.26).

While the primary focus of planning is on the physical environment, its scope has always extended to the social and economic spheres (Keeble 1959). For instance, the earliest examples of modern town planning intervention sought to enhance the housing conditions of the urban poor through slum improvement (Golland and Blake 2004, Hall 1996).

### 2.1.2 *Early town planning initiatives*

By the mid 19th Century, poor housing conditions of the working classes in the industrial cities of North America and Britain had become a focus of public concern. In the late 1830s, an epidemic of cholera in British industrial cities prompted an inquiry into the sanitary conditions of labourers which led ultimately to the introduction of new legislation to improve construction standards of mass housing (Blake and Collins 2004). In 1848 the *British Public Health Act* introduced new standards for drainage, ventilation and lighting in new dwellings, followed by the *Health Act* in 1875, which established requirements for rear gardens and minimum road widths between dwellings. In New York City, rapid population growth and widespread poverty in the early 19th Century led to the development of substandard tenement housing (Beyer 1965). Early attempts to address overcrowded and unhealthy conditions in the tenements resulted in the first *Tenement Act 1867* which introduced basic health and fire safety standards, followed by a series of laws until the introduction of more comprehensive housing legislation at the turn of the century. Similar initiatives to address the conditions of the urban poor followed in other United States, Western European and Australian cities (Hall 1996).

### 2.1.3 *Visionary housing schemes*

More radical planning responses had also emerged to address the housing problems by the early 20th Century. Visionary planning as part of a broader wave of social progress sought to improve housing conditions of the working class while preserving the rural landscape from the ravages of industrialisation. The most famous of these was Ebenezer Howard's "Garden City", which was a physical blueprint for self contained urban settlements surrounded by permanent green belt and linked to other garden cities and London by a modern mass transit system (Hall 1996). The "Garden City", although a carefully defined physical plan for settlement, was underpinned by strong communitarian ideals, with affordable housing for workers attracted by the jobs and services provided in the new community:

"The citizens would pay a modest rate-rent for their houses or factories or farms, sufficient to repay the interest on the money originally borrowed (to finance the settlement), to provide a sinking fund to repay the capital, and then – progressively, as the money was paid back – to provide abundant funds for the creation of a local welfare state" (Hall, 1996, p.93).

Another vision for better housing and urban conditions was provided by Le Corbusier. His "Radiant City" comprised mass produced housing (and work spaces) in high density towers, surrounded by vast parkland (Hall 1996; Blake and Collins 2004). In reality, neither of these visions was fully realised, although they were extremely influential. Ebenezer Howard's model inspired the development of many "new towns" to satisfy Britain's housing need post World War II, although the majority of these communities lacked the mix of employment opportunities and services needed to achieve Howard's ideal of self containment (Blake and Collins 2004). Le Corbusier's inspired towers were interpreted by social housing providers across Europe, the United States and to some extent, Australia, but without the balanced population or planned relationship to jobs. As a result, problems of social isolation and disadvantage within those social housing estates were exacerbated by their physical design (Blake and Collins 2004).

### 2.1.4 *Sustainable communities*

Underpinning these early urban planning experiments were broad goals that continue to influence urban planning within the widely held paradigm of "sustainable

development”<sup>2</sup> and “sustainable communities”. In the United Kingdom, the Department of Communities and Local Government defines sustainable communities as follows:

“Sustainable communities are places where people want to live and work, now and in the future. They meet the diverse needs of existing and future residents, are sensitive to their environment, and contribute to a high quality of life. They are safe and inclusive, well planned, built and run, and offer equality of opportunity and good services for all. For communities to be sustainable, they must offer:

- decent homes at prices people can afford
- good public transport
- schools
- hospitals
- shops
- a clean, safe environment.” (CLG 2006, p.1)

In the Australian context, the Housing, Planning and Local Government Ministers also regard an “adequate supply of affordable, well-located and appropriate housing” as a key factor in “achieving sustainable communities” (HLGPM 2005, p.5). They state that affordable housing “has a direct bearing on key sustainability objectives, including social diversity, inclusiveness, equity and competitiveness of places, and impacts on ecological outcomes and the quality of design” (*ibid.*). While they observe that housing outcomes are influenced by a range of factors beyond the planning system itself, the planning system can and should influence the amount and type of housing produced and should also use the special levers available through the development process to directly provide for affordable housing where possible:

“The provision of housing operates within a market system where the provision of affordable housing is impacted to a large degree by economic and financial factors outside of the planning system, however the planning system can have an impact on the market-based system. The land use planning process can influence the supply and range of housing produced both in new development and redeveloping areas. Planning Ministers agree that planning and providing for affordable housing utilising planning mechanisms is a important contributor to sustainable communities based on the triple bottom line approach to sustainability, through providing economic, environmental and social improvements” (*ibid.*).

Four primary policy arguments support the notion of affordable housing as a central urban planning goal within the broader rubric of sustainable communities:

1. Affordable housing is essential for economic vitality and competitiveness.

A sufficient supply of affordable housing is critical for labour market flexibility and underpins local and regional competitiveness in a global economy (Barker 2004, Brunick 2004c). In particular, affordable housing for “key workers” such as police, nurses, automobile mechanics and teachers is needed to attract and retain key employees and support economic growth (Barker 2004, Berry 2006b).

2. Affordable housing near jobs and services complements environmental goals by reducing urban sprawl and traffic congestion.

When affordable housing opportunities are separated from major places of employment, traffic congestion and pollution (due to large commuting times), reduced

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<sup>2</sup> “Sustainable development” is defined by the World Commission on Environment and Development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (WCED 1987).

urban amenity and sprawl result (Calavita 1998, Liberty 2003, Weitz 2003). In turn these negative impacts of poorly planned development reduce the liveability and attractiveness of a city or region, further discouraging investment.

3. Affordable housing is needed for younger and older generations to retain their social and familial support networks.

One of the most compelling reasons for local communities to support the introduction of affordable housing strategies is the knowledge that high house prices and rents often force younger people away from the area in which were raised (Anderson 2005). Similarly, a lack of appropriately designed accommodation that is affordable to seniors means that many must leave an area where they have established strong social support networks (APA 2003).

4. Affordable housing supports the social diversity and equity of access to jobs, education and amenity that is integral to community cohesion.

In the United States, a lack of affordable housing is regarded as a key cause of social and racial segregation within cities, and is implicated in eruptions of community violence, such as the 1992 riots in Los Angeles (Calavita 1998). Following the Los Angeles riots, the America Planning Association endorsed a new planning goal of community equity, with the provision of affordable housing as a central strategy to achieve this. In the United Kingdom, affordable housing ensures equitable access to employment opportunities and to services within urban areas, and contributes the goal of social cohesion. This is perceived as an important deterrent to civil unrest provoked by extremes of urban inequality (Blake and Collins 2004).

We now turn to the key elements of land use or spatial planning systems.

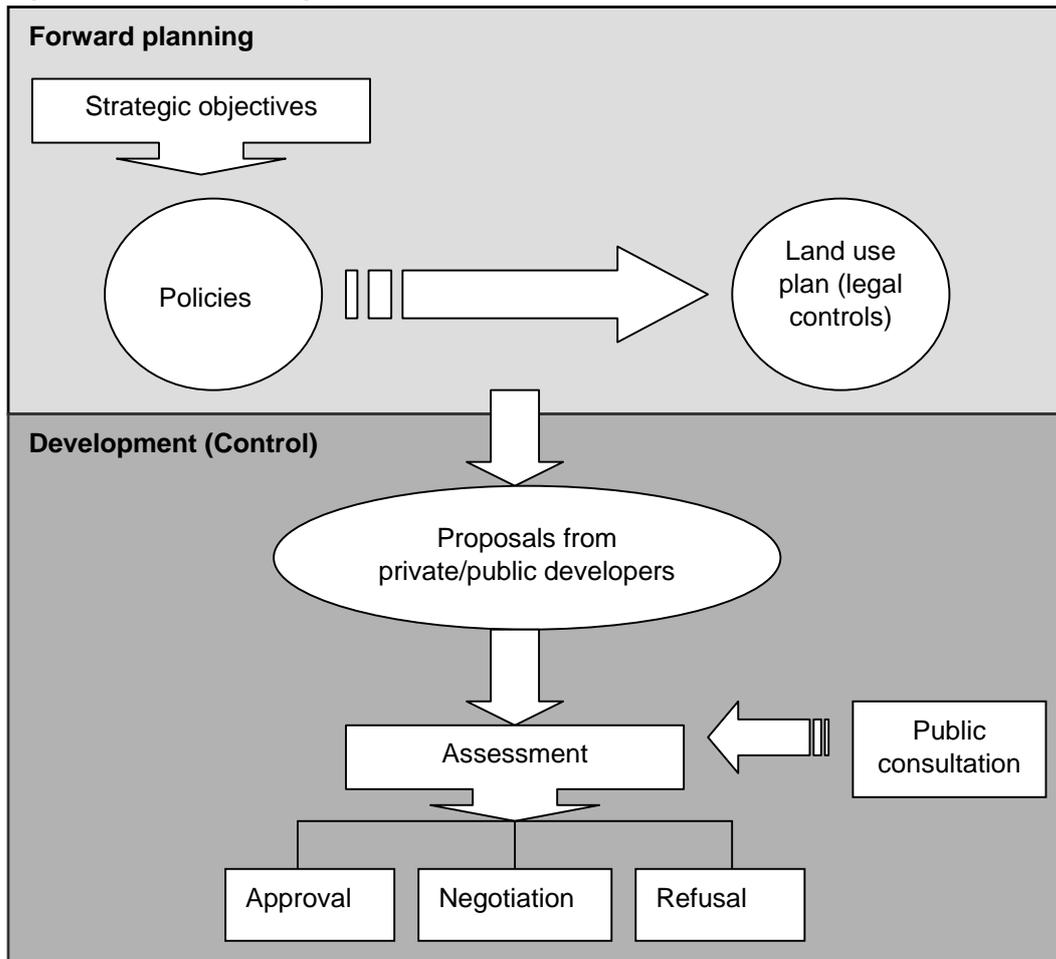
### *2.1.5 Key elements of the land use planning system*

To understand more clearly the relationship between the urban planning process and housing outcomes, it is necessary to briefly outline the key institutions, processes and mechanisms that characterise planning systems. Local government authorities typically have the main responsibility for land use planning, operating within a policy and legal framework established by a higher level or levels of government (regional, state and/or national).

The urban planning process itself is characterised by two key stages (Figure 1):

- Forward planning (defining strategic objectives and policies to achieve them, which are usually expressed through legally enforceable controls on land use and on the dimensions of development contained with a planning instrument or instruments);
- Development control (assessing development proposals, by private or public developers, against these planning controls, and issuing a decision to approve (usually with conditions), refuse, or negotiate to further modify the proposal).

**Figure 1: The planning process**



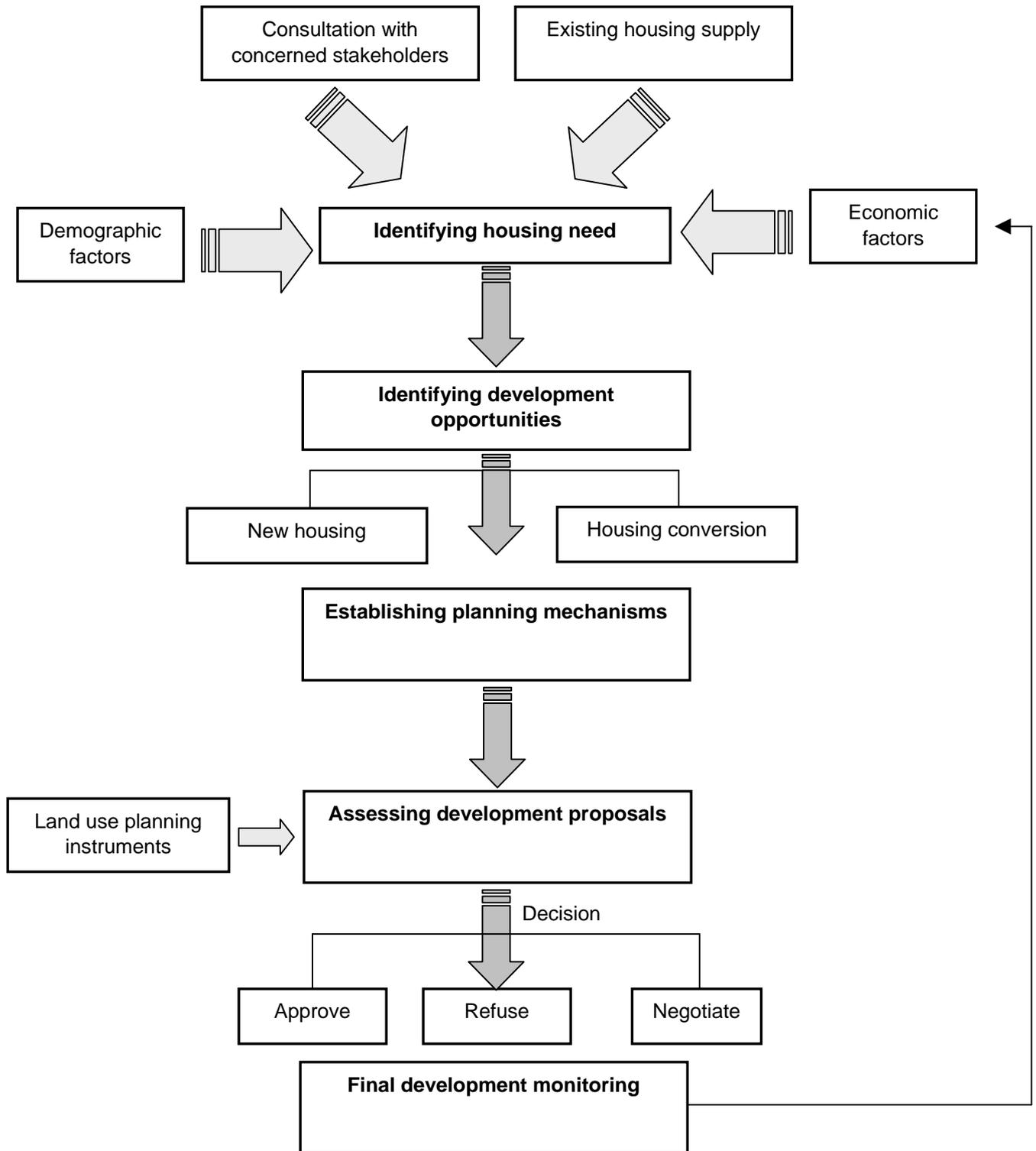
Source: The authors

The operation of these basic processes is illustrated in relation to housing development through a more detailed sequence, involving a range of key stakeholders:

1. Identifying likely future housing need in relation to demographic factors (population growth and change), economic factors (income, labour market trends) and existing housing supply, and often in consultation with key community groups, residents, developers, and other public agencies.
2. Identifying appropriate development opportunities to meet this housing need (new housing and housing conversion), including potential sites for housing within existing urban areas (infill and brownfield development) and on previously undeveloped land (greenfield sites). This is a highly contentious process that involves making decisions to include some land for residential development, and excluding other potential land.
3. Establishing planning mechanisms to make this land available (including public consultation regarding the content of the planning instrument in which the mechanisms are contained).
4. Assessing the actual proposals for development against the land use planning instrument (depending on the planning jurisdiction, this may be an extended series of negotiations, including public consultation), and issuing a decision to approve, refuse, or negotiate a changed outcome.
5. Monitoring the final development (leading back to the first stage in the cycle).

This sequence is illustrated in Figure 2.

**Figure 2: Urban planning and housing development**



Source: The authors

### 2.1.6 Land use planning mechanisms

The types of mechanisms, or operational techniques and policies, typically contained in land use planning instruments include:

#### Land use categorisation (zoning)

→ A system of land use categorisation (often called zoning) to assign permissible uses to parcels of land depending on the characteristics and capacity of the land,

and to separate uses that are thought to be incompatible. For instance, a “residential zone” would permit residential dwellings to be built, while an “agricultural zone” would permit agricultural development but prohibit most residential dwellings unless associated with rural activities.

#### **Development controls / standards**

- Detailed development controls or standards governing the concentration or “density” of particular types of development (such as housing), usually controlled by governing the amount of site coverage to total building area (floor space ratio), and minimum lot sizes; as well as other design requirements like height, building materials, configuration and so on (to achieve objectives relating to urban design, heritage conservation and environmental conservation).

#### **Co-ordination of activities / services**

- Mechanisms to coordinate the amount and location of different types of development (such as housing, industry, services, retail), to ensure reasonable “self containment in local labour markets, shopping and services” (Bramley et al. 1995, p.40). This coordination is often achieved or implemented through land use categorisation, but in some jurisdictions a “master planning” or comprehensive approach is used to designate actual activities (as opposed to general classes of activities) on specific sites.

#### **Urban boundaries**

- Urban boundaries to contain the expansion of settlement. Such boundaries may simply arise from the land use category (with agricultural land forming a default periphery) or they may represent a more formal barrier to expansion, such as the “Green Belt” system used in the United Kingdom and parts of Australia, and the designated “urban growth boundary” approach applied in parts of the United States.

#### **Provision of infrastructure**

- Requirements to coordinate and manage the provision of infrastructure, and ensure its efficient use by concentrating development in certain areas to rationalise expenditure and maximise the use of these limited resources, and by requiring contributions towards infrastructure provision.

Each of these planning interventions has impacts on the housing development process, and these impacts may be positive or negative in relation to housing affordability. We explore these impacts in the following section.

## **2.2 The urban planning system and housing affordability**

Before examining how planning tools are used to achieve affordable housing, it is important to address growing claims both in Australia and internationally that the planning system itself is a major cause of housing affordability problems. For instance, it is often argued that without the intervention of the planning system, there would be more land for housing development, and the price of housing would fall dramatically:

“Where planning restricts land access it creates scarcity, thereby artificially bringing higher cost homes ... If Australia were applying the liberal systems to development that prevail in Texas for example, a house/land package price would at least halve. Australia’s ration-induced high prices for new developments on the periphery lift prices throughout the city.” (Moran 2006, pp.3-4).

These claims reflect the following assumptions:

1. That the supply of residential land for the construction of new housing is the major determinant of house prices across the market; and,

2. That the supply of residential land for the construction of new housing would be unrestricted was it not for planning intervention.

There is a lack of definitive empirical data on the relationships between the availability of new residential land for housing and price impacts across local and regional housing markets. However, given that new housing construction accounts for a very small proportion of total housing stock (for instance one per cent of total supply in the United Kingdom represents annual additions to the housing stock), any deflationary price impacts associated with the release of new residential land relate to market perception rather than a significant shift in supply (Barker 2004, p.4).

Secondly, it is clear that even without planning controls on land use, there are constraints associated with the availability of land for residential development. These constraints chiefly relate to the willingness of landholders to release land onto the development market, which in turn is influenced by the price the market is willing to pay for such land.

Land values can be understood in relation to the unique attributes of land (including its location), its limited supply or scarcity value, and the uses to which the land may be put (Golland and Gillens 2004, Ricardo 1996). In understanding the values associated with land use, the term “transfer earnings” is used to describe the value associated with land at its current use, and needed to be paid to secure its transfer from one owner to another. “Economic rent” is the amount above this transfer value that is associated with the potential to apply this land to another land use (Oxley and Dunmore 2004). Another way to conceptualise the relationship between location, potential land use and land value, posits falling rents as distance increases from the city centre (where commercial activities are concentrated), until the value falls below that for agricultural production (Alonso 1964, Golland and Gillen 2004).

Both of these conceptualisations assume that land values are determined by the activity or form of development associated with the highest potential earnings, minus the costs associated with realising these benefits. Thus while land for housing may be more freely available at the urban periphery within this idealised scenario without urban planning constraints, this very availability reduces its value until it ultimately falls below its potential value for other uses (i.e. agriculture). The access costs associated with distance from services may reduce the overall value of land in such locations even when a scarcity of housing exists within more accessible areas:

“So even in this theoretically ideal world without planning, land that is useful for housing and other urban purposes, by virtue of its location, is semi permanently scarce and commands a corresponding rent” (Bramley *et al.* 1995, p.50).

Even in situations where the potential market price of land that could be developed for housing is higher than that associated with its current use, landholder expectations regarding future land prices may lead them to wait for an even more favourable scenario (Golland *et al.* 2004). Such a situation is particularly common when potential land is held in a monopoly, or a cooperative group of landholders, who will realise that it pays to release land slowly (Bramley *et al.* 1995). This explains why even when planning permission for development is available, housing supply shortages may still arise (Barker 2004).

Furthermore, without planning, the negative externalities arising from unregulated development and uncoordinated or inadequate provision of infrastructure are likely to create disincentives to investment, again reducing housing supply:

“If there was no planning system the pervasive externalities associated with urban development would have a severe effect on the market and on supply. In general, because of the lack of certainty about future developments on adjacent land in this unplanned situation, individual investors could be less sure about the future value of their own particular housing investments. This could be a

general deterrent (to development)... Much of the land in theory available for development would not be developable in practice because of the lack of services... the supply of infrastructure itself would be a risky investment because of uncertainty about the extent and nature of development to be served in particular areas, and so urban services would be under provided” (Bramley et al. 1995, pp.53-54).

In summary, to the extent that planning decisions affect land values, these impacts relate to the preservation of locational advantage (for instance the reinforcement of central city areas, or the placement of housing near services) and the creation or protection of urban amenity (like efficient transportation or attractive streetscapes). In turn, the certainty that future planning decisions will continue to promote these values in new areas or preserve them in growing areas, makes ongoing investment in residential (or other) development a viable and enticing proposition. These conditions are likely to promote further economic growth, leading to more housing demand for new workers and so on. In other words, ‘good’ planning can create the conditions that underpin demand for housing, just as ‘bad’ planning – for instance, dispersed development that is poorly serviced and has little regard for landscape or environmental values – can lead to the conditions that undermine housing demand. In this scenario housing is cheaper but the social and environmental costs are greater.

However, if we accept the need for a planning system per se, it is still important to ensure that the planning process operates at an optimal level to avoid an artificial demand/supply imbalance, either by allocating an insufficient amount of land for housing relative to need, or by systemic deficiencies such as delays or excessive planning controls, requirements and charges.

