



Camden Council Submission: *proposed Housing Diversity SEPP* - September 2020

Camden Council Submission

Explanation of Intended Effects for a new Housing Diversity State Environmental Planning Policy 2020



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Executive Summary

This document is Camden Council's submission on the Explanation of Intended Effects (EIE) for a proposed Housing Diversity State Environmental Planning Policy (proposed SEPP).

The broad intent of the proposed SEPP to promote and deliver housing diversity across NSW is acknowledged. The proposed SEPP broadly aligns with Council's Local Strategic Planning Statement that seeks to provide housing choice and affordability for Camden's growing and changing community.

Council officers have reviewed the EIE and prepared this submission. It is requested that the issues and recommendations contained in this submission be considered in finalising the proposed SEPP. The key issues and recommendations outlined in this submission include:

- Seniors Housing
 - That the proposed SEPP include a provision that enables the assessment of seniors housing development under the SEPP if no detailed assessment provisions exist under another environmental planning instrument (EPI), where 'seniors housing' development is also permissible.
 - That the variation to development standards using clause 4.6 of the Standard Instrument LEP include a merit based (qualitative) assessment and not subject to a variation cap of 20%.
- Build-to-Rent (BtR)
 - That BtR housing be prohibited within a Heritage Conservation Area.
 - That adequate car parking be required with BtR housing eg. car parking based on number of bedrooms per dwelling.
 - That BtR housing be removed as a mandatory permissible use in the B3 Commercial Core zone.
- Co – living housing
 - That co-living housing be prohibited within a Heritage Conservation Area.
 - That design guidelines be developed to accompany the proposed SEPP to facilitate high quality amenity and built form outcomes.
 - That the requirement for an occupancy cap of 2 adults per dwelling be clarified.
- Student Housing
 - That adequate car parking be required, particularly for outer suburbs such as Camden with high vehicle ownership rates.
 - That location and accessibility criteria be required to ensure student housing is provided in proximity to educational establishments and public transport.
 - That design guidelines be developed to accompany the proposed SEPP to facilitate high quality amenity and built form outcomes.
- Boarding Houses
 - That boarding houses be prohibited within a Heritage Conservation Area.



Introduction

The Department of Planning, Industry and Environment (DPIE) is reviewing the three-housing related State Environmental Planning Policies SEPPs (the Seniors SEPP, the Affordable Rental Housing SEPP and SEPP 70 (Affordable Housing Revised Scheme) (SEPPs). These SEPPs facilitate the delivery of diverse housing types and have been in place for some time.

DPIE's initiative to review, update and consolidate the existing SEPPs to reflect current market conditions and the changing needs of the community is supported.

The proposed SEPP seeks to consolidate existing housing related SEPPs and introduce three new housing types (definitions and planning provisions) to facilitate housing projects that will stimulate economic recovery:

- Build-to-Rent housing (BtR);
- Student housing; and
- Co-living housing.

Relationship to Camden Local Strategic Planning Statement

Council adopted its Local Strategic Planning Statement (LSPS) on 14 April 2020. A key priority of the LSPS is to provide housing choice and affordability for Camden's growing and changing community. Key housing actions of the LSPS include (in summary):

- Finalise the Camden Housing Study and Camden Housing Diversity Analysis;
- Develop a Housing Strategy; and
- Investigate the development of an Affordable Housing Strategy and Affordable Housing Contribution Scheme.

Council has also adopted a community relief package in response to the COVID-19 pandemic to assist with economic support and recovery.

Council supports the aims of the proposed SEPP and welcomes the opportunity to provide comment. Our comments are set out below as key issues, recommendations and matters for clarification.



Key Issues / Recommendations

Seniors Housing

Relationship between Camden LEP, Growth Centres SEPP and proposed SEPP

There are two main EPIs that facilitate housing in Camden:

- Camden Local Environmental Plan 2010 (Camden LEP 2010); and
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out despite the provisions of any other EPI. The proposed SEPP proposes to amend the Seniors SEPP provisions to clarify that development standards in an LEP will prevail to the extent of any inconsistency with the proposed Housing Diversity SEPP. The suggested approach is supported in-principle.

Council has received advice in relation to a seniors housing development application (DA) where Camden LEP 2010 operates. The advice indicates if seniors housing is permissible under the Camden LEP 2010 and the Seniors SEPP, an applicant can choose to rely solely on Camden LEP for permissibility of seniors housing. If this is the case, Council's advice indicates Chapter 3 of the Seniors Housing SEPP does not apply to the assessment of the DA.

It is noted seniors housing is a permissible land use in several zones under the Camden LEP 2010 and Growth Centres SEPP and both are largely silent on development standards for seniors housing. It is recommended the proposed SEPP include a provision that enables the development standards within the proposed SEPP to apply if no assessment provisions exist under another EPI pathway.

Proposed 20% variation cap for development standards

It is proposed that development standards in the proposed Housing Diversity SEPP could be varied using clause 4.6 Exceptions to development standards of the Standard Instrument LEP to a maximum of 20%.

Concern is raised that the proposed 20% variation is contrary to the objective of the clause which emphasises a qualitative rather than a quantitative approach. Variation of development standards for seniors housing should enable a qualitative, merit-based assessment.

Amend location and access to facilities provision

It is proposed to remove the point-to-point transport provision so that this provision cannot be used for the purpose of meeting the accessibility requirement of seniors housing and this is supported.



Recommendation:

- Further investigation is needed where seniors housing is a permissible land use under another EPI, with no detailed local provisions in place. A suggested provision to be included in the proposed Housing Diversity SEPP is set out below for DPIE's consideration:
 - *if seniors housing is a permissible land use under another environmental planning instrument and there are no development standards that are applicable under that instrument, the seniors housing provisions of the SEPP (proposed Housing Diversity SEPP) will apply.*
- It is suggested DPIE amend the proposed 20% variation to include a merit-based assessment via Clause 4.6 Exceptions to development standards of the Standard Instrument LEP.

Build-to-Rent (BtR) Housing

Exclude from land that is a Heritage Conservation Area

Under the proposed definition of BtR housing, it contains at least 50 self-contained dwellings. Large-scale development of this nature is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends BtR housing be excluded from land within a heritage conservation area.

Remove BtR from B3 Commercial Core Zone

It is proposed to include BtR housing as a permissible use in B3 Commercial Core zone.

Concern is raised that mandating BtR in the B3 zone may undermine the zone objectives to generate employment-oriented land use activities.

The objectives of the B3 Commercial Core zone seek to provide wide range commercial uses to encourage employment opportunities in accessible locations, with the desired land use of retail, business, office and entertainment. Mandating a residential use is inconsistent with these objectives.

It is recommended that BtR housing not be mandated as a permissible use in the B3 Commercial Core zone.

Proposed car parking rate

The proposed minimum 0.5 car parking provision rate per dwelling for BtR housing should be increased for areas such as Camden, which has higher vehicle ownership rates compared to other parts of Sydney.

Furthermore, the proposed transition of BtR housing to private ownership (via strata subdivision) after 15 years will create an increased demand for car parking to service the development. An increased car parking provision rate, based on the number of bedrooms, is supported.



The draft BtR housing definition includes that it must be held in single ownership. However, there is an intention for the development to transition to private ownership (strata subdivision) after 15 years. What justification is there for BtR housing to make such a transition? There may be an argument for BtR housing to retain its rental status in perpetuity. As a minimum, the intention of requiring a proportion of units to be retained as affordable housing following strata subdivision is supported.

Clarification is sought on the proposal for BtR housing to have a tenancy period of 3 years or more. This appears to conflict with a tenant profile that seeks increased flexibility in tenure.

The intention to develop design guidance for BtR housing is supported.

Recommendation:

- BtR housing be excluded from land within a heritage conservation area.
- Remove BtR housing from being a mandatory permissible use in the B3 Commercial Core zone.
- The car parking rate must be increased for areas such as Camden.
- Design guidance be developed for BtR housing.

Student Housing

There is no minimum car parking provision rate proposed for student housing. As mentioned previously, Camden has high vehicle ownership rates compared to other parts of Sydney. A minimum car parking rate is necessary, as students' own cars, particularly in outer Sydney where student housing could be developed to meet the growing needs for educational establishments in the area.

Further to this, the proposed definition of student housing does not specify any location and accessibility criteria. Student housing should be permitted near educational establishment and public transport services. Location criteria should be established to address this issue.

Concern is also raised the proposed room size for student housing is discretionary and could be less than 10m². This may result in unacceptable amenity outcomes and should be reviewed. DPIE is requested to develop design guidance for student housing. This will ensure that room sizes and communal areas for student housing will achieve acceptable amenity outcomes.

Recommendation:

- Establish a minimum car parking requirement for student housing.
- Establish location criteria.
- Review and increase the minimum room size.
- Develop design guidance.



Co-living Housing

Co-living housing is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends co-living housing be excluded from land within a heritage conservation area.

In addition, SEPP 65 (Design Quality of Residential Apartment Development) does not apply to co-living housing, which may result in unacceptable outcomes in relation to built form, internal and external amenity, storage, solar access, natural ventilation, and visual and acoustic amenity. The development of design guidance is supported.

Clarification is sought on the proposal to accommodate not more than 2-adults. This requirement could result in a standardised product and not promote housing diversity. Co-living should cater for the accommodation needs of larger groups, (subject to review of the minimum room size requirement). For instance, a group of health-care workers such as nurses (>2 person) may elect to live together near to a hospital precinct.

Recommendation:

- Co-living housing be excluded from land within a heritage conservation area;
- Develop design guidance;
- Review the 2-person cap to cater for the accommodation needs of larger groups.

Boarding Houses

Concern is raised that a boarding house is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends boarding houses be excluded from land within a heritage conservation area.

DPIE is seeking feedback on whether it would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert back to market rates. A proposal to introduce an affordability requirement for boarding houses that is maintained in perpetuity is supported.

Recommendation:

- Boarding houses be excluded from land that is within a heritage conservation area;
- Maintain boarding houses as affordable in perpetuity.



Matters for Clarification

New Housing Type Rely on FSRs

The proposed new housing types and amendment rely upon floor space ratio provisions in local EPIs. However, this has implications for Camden, noting the Camden LEP 2010 and the Growth Centres SEPP 2006 are both largely silent on residential FSR provisions.

The submission seeks clarification on whether the proposed SEPP will include local variations.

FSR Bonus for Boarding Housing and Infill Affordable Housing

The current Affordable Rental Housing SEPP applies the same FSR bonus for infill affordable housing and boarding houses. The proposed SEPP proposes to introduce a revised 20% flat bonus rate for boarding houses, while maintaining the current FSR bonus for infill affordable housing:

- 0.5:1 FSR bonus if existing maximum FSR is 2.5 or less; and
- 20% existing maximum FSR bonus, if existing FSR is greater than 2.5;

It is noted the report prepared by the Council Boarding House Working Group in 2019 made a recommendation to introduce a 10% flat bonus rate for a boarding house, rather than 20%.

While the infill affordable housing bonus is proposed to include other residential accommodation (i.e. manor home and terrace), it is not currently proposed to be capped at 20%. It is unclear about the intention to differentiate the FSR bonus for boarding houses and infill affordable housing, as the FSR bonus could generate similar built form issues for these types of developments.

This submission seeks clarification on the intent of introducing a 20% bonus for boarding houses and not capping the infill affordable housing development.

Tenancy Requirement for New Housing Type

The proposed new housing types involve various tenancy requirements (i.e. students only for student housing). The submission requests more detail on the mechanisms to monitor and enforce the tenancy requirements for the proposed three new housing types.

Motorcycle parking rate for Student and Boarding Housing

While the proposed student housing does not provide a minimum car parking rate, it retains the existing requirement for motorcycle parking rate (1 per 5 rooms) for student housing as well as a boarding house. Clarification is requested on the appropriateness of the motorcycle parking rate and whether it needs review to reflect current practice and demand.

The submission seeks review of the motorcycle parking rate for both student housing and boarding housing.



Seniors Housing SEPP

The current Seniors Housing SEPP does not apply to land defined as environmentally sensitive land under Schedule 1. It is proposed to update Schedule 1 to align with current legislative and planning conditions.

Further clarification is sought on this issue. Specifically, consideration should be given that some local planning instruments do not identify the location of environmentally sensitive land.

Clause 26 of the Seniors Housing SEPP specifies that senior housing developments are to be located within 400m of established services and facilities. It is unclear if the 400m distance is referring to walking distance or a direct distance from two points. Clarification of this issue is requested in the proposed Housing Diversity SEPP.

Additional Consideration

Group Homes

Council acknowledges the important role that group home accommodation plays in the community. The proposed complying development approval pathway to convert an existing dwelling to a group home could provide a fast track approval process.

It is suggested DPIE consider implementing a group home register through the NSW Fair Trading scheme, like the boarding housing register. This will provide transparency and consistency for relevant authorities to plan and manage this type of housing development.

Conclusion

This submission supports the broad intent and aims of the proposed Housing Diversity SEPP. This submission has outlined recommendations to address the key concerns and has sought further clarification on several proposed provisions.

Key concerns identified in this submission include a gap between the proposed Housing Diversity SEPP an existing issue that Council is facing in relation to seniors housing development where the Seniors housing SEPP is 'switched off'. Concerns also include excluding BtR, Co-living and Boarding houses from land that is a heritage conservation area, which would generate unacceptable environmental impacts on these sensitive areas.

25 September 2020

Ms Sandy Chappel
Director, Housing Policy
NSW Department of Planning Infrastructure and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Chappel,

Submission – Proposed Housing Diversity SEPP

Thank you for the opportunity to make a submission on the Explanation of Intended Effect (EIE) for a proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP).

A review of the exhibited EIE and accompanying documentation has been undertaken, and the proposed consolidation of three existing housing related SEPPs (Seniors SEPP, Affordable Rental Housing SEPP and SEPP 70) as outlined in the EIE is generally supported. The consolidation of these policies is considered a timely measure to simplify the operation of these housing policies and improve the delivery of their common housing objectives.

This submission supports the consolidation of the abovementioned housing SEPPs. However, a number of concerns are raised with the content and timing of the proposed policy changes put forward in the EIE. These concerns are outlined below, and generally relate to the unconsidered impacts of some of the proposed policy changes on housing delivery in the Campbelltown Local Government Area. The DPIE is requested to defer the operation and/or amend the proposed SEPP to appropriately address these concerns.

Impacts on Planned Housing Delivery for the Campbelltown LGA

Campbelltown City Council has undertaken a strong evidence based analysis of housing needs in the local area under its Draft Campbelltown Local Housing Strategy (LHS), to sustainably manage future housing delivery in the Campbelltown Local Government Area according to local needs. This work is being undertaken to align with housing targets and related actions of the Western City District Plan. The Draft LHS has been publicly exhibited by Council (finished 9 September 2020), and subject to review of public submissions, is anticipated to be forwarded to the Greater Sydney Commission for making by 30 September.

Council is also partnering with other Western City Councils in the District Planning Partnership to advance work on affordable rental housing initiatives for the broader district, and is separately preparing a stand-alone Affordable Rental Housing Strategy for the Campbelltown Local Government Area. The preparation of the Campbelltown Affordable Rental Housing Strategy will strengthen the evidence base for the delivery of affordable rental housing in the local area, and will properly inform any required amendments to advance affordable rental housing initiatives under the Campbelltown Local Environmental Plan 2015 (CLEP 2015).

Strong concerns are therefore raised that the proposed timeframe for the Housing Diversity SEPP, and associated mandated amendments to CLEP 2015, will precede and potentially undermine the abovementioned planning work being undertaken by Council to ensure that the delivery of housing in the Campbelltown LGA is evidence based. In this respect, the mandated LEP amendments proposed under the EIE are requested to be deferred until the Affordable Rental Housing Strategy being prepared by Campbelltown City Council establishes an evidence based need for these policy changes to occur.

Increased Complexity – New Housing Definitions within CLEP 2015

The introduction of three new definitions into the Standard Instrument LEP ('build-to-rent housing', 'student housing', and 'co-living' housing) would make a total of 16 (sixteen) different dwelling types defined under CLEP 2015.

In terms of land use permissibility under the LEP, sixteen different sub-definitions of 'residential accommodation' is considered to be overly prescriptive, and unnecessarily complicates the housing approval process.

The increased complexity of having additional housing definitions to administer under the LEP will have direct resourcing implications for Council:

- **DCP Amendments**

Council's Sustainable City Development Control Plan 2015 (SCDCP) will need to be reviewed and amended to align with new LEP definitions and policy changes. It is unclear what amendments to Council's DCP will be required and there is a risk that there will be a mis-alignment between the commencement of the Housing Diversity SEPP and the amendment of the SCDCP. It is requested that the implementation program include a suitable timeframe for Councils to amend their DCPs.

- **Compliance Work**

Concerns are raised that an increased level of compliance work will be required to ensure that these developments adhere to specific site management, subdivision restrictions, and tenancy occupation requirements of the respective LEP definitions. To address this concern, it is requested that the SEPP requires covenants on the Land Title of approved developments to be enforced by DPIE. Any ongoing restrictions on tenants and site management or subdivision should be detailed in the covenant to provide greater transparency and certainty to all stakeholders.

Group Homes – Policy Changes

Strong concerns are raised that the expansion of complying development to allow the conversion of a standard dwelling to be used as a group home will potentially have negative implications for tenants and surrounding land owners.

The proposed complying development approval pathway for the retrofitting of standard dwellings to group homes would likely result in lower quality design outcomes than would have otherwise be provided if the group home was purpose built. In this respect, it is considered that group homes should be encouraged as new developments with specific building and site requirements applied to provide the best design outcomes possible.

Any proposed change of use of an existing dwelling to a group home should involve a more rigorous assessment than permitted under complying development, including a merit based assessment of potential impacts on the surrounding area and a merit based assessment of the level of access to transport and services. This should include appropriate consultation with adjoining residents under the DA process, given the potential impacts to neighbourhoods resulting from the conversion of a standard dwelling to a group home.

Notwithstanding the above, if the DPIE is to permit the conversion of standard dwellings to group homes as complying development then restrictions should be imposed on the clustering of group homes to avoid cumulative impacts in neighbourhoods. Additionally, the DPIE is requested to require the proponent of a group home development to engage a social housing provider to appropriately manage the development, similar to the proposed updated boarding house definition.

Rent to Own

There is insufficient justification provided in the EIE to demonstrate that 'build to rent' housing needs to be separately defined under Campbelltown LEP 2015, given that this form of housing may already be approved under Council's LEP as a 'residential flat building'. In this respect, the main impediments to this housing product being delivered appear to be tax related (GST and Land Tax), not planning policy related.

GST makes build-to-buy more cost effective than build-to-rent, as in a build-to-rent scenario the developer who establishes the property is also the final owner and cannot reclaim the 10 per cent tax payment. Land tax is another disincentive given that the amount of land tax liable is based on how many apartments the investor owns, meaning that owning the whole development would generate the highest rates of land tax.

It is therefore unclear how the proposed new LEP definition for this housing type will stimulate the delivery of this housing product in the market place.

Notwithstanding, the DPIE is requested to consider provisions within the SEPP to promote the opportunity for tenants to 'rent to own'. This may include, for example, a purchase option being provided to long term tenants as part of any subdivision approval of this development type. This will allow persons to have security of residency later in life and avoid long term and increasing rental costs. Home-owners can also use home equity withdrawal to fund life expenses such as health and aged care, whereas renters cannot. It is therefore requested that the SEPP provides a greater emphasis on long term ownership of dwellings by tenants to assist ageing in place and financial independency for tenants post-retirement.

Boarding House – Policy Changes

The proposed definition amendment for boarding houses to be managed by community housing providers (CHPs) is supported.

However, to ensure the sustainable delivery of affordable rental housing (ARH), all new boarding houses approved under the SEPP should be required to be used for affordable rental housing in perpetuity.

The current provisions of requiring boarding houses to be used as ARH for a 10-year period means that there is no long term security of tenure for tenants, and potentially no net increase of affordable rental housing in the market.

The ongoing use of boarding houses as affordable rental housing is consistent with the 'boarding house' definition under the SEPP, requiring this type of residential accommodation to be 'affordable rental housing'. Given this definition, it is unclear how the use of boarding houses can legally cease being used for affordable rental housing without being separately approved as a non-ARH type of residential accommodation under the LEP.

Notwithstanding, should the DPIE maintain the current 10 year limit on affordable rental housing then the SEPP should require a common register or database for boarding house developments to provide certainty for all stakeholders on the date of commencement and expiry as ARH.

Legal Weight

It is unclear whether the EIE should be given legal weight in the evaluation of current Development Applications (DAs) under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. DPIE is requested to clarify this matter to ensure consistent consideration of the EIE in DA assessment by all Councils that are affected by the proposed Housing Diversity SEPP.

In conclusion, strong concerns are raised that the proposed timeframe for the Housing Diversity SEPP, and associated mandated amendments to CLEP 2015, will precede and potentially undermine the planned delivery of housing in the Campbelltown LGA. In this respect, whilst the consolidation of the three existing housing SEPPs is supported in principle, a number of issues are identified with the proposed policy changes and mandated LEP amendments.

The DPIE is therefore requested to defer and/or amend the proposed Housing Diversity SEPP having regard to the abovementioned issues and concerns, and ideally defer any significant policy changes affecting affordable rental housing in the Campbelltown LGA until the Campbelltown Affordable Rental Housing Strategy is finalised.

If you require any further information please contact Jeff Burton from Council's City Development Division on (02) 4645 4842.

