

STATES OF JERSEY



ISLAND PLAN 2022-25: APPROVAL (P.36/2021) – TWENTY-FIFTH AMENDMENT (P.36/2021 AMD.(25)) – AMENDMENT

FUTURE AFFORDABLE HOUSING PROVISION

**Lodged au Greffe on 28th February 2022
by the Minister for the Environment**

STATES GREFFE

PAGE 2, paragraph (a) –

The proposed Policy HX – Future Affordable Housing Provision should be replaced with the following new Policy –

“Policy HX – making more homes affordable

Development proposals involving the creation of 50 or more new dwellings will only be supported where at least 15% of the development is made available for sale or occupation by islanders eligible for assisted purchase housing.

Access and eligibility criteria for such homes will be established and maintained by the Minister for Housing and Communities.

Schemes that are just below the threshold level must demonstrate that the proposals do not represent an under-occupation of the site, having regard to development density levels considered appropriate for the area, or, that a large site is not being brought forward in phases in order to avoid meeting this policy requirement. In any such proven cases, development proposals may be refused, or planning obligation agreements used to ensure that a phased development will make a proportionate contribution.

The proportion of assisted purchase homes shall be provided on the site for which permission is sought, unless one or more of the following circumstances apply:

1. that the provision of the housing product(s) specified by the Minister for Housing and Communities on the site would make that development unviable, and in such cases, the applicant has demonstrated that an appropriate alternative form of discount or financial assistance will be provided as far as possible;
2. that the site is of such a size or nature that the contribution to assisted purchase housing would be maximised in the form of a commuted payment, to support the delivery and/or procurement of assisted purchase housing products elsewhere. A commuted payment will not be accepted where it is intended to cross-subsidise homes already subject to an affordable, first-time buyer or other assisted purchase requirement, but may be used to increase the supply of assisted purchase homes on another open market site;
3. where assisted purchase housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant, which will be secured using a planning obligation agreement.

This policy will be in effect from January 2023, following the development and publication appropriate assisted purchase products and eligibility criteria, as relevant to the application of this policy.

The Minister for the Environment, in consultation with the Minister for Housing and Communities, will periodically review the parameters which apply to the operation of

this policy and, should a need for change be identified, will issue further supplementary planning guidance to revise one or more of the following:

- the threshold size of developments to which the policy will apply;
- the proportion of homes to which the policy applies;
- the type and value of first-time housing products which might be applicable;
- the means by which the contribution can be made, including the level of commuted sum tariff;
- the housing gateway band(s) from which the homes are to be allocated.

PAGE 3, paragraph (b) –

The words “, 1st January 2023” should be replaced with “January 2023.

The Minister will also further assess the viability of decreasing the threshold to which this policy applies and/or increasing the proportion of contribution that is to be made. Such work will be undertaken in consultation with key stakeholders, with a view to increase the policy requirement in the subsequent Island Plan (2026-2035). The overall impact on housing supply and viability will be assessed having regard to the need for restrictions to be put in place to ensure that contributions to the proposed Sustainable Communities Fund are viable, proportionate and appropriate in light of the provision of affordable and other types of first-time buyer and assisted purchase homes.”

MINISTER FOR THE ENVIRONMENT

Note: After this amendment, the amendment of Senator S. Y. Mezec would read as follows –

After the words “the draft Island Plan 2022-25” insert the words “except that –

- (a) before ‘Proposal 22 - Future affordable housing provision’ there should be inserted the following new Policy –

“Policy HX – making more homes affordable

Development proposals involving the creation of 50 or more new dwellings will only be supported where at least 15% of the development is made available for sale or occupation by islanders eligible for assisted purchase housing.

Access and eligibility criteria for such homes will be established and maintained by the Minister for Housing and Communities.

Schemes that are just below the threshold level must demonstrate that the proposals do not represent an under-occupation of the site, having regard to development density levels considered appropriate for the area, or, that a large site is not being brought forward in phases in order to avoid meeting this policy requirement. In any such proven cases, development proposals may be refused,

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- the type and value of first-time housing products which might be applicable;
- the means by which the contribution can be made, including the level of commuted sum tariff;
- the housing gateway band(s) from which the homes are to be allocated.