### *2.2.1 Systemic deficiencies associated with the planning process*

In addition to the potential generalised impacts of the urban planning system on land values (and thus supply and affordability of housing), a body of empirical research is emerging to scrutinise the particular impacts of what we term here “systemic deficiencies”, including:

- A failure to offset housing supply shortages arising from urban containment strategies (such as urban boundaries or growth management techniques) or other essential environmental controls;
- Excessive or exclusionary development controls and standards that raise the entrance price to housing; and,
- Inappropriate costs and charges associated with the development process.

These are considered in the following sections.

#### **Housing supply shortages and urban containment**

As noted above, restricting urban expansion to protect land and biodiversity and to reduce the costs associated with sprawl and traffic congestion is a key urban planning goal. Urban containment strategies include a number of measures that complement affordable housing objectives, such as provisions for smaller and more diverse housing units, and housing that is closer to jobs and services. When these policies greatly restrict opportunities for new housing within a climate of high demand, it is likely that the price of housing will increase (Monk and Whitehead 1999). A number of studies in the United States have sought to examine the affordability impact of planning approaches (frequently described as “growth management” techniques) designed to restrict the expansion of urban land (Anthony 2003, Nelson *et al.* 2002, Quigley and Rosenthal 2005). Typical growth management approaches in the United States include the declaration of an urban boundary within which future growth must occur, limiting the number of building permits to be issued within a given time period, or establishing moratoria on development within certain areas or for a certain period of

time. In order to prevent haphazard growth that is costly or inefficient to service, growth management approaches also commonly require certain infrastructure to be in place before development can proceed (Anthony 2003). If developers have to bear a substantial proportion of these infrastructure costs up front, they will seek to recover them through higher house prices (Anthony 2006).

The evidence regarding price impacts of growth management strategies on the affordability of housing is unclear. While most studies have found that house prices increase when growth management strategies are in place, it is very difficult to isolate the cost impact of the growth management requirement per se. Price increases may reflect other reasons such as rapid population growth, and increases in house size and quality (Anthony 2003). One study attempted to control for these factors by analysing longitudinal data for the State of Florida, which has had growth management legislation in place since 1985. This research found that Florida's *Growth Management Act 1985* has had an inflationary effect on single family house prices but that this increase is also affected by consumer willingness to pay higher prices for the "amenity effects and anticipated amenity impacts from growth management" (Anthony 2006, p. 136).

There is a strong argument that growth management strategies need not negatively impact on housing affordability when housing goals are implicit in their design (Nelson *et al.* 2002, Russell 2003). Strategies that can be used include: offsetting housing "scarcity" effects of growth boundaries by providing an ample supply of land zoned for higher residential densities; reducing time costs associated with planning compliance; reducing impact fees for smaller housing units, and increasing the supply of dedicated affordable housing (Anthony 2006). In the following chapters we provide examples of planning jurisdictions that have designed urban growth boundaries or growth management strategies while maintaining specific provisions for affordable housing.

#### **Development controls and standards**

Development controls may govern the configuration, design and external appearance of housing. In many cases, these controls are intended to promote broad community goals, ranging from ensuring basic health and safety standards are maintained through, to protecting important environmental or cultural heritage. However, these controls also impact on the cost of development in general and housing in particular. Firstly, they contribute to the creation and protection of an attractive and well functioning living environment, and so impact on the relative value of housing within the private market. In this instance the home buyer benefits from the amenity within their community, as does society at large, from the preservation of environmental and urban quality.

Nonetheless, when the cost of complying with planning controls becomes so expensive that it represents a barrier for lower income groups to enter the housing market, such planning controls can be regarded as "exclusionary" (Liberty 2003, Pendall 2000). Examples of such controls include requirements for excessively large lot sizes in urban areas, tight restrictions on housing types, or design standards that require the use of expensive materials (HUD 1991, 2005). Research in the United States has suggested that even a small increase in required building set backs within an area can increase house prices by between six and seven per cent (HUD 2005). Other planning controls that have been shown to affect the cost of housing include prohibitions on certain housing types, including "multi-family" or medium density housing, group homes for people with a disability, manufactured housing and accessory dwellings, requirements for wide streets and excessive parking spaces (APA 1991, 1997, 2001, HUD 2005a, Pendall 2000). In our following review of international approaches we detail the ways in which planning authorities have attempted to overcome development controls that represent a barrier to the provision of affordable housing.

## Development costs and charges

It can be difficult to ascertain the full range of costs and charges to development that arise directly through the planning process. These include direct costs such as compulsory requirements for infrastructure provision and fees for processing development applications (Been 2005, Evans-Cowley and Lawhon 2003). Indirect costs associated with obtaining planning approval also add to the total cost of undertaking an individual development, and may include the time taken for a proposal to be assessed, and to defend it within an increasingly complex regulatory environment. Such costs, particularly the time needed to obtain planning approval, may also contribute to higher land values by artificially constraining supply. Studies in the United States and the United Kingdom suggest that perceived difficulties and delays in obtaining planning approval affect developer behaviour and reduce the amount of development activity in an area, also leading to longer term supply constraints which have implications for the price of housing (HUD 2005, Monk and Whitehead 1999).

The Housing Industry Association of Australia (HIA) has estimated that between 25 and 35 per cent of the purchase price of new houses (or an average of \$67,000 per house) in Australia relates to “indirect taxes” associated with the development process, such as compulsory infrastructure charges or levies, compliance with planning controls and other State government taxes (HIA 2003). The Property Council of Australia (PCA) claims that direct and indirect government charges associated with the development of broad hectare housing have reached an average of \$198,670 per house in North West Sydney, \$166,481 in South West Sydney, and \$135,799 in Redland, with similar figures for home units, and that these figures have risen rapidly over the past five years (PCA 2006, p. 3). These estimates are similar to figures quoted by development industry representatives in the United States (HUD 2005) but have not been subject to objective scrutiny. In any case, as the level of fees and charges vary by jurisdiction, the salient considerations here are:

- the rationale for imposing particular classes of charges associated with the planning process; and,
- the extent to which such charges impact on the cost of housing production and on housing affordability more broadly.

Compulsory developer contributions, often called “impact” or “linkage” fees in the United States, are designed to contribute towards the increased need for public infrastructure, goods or services associated with new private development. There is substantial literature on the rationale for levying such contributions on new developments (Evans-Cowley and Lawhon 2003). Two basic but alternative positions exist. The first justifies the contribution with regard to the impact that the new development has on the need for public services: “standard economic theory holds that the price of housing must include all the benefits and costs that the development brings to or imposes on society” (Been 2005). When requiring developers to contribute towards the costs of essential infrastructure or services on the basis of the impact their development will make on the need for such services, the amount of the fee (and the use to which it is put) must be clearly linked to the impact of the development (described as “nexus”). Under this approach, developers may be required to contribute to affordable housing if there is a demonstrated link or nexus between the development and its impact on the need for affordable housing – for instance, if the development will create a new demand for affordable housing for employees, or if it will result in the loss of existing low cost housing stock.

The second approach seeks to capture some of the financial benefits that occur following a planning decision (such as a rezoning) that substantially changes permissible use of land, thus greatly increasing its potential value. The benefits accruing to individuals through the increase in land value associated with planning

decisions are often called a “windfall gain”. This “windfall gain” accrues to individual landowners as a result of planning decisions that operate to limit the supply of new housing in some areas (making planning permission in other areas more valuable) and thus increasing local housing prices, and decreasing affordability. A tax to reclaim some of this gain for public benefit can be viewed as offsetting the localised impact of planning policy on affordable housing (Crook and Whitehead 2004).

Often the “windfall gain” rationale is used as an additional policy argument to justify seeking developer contributions or impact fees for community infrastructure and services, including affordable housing, but without a formal measure for calculating or hypothecating this gain in precise terms. When a formal calculation for taxing hypothecated planning gain is used, this is described as a “betterment tax”.

There have been several attempts to introduce a betterment tax mechanism in the United Kingdom (described in Oxley 2006). Aside from political willingness, the key difficulties with the approach are whether it is theoretically possible to identify the economic rent arising from a particular residential development, and, if so, whether it is feasible to tax it (Oxley 2006, p. 102).

There have been a number of empirical studies in the United States to determine the extent to which contributions for public infrastructure, including affordable housing, impact on the cost of housing production and ultimately, the affordability of housing. Based on the available evidence to date, it appears that while compulsory infrastructure contributions increase the cost of producing housing, as do other planning requirements, the extent of this impact on housing affordability depends largely on characteristics of the market (Evans-Crowley and Lawhon 2003). In a high demand scenario, developers are able to pass on costs to home buyers – although there is an argument that the developers will charge the price the market will bear, irrespective of costs associated with production (Been 2005). In a flatter market, the developer or land seller is more likely to bear the costs. However, under this scenario, there may be a reduction in new supply until demand is sufficient to increase prices again, or, developers may opt to produce “upmarket” housing with a greater margin for profit as a way of recouping costs. When the impact fees associated with a development are known prior to the purchase of land, they can be passed on to the land owner, although again the owner may choose to hold onto their land until supply shortages or other interventions will result in a more favourable outcome.

Finally, if the costs associated with impact fees are passed onto the homebuyer, this is not necessarily an unfair burden, as they will benefit from enhanced infrastructure and services and the value of their own property will increase accordingly (Been 2005). Further, when impact fees are designed to fund essential infrastructure, they facilitate residential land supply that might not otherwise be available, thus reducing the potential for a supply shortage.

There is a growing concern, particularly in Australia and the United States, that other compulsory government costs and charges (not related directly to the impacts of housing development or the provision of infrastructure to service this development) are also increasing the cost of housing production and thus contributing to affordability problems (HUD 2005, PCA 2006). These fees might relate to planning administration charges, taxes, or transaction taxes (such as Stamp Duty taxes on property exchanges in Australia). If such costs are not related to the service costs of the development then the purchaser is unable to recoup any particular value or benefit from them (unlike the benefits attributable to infrastructure fees). Specific research across a wide sample of jurisdictions to verify the actual impact of such charges on the costs of housing production in Australia is needed.

### *2.2.2 Summary: overall impacts of the planning system*

In summary, this section has demonstrated that the planning system may impact on housing outcomes through its functions of allocating land for residential development, requiring compliance with development controls and standards, by imposing fees and charges associated with the provision of infrastructure and public services, and more broadly, by creating or preserving attractive places in which to live. Thus planning interventions are central to efficient urban structure, but they also serve to protect the favourable environment needed to maintain investment in residential development.

Accepting the need for the planning system and the important role it plays in contributing to social equity, economic vitality and environmental protection, it is nevertheless important to address any potentially negative impacts on housing affordability that may arise through the planning process. In the final section of this chapter we provide a generic description of the types of planning tools that have emerged internationally and within Australia to offset any negative impacts of the planning system on housing affordability and to promote new affordable housing opportunities.

## **2.3 Planning approaches for affordable housing**

Within the international jurisdictions reviewed in this project, a suite of planning approaches towards affordable housing has emerged. We conceptualise these approaches along a spectrum that begins with protecting existing sources of affordable housing supply, and moves through promoting new affordable housing opportunities via the private market, to directly producing dedicated affordable housing stock through planning requirements or agreements.

### *2.3.1 Protecting existing sources of affordable housing*

Processes of urban change and redevelopment often threaten existing sources of accommodation that is affordable to households on low to moderate incomes. Such accommodation may include low-cost rental flats, boarding houses, private hotel rooms, shop top apartments, caravan parks or manufactured home estates, and older housing stock. Frequently there is pressure to redevelop such housing or to upgrade stock to provide a higher standard of accommodation, particularly when there is a clear need to improve the quality and amenity of decaying residential areas.

Planning approaches to protect existing supplies of affordable housing during such process seek to preserve particular types of low cost housing stock, for instance, by controlling their demolition and/or change of use. A social impact assessment framework can also be required to evaluate and mitigate the impact of development proposals that may reduce the existing supply of affordable housing.

### *2.3.2 Promoting new sources of affordable housing*

Urban planning strategies and tools can be used to reduce the cost of housing production and to encourage the provision of lower priced housing opportunities through the private market. Strategies include:

- Addressing systemic deficiencies such as unnecessary delays or administrative costs;
- Reducing barriers to the development of lower cost housing, such as unnecessarily onerous development controls;
- Ensuring that a diversity of housing types are permitted and encouraged within local land use plans, including the conversion of existing housing forms;
- Including specific incentives for residential development that are likely to contribute to more affordable housing opportunities within the local area; and,

- Enabling exemptions from land use planning requirements for private market development that meets affordable housing criteria.

### 2.3.3 *Producing new affordable housing*

The planning process can provide opportunities to leverage funding or resources for the direct production or subsidised delivery of dedicated affordable housing for low to moderate income households. These opportunities may be articulated through a variety of voluntary or mandatory mechanisms (and often using a combination of approaches). We classify these approaches in the following way:

- *Voluntary planning incentives*: Voluntary planning incentives can be offered through a planning scheme to generate new dedicated affordable housing stock or funds to produce it. These incentives can offset the costs of residential development, with a proportion of this offset applied to an affordable housing program. Incentives could include permission for additional development capacity, or reduced landscaping, parking or open space requirements. Often developers are able to select from available planning incentives or concessions to offset the costs of complying with mandatory affordable housing requirements.
- *Mandatory requirements (inclusionary zoning and compulsory developer contributions or impact fees)*: Perhaps the most commonly known mandatory mechanism for generating dedicated affordable housing stock through the planning process is known as “inclusionary zoning”, where legally enforceable planning controls require a set proportion of specified new development within a defined area (or zone) to be dedicated for affordable housing. There are many operational variations of this basic model, such as the amount of affordable housing contribution to be required, whether it be financial or must be provided on site as an actual housing unit or units (dedicated for affordable housing in perpetuity or for a specified time frame). These variations and their potential merits within different housing market contexts are discussed in the following chapters.
- *Mandatory requirements (negotiated agreements)*: A similar approach to inclusionary zoning involves a legally enforceable planning requirement for developers to contribute to affordable housing, but the actual level of contribution is determined on a negotiated, site-by-site basis.
- *Site / Master planning (negotiated planning agreement)*: In many jurisdictions there is not necessarily an overarching requirement within the local plan for affordable housing, but planning authorities are still able to seek a contribution from developers towards affordable housing on a site-by-site, negotiated basis.

Chapters three and four review the existing research and literature on the implementation of these different approaches in the Australian and international contexts.

## 2.4 Conclusion

In this chapter we have established the conceptual framework for the comparative review of the international research and literature on planning for affordable housing. We have introduced the planning system as a framework for managing the competing public objectives and private interests associated with urban development, including the need for environmental protection, economic growth and social equity. Equitable access to affordable housing is a central urban planning goal, and the urban planning process ensures both a necessary supply of infrastructure and a climate of certainty needed to support investment in residential development. Some aspects of the planning system have the potential to undermine affordable housing objectives, however. Specific planning approaches need to be designed to offset negative impacts of the planning and urban development process on affordable housing, and to generate additional affordable housing opportunities. We have classified such approaches in

generic terms across a spectrum of strategies to protect, promote, and directly provide new affordable housing through the planning process. Chapters three and four look in greater detail at the existing research and evidence regarding the implementation of these approaches within specific planning jurisdictions in Australia, North America, the United Kingdom, Ireland and the Netherlands.

### **3 PLANNING FOR AFFORDABLE HOUSING IN AUSTRALIA**

This chapter provides an overview of research and practice in planning for affordable housing in Australia. We begin by outlining the key features of the Australian urban planning system and the roles played by different levels of government. We then summarise the main State and local government planning initiatives to protect existing sources of low cost housing and to encourage or directly provide additional subsidised housing stock for low to moderate income earners. The four Australian jurisdictions examined in this research are New South Wales, Queensland, South Australia and Victoria. Compared to the international practice reviewed in this report, the overall extent to which local and state governments in Australia have addressed affordable housing objectives through planning mechanisms has been extremely limited. In recent years however, several isolated initiatives to generate new dedicated affordable housing supply through the planning process have been attempted within particular local government areas, and in a handful of major urban development sites around the country. In the third section of the chapter, we profile these schemes and compare available data on project outcomes. The final section of the chapter highlights key gaps in knowledge and policy development that need to be addressed in Australia to enhance and extend current practice.

#### **3.1 The urban planning system and housing in Australia**

Federal housing policy and the first *Commonwealth State Housing Agreement* (CSHA) in 1945 were the impetus for the earliest town and country planning schemes in Australia (Gleeson and Low 2000). Under the CSHA, loans from central government to the states for the construction of housing for low income families were made contingent upon each state developing legislation to control matters such as town and country planning and slum clearance (Gleeson and Low 2000, p.31). However, rapid population increases and the need for new housing exceeded expectations during the post war period, with urban areas soon expanding beyond the boundaries established by the early metropolitan planning schemes (Milligan 2003). This pattern of growth soon positioned the private sector as the main initiator of development in Australia, with the public sector relegated to a passive facilitation role (Berry 1988, Burke *et al.* 1990, Neutze 1981). While the private sector proved very effective in producing an adequate supply of housing over the 1950s and 60s, its dominance in the development process made the redistribution of development gains for community benefit more difficult (Milligan 2003, p.92).

Consequently, since the establishment of the first CSHA, the role of the Commonwealth government in relation to urban planning and policy has been relatively indirect. Exceptions include the establishment of the short lived Department of Urban and Regional Development (DURD) by the Whitlam Government in 1972 and a series of projects under the Hawke/Keating Governments in the mid 1980s and 1990s.

During its brief period of operation, the DURD intervened to protect two suburbs of privately owned low cost housing at risk of gentrification: Glebe in Sydney and Emerald Hill in Melbourne. The fact that very little low cost housing remains in the surrounding suburbs today underscores the foresight of this intervention (Milligan 2003). DURD also provided funding advances to the States to enable them to establish government land agencies. The resulting Land Commissions were to acquire land banks that could be used to help stabilise land prices and discourage land speculation. The Land Commissions had a considerable influence on housing supply during their peak period of operation in the 1970s, when it is estimated that their activities amounted to between 10-15 per cent of total development (Milligan 2003 drawing on Bramley 1997). However, they were found to have only a small impact on housing affordability on the urban fringe and for the most part did not impact on the price of land for social housing

development. Today the Land Commissions survive as commercial development agencies within four state governments but their activities no longer include a strong affordability focus.

Over the same period of time, concerns about the costs of housing production were aired at the national level through a Committee of Inquiry into the Cost of Housing (Eyers 1978). Since then there have been periodic debates in Australia regarding the impacts of the planning system on housing production. Research conducted for the National Housing Strategy in the early 1990s focussed attention on systemic weaknesses in the planning process in Australia including “arbitrary, excessive and parochial” planning requirements, a lack of long term planning for land supply, unnecessary delays associated with development approval, and the potential impacts of development contributions for infrastructure on housing affordability (Purdon and Burke 1991, p.32). These issues were revisited early this century by the Productivity Commission Inquiry on First Home Ownership, which recommended that States continue to reduce systemic inefficiencies in planning processes (Productivity Commission 2004).

### *3.1.1 Urban planning framework*

The Australian States and Territories have responsibility for the legal framework governing urban policy and land use planning in Australia. These state legislative frameworks (often described as “enabling frameworks”) establish the parameters for strategic urban and regional planning, including the range of matters that can be addressed by statutory land use plans, the processes by which these plans must be prepared and the matters that must be considered when developments are assessed.

Much of the responsibility for detailed strategic planning and development assessment within a particular local government area is delegated to local councils, although the degree of local government planning responsibility differs in each State and Territory. The term “planning authority” is often used in Australia to refer to the organisation responsible for setting the statutory development controls and assessing proposals in relation to a particular place or development. While in most cases, local councils are the relevant planning authority for development within their local government area boundary, state governments are also increasingly intervening in the preparation of strategic plans for significant new urban areas and in the assessment of major projects.

### *3.1.2 State initiatives*

Most of the Australian States and Territories have introduced major planning reform over the past eight years, with the objective of achieving greater operational efficiency in the planning system. While these reforms have not directly focussed on housing affordability, reducing complexity in planning regulation and streamlining approval processes are widely regarded as reducing the costs associated with development, and thus the price of housing. Nevertheless, the relative success of these reform processes within the various Australian planning jurisdictions is debatable, and their impact on housing outcomes, if any, is difficult to measure in the absence of baseline data about planning regulation. In the United States housing researchers now point to the need for a much deeper understanding of local and state planning controls as a basis for evaluating the connections between the planning system and affordable housing outcomes (Quigley and Rosenthal 2005)).

#### **State planning legislation for affordable housing: New South Wales**

Of all of the Australian States, New South Wales has developed the most comprehensive range of legislation and planning policies for affordable housing. The overall objectives of planning legislation in NSW (contained in the *NSW Environmental Planning and Assessment Act 1979 (EPAA 1979)*) refer to the promotion and retention of affordable housing (s5(a)(viii)), and the Act permits environmental planning instruments to include arrangements for “providing, maintaining and retaining, and

regulating any matter relating to, affordable housing” (s26(d)). These provisions were introduced in 1999 and 2000, following legal challenge to an affordable housing scheme operating in the urban regeneration area of Green Square, in Sydney (discussed further below) (Williams 2005). When assessing a development application in New South Wales, a planning authority must consider “the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality” (s79C). Such impacts could include the social impacts of development likely to reduce opportunities for low cost housing. In addition, provisions introduced in 2005 enable planning authorities to enter into planning agreements with developers to collect contributions for any public purpose, including “the provision of (or the recoupment of the cost of providing) affordable housing” (s93F(2)(b)).

As well as the overarching *EPAA 1979*, legally enforceable State Environmental Planning Policies (SEPPs) and planning directions (under s 117 of the *EPAA 1979*) are designed to:

- promote the stock of privately supplied accommodation options for the aged and those with special needs (*State Environmental Planning Policy: Seniors Living (2004)*, and its predecessor *SEPP 5: Older Persons Housing*, and *SEPP 9: Group Homes*);
- protect existing supplies of affordable housing by requiring State government concurrence for the demolition, alteration or change the use of a boarding house or strata-subdivide a low cost residential flat building or boarding house (*SEPP 10: Retention of Low Cost Rental Accommodation*);
- overcome barriers to the development of manufactured homes on appropriately located sites (*SEPP 36: Manufactured Home Estates*) and preserve existing land use zones that permit caravan parks (Direction No. 18: *Manufactured Home Estates and Caravan Parks*);
- maintain the existing density of residential zones, and preserve existing sources of residential land (Direction No. 21: *Residential Zones*);
- incorporate affordability considerations alongside other design factors in residential flat development (*SEPP 65: Design Quality of Residential Flat Development*) (introduced in 2002); and,
- enable local councils to require compulsory developer contributions for affordable housing under certain, tightly proscribed, circumstances (*SEPP 70: Affordable Housing (Revised Schemes)*) (introduced in 2002).