Yours sincerely



David Smith
Executive Manager Urban Centres

Submitted on Wed, 02/09/2020 - 16:11
Submitted by: Anonymous
Submitted values are:
Submission Type:I am making a personal submission
First Name: Catherine
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Submission: Dear Sir / Madam I would like to express my deep disappointment and alarm at the so-called Housing Diversity code. At every angle the proposed code reads like it has been written by big developers - the "need" for massive developments, and the opening up of loopholes to enable developers to pursue the next inappropriate level of overdevelopment. This championing of commercial interests should not be the driver of the planning framework.

The code claims to enable "diverse" housing but it looks like a prescribed monotony of massively scaled projects - student housing, coliving and build to rent - to line the pockets of developers. It is further disappointing to find that, according to a certain development proponents website, development proponents are 'encouraged' to continue to lobby NSW planning after submissions from the public close on 9th September - again who is NSW planning trying to serve, the people of NSW or the big end of town?

It is hard to understand why in this context restrictions are proposed for traditional boarding homes, and the continued enforcement of unnecessary restriction of secondary dwellings. Is NSW Planning THAT focused on lining the pockets of its developer mates - that it needs to sacrifice genuine housing diversity to distract from the fact it is proposing a massive overdevelopment of the forms that are the least desirable? I have lived in two inner-middle Sydney suburbs for the last 10 years and they are increasingly packed, over-trafficked and broken. Large scale developments are the worst - with each new large scale development the problem worsens. Why again, does NSW Planning take on the 'role' of championing large scale development when it is reducing the amenity for existing residents? And why does NSW Planning need to close off small-scale development? Is NSW Planning worried that the "right" suburbs could become less exclusive for its developer mates? And to rush a proposal as risky as this through under the pretense of COVID just adds to the smell. I have been a liberal voter for the last couple of elections but this proposed code short of being amended is likely to change my vote. ARHSEPP should be retained and Build to Rent is just another thing on top of it.



PROPOSED HOUSING DIVERSITY SEPP SUBMISSION

Tuesday, 8 September 2020

Department of Planning Industry & Environment
4 Parramatta Square
12 Darcy St
PARRAMATTA, NSW 2150

Attention: Mr Jim Betts

Position: Department Secretary

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PROPOSED HOUSING DIVERSITY SEPP – EXPLANATION OF INTENDED EFFECT RESPONSE TO PROPOSED SENIORS SEPP CHANGES

Centurion Group is a private company which provides Development and Project Management services to the property sector of NSW, with a large proportion of Aged Care & Seniors Living developments. We work with several Private and Not for Profit (NFP) Aged Care providers, assisting them in the pursuit of new and renewed Aged Care and Seniors Living facilities for older Australians in and around Sydney.

Centurion Group is pleased to make this submission on the proposed Housing Diversity SEPP - Explanation of Intended Effect (EIE). Centurion Group remains strongly supportive of the Department of Planning, Industry and Environment's (DPIE) intent of facilitating more diverse and affordable housing forms, particularly in the current economic climate, and the opportunity to review State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP).

However, we remain acutely concerned that the EIE as currently drafted will generate significant obstacles to obtain approval for the types of residential accommodation the Aged Care industry provides, and that the intended outcome will not be achieved.

This submission focusses on the proposed amendments to the Seniors SEPP and discusses the following key concerns:

- The clear intention to restrict these housing options, with no apparent valid identified alternative, to a housing choice which provides for a growing community need, with ageing being the most significant demographic change impacting NSW now and into the future.
- The potential for Local Environmental Plans (LEP) to override the provisions of a State Environmental Planning Policy (SEPP) and the localisation of controls for seniors development.
- The limit on clause 4.6 variations to a maximum of 20%.

Our key recommendations are:

- That the SEPP continue to override LEP controls and continue to provide consistency and certainty in respect of controls applying to Residential Aged Care Facilities and Seniors Living developments.
- That incentives be provided for the renewal of ageing Residential Aged Care Facilities and Seniors Living villages.
- That given the significant impact of the proposed changes and uncertainty of their implications on the development, construction and operation of seniors housing developments, it is critical that any new SEPP be exhibited for further comment.
- That any proposed changes or successors to the Seniors SEPP are implemented at a date well into the future, to allow adequate time for existing planned developments or redevelopments of existing sites to be pursued via the existing planning & approvals process. This would prevent the charge of sovereign risk, with the added benefit of providing for a significant short-term stimulative effect on the NSW property industry generally.

Use of Seniors SEPP

The Seniors SEPP was written almost 30 years ago. Both the demographic of people housed, and built environment that it fits into, has changed significantly. In terms of Seniors Living, people are often entering it later in life, well beyond 55 as well as wanting to be able to stay within their community or move to higher services areas with urban and rural settings.



In terms of RACFs, the average age of entry has increased from 75 to 85 years of age and the average length of stay has decreased from 3 years to not much more than 1 year. Aged Care is moving closer to Palliative Care in many cases, but not all. Across all aspects, the provision of care remains paramount and diversity remains essential.

Our understanding from industry feedback is that virtually all Seniors Living projects are delivered via the Seniors SEPP. It is fundamental to the delivery of Seniors Housing and most Councils do not have suitable controls in place or understand some of the key considerations. We are regularly required to brief Council officers on the particulars of Seniors Living Apartments as separate from Residential Aged Care, as well as the associated planning regimes under which they are lodged.

Many LEPs do not cater for seniors housing and do not make it a permissible use within their residential zones. as it is not seen as necessary given the permissibility granted by the SEPP. This approach has allowed for consistency in the seniors housing directions and controls.

While the controls would as a result of the proposed changes, need to be updated across all Council LEP's, the potential for a lack of consistency and varying degrees of ability for Aged Care operators' to provide the consistent level of care to our older Australians that providers we work with, and no doubt the NSW Government, seek to provide, will present enormous and prohibitive risk to the industry generally in the pursuit of new or renewed Aged Care and Seniors Living facilities across NSW.

The directions in the EIE appear to inadvertently contravene the intent of both the NSW Housing Strategy released in May 2020, and the obvious likely conclusions of the Royal Commission into Aged Care; that more resources need to be allocated to the Aged Care industry generally.

If enacted as they are proposed, the changes would undoubtedly drive the cost of providing resident care higher and thus reduce rather than encourage housing choice and diversity across NSW.

Localisation of Seniors Housing Controls

Of most concern relating to the proposed changes is the potential for LEPs to prevail over the Seniors SEPP. This proposed amendment is significant in that it reverses a long-standing legislative planning practice in NSW where, should there be any inconsistency between a SEPP and a LEP, the SEPP will prevail to the extent of any inconsistency, given its higher order and a state wide instrument.

This proposed change will now mean that all development standards of an applicable LEP will prevail over the development standards of the Seniors SEPP, where there is an inconsistency.

Not only will the building height and FSR development standards of the LEP prevail, but this could lead to Councils seeking to impose seniors housing specific development standards (such as access to services, increased parking rates etc) to further control or restrict seniors development within their respective LGA's.

The consequence of the proposed changes is likely to make the provision of seniors housing more challenging than it is already. Seniors housing developments (both ILUs and RACFs) are typically larger than standard residential development due to spatial requirements relating to mobility and often require provision of onsite services. As such, seniors developments typically generate lower yields numerically when compared to standard residential apartments and are thus less financially competitive in the market.

The Seniors SEPP currently compensates for this by offering the floorspace incentives for Senior Living apartment developments and Residential Aged Care Facilities in particular, thus levelling the playing field.

The Seniors SEPP was introduced in recognition that our population is ageing, and that there is a specific need to plan for this type of accommodation in our communities so that people can age in place and remain connected with their community.

At that time it was observed that local planning provisions did not encourage or cater for the demand for seniors housing, and many seniors were being forced to relocate out of their communities to find suitable and affordable accommodation.

To overcome this issue the Seniors SEPP was introduced which allowed for seniors housing to be delivered where it would have otherwise been prohibited and also to incentivise seniors housing by making it more competitive in the residential market.

Implications of Specific Changes

Definition of Height

The EIE indicates definitions will be updated and this is potentially appropriate, but no detail is provided and it is concerning that this could occur without a correct understanding of the implications for delivery as indicated in some of the amendments proposed. There should be clear consultation with the industry to allow considered feedback on any proposed changes. If the desired outcome is improved delivery, the Aged Care industry would rightly expect there to be a highly transparent process.



Currently the definition of Height is defined as being from the existing ground level to the upper level ceiling. Importantly this definition acknowledges that compared to adjoining residential development, both ILU and RACF developments require compliant accessible lift access and larger amounts of building services plant. The height definition to the ceiling ensures the scale of buildings remains similar to adjoining residential 2 storey dwellings, yet allows for lifts and plant, that require more height than standard residential buildings.

The current definition is critical to this type of housing and linked the definition to the standard height within LEPs will significantly limit development.

Permissible Floor Space

It appears that the proposal suggests that floor space will be determined by the LEP. As most low density residential zones have an FSR of 0.5:1 or lower, this will translate to a reduction in the permissible FSR for seniors living developments and in particular RACFs which will see a reduction in floorspace down from 1:1 to 0.5:1. The impacts of this are enormous on providers, most of whom are preoccupied with managing the provision of care to their residents, notwithstanding the removal of a significant portion of federal funding 3 years ago, and subsequently the devastating impacts related to COVID-19.

If the intention is to improve the delivery of care and affordable, stable housing to our older Australians, these changes will do the exact opposite.

Most Aged Care providers we work with, operate on a model of either 108 residents or 144 residents. On average a RACF building in a Residential zoned R2 or R3 for 108 residents will require a site area of 5,500-6,000sqm and 7,500-8,500sqm for 144 residents. The changes as proposed could on FSR requirements alone, increase the required site area by more than 80%.

This will significantly impact the cost of future RACF developments and devastate the feasibility of sites already purchased by providers. The suggested Clause 4.6 path to a potential maximum 20% increase is both uncertain and will fall significantly short of the required outcome to facilitate the delivery of Seniors Living projects.

The resulting cost increase to the provision of each new Aged Care placement (room/ bed) will be as a direct result of changes borne of this proposed change to the Seniors SEPP.

Limit of Clause 4.6 variations

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP1 amendment. This has been an important function of the Seniors SEPP which has allowed for site specific responses to be provided where appropriate and of demonstrable merit. Imposing an arbitrary maximum possible 20% variation, appears to be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of merit.

Further consultation and clarification is required as to how a 20% maximum variation is measured for a development standard such as Clause 26 of the Seniors SEPP, where there are various services, distances and also gradients that need to be satisfied to ensure compliance.

The application of an arbitrary control could have unintended effects on non-numerical standards, such as preventing a private bus service for a residential care facility being provided in lieu of a public bus service via a Clause 4.6 variation. This has been an alternative for residential care facilities, supported by Councils, planning panels and the Court where appropriate.

Unrealised Review Options

Outdated development standards and design guidelines

Being essentially a near 40-year-old instrument (commencing with SEPP5 in 1982), the Seniors SEPP could be considered outdated and does not reflect the more modern typologies available for seniors living developments that the market demands.

The provisions in the SEPP tend to cater for a broad format retirement village, low density style of accommodation, rather than middle ring, inner city medium, and high-density housing. While in regional and outer ring locations this may be relevant, in the majority of modern seniors developments, this typology remains somewhat redundant within a modern urbanized environment.

For example, the open space requirements for Aged Care developments – being a minimum of 25 square metres of landscaped area per resident. In inner city areas, compliance with this control is not feasible or reasonable. Revised provisions should be implemented which cater for a range of dwelling types – i.e. low, medium, and high-density areas.

Incentives for renewal of ageing villages

The prevalence of aging retirement villages and twin or even triple resident room residential aged care facilities is a significant problem for the industry. Much of the accommodation provided in this format is outdated, is not adequately



accessible and remains in need of significant renovation work which is not feasible since most sites are built to their available development potential.

Facilitating orderly redevelopment and increasing density while improving resident amenity would allow existing seniors living residents to capture more secure long term residential stock, and deliver enhanced housing quality and amenity to Residential Aged Care residents in an established area with established networks.

Implemented provisions that allow for the renewal of ageing villages and RACF's could work in a similar way to the vertical villages provisions in Clause 45. Such a clause could apply to villages and care facilities that were predominantly built prior to the commencement of SEPP5 and meet the site requirements of clause 40 of SEPP Seniors. Should a site meet these criteria, then it could be eligible for a 0.5:1 FSR bonus and a similar building height bonus, provided a Site Compatibility Certificate (SCC) is issued.

Specific provisions could be introduced into the SEPP, such as design excellence and amenity provisions, to ensure that the additional density is appropriate in the context of the site. Having the level of scrutiny applied by way of a SCC would help ensure the utilisation of the above incentives results in an appropriate built form outcome.

We note however, while such provisions would be highly beneficial to the renewal of existing Seniors housing stock, and existing operators, if implemented in concert with the proposed changes to the primacy of the SEPP over LEP's – significant harm would be dealt to potential new operator entrants to the Aged Care industry.

Conclusion

In summary, we support the DPIE in its review of the Seniors SEPP. However, we believe that it is critical at this time that the Seniors SEPP is retained, with further incentive provisions and that it has precedence over LEP controls.

Without this:

1. Councils will be likely to impose more onerous controls which will affect the viability of seniors developments;
2. Seniors Housing providers will not have any certainty as to the likely approvals they will be able to obtain and;
3. Seniors Housing providers will be less likely to be able to compete in the market, with the provision of new seniors housing likely to be reduced and therefore not meet the increasing demand for this type of housing.

As the population ages and the baby boomer generation moves into advanced age in the next 10-15 years, it is becoming increasingly important that we have sufficient suitable accommodation which is especially designed to be able to cater for our older Australians to age in place, in a manner that reflects their needs and the dignity they should be afforded.

Seniors accommodation has specific design requirements, particularly in relation to size. As such it cannot be compared to a standard residential development. If it is to be delivered, consistent development standards need to be applied and incentives given to ensure that the market will cater for the demand.

The past has shown that intervention is required and to remove this as is currently proposed would be deleterious, and an unprecedented, extraordinary step backwards for the Aged Care industry, one that on the evidence of the last 40 years, has relied on the intervention of the SEPP Seniors to deliver seniors housing to NSW.

Rather than returning the controls to local councils, the SEPP should be improved to better streamline approvals and be made more relevant to modern styles of housing. This would both improve the provision of care to older residents, increase renewal of aging and inappropriate facilities, with the added benefit of incentivising the industry to stimulate the seniors housing sector at a critical time for the NSW economy.

Please contact us should you wish to clarify or discuss any aspect of this correspondence.

Kind Regards

Nick Winberg
Director

For and on behalf of
Centurion Group Pty Ltd



27 August 2020

Government Architect NSW
c/o Department of Planning, Industry and
Environment
Locked Bag 5022
Parramatta NSW 2124

Contact: Hannah McCauley
Our Ref: DOC2020/144389
Your Ref: Draft Greener Places Design Guide

Dear Sir/Madam,

Submission: Proposed Housing Diversity SEPP – Explanation of Intended Effect

Thank you for the opportunity to provide comment on the Proposed Housing Diversity SEPP – Explanation of Intended Effect. We welcome the release of the EIE and the opportunity to comment on the proposed SEPP.

We support the aim of the SEPP to simplify existing legislation relating to housing provisions and recognise that the proposed changes will support greater diversity of housing types, and the state's economic recovery from Covid-19.

Council welcomes the amendments aimed at supporting and improving the supply of social housing, this will benefit the broader community. The differences in regional and metropolitan scenarios mean that a one sized approach does not always achieve the best outcome. The EIE provides some detail about variables in the proposed controls of the SEPP, such as expanding the density bonus provisions to apply outside of the Sydney metropolitan region. However, some more delineation is required with controls that will have a different impact in regional areas than they will in metropolitan areas, for example car parking allowances.

We look forward to further updates on these proposed changes.

If you require any further information, please do not hesitate to contact Council's Strategic Planner, Hannah McCauley, on telephone 02 4993 4183.

Yours faithfully

Iain Rush
Acting Strategic Planning Manager

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ABN 60 919 148 928

4 September 2020

NSW Department of Planning, Industry and Environment

Housing Policy Team
4 Parramatta Square,
12 Darcy Street, Parramatta NSW 2150

By online submission

<https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>

To Whom It May Concern,

City of Canada Bay submission to Housing Diversity SEPP Explanation of Intended Effects

The City of Canada Bay Council (CCBC) commends the NSW Government on the release of the proposed SEPP Housing Diversity (the SEPP) to provide improved housing choice for the community.

This submission contains CCBC's response to the Explanation of Intended Effect, seeks clarification on proposed definitions and raises issues for consideration by the Department.

It is requested that the NSW Government responds the issues raised before the proposed SEPP is progressed.

If you have any questions in relation to this submission, please contact Council's Strategic Planning Team on 02 9911 6266 or by email to strategicplanning@canadabay.nsw.gov.au.

Yours sincerely,



Paul Dewar
Manager, Strategic Planning

1. BUILD-TO-RENT HOUSING

The proposed new definition for 'build to rent housing' has the potential to support the growing number of renters. Between 2011 and 2016, the number of renters increased from 31.6% to 35.4% of all households in CCBC, with this trend on an upward trajectory.

Separate to the proposed new definition of Build to Rent housing (BTR), the NSW Government has proposed the introduction of a policy which offers up to 50% land tax discounts for BTR projects, as an accompaniment to the proposed Housing Diversity SEPP. This is intended as a way to encourage developers to take up this development pathway.

1.1 Size of development and design guidelines

Developments of 50+ dwellings require significant amenity in relation to landscaping, solar access, provision of relevant common spaces and potentially the need for lifts. All of these amenity outcomes require significant investment and are not largely different to developments that fit within the criteria for buildings assessable under the SEPP No.65 Apartment Design Guide (ADG).

- Apart from the offer of 3 year leases to tenants and single entity ownership of the development, the creation of this housing product can be achievable through existing definitions for residential flat building and shop top housing. Therefore this housing product should be subject to the same level of design quality set by the ADG. Clarification is sought from the NSW Government as to the need for new stand-alone design guidelines for this housing product.
- The EIE has not specified minimum dwelling size for this housing product and defers this, along with other amenity requirements, to being included in a new design guideline, yet to be developed. For this reason, it is not possible for Council to appropriately respond to the proposal for this new housing product definition.

1.2 Locations of BTR

The B3 Commercial Core zone within Canada Bay LGA is located in the Bakehouse Quarter where adaptive reuse encompasses the former Arnotts Biscuit factory site in North Strathfield. This area is zoned B3 to ensure a mix of industrial, commercial, retail and urban services continue to be provided within close proximity of residential zones and adjacent to North Strathfield Station.

Active street frontages in B3 Commercial Core and B4 Mixed Use zones are also critical for supporting the intent of these zones in providing retail and office uses, and improving the streetscape amenity to encourage walking and cycling.

- It is inappropriate to change the intent of B3 zone from providing employment to residential uses such as BTR. Particularly as residential zones exist immediately adjacent to the B3 zone.

1.4 Proposed design guide

Should a new design guide be developed, it is critical for the guide to consider the sustainability outcomes of development.

- Being under a single entity ownership provides a basis for initiatives such as recycled water and solar PV networks to be installed throughout the development.
- Other resource recovery systems, including compostable waste collection, vacuum waste, and on-site waste separation, are much more achievable where a single ownership invests in these systems from the commencement of planning and design for the development. Similarly, infrastructure such as electric vehicle charging station, car share vehicle parking and shared bicycle schemes can be incentivised and operated under single entity ownership.

1.5 State significant development assessment

The proposed EIE sets out that BTR would be assessed as State significant development (SSD) if the development has a capital investment of \$100million or more, in non-rural areas.

Developments applications close to this investment value have been received for sites in CCBC's Rhodes Strategic Centre. Due to the high density context of Rhodes, CCBC wishes to retain the role of planning consent authority to ensure community needs are assessed based on our intimate knowledge of local needs.

- CCBC does not support the proposed provision for projects of \$100 million or more, to be assessed as a State Significant Development with the Minister for Planning as the consent authority. Council wishes to retain the planning consent authority for all DAs.

1.6 Rent to Buy

The EIE describes this housing product as providing long term stability for renters, and after 15 years, could be strata subdivided by first offering the sale to the tenant, or be redeveloped entirely.

It is recommended the State Government consider options for Rent to Buy, which enables long-term tenants to utilise their rental years to build towards purchasing the dwelling at the end of 15 years.

- Rent-to-by or shared ownership models are not well researched within the Australian context, however, certain models have been shown to operate with relative success in cities around the world. It is recommended that the NSW Government investigate the potential for Rent to Buy or similar schemes to be implemented as a mandatory option for long term residents of BTR housing.

1.7 Ability to strata subdivide after 15 years

- It is considered counterproductive to convert rental properties aimed at long term stability into private dwelling at the conclusion of 15 years. If BTR is to tip the balance in favour of tenancy stability and increase incentive to make this type of development long term investment for institutional investors, it is recommended that these properties remain rental in perpetuity or as long as economically feasible. The result of which would be a genuine sense of community and trust in this form of housing product.

1.8 Affordability

There is no affordability requirement set out in the EIE for this product.

- BTR should be subject to SEPP No. 70 Affordable Housing requirements where it is already applicable and a prescribed percentage need to be made, scaled in rent to create a socially diverse community. A healthy community includes all socio economic groups. For this reason, CCBC requests the NSW Government include mandatory affordable dwellings percentage requirement for all BTR developments.

2. PURPOSE-BUILT STUDENT HOUSING

Two areas within CCBC are home to a notable number of tertiary education and independent young people. Strathfield triangle, a pocket of CCBC south of Parramatta Road, comprises a population of 21.2% tertiary and independent young people aged 18-24; compared to a LGA average of 9.2%.

