New 30% Bonus Increase in FSR– What does it really mean for Developers?

Introduction

NSW continues to experience a lack of housing supply, worsened by high interest and rental rates. This has resulted in a projected construction shortfall of over 134,000 dwellings over the next five years. On 15 June 2023, the Minns Labor government announced that it will be implementing new planning rules taking effect in late 2023 to boost affordable housing and incentivise higher density residential developments.

What are the key changes?

- Housing developments with a Capital Investment Value (CIV) over $75 million, which allocate a minimum of 15% of the total gross floor area to affordable housing, will gain access to the State Significant Development (SDD) planning approval pathway (bypassing local councils and planning panels), and access to a 30% Floor Space Ratio (FSR) boost, and a height bonus of 30% above their respective local environmental plans;
- Social and affordable housing providers will also be exempt from State infrastructure contributions;
- What is considered affordable housing? This refers to units or homes offered for 15 years at a 20-25% discount of the market rental rate for a similar property in the area OR 25-30% of the before-tax household income.

Advantages for developers

- Higher margins: the 30% increase in FSR and height will allow developers to increase the number of dwellings on their development site, potentially increasing the project's overall profit. Developers however will need to revisit their feasibilities to ensure that the increase in profit will outweigh the 20-25% drop in revenue on 15% of the dwellings.
- Faster approvals: the SDD approval pathway contains a Rapid Assessment Framework which has fewer administrative steps, providing a faster and simpler process for obtaining Development Approval (DA). This is appealing given the increase in DA processing times from an average of 69 days in July 2021 to 116 days in March 2023.

Disadvantages for developers

- Not available to smaller developers: there is a high hurdle of $75 million CIV to receive the benefit. Construction costs are currently on average $400,000 - $500,000 per unit, meaning only developments with around 150+ units would qualify;
- Only suitable for Built to Rent (BTR) developments: to be eligible for the benefits of the scheme, developers must provide affordable housing (at market rent) for 15 years, which is not suitable for developers who intend to sell their units immediately upon completion, or where it is not feasible to undergo financing costs for 15 years (especially in the high interest rate environment).

Advantages for consumers

- Discounted rent: consumers will be able to access affordable housing at a 20-25% discount of the market rate;

Disadvantages for consumers

- Time frame: while the reforms are set to come in effect in late 2023, large residential developments usually take 2 years, meaning the immediate undersupply in affordable housing would not be addressed;
- Primary benefits in-field developments: the reforms primarily benefit in-field developments and suburbs where the percentage of renters are higher, leaving behind owner-occupiers or first home buyers in fringe suburbs;
- Inconsistent with other reforms: the government's incoming changes on 1 October 2023 to the BASIX scheme requires a higher minimum star thermal comfort target in Class 2 buildings, which is estimated to add $22,000 in compliance costs per unit.

Key takeaways

The new scheme will mainly benefit larger developers such as Mirvac and Lendlease that are undergoing BTR developments. Consumers in in-field areas may benefit in the medium to long term from more affordable housing.

More information

For further information contact the team at Construction Legal.

CONSTRUCTION LEGAL

Jessica Rippon, Principal Solicitor
jrippon@constructionlegal.com.au
+61 (02) 8591 9132
www.constructionlegal.com.au