With the exception of the final two SEPPs, which were introduced in 2002, these housing policies or their previous iterations date from the late 1980s to mid 1990s. Further research is needed to assess the overall impact of these provisions for affordable housing in New South Wales, although studies relating to particular mechanisms, such as those designed to protect low cost accommodation, suggest a number of implementation difficulties in practice (Greenhalgh *et al.* 2004). Further, the introduction under the *EPAA 1979* (s93(F)) of provisions for planning agreements has opened up a new avenue for affordable housing development in this State, which has not yet been reviewed.

## **Queensland**

In Queensland, the *Integrated Planning Act 1997* (IPA 1997) seeks to achieve “ecological sustainability”, which includes the “maintenance of the cultural, economical, physical and social wellbeing of people and communities” (S1.3.3). The Act stipulates that this includes the creation and maintenance of “well-serviced communities within affordable, efficient, safe and sustainable development” (s1.3.6(c)). To achieve this objective, the Queensland Department of Housing encourages local councils to use

more flexible development assessment provisions under the *IPA 1997* and to promote higher residential densities in the form of attached dwellings and apartments. This is intended to reduce costs associated with development approval and thus make such dwelling forms more affordable (DOH 2003, 5.4). The Queensland Department of Housing and Brisbane City Council, in conjunction with increased flexibility within the development process are continuing to explore options relating to the protection, retention, and production of affordable housing, potentially including statutory covenants on title and management plans with private developers. Although statutory covenants were originally intended to support the development of low or medium cost housing in particular developments approved under the *Integrated Planning Act 1997*, their implementation in practice has proved problematic.

On 29 January 2007 a State Planning Policy for Housing and Residential Development, came into effect. The policy sets out the State Government's objectives for housing, which are to be implemented through local planning schemes consistent with the existing and future needs of communities. A key aim is for larger, higher growth local governments to identify the housing needs of their communities, removing barriers and provide opportunities for housing options through their planning schemes (Queensland Department of Housing 2007).

### **Victoria**

The *Planning and Environment Act 1987* (PEA 1987) governs the planning system in Victoria. While this Act makes no specific provisions for affordable housing, when assessing a development, there is a discretionary provision for planning authorities to consider "any significant social and economic effects of the use or development", "if the circumstances appear to so require" (s60(b)). In some cases this discretionary provision has been extended to the consideration of impacts of developments on affordable housing (Gurran 2003, p.31). Additionally, the Victorian State Planning Policy Framework was amended in October 2006 to include a specific objective relating to the delivery of "more affordable housing closer to jobs, transport and services" (c16.05-1). This is to be achieved by:

- "Ensuring land supply continues to be sufficient to meet demand.
- Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.
- Promoting good housing and urban design to minimise negative environmental impacts and keep down costs for residents and the wider community". (c16.05-2).

The policy also aims to increase the supply of well-located affordable housing by:

- "Encouraging a significant proportion of new development, including development at activity centres and strategic development sites, to be affordable for households on low to moderate incomes.
- Facilitating a mix of private, affordable and social housing in activity centres, strategic redevelopment sites and Transit Cities projects.
- Ensuring the redevelopment and renewal of public housing stock better meets community needs ". (c16.05-2).

These policies are to be implemented by their inclusion within local planning schemes, which may then include locally specific strategies for affordable housing.

### **South Australia**

The current South Australian Government has indicated a strong commitment to pursuing affordable housing objectives through the planning system. For instance, The Housing Plan for South Australia and Planning Strategy includes a target of achieving 15 per cent affordable housing, including five per cent high need housing within all new

developments, although amendments to current planning legislation may be needed to implement this goal (Government of South Australia 2005, p.17). The *Development Act 1993* governs plan making and development assessment in South Australia. There are no specific provisions within this Act relating to affordable housing, and the Act does not directly require planning authorities to consider social impacts, including affordable housing, when assessing development. However, strategic plans and development plans are required to consider targets set out in the Planning Strategy, including affordable housing. *The Affordable Housing Statutes Amendment Bill 2006* will make this explicit with references to affordable housing, if passed, in the Development Act.

### 3.1.3 Metropolitan and regional plans

In addition to State planning legislation, regional and metropolitan planning strategies prepared by State governments present an opportunity to articulate and promote affordable housing policies. In NSW, the Sydney Metropolitan Strategy (2005-2030) contains a number of housing objectives and actions relevant to planning for affordable housing, and requires councils to undertake a housing market demand and supply analysis to guide the preparation of local plans, taking into account the needs of an ageing population, changing demographics and household formation, housing affordability, adequacy of supply, development economics and market trends.

The South East Queensland Regional Plan (2005-2026) includes policies to:

- “Encourage all major new development and redevelopment to incorporate affordable housing, including appropriate housing for the entry buyer and low-income housing markets.
- Consider measures for providing and retaining affordable housing in Local Growth Management Strategies.
- Consider affordable housing in decisions on the disposal or redevelopment of government property and surplus land.
- Monitor housing prices, land availability and other factors which affect housing costs as part of an annual land monitoring program.” (OUM 2005, p. 8.4.2-6)

The metropolitan strategy for Melbourne, Melbourne 2030: Planning for Sustainable Growth (DOI 2002), contains a commitment to “a fairer city”, including the supply of well located affordable housing, and more equitable distribution of social infrastructure (Policy 6.1). To this end, initiatives outlined in the strategy include monitoring supply and demand for affordable housing at local and regional levels, and disseminating examples of best practice in affordable housing provision (6.1.1); increasing the supply of affordable housing through joint programs with the Regional Land Corporation, the Office of Housing, local councils and non government organisations (6.1.2); and, a commitment to “change the policy that governs the disposal of government land and buildings to best use rather than the highest price achievable, and base the policy on responsible criteria” (6.1.7).

In South Australia, the Planning Strategy for Metropolitan Adelaide supports the South Australian Housing Plan targets of 15 per cent affordable housing within new areas including a five per cent component for high need housing, in all significant new housing developments (Government of South Australia 2006, p.82). Policies seek to:

- “Ensure that well-located and serviced land is made available for affordable housing, particularly for social housing agencies; include consideration of affordable housing objectives in State and Local Government land disposals.
- Facilitate opportunities for innovation and best practice to develop affordable and high needs housing which incorporates principles of universal design and energy efficiency and enhances neighbourhoods.

- Ensure that zoning promotes housing choice and encourages the inclusion of a range of affordable and high need housing, in terms of size, style and density, in areas accessible to public transport and close to employment opportunities, appropriate services and activity centres.
- Create flexible planning environments in relation to density for development proposals that meet the 15 per cent affordable housing target in appropriate locations.
- Ensure that areas identified in the Residential Metropolitan Development Program for redevelopment and regeneration address the potential impact on the supply of affordable and high need housing.
- Explore financial models to raise funds for affordable housing.” (Government of South Australia 2006, p. 82)

The ways in which State planning frameworks impact on planning for affordable housing considerations will be discussed further in the context of the case study projects presented in the final report.

#### 3.1.4 Local planning approaches to affordable housing in Australia

A growing number of local councils in Australia have used their available planning powers to proactively protect and/or promote affordable housing (Gurran 2003, Squires and Gurran 2005). In broad terms these initiatives can be grouped as:

- *Approaches to increase the supply of land zoned for housing purposes, particularly for higher density residential development, in inner urban and in outer metropolitan areas:* A study of metropolitan councils in NSW, Queensland and Victoria (Gurran 2003) found that this was the most common local planning response to housing affordability.
- *Amendments to the objectives of planning instruments to promote affordable housing goals, reinforced by decision making criteria requiring a consent authority to consider affordable housing issues when assessing a development.* Recent work suggests that the use of this approach is growing (Gurran 2003, Milligan et al. 2004, Shelter NSW 2004, Squires and Gurran 2005).
- *Encouraging or permitting lower costs forms of housing such as shop top housing, boarding houses, and manufactured homes* (Gurran 2003, Gurran 2005).
- *Encouraging or permitting residential conversions to include additional low cost housing forms, such as “granny flats”, “garden flats” or “accessory dwellings”* (Gurran 2005, Squires and Gurran 2005).
- *Attempting to protect existing sources of housing like caravan parks and low cost rented flats and boarding houses* (Gurran 2005, Squires and Gurran 2005): These measures essentially rely on a social impact analysis that is triggered by a development proposal. If the proposal is approved, strategies to offset or mitigate their impacts for existing low income residents are usually required (for instance, assistance with relocation).

Comprehensive research quantifying the extent to which Australian local planning instruments address affordable housing is lacking in this rapidly changing policy field. However, a study of planning approaches to housing affordability within Australia’s 143 coastal councils found that about a quarter (36) had developed a planning policy or instrument to protect or maintain housing affordability within their area (see Table 1) (Squires and Gurran 2005). The majority of these are councils facing rapid population growth associated with lifestyle migration (described as the “sea change” phenomenon).

**Table 1: Planning for affordable housing in Australia's non-metropolitan coastal communities**

<i>Approach</i>	<i>No. of Councils*</i>
Affordable housing strategy (current or being prepared)	11
Planning instrument contains general aim to promote affordable housing through diversity in dwelling types or lot sizes	19
Planning instrument promotes affordable housing by permitting conversion of existing housing for seniors / dependents (e.g., 'granny' flats etc).	4
Planning instrument protects or promotes caravan parks as a form of long-term affordable accommodation	3
Planning instrument requires assessment / mitigation of impacts on low-cost accommodation	5
Planning instrument offers incentives for the production of new affordable housing (e.g., Newcastle Development Control Plan 40: City West; Wollongong Development Control Plan No.9 Residential Standards; Augusta-Margaret River Structure Plan 2005)	3
Planning instrument encourages facilitation of social housing stock (e.g., Byron Development Control Plan Part 3: Residential Development; Ballina Local Environment Plan 1987)	2
Planning instrument aims to provide affordable accommodation for local employees (e.g., Hinchinbrook Draft Planning Scheme 2004; Robe Development Plan (Draft Amendment) 2003).	2

\* The total number of council areas in this table does not equal the total number found to contain existing or proposed policies aimed at addressing the affordability (36) as some council areas have more than one approach.

Source: Squires and Gurran 2005, p. 11

### **3.2 Specific initiatives to generate new affordable housing supply through the planning system in Australia**

Initiatives to generate new subsidised affordable housing supply through the planning system have been very limited in Australia, due in a large part to constraints within State planning legislation (Gurran 2003, Milligan *et al.* 2004, Gurran 2005). Thus the initiatives that have emerged reflect a particular combination of local circumstances and opportunities. As it is difficult to generalise meaningfully across this limited practice, we outline each of the main initiatives in turn, beginning with initiatives in New South Wales.

#### *3.2.1 Voluntary incentive scheme: Waverley Council, NSW*

Waverley Council in an established urban area in the Eastern suburbs of Sydney offers developers the opportunity to take up a voluntary density bonus if they provide affordable housing as part of a residential development. The bonus mechanism is defined through the main local planning scheme (*Waverley Local Environmental Plan 1996*) and the detail contained in a supporting instrument (*Development Control Plan 1: Multi-Unit Housing*). The density bonus is restricted to 15 per cent above the base standard floor space ratio within the defined area in which the bonus may apply, and the projected profit associated with the increased yield shared on a fifty-fifty basis with the Council according to a prescribed formula. Council's share may be provided as a one off monetary contribution to Council's Housing Reserve and/or the transfer of individual dwelling units within the development to Council. The units may be transferred in perpetuity or leased to Council at below market rates (rent capped) for a specified period of time. Once procured, the units are managed by a non-profit community housing organisation on behalf of Council. Since the inception of the scheme in 1999 Waverley Council has procured 27 properties, of which 13 are owned

in perpetuity and 14 are rent capped. The estimated value of the properties is approximately \$7million (Durham forthcoming, Milligan *et al.*, 2004).

### 3.2.2 *Mandatory developer contributions: City West, NSW*

The City West region in inner Sydney includes many former industrial and port areas now undergoing a process of intense urban renewal. This process commenced in 1991 with the preparation of the City West Regional Environmental Study by the then Department of Planning (DOP 1991). As the area had traditionally provided a source of low cost accommodation, the need to include an affordable housing component as part of the significant increase in new residential development anticipated for the area was recognised. In mid 1992 a City West Affordable Housing Committee was established to investigate how affordable housing might best be implemented in the precincts of Pyrmont/Ultimo. Together with the advent of the Commonwealth's Building Better Cities (BBC) Program in 1991 which included an objective to promote more affordable housing, this process resulted in the City West Affordable Housing Program. That program proposed the inclusion of up to 600 units of affordable housing for renting to a mix of very low, low and moderate-income households in the area, with funding through the Commonwealth's BBC Program, state government contributions from a share of revenue from land sales in the area, and development contributions mandated under the main planning instrument that was proclaimed for the area (*Sydney Regional Environmental Plan 26 (SREP 26)*). Under SREP 26 developer contributions (.8 per cent of residential development in the area and 1.1 per cent of commercial development) can be provided either on-site as part of a larger development or, as has occurred to date, as cash-in-lieu (then pooled with other contributions to provide for purpose-built affordable housing elsewhere in the precinct) (Williams 2005). The housing is developed and managed by the dedicated not for profit housing company City West Housing Pty Ltd (CWH). To date CWH has delivered a total of 365 affordable housing units in Ultimo/Pyrmont, housing over 900 people. A further 81 units are currently under construction with completion planned for mid 2007 (Durham, forthcoming, Milligan *et al.* 2004, Williams 2000).

### 3.2.3 *Inclusionary zoning: Green Square, NSW*

In February 1999 the former South Sydney Council introduced inclusionary zoning provisions for its "Green Square" urban renewal project in inner Sydney. The provisions were initially signalled through a development control plan (having the status of guiding policy) but later approved by the then Minister for Planning and included within the main statutory instrument for the area (the South Sydney Local Environmental Plan 1998). The provisions required that a proportion of all development within designated mixed use zones contribute to affordable housing. However, the provisions were successfully challenged in the NSW Land and Environment Court by one of the main developers within the area (Meriton Apartments). The Court agreed with the applicant that "affordable housing" was not a valid objective for a planning instrument under the *NSW Environmental Planning and Assessment Act 1979* and found that a requirement to contribute to affordable housing was not within the existing framework for compulsory development contributions (under s94 of the Act), and constituted an unreasonable interference with private property rights (*Meriton Apartments Pty Ltd v. Minister for Urban Affairs and Planning and South Sydney City Council*, LEC No. 40149 of 1999; Williams 2005). The Court rendered the entire Local Environmental Plan and supporting Development Control Plan for the site invalid, meaning that the site reverted back to its former combination of industrial uses.

To enable the passage of new plans for the site, including the proposals for broader rezoning for urban renewal and the compulsory affordable housing contributions, two amendments to the EPAA 1979 were passed in 1999 and 2000 (Williams 2005). These amendments inserted affordable housing as a legitimate objective under the Act, and temporarily validated existing affordable housing provisions in environmental

planning instruments. A new *State Environmental Planning Policy (SEPP) 70, Affordable Housing (Revised Schemes)* was then introduced to set out the parameters within which contributions for affordable housing may be compulsory in New South Wales. This SEPP validated existing affordable housing provisions contained within the City West, Green Square and Willoughby planning instruments (discussed below), but was intended to be an interim measure until a more comprehensive approach to affordable housing could be developed (Williams 2005, p. 17). The current *SEPP 70* leaves open the possibility that additional affordable housing schemes may be established in New South Wales, although none that have been submitted to date have been approved by the State Government.

In the case of Green Square, current provisions now require that three per cent of floor area intended to be used exclusively for residential purposes, and one per cent of floor area intended for other than residential purposes (or a cash equivalent), be dedicated for affordable housing within the Green Square area. City West Housing is the management authority for affordable housing funds and dwellings generated in Green Square, which is expected to total approximately 330 affordable housing units over the next 20 – 30 years.

CWH currently manages a stock of 16 units within the Victoria Park development precinct of Green Square. Additionally CWH has used development contributions yielded through the scheme to purchase a site on which a further 30 units and one commercial space will be developed by July 2007. CWH is also currently negotiating the purchase of a further site which would yield up to 55 units bringing the total affordable units managed by CWH in Green Square to approximately 101 units. Development of affordable housing in Green Square is mainly dependent on funding received through the inclusionary planning instrument, but the State Government provided an initial \$1 million to enable CWH to enter the market and acquire sites before land values increased prohibitively. Over a period of strong market activity, development contributions have amounted to approximately \$29 million to date (Durham, forthcoming). Nevertheless, CWH has found it difficult to compete in this buoyant market for access to development sites. Had part of the area been dedicated for affordable housing, or had contributions been required to be provided on site, access to land for affordable housing development would have been secured even over a period of intense market activity.

#### *3.2.4 Mandatory development contributions: Willoughby Council, NSW*

Willoughby council in Sydney's inner north has a mandatory scheme to collect developer contributions for affordable housing when a residential rezoning is approved. The scheme is enforced through the main planning instrument (*Willoughby Local Environmental Plan 1995*), which requires that four per cent of total floor space of a development on identified sites which are rezoned for residential purposes be dedicated to affordable housing. Contributions can be provided on site or as a cash equivalent. The policy provides that affordable housing units constructed must be of a similar standard to other dwellings in the local government area, and the title of these units is retained by Council and the dwellings are managed by a community housing organisation. The scheme is supported by the Willoughby Local Housing Program (articulated in the Willoughby Development Control Plan). As at August 2006 the Willoughby program had resulted in 10 affordable units, which were all provided as part of a single development (Durham, forthcoming, Milligan *et al.* 2004).

#### *3.2.5 Negotiated planning agreement: Ropes Crossing, NSW*

The former Australian Defence Industries (ADI) site in the outer western Sydney suburb of St Mary's provides an example of the negotiated planning agreement approach to securing affordable housing contributions. In 2001 the State government granted approval for the development of homes, businesses and a regional park on the 1,545 hectare site, contingent on a requirement for three per cent of residential lots on

the site to be provided for affordable housing. As at this time planning agreements were not covered under State planning legislation in New South Wales, the affordable housing component was to be enforced as a condition of purchase and the developer would be required to enter into a contractual deed to this effect. Delfin Lend Lease (DLL) won the tender in 2004 and development commenced in December of that year. The agreement stipulates that the NSW Land & Housing Corporation (the NSW Department of Housing) is to act as nominee for the transfer of affordable housing lots whilst the Centre for Affordable Housing (within the NSW Department of Housing) is to act as agent for the Minister for Planning to develop an affordable housing strategy for delivery and management of housing on the site. As the agreement is for the delivery of lots, not dwellings, finance still needs to be found for construction. To this end cash-in-lieu payments may be negotiated, or the NSW Department of Housing may accept and then sell some lots with proceeds used for affordable housing on site. Development will be staged over five precincts over 10-15 years and result in approximately 5,000 dwellings of mixed types and sizes, with the equivalent of 150 of the lots produced for affordable housing (Durham, forthcoming).

### *3.2.6 Negotiated master planning process: Balfours/Bus Station Project, South Australia*

In 2003 Adelaide City Council offered an inner city site (known as the “Balfours/Bus Station” Project) for sale and redevelopment through a competitive registration of interest (ROI) process. The ROI Memorandum called for a major residential infill development incorporating quality public realm, a redevelopment of the existing bus station, replacement car parking and a requirement for 15 per cent affordable housing on site. In December 2003 Council selected the West Central consortium (Urban Construct/Multiplex) as the preferred developer. The West Central consortium concept comprised some 1,300 dwellings with affordable housing making up 28 per cent of the total. The final plan for the site, the amount of affordable housing, and the way in which it will be provided, is yet to be finalised although work has commenced on stage one of the project (the redevelopment of the bus station itself) (Durham, forthcoming).

A similar ROI process has been used by the State government to secure 15 per cent affordable housing for developments in the Northgate (stage 3) and Seaford Meadows areas of Adelaide. In South Australia, the Land Management Corporation, which is the State Government’s vehicle for land development, holds more than 90 per cent of the broadacre land over 10 hectares and therefore has some leverage in the market (Durham, forthcoming).

### *3.2.7 Evaluating outcomes*

Evaluating the outcomes of affordable housing projects is difficult since each project is situated within a unique development context, and designed to deliver a unique combination of outputs over time, ranging from the provision of dedicated affordable housing units held in perpetuity and financed solely through the planning process, through to the temporary set aside of affordable units at a fixed rent, and the pairing of contributions yielded through incentives in the planning process with other government subsidies. It is also important to distinguish between the operation of a particular mechanism per se from the policy decisions regarding its design within a specific context.

**Table 2: Summary of selected planning initiatives to produce dedicated affordable housing in Australia 1999-2006**

<i>Type</i>	<i>Location</i>	<i>Outputs</i>	<i>Additional Subsidy</i>
Voluntary (incentive)	Waverley Local Government Area, NSW	27 units (since 1999) 13 in perpetuity, 14 rent capped	-
Mandatory development contribution	City West (Pyrmont/Ultimo, NSW)	365 Units since 1999 81 under construction anticipated 600 over 20-30 year period \$14m in developer contributions (April 2003)	BBC - \$50m NSW Govt. land sales revenue (\$7.3m to end 2002/03)
	Green Square, NSW	Approx \$29 million in developer contributions (2000 – 2006) 16 current units 30 in construction 55 prospective units anticipated 330 over next 20-30 years	\$1.3 million state government grant
Negotiated planning agreements	Willoughby Local Government Area NSW	10 units since 1999	
	Ropes Crossing (ADI Site), St Marys Sydney	Anticipated 150 residential lots (of 5000)	
	Balfours / Bus Project	To be finalised – target is 15 per cent	Adelaide City Council land sold through competitive Registration of Interest

Source: Derived from Durham (forthcoming); Milligan *et al.* 2004

As shown in Table 2 above, of these projects, by far the most substantial prospective output in proportional terms is the Balfours/Bus Station project, which has an ambitious target for 15 per cent of new dwellings to be dedicated affordable housing stock. Such an approach has been possible because the Adelaide City Council held control over the both conditions of the land sale and development approval. Clearly the affordable housing requirement affected the overall purchase price of the land but because this stipulation was made prior to the sale, it was able to be taken into account, ensuring the project retained viability. The example illustrates the substantial leverage able to be achieved when planning requirements for affordable housing are known up front, and particularly if any financial burden associated with lower land values are able to be absorbed by a public authority. This approach – effectively pricing land at its residual value once the affordable housing requirement is taken into account – underpins the system that has been traditionally used to achieve affordable housing in the Netherlands, discussed in the following chapter. By contrast to the Balfours/Bus Station example, it is notable that only three per cent of housing could be negotiated for affordable purposes within the St Mary's ADI site in Sydney.