Similarly, Rhodes West is home to 18.9% tertiary students and independents. The housing in these two areas are represented by almost all apartment dwellings in R4 zone within close proximity to public transport (train station and buses), and the average rental price in these areas are comparatively less than the rest of the LGA, making these areas ideal for more affordable housing and share housing.

2.1 Criteria for residents of Student Housing

CCB is concerned that Student Housing developments may be inadvertently used to house residents not undertaking tertiary education, and in effect becoming a boarding house like development with small rooms of 10sqm.

DPIE explained at the council workshop that it would be condition of consent to require this housing product to only accommodate students. However, the difficulty is in regulating this outcome as compliance checks are resource intensive once occupation certificates are issued.

- Without mechanisms to stipulate ongoing use of accommodation as student housing, the outcome will be exploitation of this type of housing for developer financial gain.

For example, in the current Covid situation, there are reduced numbers of international students residing in Australia whilst studying. The EIE states the use of student accommodate to house covid related accommodation needs. This already deteriorates the definition and intent of student housing.

2.2 Car parking requirements

It is proposed that development standards for student housing would be in accordance with Council's relevant LEP, with no minimum car parking required.

The City of Canada Bay Council is currently updating its DCP to include 'maximum' car parking rates for developments within R4 zones and high growth areas.

- Council requests that a maximum car parking rate of 0.1 – 0.3 spaces per studio/1-bedroom be required for Student Housing within Metro locations, in-line with the expectation that student housing should only be approved within close proximity to educational establishments and therefore on-site parking is not essential.

3. CO-LIVING

3.1 Council DCP to align with the Housing Diversity SEPP

- Canada Bay would be willing to develop relevant DCP design guides to accompany the proposed new SEPP. However, our preference is for the release of a consistent State Government design guide to ensure developments do not sway from the NSW Government's original intents for the Housing SEPP to balance amenity with production of dwellings and diversity of dwelling types.

4. UPDATING EXISTING PROVISIONS

Depletion of boarding house stock

The EIE proposes changes to the ARHSEPP to require boarding houses be more affordable. We raise concerns related to the proposed definition for boarding house.

4.1 Existing and proposed definitions for boarding house

The proposed definition requires boarding houses are managed by registered not-for-profit community housing provider (CHP). Boarding houses within inner Sydney are largely managed by private operators.

- The requirement for a CHP to manage and operate could result in depletion of this housing stock as existing boarding houses may no longer meet the new definition.

The other potential outcome is the deterioration of existing boarding houses, due to the reluctance of private operators to undertake improvements or maintenance works, which would trigger the application of the more stringent requirements under the new definition.

- The definition also seeks to limit on the number of lodgers to a maximum of two residents per room. This change limits the options for families consisting of more than two people, requiring short term affordable accommodation. It is recommended that DPIE consider what options family groups of more than two people have access to within the current spectrum of housing options, in relation to short-term residences
- The intent of using CHPs to manage boarding houses is supported, however, transitional provisions need to be in place to ensure existing operators have the ability to continue providing this typology and avoid a sudden depletion of privately operated boarding houses within inner Sydney.
- CCBC does not support the flat 20% FSR bonus for boarding house developments. Current boarding houses approved under the ARHSEPP have resulted in bulky

development forms within R3 zones that are not compatible within the neighbourhoods in which they are located. CCBC continues to advocate for a reduced flat 10% bonus only.

- CCBC welcomes the proposal to remove the mandated boarding house use within R2 zones as this would reduce conflicting amenity outcomes in low density housing areas.
- CCBC advocates that boarding house rooms to be rented at 'affordable' rates in perpetuity, as this is the intent of boarding houses.

4.2 LAHC self-assessment for developments up to 60 apartments and strata subdivision

At the Council workshop, DPIE clarified that the LAHC self-assessment for redevelopments up to 60 apartments will be for State government owned land only. However this includes all projects irrespective of whether a private developer is partaking in the project; and may include a mix of market housing (private dwellings), affordable housing or social housing.

DPIE explained that these sites will be developed with an emphasis on medium density typologies under the provisions of local planning framework. Irrespective of meeting local controls, a development site of 60 dwellings is considered significant and of high impact to communities within any area.

To date, LAHC carries out development according to ARHSEPP for projects up to 20 dwellings under Part 5 of the EP&A Act. This process requires only minimal community notification and lack of requirement to consider community feedback on LAHC projects. This is considered unsatisfactory for the community and for Council.

- CCBC does not support increased self-assessment and subdivision thresholds unless LAHC strengthen its community consultation processes by complying with consultation requirements set out under Part 2 of the EP&A Act
- Clarification is sought from DPIE as to whether LAHC intends to obtain site compatibility certificates (SCC) to enable residential developments on land otherwise zoned for uses other than residential.

CCBC is of the view that LAHC needs to undertake rezoning processes for subject sites prior to undertaking self-assessment or subdivision.

4.3 Extension of density bonuses and car parking concessions to private housing components

The SEPP proposes to extend density bonuses and car parking concessions which currently apply under the ARHSEPP and Seniors SEPP, to all components, including the private housing components of developments undertaken by or on behalf of LAHC.

- CCBC does not support this proposed change. Concessions are provided to affordable rental housing and seniors housing to create social benefit for at risk and lower socio-

economic members of community. These concessions and bonuses need not be applied to private housing components which attract market value.

4.3 Amendments to Seniors SEPP

The EIE proposes that all Site Compatibility Certificate (SCC) applications can only be made where the land is currently used for the purpose of a registered club and the club must be a registered club at the time the SCC application is made.

- CCBC requests that this provision is strengthened by requiring the Club continue to operate as a registered Club after a SCC is issued, to ensure these sites are not subsequently acquired and developed by private entities.

Land currently zoned RE2 Private Recreation are highly valued for its provision of recreational uses; such as open space, social activities, community uses and services. It is important that these uses are retained, particularly as all types of open space are now under enormous pressure to meet the demands of population growth in metro areas such as CCBC.

- CCBC requests the Seniors SEPP be amended to remove Clubs on RE2 zoned land from obtaining a SCC.

--- end --

9 September 2020

Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/ Madam,

**Draft Housing Diversity SEPP–
Canterbury Bankstown Council Submission**

Thank you for the opportunity to comment on the Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy.

The attached submission raises the following issues in relation to the Draft SEPP:

- Issue 1: Improve the planning rules for boarding houses.
- Issue 2: Improve the planning rules for secondary dwellings.
- Issue 3: Do not mandate build-to-rent housing within Zone B3 Commercial Core.
- Issue 4: Apply SEPP 65 to student housing and co-living housing.
- Issue 5: Modernise the design guidance for seniors housing.
- Issue 6: Apply the Livable Housing Design Guidelines to enable people to age-in-place.
- Issue 7: Remove the FSR bonus for infill affordable housing.
- Issue 8: Modernise the definitions.
- Issue 9: Include secondary dwellings, boarding houses, build-to-rent housing, student housing and co-living housing as forms of housing that contribute to housing supply.
- Issue 10: Establish a state-wide mechanism to inform the community of dwellings certified as affordable rental housing and livable housing.

If you have any enquiries, please contact Council officer Mauricio Tapia on 9707 9923.

Yours sincerely



Mitchell Noble
Manager Spatial Planning



**Canterbury Bankstown
Council Submission**

**Draft Housing Diversity
State Environmental
Planning Policy**

September 2020





Summary

Canterbury Bankstown Council raises the following issues in relation to the Draft Housing Diversity State Environmental Planning Policy:

Issue 1: Improve the planning rules for boarding houses.

Issue 2: Improve the planning rules for secondary dwellings.

Issue 3: Do not mandate build-to-rent housing within Zone B3 Commercial Core.

Issue 4: Apply SEPP 65 to student housing and co-living housing.

Issue 5: Modernise the design guidance for seniors housing.

Issue 6: Apply the Livable Housing Design Guidelines to enable people to age-in-place.

Issue 7: Remove the FSR bonus for infill affordable housing.

Issue 8: Modernise the definitions.

Issue 9: Include secondary dwellings, boarding houses, build-to-rent housing, student housing and co-living housing as forms of housing that contribute to housing supply.

Issue 10: Establish a state-wide mechanism to inform the community of dwellings certified as affordable rental housing and livable housing.



Issue 1: Improve the planning rules for boarding houses.

As a starting point, Council supports the proposed changes in relation to boarding houses, namely:

- The definition change to require registered not-for-profit community housing providers to manage boarding houses.
- The Land Use Table change to no longer mandate boarding houses in Zone R2 Low Density Residential. The preferred approach is for the Department to amend the LEPs for councils wishing to opt-out, rather than Council having to prepare a planning proposal to remove boarding houses from the Land Use Table.

However, the Draft Housing Diversity SEPP does not address other concerns that Council has raised in relation to boarding houses under the Affordable Rental Housing SEPP, namely:

- The request to remove the FSR bonus. Council's concern is the current system enables boarding houses to receive the FSR bonus regardless of any evidence that these building stocks are reaching the relevant demographics at an affordable cost. Based on Council's experience, the FSR bonus generally exceeds the height, site cover and density limits under the SEPP and Council's planning rules. This has resulted in development that does not comply with the SEPP 65 principles, does not provide good amenity to dwellings, and is out of character with established areas.
- The request to apply SEPP 65. Council's concern is the current system does not set any design requirements to ensure:
 - There is a high standard of building design quality.
 - There is a high standard of room designs and amenity for the future occupants.
 - There is adequate solar access to the boarding rooms and neighbouring properties.
 - There are adequate room sizes. In particular, the room size controls should recognise rooms of 16m² or more as 2-lodger rooms, and rooms between 12m²–16m² as single-lodger rooms. There are cases where rooms are shown as over 16m² but showing only a single bed (i.e. single lodger only) in order to try and avoid having a boarding house manager.
 - There are requirements for the ongoing management and maintenance of boarding houses.

While the Statement of Intended Effect is proposing to apply SEPP 65 to build-to-rent housing, there is no proposal to apply SEPP 65 to boarding houses. The unintended consequence of this apparent inconsistency could be the creation of two classes of renters, where boarding houses may essentially serve as long term, substandard rental housing.



- The request to apply BASIX. The Land and Environment Court considered this question and confirmed our view that if rooms in a boarding house are capable of being used as a separate domicile, therefore meeting the definition of a 'dwelling', a BASIX certificate for the development will be required to accompany the development application (*SHMH Properties Australia Pty Ltd v City of Sydney Council* [2018]).
- The request to increase the off-street parking rates in the residential zones. The off-street parking rates should read:
 - (i) at least 1 parking space is provided for each boarding room on land within residential zones;
 - (ii) at least 0.5 parking space is provided for each boarding room on land within a zone other than residential zones; and
 - (iii) at least 1 parking space is provided for each person employed in connection with the development and who is resident on site.

The parking rates should be discretionary development standards.

Recommended Actions:

- Remove the FSR bonus for boarding houses.
- Apply SEPP 65 and BASIX to boarding houses.
- Increase the off-street parking rates for boarding houses in the residential zones.



Issue 2: Improve the planning rules for secondary dwellings.

The introduction of secondary dwellings as a complying development category under the Affordable Rental Housing SEPP was designed to facilitate infill suburban development through small scale dwellings up to 60m² in area. Traditionally, secondary dwellings were simple outbuildings that accommodated an aging parent or acted as an extra room for a teenage child.

The new form of secondary dwellings have however taken on a completely new role and are now a legitimate form of housing for whole families. Although they cannot be subdivided and must form part of a primary dwelling, their impacts on the local community do not differ from an ordinary dwelling.

In many instances, these dwellings are now appearing as major secondary houses for rent, containing up to three bedrooms squeezed to fit within the 60m² maximum allowable floor area. This kind of increasingly common scenario found in the Canterbury Bankstown LGA creates inadequate living conditions for renters, together with inadequate private open spaces and access. In Council's experience, inadequate parking is also creating added problems and concerns for the community.

To respond to these concerns, the Draft Housing Diversity SEPP should take into account the design requirements outlined below.

Recommended Actions:

- Limit the number of bedrooms in secondary dwellings to two.
- Do not permit outbuildings and covered ancillary development (e.g. decks, patios, pergolas, terraces, verandahs, alfresco areas and the like) to be attached to secondary dwellings, which have the potential to be converted to additional rooms that exceed the 60m² maximum allowable floor area.
- Require off-street parking for secondary dwellings.
- Require minimum private open space for secondary dwellings.
- Provide dedicated private access to secondary dwellings that does not impinge on the privacy or the minimum requirement of either the principal or secondary dwelling's private open space.



Issue 3: Do not mandate build-to-rent housing within Zone B3 Commercial Core.

The objectives of Zone B3 Commercial Core are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

According to the Department of Planning, Industry and Environment's Practice Note 11-002, the zone should be applied in major metropolitan or regional centres only where the focus is on the provision of employment and services. The proposal to mandate build-to-rent housing within Zone B3 is therefore inconsistent with the zone objectives as it does not contribute to the provision of employment and services. Build-to-rent housing should be optional depending on the scale, role and location of the commercial core.

The proposal to permit the strata subdivision of build-to-rent housing after 15 years in other zones is also inconsistent with the intended outcomes of build-to-rent housing, which are to provide tenants with a stable rental environment and to provide long lasting community benefits. The proposal to prohibit the subdivision of build-to-rent housing, in perpetuity, should be consistent across all zones.

Recommended Actions:

- Do not mandate build-to-rent housing within Zone B3 Commercial Core.
- Extend the prohibition of the strata subdivision of build-to-rent housing, in perpetuity, consistently across all zones.



Issue 4: Apply SEPP 65 to student housing and co-living housing.

The Explanation of Intended Effect proposes to apply SEPP 65 to build-to-rent housing. The design guidelines would address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, and visual and acoustic privacy.

However, the Explanation of Intended Effect does not propose to apply SEPP 65 to student housing and co-living housing, despite describing these development types as forms of residential flat buildings.

SEPP 65 should apply to student housing and co-living housing given that the Government Architect's *Better Placed* Design Policy and Council's Local Strategic Planning Statement require a high standard of building design quality in the business and high density residential zones.

Recommended Action:

- Apply SEPP 65 and BASIX to student housing and co-living housing.

Issue 5: Modernise the design guidance for seniors housing.

The Seniors Housing SEPP contains outdated provisions that make the SEPP impractical to apply, in particular:

- The application of the SEPP to '*land zoned primarily for urban purposes*' which is not defined. The SEPP should clearly state it does not apply to the business development, business park and industrial zones, where the intended outcome is to discourage residential development.
- The reference to the *Urban Design Guidelines for Infill Development*, which have not been updated since 2004 and are incompatible with the Standard Instrument LEP.

Recommended Actions:

- Do not permit seniors housing in the business development, business park and industrial zones, where the intended outcome is to discourage residential development.
- Modernise the urban design guidelines for seniors housing to be compatible with the Standard Instrument LEP.



Issue 6: Apply the Livable Housing Design Guidelines to enable people to age-in-place.

The Explanation of Intended Effect does not discuss housing options that would enable people to age-in-place.

At present, there is a mixed approach to this issue in NSW. Most councils apply the Adaptable Housing Australian Standard. However industry, social housing providers and some councils are moving from the Adaptable Housing Australian Standard to the Livable Housing Design Guidelines.

The Guidelines aim to provide suitable accommodation for a broad range of the community including seniors, people with temporary injuries, families with young children, and people with disabilities and their families; plus enable people to age-in-place.

The Guidelines contain three types of building design standards: Platinum, Gold and Silver. Livable Housing Australia's goal is for all new homes to achieve a minimum standard (Silver), however this target is not legislated and therefore remains discretionary.

In 2019, Council consulted the community, industry, social housing providers, aged care providers and state agencies to discuss options on how Council may proceed to address future demand for livable housing. In summary, most respondents supported the application of the Livable Housing Design Guidelines. In 2020, Council decided to move from the Adaptable Housing Australian Standard to the Livable Housing Design Guidelines as follows:

| Housing types | Proposed planning rules |
|---|--|
| Secondary dwellings and houses | Require all new secondary dwellings and houses to achieve the Silver Standard. |
| Dual occupancies and semi-detached dwellings | Require one dwelling in new dual occupancies and semi-detached dwellings to achieve the Gold Standard and the second dwelling to achieve the Silver Standard. |
| Multi dwelling housing and attached dwellings | Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard. |
| Apartments and shop top housing | Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard noting shop top housing will not deliver dwellings at the ground floor as this would contradict the LEP definition. Shop top housing however generally provides lift access to residential floors of development. |
| Boarding houses | Require at least 20% of boarding rooms in new boarding houses to achieve the Silver Standard. |



In applying the planning rules such as the requirement for step-free pathways in front yards, flexibility would be given to difficult sites. It is not proposed to apply the planning rules to steeply sloping sites or to modifications to existing dwellings.

There is the opportunity for the Draft Housing Diversity SEPP to modernise the policy approach to housing options that would enable people to age-in-place, particularly in relation to the status of the Livable Housing Design Guidelines.

Recommended Action:

- Apply the Livable Housing Design Guidelines to secondary dwellings, boarding houses, build-to-rent housing, student housing and co-living housing.

Issue 7: Remove the FSR bonus for infill affordable housing.

Council does not support the FSR bonus for infill affordable housing under the Affordable Housing Rental SEPP (Part 2, Division 1). Council's concern is the current system enables infill affordable housing to receive the FSR bonus regardless of any evidence that these building stocks are reaching the relevant demographics at an affordable cost.

Based on Council's experience, the FSR bonus generally exceeds the height, site cover and density limits under the SEPP and Council's planning rules. This has resulted in development that does not comply with the SEPP 65 principles, does not provide good amenity to dwellings, and is out of character with established areas.

Recommended Action:

- Remove the FSR bonus for infill affordable housing.



Issue 8: Modernise the definitions.

The Affordable Rental Housing SEPP and Seniors Housing SEPP currently use definitions that depart from the Standard Instrument LEP, resulting in inconsistencies in the NSW planning system. A key example is the different definitions to describe floor area when calculating floor space ratios. The proposed consolidation of the SEPPs is an ideal opportunity to ensure the definitions are consistent with the Standard Instrument LEP.

Recommended Action:

- Ensure the definitions are consistent with the Standard Instrument LEP.

Issue 9: Include secondary dwellings, boarding houses, build-to-rent housing, student housing and co-living housing as forms of housing that contribute to housing supply.

In the ten years to 2016, the Canterbury Bankstown LGA grew by 10,821 dwellings with over half of this being in the form of apartments.

However, a research report commissioned by the Southern Sydney Regional Organisation of Councils (SSROC) and prepared by the University of NSW City Futures Research Centre, provides that in the period between July 2007 and June 2017, 8,212 secondary dwellings were constructed across the SSROC region comprising ten council areas. The Canterbury Bankstown LGA accounted for 52% meaning over 4,000 secondary dwellings were constructed within the Canterbury Bankstown LGA over the last decade. This is over and above the 10,821 dwellings identified above.

Given the NSW Government includes one or two bedroom villas, townhouses and units as a dwelling that contributes towards housing supply, it is also logical to recognise the contribution made by secondary dwellings to the overall housing supply. Secondary dwellings can accommodate whole families which results in the same level of demand on local services, facilities, open space and on-street parking when compared to detached dwellings.

In an excerpt from the study prepared by the UNSW City Futures Research Centre:

...the volume of approvals raise a number of broader planning related issues. This kind of incremental growth in dwelling is not generally factored in planning for growth across the Sydney region. In the case of Canterbury-Bankstown where secondary dwellings account for 31% of dwelling growth between 2006 and 2017, this figure represents a substantial contribution to dwelling stock levels.



While this may be viewed as beneficial to delivering dwelling growth, if it has not been factored in growth estimates and not form part of local infrastructure and service planning, then this represents a significant black spot in the planning process. Additional pressures on public transport, schools, local amenities and facilities, water infrastructure and road networks are likely to result without any plan in place to address additional demand.

Ref: A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), June 2018, page 18.

The same concern applies to boarding houses, build-to-rent housing, student housing and co-living housing under the Draft Housing Diversity SEPP. According to the SSROC research, there are gaps in the Department's understanding of the types of dwellings being built, their use and occupant profile, and the additional infrastructure and amenity demands they create on their host neighbourhoods.

Recommended Action:

- Improve the NSW Government's data collection by formally including secondary dwellings, boarding houses, build-to-rent housing, student housing and co-living housing as forms of housing that contribute to housing supply and Canterbury Bankstown Council's dwelling target.

Issue 10: Establish a state-wide mechanism to inform the community of dwellings certified as affordable rental housing and livable housing.

The current system does not inform the community of where to find dwellings that are approved and constructed as affordable rental housing and livable housing. This is a state-wide issue and the NSW Government should establish a search engine for dwellings certified as affordable rental housing and livable housing, and providing this information at the point of rent or sale.

Recommended Action:

- The NSW Government should establish a search engine for dwellings certified as affordable rental housing and livable housing, and providing this information at the point of rent or sale.

Regulatory, Planning and Assessment.MBisson/DStarreveld
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9 September 2020

Housing Policy Team
NSW Department of Planning, Industry and Environment
Electronic submission via NSW Planning Portal

Dear Housing Policy Team

SUBMISSION ON THE HOUSING DIVERSITY SEPP EIE

Thank you for the opportunity to provide feedback on the Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP. The City of Newcastle (CN) welcomes reform that will deliver a more responsive and equitable housing framework for communities across the State.