- (b) 'Proposal 22 – Future affordable housing provision' should be deleted and replaced with the following Proposal –

Proposal – Affordable housing

The Minister for the Environment will develop and issue supplementary planning guidance for the operation of this policy in order that it might take effect from January 2023.

The Minister will also further assess the viability of decreasing the threshold to which this policy applies and/or increasing the proportion of contribution that

is to be made. Such work will be undertaken in consultation with key stakeholders, with a view to increase the policy requirement in the subsequent Island Plan (2026-2035). The overall impact on housing supply and viability will be assessed having regard to the need for restrictions to be put in place to ensure that contributions to the proposed Sustainable Communities Fund are viable, proportionate and appropriate in light of the provision of affordable and other types of first-time buyer and assisted purchase homes.

- (c) the draft Island Plan 2022-25 should be further amended in such respects as may be necessary consequent upon the adoption of paragraph (a) and (b).

After the amendment, if amended by this amendment, the main proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

to approve, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, as amended by the Covid-19 (Island Plan) (Jersey) Regulations 2021, the draft Island Plan 2022-25, except that –

- (a) before ‘Proposal 22 - Future affordable housing provision’ there should be inserted the following new Policy –

Policy HX – making more homes affordable

Development proposals involving the creation of 50 or more new dwellings will only be supported where at least 15% of the development is made available for sale or occupation by islanders eligible for assisted purchase housing.

Access and eligibility criteria for such homes will be established and maintained by the Minister for Housing and Communities.

Schemes that are just below the threshold level must demonstrate that the proposals do not represent an under-occupation of the site, having regard to development density levels considered appropriate for the area, or, that a large site is not being brought forward in phases in order to avoid meeting this policy requirement. In any such proven cases, development proposals may be refused, or planning obligation agreements used to ensure that a phased development will make a proportionate contribution.

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3. where assisted purchase housing is best provided through the mechanism of a site-swap using sites within the ownership and control of the applicant, which will be secured using a planning obligation agreement.

This policy will be in effect from January 2023, following the development and publication appropriate assisted purchase products and eligibility criteria, as relevant to the application of this policy.

The Minister for the Environment, in consultation with the Minister for Housing and Communities, will periodically review the parameters which apply to the operation of this policy and, should a need for change be identified, will issue further supplementary planning guidance to revise one or more of the following:

- the threshold size of developments to which the policy will apply;
- the proportion of homes to which the policy applies;
- the type and value of first-time housing products which might be applicable;
- the means by which the contribution can be made, including the level of commuted sum tariff;
- the housing gateway band(s) from which the homes are to be allocated.

- (b) 'Proposal 22 – Future affordable housing provision' should be deleted and replaced with the following Proposal –

Proposal – Affordable housing

The Minister for the Environment will develop and issue supplementary planning guidance for the operation of this policy in order that it might take effect from January 2023.

The Minister will also further assess the viability of decreasing the threshold to which this policy applies and/or increasing the proportion of contribution that is to be made. Such work will be undertaken in consultation with key stakeholders, with a view to increase the policy requirement in the subsequent Island Plan (2026-2035). The overall impact on housing supply and viability will be assessed having regard to the need for restrictions to be put in place to ensure that contributions to the proposed Sustainable Communities Fund are viable, proportionate and appropriate in light of the provision of affordable and other types of first-time buyer and assisted purchase homes.

- (c) the draft Island Plan 2022-25 should be further amended in such respects as may be necessary consequent upon the adoption of paragraph (a) and (b).

REPORT

Context

The Minister for the Environment shares the aspiration driving Amendment 25 Future affordable housing provision, and is firmly of the view that the introduction of a policy that delivers a proportion of affordable homes as part of larger residential development schemes is an essential planning mechanism to help meet the island's need for more affordable homes. This view is also supported by the outcome of the Housing Policy Development Board, and has history in the 2011 Island Plan which sought to introduce such a policy, but the policy was withdrawn in the 2014 revision of that plan.