The mandatory requirements in the two City West urban renewal areas of Ultimo/Pyrmont and Green Square are resulting in a steady accumulation of good quality new affordable housing units that are well integrated into their neighbourhood. The substantial initial subsidy provided to City West for the Ultimo/Pyrmont area has clearly enabled this program to achieve a far higher yield than would have been possible under existing requirements for developer contributions alone (by enabling City West to enter the market before prices rose substantially). Further, the current

strength of the development climate within these two urban renewal areas has been a major factor in the growth of these affordable housing programs. They demonstrate that even a relatively small private sector contribution towards affordable housing (three per cent in the case of Green Square) can result in a substantial accumulation of funding (\$29 million) under a favourable market scenario. Yet under the same climate actually accessing land for development can be difficult unless there are provisions for affordable housing contributions to be made on site.

Finally, opportunities to accumulate resources for affordable housing (in cash or kind) through planning contributions are clearly more limited within established areas such as Waverly and Willoughby, where development and redevelopment potential is constrained. Here the constraints arise both from lower levels of development activity, resulting in fewer opportunities for contributions to be collected, and limited opportunities for the planning scheme variances needed to offset the affordable housing contribution.

### **3.3 Knowledge gaps and policy development priorities for Australia**

Despite the limited experience in planning for affordable housing in Australia, recent changes in State and local policies and planning legislation have provided new opportunities, as shown in this chapter. New approaches are emerging at regional and local levels in New South Wales and Queensland, and through State and local partnerships in Victoria and South Australia. For instance, as noted above, the legislative provisions for planning agreements in New South Wales now offer a formal mechanism for local councils to seek contributions from developers for affordable housing. A number of local councils in New South Wales (such as Randwick, Canada Bay and Leichhardt) have established or are establishing new policy frameworks to utilise this approach. There is a need to understand these emerging approaches and their potential for replication elsewhere. In Victoria, the metropolitan regional planning framework has created a new impetus to plan for affordable housing, signalling the potential to extend the work already achieved by councils with established housing strategies, such as the City of Port Phillip. The recent examples of negotiated agreements for affordable housing contributions in South Australia appear to represent important new models for consideration within other urban renewal and greenfield development contexts, particularly where the land is in public ownership or a significant rezoning is required.

In examining both established and emerging initiatives it is important to develop a clearer understanding of the sorts of policy and planning frameworks and mechanisms needed to replicate these initiatives within other Australian contexts, and to identify the existing legislative barriers or opportunities to support this process. A greater understanding of the existing and potential relationships between subsidies for affordable housing and contributions yielded through the planning process is needed to ensure that planning targets for affordable housing inclusion relate both to need and to project viability. Further knowledge about the design of planning mechanisms is critical, particularly the potential impacts (if any) of different approaches (such as compulsory affordability contributions) on the broader housing market and the cost of housing production. Some of these issues will now be addressed in our review of international practice.

## **4 PLANNING FOR AFFORDABLE HOUSING: INTERNATIONAL PRACTICE**

This chapter reviews the existing research and literature on approaches to planning for affordable housing within the United Kingdom, Ireland, the United States, Canada and the Netherlands. Presented first are the Anglo/American cases of the United Kingdom, Ireland, the United States and Canada, for these have the closest parallels to Australia in terms of housing policy directions and planning frameworks. We begin with the United Kingdom, where the long established approach to securing affordable housing through the planning process, particularly in England, offers many potential insights for Australia. By contrast, planning mechanisms for affordable housing have only just been introduced in neighbouring Ireland and this recent implementation experience may be more analogous to that of many planning jurisdictions in Australia. We then turn to the United States and Canada, where there is a marked diversity of approaches to planning for affordable housing. Evaluative research on these approaches provides a substantial body of information about the relative strengths and weaknesses of different planning tools that may be considered for particular urban and regional contexts in Australia. A sharp comparison is then drawn with the case of the Netherlands, where housing and planning policies have been closely entwined at national and local government levels, and various planning and development levers have been used in conjunction with national subsidies to achieve a large, income mixed and financially robust social housing sector.

### **4.1 The United Kingdom**

There is a long connection between housing assistance policy and the planning system in the United Kingdom. One of the most enduring roles of the planning system in the United Kingdom, and particularly in England, has been to secure land for housing development that might not otherwise be affordable to social housing providers. National planning policy since the late 1970s has contained mechanisms to enable local authorities in England to provide for affordable housing (Crook *et al.* 2002). This national framework for urban planning and for affordable housing policy has contributed to a relatively high level of consistency in approach to planning for affordable housing across multiple local jurisdictions. Research on planning for affordable housing in the United Kingdom has focused mainly on the development and implementation of approaches within England where affordable housing pressures, particularly in the rapidly growing South East, have been most intense. Key themes include: the efficiency and value of using the planning system to deliver new affordable housing supply (Crook *et al.* 2002, Whitehead *et al.* 2005); operational experiences, particularly local implementation of national and regional policy for affordable housing (DCLG 2002 and 2003, ERM 2003, Gallent *et al.* 2002, Short 2004); the relationship between planning approaches and other financial levers for affordable housing (Monk *et al.* 2005); and the impact of the planning system on housing supply and affordability more broadly (Barker 2004, Monk and Whitehead 1999).

#### 4.1.1 Urban planning framework in the United Kingdom

The traditional housing role of local government in the United Kingdom is to “predict and provide” (DCLG 2003). That is, local government has been responsible for assessing and predicting local housing need, particularly the need for affordable housing, and responding to this need directly through the provision of public housing managed by local housing authorities. Under national policy, this role is now changing to a “plan, monitor, and manage” approach (DCLG 2003)<sup>3</sup>. Local authorities must still undertake detailed and progressively more sophisticated analyses of local housing need, but now use their land use planning responsibilities and powers rather than responding directly to this need.

The national framework for planning in Britain is established by the *Town and Country Planning Act 1990* (TCPA 1990), as substantially amended by the *Planning and Compulsory Purchase Act 2004* (PCPA 2004). The *TCPA 1990* establishes the processes and mandatory considerations for plan making and development assessment. The system currently provides for a tiered process of planning:

- National level policies issued by central government;
- Regional and local level statutory development plans; and,
- Site level assessment of specific proposals (Barker 2006).

The system is described as a “plan-led” process, whereby regulations contained in land use plans prevail unless a “material consideration” (defined in central government policy) indicates otherwise (Barker 2006, p.28). In reality this means that each development is subject to a highly discretionary process of local deliberation.

The statutory development plan for an area is articulated through a “Regional Spatial Strategy” (or a “Strategic Development Strategy” in London) and a “Local Development Framework”, which contains a collection of planning documents and guidance prepared by district or unitary planning authorities (single tier administrations combining county and district functions). These local planning authorities are responsible for determining development applications, consisting of an outline application, often involving negotiation with professional planning staff, followed by a more detailed application considered by an elected local planning committee (Monk and Whitehead 1999, p.78).

#### 4.1.2 National planning policies

The British planning system makes provision for the promulgation of planning policy guidance notes, which are binding in England. In 1992, *Planning Policy Guidance 3: Housing* (PPG 3) established housing as a “material planning consideration” to be taken into account by local planning authorities when formulating development plan policies and deciding planning applications. The most recent version of the Guidance explicitly requires local planning authorities to “plan to meet the housing requirements of the whole community”, including those in need of affordable and special needs housing; to “provide wider housing opportunity and choice and a better mix in the size, type and location of housing than is currently available, and seek to create mixed communities”; and to “provide sufficient housing land” (PPG3, p.2). In addition to new residential land, affordable housing should be supplied on sites achieved by re-using “previously developed land within urban areas, bringing empty homes back into use and converting existing buildings” (PPG3, p.2).

The guidance also contains other policies relating to sustainable transport and urban design. Under PPG3, regional planning bodies are required to prepare draft regional

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<sup>3</sup> While local authorities currently retain responsibility for about 56% of the social housing sector in the United Kingdom, increasingly this is undertaken through arms length management organisations. The remaining 44% of social housing stock is now being delivered by Housing Associations, also known as “Registered Social Landlords” (RSLs) (2005 data from [http://www.communities.gov.uk/pub/7/Table101\\_id1156007.xls](http://www.communities.gov.uk/pub/7/Table101_id1156007.xls))

planning guidance, including targets for new housing supply with estimates of the balance between market and affordable housing. Local authorities are required to implement this regional planning guidance through their development plans.

More detailed information to assist local planning authorities in preparing plan policies and handling planning applications relating to affordable housing is provided in the national *Circular 06/98: Planning and Affordable Housing*. The circular encourages authorities to involve both housing and planning committees in preparing local plans to address affordable housing. The Circular notes that planning policy should not favour any particular form of tenure for affordable housing, which should “encompass both low-cost market and subsidised housing (irrespective of tenure, ownership – whether exclusive or shared – or financial arrangements) that will be available to people who cannot afford to rent or buy houses generally available on the open market” (Circular 06/98, 4.). Under the Circular, local plans for affordable housing should be based on a sound assessment of housing need, including factors like: “local market house prices and rents, local incomes, the supply and suitability of existing local affordable housing (including both subsidised and low-cost market housing), the size and type of local households, and the types of housing best suited to meeting these local needs” (Circular 06/98, 6.).

Where this assessment demonstrates a lack of affordable housing to meet local needs, local plans should include “a policy for seeking an element of affordable housing on suitable sites”; indicate “how many affordable homes need to be provided throughout the plan area, set indicative targets for specific suitable sites”; and express “the intention to negotiate with developers for the inclusion of an element of affordable housing on such sites (Circular 06/98, 9.a.). Note there is a difference here between the overall targets for addressing identified need for affordable housing within a particular area, and the extent to which specific sites may be able to contribute to meeting this need. The latter is ultimately determined through negotiation with developers, taking into account the market viability of specific proposals (including any amount of additional subsidy that may be available).

#### 4.1.3 *Planning mechanisms for affordable housing*

There are two main mechanisms for planning authorities to implement these affordable housing policies:

- Negotiating with developers for affordable housing contributions under s106 of the TCPA 1990, often described as the “planning gains mechanism”, because it provides a basis for recouping some of the profit to private developers arising from the value of planning approval and public infrastructure (without being a strict “betterment tax” per se); and,
- Permitting developers to use the “rural exceptions mechanism” which allows the development of small rural sites not otherwise available for the purposes of affordable housing (Gallent *et al.* 2002).

Section 106 of the TCPA 1990 enables local planning authorities to enter into an agreement relating to the use of land, including provisions for financial or other types of contributions made by the developer, before planning permission is granted. It is under this mechanism that contributions for affordable housing are currently sought. As noted above, under Circular 06/98, the planning authority must first demonstrate the need for affordable housing, specify targets to address this need, and identify specific sites on which contributions towards this affordable housing need will be sought. The Circular also prescribes thresholds for seeking contributions through this negotiated process. Currently the threshold stands at developments of 25 or more dwellings or residential sites of 1 hectare or more, with a lower threshold of 15 dwellings or 0.5 ha residential sites in Inner London, and flexibility in setting thresholds for rural areas with settlements of 3,000 people or fewer.

#### 4.1.4 The Barker Review

Alternatives to this lengthy and often uncertain process of negotiation for affordable housing have been foreshadowed as part of a broader government review of housing supply and the planning system in the United Kingdom (Barker 2004, 2006). The review process, initiated by the Office of the Deputy Prime Minister (ODPM) and being conducted by Kate Barker, consists of two key stages:

- A Review of Housing Supply (completed March 2004); and,
- A Review of Land Use Planning (interim report issued July 2006, final report pending).

The review process is intended to cover the United Kingdom as a whole, but the focus is on housing and planning policy in England (Barker 2004).

The Barker Review of Housing Supply sought to address the “lack of supply and responsiveness of housing in the United Kingdom” in the context of declining housing affordability (Barker 2004, p.3). Recommendations to improve the ways in which the planning system contributes to housing supply and affordability included:

- Achieving greater “certainty and speed, though not at the expense of making bad decisions” (Barker 2004, p.6);
- Taking the market into greater account, to respond to positive market opportunities and to offset market failures, for instance, in cases where low demand results in urban decay and concentrated social disadvantage; and,
- Reforms to the way in which contributions are sought for community infrastructure, including affordable housing.

The last recommendation is made in the context of an alternative mechanism to using s106 of the TCPA 1990 for infrastructure contributions. New provisions introduced within the PCPA 2004 included an opportunity for developers to pay voluntary contributions for community infrastructure, according to a set charge, as an alternative to the negotiated system (Crook and Whitehead 2004). This charge could include a component for affordable housing to be provided either on site as a contribution of land or housing, or as a financial payment. Additional legislation is needed to operationalise the tariff provision and this has not yet been enacted.

Rather than a set tariff, the Review of Housing Supply recommended that the Government consider measures to directly capture some of the “windfall gains” arising from large increases in land values from planning decisions through a special “Planning Gain Supplement”, which could also be applied to the provision of affordable housing (Barker 2004, Whitehead *et al.* 2005). To date this recommendation has not been taken up.

Resistance to the introduction of a flat levy for all affordable housing contributions is due to a perception that a site-by-site process of negotiation is needed to ensure the best overall outcome for specific developments (Crook *et al.* 2002). However, the use of the voluntary levy may be appropriate for small sites and for commercial development. Another possible mechanism is the introduction of a land use class for “affordable housing” that would be exempt from any type of planning obligation under s106, although to date this has been rejected in the United Kingdom as being too inflexible and unlikely to yield more affordable housing than the current approach (Crook *et al.* 2002).

A key issue is that neither a tariff or cash levy would ensure the availability of land on which to build affordable units:

“The element of certainty delivered by a set optional planning charge is appealing. However, if the charge were based on a financial contribution, to

deliver the current quantities of housing completed through s. 106 agreements would require land to be available upon which to develop affordable units. Allowing authorities to allocate land for affordable housing might alleviate the constraint, but any land would have to be in the right areas to achieve a similar contribution to mixed communities and the landowner must be willing to sell the land at this price.” (Whitehead *et al.* 2005, p.33)

Nevertheless, it appears likely that the tariff mechanism will soon be operationalised (Whitehead *et al.* 2005).

#### *4.1.5 Rural exceptions policy*

The “rural exceptions policy” for achieving affordable housing on sites where housing would not otherwise be permitted is set out in Annexure B to Planning Policy Guidance 3. The policy enables local authorities to grant planning permission for small sites, within or adjoining existing villages, which would otherwise not be able to be developed for housing. The authorities should “make clear that such sites would be released as an exception to normal policies for general housing provision in rural areas” to provide “affordable housing to meet local needs in perpetuity” (PPG3, Annexure B, 2.) The guidance emphasises the need to take full account of environmental considerations and ensure the style and character of housing is consistent with local building styles.

#### *4.1.6 Extent to which planning gain and rural exceptions mechanism are used*

The use of both of these tools is widespread across England. A national survey of local planning authorities found that 92 per cent of responding authorities refer to affordable housing in their development plans, and of the remaining, most have draft instruments that do (DCLG 2002). Such instruments usually contain thresholds for seeking affordable housing contributions (consistent with those set out in Circular 06/98) and target percentages for identified sites. Nevertheless, there are still many large areas of development land that are not subject to affordable housing contributions (Crook *et al.* 2002).

In seeking affordable housing contributions, to date the majority of local plans have focused on the delivery of social rental housing, in preference to other affordable housing tenures such as shared ownership or low cost home purchase. This is despite the fact that PPG 3 clearly establishes that planning policy should not favour a particular affordable housing tenure (DCLG 2002). However, development of these alternative models (particularly low cost home ownership) and housing targeted to “key workers” are likely to increase in the future due to developer preference and the ability to achieve a greater affordable housing yield for lower public subsidy.

#### *4.1.7 Non metropolitan areas*

While most rural authorities have policies in place to support the negotiation of developer contributions for affordable housing under s106 of the TCPA 1990, the actual use of this mechanism is often limited (Gallent *et al.* 2002). This is because housing sites in rural communities may not offer sufficient development value to support an affordable housing requirement. As national policy emphasises the need for new development to be situated within the footprint of existing urban areas, the large sites needed to justify a planning gain requirement may not be available in rural towns and villages (Gallent *et al.* 2002). There are also local political concerns that affordable housing requirements might depress important development opportunities, or provide accommodation for undesirable newcomers rather than address local housing needs (Gallent *et al.* 2002).

More use is made of the “rural exceptions policy” to permit affordable housing, with about 70% of rural authorities in England likely to use this mechanism (Gallent *et al.* 2002). However, the policy can create a climate of speculation, whereby landholders perceive a need for new housing and anticipate a future growth in land values. The

use of rural “enablers” to facilitate relationships between landholders, registered social landlords, and local authorities, has proved effective in securing “exceptions” sites (Gallent *et al.* 2002).

#### 4.1.8 Outcomes

Three elements are particularly important in evaluating the success of planning approaches for affordable housing in the United Kingdom:

- the amount of new affordable housing achieved;
- the relative appropriateness and efficiency of the planning system in comparison to other potential delivery models; and,
- the extent to which the objective of social mix has been achieved.

##### **Amount of new affordable housing achieved**

Local targets for the achievement of affordable housing through planning range from 15 per cent to 20 per cent of new supply (typically in the North and West of England) and up to 50 per cent in high growth areas of the South East (Short 2004). While the actual output is typically less than targets set, there has been a steady increase in the numbers of affordable housing units created through the planning process. In the early 1990s an estimated 10,000-12,000 affordable dwellings were being achieved per annum throughout the United Kingdom (Crook *et al.* 2002). By the late 1990s, this figure had increased to about 15,000 (Crook *et al.* 2002). In 2002, it was estimated that new affordable housing created through the planning process accounts for up to 10 per cent of new housing (Whitehead *et al.* 2002). Now over 40 per cent of affordable housing completions and acquisitions are through the planning system (Whitehead *et al.* 2005).

The current “planning gains” mechanism accounts for the majority of housing delivered through the planning system. In 2002/03, just under 12,600 affordable units generated through s106 contributions were completed in England, and another 23,700 received planning permission (Whitehead *et al.* 2005). The highest completions are in London, followed by the South East, and the smallest numbers of completions are in the North East. The majority of new affordable housing units are likely to be managed by a registered social landlord (75 per cent), with 18 per cent subject to shared ownership provisions and about six per cent provided through discounted market sale or low cost home ownership schemes.

##### **Relative appropriateness of planning mechanisms for affordable housing in the United Kingdom**

In assessing the relative appropriateness of using planning mechanisms to contribute to affordable housing delivery in the United Kingdom, it is important to recognise a key national policy ambiguity between the need for an adequate supply of residential land and the need to restrict the amount of land converted for new residential development. Essentially, national planning policy in the United Kingdom seeks a balance in allocating land for the development of new homes – aiming to ensure sufficient residential land to avoid the economic costs associated with a supply blockage, while avoiding the oversupply of land associated with environmental costs (Gallent 2005). By prioritising new residential development within existing urban areas and promoting the re-use of brownfield sites, PPG3 demonstrates how housing policy, including affordable housing, can be integrated with environmental goals. However, analyses of the implementation of this policy suggest that it is reducing potential affordable housing yield due to higher development costs and the difficulties of assembling large enough sites to trigger threshold contribution requirements (Crook and Whitehead 2002).

On the other hand, by permitting affordable housing on non urban lands, including Greenbelts, where such development would not otherwise be permitted, the “rural

exceptions policy” can be viewed as undermining environmental objectives. Recognising this, Annexure B to PPG 3 makes it clear that the policy “is essentially one of permitting very limited exceptions to established policies of restraint”... and this “exceptional release of land for low cost housing should take full account of environmental considerations. It is also of great importance that the style and character of such housing should be in keeping with its surroundings, and particularly with local building styles” (PPG 3, Annex B, 4.5.). The policy is also one of seeking to maximise potential social benefit associated with the decision to permit the utilisation of land that would not otherwise be available for affordable housing, by ensuring that the housing be reserved for local needs in perpetuity.

### **Relative efficiency of the planning system in the United Kingdom**

While the above figures demonstrate that the planning system is making a modest but increasing contribution to new affordable housing supply, overall provision of affordable housing is falling in the United Kingdom (Whitehead *et al.* 2005). A key question is whether the amount of affordable housing achieved through the planning system is additional to that which would be secured through traditional grant funding for social housing (under the Social Housing Grant). In other words, by using the planning system, can more affordable housing be achieved with a lower application of public subsidy?

The evidence to date suggests that very little of the affordable housing produced through the planning system can be regarded as additional to the sector in the United Kingdom (Whitehead *et al.* 2005). Several factors explain why so little additional output is being secured through the planning system. Firstly, the limited amount of developable land above threshold requirements coming forward, and the costs associated with remediating brownfield development sites, limit the amount of affordable housing contribution that can be sought (Crook *et al.* 2002). Secondly, the high land prices in areas of highest housing pressure mean that both large developer contributions and large amounts of subsidy are needed to achieve an affordable housing component. Lastly, lengthy and difficult negotiation processes often do not result in optimum outcomes for affordable housing (Crook *et al.* 2002).

If the planning system cannot replace traditional approaches to affordable housing provision through public subsidy, it can contribute to the sector by securing opportunities for affordable housing development that might not otherwise be available and that are integrated with market housing:

“What the developer contributions appear to do in the main is to reduce the cost of the land and/or houses down to levels that housing associations can afford in relation to the levels of Social Housing Grant normally available on such homes” (Crook and Whitehead 2004, p. 8)

A greater affordable housing yield may be achievable for lower subsidy models such as employee housing (Crook *et al.* 2002).