CN supports many of the proposed reforms that address concerns with the existing housing SEPPs particularly relating to boarding houses and seniors housing. This submission highlights matters that require further refinement to ensure the final Housing Diversity SEPP delivers the desired outcomes with due consideration for local housing needs.

The feedback and commentary included herein is based on CN's housing needs identified in the draft Local Housing Strategy (LHS), Local Strategic Planning Statement (LSPS) and extensive experience of the development assessment and regulatory teams. In addition to feedback on the proposed reforms, additional matters are raised in relation to the existing SEPPs that could be incorporated into the overall reform package (Attachment A).

As you are aware, councils are in the process of preparing and finalising Local Housing Strategies that address local housing needs. At the time of writing, CN's draft LHS is on public exhibition and aims to achieve the following housing vision:

All residents of City of Newcastle will have access to housing that meets their needs, in a community where they have access to employment, facilities and services. As we plan for our growing community, what we love about our City will be maintained and improved for future generations.

Importantly, the evidence report that informed the draft LHS highlights significant local need for additional purpose-built student housing (PBSH), affordable rental housing, housing for those with disability and adaptable and accessible housing. These housing groups represent some of the most vulnerable groups within our community, each having specific locational and design requirements that differs across all Local Government Areas.

Given the significance of the reforms it is recommended that an opportunity to review and comment on the draft written instrument be provided to ensure the intended outcomes are achieved through the Housing Diversity SEPP. This submission has been prepared by CN's Urban Planning and Assessment Teams and follows the structure of the EIE.

INTRODUCING NEW HOUSING TYPES

Generally, the introduction of new land uses requires in-depth research and input from practitioners to test their appropriateness in the context of the broader planning system. The

EIE acknowledges the significant issues related to boarding houses and seniors housing (existing defined terms) and demonstrated work with councils to understand the true impacts of these forms of development. A similar, more rigorous approach could be adopted prior to the introduction of the new housing terms including a review of the draft instrument. CN would welcome the opportunity to contribute to any further review and refinement of the proposed land uses.

BUILD-TO-RENT

The proposed introduction of Build-to-rent (BTR) raises several issues that must be addressed. The public benefit of BTR has not been demonstrated sufficiently, the proposed inclusion of BTR in the B3 Commercial Core undermines the State and local strategic framework and its potential impacts on the function and role of the Newcastle City Centre will be irreversible. These matters are further outlined below.

The EIE notes that there is a “growing need for secure, long term rental options” within the current housing market and recommends the introduction of BTR as the proposed remedy. Whilst there may be a place for BTR within the housing mix in the future, many of the uncertainties experienced by renters prior to, and exacerbated by, COVID require immediate reform. In this regard, it is recommended that the State consider reviewing tenancy rights for existing rental stock under the *Residential Tenancies Act 2010* to address issues raised regarding security of tenure, time-restrictions on rent increases and further simplifying the tribunal process.

From a land use perspective, CN objects to the proposed inclusion of BTR within the B3 Commercial Core zone. The EIE fails to demonstrate any benefit nor has it considered the significant implications from its introduction into the B3 zone. Land zoned B3 Commercial Core represents a very small portion of CN and introducing an exclusively residential land use will undermine the aims of the established State and local strategic framework including the Newcastle Urban Renewal Strategy, which recommended removal of residential flat buildings from the B3 Zone, Greater Newcastle Metropolitan Plan (GNMP), Newcastle LSPS (LSPS) and the objectives of the B3 zone.

The GNMP aims to support the “emerging commercial hub” around the Newcastle Interchange as part of the Hunter Region’s ‘Metro Heart’. Specifically, Action 1.2 of the GNMP states (emphasis added):

*1.2 Hunter Development Corporation will reinforce the role of the city centre in providing professional, financial and office employment by **increasing commercial floor space** in the West End to enable growth and relocation of businesses.*

Action 14.2 of the LSPS seeks to implement the recommendations of the Newcastle Employment Lands Strategy (November 2019) prepared by SGS Economics, which highlighted the following for the Newcastle City Centre:

*The **western end should build on its current commercial role through additional commercial development with supporting retail and services. This area should be the primary destination for commercial development in the Newcastle LGA in the foreseeable future.** Some retail development is appropriate, this would improve amenity and the competitive offer of the CBD for commercial office development. Retail activity should focus on providing services to local workers and visitors rather than replicating the retail offer in other parts of the City.*

CN has substantial theoretical capacity under NLEP 2012 to accommodate residential land uses in other locations that meet the BTR criteria stated in the EIE, without cannibalising commercial floor space capacity and undermining the established strategic framework.

Importantly, introducing BTR effectively zones the land residential and will erode existing commercial capacity and the ability for agglomeration economies to form for our key sectors, currently health and education, and any emerging industries. Developers will target B3 zoned land due to its lower land value and the proposed 50% reduction on land tax, whilst providing a product that isn't more affordable than other rental properties. Existing commercial buildings, including offices, hotels and serviced apartments, could also be converted to BTR further reducing their commercial function and the capacity for our commercial centres to provide space for knowledge-intensive and emerging industries in the longer term.

The proposed ability to strata BTR buildings after a 15-year period is not supported. Strata subdivision removes the benefits of BTR outlined in the EIE (single ownership, asset recycling, longer term leases) and dislocates long-term residents (min. 3-years) to relocate to an area outside their established community. Also, sites developed for BTR are in "well-located areas, close to transport and amenity" and should continue to be available for subsequent institutional investment. There may be a market for older BTR buildings that require lower investment and provide more affordable rents due to their age relative to other rental stock.

Finally, BTR residents should have access to well-designed apartments with good amenity. BTR is a form of apartment designed for long-term occupancy and should be subject to SEPP65 to provide "a better living environment for the residents". The design considerations under SEPP65 and the Apartment Design Guide (ADG) aim to improve the efficiency of apartments, increase solar access and natural ventilation and the provision of adequate private open space and balconies. These design considerations are now, more than ever, fundamental to personal and community health and wellbeing. The case for requiring compliance with SEPP65 is further strengthened by the proposal to permit future strata subdivision of these buildings.

BTR HOUSING IN REGIONAL AREAS

Over the past six years there has been a general downward trend for vacancy rates in CN. As of July 2020, the vacancy rate for the Hunter Region sits at 0.9%¹ which is well below the REINSW supply/demand benchmark (3%), indicating a lack of adequate supply. This medium-term trend suggests that there is scope to provide additional rental stock with the option to include smaller-scale BTR as part of the rental market.

However, further consideration is required to develop appropriate locational and design guidelines as well as tenancy rights and disposal mechanisms. Finalisation of the LHS and preparation of local character statements provide a great opportunity to dovetail with this work. CN recommends that the Department convene a group of regional councils to discuss the opportunities for smaller scale BTR. As demonstrated above, the extent of the issues related to BTR requires careful consideration and should be developed in consultation with councils in the finalisation and implementation of the LHS. CN welcomes any opportunity to contribute to this work.

BTR RECOMMENDATIONS

- Consider additional reform to the *Residential Tenancies Act 2010* targeted at providing secure, long-term rental options.
- Remove BTR from B3 Commercial Core zoned land.

¹ ['Residential Vacancy Rates – Hunter Region'](#) – SQM Research (2020)

- BTR must be subject to SEPP65 and the ADG.
- A working group of regional councils be convened to discuss opportunities for smaller scale BTR in regional areas.

PURPOSE-BUILT STUDENT HOUSING

CN welcomes the introduction of Purpose-built student housing (PBSH) as a land use and believes that it could provide a range of direct and indirect benefits. Student housing needs to differ from other forms of specialised housing with an emphasis on function, affordability and accessibility to public transport, educational establishments and adequate services being the key drivers of design and location.

There is significant demand for student housing in CN with the University of Newcastle, attracting both domestic and international students. The future expansion of the University of Newcastle, in addition to Hunter TAFE and the future Nihon University campus, will increase the demand for PBSH, as well as alternative housing options for students in CN.

As previously noted, CN's draft LHS highlights a need for PBSH and it is expected that further work will be commenced following its adoption in determining appropriate locational requirements and design guidelines. PBSH needs clear parameters regarding its function, ownership, ongoing management and occupancy. The proposed development standards recommend a minimum room size of 10m² but notes that there may be scope for smaller rooms where a developer can "demonstrate that a smaller area has adequate internal amenity". This standard should not be discretionary as it will ultimately result in disagreements about what constitutes adequate amenity and shared facilities provided to offset smaller room sizes. It is recommended that the development standard be a minimum without scope for variation.

It is also recommended that SEPP65 apply over a prescribed threshold to ensure that adequate amenity and living standards are maintained for students and appropriate building separation is provided between PBSH buildings.

PBSH RECOMMENDATIONS

- Development standard for room size be a non-discretionary minimum without scope for variation.
- SEPP65 apply to PBSH over a prescribed threshold.

CO-LIVING

The introduction of co-living as a new land use is supported as distinct from the updated boarding house land use. Separating the land use out of the boarding house category better reflects that this is not an 'affordable' housing type but rather another housing option with demand in the current housing market. CN notes that "new generation boarding houses" (co-living) have been a popular form of development often providing accommodation for students and lone-person households.

Under the definition, it is unclear what a 'private room' is being compared to if it is not self-contained with kitchen and bathroom facilities, the alternative could be large open dorm rooms. The term 'rooms' is confusing when it refers concurrently to the 'dwelling' and the 'room size' and should be further clarified. The proposed co-living definition should also specify "total occupancy" based on all occupants, not just "adults".

CO-LIVING RECOMMENDATIONS

- Refine the definition to clarify the term ‘rooms’ and for co-living to refer to total occupancy.

1. SEPP (Affordable Rental Housing) 2009

Boarding houses

The proposed changes to the boarding house definition and accompanying provisions are generally positive and will accurately reflect the intended role of boarding houses in supporting our community. Not mandating their inclusion within the R2 zone is also a positive amendment that allows councils to “opt in” in circumstances where boarding houses may be appropriate in lower density areas with high accessibility. Additional information is requested regarding the timing for councils to decide to include/exclude boarding houses in the R2 zone.

Definition

The inclusion of the affordability requirement for the buildings to be managed by a registered CHP is a significant change and one which CN believes will provide a substantial public benefit.

The definition refers to a ‘building’ and applicants often submit applications consisting of multiple buildings on one site, pointing to the fact that each individual building is a boarding house under the SEPP. While there will often be good design rationale to support multiple buildings, boarding houses are not required to be separated which will cause a range of subsequent issues including poor internal amenity and bulk and scale impacts on adjoining properties. Also, the definition allows a proposal to circumvent controls for communal living rooms (CI30(1)(a) and boarding house manager (CI30(1)e) by splitting the boarding rooms into multiple smaller boarding houses.

Importantly, the recent amendments regarding Clause 30AA are readily negated by any application where each boarding house is a building with only 12 rooms within the R2 zone. It does not limit the number of boarding house ‘buildings’ proposed, as defined, containing 12 rooms each. CN often receives proposals which consist of 20+ boarding rooms over multiple buildings. It is further noted that applicants may also additionally propose to subdivide the land within the R2 zone and then develop for multiple boarding houses.

Furthermore, the reference to “lodgers” in the definition needs to be updated to “residents” and refer to total occupancy, not just adults. In a recent LEC case, it was accepted that lodgers are only those paying for the room and exclude the number of children as occupants². This is unsatisfactory as it has ramifications for the rooms size criteria and the resulting amenity for residents. This should also be a consideration for the co-living definition.

Affordable rental rates mechanism

The proposed alternative affordable requirement by requiring affordable rents for a minimum of 10 years (after which they revert to market rates) is not supported as an alternative to the updated definition. This proposal should be further investigated with CHPs who have well-established approaches to the recycling or divestment of their portfolios whilst considering retaining social connection for longer term residents. Whilst market rates for older stock may provide a more affordable option for certain renters, boarding houses should remain rent-controlled by CHPs and available for households on very low to moderate incomes.

FSR bonus

The proposed change to a percentage-based bonus removes the inconsistencies of the current FSR bonus arrangement. The nominated 20% bonus will result in more modest boarding

² Paragraph 125 of [Buman v Newcastle City Council \[2020\] NSWLEC 132](#)

house development with a bulk and scale more aligned with the surrounding densities and character.

The discrepancy between the recommended 10% by Councils requires further explanation. The viability rationale in the EIE provides no evidence base to indicate how the 20% was determined nor does it outline any case studies to support it. Whilst all forms of affordable housing are supported there have been poor streetscape and amenity outcomes as a result of boarding houses under the current ARHSEPP. Providing a quantum of housing should not come at the expense of quality outcomes in the built environment.

LAHC boarding houses

Furthermore, it is noted that whilst boarding houses will no longer be mandated in the R2 zone they will still be permissible when developed by or on behalf of LAHC on Government-owned land up to a maximum of 12 rooms.

Additional feedback on the existing ARHSEPP provisions for boarding houses has also been prepared and should form part of this reform package (Attachment A).

Group homes

The proposed approval pathway for the conversion of existing dwellings into group homes should be further detailed. The EIE implies that it may be possible to convert existing dwellings into group homes as exempt development. At the very least, this should be complying development to ensure that the group home conversions satisfy minimum requirements in line with the needs of residents. It is recommended that Aged and Community Services Australia be consulted in developing appropriate standards and an approval pathway.

Amendment of Part 3

The proposed amendments to Part 3 of the ARHSEPP are supported, albeit long overdue. The ability for councils to levy contributions to offset the loss of existing affordable rental housing is a valuable mechanism to provide alternative affordable accommodation. However, it is noted there is no requirement for replacement accommodation to be provided within the same area resulting in displacement of residents from their established community. It is recommended that provisions be included requiring that alternative accommodation or replacement affordable rental housing be provided within their established support networks and communities.

Removing the 28 January 2000 date, clarifying where the burden of proof lies in demonstrating the low-rental status of buildings and nominating the 5-year period prior to lodgement will simplify the evidence gathering and assessment process. Importantly, the definition for 'low-rental dwelling' will need to be explicit regarding the trigger within the 5-year period. Based on the wording in the EIE it appears that "low-rental at any time within the 5 years preceding the lodgement" would include the rents falling below the median for a single quarter. CN requests that this be clarified either within the definition or in an update to the accompanying guidelines.

Secondary dwellings

CN has no land zoned rural, however, the following comments are provided on the current provisions for secondary dwellings.

The use of 'total floor area' under Clause 22(3)(b) often leads to debate as it is not defined and is different from 'gross floor area'. The inconsistencies are further exacerbated by the complying development controls addressing 'floor area', making it unclear when an assessment can rely on the terms within the schedule. In some instances, secondary dwellings will include carports, decks and awnings which contributes to overall density and the provision of adequate landscaping and setbacks. This matter should be addressed within the update to the provisions to provide consistency in calculating floor space and managing the overall bulk and scale of secondary dwellings.

Delivery of social housing

The expedited delivery of social housing is supported by CN, particularly considering the significant need across Australia to tackle homelessness and housing stress amongst very low and low-income households. The Australian Housing and Urban Research Institute (AHURI) identifies a need for 727,300 additional social housing dwellings over the next 20 years³. Many of the benefits associated with social housing include “preventing homelessness, protection from domestic violence, social inclusion, [and] educational attainment” and that it should be viewed as a form of social infrastructure⁴.

As such, the proposal to promote partnerships between NSW LAHC and other social housing providers to deliver integrated development, comprising private, affordable and social housing, is supported. Further consideration should be given to other examples of development that provides a mix of tenure and subsidised housing and whether there is evidence that a certain mix of housing types within the same development provides better social outcomes in the longer term.

Additional details are required regarding the ongoing management of these buildings, particularly with a mix of public and private ownership within a single building.

Self-assessment/approval provisions

As noted above, the significant need and public benefit from the delivery of social housing is one of the critical housing issues facing the country. Therefore, the proposed provisions to expand the type and number of dwellings (8.5m and under) that LAHC can self-assess from 20 to 60 is supported provided the updated urban design guidelines to be prepared require consideration of local character and context. The guidelines should require consideration of both existing and desired future character as expressed in the zone objectives of the LEP, and the priorities and actions of the LSPS and LHS. It is requested that councils be provided with an opportunity to review and provide feedback on the guidelines.

2. SEPP (Housing for Seniors or People with a Disability) 2004

Update Schedule 1

The current wording under Schedule 1 – ‘Environmentally sensitive land’ should be retained as it is intentionally broad to risk the development of seniors housing proposals on sensitive or constrained land. However, further consideration should be given to the term ‘coastal protection’ and whether it captures all terms used under the SEPP (Coastal Management) 2018, as not all areas should be excluded for seniors housing.

Location and access to facilities provisions

CN supports the update to the location and access to facilities provisions, however, the minimum services required needs to be clarified. The availability of medical and other support services is especially important for resident wellbeing many of which are provided including those provided ‘on-site’. The SEPP could account for the transition to certain on-line services and telehealth, so there may be an emerging need for NBN availability to rooms, in amongst others, as a criterion for “access” moving forward.

Another important consideration is the capacity for local commercial and medical services to adequately service residents. For example, 2000 aged care residents relying on one GP in a small commercial centre would appear to be inappropriate. Additional requirements could be included for applicants to demonstrate that local services are capable of adequately servicing residents or that supplementary on-site services are provided to take the load off local services that are at or over capacity.

³ [‘Social housing as infrastructure: rationale, prioritisation and investment pathway’](#) – AHURI, 2019

⁴ [‘The case for social housing as infrastructure’](#) – AHURI, 2019

Site Compatibility Certificates (SCC)

The proposed extension for the validity of SCCs to five years is supported, acknowledging the scale and complexity of DAs for seniors housing development. However, it would be helpful to understand how far progressed the assessment process has been for DAs that have had an SCC lapse and the reasons for the delay. The delays experienced in assessment timing may be attributed to a poorly resolved scheme or an incomplete application with unsatisfactory DA documentation.

CN notes that whilst the extra time afforded is consistent with SCCs for the development of RFBs by public authorities or social housing providers, there needs to be provision for a requirement to lodge a DA within a reasonable period following issue of a SCC.

Registered clubs

The EIE notes the intention to clarify the conditions relating to the proposed inclusion of a registered club as a component of senior's housing development. This requirement is supported as the full extent of the development, including traffic generating development such as registered clubs, be included for consideration by councils at SCC stage.

Broader consideration should be given to reducing the scale of on-site registered clubs and requiring that they remain part of the site. In this regard, the subdivision provisions and/or the ability to subdivide off registered clubs should not be permitted. The SEPP appears to provide a mechanism for the development of standalone clubs where they should remain an ancillary use to a senior's development.

Parking concessions

The proposed clarification of parking concessions seems reasonable, provided that a seniors housing development satisfies the accessibility requirements stipulated in the SEPP. However, it is noted that demand for private vehicle usage will remain for a number of residents and the new LAHC development model is untested and therefore CN cautions providing unfettered flexibility in the provision of on-site car parking.

We would be happy to elaborate on our submission. Should you have any questions, please contact Dan Starreveld, Senior Urban Planner on 4974 2964 or email dstarreveld@ncc.nsw.gov.au.

