



Policy: Tenant Purchase of a LAHC Social House

NSW Land and Housing Corporation

October 2021



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Policy: Tenant Purchase of a LAHC Social House

Department reference number: D21/2097512

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose provided you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (October 2021) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning, Industry and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

Introduction.....	1
Policy purpose.....	1
Policy statement.....	1
Operating context.....	1
Scope and application	2
In scope	2
Out of scope.....	2
Application.....	2
Legal and policy alignment	2
Housing Act 2001	2
Future Directions for Social Housing in NSW	2
AHO Strong Families, Strong Communities.....	2
LAHC Policies	2
Code of Ethics and Conduct.....	3
Eligibility.....	3
Purchaser eligibility	3
Property eligibility	4
Delegation to approve sales to tenants.....	4
Sale price.....	4
Reviewing decisions.....	4
Policy review	5
Glossary	5

Introduction

Policy purpose

This policy provides guidance to LAHC officers and tenancy managers. It:

- sets out the underpinning rationale, principles and governance arrangements for the sale of social houses to tenants
- provides guidance to LAHC about whether to consider, approve or decline an application by a social housing tenant to purchase a LAHC social house
- helps LAHC to make quicker and more consistent decisions about the purchase of social housing properties by tenants
- provides direction to LAHC and social housing tenancy managers including the Department of Communities and Justice (DCJ), Aboriginal community housing providers (ACHPs) and community housing providers (CHPs)
- supports LAHC to 'right-size' its portfolio with new, fit-for-purpose houses by selling existing houses which are not required due to age, location, heritage or conservation constraint, or limited redevelopment potential.

Policy statement

Home ownership can empower people through having the choice of a house and control over its management, and can help to break the cycle of disadvantage.

LAHC supports the purchase of its houses by tenants in order to maintain their connection to their home and their communities. However, not every house owned by LAHC can be purchased by a tenant. LAHC will only sell a house where this will benefit the social housing portfolio. This is because LAHC's role is to ensure that it positions the social housing portfolio to meet the current and future needs of social housing eligible clients and to maximise community benefit from NSW Government land and property.

LAHC uses the proceeds from the sale of its social houses to improve and grow the social housing portfolio, including funding capital maintenance on existing houses and the purchase and/or building of new houses.

Sales to tenants will be effectively managed to reduce the risk that the purchaser will lose their house at a later date and need to re-enter the social housing system.

Operating context

LAHC operates within the NSW Department of Planning, Industry and Environment (DPIE) under the portfolio and direction of the Minister for Water, Property and Housing. LAHC, together with the Aboriginal Housing Office (AHO), owns the NSW Government's social housing property portfolio.

DCJ, ACHPs and CHPs currently manage the tenancies for LAHC's social housing properties. This means a tenant who lives in a LAHC social house may have their tenancy managed by DCJ, an ACHP or CHP, and the tenancy manager will play a role in supporting the tenant to purchase a LAHC social house. This policy uses the term 'tenancy manager' to refer to DCJ, ACHPs and CHPs when they are undertaking this role.

Scope and application

In scope

Properties – This policy applies to all LAHC-owned social houses.

Ownership types – This policy is restricted to applications for full ownership of a social house by purchasers.

Out of scope

Properties – This policy does not apply to social houses owned by ACHPs or CHPs.

Ownership types – Shared equity arrangements (where a tenant buys a share of the house and the Government retains the remaining share) and rent to buy schemes (leasing agreements that afford renters the right to buy a house at the end of a pre-determined rental period, at a price agreed prior to signing the agreement) etc are not available and are therefore out of scope.

Application

All tenancy managers, LAHC's Committee for the Approval of Property Sales and all LAHC officers and contractors (noting that contractors have no delegate approvals to act for LAHC) are to apply this policy.

Legal and policy alignment

Housing Act 2001

LAHC is a Public Trading Enterprise established in 2001 under the [Housing Act 2001](#). This policy has been developed and is to be implemented in line with the *Housing Act 2001*.

Future Directions for Social Housing in NSW

[Future Directions for Social Housing in NSW](#), released in 2016, is a 10 year plan to drive better outcomes for social housing tenants and supports the goal for some tenants to move on from social housing by providing the opportunity to purchase a social house they are renting.

AHO Strong Families, Strong Communities

[Strong Family, Strong Communities](#) is the AHO's 10 year strategy to improve the well-being of NSW Aboriginal families and communities through housing. A key priority is delivering housing solutions with Aboriginal families based on demand for social and affordable housing.

LAHC Policies

The [LAHC Portfolio Strategy](#) sets out LAHC's 20-year vision and priorities to grow and change its portfolio. The Strategy notes that, to fund more new houses, LAHC will dispose of houses which are no longer fit for its social housing portfolio. This includes the sale of houses, including sales to tenants.