### **Does an affordable housing requirement reduce the market value of development and reduce yield?**

The possibility that the market value of some housing developments may be reduced by an affordable component has been canvassed in the United Kingdom, although empirical research on actual market impacts is lacking. If the market value of housing developments is reduced by an onsite affordable housing component, this would result in a lower overall contribution (Whitehead *et al.* 2005). At the very least, the nature of the market units produced may need to change to accommodate an affordable housing element. Ironically, this may contribute in some way to affordability objectives by lowering the cost of market housing. However, if the full gross development value of a market site was achieved, a higher contribution to subsidised affordable housing could be required, even if this contribution is provided off site. Despite this hypothetical

potential to maximise contributions, the preference in the United Kingdom remains to pursue contributions on site as a way of achieving social mix (Whitehead *et al.* 2005).

### **Social mix**

The use of the planning gains mechanism has made a significant contribution towards the integration of subsidised housing in new housing developments. This has largely been achieved by securing land for affordable housing in high value sites that would not otherwise be affordable to the sector, and by integrating provision of affordable units within the market development itself:

“On site provision was considered crucial in most areas as development land is scarce. Without onsite provision through s. 106 many interviewees believed local authorities would find it difficult to produce affordable housing and address housing need.” (Whitehead *et al.* 2005, p. 30)

However, there is debate about whether a mix of tenures automatically leads to genuine social mix. It is argued that even when affordable housing is provided on site, it is frequently isolated in a cluster or otherwise distinguishable from market housing (Monk *et al.* 2005). The management practices of social landlords may impact on the extent of integration achieved (Whitehead *et al.* 2005).

#### **4.1.9 Lessons from the United Kingdom**

In sum, the experience of delivering affordable housing through the planning system in the United Kingdom offers several lessons for policy development in Australia. Firstly, the United Kingdom example demonstrates the importance of a national planning framework to endorse affordable housing as a key policy objective and to establish concrete requirements and enabling mechanisms to achieve it at local and regional scales. This central government planning framework has proved critical in ensuring affordable housing is addressed at all stages in the planning process, and across all spatial scales (regional/district, local and site). Secondly, the mandated housing needs assessment methodology for setting overall targets that relate to housing need, as well as specific expectations regarding the amount of new affordable housing to address this need within a particular locality or on a particular site, provides a balance between certainty (in terms of planning authority expectations) and flexibility (in terms of actual project viability). Thus it enables planning authorities to negotiate to achieve the best outcome for a particular site. Finally, the United Kingdom example highlights the importance of an effective “delivery infrastructure” to capitalise on affordable housing opportunities achieved through the planning process. This “delivery infrastructure” comprises experienced not for profit developers, with a sufficient asset base to enter the property market and the right to apply for the Social Housing Grant for affordable housing development; as well as dedicated, experienced staff whose expertise in negotiating affordable housing agreements is increasing over time.

## **4.2 Ireland**

The use of planning mechanisms for affordable housing in Ireland is very recent. In fact, the Irish planning system overall has been described as relatively young and under developed in comparison to other Western European nations (Norris 2006, p.201). Prior to the year 2000 there was very limited use of “planning gain” measures to capture developer contributions through the Irish planning system, let alone specific provisions for affordable housing. However, in the context of rapid house price inflation and declining affordability for low and moderate income households, concerns about poverty concentration in social housing estates, and increasing difficulties in securing new residential land for social and affordable housing development, national legislation was introduced in the year 2000 to enable local authorities to require developers to contribute to social and affordable housing (Brooke 2006, Norris 2006).

Under Part V of the *Irish Planning and Development Act 2000* (PDA 2000), local authorities must amend their development plans to include housing strategies that detail how future housing demand will be met, including the need for social housing to rent and affordable housing for sale to low and moderate income households at below market value. Local authorities must require 20 per cent of residential land be used for social and affordable housing, to be provided by developers as a condition of planning approval (Williams 2005). The original provisions required that developers transfer the specified proportion of dwellings, land or sites to local authorities in return for compensation “at the level of the existing use value (in the case of land), development costs (in case of sites) and reasonable profit (in case of houses)” (Norris 2006, p.200).

In response to development industry claims that the new measures would increase development costs and reduce the supply of new housing, the PDA 2000 was amended in 2002 (Brooke 2006). The Act now gives developers additional options for meeting their affordable housing commitments, through cash compensation, and/or dwellings, land or housing sites in alternative locations (Williams 2005). The focus of the mechanism is on the delivery of mixed tenure residential developments, as a way of reducing socio-spatial segregation, and of securing sites for new social and affordable housing providers who may be otherwise unable to compete for land in the open market.

#### 4.2.1 Outcomes

The lag time between the implementation of the *Planning and Development Act 2000* and incorporation of provisions within local development plans means there is limited data regarding the outcomes of the mechanism so far (Norris 2006). However, a review completed in 2006 estimates that 962 affordable housing units were achieved in 2005 under the mechanism – up from 374 in 2004, which suggests that use of the approach is gaining momentum as it has done in England over time (Brooke 2006).

### 4.3 The United States

There is an extensive body of research from the United States on the relationship between the planning system and affordable housing outcomes. Concern about the potentially discriminatory and exclusionary impacts of the planning system on access to housing in the United States was first raised at the national level in a 1968 report to Congress by the National Commission on Urban Problems (Morris 2000). Since this time, studies examined the “exclusionary” impacts of planning on the availability of affordable housing for low to moderate income households to rent or buy (Goetz *et al.* 2001, HUD 1991, 2005, Pendall 2000), and the need for more “inclusionary” approaches to housing (Anderson 2005, Calavita 1998, Calavita *et al.* 1997, Lerman 2006, Mandelker 2003, Talbert and Costa 2003). Within this broad field, key questions have concerned: the market impacts of planning controls, including impact fees, on the cost and therefore affordability of housing (Been 2005, Evans-Cowley and Lawhon 2003, Witten 2003), and the market impact of affordable housing per se (Freeman and Botein, 2002, Nguyen 2005); potential conflicts between housing affordability goals and other planning objectives, such as environmental sustainability (Anthony 2003, Liberty 2003, Russell 2003); and the potential roles of different levels of government in promoting affordable housing through the planning system (Baslolo 1999, Buschbaum *et al.* 2003, Goetz *et al.* 2001).

#### 4.3.1 Urban planning framework and roles of government in the United States

While implementation of housing policy in the United States is done primarily at the local level in the United States, federal institutions still control low-cost mortgages and make grants for affordable housing initiatives (Katz *et al.* 2003). In 1934 the Federal Housing Administration (FHA) was established (now part of the US Department of Housing and Urban Development (HUD)) to guarantee mortgages at low cost. HUD, a federal cabinet-level agency established in 1965, exists to increase the number of

affordable homes available to Americans and to seek innovative community partnerships around affordable homeownership. In 2006 it allocated \$2 billion USD among the states in grants to both government and private sector developers of affordable housing through its HOME program (HUD 2006). It also has interest-specific federal block grants for urban renewal, rural housing, and brownfield economic development. HUD's community development block grants (CDBGs) are annual grants aimed at cities with populations of more than 50,000 residents and can be used for the acquisition, rehabilitation, or construction of property or the construction of public services (HUD 2006). Collectively these grants provide a Federal funding source for a variety of affordable housing projects initiated by state and local governments and the private sector.

However, the US federal government has a very limited role in relation to urban planning, which is largely the domain of local authorities operating within legislative frameworks established by State governments. The extent of state level intervention in local plan making and decisions varies from jurisdiction to jurisdiction, so there are vast differences in land use planning legislation and policy approaches to housing across North America.

In the United States, the need for local authorities to plan for affordable housing along with their other core planning responsibilities is often established by State government through the allocation of regional "fair share" housing requirements (APA 2003). The concept of a "fair share" of regional housing need derives from a historic court case relating to the planning ordinances of the community of Mount Laurel, in the State of New Jersey (Liberty 2003). Mt Laurel was originally a farming area, but new highway development in the 1960s and early 1970s made it accessible to larger cities, so it began to attract upper-middle class professional commuters (Holtman 1999). This resulted in the enactment of new land use ordinances limiting new dwellings to single family detached houses, on large lots, with apartments and mobile homes expressly prohibited. As a result, developers built large expensive houses, increasing the price of even smaller building lots, and squeezing out affordable housing from the area. The controls were:

"designed to ensure that land was employed in ways likely to produce the most substantial tax revenues to finance schools, police, fire, and other municipal services... and to preserve the quiet, domestic character of Mount Laurel neighbourhoods.... It well may have had the aim of excluding some races, cultures, and economic backgrounds from its population". (Holtman 1999, pp.32-33).

In 1975, the New Jersey Court found the ordinance unconstitutional. This led to introduction of state requirements to ensure that suburban zones would include opportunities for affordable housing, and that each community was responsible for providing a "fair share" of affordable housing for the surrounding region. This approach, discussed further below, has influenced housing policy in many areas of the United States, although it is not without its critics (Mandelker 2003). The salient point here is that the concept of "fair share" of affordable housing need as determined by higher State or regional levels of government has been influential in the United States in establishing affordable housing as a central and essential local planning function.

#### *4.3.2 Key planning approaches*

Planning for affordable housing in the US has focussed predominantly on two broad approaches. The first attempts to remove affordable housing supply constraints by reducing regulatory barriers considered to contribute unnecessarily to the cost of housing to rent or buy (HUD 2005). The second aims to increase the production of dedicated affordable housing stock, generally through a planning requirement to provide for affordable housing in proscribed developments. Protective planning based mechanisms to maintain existing sources of affordable housing, particularly single

room occupancy dwellings or boarding houses have also been used in some parts of the United States, in addition to a suite of other non planning related protections for tenants (such as rent controls) (APA 1999).

**Removing affordable housing supply constraints**

The impact of certain planning controls (such as large lot subdivision requirements, and prohibitions on diverse housing forms) on the availability of affordable housing has been discussed above. There have been a number of Federal, State and local initiatives to dismantle such controls in the United States. In 1988 amendments to the *Federal Fair Housing Act 1968* (which aims to stop discrimination in housing opportunity) extended the definition of housing discrimination to land use planning. Housing discrimination under this Act now includes:

“a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling” (quoted in APA 1997, p. 5).

Since the *Advisory Commission on Regulatory Barriers to Affordable Housing 1991* report to President Bush (“Not in My Back Yard”), the Department of Housing and Urban Development has provided guidance for State and local governments to identify and remove barriers and to establish local advisory commissions to propose regulatory change. It has also established a Regulatory Barriers Clearinghouse ([www.huduser.org/rbc](http://www.huduser.org/rbc)), which maintains information about State and local initiatives to remove regulatory constraints to affordable housing. Table 3 summarises advice for local planning authorities when reviewing their planning controls and processes to maximise affordability.

**Table 3: Removing local regulatory barriers to affordable housing in the United States**

<i>Constraint / Regulation</i>	<i>Criteria</i>
Zoning / development controls	<ul style="list-style-type: none"> <li>→ Sufficient supply of zoned residential land for 5 years</li> <li>→ Minimum of 1/3 residential zone for attached dwellings</li> <li>→ Capacity for 2<sup>nd</sup> unit development</li> <li>→ Growth constraints based on defined environmental or infrastructure limitation</li> <li>→ Growth constraints offset by affordable housing provisions</li> <li>→ Growth constraints offset by limits on industrial / commercial development that may increase affordable housing need</li> <li>→ Growth constraint to expire if environmental / infrastructure constraint resolved</li> <li>→ Permit mixed use development</li> <li>→ Relax development standards for affordability</li> <li>→ Permit manufactured homes, single room occupancy and group homes</li> </ul>
Administration / consent requirements	<ul style="list-style-type: none"> <li>→ More residential developments approved than refused</li> <li>→ At least 2/3 of proposed number of housing units approved in majority of applications</li> <li>→ Fewer than 6 months for development approval (without rezoning)</li> <li>→ Clear permit processing requirements</li> <li>→ Minimum off street parking requirements and road reservations</li> <li>→ Cost effective local infrastructure design</li> </ul>

Sources: Derived from US HUD 1991, APA 1997, 2001

The initial basis for removing regulatory barriers to affordable housing in the United States was the need to remove exclusionary housing controls designed specifically to preserve property values and restrict the types of housing, and by extension, households, able to live within an area. However, recent concern has extended to regulation per se, and particularly environmental regulations. For instance, the 1991 Advisory Commission report states that “environmental protection regulations seriously restrict the amount of build-able land that is available for development”... “regulations for the protection of wetlands have hindered residential development in many areas” ... and the (Federal) Endangered Species Act “allows the Fish and Wildlife Service to ban or severely restrict development in thousands of acres for years at a time, if such land is the habitat of a species judged to be “endangered” or “threatened” (Kean and Ashley 1991, p.7). This extension of the argument concerning exclusionary planning requirements to other forms of planning regulation that are not implicitly designed to be exclusive is an example of increasingly intense debate in the United States over the impact of environmental planning requirements on affordable housing.

### **Legislating to remove exclusionary housing controls**

At the State level, barriers to the production of affordable housing have been addressed through specific legislation. Many of these approaches have been dubbed “anti-snob” laws because they operate to overcome local land use planning barriers to affordable housing production (Cowan 2006). For instance, in New Jersey, the *Fair Housing Act 1985* (introduced as a response to the Mount Laurel ruling) grants affordable housing developers the right to bypass local plans if they fail to provide for a “fair share” of affordable housing, although they need to seek a judicial remedy to do so. A State Council on Affordable Housing was established to facilitate the implementation of the Act and specifies four ways for local authorities to meet their fair share requirements. These include building the number of units specified under their “fair share” allocation; providing loans to homeowners who create affordable accessory dwellings; paying another municipality with a high proportion of low income residents; and, offering density bonuses to developers of affordable units (Davidson 2002, p. 6).

Similarly, the *Massachusetts Zoning Appeal Law* provides a legal remedy for developers seeking to build affordable housing in localities that have not reached their “fair share” quota of affordable housing. Controversially, builders are able to use this law to gain exemption from most land use requirements, including those designed to protect the environment, if they are constructing dedicated affordable housing (Russell 2003).

Anti-snob laws apply only to projects that meet statutory criteria for affordable housing; are limited to municipalities with little affordable housing (below 10 per cent); and use planning incentives to encourage developers to participate willingly (Cowan 2006, p. 298).

Other state level “barrier removal strategies” include a requirement in Illinois for an affordable housing impact analysis of any Bill that may increase the cost of constructing a single family residence; override controls in Idaho to ensure that seniors housing up to a certain scale and manufactured homes may be permitted in residential zones; requirements in the State of Florida for affordable housing proposals to receive expedited approval; and, the establishment in Washington of an Affordable Housing Advisory Board to identify regulatory barriers to affordable housing and strategies for meeting housing needs for adoption by local governments (HUD 2005).

Local initiatives to remove affordable housing barriers are consistent with these broad approaches, and include amending zoning provisions to permit higher density residential development, accessory or attached dwellings, manufactured homes and

seniors housing, and to streamline local processing requirements (Ross 2003, BPI 2003).

### **Increasing the production of dedicated affordable housing**

The term “inclusionary housing” is used to describe the variety of planning approaches designed to generate dedicated affordable housing (for rent or purchase) in the United States (Calavita 1998). Within this broad term, “inclusionary zoning”, where a proportion of development (or a financial equivalent) within a particular zone is set aside for affordable housing, is the most common technique. In the US there are now 24 states with legislation authorising or mandating local governments to incorporate affordable housing into their land use plans, with California, Massachusetts, New York, New Jersey and the Washington D.C. area the most active with concern to inclusionary zoning (Salsich 2003).

In the United States inclusionary zoning requirements are specified in advance of a planning application and usually expressed as a fixed percentage of housing units or development value, with 10% of development value or number of units and higher as the norm (Anderson 2005). The requirements typically apply to new developments or construction, however, in urban areas where there is limited potential for new development, requirements have been extended to conversions and rehabilitations (Ross 2003). Requirements may apply to all developments within a designated zone, or be limited to residential development only. They are often restricted to a certain threshold size of development, but increasingly in inner city areas this threshold is reduced or removed as the smaller size of infill sites limit the scale of new developments.

The preference is for affordable housing requirements to be met on site with a set aside of housing units that in external appearance are consistent with the overall development (Anderson 2005). This approach both increases the supply of affordable housing units and integrates them with other development. Nevertheless, there are circumstances in which an off site provision or financial contribution in lieu may be appropriate. These include small developments where the contribution would not amount to a complete unit, developments where running overheads and maintenance costs are likely to be high, development within environmentally sensitive areas where additional housing stock is not consistent with environmental protection goals, and very high value developments where an equivalent financial contribution will support local affordable housing provision within a nearby location.

In the vast majority of schemes, incentives are available to offset the financial burden of the contribution. Most authorities offer a combination of incentives which may include density bonuses, variations on subdivision, building design, parking, or landscaping requirements, permit and service fee waivers, and expedited processing of applications (Anderson 2005). Certain planning incentives, such as density bonuses, can combine with inclusionary housing programs to address broader planning goals, such as the reduction of sprawl (Lerman 2006).

Increasingly there is a trend for mandatory, rather than voluntary inclusionary housing schemes in the United States. When schemes are voluntary, the incentives designed to offset the financial impact of the affordable housing contribution must be sufficiently attractive to encourage take up by developers (Brunick 2004a).

Other mandatory inclusionary housing requirements that are not specifically tied to zoning requirements include compulsory contribution requirements, called “impact” or “linkage fees” in the United States. A common approach is to link the need for affordable employee housing with the impact of a new employment generating development. A variation of this approach was proposed for the popular resort destination of Nantucket, where local business owners expressed interest in investing

in the establishment of affordable employee housing to be developed by the municipality:

“As investors, they would retain this equity and the right to beds as an asset which could be sold as part of their business. This way they have guaranteed housing for their employees. Maintenance and management expenses will be covered by rents paid by the workers.” (Jonathon Rose and Associates 1998, p.12).

Such an approach could be effectively tied to a mandatory contribution requirement for affordable employee accommodation.

#### 4.3.3 Outcomes

What is the available evidence on the impact of inclusionary housing programs in the United States? Measuring the numbers of affordable housing units created through planning approaches helps demonstrate the overall impact or potential of the planning system relative to the amount of affordable housing need, and in comparison to other potential approaches (such as direct provision of public housing). Comparing the numerical output of different inclusionary housing schemes can also reveal programs that have been relatively effective at the local level. Many studies include estimates of the affordable housing unit output of particular local projects, although methods used to arrive at these estimates vary greatly. At the local level, Montgomery County, with an estimated 400 new units per year, is regarded to be one of the most effective schemes (Koebel *et al.* 2004). Table 4 summarises the unit output of selected local inclusionary zoning schemes in the United States, drawing on data published in several recent comparative studies of inclusionary housing programs (BPI 2001, Brunick 2004c, Ross 2003).

**Table 4: Affordable housing units produced by local selected inclusionary zoning schemes in the United States**

<i>Jurisdiction</i>	<i>Date of scheme</i>	<i>Yield</i>	<i>Reference</i>
Boston, Massachusetts	2000	177 units by 2002	BPI 2003
Boulder, Colorado	2000	150 units by 2002	BPI 2003
Davis, California	1990	1500 units by 2002	BPI 2003
Fairfax County, Virginia	1990	1,746 units by 2002	BPI 2003
Montgomery County, Maryland	1974	11,500 units by 2002	BPI 2003
Newton Massachusetts	1977	225 units by 2002	BPI 2003
Sacramento, California	2000	254 units by 2002	BPI 2003
Irvine, California	1995	390 units by 2003	Ross 2003
Longmont, Colorado	1992	630 units by 2003	Ross 2003
Monterey County, California	1980	500 unit by 2003	Ross 2003
Denver, Colorado	2002	3,395 units to 2004	Brunick 2004c
San Diego, California	1992	1,200 units to 2003	Brunick 2004c
San Francisco, California	1992	578 units to 2004	Brunick 2004c

Source: Derived from BPI 2003, Brunick 2004c, Ross 2003

However, the numbers of affordable housing units produced are not a fully reliable measure of a scheme’s impact. Reporting of housing unit outputs often fails to explain the duration of time for which the affordable unit must remain affordable (in the United States this is typically between 10-15 years), whether the units are to be subsidised rental or owner occupied, and the target households to access the unit – whether very low income or low to moderate income. All of these variables can radically affect the final unit yield of a particular project and so must be considered when interpreting

evaluative studies to compare the potential impact of various approaches. For instance, it is estimated that of the 11,500 affordable housing units produced in Montgomery County since 1974, only about 4,000 units remain in the affordable housing sector, and these are mostly owner occupied (Koebel *et al.* 2004). It has been estimated that collectively, about 20,000 affordable housing units have been achieved in Massachusetts and New Jersey since the early 1970s, through a combination of State mandates and local inclusionary zoning schemes (Russell 2003). While such an output is significant overall, these units rarely remain in the affordable housing sector in perpetuity, nor do they necessarily target the lowest income households.

Measurement discrepancies aside, contextual differences in each locality, particularly market conditions over time and the availability of State and local subsidies, are also likely to affect the overall yield of a particular scheme relative to those of other jurisdictions. Thus while numerical data concerning the affordable housing unit yield of individual programs is available, at best, such data should be regarded as a broad and indicative measure of impact. Nevertheless, reflections on the overall output of the planning sector in achieving new affordable housing production relative to other potential approaches show that planning can effectively support traditional subsidy schemes, by ensuring social mix in new residential development, by making affordable housing easier to develop, and by leveraging modest capital contributions from private sector developers, but is not an alternative to direct government investment in housing assistance (Calavita *et al.* 1997, Calavita 1998).

Table 5 below summarises the variety of local planning techniques for affordable housing in the United States, the types of context in which they are likely to be effective, and evidence regarding their impact (broad measures of relative housing unit yield in comparison to other types of approaches), where this information is available.