Yours faithfully



Michelle Bisson
MANAGER GOVERNANCE

Attachment A – Additional feedback on existing SEPPs

Attachment A – Additional Feedback on existing SEPPs

SEPP (Affordable Rental Housing) 2009

| Clause | Feedback |
|---|--|
| CI4 & 29(2)e) Parking and “Accessible Area” | <p>Concerns are raised regarding the extent of parking provided for boarding houses based on the <i>accessible area</i> definition. The context of the accessible area within SEPP(ARH) may be appropriate within Sydney (e.g. inner or middle ‘ring’ suburbs) where public transport is more developed and / or retail / commercial facilities are more likely to be within a reasonable walking distance.</p> <p>In areas within the outer ring or away from Sydney (e.g. Newcastle), the <i>accessible area</i> definition may be technically met by a proposal but doesn’t generally meet the transport needs of residents. While meeting the <i>accessible area</i> definition may allow access to one desired location/element such as university, employment and retail / commercial services, it often leaves residents needing other alternatives to access all intended locations.</p> <p>Typically, this results in boarding house sites having many more cars, resulting in unreasonable on-street parking impacts where residents can afford the options (e.g. often students). Alternatively, residents may need to rely on multiple bus trips or walk long distances. It is noted that the parking rate change for non-social providers housing is a positive step in this respect.</p> |
| CI 4 Social Housing Provider | Within the definition subclause c) and g) should be provided more clarity to avoid debate. |
| CI 25/CI30(1)a) | <p>The <i>communal living room</i> definition clearly infers a level of amenity for future residents as an intention and is a mandatory component for a boarding house with more than 5 rooms. Nothing within the SEPP details the quality or especially size of the facilities(s) – there is no scaling of the communal room based on the size of the boarding house. The reference to usability is that a communal room be ‘available to all lodgers’ – this has been found to be insufficient in the LEC to achieve real increases in the size of communal rooms.</p> <p>While the clauses may be appropriate for boarding houses of 5-10 rooms, this becomes increasingly problematic once the size of the development increases (e.g. 20 or more rooms) – especially when the boarding rooms have no or limited kitchen/bathrooms facilities.</p> <p>It is suggested that the <i>communal living room</i> criteria be made scalable to the size of the development (e.g. the size of the communal room should increase as the number of rooms increase). Additionally, the size of the communal living room(s) could be differentiated based on whether the boarding rooms are self-contained or not – larger minimum requirements for <i>communal living rooms</i> where the boarding rooms have no or limited facilities.</p> |
| CI 29(b) – Front Setback Landscape Area | This subclause needs to be further developed regarding minimum requirements. It is suggested that the clause needs to: |

| Clause | Feedback |
|------------------------------|---|
| | <p>i) where there is a front setback required in the zone/area (e.g. existing building line), that the boarding house complies with the setback and that it be appropriately landscaped, OR</p> <p>ii) where there isn't a front setback required, a boarding house may be at zero/near zero setback (i.e. needs to address what's appropriate to be located at ground floor at zero setback – not boarding rooms, maybe communal living area or mixed use boarding house with commercial premises at ground floor.</p> <p>This clause should be clear that the front setback can't be used for the landscape area for the 'residents' open space etc.</p> |
| CI29 c) – Solar Access | <p>This is potentially a very limited test as the <i>communal living room</i> does not have an area requirement and hence this clause could be met by one window achieving the numerical criteria. Additionally, none of the boarding rooms are required to achieve numerical solar access – this should place greater emphasis on the communal living room having adequate solar access.</p> |
| CI29 d) – Private Open Space | <p>The private open space needs to be positioned to achieve at least 2 hours of sunlight on 21 June between 9am and 3pm. What is the <i>private open space</i> – it is undefined and as a result, applications have been received proposing covered areas with walls on 2-3 sides. Other than the possible landscaping at 29c) above, there does not appear to be any requirement for landscaping.</p> <p>The private open space is not scalable to the size of the development – it is static at 20m²/ 3 metres wide regardless of 5 boarding rooms or 50 rooms. This is especially onerous where the proposal is a large boarding house development with relatively small rooms (no individual facilities) and proposed <i>communal living room</i> are also undersized.</p> <p>Also, manager's open space should include solar access and design/position requirements (e.g. should be located directly accessible from the proposed managers accommodation).</p> |
| CI29 e) Parking | <p>See comments above discussing <i>accessible area</i> definition.</p> |
| CI 29 f) vs CI30 c) | <p>Lodgers and Room Sizes. The SEPP internally appears to be somewhat inconsistent or contradictory. The language used most of the time is 'lodger' but at CI30c) the reference is 'adult lodger'. This leads to confusion regarding the desired occupancy and outcome. Specifically, the question arises regarding adult vs children within boarding houses proposals in terms of rooms sizes, facilities, access to open space, separate toilets (or overall design etc.).</p> <p>The amenity of future residents is a concern (especially if rooms are not self-contained and potentially crowded). There is also the issue of separation of non-related adults from children. Considering that</p> |

| Clause | Feedback |
|----------------------------|---|
| | at times residents of boarding houses can be from vulnerable groups, the potential conflicts should be better addressed. |
| CI30(1)(b) | At times proposals will have the full 25m ² plus a separate bathroom and relatively large kitchen towards 35m ² (size of a studio / bedsit / small apartment). While there is nothing wrong with this per se – these designs are typically more aimed at providing small dwellings than boarding rooms and avoiding legislation such as SEPP 65 and the ADG. |
| CL30(1) (b) vs 30(1)e) | There needs to be clarity regarding the boarding house manager. Additionally, subclause e) refers to boarding room or dwelling for the site manager – it needs to be clarified that this is not subject to the 25m ² limit (reference to dwelling certainly infers that the boarding house manager is excluded). |
| CL 30(1)h) vs 29(2)e) | It is queried why bicycle and motorcycle parking is a development standard, yet car parking is a 'do not refuse clause'. Potentially they should be the same one way or another. |
| CI 30A – Character 'tests' | <p>The introduction of Clause 30A to the SEPP is positive, although further controls need to be developed within the other clauses to assist in this respect.</p> <p>Applicants attempt to pursue designs that fill an allotment with large 'long single boxes' that are built to the height standard, setback and building envelope limits and are only broken up by the limited parking and landscape requirements (some of which are partly reflective of the DCP controls).</p> <p>As boarding houses don't need to meet as many other requirements (e.g. landscaping, parking, setbacks, ventilation & BCA etc.) they are able to be much more basic designs. Council may be able to attempt to address these issues by separate DCP controls, but difficulties often arise where applicants argue the DCP controls are in conflict and inconsistent with the SEPP (ARH).</p> <p>It is further noted that applicants often expect to achieve the 'bonus FSR' under Clause 29(1)c) which conflicts with Clause 30A. It is suggested that boarding houses should be subject to design controls/SEPP 65 (even if specific design elements are developed for boarding houses) when the size and scale exceeds a nominated threshold.</p> |

SEPP (Housing for Seniors or People with a Disability) 2004

| Clause | Feedback |
|---|---|
| CI4/4A – Land to which Policy applies | <p>The clause needs to be simplified and clarified (esp. considering Sch1 is being reviewed). Rather than clauses adding and subtracting permissibly, most of which don't address current zone terms, just state its permissible in zones X, Y & Z, or where land use A, B and C are allowed.</p> <p>Are the zones adjoining urban purposes appropriate anymore? Is the associated with a registered club even appropriate? The clause is now a rewrite of 20 years of changes and is overtly convoluted. It is further noted that the Standard instrument has a senior's definition which adds to the confusion around 'seniors housing'.</p> |
| CI 5/ Schedule 1 | Needs to be clarified considering significant amount of planning legislation change. |
| Clauses 11 RCF, 12 Hostels & 13 Infill self-care & CI42 – Reasonable Access | <p>Provision of services needs to be clarified such that these are generally available as a direct part of the overall complex and not a 'hire in' on an individual basis at user cost (usually at a higher costs). Infill self-care appears to be at greatest risk of this as hostels and RCF's typically provide an integrated service (i.e. its managed as 'one service' even if its parts are subject to separate contracts). It's likely inappropriate for individual residents to be managing a series of different services they need (e.g. cooking, cleaning, personal care, nursing etc.) and it's not really being provided by the 'development'.</p> <p>CI42 'reasonable access' to services is a very low bar for applicants and a hard element for an assessment planner to improve. The DPIE should clarify the expectations for 'reasonable access'. An applicant demonstrating that all these services exist (at residents' own cost and management) really doesn't appear achieve very much.</p> |
| CI 23 – Registered clubs | Seems to clearly indicate that clubs and senior housing shouldn't be together. |
| CL24/25 – Site compatibility certificates | SCCs needs to either be broadened in terms of the listed considerations (i.e. statutory requirements) or made more merit based. There should be scope for unusual positive or negative aspects to be considered in determining the issuing of the SCC (e.g. does the developer pursuing SCC currently have compliance action against them for illegal works, is the operator in serious breach of conditions for another aged care site). |
| CI 26 - Location and access to facilities | Partly discussed above. Clarification whether any of the clauses are permissibility / prohibition criteria? E.g. is 400m to a bus stop a merit criterion, development standard or prohibition. Its potentially a big flaw in the SEPP (esp. considering the SEPP is otherwise very generous where its permissible). |

| Clause | Feedback |
|--|---|
| CI43 - Availability of facilities and services | Clarification is required regarding what constitutes certain services. For example, can applicants satisfy the criteria with access to a public bus service, private bus service, aged care-owned bus service? |
| CI48/49/50 – Standards that can't be used to refused certain development | FSR rate is often relatively high in terms of surrounding character. FSR / Height consistent with zones would provide better built form outcomes. Developments should also be required to address local DCP setback/building envelope controls to deliver better desired future character outcomes. |
| CI55 - Residential care facilities for seniors required to have fire sprinkler systems | Clarification that this can be addressed by appropriate conditions and is not a prohibition to determination (e.g. you don't need a full design at DA). |
| Clarification on definitions. | It appears that several definitions now appear to rely on the standard instrument e.g. landscape area. A subclause at the end of Clause 3 stating this would be beneficial. Landscaping in the SEPP had relied on a very poor definition which significantly impacted the outcomes. |

NSW Department of Planning, Industry and Environment

Via online submission at:

<https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>

| | |
|-----------------------|--|
| Your Reference | N/A |
| Our Reference | F |
| Contact | Mark Egan |
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15 September 2020

Dear Sir/Madam

RE: City of Parramatta Council Submission – Proposed new Housing Diversity SEPP Explanation of Intended Effect

Thank you for the opportunity to make a submission in relation to the proposed new Housing Diversity SEPP Explanation of Intended Effect (EIE) document. The attached submission was endorsed by Council at its meeting on 14 September 2020.

The City of Parramatta Council (Council) welcomes the efforts of the NSW Government to consolidate the existing SEPPs related to affordable housing provision, and to update many provisions that have not been modified since their initial introduction. It however raises the following key concerns:

- Allowing build-to-rent in the B3 Commercial Core zone;
- The adequacy of certain development controls, particularly their relationship to competing local controls;
- The use of the exempt and complying pathway for conversion of dwellings to group homes;
- The proposal to make it easier for large scale Land and Housing Corporation (LAHC) led projects to be designated as State Significant Development applications, and the reduced role that councils will have as a result of this change;
- The proposed changes that increase the ability of LAHC to self-assess its own development applications, and to expand its access to density bonus across projects that include a mix of subsidised and private market housing;
- The changes for LAHC-led seniors and social housing developments that also include a mix of private market housing, including lower parking rates and reduced requirement to include lifts.

If you have any enquires regarding this submission, please contact Mark Egan, Senior Project Officer, Social Outcomes on 9806 5797 or megan@cityofparramatta.nsw.gov.au.

Yours sincerely,



Jennifer Concato
Executive Director City Planning & Design

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CITY OF PARRAMATTA COUNCIL SUBMISSION – PROPOSED NEW HOUSING DIVERSITY SEPP EXPLANATION OF INTENDED EFFECT

EXECUTIVE SUMMARY

The NSW Government has released an Explanation of intended Effect (EIE) the explains the intention of a yet-to-be-released Housing Diversity SEPP. In short, the Housing Diversity SEPP is proposed to consolidate the planning provisions of the Affordable Rental Housing SEPP 2009 (ARHSEPP), the Seniors Housing SEPP, and SEPP 70, which governs the process for instituting an affordable housing contributions scheme. While no changes are proposed for SEPP 70, the EIE outlines several changes to provisions relating to the ARHSEPP and the Seniors SEPP.

This submission makes the following key points:

- Council welcomes the amalgamation and streamlining of the three affordable housing - related SEPPs;
- Council welcomes the creation of new land use categories for build-to-rent housing, purpose-built student accommodation and co-living, and the development of specific planning provisions for each of them; and
- Council welcomes the mandated affordability provision for boarding house development, but recommends extending this requirement in perpetuity, rather than limiting it to a period of only 10 years.

Council has concerns with aspects of the new land uses and some of the proposed boarding house, Seniors housing and LAHC development approval changes as well. The following is a summary of Council's responses to key parts of the Housing Diversity SEPP EIE:

Build-to-rent (BTR)

- Council supports BTR permissibility in R4 and B4 zones, but not in the B3 or R3 zones
- To ensure good design outcomes, the Apartment Design Guidelines should apply
- Council recommends allowing the relevant council DCP to determine appropriate car parking rates
- Council recommends prohibiting the strata subdivision of BTR developments in all zones in perpetuity, rather than only for 15 years
- Council asks that the Housing Diversity SEPP clarify the planning pathway for a change of use DA or modification of an approved DA to BTR.

Purpose-build student housing (PBSH)

- Council welcomes the intention to allow councils to determine permissible zones, height of building, floor space ratio and car parking rates for PBSH in the relevant LEP and further recommends that they be located close to university campuses
- Council does not support the minimum room size of 10m² and recommends increasing it to align with the minimum single boarding house room of 12m²
- Council recommends a minimum of 2m² of communal space per room, consistent with that proposed for Co-living development

- Council supports the provision of 2.5m² of outdoor communal space per student, but recommends that it be applied regardless of proximity to public open space (just as with boarding houses).

Co-living

- Rather than stipulating that the accommodation form is for a minimum stay of 3 months, it is recommended that a mix of 3-6 months and 6-12 months lease options be available for co-living housing
- Council supports the inclusion of this land use in R3, R4 and B4 zones, and further supports the determination of height of building and floor space ratio by the relevant LEP
- The proposed car parking rate of 0.5 spaces per room is supported, subject to the addition of one servicing car park space
- Room size range of 30-35m² is supported, but Council recommends requiring inclusion of bathroom and kitchen facilities in rooms
- Council supports the intention to prohibit the strata subdivision of co-living development
- Council supports the recommended rates for communal living space (min. 20m²), private open space (4m² per room) and communal open space (25% of site)
- Council notes the intention to develop more specific design guidelines for co-living.

Proposed changes to boarding houses

- Council welcomes the intention to mandate affordable rents for boarding house rooms and welcomes further detail about how this will be implemented and monitored. Council recommends that this requirement exist in perpetuity, rather than be limited to 10 years.
- Council welcomes the removal of boarding houses as mandated permissible development in R2 zones, noting this issue has been raised in the past by Council
- Council welcomes the simplification of density bonuses for boarding houses to a flat rate of 20% of the existing FSR. While Council notes an example of where this FSR bonus has caused issues in combination with other uses and density increases at one development site, this appears to be an isolated instance. However, Council recommends that amendments to the bonus provisions also clarify that these bonuses are only available to developments that consist *entirely* of boarding houses.

Proposed amendments to the ARHSEPP

- Council does not support the introduction of an exempt and complying pathway for changing the use of an existing dwelling to a group home. Council can cite examples of problematic DAs of this type being assessed.
- Council supports increasing and simplifying the process for councils to levy a monetary contribution for the loss of existing “low rental” housing

Proposed amendments to Seniors housing provisions

- Council supports the identified administrative improvements to Seniors housing provisions identified in the EIE, noting they update terminology and site compatibility certificate provisions.

Proposed changes to social housing provisions of the ARHSEPP

- Council strongly opposes provisions that expand the ability of Land and Housing Corporation (LAHC) to self-assess their developments rather than allowing Council to remain the consent authority.
- Council opposes applying density bonuses available under the existing ARHSEPP and Seniors SEPP to the private market housing component of LAHC developments.

Proposed changes to social housing provisions of the Seniors SEPP

- Council opposes applying the reduced minimum parking requirements to the private market dwelling component of a LAHC-led development that includes social housing for seniors
- Council strongly opposes the application of the lift access exemption to a LAHC-led development that includes private market dwellings and seniors housing.

Proposed changes to social housing provisions of the SRD SEPP

- Council strongly objects to LAHC land being included as state significant development (SSD) and recommends, instead that DPIE consider each LAHC site or project on a case-by-case basis, in consultation with LAHC and the relevant council, to determine if the development meets the economic, size or complexity test for inclusion in the SEPP (State and Regional Development) 2011.
- By way of example, the proposed amendment has serious implications and uncertainty for Council in relation to the provision of essential infrastructure within the Telopea Precinct. Further, as SSD is not required to consider development control plans (DCPs), this jeopardises the delivery of precinct-specific positive outcomes relating to civic spaces, tree preservation and built-form outcomes.

Other matters

- Non-discretionary parking requirements identified in the Housing Diversity SEPP should not supersede Council's own maximum car parking controls. The Housing Diversity SEPP should ensure that prevailing rates can be easily interpreted and applied by developers and councils.

Council welcomes the opportunity to submit to the NSW Department of Planning, Industry and Environment (DPIE) comments on the proposed new Housing Diversity SEPP Explanation of Intended Effect (EIE).

EXPLANATION OF INTENDED EFFECT COMMENTS

Introduction - Why the Government is proposing a Housing Diversity SEPP

The NSW Government proposes to consolidate the existing three SEPPs relating to affordable housing into a single new Housing Diversity SEPP. The introduction and executive summary of the EIE outlines the key changes being proposed in the new SEPP. The three existing SEPPs (listed below) aim to facilitate the development of affordable housing in NSW, and have all been amended more than once since their introduction more than a decade ago. The NSW Government is moving to consolidate the matters covered in these three SEPPs into a single revised SEPP, and at the same time, make several revisions to their content to better deliver on their intent.

This revision is underlined by an acknowledgement that the building and construction industry provides a strong and significant opportunity to support economic recovery in response to the COVID-19 pandemic.

It is proposed that the new Housing Diversity SEPP will:

- Consolidate three existing housing-related SEPPs:
 - *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*;
 - *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*; and
 - *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70)*.
- Introduce new definitions into the Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP) for build-to-rent housing, student housing and co-living developments.
- Amend the boarding house provisions to:
 - remove the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;
 - amend the floor space ratio (FSR) bonus for boarding house development to a standard 20%; and
 - include a requirement for affordability of boarding house developments.
- Amend the provisions of the ARHSEPP to:
 - ensure that councils can continue to mitigate the loss of existing affordable housing by requiring monetary contributions;
 - provide a quicker and easier process to allow an existing dwelling to be used as a group home; and
 - allow councils to set the maximum size for a secondary dwelling in a rural zone.
- Amend the Seniors SEPP to:

- clarify how the SEPP applies to land being used for the purposes of a registered club;
 - update the provisions of Schedule 1 – Environmentally sensitive land to align with current legislative and planning conditions;
 - amend the ‘location and access to facilities’ provisions so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility requirements;
 - extend the validity of a Site Compatibility Certificate (SCC) to 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued; and
 - clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP.
- Amend the Seniors SEPP, the ARHSEPP and the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) to support the delivery of social housing by the NSW Land and Housing Corporation (LAHC) on government-owned land.

Council supports the intent to consolidate the existing affordable housing-related SEPPs into a single policy document, and support many of the proposed changes. However, Council has concerns about some of the changes may have a detrimental effect on City of Parramatta, and unintended negative outcomes that should be given further consideration by the NSW Government prior to finalising the new Housing Diversity SEPP.

1. Build-To-Rent Housing

Council welcomes the introduction of a new land use term and specific planning provisions to guide the emergence of build-to-rent (BTR) developments in NSW. Specific planning controls together with recent announcements around state land tax discounts of 50% for BTR development will help to support this emerging housing form in NSW.

The EIE notes the general characteristics of a BTR development, being:

- High density development – and in this case, referring to buildings with 50 or more self-contained dwellings
- Well located with high amenity and close to transport
- Funded by larger-scale institutional investors
- Focused on providing a high-quality living experience through provision of on-site services and facilities, professional management and offering security of tenure via long term lease (minimum 3 years).

Proposed definition

It is proposed that the definition for ‘Build-to-rent’ housing would be contained within the Standard Instrument – Principal Local Environmental Plan and would refer to a building or place that:

- contains at least 50 self-contained dwellings that are offered for long term private rent;
- is held within a single ownership;
- is operated by a single management entity; and
- includes on-site management

Proposed planning provisions

| Development standard | Proposed standard/planning provisions | Council comment |
|-------------------------------------|--|--|
| Locational requirements | Compulsorily permitted in R4, B3, B4 and B8 zones R3, where Residential flat buildings (RFBs) are permitted Councils can make BTR housing permissible in other land use zones through amendments to their LEPs | Supported in the R4 and B4 zones. Not supported in B3 – Commercial Core or any other zones. This is because the inclusion of BTR within the commercial core of the Parramatta CBD, which is zoned B3, is inconsistent with the State Government and Council's vision for the CBD which is to provide a significant increase in jobs. The B3 zone, which is already limited in its application, should not be compromised by allowing residential uses (even if strata subdivision is prohibited) and focus on its key objective, which is facilitating commercial uses and creating an employment hub. Permitting this use will erode the objectives of the B3 zone. It is strongly requested that this use is not permitted in the B3 zone or that Parramatta be excluded from the operation of this clause. |
| State significant development (SSD) | Assessed as SSD for developments with capital investment value of or over \$100 million | Supported. This should apply to all councils to ensure consistent support for this new type of development across the State. |
| Design Guidance | SEPP 65 will apply; DPIE will develop further provisions regarding BTR in SEPP 65. | Supported given that SEPP 65 gives effect to the Apartment Design Guidelines (ADG). The EIE envisages that specific Design Guidance may be created for BTR. The inference is that this guidance would allow for lower amenity than is required by the Apartment Design Guidelines (ADG). The EIE also suggests allowing BTR to be strata subdivided and sold off after 15 years. Fragmented ownership of low-quality dwellings could lead to social issues. It is recommended that BTR development remains so in perpetuity. |
| Height and floor space ratio (FSR) | Determined by councils via LEP | Supported |



| | | |
|------------------|--|---|
| Car parking rate | Minimum 0.5 spaces per dwelling is proposed by DPIE. Councils could apply a lower rate if one applies under the relevant DCP | <p>Not Supported.</p> <p>The EIE includes the following statement: “where a lower maximum parking rate applies under a council’s development control plan, this rate could be applied to BTR housing.” There are several potential problems with this wording:</p> <ol style="list-style-type: none">1. The statement should also include LEPs which often include parking rates.2. Use of the term ‘lower’ adds ambiguity. For example, noting the proposal seeks to implement a 0.5 parking spaces per dwelling non-discretionary development standard, if Council’s maximum control was 0.6 spaces per dwelling, it wouldn’t apply, and the applicant could have as much parking as desired. Alternatively, if Council’s maximum control was 0.4 spaces per dwelling, it would apply, and the applicant would be limited. It is recommended that ‘lower’ be removed from this statement. <p>Council requires clarification that the non-discretionary minimum parking requirements in the SEPP do not supersede Council’s own maximum parking controls. In other words, that they restrict Council from refusing an application that doesn’t have enough parking, but do not stop a Council from refusing an application that has too much parking.</p> <ul style="list-style-type: none">• Alternatively, the controls could defer to the local controls where there are maximums or lower minimums.• A common concern often expressed about a lack of off-street parking is that it will result in spill over into local streets. However, most centres capable of housing such development have, or could easily develop, on- |
|------------------|--|---|



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|-----------------|---|---|
| | | street parking controls which would stop resident spill over into the surrounding streets. |
| Lease terms | Would be subject to minimum lease terms (proposed to be three years) and not available for short term rental accommodation | Not supported. Regulation of the housing market should be applied consistently across the market. |
| Ownership model | <p>15-year prohibition on strata subdivision of subdividing a BTR development.</p> <p>Proposed prohibition of strata subdivision of BTR developments located in B3 zones in perpetuity.</p> | <p>The benefit of BTR development at present lies in two key areas: their ability to provide a high range and quantum of shared facilities across a large development; and the security of tenure they provide to renters who are otherwise unlikely to enjoy security of tenure beyond a 12-month lease in the private market. Given that interest to date in BTR has been shown from institutional investors (e.g. superannuation funds), the requirement to build in flexibility to this housing form may not be necessary and may defeat one of the core benefits of the model, being security of tenure. Security of tenure would be best achieved by ensuring that all BTR projects prohibited subdivision in perpetuity.</p> <p>Refer to earlier comment regarding the proposal to permit this use in the B3 zone.</p> |

Other Commentary

The EIE suggests that BTR will be defined as a separate land use to RFBs/Shop Top Housing. Developers may wish to convert existing approvals for RFBs/Shop Top Housing to BTR through the provision of s4.55(2) of the Environmental Planning and Assessment (EP&A) Act. However, a modification application may not be the appropriate mechanism for change of use. As such, it is recommended that the controls clarify if this type of interchangeability is anticipated by a s4.55(2).