The [Disposal of LAHC Properties Policy](#) (the Disposal Policy) provides a high level overview of the different ways in which LAHC may dispose of property, including through sales and redevelopment programs, sales to tenants, dealings with Government agencies, direct negotiations, vesting and dedication.

The [LAHC Strategic Relocations Policy](#) provides for proactive relocations so that more of the houses in LAHC's portfolio are suited to the needs of existing and future tenants and the houses sold to fund renewal are no longer needed.

Code of Ethics and Conduct

Public officials are expected to act ethically and in the public interest.¹ The sale of LAHC-owned properties to LAHC representatives and their related parties, is generally not permitted but there are certain exemptions which permit LAHC representatives to purchase LAHC houses if they are occupying the house as a social housing tenant, or if the properties have been developed or sold through third parties.² Relevant approval is required for such purchases and LAHC officers may not approve their own purchase.

Eligibility

Purchaser eligibility

The main applicant must be the head tenant on the tenancy agreement, live in the house proposed for purchase, and currently have no arrears.

Applicants who have been paying subsidised rent (not market rent) must also have appropriately confirmed their household income for the purposes of rent calculation within the last five years of their tenancy. If there have been any discrepancies in disclosure of household income that have not been addressed, the applicant will be given the opportunity to 'make good' on rental discrepancies.

Other applicants may include members of the household listed in the tenancy, family members, or other parties who have a genuine relationship with the main applicant. Where there are co-applicants, in order to protect the interests of the head tenant, and reduce the risk of their future return to the social housing waitlist, the property will be precluded from sale for a period of three years following the settlement date and LAHC may register an interest on the title.

The applicant(s) must:

- pay \$220 (GST inclusive) to LAHC to help pay for the house valuation
- have the funds eg savings and/or a loan pre-approval, to purchase the house at market value
- organise their own finance and conveyancing on the sale.

¹ Part 2 of the *Government Sector Employment Act 2013* establishes the ethical framework for the government sector. This is reinforced through the [DPIE Code of Ethics and Conduct](#). Corrupt conduct is defined in Sections 7, 8 and 9 of the *Independent Commission Against Corruption Act 1988*.

² Refer the Appendix to [the LAHC Disposal Policy: Disposal of LAHC Properties and Addendum to the DPIE Code of Conduct](#)

Property eligibility

There are a range of strategic reasons why LAHC may wish to sell a property. These include:

- generating funding for other better quality or more housing
- increasing the proportion of the portfolio which is fit for purpose for social housing and an older tenant cohort
- increasing utilisation, reducing under-occupancy and reducing maintenance costs
- deconcentrating social housing
- extracting maximum value from, and/or avoiding properties becoming land locked or isolated by, neighbouring or adjoining development.

While LAHC will consider applications from tenants to purchase a LAHC social house, LAHC will not agree to sell the property if it is needed for strategic portfolio purposes, for example if it is needed for future redevelopment to create more social houses. If LAHC identifies the property as 'not for sale', then LAHC will refund the \$220 (GST Inclusive) valuation fee.

Delegation to approve sales to tenants

Applications for sales to tenants must be referred to the Committee for the Approval of Property Sales (CAPS)³ for consideration and endorsed in accordance with its Terms of Reference before submission to the relevant delegate for approval.

Sale price

The sale price will be determined by an independent fixed price valuation obtained by LAHC following LAHC's receipt of the application.

Where justified, the sale price may be reduced by taking into consideration the present value of capital improvements funded by the tenant (if these modifications were pre-approved by LAHC). However, reducing the sale price will not be permitted if it conflicts with the Treasurer's Directions ([TD92/2](#)) Sale or lease of Government Assets⁴.

Reviewing decisions

Decisions about LAHC's property portfolio, including whether or not to sell a house, are internal policy decisions for LAHC. As such there is no formal internal review process for these decisions and there is no basis for an appeal to the Housing Appeals Committee (which only reviews decisions of DCJ Housing Services, ACHPs and CHPs).

LAHC *may* consider requests to revisit applications at its discretion eg where a tenant's financial capacity has changed, where further evidence can be provided in support of the application, or where a claim of unfair treatment has been made.

³ The Committee for the Approval of Property Sales membership comprises LAHC officers at the Executive Director level.

⁴ This provides that, in the absence of specific approval to the contrary, market values should be realised on the sale of lease of Government assets.

Policy review

The LAHC Executive will endorse the initial policy, with the LAHC Chief Executive to approve.

This policy will be reviewed every two years or as required and approved by the LAHC Chief Executive.

Glossary

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
ACHP	Aboriginal Community Housing Provider
AHO	Aboriginal Housing Office
CAPS	LAHC's Committee for the Approval of Property Sales
DCJ	NSW Department of Communities and Justice
DPIE	NSW Department of Planning, Industry and Environment
LAHC	NSW Land and Housing Corporation
Policy	means <i>Tenant Purchase of LAHC Social Houses Policy</i>