**Table 5: Local planning techniques for affordable housing in the United States**

<i>Approach</i>	<i>Context</i>	<i>Evidence of Impact</i>
<b>Local Planning measures</b>		
Inclusionary Zoning, New development (mandatory)	High value market contexts, high / seasonal housing demand	High relative to other approaches (Estimated units across USA ).
Inclusionary Zoning, New development (voluntary)	High value, high housing demand, lower political support for affordable housing measures	Low (Estimated units)
Inclusionary Zoning, Conversions, redevelopments (mandatory)	High value market, high housing demand, limited new residential land	Medium but important when new development opportunities are limited
Density Bonus	High value market, high housing demand	High when paired with inclusionary housing requirement
Sliding scale density bonus (increases with set aside)	High value market, high housing demand	High when paired with inclusionary housing requirement
Reduced parking requirements	All	Supports inclusionary housing requirement
Contribution requirement – Impact or “linkage fee”, or triggered by a request for planning scheme variance / rezoning	New release areas, gentrifying inner metropolitan areas, environmentally sensitive areas, smaller developments or sites Can pair impact fee with employment generating development, particularly tourism development	High but if applied to residential development, broader market / price effects of impact or linkage fees uncertain

<b><i>Approach</i></b>	<b><i>Context</i></b>	<b><i>Evidence of Impact</i></b>
Modified setbacks, modified building requirements	All	Supports inclusionary housing requirement
Preference to developments with affordable units (in allocation of restricted number of building permits)	Growth caps in environmentally sensitive / heritage areas	High
Permitting accessory dwellings	Low to medium density residential areas	High
Permitting manufactured homes in residential areas	Low to medium density residential areas	High
Permitting seniors housing as of right	Low to medium density residential areas	High
Demolition controls (“rooming houses”)	Gentrifying inner city areas	Unclear; likely to support other initiatives
<b><i>Local incentives / subsidies</i></b>		
Cash subsidy for affordable units	When planning offsets insufficient to make affordability requirement attractive / viable	High
Fee waivers (permit, building, and/or service fees)	All	Supports inclusionary housing requirement
“Barriers removal strategy”	Where excessive regulations / administrative delays persist	Up to 30% reduction in construction costs
Affordable projects eligible for local grant funding or locally administered grants	When planning offsets insufficient to make affordability requirement attractive / viable	High
<b><i>Procedural / Other local initiatives</i></b>		
Expedited review process	All	High
Assistance in marketing development	Local concern about affordable housing projects	Supporting strategy
Allow local housing authority to purchase newly created affordable units	High land values	High

Source: Approaches and evidence of impact documented in BPI 2003, Brunick 2004a, 2004b, 2004c, Calavita *et al.* 1997, Davidson 2002, HUD 2005, Koebel *et al.* 2004, Ross 2003, Talbert and Costa 2003.

A final consideration when evaluating the outcomes of inclusionary housing programs in the United States is the extent to which affordable housing strategies have undermined, or contributed to, other planning objectives. In other words, how appropriate are the mechanisms used to achieve affordable housing when considered in relation to broader planning objectives? Debate about the appropriateness of different ways of planning for affordable housing in the United States has focused on two different approaches, described as a “plan-led” approach and a “non-plan” approach. The “plan-led” approach is represented by States like Oregon and California, which require local jurisdictions to incorporate affordable housing requirements within comprehensive plans (Lerman 2006). This ensures affordable housing goals are addressed within a broader planning context. The “non-plan” approach is represented by States like New Jersey and Massachusetts, which allow affordable housing developers to bypass local planning requirements in jurisdictions that have not met their “fair share” of housing need (Russell 2003). This approach is criticised because it can undermine other important planning objectives, particularly those relating to environmental protection (Witten 2003). Further, the strict “fair share”

approach does not take into account issues like the environmental capacity of particular communities to absorb new development, or the availability of infrastructure (Mandelker 2003). However, the ability for developers to challenge local planning requirements if State mandated fair housing share obligations are not clearly satisfied, has motivated many local authorities to enact inclusionary housing programs.

Mandatory inclusionary housing schemes are regarded as very appropriate approaches to affordable housing supply at the local level, because they require the integration of affordable housing with other market housing, so contribute to mixed income neighbourhoods, decentralising poverty (Lerman 2006).

#### *4.3.4 Learning from the United States*

Our review of practice in the United States provides a basis for expanding the potential suite of tools used in Australia to plan for affordable housing – from system level approaches intended to reduce barriers associated with low cost housing provision through to a package of particular levers designed to encourage private sector provision of more affordable housing forms, and to secure opportunities for subsidised affordable housing development. The evidence suggests that in the United States, mandatory developer contribution requirements, supported and offset by planning based incentives, have been the most effective approach to securing new subsidised affordable housing stock through the planning process. The existence of strong not for profit (non government and government affiliated) and commercial affordable housing developers, able to access government grants and Federal tax incentives for affordable housing development, are important elements of the approach. In practice however, more detailed information on the operation of these delivery mechanisms is needed to develop a potential model for broader transfer in Australian contexts.

## **4.4 Canada**

While the use of the planning system for affordable housing is not widespread in Canada, some innovative local approaches have emerged in recent years. One of the most important contributions to the development of planning policy for affordable housing is the alignment of affordable housing and environmental sustainability policies in some Canadian jurisdictions. For instance, one of the earliest demonstrations of how specific planning mechanisms can offset the affordability impacts of urban containment policies is provided by the example of Banff within the Banff National Park; where a mandatory affordable workforce housing policy operates within a very strict environmental protection framework (Town of Banff 1998, Gurrans *et al.* 2006). More recently, the city of Toronto has sought to link density bonuses with affordable housing creation, as discussed further below.

### *4.4.1 Planning framework and roles of government in Canada*

In Canada local governments are responsible for both planning and affordable (or social) housing within a legislative and policy framework established by the Federal government and the provinces. Local governments may also directly fund housing projects through contributions of either land or monetary funds (Tomalty 2004). Over many years the main Federal agency with responsibility for housing in Canada, the Canada Mortgage and Housing Corporation (CMHC), has been devolving responsibilities for affordable housing to the Provinces and local governments (Lawson and Milligan 2007).

### *4.4.2 Key planning approaches*

As local jurisdictions are empowered to both regulate and fund housing programs in Canada, practices vary widely. Planning strategies for affordable housing largely relate to systemic enhancements, like streamlining approvals processes and ensuring diverse housing types are permissible. However, some jurisdictions use more specific planning mechanisms, ranging from controls to protect low cost housing stock (largely rooming

houses) through to mandatory contribution requirements (table six). In 2000, a survey of 110 municipalities on their approaches to planning for affordable housing indicated that the most common approach to promoting lower cost housing opportunities was by ensuring opportunities for “multi-family housing” (73 per cent), and by permitting such forms as co-housing, group housing, or collaborative housing. Aware of the role that the planning procedural process plays in the cost of housing, 71 per cent of those surveyed had streamlined their development approvals process (CHIC 2001).

As shown in Table 6, specific planning policies for affordable housing are predominantly found in two Canadian provinces: British Columbia and Ontario. The use of density bonuses varies from province to province, with provincial legislation usually restricting the type of benefits a local government can offer to a developer (CHIC 2000). Other mechanisms used to increase the production of affordable housing in Canada include levies and reserve funds (for example, in Colwood, British Columbia, where each new single and semi-detached dwelling unit must make a \$500 contribution to a fund for new affordable housing); and linkage fees (as in Richmond and Whistler in BC and Banff in Alberta, where since 1990, as a condition for planning approval, all new commercial development has to provide housing that reflects their average employee need creation). In addition to these, various Canadian provinces have experimented with innovative zoning practices (including Quebec, Alberta, who amended bylaws to allow secondary suites and garden suites, and Ontario, where in some cases smaller setback and lot size requirements have been allowed) (Tomalty 2004).

**Table 6: Regulatory/planning techniques for affordable housing in Canadian municipalities**

<i>Approach</i>	<i>Jurisdiction</i>	<i>Description</i>
Mandatory developer contribution	Vancouver, BC(used primarily in Ontario and British Columbia)	Used since late 1980s. City requires that certain developments contain 20% affordable housing.
Voluntary Density Bonus	Toronto, ON(used primarily in Ontario and British Columbia)	Used since early 1980s. In 2000 Council implemented consistent bonusing for all developments at least 1500 sq. m. or 15 additional units.
Mandatory contribution	Banff, AL  Colwood, BC(also Saskatoon, SK, Langford, BC)	Established in 1990. Developers must provide 1 bedroom for every 2 new employees or a fee of \$15,000 per bedroom.  New residential developments (any detached or semi-detached dwelling) must contribute \$500 to a fund used by the city to create affordable housing on land donated by developers.
Financial Incentives/Subsidies	Toronto, ON(also Ottawa, ON and parts of the greater Vancouver regional district, BC)	Waives development charges, permit and application fees for non-profit housing and will consider extending it to affordable housing provided by private developers.
Innovative Zoning	Montreal, QC(also used in Ottawa, ON, Brampton, ON, Moncton, ON, Truro, NS, among others)	The “grow home”, a narrow, 3 storey townhouse, required a change to the city’s building regulation to build with frontages of less than 18’.
Rooming Houses	Vancouver, BC(also used in Montreal, QC, Edmonton, AL, Winnipeg, MB, Toronto, ON, and Ottawa, ON)	Developers are required to replace any single-room occupancies (SROs) destroyed or converted on a one-one basis.
Streamlined Planning Processes	Vancouver, BC  Surrey, BC	Brings all affordable housing applications not involving re-zoning to the front of the development approval queue  “Fast-Track Policy” – priority to rezoning applications for multi-unit housing over all other development applications

Sources: Building and Social Housing Foundation 2006, CHIC 2000, Mancer 2003, Tomalty 2004, Vancouver Housing, 2006.

#### 4.4.3 Outcomes

Published data about the outcomes of affordable housing initiatives in Canada is limited. The mandatory affordable housing contribution requirements in Vancouver, British Columbia, has been applied to over 30 sites since the late 1980s and created 2670 affordable housing units, more than a third of which have been built. In Toronto, Ontario, the density bonus scheme in place since the early 1980s has resulted in the creation of 6000 non profit units and \$19 million for an affordable housing fund, raised through cash-in lieu contributions. The “grow home” mechanism in Montreal has resulted in the development of over 6,000 “grow homes” in that city, contributing both to affordable housing and urban containment objectives.

However, the requirement for developers to replace “single-room-occupancies” lost through redevelopment is not necessarily slowing the loss of this housing form. A 2005

study by the City of Vancouver found that only 20 per cent of the newly provided “single-room-occupancies” accommodation developed through this mechanism was being rented at an “affordable housing” level.

#### *4.4.4 Ecological sustainability and social equity in Canada*

While, as noted above, the use of planning techniques for affordable housing is not widespread in Canada, examining the Canadian experience shows that affordable housing objectives can coexist with a strict regime of environmental regulation. While there is a strict urban containment strategy in the town of Banff, Alberta, to protect the Banff National Park, the affordable housing strategy in place provides for affordable workforce housing whenever new commercial development is approved. Not only does this approach ensure social diversity and equity within the city of Banff itself, by reducing the need for workforce dormitory communities, the strategy promotes the most efficient use of infrastructure and reduces the potential environmental externalities associated with commuting. Similarly, the density bonus scheme in Toronto has linked affordable housing creation with a broad based program of residential densification. As noted earlier in this paper, a policy of urban containment through greater residential density reduces the need to convert non urban lands, promotes more efficient use of infrastructure, decreases the need for car travel, and encourages more diverse housing forms consistent with changing demographic needs. However, the outcomes of urban containment policies are not universally positive for affordable housing (see, for instance, Bunker *et al.* 2005). In this context, it can be argued that tying a density bonus to affordable housing is an appropriate use of this planning mechanism, because it achieves multiple goals within a strategic planning framework.

### **4.5 The Netherlands**

The Netherlands provides an example of a completely different approach to the other jurisdictions included in this study, regarding how the provision of affordable housing has been shaped by spatial planning policy and practice. Historically, as the discussion below will outline further, housing and planning policies have been closely entwined in national and local government policy. Municipalities in particular have been central players in realising a large supply of affordable housing. However, since the 1990s, in the context of wide reaching and fundamental changes to the role of government in the Netherlands, there have been major changes in Dutch housing and planning policies. The broad directions of change most relevant to this study have been to promote market processes for the development of housing, to contain government expenditure on supply side housing subsidies, and to encourage increased private investment in housing, especially through individual home ownership and capital market borrowings for social housing. Looking at the ways planning policy has influenced the supply of affordable housing before and after these changes provides a window for understanding the potential scope of planning policy and the planning system to impact on this issue. To enable such a comparison to be made, it is necessary first to set out some defining characteristics of affordable housing provision in the Netherlands and to identify the key components of and relationships between Dutch housing and planning policies before and after the 1990s.

#### *4.5.1 Characteristics of social housing in the Netherlands*

The Netherlands has the largest share of social housing of all OECD countries. Social housing reached 41 per cent of all dwellings in the Netherlands before the major policy changes of the last decade and the current share remains comparatively high at 35 per cent (VROM 2004). Social housing is not stigmatised in the Netherlands, as a sector of this size allows for a greater diversity of incomes and household types than much smaller systems, which tend to become residualised. It also comprises both rental and low cost housing for purchase. For these reasons the term affordable housing tends

not to have been introduced into the policy discourse to differentiate financial and delivery arrangements for providing lower cost housing in the Netherlands.

Two further characteristics of the sector provide important context to the issues being considered in this report: the structure of providers and the geographical spread of the affordable stock. Traditionally, municipalities were the main providers of social housing in the Netherlands. However since the 1970s, growth in the sector has been directed to independent housing associations, many of which had been established as small providers in the first half of the 20th Century. Large-scale transfers of existing municipal stock to associations have also occurred from the 1980s. In 2002 there were over 600 housing associations owning and managing around 2.4 million dwellings (Ouweland and van Daalen 2002). Municipal ownership has only been retained in a handful of rural areas. Housing associations are often described as hybrid organisations in the Netherlands (Priemus 2003a). While they are not for profit agencies whose core business is to invest in and provide social housing under conditions laid down in the *1901 Housing Act (Woningwet)* and subsequent regulations, they have also been allowed to undertake market housing developments and use the profits from such developments to cross subsidise their social role (Milligan 2003).

Social housing is provided throughout the Netherlands but is more concentrated in the inner city areas of the older large cities (Amsterdam, Rotterdam, The Hague and Utrecht) than in newer surrounding suburban areas. This pattern has arisen in part because, in the era of high growth in social housing until the 1990s, municipalities received their share of subsidies for additional housing in proportion to the extent of their existing dwelling stock rather than in response to population growth patterns or household preferences (Dieleman and van Engelsdorp Gastelaars 1992). That method of allocating subsidies resulted in a large supply of well-located inexpensive dwellings in the big cities. Over time, the dominance of housing association owned property in the main cities has been an impediment to gentrification processes that have typically contributed to large losses of low cost housing in many other Western cities. However, under changed policies settings discussed below this barrier is now being broken down.

#### *4.5.2 Housing and planning policies before the 1990s*

From the end of World War Two until the 1990s the Dutch government subsidised a very high proportion of new housing as the primary means of responding to persistent housing shortages in a period of high growth and rapid urbanisation. During this period also, the unique land supply issues that faced the Netherlands, especially the scarcity of land in such a small densely populated country and the difficulty and high cost of assembling and servicing land, because of the need for extensive drainage works (especially in most of the highly urbanised west of the country), meant local government rather than the private sector took control of land development (Boelhouwer and van der Heijden 1992). These factors resulted in municipalities having simultaneous responsibility for planning for new development, providing most of the serviced land for housing<sup>4</sup> and distributing subsidies for new housing.

Under this regime, plentiful subsidies combined with municipal policies that favoured social rental housing (especially in the major cities<sup>5</sup>) and a shortage of land for new construction crowded out market provision and helped to produce large, powerful and financially robust housing associations, which generally developed close working relationships with municipalities. Because of the social goals they shared, municipalities set aside sites for social housing and accepted low prices for their land on the basis of what was feasible to enable the housing produced to be affordable for

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<sup>4</sup> Around 80% of developed land was provided by municipalities in this period (Needham *et al.* 1993)

<sup>5</sup> Differences in the attitudes of city and suburban councils to social housing meant that not all municipalities used the powers they had to provide social housing (Milligan 2003)

lower income households. In effect, as Needham *et al.* (1993) explain, the price of land for social housing was set on a residual basis: what the developer could pay after taking into account construction costs, required housing standards, desired rent levels and available subsidies. Municipalities charged higher prices to private developers, thus using a cross subsidy approach to recover their costs, although empirical studies have shown this was not always achieved (*ibid.*). The need to recover costs also supported the development of socially mixed housing schemes, although by comparison to other countries in this study, the Netherlands has a homogenous housing stock built to comparatively high densities.

When a national urban renewal program to upgrade the quality of post 1945 Dutch housing was introduced in the 1970s, municipalities (as the recipients of the renewal funds to be distributed locally), housing associations (as owners of large shares of the local housing stock) and existing residents combined to ensure that affordable housing was preserved, and benefited from significant enhancement – a policy that became known as “building for the neighbourhood” (*ibid.*).

Social housing and urban planning policies, which can be described as “hand in glove” in the Netherlands over this period<sup>6</sup>, resulted in large amounts of low cost well maintained housing in socially mixed (though not particularly tenure mixed) communities. Importantly in comparison to other countries, the positive relationships between municipalities and housing associations, the impact of their combined power (exercised both through the political process and through large, professionalised not-for-profit organisations which have influence across so much of the housing provision chain) and the comparatively weak position of private developers, who did not control land for development, meant that legal instruments were generally not used to achieve these outcomes over this period (Needham and de Kam 2000, Milligan 2003).

As summarised by Milligan (2003), there is a substantial body of research, either of a local or a comparative nature, showing that the Dutch approach linking government led land development and housing subsidies has had a number of direct social benefits:

- First, it is said to have helped to stabilise property prices and to have reduced the extent of private speculation and profit taking that has characterised rapid urbanisation in other countries, including Australia (Hallett 1988; Needham *et al.* 1993; Badcock 1994; Needham and Verhage 1998b). Needham and Verhage (1998a) see this outcome as a result of the local policy model. They argue there was a plentiful supply of land for housing because land and housing supply levels were set by governments in accord with assessed need, rather than through market processes. This approach gave little scope for development gain and speculative profit and, additionally, helps to explain why the dominant role of municipalities in land development was not contested at the time. In addition, as Priemus (2003b) points out, the extent of social housing being provided meant that cross subsidy used up all the development profit.
- Second, the Dutch institutional arrangements enabled a direct link to be established between national and local plans for urban development and the development itself. By controlling the release of land, municipalities determined the location, staging and rate of new urban development (Priemus 1998).
- Third, social housing providers have had direct priority access to sites, without competition from the unsubsidised sector, thus providing them with access to good quality locations (de Kam 1998).
- Fourth, municipalities have been able to cross-subsidise the cost of land for social housing (and other public uses) through their role in setting the price for other land

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<sup>6</sup> A single Ministry of Housing, Spatial Planning and the Environment has been a long-standing part of national government in the Netherlands.

uses. Because municipalities had the direct power to determine plot prices they could opt for higher densities at some sites and recoup their development costs (and make profits, if they chose) (de Kam 1998). This approach contrasts with a system, such as in Australia, where prior zoning of land results in the development gain from higher densities accruing directly to the (usually) private developer or to the original landowner and, as a consequence, not necessarily or readily (without a clawback mechanism) providing a public benefit.

A final outcome beneficial to the distribution of affordable housing has been that the regulated land prices displayed relatively small regional differentiation (Needham *et al.*, 1993). This situation, in conjunction with the quantity of social housing provided, is considered to have contributed to the comparatively lower level of social segregation generally found to characterise the Netherlands (de Kam 1998).

#### 4.5.3 After the 1990s

From the 1990s in the Netherlands there have been far reaching changes in many aspects of housing policy, in the planning and regulatory powers of municipalities, and in the land development process described above. These changes have resulted in a significant fall in the production of new social housing.<sup>7</sup> However, this has not been compensated by increased private provision of new housing. New housing supply has fallen from 2.5 per cent of the total dwelling stock per annum between 1950-2000 to levels of less than 1 per cent currently, in the context of dramatic escalation in land and house prices followed by an economic downturn (Korthals Altes 2006, p 105). This situation has led to renewed concerns about housing shortages and what further policy reforms may be desirable to address this problem, including improving the planning and regulatory processes impacting on housing market performance and reducing demand side stimuli, such as the generous level of mortgage interest rate tax relief that is still provided in the Netherlands (Boelhouwer 2005). In relation to the lower end of the market, there has also been suggestions about stimulating counter cyclical supply through the not for profit sector and the need for new planning instruments to help to ensure that affordable housing providers can continue to obtain land for their developments (Lawson and Milligan 2007, Boelhouwer 2005, Priemus and Louw 2002).

Key policy changes that have interacted with market conditions and rising standards of housing to bring about the downturn in the affordable housing supply in particular over the last decade have included:

- The end of all significant government subsidies for social housing production and operations from 1995;
- A shift to private sector involvement in land development and relatedly, a weakening of opportunities for municipalities to apply a cross subsidy model of land pricing. Just how far this shift has gone is contested, however. Priemus (2003b) drawing on research published in Dutch argues that municipalities still having a strong influence in the majority of developments albeit now by having to negotiate with private developers rather than having direct control of the sites;
- Containment of a greater share of urban development to specified locations in close proximity to existing urban areas (known by the Dutch acronym VINEX) under national spatial planning policy after 1990. This approach to identifying (and limiting) development areas provided the opportunity, inter alia, for speculative land purchases to occur.
- An emphasis in national housing policy on building for owner occupiers. As a corollary to the drive for the production of higher quality owner occupied housing,

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<sup>7</sup> The share of social housing in new building completions averaged 32% for the years 1993-1995. From 1996 to 2002 this share fell to 20% on average (calculated from VROM, 2004, p. 202).

from 1992 national planning policy guidelines stipulated that there should be no more than 30% social housing in new development areas (Priemus 2003b). While this is a higher proportion than for most other countries or regions, it is a significant drop below historic targets in the Netherlands.

- Changes to urban renewal policy to focus on a wider range of economic and social interventions, as well as physical, which are aimed at revitalising the major cities in particular. A key policy direction, referred to by Ball (1999) as “government guided gentrification”, is differentiation of tenure in existing areas with high concentrations of social housing through the introduction of building for homeowners and the demolition and/or sale of social housing<sup>8</sup>.

The operation of these changes together has resulted in a somewhat different role for municipalities in the land development process. Rather than directly controlling the majority of major sites for residential development as the land owner, the emphasis now is more on their regulatory role in the process of negotiation with private developers (Priemus 2003b). However the financial strength of the housing association sector remains strong because the associations have large accumulated surpluses and substantial scope for asset sales. As well, many larger associations engage in profitable development of market housing to cross subsidise their social housing efforts, although this function has recently come under some scrutiny in the context of European Union competition policy requirements (Priemus 2006). At present to keep their social housing product affordable, associations are using their own financial reserves to subsidise the price of acquiring sites at an average upfront cost estimated at €30,000 per site (Needham personal communication 2006).