2. Purpose-Built Student Housing

Council welcomes the development of specific planning controls to guide the provision of student housing, often referred to as Purpose-Built Student Accommodation (PBSA). While the EIE acknowledges that international students' have grown over recent years, in both number and

economic importance, the development of large-scale purpose-built student housing has not¹. Within the City of Parramatta LGA, some existing student housing sites are under threat from redevelopment for example, a current Planning Proposal submitted by Western Sydney University is currently under assessment by Council for their Parramatta North Campus. The Proposal seeks to convert 344 student housing units to approximately 1,000 residential dwellings. The University has indicated the potential relocation of these onsite units to an alternate location within the Parramatta LGA, without any further details provided to Council.

The rising number of enrolled international students means that demand for affordable accommodation is rising, but options are becoming increasingly limited. PBSA provides a secure transition into life in Australia for international students, providing a sense of community and safety for international students who are at greater at risk of unsafe housing arrangements. Cultural and social diversity in PBSA should be encouraged and facilitated through the provision of communal indoor and outdoor areas. This would aid in promoting exchange and dialogue between international and domestic students. In a recent survey, 68.8% of international student respondents who were studying in City of Parramatta stated that they did not feel a sense of community where they lived². The sense of community that student housing can provide is necessary to support the mental health of international students.

The risk profile of the PBSA sector is lower than it is for other commercial property sectors due to the nature of how they operate. Purpose-built student housing highlights the need for catered, local solutions to issues with housing. PBSA residents don't have to compete with other renters when choosing accommodation, as its entire goal is to cater for university students which guarantees students affordable housing that is close to their campus, transport options, and provides a sense of community.

Historically, there have been two kinds of purpose-built accommodation for students: University-provided and commercially provided. University provided accommodation comes in the form of traditional residential colleges such as St. Andrews at the University of Sydney. Colleges typically attract primarily domestic students from regional areas and interstate. In 2019, there were 10,076 places provided under this option³. Commercial provision of PBSA's is the main option for international students as well as some domestic students, and typically more affordable compared to colleges. In Sydney, 9,365 places were available⁴. For comparison, Sydney is home to over 178,000 international students⁵. Approximately 4.1% of all full-time students live in PBSA, with great potential for growth over the next decade⁶.

Affordability should be a key consideration when developing PBSA. Given that most residents of PBSA are international students, having secure and affordable housing mitigates housing risks that

¹ PBSA only caters to around 4% of all full-time students: <https://www.savills.com.au/publications-pdf/s2ht-studentaccomreport-oct18-fa-web.pdf> page 12

² UTS Alan Morris International Students Survey 2020, Figure 5 Section B

³ <https://www.jll.com.au/content/dam/jll-com/documents/pdf/research/apac/australia/student-accommodation-investment-review-and-outlook-2019-final.pdf> - page 12

⁴ <https://www.jll.com.au/content/dam/jll-com/documents/pdf/research/apac/australia/student-accommodation-investment-review-and-outlook-2019-final.pdf> - page 12

⁵ <https://www.jll.com.au/content/dam/jll-com/documents/pdf/research/apac/australia/student-accommodation-investment-review-and-outlook-2019-final.pdf> - page 12

⁶ <https://www.savills.com.au/publications-pdf/s2ht-studentaccomreport-oct18-fa-web.pdf> - page 12

they may otherwise face. According to the International Student Survey 2019, 78% of international student respondents listed 'cost of living' as a worry when deciding whether to study in Australia⁷. Additionally, 50% of international students stated that finding accommodation was also of concern⁸. The growth of international students in Australia over the last 10 years means that PBSA will play a much greater role in being a safe, affordable option.

The current restrictions universities and developers face when considering PBSA, is the availability of suitable land, development against other land uses, profit, and the long-term viability of student accommodation. Further, PBSA providers often overlook international students who are involved in Vocational Education & Training (VET) as well as English Language Intensive Courses for Overseas Students (ELICOS). In 2018, approximately 394,000 VET and ELICOS international students were enrolled in Australia⁹. This number was close to international student enrollments under higher education at 399,000¹⁰. Most VET/ ELICOS students struggle to find flexible short-term leases. Therefore, PBSA providers should consider catering to a wide range of students, providing potential flexible lease options.

Overall, the future SEPP should prioritise the affordability of purpose-built student accommodation. Many international and domestic students choose to rent privately due to the high cost of commercially provided PBSA living arrangements. Flexible lease options should be considered by PBSA providers to cater for VET/ ELICOS students. Further, the SEPP should consider development standards for PBSA regarding shared common facilities such as bathrooms/ kitchens and provide clarification on how flexible the standards for minimum room size requirements will be, specifically to consider more detailed requirements to provide developers with clarity. Further considerations around the wide variety of types of rooms within PBSA should be considered, including providing minimums for shared rooms. The provision of laundry facilities should also be considered in the development of the SEPP to ensure best practice standards. The provision of study space should also be considered in the design of student housing and rooms. The design guidelines for student housing should meet the practical needs of students, considering privacy, amenity, functionality, and communality. The SEPP should also consider providing regulations around management of student housing to ensure that the welfare and security of students is prioritised during the length of their stay.

An advantage of the new student-housing definition is that existing forms of affordable housing accessible to students may not always be suitable. City of Parramatta has received several DAs for boarding houses located near universities, and even more DAs that cite students as one of their target markets. While boarding houses can provide accommodation for students, there may also be positive social outcomes in creating a separate planning stream for student housing, with the potential for issues to arise in boarding house living arrangements where the needs of students and other resident groups may conflict.

Proposed definition

It is proposed that the definition for 'student housing' would be contained within the Standard Instrument LEP and would refer to a building that:

⁷ <http://www.iru.edu.au/wp-content/uploads/2019/07/QS-International-Student-Survey-2019.pdf> - page 42

⁸ <http://www.iru.edu.au/wp-content/uploads/2019/07/QS-International-Student-Survey-2019.pdf> - page 42

⁹ <https://www.jll.com.au/content/dam/jll-com/documents/pdf/research/apac/australia/student-accommodation-investment-review-and-outlook-2019-final.pdf> - page 22

¹⁰ <https://www.jll.com.au/content/dam/jll-com/documents/pdf/research/apac/australia/student-accommodation-investment-review-and-outlook-2019-final.pdf> - page 22

- provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods; and
- may incorporate some fully self-contained dwellings.

Proposed planning provisions

| Development standard | Proposed standard | Council comment |
|-----------------------------|---|---|
| Location | Not proposed to make student housing a compulsory permitted use in any land use zone. To be determined by councils via LEP. | Supported. Council would support excluding student housing from the R2 zone, and specifying it as permissible with consent in R3, R4, B1, B2 and B4 zones. The location criteria that should apply for student housing is as follows: <ul style="list-style-type: none"> • high amenity; • excellent access to public transport would be recommended; and • dependent on a site compatibility certificate process, similar to that applied for other uses. |
| Height of buildings | Determined by relevant LEP | Supported. |
| FSR | Determined by relevant LEP | Supported. |
| Car parking | No minimum spaces required | Not supported. It is recommended that a minimum parking rate of 0.25 space per room be applied. In the areas that maximum parking rates are applied, the above parking rate should be changed to maximum rate. In addition to this, a minimum of one car parking space should be provided for servicing (e.g. tradespeople, cleaners etc.). |
| Bicycle parking | 1 space minimum per 3 bedrooms | Supported. |
| Motorcycle parking | 1 space minimum per 5 bedrooms | Supported. |
| Room size | Minimum 10m ² – discretionary standard | Not supported. Council recommends that the minimum size for PBSH align with the size of a single-person boarding house room, being |

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|-------------------------|---|---|
| | | 12m ² minimum, and that this provision be mandatory rather than discretionary. |
| Communal area (indoor) | 15m ² per 12 students | <p>Not supported.</p> <p>The EIE recommends student housing provides communal areas of 15m² per 12 students (or 1.25m²/student). This is very small and is less than the standard for co-living (2m²/room). Students need space to socialise and study outside of their relatively small individual dwellings. Given the significant international student cohort that student housing developments are likely to service, this is even more important, as communal space will allow students from overseas a place for cultural practice, to strengthen social connections and social supports, and also to interact with students from Australia and other countries. Given room sizes are small for students, communal space becomes more important. It is recommended that this standard be increased to the same level as co-living, being 2m² per room.</p> |
| Communal area (outdoor) | Consider access to open space. 2.5m ² per student, unless there is public open space within 400m of the relevant university. | <p>Not supported. Boarding houses provide minimum outdoor spaces to allow residents to relax and socialise. These provisions should apply equally to students. The recommendation is to apply 2.5m² per student of communal outdoor space, regardless of proximity to open space or to open space near a university campus.</p> |

Student Housing questions posed by the EIE

The EIE suggests that design guidelines could be developed to accompany the new SEPP. The guidelines may cover matters such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

3. Co-Living

With provisions intended to mandate affordability for boarding houses, co-living development essentially refers to 'new generation' boarding house development that is not subject to these requirements.

Council also welcomes the introduction of a new land use term and specific planning provisions to guide the emergence of co-living developments in NSW that will serve the increase in single person households, affordability challenges and transient professionals.

Proposed definition

It is proposed to introduce a new definition for co-living in the Standard Instrument LEP would refer to a building held in single ownership that:

- provides tenants with a principal place of residence for 3 months or more;
- includes on-site management;
- includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and
- has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults.

Council comment:

The proposed 3 month minimum of residential tenancy could be diversified to allow developments to have a planning condition with a mix of 3-6 month and 6-12 month stays. This has been observed in the UK.¹¹ This flexibility will serve differing local government areas such as CBDs and employment and education centres that attract professional nomads.

Regarding the opportunity for communal kitchens, laundries and bathrooms, this design is more suited for boarding houses. Should communal facilities be permitted, a rate should be introduced e.g. one washing machine per four people. There have been legal precedents where developers have been found to not provide an acceptable form of residential amenity by relying heavily upon communal facilities for excessive numbers of people, whilst charging high rents.¹²

Research into overseas co-living developments suggests that communal living space is critical to their success. Well-designed and adequately sized communal living spaces are used by tenants and can also host community coworking days, hackathons etc. This is important for CBDs and LGAs such as City of Parramatta with a substantial industry profile, transport link, and connection to Universities which is an attractive value proposition for organisations wanting to attract start-up businesses and innovation in general.

Carparking requirements may receive resistance from developers as most co-living tenants are globally mobile and do not use cars. Furthermore, car and bike sharing are fairly common features in co-living developments overseas.

Proposed planning provisions

| Development standard | Proposed planning provisions | Council comment |
|----------------------|---|-----------------|
| Location | Wherever apartments are a mandatory permitted use – R4, R3, B4. | Supported. |
| Height of building | Determined by relevant LEP. | Supported. |

¹¹ <https://www.cbre.co.uk/services/business-lines/valuation-and-advisory/valued-insights/articles/what-you-need-to-know-about-planning-for-a-co-living-scheme>

¹² <https://www.thejournal.ie/co-living-kitchens-4747252-Jul2019/>



| | | |
|-----------------------|---|---|
| FSR | Determined by relevant LEP. | Supported. |
| Car parking | 0.5 spaces per room, but possible for councils to reduce if appropriate and may depend on locational context e.g. proximity to train station. | <p>Supported, with the addition of one car parking space for servicing, as per Council comment for PBSH above.</p> <p>The EIE suggests that parking controls for co-living will defer to Council maximums if applicable. Councils may not be able to amend their control in time to incorporate specific maximums for co-living. As such, it is suggested that the control defers to Council boarding house maximums if co-living rates are not specified.</p> <p>Minimum parking rates for bicycle and motorcycle parking should also be provided at the same rate for boarding houses under the current ARHSEPP. Carshare parking spaces should also be considered.</p> |
| Room size | 30–35m ² | Supported. It is noted that this size is between boarding house rooms (maximum 25m ² excluding any area used for the purposes of private kitchen or bathroom facilities) and studio apartments, however this room size does not identify whether or not it includes non-habitable room. Kitchen, bathroom and laundry facilities should be included. |
| Strata subdivision | Not permitted. | Supported. Should be held in single ownership. |
| Communal living space | Minimum 20m ² + 2m ² per room above 10 rooms. | Supported. However, bathroom, kitchen and laundry facilities should be included within rooms. |
| Private open space | 4m ² per room. | Supported, noting this is consistent with the ADG studio apartment requirements. |
| Communal open space | 25% of site – reduction available if all dwellings have private open space that exceeds the minimum requirements. | Supported. |

The EIE states design guidelines for co-living may be developed to accompany the new SEPP and could address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

Council comment

Development of design guidelines to accompany the new SEPP is highly supported. ADG guidelines may not be applicable to this land use and may require changes in storage and solar access for instance. Council strongly encourages development of differentiated design guidelines for co-living, purpose-built student housing and build-to-rent.

4. Proposed Changes to Boarding House Provisions of the ARHSEPP

The Housing Diversity SEPP proposes significant and welcome changes to boarding house provisions, many of which have been raised by this and other councils in past submissions on related matters. The following is a list of key changes proposed by the Housing Diversity SEPP in relation to boarding houses:

Affordability mandate

The revised definition of boarding houses will include “an affordable rental building” in its description. The SEPP does not elaborate on how affordability will be implemented or monitored in boarding house operations but suggests that the affordability provision could operate for 10 years, as is currently applied to affordable rental housing developed under the existing ARHSEPP 2009.

Not mandated in R2 zone

Since the ARHSEPP 2009 was introduced, boarding houses have been a mandatorily permissible development in R1, R2, R3, R4, B1, B2 and B4 zones. In February 2019, the NSW Government acknowledged community pressure with respect to the incompatibility of boarding houses in low density areas, thus limiting the maximum number of rooms in a boarding house within an R2 zone to 12 rooms per site¹³. In response to ongoing community concern, the Housing Diversity SEPP proposes to remove the mandatory permissibility provision for boarding houses from the R2 zone altogether, allowing councils to decide whether they should be a permissible land use. Given City of Parramatta’s historical response to mandatory permissibility of boarding houses¹⁴, among other types of affordable housing that attract density bonuses, in low-density areas when the ARHSEPP was inceptioned in 2009, Council welcomes this change.

Flat-rate 20% FSR bonus

Currently, clause 29 of the ARSEPP includes an FSR bonus that can effectively double the size of potential developments in certain circumstances. The Housing Diversity SEPP proposes to remedy this by simply applying a flat FSR bonus of 20%, regardless of the existing FSR. This change is supported as it will mean smaller development sites are less likely to be overdeveloped after applying the new FSR bonus, and makes the application of bonuses more equitable across all sites.

¹³ See NSW Government Planning website reference: <https://www.planning.nsw.gov.au/Policy-and-Legislation/Housing/Diverse-and-affordable-housing/Boarding-Houses>

¹⁴ See historical media reference: <https://www.dailytelegraph.com.au/newslocal/parramatta/parramatta-council-fights-to-block-boarding-houses-across-the-local-government-area/news-story/7fcbf6878d9d3bf69811a621ac13a59e>

However, there is potential for problems with the application of this flat rate FSR bonus in the case of boarding house developments where only one component of the development constitutes boarding house space. Case in point is 295 Church St, Parramatta. This site is subject to a density increase through a site-specific Planning Proposal process, which is generally consistent with the broader Parramatta CBD Planning Proposal. The result of applying the ARHSEPP bonus provisions in this case is an unanticipated level of density that results in a taller building and a larger-than-anticipated population increase (and the infrastructure impacts that result), while only a small amount of boarding house space has been provided in order to access that bonus.

Under the Parramatta CBD Planning Proposal, 295 Church St has a mapped FSR of 10:1, plus a design excellence bonus of 1.5:1, for a total of 11.5:1 FSR. However, when the ARHSEPP boarding house bonus of 2:1 is added, the site increases to 13.5:1 total FSR. The boarding house component represents only a very small component of the mapped FSR of 10:1 - only 0.32:1 FSR in the current reference design – however, this still entitles the applicant to apply the boarding house bonus to the entire FSR of the site (i.e. 20% of 10:1, or 2:1). Council considers that the bonus provisions should be clarified such that they only apply to developments which consist entirely of boarding house space; otherwise, the outcome is that developers can essentially add additional (and unanticipated) FSR to their developments, while only a small amount of boarding house floorspace has to be provided. Furthermore, Council is particularly concerned with the potential for cumulative infrastructure impacts as a result of this additional FSR.

By resolution of Council, officers have monitored current development activity that takes up both the CBD Planning Proposal controls and the bonus provisions of the ARHSEPP through providing a boarding house. This monitoring has revealed that, to date, 295 Church St is the only known case where this has occurred.

While there is potential for other sites to take this up in the future, there is currently no evidence base to indicate what types of sites might take up this approach, and what the resulting cumulative infrastructure impacts might be. Therefore, this submission prepared by Council does not request that the CBD be excluded from the bonus provisions of the ARHSEPP. However, if future development activity presents an unexpected uptake in the controls outlined above, this position will be re-examined.

The case outlined above raises another issue with the bonus provisions upon which Council would like to comment. Council considers that the intended application of the ARHSEPP bonus provisions are to incentivise affordable housing developments by allowing a nominal bonus on developments which are made up of *entirely* boarding house floor space – not to utilise the bonus provisions to essentially add more floor space on top of a large-scale mixed-use development. Therefore Council recommends that the re-drafting of affordable housing policy provisions clarify that the bonus provisions should only apply to developments which are made up of *entirely* boarding house floor space.

Car parking

No significant change proposed, including the already-reduced car parking rates allowed for social housing providers.

Boarding House questions posed by the EIE

The EIE seeks feedback on whether the Government should require rooms in new boarding houses to be rented at an affordable rate for a minimum of 10 years, after which they could revert to market rates. It has been contended by councils across Sydney that boarding house rents should be mandated as affordable for a few reasons:



- The purpose of boarding houses is to provide safe, short-term, affordable housing options for those in need;
- The provisions for boarding houses are located within the Affordable Rental Housing SEPP, and their purpose is to support and increase the provision of affordable housing;
- Notable examples have been reported in the media in the past of developments that were approved under the ARHSEPP 2009 (Boarding House) provisions, and then advertised to rent at premium rates (e.g. in the Randwick LGA).

A better outcome than applying a time-limited affordability provision would be to mandate that boarding housing developments be rented at affordable rents in perpetuity.

5. Proposed amendments to the ARHSEPP

There are several other amendments to existing ARHSEPP conditions that are proposed to be modified in the new Housing Diversity SEPP. Many of these relate to the City of Parramatta context.

| Area of concern | Proposed amendment | Council comment |
|---|--|---|
| Group homes | Creation of an exempt and complying approval pathway for conversion of an existing dwelling into a group home | Not supported. City of Parramatta has received several applications for conversion of an existing dwelling to a group home over the last 12 months. In at least one of those cases, there was evidence that the dwelling in question was already functioning as a group home, and that its operation was having tangible negative impacts on neighbours, as specified in submissions made to Council regarding the DA. While the provision of group homes is an important housing form that meets the needs of residents with high needs, the planning system must ensure that it has mechanisms to properly assess development applications for conversion of existing dwellings into group homes, taking into consideration their potential positive and negative impacts both future potential high needs high risk tenants and broader community stakeholders. |
| Financial contribution for loss of affordable housing (Part 3 of the ARHSEPP) | The existing ARHSEPP includes a provision to levy a monetary contribution from developments that result in a reduction in the availability of affordable housing. Clause 49 of the ARHSEPP | Supported. This change provides more scope for Council to assess the impact of development on housing affordability, and to recoup money from such development that could |



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| | <p>states that this requirement only applies to buildings that were “low rental” as at 28 January 2000 (this being a date carried over from an earlier version of the legislation).</p> <p>The Housing Diversity SEPP proposes to remove this arbitrary date and instead require the monetary contribution if the building has been “low-rental” any time in the 5 years prior to the date that the DA is lodged. It also places the burden of evidence on the applicant, rather than a council, to show that a building was not considered “low-rental” during the relevant period.</p> | <p>later be invested into affordable housing projects. Given that the original date of consideration is also more than 20 years ago, it makes such assessment much easier for Council. Requiring an applicant to provide evidence of rental history is also a welcome change as it frees up resources with Council.</p> |
| Secondary dwellings in rural zones | Secondary dwellings are currently not permitted in rural zones. The Housing Diversity SEPP proposes to allow councils to permit secondary dwellings in rural zones if they desire. | Not relevant to the City of Parramatta. |

Other Commentary

The EIE suggests implementing a 10-year affordability requirement for boarding houses, but does not clarify how such a provision will apply to, or impact, existing boarding houses. Council requests clarification on this

6. Proposed Amendments to Seniors Housing Provisions

Some relatively minor amendments to seniors housing provision are proposed in the Housing Diversity SEPP. They mostly relate to updating now out-of-date references.