The principle of seeking to secure a proportion of land value uplift for re-investment into the community was raised by the proposed Jersey Infrastructure Levy (JIL), which was considered by the States Assembly in 2018 ([P.100/2017](#)). Work to develop this proposal included an in-depth [viability analysis of land and development values](#) in Jersey. This work concluded that there was 'significant capacity for developer contributions to be made on residential development'.

More recently, and to support understanding of the overall developer viability impact of the Bridging Island Plan, a further [viability note](#) has been published. This report highlights the divergence in property values against build-costs [where build costs have risen by less than 20%, while property values have risen by more than 20% and in some instances by more than 40%], and indicates that viability has improved. It considers that the scope to make developer contributions or to deliver greater levels of policy requirement are now greater than they were in 2017.

Notwithstanding the evidence confirming that there is capacity within land values in Jersey to tolerate a standardised development charge or contribution such as a levy or proportion for affordable homes policy, the Minister sought to defer the introduction of such policies in the Bridging Island Plan, on the basis of a clear statement to pursue both a levy and a proportion for affordable homes policy (Proposal 6 – Sustainable communities fund and Proposal 22 – Future affordable housing provision). This proposal sought to enable an update of the 2017 viability assessment with careful policy and legislative design to ensure that the development of new policies, to be introduced into the next Island Plan, are robust and effective in yielding a return to the community, whilst ensuring that development remains both financially viable and deliverable.

The Minister maintained this view in response to P.36/2021 Amd (25), as set out in Part 3 of his post-consultation report (see [Statement Response SR 22 - Future affordable housing provision](#)), and specifically raised concern that the policy provisions proposed within this amendment - which essentially proposes the policy provisions created in 2011 whilst relying on viability data from 2017 - would not be appropriate.

Given the economic uncertainty created by the both the pandemic and Brexit, the Minister was of the view that now is not the right time to introduce such a policy; and that it is appropriate to retain a proposal to introduce this mechanism in the next Island Plan, providing the opportunity for the required detailed work on viability to be undertaken within a more stable economic market environment

Minister's position

This amendment to P.36/2021 Amd (25) is proposed by the Minister for the Environment following his further consideration of Amendment 25, which has been undertaken in-light of his previously expressed position set out in SR22, and the recommendations of the independent planning inspectors (see [inspectors report](#) (pages 46-47)) following their examination of the issue.

The inspectors' overall recommendation followed the Minister's initial position to resist the introduction of a proportion of market homes policy in the Bridging Island Plan, and they are clear in their assessment that they both fully endorse the principle of such a policy, and are of the view that there is probably sufficient evidence to justify bringing forward Proposal 22 Future affordable housing provision as a policy in the Bridging Island Plan. In explaining their position not to accept Senator Mézec's amendment, despite supporting the principle, the inspectors' said:

“Ideally we would have preferred to have the policy introduced into this Plan but we understand that for practical reasons this is not possible without having all the detail agreed at this time.”

The conclusion of the inspectors was to recommend that work to consider the introduction of the proportion of affordable homes policy should be prioritised, with a view to including a requirement for a proportion of affordable housing to be provided in appropriate open market housing developments as a policy in the next ten-year plan from 2025.

Following the publication of the inspectors' report, the Minister has been able to further consider the emphasis of the inspectors in their report regarding this policy and reflect on the amendment proposed by Senator Mézec. **Ultimately, the conclusion is that the effect of Amendment 25 as-proposed is not workable and would have serious ramifications for the delivery of open market housing in Jersey**, at a time when the delivery of overall housing supply and all types of housing must be supported. The Assembly, in approving the Bridging Island Plan, have a duty to ensure that the housing supply identified by it can be delivered, and not be inadvertently stifled by policy mechanisms which may be well-intended but which have not been appropriately tested and assessed, relative to current circumstances, conditions, and their potential adverse impact on housing supply.