An opportunity for more diversified and responsive regional and local approaches to housing provision has also been provided, through measures such as decentralised housing budgets. Thus the prior experience of municipalities in housing, coupled with the decentralisation of budgets, has enabled those that have chosen to do so to continue to influence the acquisition, protection and renewal of affordable housing at local and regional levels. Municipal land companies in many areas have also benefited from improved profitability that has accompanied the shift to market processes and the withdrawal of most subsidies. However, as characteristic market cycles come more into play in the Netherlands, they also bear greater risks than in the past (Priemus 2003b). An innovative approach to identifying housing need on a regional basis, and planning to address this by protecting, restructuring, and redistributing affordable housing across the region is emerging under the leadership of a regional coordinating agency (Stadsregio) in the City of Rotterdam and surrounding municipalities. The model provides an opportunity to examine the traditional Dutch planning methodologies for achieving new affordable housing on development, and redevelopment sites, as well as the emerging methodology for needs identification and delivery of housing opportunities on a regional basis.

While the changes just outlined have had significant impacts on many aspects of the procurement of affordable housing in the Netherlands, intergovernmental commitment to integrating affordable housing into residential developments, albeit as a much smaller component than in the past, has not changed fundamentally. What is in transition is how cost recovery and value capture is being organised to achieve the desired housing outcomes. The new operating environment is bringing into play discussion on the need for a greater role for statutory instruments and negotiations with developers in the land use planning and development approval process, instead of the application of monopoly powers by municipalities (Priemus 2003b, Priemus and Louw 2003).

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<sup>8</sup> It has been normal practice for building permits in the Netherlands to include the dwelling tenure proposed and until recently regulations have often prevented or hindered the movement of dwellings between the rental and ownership sectors.

Amendments to the *Spatial Planning Act* have been accepted recently by the Dutch Parliament. Among extensive changes that are expected to come into effect in 2008, those most relevant to the provision of social housing are:

- Municipalities will be able to designate areas for social housing in their land use plan, unlike previously. This mechanism is proposed to offset a reduction in the municipalities' capacity to set aside sites for social housing as their role in developing and selling land declines.
- Municipalities will be able to make a plan for obtaining financial contributions for the costs of acquiring and servicing land and providing it with infrastructure (with payment linked to granting of a building permit). It is intended that social housing providers will make a lower contribution under this plan as a means of keeping the costs of development lower for that sector (van Eyk and Needham personal communication 2006).

Use of these powers will be voluntary and so will depend on the strategic housing policy in each municipality. However, in the face of a severe downturn in the housing market since 2003 and much lower take-up of home ownership than expected, the Dutch government is imploring municipalities to do more to foster development and, at the same time, encouraging housing associations to achieve a higher output of social housing in cooperation with municipalities (van Eyk, Ravestein, Needham and Korthals Altes personal communication 2006). Thus the Netherlands appears to be returning to favouring a strategy of using social housing supply as a counter cyclical instrument in order to stimulate greater overall provision of housing following a period of 'stagnation in housing production' (Boelhouwer 2005, Korthals Altes 2006).

#### *4.5.4 Some lessons from the Netherlands*

In summary, the traditional and proposed approaches to planning for affordable housing in the Netherlands provide a number of policy models and planning methodologies that could be adapted for application within specific planning contexts in Australia although as noted, the current shift toward a model of market delivery has been accompanied by a shortage of new affordable and overall housing supply. Historically, the role of municipalities in allowing their own land to be used for affordable housing, priced at the residual basis of what affordable housing developers were able to pay considering the affordable housing burden, has some similarities to the approach now being developed by Adelaide City Council. Today, the rollback of direct municipal intervention as landholder but focus on greater use of the planning system to achieve affordable housing objectives, for instance, by designating land for social housing; by reducing compulsory infrastructure charges for social housing providers; and, by negotiating with developers during the master planning of particular sites, still provides a strong basis for protecting and increasing affordable housing supply through the planning process. Finally, the emerging regional approach to housing needs identification and distribution of affordable housing supply underpins the strong Dutch tradition of achieving social mix in existing and new communities.

## **4.6 Commonalities in international practice in planning for affordable housing**

In this chapter we have outlined the development and implementation of planning approaches for affordable housing in the United Kingdom, Ireland, the United States, Canada, and the Netherlands. While there are many policy and administrative differences characterising each of these jurisdictions, some basic commonalities of approach have emerged:

- All of the countries reviewed here regard affordable housing as essential for sustainable and prosperous communities and acknowledge a critical role for the planning system and maintaining and securing new affordable housing supply.

- A key objective of the use of planning levers for affordable housing in each of the countries reviewed is to create socially mixed developments and communities.
- In achieving this objective, the most significant contribution of the planning system has been to secure land for affordable housing in locations that create opportunities to achieve and maintain social mix. Such locations are often higher value sites (locations that may be well connected and well endowed) so might not otherwise be accessible to affordable housing developers.
- Planning levers have not generally reduced the need for subsidies for affordable housing. Rather, each of the countries reviewed here have achieved synergies between planning levers and financial incentives or subsidies for affordable housing. For instance, synergies have been achieved by linking incentives to planning requirements or by making additional subsidies available in areas where appropriate planning levers have been adopted.

We turn now to a more detailed analysis of common experiences and themes emerging across international practice in planning for affordable housing.

## 5 COMPARATIVE ANALYSIS

This chapter begins by drawing together the international evidence concerning key elements in the development and implementation of planning approaches for affordable housing, grouped under the following categories:

- design considerations (the type of planning approach used and its relationship to the broader planning framework and other affordable housing requirements or incentives);
- the appropriateness of particular approaches (consistency with affordable housing goals, and trade-offs between affordable housing and other planning goals); and,
- the conditions needed for effective implementation (market context, role of different levels of government, local leadership, expertise, well developed local housing delivery mechanisms and community acceptance).

Our focus here is on the design and implementation of specific planning mechanisms to protect or promote affordable housing, rather than on higher systemic, or process level interventions.

In the second part of the chapter, we return to the notion of “conceptual equivalence” introduced in chapter one, to compare and interpret the differing experiences and affordable housing outcomes among our international case studies. This provides a basis for assessing the extent to which a particular approach might be transferred to the Australian context.

### 5.1 Design considerations in developing planning mechanisms for affordable housing

The research evaluating effectiveness in terms of the number of affordable units achieved under inclusionary housing schemes in the United States consistently points to the need for schemes to be mandatory rather than voluntary (Anderson 2005, Brunick 2004a, Calavita 1998, Talbert and Costa 2003, Witten 2003). Indeed mandatory schemes are not only more effective (in terms of numbers of affordable housing units created) than voluntary ones, they are critical to the effective implementation of other strategies to increase affordable housing. Even the use of planning based incentives (such as density bonuses) or financial subsidies (direct or tax based) to encourage affordable housing are likely to be much more effective if they are tied to a mandatory planning requirement for affordable housing:

“Incentives, within the framework of a mandatory program (original emphasis) can redirect a developer’s approach to inclusionary development. There is no evidence of a suburban market-driven developer taking advantage of the low-income tax credit to build affordable rental housing in the absence of an underlying inclusionary requirement” (Calavita *et al.* 1997, p.128).

Further:

“To the extent that government makes the provision of affordable housing a requirement for development opportunities and regulatory relief, developers will follow. To the extent that developers believe that they can obtain those opportunities without that stipulation, their rational self-interest demands that they will try to do so.” (*Ibid.* p.131).

Similar experiences are recorded in relation to the framework for negotiating planning agreements for affordable housing in the United Kingdom. While these agreements are negotiated, the contributions are mandatory in the sense that the planning authority can refuse an application on the grounds that sufficient provisions for affordable housing have not been made. In the United Kingdom it has been critical to provide as

much certainty as possible up front around the likely affordable housing requirement, a factor that is also important in the United States, where mandatory schemes are favoured for providing certainty and a “level playing field” for developers:

“Developers cannot price and value land appropriately and make informed investment decisions unless they know what the local community will allow them to build and what is required of them. The worst barrier to housing production and constricted supply is an unpredictable development atmosphere.” (Brunick 2004a, p.4)

In the United States, a regional approach to mandatory schemes is preferred, to avoid developers “cherry picking” between local authorities for more liberal requirements. A regional approach can also reduce local community resistance to affordable housing requirements (Lerman 2006). Thus the role of State governments in enabling, encouraging or requiring local adoption of mandatory inclusionary housing schemes is critical.

A mandatory approach is also important for ensuring that developers provide a mix of lower cost housing alternatives, such as smaller, less expensive housing units, and accessory dwellings:

“On their own developers are not likely to offer these kinds of housing since the existence of these lower cost offerings may make it more difficult to sell the traditional expensive suburban fare. As a marketing device, being a bit exclusionary has never been a losing strategy.” (Sewell 2003, p.27)

The main value in voluntary schemes is that they can provide a basis for local authorities to introduce an inclusionary housing program, particularly when there are legislative barriers to a mandatory program, or limited support from higher levels of government. Voluntary schemes are certainly preferred by developers, though this express preference is not an indication that they will take them up. It is also difficult to ensure the planning incentive more than offsets the affordable housing contribution, which is needed for the incentive to be attractive enough for voluntary take-up. This depends largely on market conditions. However, voluntary schemes may be effective if they are linked to clear local policy and supported by strong subsidies and incentives (Brunick 2004a). For instance, in the United States, the authorities of Chapel Hill and Lexington have expressed clear expectations regarding the inclusion of affordable housing, and planning approval is more difficult and expensive without an affordable component. In Morgan Hill, California, a limited local growth policy restricts the annual number of residential development permits but gives preference to projects that include affordable housing (Brunick 2004a).

Clarity of inclusionary housing requirements is essential, as is the need to support these requirements with reference to clear information about housing need (Talbert and Costa 2003, DCLG 2002). Programs are more resilient when there is some flexibility to waive or change requirements in certain circumstances (Talbert and Costa 2003).

#### *5.1.1 Establishing the affordable housing contribution: different requirements for different contexts*

A clear approach to establishing the target (and actual) percentages for affordable housing contributions is critical. This is particularly so when site by site negotiation occurs under a planning agreement framework, as in the United Kingdom and to some extent in Australia. In the United Kingdom, a recent review of practice found that development plan targets are rarely supported by a “robust analysis of the economics of development in the area”, despite this being a requirement under Circular 6/98 (DCLG 2002, 8.3.3). Rather, plan requirements are usually determined with reference to assessed housing need, availability of land supply, level of access to the social housing grant, and the established policy of the local authority. While these are

important considerations, the economics of the site are critical to determining a viable scheme:

“We found that local authorities were aware that development economics was an issue in practice. Several case study authorities had aspirations to raise target percentages on qualifying sites. These, though, were often tempered by a fear that pushing up requirements might make sites uneconomic to develop and this would deter housing development altogether, especially when there are equally lucrative alternative uses (notably in large urban centres).” (DCLG 2002, 8.3.4).

When actual economic analysis has been used, this has tended to focus on determining the viability of contributions for individual sites rather than to inform policy formulation for the broader local area. Recent research on the impact of s106 requirements on financial viability of housing schemes in London develops an assessment model to determine the consequences of various local affordable housing policy options including housing type, tenure mix and affordable housing quotas (Golland *et al.* 2004). The study develops a methodology to calculate the “residual land value” of sites once development costs, including affordable housing obligations, are taken into account. It found that this value differs sharply across regional housing markets with the implication being that different affordable housing quotas are needed for different market contexts. For instance, in high value markets, the absolute (financial) impact of a 50 per cent target for social housing inclusion is higher than that of a lower value market but the residual land value is still likely to be positive. However, while the absolute amount of a social housing target may be lower in lower value markets, the residual land value may become negative. The actual development of sites for affordable housing will still depend on other factors including whether alternative potential use values are higher than the residual value. In the United Kingdom, the availability of the social housing grant has a critical impact on the viability of the site for affordable housing inclusion, significantly reducing the impact of a social housing target on residual land value.

### 5.1.2 Negotiation

One of the key criticisms of the negotiated approach to affordable housing provision through the planning system in the United Kingdom is the lack of certainty for developers (Crook *et al.* 2002). While overall policies for affordable housing inclusion are specified in development plans, actual contributions are subject to site by site negotiations when a development application is assessed. This makes it difficult for developers to estimate the ultimate cost of the contribution and to incorporate this when purchasing land. Coupled with the time taken for negotiations, which adds to the overall cost of development, the potential affordable housing contribution is often diminished (Crook *et al.* 2002). Finally, negotiations are likely to fail if the housing burden is set too high and if the affordable housing policy is not clear (Farthing and Ashley 2002). When a negotiation approach is used, the most successful schemes are those that operate within a clear framework specifying the likely contribution to be expected (DCLG 2002).

## 5.2 Is the planning mechanism an appropriate approach for promoting affordable housing?

A key issue in determining the appropriateness of planning approaches for affordable housing is the extent to which affordable housing is achieved at the expense of other planning objectives. Rather than undermining planning standards to achieve affordable housing, affordable housing mechanisms should actively support other strategic planning goals, or, where such goals might otherwise present a barrier to affordable housing development, provide a way to offset these negative impacts. One example here is the affordable housing requirements in the town of Banff, Canada, which are

situated within a strong framework for environmental protection. Here the high value of commercial development sites is largely created and maintained by the land scarcity associated with environmental controls to protect the Banff National Park. These higher land values reduce direct affordable housing opportunities but create potential for surplus that can be redirected to a dedicated affordable housing program. Another approach can be to prioritise affordable housing development when overall development within a particular area is limited due to environmental constraints. This approach essentially uses the affordable housing mechanism as an offset to the negative impacts of planning controls designed to protect the environment. An example of this approach is provided by Morgan Hill, California, where a limited local growth policy restricts the annual number of residential development permits but gives preference to projects that include affordable housing (Brunick 2004a).

The use of density bonuses may also provide a way of combining environmental and affordable housing goals, when the site in question is not environmentally sensitive. An example is the widespread use of a density bonus in Toronto, Canada, which achieves urban containment objectives while recognising that planning provisions for higher density development also confer a significant financial benefit for the landholder. Tying the increased density permission to a compulsory affordable housing contribution provides a mechanism for sharing this financial gain with the broader community<sup>9</sup>.

On the other hand, when planning mechanisms permit exceptions to statutory requirements for residential development, there must be strong policy reasons to support this, in addition to the need for affordable housing per se. This can only be achieved when the affordable housing strategy and the specific mechanisms used to implement it are situated within a comprehensive planning framework (Lerman 2006). The “rural exceptions mechanism” used in the United Kingdom and the potential in some municipalities of the United States to vary planning requirements for affordable housing development, represent ad hoc approaches to affordable housing provision, potentially undermining, rather than supporting, broader planning objectives (Witten 2003).

### **5.3 Implementation conditions: the market**

The evidence suggests that favourable economic conditions are critical for the effective use of the planning gain mechanism in the United Kingdom (Crook and Whitehead 2004, Crook *et al.* 2002), and of inclusionary housing programs in the United States (Lerman 2006). A key condition is high market demand for housing. In the United Kingdom, there has been greater success in securing affordable housing units and higher yields achieved in the higher demand areas of the South in comparison to the North. Given that housing need also tends to be greater in areas of high demand, higher targets for affordable housing contributions can be established in these contexts:

“The demand for housing leads directly to the demand for development land through the profitability of development. This demand provides the local authority with its negotiating strength. An authority can take a firm stance and

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<sup>9</sup> There is an argument that density bonuses for affordable housing are not an appropriate use of the planning system because planning controls should always reflect the highest and best potential use of the land. This is particularly so in terms of achieving the goal of urban containment. However, even when controls permit higher density, there is no guarantee that this additional capacity will be taken up by a developer. The capacity will only be used where it is financially advantageous to do so. In such cases, the additional development capacity permitted in the upzoning is clearly conferring an unearned financial benefit to the landholder (a “windfall gain”), so provided that the affordable housing contribution is not so onerous as to discourage take-up, it should not undermine the broader planning objective of achieving the most efficient use of urban land. However, for the reasons just outlined it is a mechanism that should only be used to confer additional development capacity within existing urban areas, where there are strong policy reasons to encourage this, and the affordable housing contribution must not be so onerous as to discourage take up of the scheme.

demand a full affordable housing contribution knowing that if the developer does not comply there will be other developers that will.” (Crook *et al.* 2002, p. 21)

A second condition relates to the availability of development sites for new or rehabilitated housing developments of a scale sufficient to provide for an affordable housing component production, and the production costs of different types of sites and locations of sites (Goetz *et al.* 2001). In the United Kingdom it has been argued that the most favourable conditions are found in greenfield areas where there is high demand for new housing. Such contexts have “high potential” for affordable housing inclusion (Crook and Whitehead 2002, p. 1276). By contrast, “low demand, high-cost areas” present much lower potential “unless output and price are to be adversely affected” (*ibid.*). In other words, in an environment of low market demand, there is little opportunity to offset the high development costs associated with the site. Such sites are typically urban re-use sites, or sites in rural areas that may suffer from environmental/heritage constraints, or diseconomies of scale. Achieving an affordable housing component in these conditions will require a much greater subsidy. In the Australian context market demand for inner urban areas may help offset the higher remediation and production costs typically associated with urban reuse sites. However, as these sites become taken up and attention turns to urban renewal in the middle and outer suburban rings, the market potential for redevelopment to yield a surplus is likely to be lower.

So it appears that if the opportunities to secure affordable housing through the planning system depend largely on a buoyant market and the availability of developable land, rates of affordable housing creation are likely to decline in a falling market (without provisions for additional subsidy or incentives to support continued affordable housing development), even if overall housing need does not (Whitehead *et al.* 2005). However, when effective affordable housing delivery mechanisms are in place, it may be possible to use financial assets accumulated during periods of strong market activity to acquire land for affordable housing development at times when market activity is slower, an approach that may even act to stabilise market decline. Ongoing investment in additional housing undertaken by well established and asset rich housing associations in the Netherlands demonstrates the long-term benefits of the creation and protection of affordable housing.

## **5.4 Implementation conditions**

Several other factors considered important for the success of planning approaches for affordable housing are discussed below.

### *5.4.1 Central government support*

Clear national government support for planning approaches to affordable housing in the United Kingdom has underpinned the increasing success of the English system. In the United States, State mandate for local government to provide for affordable housing is critical to ensure the enabling legislative framework needed to support statutory planning mechanisms for affordable housing, and to promote community acceptance (Basolo 1999, HUD 2005, Koebel *et al.* 2004, Sewell 2003). Community acceptance is more likely to be forthcoming when the affordable housing goals are situated within a broader, comprehensive planning strategy, particularly when this is articulated at State level.

### *5.4.2 Strong needs assessment methodology*

A strong needs assessment methodology, including clear information about local and/or regional housing need, is critical to justify planning programs for affordable housing (DCLG 202, ERM 2003, Gallent *et al.* 2002, Short 2004). The methodology should provide clear targets representing the actual need for affordable housing within a region or locality, as well as for the achievement of affordable housing units. These

targets are most effective when they are allocated by a regional or state body as a proportion of regional “fair share” of housing need, and when there are strong requirements for local authorities to demonstrate how they are meeting these targets (Goetz *et al.* 2001).

#### 5.4.3 *Delivery mechanisms*

The existence of strong government subsidies and incentives is essential to support the development of affordable housing opportunities through the planning process. Subsidies should be sufficient to ensure that affordable housing requirements will not jeopardise the viability of desired development and, where possible, are cost neutral for developers to comply with (Calavita *et al.* 1997, Talbert and Costa 2003).

Once affordable housing opportunities – completed housing units, land for affordable housing supply or a fund for affordable housing development – are secured through the planning process, appropriate agencies to develop and manage this housing are needed. In the United Kingdom, the United States and the Netherlands, strong not for profit housing companies/associations have played an important role in developing and managing affordable housing opportunities secured through the planning process. Finally, staff expertise and commitment within local planning authorities is consistently reported as fundamental to successful schemes (Calavita 1998, Monk *et al.* 2005, Tewdr-Jones *et al.* 1998).

#### 5.4.4 *Political support*

At the local level, local political leadership and advocacy are a factor in achieving effective affordable housing planning schemes, even within a context of strong central government support such as exists in the United Kingdom (Calavita 1998, Monk *et al.* 2005). The level of community support for affordable housing, or acceptance of responsibility to provide for regional housing need, explains why affordable housing schemes have been successfully implemented within some local areas and not others. This particularly is the case in nations such as the United States and Australia where there is no a priori support for providing for affordable housing through the planning system (Goetz *et al.* 2001).

### **5.5 Understanding international differences in approach and outcomes: preliminary implications for Australia**

In chapter one we introduced the notion of “conceptual equivalence” for understanding and making comparisons of performance outcomes that arise under different national urban and housing systems. In reflecting on the different approaches and outcomes achieved in each of the international jurisdictions reviewed in this study, it is worth considering these situational differences and how such differences might influence the extent to which a particular approach could be transferred to an Australian context. To support this analysis, Table 7 summarises key features of the planning systems within the jurisdictions we have reviewed in this report.