Update definitions in the Seniors SEPP

In line with the Standard Instrument LEP that was developed after the Seniors SEPP was introduced, the following definitions are to be updated:

- ‘height’;
- ‘people with a disability’; and
- AS 2890.

No further detail is provided, so it is assumed that the update amounts to making these definitions consistent with the Standard Instrument LEP. On this basis, this update is supported.

Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. However, this Schedule has not been updated since the SEPP came into effect in 2004. Some terminology in this Schedule has become obsolete and others have become contested. The

Housing Diversity SEPP proposes to update this Schedule to better align with current planning conditions. This update is supported.

Site Compatibility Certificates

At present, a Site Compatibility Certificate (SCC) issued under the Seniors SEPP is valid for 2 years. Because of the complexity and time involved in progressing Seniors housing projects, these SCCs sometimes expire before a DA can be determined. To ensure Seniors SEPP requirements are consistent with those for RFB developments made under the ARHSEPP, it is proposed to extend SCC validity to 5 years, if a DA is lodged within 12 months of issue. This change is supported.

A further change for SCCs relates to those issued on land that is used as an existing registered club. In some cases, SCC applications have been made on land where the club in question is no longer viable. The Housing Diversity SEPP would reinforce the requirement that a club must be registered at the time an SCC application is made, if it is on land used for a registered club.

7. Proposed Changes to Social Housing Provisions of the ARHSEPP

The EIE acknowledges the growing need for social housing across NSW, the potential impact of COVID-19 on demand for social housing, and the fact that the ARHSEPP under which social housing is developed, had not envisioned the current Government priorities set out in *Future Directions for Social Housing in NSW*. The EIE includes several proposed changes that generally provide more agency to the Land and Housing Corporation (LAHC) to develop social housing without the need to seek Council approval. Council believes that there is an inherent conflict in allowing LAHC to assess their own development applications. As both developer and planning authority, there is no mechanism in place to ensure that LAHC makes decisions that are in the interests of the community that will be impacted by their developments.

The following table includes the proposed changes together with Council's comments.

| Proposed amendment | Description | Council comment |
|--|--|--|
| Increase maximum number of dwellings that LAHC can self-assess | The ARHSEPP currently allows LAHC to undertake small redevelopments without council consent if they are up to 20 dwellings, and at a maximum height of 8.5 metres (two storeys). The Housing Diversity SEPP proposes to increase the maximum number of dwellings that LAHC can self-assess from 20 to 60, with the same height limit in place. | Not supported. Council resolved on 9 May 2011 to require a social impact statement for all development applications submitted under the ARHSEPP 2009. Increasing the number of dwellings in a LHAC development that can be self-assessed reduced Council's ability to adequately assess the social impact of affordable rental housing developments proposed by LAHC under the ARHSEPP. |



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| Design guidelines for LAHC developments | The Housing Diversity SEPP proposes to update the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> which LAHC is currently required to consider. | Supported in principle. No further details are provided as to what the updates may constitute. |
| Car parking requirements for LAHC developments | The current minimum parking rate for social housing of 0.5 spaces per dwelling is proposed to be applied to all dwelling types in a LAHC-driven project. This means that private, social and affordable dwellings across a development will all be subject to 0.5 car parking spaces per dwelling. LAHC would be required to submit a DA to Council for merit-based assessment if it wished to pursue a lower parking rate. | Not Supported. Council should be able to apply a lower car parking rate if it is identified in a DCP or LEP. Council does not support applying the rate of 0.5 spaces per dwelling to the private development portion of a LAHC development site. |
| Expand the range of affordable dwelling types that attract a density bonus | Density bonuses for infill affordable housing currently apply to dual occupancies, multi-dwelling housing and residential flat buildings. The Housing Diversity SEPP proposes to extend density bonuses to other residential development, such as manor houses and terraces, where they are already permissible housing forms. | Supported in principle. Applying the already-existing density bonus provision of the ARHSEPP to other permissible residential building forms is supported on the basis that it makes the application of the policy more consistent. However, Council cautions against continuing to expand the application of density bonuses as a solution to affordable housing provision. Ideally, the market should be adjusting over time to providing affordable housing as an accepted part of a diverse housing market, rather than something that only happens when incentivised with extra density. Furthermore, it is difficult to strategically plan for the population increase and resulting infrastructure impacts that are created by density bonuses. Cumulatively, density bonuses run the risk of undermining strategic planning and creating or increasing infrastructure shortfalls and |



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| | | should therefore be applied very carefully. |
| Expand density bonuses for LAHC developments currently applicable under the ARHSEPP and Seniors SEPP to apply to <u>all components</u> , including private dwellings | <p>The ARHSEPP applies an FSR bonus based on a formula as outlined in Part 2, Division 1, Clause 13 of the ARH SEPP.</p> <p>The Seniors SEPP (Part 6 Division 45) applies an FSR bonus of an additional 0.5:1 FSR for Seniors living vertical living.</p> <p>The EIE appears to indicate (see page 6 of EIE) that LAHC will be able to apply density bonuses not only to the social and seniors components of their developments, but potentially to all private or other dwellings delivered within LAHC-driven projects as well. In many cases, this may amount to the vast proportion of the dwellings delivered through their projects.</p> | <p>Not supported.</p> <p>Council does not agree with bonuses applying to private market housing that LAHC are delivering as part of the Communities Plus model. The following unintended consequences will result from this amendment in Parramatta's context:</p> <ul style="list-style-type: none"> • A significant level of additional dwellings may be delivered which were not anticipated as part of the Telopea Planned Precinct work by the way of community and traffic / transport infrastructure. For example, it is estimated that the bonus will generate an additional 850 – 950 private market dwellings in Telopea, which could result in 1750 – 2,000 additional people. • The additional density bonus will not be consistent with the existing maximum height of building in LEPs, therefore resulting in poor built form outcomes. These outcomes will likely include creating large building footprints, reduced deep soil (through reduced rear, front and side setbacks) and therefore potential loss of trees, reduced permeable surfaces, and poor-quality streetscapes. • FSR bonuses are already built into LEPs which apply to LAHC land (for example Clause 6.17 of the Parramatta LEP 2011 in relation to the Telopea Precinct). Any additional proposed bonuses should not apply to the bonus FSR, only base FSR. |
| Clarify the types of development that LAHC can self-assess | The Housing Diversity SEPP proposes that LAHC can self-assess: | <p>Not supported.</p> <p>Council does not support LAHC self-assessment of boarding houses</p> |



| | | |
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| | <ul style="list-style-type: none"> Any type of residential development that is permitted with consent, with a height limit of 8.5m (two storey) Any boarding house development, if it is permissible within the zone A boarding house development in an R2 zone, provided it is a maximum of 12 rooms and on Government-owned land. | <p>developed by LAHC or any other provider because it undermines Council's commitment to properly assess the social impact of such development. Furthermore, Council believes that there is an inherent conflict in allowing LAHC to assess their own development applications. As both developer and planning authority, there is no mechanism in place to ensure that LAHC makes decisions that are in the interests of the community that will be impacted by their developments.</p> <p>Council is strongly opposed to the development of boarding houses in the R2 zone, regardless of who the developer is (LAHC or any other provider). Our community has long voiced opposition to ARHSEPP in relation to this mandated permissibility.</p> |
| Update self-approval provisions for social housing | <p>The Housing Diversity SEPP proposes to clarify that under LAHC's current development model, the complete mix of dwellings (social, affordable and private) are all subject to self-assessment provisions available to LAHC. This applies to any development undertaken by or on behalf of LAHC, on Government-owned land. The height limit of 8.5m and a maximum of 60 dwellings will still apply.</p> | <p>As noted above, Council resolved on 9 May 2011 to require a social impact statement for all development applications submitted under the ARHSEPP 2009. Provisions that increase LAHC's self-assessment provisions undermine Council's ability to properly assess the social impact, design outcomes and increased infrastructure needs of these developments, that may also lead to population growth beyond that forecast by Council.</p> <p>Further to this, there is an inherent conflict in allowing the developer (in this case LAHC) to self-assess their own development. What oversight will there be to ensure a community does not experience negative impacts as a result of this?</p> |
| Expand density bonus outside the Sydney metropolitan region | <p>This item relates to density bonus provisions for infill affordable housing development that is in "accessible areas" that</p> | <p>Not applicable to the City of Parramatta</p> |

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| | already applies in the Sydney region. | |
| Subdivision of Government-owned land | It is proposed that Government-owned land can be subdivided without Council's consent. | Supported in principle. |

Other Commentary

There is often confusion as to whether standards or controls relate to the affordable elements of a mixed tenure proposal, or to all units in the building. For example, it is not clear if parking rates apply to the affordable units, or all units. It is recommended that the new SEPP clarify this matter.

8. Proposed Changes to the Social Housing Provisions of the Seniors SEPP

Changes are proposed to assist LAHC in delivering more social housing for seniors. The EIE notes that about 20% of the existing LAHC property portfolio services seniors and people with a disability. The following changes relate to parking provisions and exemption to lift access.

| Proposed amendment | Description | Council comment |
|--|---|---|
| Parking concessions for seniors housing | The current Seniors SEPP provides reduced minimum car parking rates for DAs lodged by social housing providers. The Housing Diversity SEPP would expand these parking rates to also apply to the private dwelling component of a project developed by, or on behalf of, LAHC on Government-owned land. | Not supported. Needs to apply maximum rates, where supported by DCP/LEP |
| Clarify application of lift access exemption | The Seniors SEPP requires lift access to be provided for seniors housing with three or more floors. However, social housing providers can be exempt from this requirement. The Housing Diversity SEPP will clarify that any LAHC-initiated seniors housing development is subject to an exemption from the lift access requirement, including those developments that also include private dwellings. | Not supported. The principle of exempting the lift access requirement for developments of this nature is strongly opposed and may leave councils open to legal challenges under the Disability Discrimination Act. Extending this exemption to also include LAHC-driven developments that include seniors housing as well as private market housing is counterintuitive to the needs of residents now and in future as the population continues to age, with the number of residents 60 years and over more than doubling by |

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| | | 2041. ¹⁵ The requirement for seniors housing developments with more than two levels to include lift access exists for a very good reason: the target market for such development is highly likely to experience mobility challenges. Removing the requirement to install infrastructure that properly supports their ability to live with dignity should not be allowed. |
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Other Commentary

The EIE seeks to update some of the definitions in the Seniors SEPP for consistency with standard instrument definitions. While this is supported in general, there are some terms which may also require standardisation. For example, its separate Gross Floor Area definition is often a point of confusion.

The Seniors SEPP currently provides bonuses for ‘vertical villages.’ However, no definition is provided for this typology in the SEPP or Standard Instrument. Councils often experience opposition for high rise seniors living DAs, and as such, it would be beneficial to be able to clearly show that these types of development are anticipated by the SEPP.

There is significant community concern relating to high rise seniors living development, specifically relating to evacuation. It is recommended that the following requirements be mandated in the Housing Diversity SEPP:

- Submission of a draft Emergency Management and Evacuation Plan
- Provision of ‘firefighting lifts’ which can be used by firefighters to evacuate during a fire
- Provision of increased smoke extraction to corridors
- Audible spoken word alarms.

9. Proposed Changes to the Social Housing Provisions of SRD SEPP

The Housing Diversity SEPP proposes to simplify the panning pathway for major LAHC projects to become State significant development (SSD). It is proposed that projects would become SSD if:

- They are carried out by or on behalf of LAHC; and
- They have a capital investment value of more than \$100 million (increased from \$30 million)

The Housing Diversity SEPP would remove the requirement for a LAHC project to be included on the State Significant Development Site Map in order to achieve SSD status.

¹⁵ <https://forecast.id.com.au/parramatta/population-age-structure> In 2016 there were 38,549 residents 60 years and over living in City of Parramatta. This number is forecast to grow to 81,301 by 2041.

Council Comment

Council objects to the inclusion of all LAHC land to be deemed state significant and instead, recommends that the Department consider each LAHC site or project on a case-by-case basis, in consultation with LAHC and Council, to determine if the development meets the economic, size or complexity test for inclusion in the SEPP (State and Regional Development) 2011.

The largest concentration of LAHC-owned sites within the City of Parramatta LGA is in the suburb Telopea and was subject to a major DPIE-led rezoning in 2018. As detailed below, the Telopea Precinct highlights the importance of retaining the planning approvals process with Council (and relevant approval Panels) for LAHC-owned lands.

By way of background, the Telopea Masterplan was developed jointly by LAHC and Council, with a significant level of community input. The Masterplan acted as a guiding document to inform the Planned Precinct process undertaken by DPIE. The rezoning of the Telopea Precinct occurred in December 2018. LAHC announced their development partner, Frasers Development and Hume Housing, in December 2019. As part of the rezoning, Council is currently preparing a draft development control plan (DCP) for the precinct to support the planning controls in the LEP (as required by Clause 6.18 of the Parramatta LEP 2011). It is expected that Council will consider a Draft DCP for the purposes of public exhibition in October / November 2020.

Key Issues

1. Telopea Precinct Development Control Plan

State significant development (SSD) would undermine the existing working relationship Council has with LAHC and will change the community expectations for how the Telopea Precinct was anticipated to be realised. Since July 2015, Council has committed to working with LAHC to transform Telopea into a vibrant and integrated community, delivering a mix of housing and improved local infrastructure. Council continues to work closely with LAHC to develop a draft DCP which aims to provide excellent built form, community facilities, open space and landscape outcomes to support the LEP planning controls. SSD is not required to adhere to Council's DCP controls, which would jeopardise good on-the-ground outcomes in Telopea.

The EIE does not consider the impact on the significant proportion of private landholders of the Telopea Precinct and the inequitable development approval pathways. When Council adopts the precinct DCP for Telopea, all other landholders will be required to ensure their development is consistent with the LEP and DCP controls. SSD applications are not required to be consistent or consider DCP controls. Furthermore, there are key issues for LAHC land which is adjacent to private land and the ability to meet DCP controls and good built form outcomes and may compromise some 'isolated' privately owned sites. The DCP is attempting to resolve these key issues and ensure equitable planning controls are in place for all landowners.

Therefore, Council recommends that the SEPP include that any SSD application be consistent with the objectives and controls within the DCP for Telopea. The key objectives for Telopea include:

- a) To create a vibrant, cohesive and safe mixed-use precinct which delivers shared civic spaces, community facilities and services and retail facilities.
- b) To deliver new open spaces, public domain, pedestrian links and streets to support higher densities in the Core. These spaces should provide amenity, places for interaction and aid in navigating the topography of the precinct.
- c) To design buildings that respond to the topography, landscape and solar access and improve safety and connectivity by clearly identifying between private and public spaces.

- d) To ensure development maximises opportunities for future planting of trees and retention of existing significant trees on LAHC land and the public and private domain.

2. Delivery of Community and Transport Infrastructure

Council is concerned that if the LAHC lands within the Telopea Precinct are considered as state significant development, this may jeopardise Council's ability to deliver critical community infrastructure (open space and community facilities) and traffic/transport infrastructure. The LAHC (Fraser's Development) proposal in Telopea relies on Council lands (Torrens title and roads) to realise its concept plan. Furthermore, a 'without prejudice' planning agreement from Fraser's is currently with Council for consideration. The planning agreement proposes to build and dedicate a number of community and traffic infrastructure to Council (parks, library and community centre, roads etc.) as part of the concept proposal. The delivery of infrastructure in line with expected growth is essential to the success of this mixed community and genuine renewal of the precinct.

What certainty can the Department provide to Council in relation to the current VPA negotiation process if the Telopea Precinct is designated as SSD and is assessed by DPIE and determined by the Minister? This certainty includes ensuring matching timeframes and land ownership issues are resolved in a collaborative manner with Council.

Key recommendations

In relation to LAHC sites being included as State Significant Development, Council recommends that:

1. The Department consider each LAHC site or project on a case-by-case basis, in consultation with LAHC and Council, to determine if the development meets the economic, size or complexity test for inclusion in the SEPP (State and Regional Development) 2011.
2. That the SEPP require that any SSD applications for Telopea (or other large precinct developments of LAHC) be required to be consistent with the objectives of the relevant development control plan.
3. That DPIE confirm through the SSD process that the necessary community and transport infrastructure to support the Telopea Precinct is delivered in line with growth.

10. General Comments

The Housing Diversity SEPP should clarify the operation of non-discretionary clauses in general. There appears to be confusion throughout the sector as to the operation of non-discretionary development standards. It is understood that such clauses are not strict requirements; that Council can approve if the standard is not met, but that they cannot be refused on that ground if met. This could be included as a note or in an associated guidance circular.

The Seniors SEPP, the ARHSEPP and SEPP 65 all include provisions to the effect of, "If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency". Clarification is required as to which provisions supersede the other where both the Housing Diversity SEPP and SEPP 65 will apply. For example, SEPP 65 and the Seniors SEPP currently both have different parking requirements.

Several SEPPs provide density bonuses for affordable or seniors housing. The current FSR only bonus can create the following unintended outcomes:

- In circumstances where a commensurate height bonus is not also provided, this can result in pressure on building setbacks and floorplate sizes.
- In circumstances where land does not have an FSR control, the bonus provides no incentive. In such cases it would be necessary to provide a height bonus to incentivise the desired outcome.
- In other circumstances, there can be unintended extreme density as a result of bundled density bonuses, when, for example, a design excellence bonus and an ARSEPP bonus are combined.
- A site compatibility certificate could apply for additional height.

CONCLUSION

Council thanks DPIE for the opportunity to provide comment on the EIE for the proposed Housing Diversity SEPP. Council supports the intention to consolidate three related SEPPs and to develop new land use categories to govern new and important forms of housing to increase the diversity of housing to meet a wider range of needs.

Council has made comments in relation to the proposed planning provisions for the new land use categories, as well as the proposed changes to existing planning provisions for boarding houses, seniors housing and the development of social housing. DPIE is to be commended for its proposal to remove boarding houses as mandated permissible development in the R2 zone, and for mandating affordability for boarding houses.

While Council acknowledges the desire of LAHC to expedite planning approval for social housing development, as evidenced in the proposed changes to planning pathways for its projects, this must not be at the expense of community expectations that rely on Council to make planning decisions in the interest of the community. And further to this point, the state significant development (SSD) pathway should not be applied to projects that undermine a council's ability to adequately plan for the needs of existing and new communities.

Submission to proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP)

City of Ryde

9 September 2020

Executive Summary

The population of New South Wales is growing; particularly across the Greater Sydney Region. As advocated in the Greater Sydney Region Plan, the transformation of Greater Sydney into a 'metropolis of three cities' made up of the Eastern Harbour City, Central River City and the Western Parkland City is crucial in delivering a metropolis that is productive, sustainable and liveable for the current and future population. This strategic framework envisages a city where residents can access their place of work, study or recreation within 30 minutes of their home. Therefore equal access to housing opportunities in key strategic locations and centres is critical in achieving this vision of a '30 minute city' and securing a prosperous future.

It is important the NSW Planning System is functioning to deliver on the vision and objectives of the broader strategic planning framework by ensuring the appropriate planning controls are in place to enable sustainable and suitable growth to meet the needs of the population.

The City of Ryde Council (Council) welcomes planning reform to simplify the planning system and its application to deliver suitable housing outcomes; improve transparency; and remove any 'red tape' caused by inconsistencies in legislation. This is particularly important in light of the COVID-19 pandemic with the State Government and Council's across NSW needing to work together to ensure the NSW Planning System is functioning to assist in the economic recovery of NSW through the residential development sector. However, Council considers it necessary to take a detailed evidence-based approach that recognises important place-based variation across the state to ensure reforms are successful in achieving the stated outcomes and do not have unacceptable, unintended, adverse impacts on local communities and economies.

Council welcomes the opportunity to comment on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) and is supportive of the overarching intention of the proposed SEPP to facilitate the delivery of affordable housing to meet the needs of the State's growing population. Council has an Affordable Housing Planning Proposal which seeks to deliver on this objective (discussed further within this submission), with housing affordability being an important planning consideration for Council. However, the proposed policy changes within the Housing Diversity SEPP would be further justified or validated through the provision of the evidence base that has informed the changes, along with examples of how the current legislation is not operating as intended. The need for this evidence base is particularly important in relation to the proposed new land use definitions (including Build-To-Rent) and in relation to the planning powers proposed to be awarded to the Land and Housing Corporation (LAHC).

The new Housing Diversity SEPP proposes to significantly increase the level of self-assessment LAHC can carry out for residential accommodation; removing these powers from local councils. This can result in unacceptable built form outcomes, implications on local streetscapes and amenity, and local traffic implications. In addition, many of the proposed changes are in response to the need to 'facilitate' LAHC's new hybrid housing model (i.e. a mixture of affordable, social and private housing in one development), which is to be delivered through the partnership of the State Government and the private sector. The EIE would benefit from discussion on the economic feasibility of this proposed model and the dwelling yield 'tipping point' for the private sector to engage in this sort of arrangement. Should this arrangement only be viable on sites with significant development capacity (i.e. sites with high FSR controls and subsequent Gross Floor Areas) to incentivise this housing model, then this needs to be established prior to the amendments being made to the planning controls. This is to manage bulk and scale, prevent overdevelopment, and the impact on the local community.