Notwithstanding views on the amendment as originally proposed, following further detailed consideration, it is proposed that with further amendment, Amendment 25 could be supported, but **only** on the basis that the threshold to which it applies is substantially increased. Introducing the application of the policy to residential development schemes of 50 homes and above will ensure that smaller developments – which comprise the largest proportion of residential development proposals, often with a lower viability threshold - are not unduly fettered from coming forward during this critical time for the supply of homes in the island.

Further amendment is also required to ensure that the eligibility criteria for such housing, the development of appropriate affordable housing products, the viability tests and alternatives to delivery are all designed in such a way that can be successfully delivered, leading to an overall positive contribution to housing supply in Jersey.

The changes proposed by the Minister's amendment to P.36/2021 Amd (25), also includes an enhancement to the overall contribution expected from the policy, rising from the initially proposed 12.5% in Amd(25), to a minimum of 15%. It is also proposed to retain the commitment in Proposal 22 to undertake further work to test the viability of applying this policy at lower thresholds and higher percentage requirements, which will be considered in conjunction with the development of a Sustainable Communities Fund, and considered for inclusion in the next Island Plan from 2025.

A key change to the further amendment proposed is such that at this time, it is not necessary to direct any supply yielded from a proportion of open market homes policy to the defined 'affordable housing' category, as defined by the Minister for Housing and Communities. Supply to meet this category of affordable housing has been explicitly provided for in the Bridging Island Plan, arising from both the release of States'-owned land, and rezoned housing sites. It is crucial that the plan delivers a range of homes across all types and tenures, to secure adequate supply that is available to meet all islanders' needs, and not only those meeting the limited criteria determined by the affordable homes definition.

It is proposed that this policy, for the Bridging Island Plan period, delivers homes for persons who may exceed the traditional financial eligibility criteria for affordable housing, but nonetheless require some assistance to access the housing market in Jersey – i.e. middle market housing, for the 'squeezed middle'. The eligibility for homes delivered as a result of this policy will enable additional housing products to be made available to a wider pool of eligible islanders, limited to those who meet the defined criteria, and where the availability of a housing product will enable them to meet their housing need. Access and eligibility criteria for such assisted purchase homes arising from this policy will be established and maintained by the Minister for Housing and Communities, and published through supplementary guidance.

The approach to the proposed policy enables alignment with the published guidance for the development of the Waterfront ([R.157/2021 Action on housing – recent progress and waterfront guidance](#)), and South Hill ([R.139/2021 Housing Affordability and the South Hill development](#)). This avoids contradiction with that guidance, which is of critical importance to the deliverability of both of those schemes, with due respect to the viability assessments which underpin the guidance position. This is particularly important given this proposed amendment has not otherwise had the benefit of testing viability.

With the wider application of the proposed amended policy, to both other large States'-owned sites, and also those private sites over yielding over 50 homes, viability cannot be assumed to exceed that which has been previously considered for States'-owned land, as the detailed work to consider viability levels has not been undertaken recently. It is important that both States'-owned entities and private developers' contributions are established at a minimum threshold of no greater than the tested 15%, and also, that they are afforded an appropriate level of flexibility to provide suitable housing products outside the current, traditional, affordable housing products, to ensure the requirement will not prevent access to adequate development financing, or render a development otherwise unviable.

Conclusion

In all senses, the further amendment to Amendment 25, proposed by the Minister for the Environment, will secure a policy in the Bridging Island Plan that will make more homes affordable, providing a very positive and bold step forward, whilst minimising the potential for negative impacts upon the Jersey housing market.

The proposal is one that will fundamentally establish a long-standing aspiration of the Minister for the Environment, his predecessors, and members of the Assembly, who have stood to pursue this policy mechanism for a long time. The proposed threshold is high (in terms of the scale of development to which the policy will apply i.e. to schemes of 50 or more homes), but importantly establishes the principle in a manner which respects present market sensitivities in these challenging economic times. It enables appropriate work to be undertaken to pursue the further enhancement of the policy in the next Island Plan, together with the development of a sustainable community fund.

The approval of this further amendment shall send a strong signal to all those with interests in smaller open market housing, to start preparing for this policy to be extended in three-years' time, and that this needs to be factored into land negotiations happening now.