**Table 7: Key elements of international jurisdictions for comparison**

<i>Variable</i>	<i>United States</i>	<i>Canada</i>	<i>United Kingdom</i>	<i>Ireland</i>	<i>Netherlands</i>	<i>Australia</i>
Role of state in land regulation	Limited	Medium	Medium	Medium	Strong, direct role	Limited
Responsibility for land use planning /housing	State, local government	Provincial, local government	National, local government	National, local government	Local government	State – enabling framework, devolved to local govt.
Spatial scale of planning	Local	Local	Local	Local	Site	Local, regional/ metropolitan
Scope of planning	Land use	Land use	Land use	Land use	Comprehensive	Land use
Process for obtaining permission	Limited discretion/ negotiation	Limited discretion/ negotiation	Negotiated	Negotiated	Permission consistent with detailed plan	Varying degrees of local discretion; limited “of right”
Mechanisms for affordable housing	Voluntary, negotiated contributions Incentives Protective measures Mandatory contributions Exceptions for affordable housing	Voluntary, negotiated contributions Incentives Protective measures Mandatory contributions	Exceptions Negotiated contributions	Compulsory contributions	Direct provision of sites Zoning for affordable housing (prospective) Incentives for affordable housing providers (prospective)	Voluntary, negotiated contributions Incentives Protective measures Mandatory contributions

Firstly, it appears that a strong government role in urban policy and land regulation explains the higher levels of affordable housing achieved through the planning process in the United Kingdom and the Netherlands, in comparison to Australia and North America. There is a fundamental difference in approach between development that is initiated by the private sector (albeit within a framework set by government) as has been the case in the United States and Australia, and a more proactive role of government in the development process, illustrated particularly in the case of the Netherlands. Similarly, when government, particularly a national government as in the cases of the United Kingdom and the Netherlands, provides strong policy and legislative support for the use of the planning system in generating new affordable housing supply, it is clearly much easier for local levels of government to deliver such outcomes. In Australia, the lack of direct Commonwealth Government responsibility for urban policy and planning is not necessarily a barrier to achieving a broader mandate for promoting affordable housing through the planning system, although it does help explain why this has not been achieved to date.

Developing a cooperative and consistent approach to planning for affordable housing, across the Australian States and Territories would assist in eliminating the political and legislative barriers to promoting affordable housing currently faced by individual local governments. To achieve a similar approach to that in the United Kingdom, national consistency in affordable housing objectives and in the range of available planning levers to promote affordable housing through the planning system is needed. However, the actual decisions about which approaches to use in particular locations and circumstances would still be determined through a process of local and regional planning and needs assessment, as occurs in the United Kingdom.

Secondly, the fixed mandatory approach to requiring contributions for affordable housing appears most effective in an “as of right” development scenario, such as that characterising North America, where the planning authority has limited room for

discretion in assessing a proposal. Although in Australia the degree of local discretion to approve or refuse a particular planning proposal varies in each jurisdiction and in relation to the class of development proposed, there is a general presumption of approval when a proposal meets existing statutory development standards. (This is unlike the approval process in the United Kingdom, for example, which is characterised by negotiated outcomes and the general presumption of individual assessment of each proposal on its merits.) Thus a mandatory approach to requiring compulsory contributions for affordable housing should in theory result in a greater yield of new affordable housing stock when compared to localities where a voluntary incentive approach applies. The key explanation for this is that if a developer has an “of right” expectation of planning approval, an additional incentive is needed to motivate an affordable housing contribution, and this incentive needs to be substantial enough to offset the risks associated with the additional outlay. Thus the mandatory approach is most effective where an existing planning framework is established and exceptions to this framework are not likely to be sought by the developer or anticipated by the planning authority (except for those created within the incentives structure).

Nevertheless, currently in Australia, the use of mandatory requirements for affordable housing is restricted by State planning legislation or policy to the existing schemes in NSW reviewed above. Changes to planning legislation across Australia will be needed to support an expanded use of this approach.

In the United Kingdom, the negotiated approach within a national and local planning policy framework that makes affordable housing contributions a clear and enforceable requirement has been effective in that nation because of the discretionary process associated with individual planning applications. There are many situations in Australia analogous to this discretionary process, and in which the United Kingdom approach thus may be similarly effective. Essentially, where no planning controls have been established for a particular site (as in the case of a proposed change of use or rezoning), the planning authority has much discretion in negotiating the types of controls and expectations that will apply to future development. In these scenarios a negotiated approach to affordable housing contributions is likely to be effective. Our review of existing empirical evidence on the Australian experience suggests that this is so. Again drawing on the experience in the United Kingdom, such negotiations will be most successful when they are supported by a clear policy framework for seeking contributions for affordable housing, including pro-forma agreements regarding the level and type of contribution likely to be sought.

Finally, the comprehensive site planning approach used in the Netherlands is associated with a scenario of high government intervention within land regulation and development. Such approaches may exist in other jurisdictions when the government or planning authority owns the land in question. There is a parallel here with the Balfours/Bus station process managed by Adelaide City Council. The lessons from the extensive experience in the Netherlands – of comprehensive site based planning under a regime of strong public intervention – thus may provide a basis for further developing Australian practice in regulating the master-planning and redevelopment process for publicly owned sites. Such a direction could be supported effectively by existing government land development agencies, if they were given a stronger affordable housing charter. This practice could also be extended to other sites not in public ownership using the mixed tenure approach developed in Ireland.

In sum, while in Australia the use of the urban planning system to proactively plan for affordable housing outcomes has been limited, there is considerable potential to draw on international work to develop a spectrum of approaches that are adaptable to individual contexts and market conditions, but supported by a strong and consistent policy framework.

## **5.6 A spectrum of planning approaches for affordable housing in Australia**

A quick summary of the findings of this chapter is useful at this point. We reviewed international policy arguments and experience in selecting and designing specific planning mechanisms for affordable housing. We noted that in the context of the United States, mandatory approaches have been more effective in yielding new affordable housing units and in supporting or reinforcing other subsidies and incentives for affordable housing development. The affordable housing requirement is generally fixed in advance as a set levy in the United States, an approach which has provided certainty for developers. By contrast, in the United Kingdom, actual requirements are negotiated in relation to the particular site and the viability of a specific proposal. In the context of the United Kingdom, the negotiated approach is credited with achieving the best balance between the affordable housing target for the locality and actual project viability (taking into account the availability of other subsidies or grants). However, the approach depends on the existence of a sophisticated delivery mechanism including experienced affordable housing developers who are able to access the Social Housing Grant.

Common to all of the international examples is the need to establish a clear and transparent approach to determining affordable housing requirements, and to apply this as consistently as possible, while recognising that actual contribution levels may need adjustment for particular geographical or market contexts.

In considering the appropriateness of planning mechanisms for affordable housing, we emphasised the need to situate the affordable housing requirements within a broader strategic planning framework, preferably at both local and regional scales. It is then critical to select mechanisms that will complement other goals or, when essential planning requirements represent barriers to affordable housing development, to offset this impact.

In relation to market conditions, we observed that a period of high market activity can result in high levels of contribution to the affordable housing program, but, unless these contributions are provided on site as housing or land, accessing development opportunities to provide low cost housing can be difficult (cash contributions may be applied more effectively across a region rather than within a particular high value sub market). On the other hand, these financial contributions may be used subsequently during a more favorable climate for land acquisition, thus also helping to stabilise a declining market. The evidence thus points to the benefit of a multifaceted program for receiving affordable housing contributions but this program will be strongest and best contribute to the broader goal of social mix if there are at least some requirements for on site contribution.

In analysing the differing outcomes across the international jurisdictions reviewed, we noted the fundamental divergence between a private sector led process of development (exemplified by the United States), and those planning systems that have a much stronger tradition of public sector involvement (exemplified by the Netherlands). Understanding these differences, it is still possible to adapt models that have been successful in both contexts for different implementation scenarios in Australia. As outlined in the final, following chapter of this report, we will focus on the potential for such adaptation in selecting our case studies for the empirical component of the study.

## **6 INITIAL FINDINGS AND FRAMEWORK FOR EMPIRICAL RESEARCH**

This positioning paper has reviewed the international research and literature on planning within Australia and several comparable international jurisdictions. We begin this concluding chapter by summarising this review to highlight preliminary findings in relation to the first three research questions guiding this study. In the second part of the chapter we outline our approach to the remaining research questions through the empirical stage of this project, which involves undertaking the international and Australian case studies.

### **6.1 What is the rationale for and role of the land use planning systems in retaining and providing affordable housing in North America, the United Kingdom, Europe and Australia?**

Five common themes or policy arguments have emerged in the literature to support a strategic use of the land use planning system in retaining and providing affordable housing:

1. The need to remedy regulatory and systemic barriers to the production of affordable housing within the land use planning system;
2. The need to minimise and offset the impact of urban planning and residential development processes on the availability of low cost housing;
3. The need for planning systems to provide for and facilitate greater housing diversity to achieve social mix and to support economic prosperity;
4. The potential to leverage more subsidised housing stock for low income people, in better locations; and, in some cases,
5. The opportunity to recapture some of the gain associated with planning decisions, or to create additional gain through incentives and to apply this profit to achieving public objectives.

The relative importance of each of these themes varies across the jurisdictions reviewed, and each argument itself supports a particular role for the planning system in relation to affordable housing. The first two arguments thus have been influential in the United States and Canada, and support a particular role for the planning system in facilitating residential growth and reducing barriers to the supply of lower cost housing. The last two arguments have won some support in the United States but largely define the approach to planning for affordable housing in the United Kingdom, where the planning system is a key tool in acquiring land for affordable housing provision, and, to a lesser degree, in offsetting the costs associated with this provision. As we have shown, these rationales are also well established in the Netherlands. In Australia the third argument – that planning systems should provide for housing diversity and support economic prosperity through a sufficient supply of housing for different social groups – has been largely accepted. The majority of local initiatives relating in some way to affordable housing goals seek to do so by permitting more diverse housing forms associated with lower market entry points. The case study component of this study will shed additional light on the formulation of specific policy arguments and the potential to expand the role played by the planning system in promoting affordable housing in Australia.

## **6.2 Which strategic and statutory planning tools to retain or promote affordable housing are used in these nations, and within which governance, spatial, and housing market contexts are specific tools most effective?**

There are varying levels of evidence regarding the relative effectiveness of the different planning strategies, approaches and tools that have been developed internationally to promote affordable housing. Before undertaking the detailed empirical component of this work, it is possible to distil a broad overview of the types of approaches that have been used internationally in relation to the sorts of planning and residential development scenarios familiar to Australia. As well as providing a basis for further policy development, this also assists in identifying specific case studies representing a spread of these approaches for more detailed analysis and comparison.

We have conceptualised these strategies across three scales. System scale strategies focus on the overall operation of the land use planning framework as determined by central government legislation and policy. Depending on the jurisdiction, this legislative and policy framework might emanate from a state, territorial/provincial, or national government, but is often implemented by local government units. System wide strategies are intended to enhance the overall capacity of the planning system to promote affordable housing goals. The second scale we identify relates to the processes and methodologies underpinning plan making and development assessment. The third scale we identify relates to planning mechanisms or levers for affordable housing contained within, or implemented through, specific land use plans or development decisions. In contrast to 'system wide' approaches that focus on the performance of the planning system; and methodological or procedural strategies that assist in the way that decisions are made for affordability but do not presuppose a particular regulatory framework; planning mechanisms are regulatory constraints or incentives embedded within a specific land use plan or development decision.

In relation to these scales, the range of affordable housing approaches and the planning (regulatory) and residential development (market) scenarios within which they are likely to be indicated are outlined below.

### *6.2.1 System level approaches*

- Planning system enhancements to promote an efficient supply of residential land for development (responsive to surges and falls in demand); and initiatives to reduce any production costs associated with complex planning controls, uncertainty, lengthy approvals processes, or inappropriate charges.
- Strategies to remove regulatory barriers to the development of affordable housing from unnecessarily restrictive development standards, and positive intervention to ensure that a greater diversity of dwelling types is permissible within statutory controls. These strategies are important both within established and developing residential areas, and may help offset a flat market.

### *6.2.2 New methodologies / frameworks*

- Comprehensive methodologies for identifying housing need, and for determining corresponding targets for new affordable housing supply. These targets relate to actual need and must be distinguished from the specific level of contribution sought from private developers in relation to a particular site or proposal.
- Strong methodologies for determining the viability of different affordable housing contribution requirements on particular sites, under different market conditions and drawing on different planning based cost offsets, or other subsidies.
- Master planning methodologies that draw on local or regional planning targets for affordable housing (based on the type of needs assessment described above), and

that develop detailed development proposals meeting affordable housing objectives together with the other strategic planning objectives for the site. The methodologies would likely include protocols for consultation and negotiation between local planning authority staff, private developers, and the organisation responsible for delivering or managing the affordable housing. As this type of planning for mixed tenure development generally relies on a level of public subsidy (either land or capital funding), it can operate counter-cyclically, during periods of market downturn, with the affordable housing component providing security for the overall development.

### 6.2.3 *Planning mechanisms or tools*

- Planning mechanisms or levers to protect existing sources of affordable housing, through social impact analysis frameworks and demolition or change of use controls; both of which are particularly important during periods of rapid population growth in existing urban areas and high amenity destinations.
- Planning levers or incentives to encourage preferred residential development types likely to be accessible to lower income earners – for instance, additional floor space incentives for shop top or mixed commercial/residential development within town centres; or student housing in areas well located to transport.
- Voluntary incentives for private developers to achieve additional development potential or to offset costs, in return for contributing to a local affordable housing fund. This strategy is likely to be most effective in accumulating direct contributions for affordable housing during a buoyant market, where there are high land values and high levels of development activity.
- Voluntary incentives for affordable housing developers building new social or affordable housing stock (meeting defined criteria), to offset development costs. This approach is indicated in any market scenario but may have broader benefits in a flat or declining market.
- Mandatory requirements for private developers to contribute to affordable housing (in cash or kind). This approach is likely to yield the highest value contributions for affordable housing within a buoyant market and where land values are high, particularly when the mechanism is applied as widely as possible (e.g. within a local/regional housing market or, provided there is flexibility in determining the viable level of contributions within different market scenarios, on a state and national scale).
- Mandatory requirements for private developers to contribute to affordable housing, in cash or kind, but with the amount and form of the contribution determined through a negotiated agreement. In Australia, this negotiated approach may be particularly effective where the planning authority is being asked to vary a planning requirement to permit the development, for instance, when there is an application for change of use, a rezoning, or other application to vary a planning control.
- A negotiated agreement for private developers to contribute to affordable housing within a particular site. There is often an opportunity to negotiate such contributions as part of a detailed master planning process, or where a site is in public ownership.

Finally, it seems that planning approaches will be most effective when complemented by other financial subsidies or incentives for affordable housing development.

### **6.3 Which planning approaches or interventions have been identified in these nations as having a potentially negative impact on the supply of affordable housing?**

It is difficult to transfer the literature on negative impacts of planning on affordable housing outcomes directly to the Australian context. However, broad themes are likely to resonate here. Planning approaches that have been identified in the jurisdictions reviewed here as having a potentially negative impact on the supply of affordable housing include:

- Planning controls that are designed to be “exclusive” (such as large minimum lot sizes, restrictions on higher density forms of housing and on specific housing forms, like accessory dwellings, manufactured homes, or homes for special needs groups such as seniors or those with a disability). In these cases, a “barrier reduction strategy” to reduce unnecessary planning controls is indicated.
- Planning controls that are designed to meet important community objectives, such as protecting the environment, but which have the effect of making the production of housing more expensive, by increasing land or construction costs. In these cases, measures to offset the impact of these controls on affordable housing are advocated.
- Compulsory development contributions (“impact” or “linkage” fees in North America, planning “gain” or planning “obligation” in the United Kingdom) that are very high, or are not imposed in an equitable way. Where development contributions are reasonable but still represent a barrier to the delivery of housing that is affordable for the lowest income residents of the community, an option may be to waive compulsory fees for affordable housing developments that meet defined local criteria.

Specific research in Australia is needed to fully appreciate the impacts of the planning process, including planning related charges and fees, on the costs of housing production and on the price of housing in the market. However, the case study work to be conducted for this project will promote understanding about how proactive strategies to achieve affordable housing can be used to offset the impact of planning interventions that are judged to be necessary or desirable in order to meet other important community objectives.

### **6.4 Case study research**

In selecting case studies for more detailed empirical investigation of the use of the planning system for affordable housing, we aim to meet the following criteria:

- A spread of international and Australian examples to demonstrate the implementation of a spectrum of planning approaches to protect, promote or produce affordable housing, such as mandatory planning requirements for developers to provide for affordable housing, voluntary incentive schemes, approaches to reduce exclusive planning controls, positive covenants to protect or require affordable housing, and techniques to preserve low cost housing stock.
- A spread of different contexts likely to affect the suitability of particular planning approaches, such as particular geographies (e.g. inner metropolitan/outer metropolitan, regional or rural) or housing markets (e.g. high value/lower value market, high activity/low activity), and development scenarios (e.g. brownfield or greenfield sites).

Table 8 sets out the selected international and Australian cases in relation to these criteria. Most of the cases selected combine more than one planning approach for affordable housing, so the principle mechanism used is highlighted in the table as a point of difference with the other cases. Each case provides an empirical basis for

more critical and qualitative assessment of the merits of the different planning approaches (and combination of approaches). The cases enable a more specific examination of the implementation conditions, success factors, or constraints associated with each strategy and will provide the evidence base for assessing potential transfer of elements to Australian contexts. The Australian case studies will offer an up to date review of current practice in planning for affordable housing, providing a basis for assessing the impact of these approaches. This will inform our analysis of the potential value in adapting and disseminating these and international models for broader implementation. The Australian cases also provide the basis for reviewing the extent to which current state policy and legislation (presented in this report) is likely to facilitate or impede local or regional planning approaches for affordable housing.

**Table 8: Case Studies**

<i><b>Jurisdiction / Case</b></i>	<i><b>Key planning approach</b></i>	<i><b>Geography / market context</b></i>	<i><b>Development scenario</b></i>
San Francisco (United States)	New methodology – regional approach to mixed tenure development Mandatory (inclusionary zoning) requirement	Metropolitan, high value markets	Brownfield sites
Seattle (United States)	New methodology – suburban collaborative Incentives for affordable housing development & mandatory requirement for contributions	Gentrifying suburbs, small local government units	Brownfield sites
Vancouver (Canada)	Mechanisms to protect low cost housing stock Negotiated agreements	Gentrifying inner areas; areas of high social disadvantage	Brownfield sites
London (United Kingdom)	Mandatory (negotiated planning agreement)	Inner metropolitan, high value market	Brownfield sites
Rotterdam region, (The Netherlands)	New methodology - Regional coordination approach	Varied regional market	Infill, brownfield/ greenfield sites
Brisbane City Council, QLD	Voluntary incentives, covenants for affordable housing	Mixed metropolitan market	Infill, brownfield/ greenfield sites
Gold Coast City Council, QLD	Voluntary incentives, Mechanisms to protect low cost housing stock	Mixed metropolitan market	Infill, brownfield/ greenfield sites
Port Phillip, Victoria	Protecting existing stock, promoting diversity, negotiated planning agreements	Inner metropolitan, high value market	Infill and brownfield sites
Gosford, NSW	Protecting existing sources of low cost housing stock	Regional/outer metropolitan	Greenfield sites
Byron, NSW	Promoting housing diversity	Regional, variable market	Infill and greenfield sites
Randwick, NSW	Negotiated planning agreement	Inner metropolitan, high value market	Infill and brownfield site
Adelaide City Council	Negotiated planning agreement (Master planning)	Metropolitan	Infill, brownfield/ greenfield

During the next stage of research, the case studies will draw on documentary evidence, including the primary planning instrument or policy governing the approach; descriptive material (such as reports, minutes of meetings, descriptive information designed for members of the public); evaluative material (e.g. implementation statistics, data regarding the take up of scheme, and financial information where this is able to be supplied); and information relating to the broader policy/legislative context, where this is relevant to implementation of approach. Additionally, interviews will be conducted with urban planners or policy makers involved in each case, either in person and/or by telephone. The interviews will address the historical development of the approaches used and the reasons for their development; evaluative measures of success; factors assisting or impeding the implementation of approach/approaches; collaborative relationships with other local, regional, or state government or non government organisations; and connections with broader policy/legal/financial strategies to promote affordable housing.

In relation to the Australian cases, the empirical component of the study will include an analysis of relevant planning policy and legislation in each selected jurisdiction (New South Wales, Queensland, South Australia and Victoria). This will highlight existing opportunities and practice in relation to planning for affordable housing, and establish the policy and statutory framework surrounding the individual examples analysed. An analysis of the available evidence relating to the design, operation and outcomes of each case study will also be conducted. Structured interviews will be held with housing policy and planning officers and local government representative associations, to confirm documentary analysis and identify key barriers/issues/opportunities to support enhanced use of planning system in each Australian jurisdiction. This component of the research will be completed by April 2007.

## **6.5 Conclusion**

This positioning paper has established a conceptual framework for understanding the close relationship between the urban planning system and housing outcomes, and has highlighted the opportunities to use the planning system to achieve affordable housing objectives. The use of the planning system is not uncontentious and in this report we have reviewed the key policy debates regarding an enhanced role for urban planning intervention for affordable housing. From the literature, we have drawn a series of arguments to support enhancing the current system by reducing existing barriers to lower cost housing production, and by introducing proactive strategies that protect existing sources of affordable housing, promote new opportunities for less expensive housing supply through the private market, and produce new subsidised affordable housing stock. While the detail of these debates differs in each of the countries reviewed here, five themes likely to resonate in the Australian context have been identified: the need to rectify systemic problems with the planning process that create barriers to low cost housing provision; the need to achieve social diversity and economic prosperity through a sufficient supply of affordable housing; the need for each local area to contribute to their “fair share” of regional housing need; the potential to use the planning process to obtain well located land for affordable housing development; and the opportunity to use the planning system to leverage greater affordable housing outcomes.

Further, the preliminary evidence from our review of international approaches towards planning for affordable housing suggests that schemes will be most effective when:

- Supported by a strong central government policy mandate and reinforced by the necessary planning legislation;
- Situated within a clear local (and regional) policy framework supported by a demonstrated needs analysis;

- Designed to maximise synergies between affordable housing and other potentially competing planning objectives and strategies, and where this is not possible, used as a mechanism to offset the impact of other essential planning provisions on affordable housing;
- Designed in relation to a sound method for economic appraisal to ensure that planning requirements are both viable for the developer and reflect maximum value for the affordable housing objective;
- Developed and implemented by staff who have the requisite training and experience; and,
- Used in conjunction with other subsidies or financial incentives for affordable housing development.

In sum, the international experience reviewed here demonstrates the importance of promoting affordable housing objectives through system wide approaches, better needs assessment and planning methodologies, and specific planning levers or mechanisms. Planning mechanisms for affordable housing have proved crucial for securing land for affordable housing development and achieving the broader goal of socially mixed communities. While the evidence shows these mechanisms do not replace the need for dedicated funding for housing assistance, planning levers can maximise the outcomes of this expenditure and complement other financial incentives or subsidies to support affordable housing development.

The next, empirical stage of this research will provide the basis for verifying these preliminary findings, and yield operational details needed to transfer successful examples more broadly to the Australian context.

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# **APPENDIX 1: SOURCE LIST**

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