The City of Ryde is already exceeding the housing targets set by the North District Plan (as discussed further in this submission). If the delivery of social and affordable housing is closely linked to the delivery of a certain amount of private development under the proposed LAHC hybrid model, one planning problem (i.e. the provision of affordable housing) is being addressed by exacerbating another planning problem (i.e. overdevelopment not matched with adequate infrastructure to support growth).

Other concerns raised by Council within this submission relate to ensuring any affordable residential accommodation delivered under the new Housing Diversity SEPP deliver appropriate onsite parking to minimise impact on local streets, protect the local character and amenity of neighbourhoods, promote well design buildings with sufficient communal living and open spaces (where applicable), and importantly, will result in a good legacy of development for affordable housing purposes in perpetuity.

The 'Explanation of Intended Effect for a new Housing Diversity SEPP' has been reviewed by Council and informs the content of this submission. This submission has been prepared in response to the key proposed changes.

Rationale for new Housing Diversity SEPP

Increase housing supply to meet population growth

The EIE provides a high level discussion about the changing housing needs of NSW and anticipated population growth. It states that in Greater Sydney the population is expected to grow to 7.1 million by 2041 and that *"this population growth will need to be matched with increased housing supply so that all members of the community have access to accommodation that meets their needs"*.

Council agrees that housing needs to respond and 'keep up' with demand generated from growth. However no discussion has been included in relation to the current capacity of the planning controls in LEPs across Greater Sydney. For example, the City of Ryde Council is exceeding its dwelling targets, and additional development capacity under the planning controls is not required to meet the targets imposed by the State Government under the Northern District Plan. The North District Plan set a target of 7,600 dwellings in Ryde by 2021, and Council is on track to deliver 12,786 homes by 2021 (according to development approvals). This was made apparent during the preparation of the City of Ryde Local Strategic Planning Statement (LSPS), which is the 20 land use planning vision that responds to the State's regional planning framework and growth targets.

Given all Councils across NSW have been required to prepare a Local Strategic Planning Statement (LSPS) this 'stocktake' against State dwelling targets would be readily available to understand how Councils are currently performing and whether additional capacity under the planning framework is needed to meet the project population growth. In addition, growth in housing needs to be adequately matched with the delivery of critical regional and local infrastructure to ensure the vision for Greater Sydney to be productive, sustainable and liveable is achieved. Council's LSPS identified there is an existing deficit in infrastructure across the City of Ryde, and infrastructure delivery is important in achieving sustainable growth for the current and future population. Council welcomes the opportunity to work with the State Government in addressing the identified transport infrastructure gaps across the City of Ryde to ensure a prosperous future for the community.

To meet the needs of an ageing population and address housing affordability

The EIE explains that the population of NSW is ageing as well as growing. In 2016, over 2 million people in NSW were aged 55 or over. By 2036, the number of over 55s is projected to increase to more than 3.1 million. This means that demand for seniors housing in well-located areas, as well as the demand for smaller and more accessible homes, will continue to grow. In addition, the EIE outlines that housing affordability is a major issue particularly across the Sydney metropolitan area. Home ownership rates in NSW are falling and there is a widening gap between dwelling prices and incomes. In the rental sector, households need to spend a greater proportion of their income on housing. This is discussed in greater detail in the *A Housing Strategy for NSW: Discussion Paper* (Discussion Paper) released in May 2020.

Council agrees the planning framework needs to respond to meet the needs of an ageing population, particularly as many people choose to 'age in place' to stay close to their local areas, established networks and known services. As flagged in the Discussion Paper, only about 10 per cent of people aged over 65 live in a retirement village or nursing home. Therefore, the supply of other affordable housing options needs to increase to house the majority of retirees. More broadly, action is needed to address the housing affordability issue experienced by all age brackets across Sydney to bridge the gap between income and housing expenses.

Council has been a strong advocate for affordable housing provision. As stated in the *City of Ryde Affordable Housing Policy 2016 – 2031* (Affordable Housing Policy), the City of Ryde Council intends to become a leading council in Sydney in the provision of affordable housing. The Affordable Housing Policy offers a comprehensive framework to advocate for, facilitate, provide and manage affordable housing in

Ryde LGA between 2016 and 2031. Council prepared a Planning Proposal to implement the vision and objectives of the Affordable Housing Policy by proposing to amend the Ryde LEP 2014 to include an affordable housing contributions clause. This would require developers to provide a minimum percentage of residential floor space for the provision of affordable housing as part of a development application or as part of a developer led site specific planning proposal that seeks to increase residential floor space. This amendment to the Ryde LEP 2014 has the potential to significantly increase the supply of affordable housing within the Ryde local government area.

Council forwarded the Planning Proposal to the Department of Planning, Industry and Environment (Department) on 12 September 2017 and has been awaiting a Gateway determination for the last three years. Given the intended outcome of the Planning Proposal aligns with the objectives of the proposed new Housing Diversity SEPP and addresses the housing concerns reported within the Discussion Paper, it is requested the Department issue the Gateway determination to allow Council to progress the Planning Proposal through to the next key milestone of public exhibition. Council welcomes the opportunity to discuss the Planning Proposal with the Department to address any outstanding issues preventing the release of a Gateway determination, and stresses the urgency in moving the proposal towards finalisation to allow Council to meet its affordable housing targets.

Out-dated policy

The EIE explains that State Government's housing-related SEPPs have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations. The new Housing Diversity SEPP seeks to consolidate existing State level housing-related planning provisions into a single instrument; and is in a format capable of being expanded and amended as future needs may require.

Council welcomes planning reform to simplify and streamline the planning system and its application to deliver suitable housing outcomes; improve transparency; and remove any 'red tape' caused by inconsistencies in legislation and the existence of multiple policies with the same objectives. This is particularly important in light of the COVID-19 pandemic with the State Government and Council's across NSW needing to work together to ensure the NSW Planning System is functioning to assist in the economic recovery of NSW through the residential development sector.

New Housing Diversity SEPP

Introducing new housing types

The EIE outlines that the Housing Diversity SEPP proposes to introduce new definitions and planning provisions for three new types of housing to improve housing stability and security. These include:

- build-to-rent housing;
- purpose built student housing; and
- co-living.

The EIE provides a description of the new housing types, along with proposed planning provisions. However, it does not include commentary around how the new SEPP will manage rental prices to ensure these housing options are truly affordable.

Purpose built student housing

The EIE explains that the State Government is proposing to introduce the delivery of build-to-rent (BTR) housing through the NSW planning system. BTR housing is purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector.

The EIE outlines that BTR has been an established housing sector in the United States and the United Kingdom, implying Australia should follow suite. However, the case for BTR housing in Australia would be

better substantiated with a discussion around the factors that which made this housing type viable overseas. This is to determine whether the market conditions in Australia are comparable and would also lead to their success. The success of a particular planning initiative is not universal, and is often linked to specific conditions in the market and urban environment. Therefore, a discussion around what has made these successful and what conditions are required to make the viable would better support the introduction of these uses.

The EIE outlines that BTR housing is generally:

- High density development;

Council recommends a clear definition is needed around what is perceived to be high density, and notes that this is inconsistent with the proposed location requirements discussed below which state that BTR housing will be permitted in R3 Medium Density zones where residential flat buildings are permitted.

- Situated in well-located areas, close to transport and amenity;

Council recommends a clear definition around what is a 'well-located area'. For consistency the definition of an 'accessible area' should be used.

- Funded by larger-scale institutional investors; and

Council queries the incentive for large-scale institutions to invest in this new housing model, and questions what is the minimum dwelling yield (and essentially, return on investment) that is needed to make these developments viable. The proposed definition says BTR is a building that contains at least 50 self-contained dwellings that are offered for long term private rent. However, it is not clear whether the development could then also include dwellings for private sale, which could potentially be the variable that makes the developments viable to the private sector. This needs to be established to determine the likely yield, bulk and scale of these developments, and their compatibility with established areas within a particular local government area. There is the potential for buildings to exceed the maximum permitted FSR controls for developers to have a viable development, which in turn, can cause issues with the local character of areas, result in inconsistent development patterns, and set poor assessment precedents.

- Focused on providing a good experience for tenants through the provision of on-site services and facilities, professional management and long-term leases.

Council queries how the planning system will work to provide a 'good experience' for tenants and what the minimum requirements are around on-site services and facilities. More information is required.

The EIE explains that "*there are currently no impediments in the NSW planning system to the development of new housing for rental purposes.*" If this is the case, Council queries the necessity of introducing a new land use definition for BTR housing. There are many examples across Greater Sydney that demonstrate that the introduction of new planning controls alone often do not generate the envisaged land use pattern or change anticipated by plan or policy. The development market plays a significant role in the realisation of planning controls and the anticipated land use outcomes planned for an area. If the existing planning system allows for build-to-rent developments, and this is not yet occurring in the current market, what incentives need to be provided to the private sector for this type of development to be delivered via the introduction of a new land use definition? Often density bonuses or increases are required to incentivise land use change; such incentives require careful consideration of local conditions to ensure they do not result in excessive bulk and scale, amenity issues, traffic implications, and infrastructure deficiencies. The EIE would benefit from a more detailed discussion around what will economically make these developments viable, so that local Councils and communities can consider the local conditions and impacts. This would provide Council's with a better position to comment on the proposed new housing type.

Proposed planning provisions

Locational Requirements

The Housing Diversity SEPP proposes to make BTR housing a compulsory permitted use in the following zones relevant to the City of Ryde:

- B3 Commercial Core
- B4 Mixed Use
- R4 High Density Residential
- R3 Medium Density Residential (where residential flat buildings are permitted under an LEP).

The Ryde LEP 2014 does not permit residential accommodation within the B3 Commercial Core zone. Compulsorily making BTR a permitted use within this zone under the new Housing Diversity SEPP would be inconsistent with the objectives of the B3 zone which is to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community; encourage appropriate employment opportunities in accessible locations; and to maximise public transport patronage and encourage walking and cycling. The introduction of residential accommodation by the means of BTR has the potential to threaten the commercial and employment status of Macquarie Park and undermine its identified strategic role in the Northern District Plan. Council strongly opposes the introduction of this use in the B3 zone.

The description of BTR provided in the EIE states that this housing type is “*situated in well-located areas, close to transport and amenity*”. The service and infrastructure profile of B3 centres can differ significantly from the profile required to support residential uses. The delivery of new infrastructure to these centres would be required to ensure proximity to schools, local services and varied open space, as well as to ensure access networks are appropriately designed to manage both commercial and residential uses. Implementing such a fundamental change to the makeup of B3 zones via a SEPP would significantly undermine local councils’ ability to manage the transition of currently specialised centres to accommodate a wider range of disparate uses.

In particular, DPIE has invested significant time and resources in the Macquarie Park Strategic Investigation, which acknowledges the need for a careful, evidence based approach to land use changes in strategic employment centres to ensure employment lands essential to our economic output and future growth, are not lost to residential uses. Macquarie Park is the largest non-CBD office market in Australia with an estimated \$3 billion in commercial property investment anticipated over the next decade. It is on track to becoming Australia’s fourth largest commercial precinct by 2030. It has a Gross Regional Product of approximately \$15.7 billion and is targeted to deliver 19,000 additional jobs by 2036. When the Strategic Investigation commenced, Macquarie Park was identified as Australia’s number one region for new patent registrations. This highly successful innovation ecosystem is too significant to risk through the imposition of blanket land use changes that have not been assessed in relation to their impact on the precinct. Furthermore, two significant Urban Activation Precincts have already been implemented at either end of the precinct ensuring there is significant residential capacity co-located with this significant employment centre.

The Strategic Investigation is looking at supporting the delivery of this targeted growth in Macquarie Park by creating multiple carefully planned sub-precincts supported by the necessary infrastructure. A blanket introduction of BTR across Macquarie Park’s commercial core would significantly undermine this investment in detailed evidence-based planning and potentially compromise delivery of crucial economic and employment growth. Council strenuously objects to this element of the proposed reforms and requests that the land uses in the B3 Commercial Core be left to local councils to manage as required on a case by case basis so that the ambitious but necessary employment targets set not just for Macquarie Park, but across the Eastern Economic Corridor are not inhibited.

It is concerning that this proposal could reach this stage apparently without consideration for the ongoing Strategic Investigation and without detailed consideration as to the impacts on a crucial strategic economic centre such as Macquarie Park.

More generally, sufficiently specific and detailed locational requirements should be imposed to ensure that BTR achieves this result. It is noted that proximity to stations or bus services is not sufficient in and of itself as service levels vary widely and a more detailed requirement should be considered.

Urban design testing is required to determine the likelihood of BTR developments being realised on land zoned B4 Mixed Use across the City of Ryde. This is due to the requirement of a BTR having a minimum of 50 dwellings, subdivision patterns within Ryde, and the Floor Space Ratio (FSR) controls ranging between 1.25:1 and 3.5:1 across B4 zoned land. There may only be select B4 zoned sites that have the potential to provide sufficient development capacity to accommodate this land use. In addition, land zoned R4 High Density Residential and R3 Medium Density Residential have subdivision patterns and FSR controls (which are between 0.5:1 and 1:1) that would likely prevent the realisation of BTR development in these zones as sufficient capacity to deliver the minimum of 50 dwellings may not be possible. The majority of land zoned R4 is currently strata subdivided, this coupled with small lot sizes and low FSRs, would also constrain the opportunity for BTR development. For example, if a BTR requires a minimum of 50 dwellings, and the average dwelling size of 100 sqm is applied, then a minimum of 5,000 sqm is required (not accounting for any additional Gross Floor Area required for any common areas and so forth). With an FSR of 1:1 which is common on R4 zoned land, that would require a minimum site area of 5,000 sqm which would be challenging based on subdivision patterns and strata ownership. It is also noted that design considerations such as setbacks may also impose limitations on the building envelope, and therefore the usage of the site.

The EIE notes that Councils are to determine the relevant height and FSR controls for BTR housing through their LEPs. The FSR controls across the City of Ryde have been carefully devised to ensure suitable development outcomes are delivered across the LGA that are compatible to surround land uses, provide an adequate built form transition between zones, and maintain the suburban character of the well-established neighbourhoods, while encouraging higher density around transport nodes better served by supporting infrastructure. The current planning controls have sufficient capacity to deliver, in fact exceed, the prescribed housing targets within the North District Plan as discussed above in this submission. Council has identified its priorities for reviews of its controls in its LSPS, which also commits to investigating options such as long-term rental homes to improve affordability (see Action H4.2 of Council's LSPS). It is Council's view that attempting to address these issues through blanket state-wide provisions is less likely to succeed and more likely to result in unintended adverse local outcomes. The local approach, allowing Councils to progress their recently endorsed plans through ongoing, prioritised local planning specified in LSPSs is preferred.

State Significant Development

The new Housing Diversity SEPP proposes that BTR housing would be assessed as State Significant Development (SSD) where the development has a capital investment value of \$100 million or more. It is proposed that developments within the City of Sydney local government area would be excluded from the SSD designation and would continue to be assessed by the City.

Council notes that no explanation as to why BTR developments in the City of Sydney Council would be excluded from the SSD designation is provided in the EIE. Secondly, residential flat buildings (RFB) with a \$100 million or more capital investment value are not included within Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011*. Given BTR buildings effectively mirror the land use outcome of an RFB (just the tenure type varies), Council's should be assessing this form of development to ensure consistency in the built form outcomes. Therefore, Council does not support the SSD designation of BTR housing and it is recommended that Council assess development applications seeking this new type of residential accommodation to manage the issues discussed above in relation to permissibility, site constraints, and ensure built form is compatible with surrounding uses.

Design Guidance

The EIE outlines that *State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development)* (SEPP 65) will be used for the assessment of development applications. It also advises that the Department will develop specific guidelines for BTR typology.

Council supports the usage of SEPP 65 during the assessment of development applications given BTR buildings closely mirror RFBs (based on the description included in the EIE). It would be beneficial if the EIE outlined broadly what the key differences in the building typologies are for Council's to understand the implications of this new development type. It is recommended that any bespoke design guidelines for BTR

building typologies should be drafted in collaboration with councils to ensure optimum design outcomes are inserted in SEPP 65.

Development Standards

Car parking

The Housing Diversity SEPP proposes to apply a minimum 0.5 car parking spaces per dwelling for BTR housing. It also advises that where a lower maximum parking rate applies under a council's development control plan, this rate could be applied to BTR housing.

Council does not support the proposed minimum car parking rate of 0.5 spaces per dwelling. It is recommended that the parking rates for RFBs within the relevant local council's development control plan be applied to ensure consistency across these similar land use outcomes, and to manage local traffic issues. As discussed throughout this submission, BTR buildings essentially mirror the land use outcome of an RFB (just the tenure type varies). Therefore, the same amount of parking required for an RFB should be provided onsite for BTR developments, including an allowance for visitor parking. This is to mitigate any traffic implications on local streets due to insufficient parking being provided onsite.

The only exception for where a reduced car parking rate could be considered is where the building is located in an 'accessible area' with close proximity to well serviced public transport options. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel.

Minimum lease terms

The EIE advises that BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation. This is supported. However, given one of the catalysts for BTR housing is to help address the housing affordability issue across the Sydney Region, and home ownership rates in NSW are falling due to the widening gap between dwelling prices and incomes, consideration should be given to including a concession or 'out' clause in long-term leases to allow tenants to obtain homeownership if they are financially able.

Future subdivision

The EIE explains that BTR housing differs to a traditional residential flat building because it is held in single ownership, and as a result it is an asset that can be recycled at a later date. The new Housing Diversity SEPP proposes that BTR housing development cannot be strata subdivided for the first 15 years, with BTRs in a B3 zone being prohibited from subdivision in perpetuity.

The strata subdivision of a BTR development, in the medium or long term, undermines the intention of this housing typology. Based on the content of the EIE, the intention of BTR housing is to improve housing security and rental stability in the long term by offering fixed leases. Allowing the eventual subdivision of BTR developments is delaying the housing affordability issue, with the supply of housing for stable rent being removed from the market and existing tenants (or future tenants requiring this rental arrangement) needing to find alternative affordable accommodation. The transition of BTR to a strata-subdivided apartment development will in essence result in additional RFBs with dwellings for private ownership, reducing the amount of affordable housing and undermining the intention of this building typologies inclusion in the new SEPP.

Purpose-built student housing

The EIE explains that under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the ARHSEPP, including their incentives, are used to develop student housing. Councils and communities raised concerns that the use of boarding house provisions to facilitate student housing were delivering poor development outcomes. Issues raised related to parking rates, compatibility with local character and the lack of affordability.

With the demand for student accommodation increasing, particularly for international students, the Department is proposing to introduce a new definition and planning provisions for student housing to

facilitate student housing whilst mitigating the concerns in relation to the application of the current boarding house provisions within the ARHSEPP.

New definition in the Standard Instrument

The Housing Diversity SEPP proposes a new definition for 'student housing' within the Standard Instrument LEP, and refers to a building that:

- provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods; and
- may incorporate some fully self-contained dwellings.

As the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)* allows for student accommodation within the boundaries of a school or university, it is proposed that both the new Housing Diversity SEPP and the Education SEPP rely on the new definition of 'student housing'. Council supports this change to help deliver consistency in the interpretation and application of land uses within the planning framework.

Council is of the opinion that the introduction of a new definition for 'student housing' would only assist in mitigating the concerns raised relating to traffic, parking, amenity and local character from the application of the boarding house provisions from the ARHSEPP if the accompanying planning provisions are crafted in a way to deliver a more localised and suitable development outcome. Introducing a new land use definition to distinguish student housing from boarding housing has no merit if the same planning issues that arise from a boarding house result from development approved as student housing. The local community is not concerned with the technical land use definition, more so the impact the development has on local streets and neighbourhoods.

Proposed Planning Provisions

Table 1 summarises the proposed planning provisions for student housing with a comparison to the boarding house provisions. Given the boarding house provisions have been applied to date for student housing, and the nature of the tenure and land use outcomes are similar, a comparison was deemed appropriate as part of the assessment of the proposed student housing controls.

Table 1: Planning controls for 'student housing' compared to 'boarding houses'

| Planning control | Proposed for 'student housing' | Current and/or proposed for 'boarding housing' | Council comment |
|------------------|---|---|---|
| Zoning | Councils to determine permissibility for this use through their LEPs. | <p>The ARHSEPP permits boarding houses in:</p> <p>R1 General Residential; R2 Low Density Residential zone (only in 'accessible areas'); R3 Medium Density Residential; R4 High Density Residential; B1 Neighbourhood Centre; B2 Local Centre; and B4 Mixed Use.</p> <p>Boarding houses are also mandated in these zones in the Standard Instrument LEP,</p> | Council supports the proposal to allow Council's to determine the permissibility of student housing. However given the similarities between student housing and boarding housing, it is recommended that Council's also determine the permissibility of boarding houses within their LGA. |

| | | | |
|--------------------------|----------------------------------|--|--|
| | | <p>regardless of whether they are in an accessible area or not.</p> <p>The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 zone.</p> | |
| Height of Building (HOB) | HOB to be in accordance with LEP | Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the HOB needing to be in accordance with an LEP. | Council supports HOB needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity. |
| Floor Space Ratio (FSR) | FSR to be in accordance with LEP | Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the FSR needing to be in accordance with an LEP. | Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity. |
| Car parking | No minimum spaces required | <p>0.2 spaces per room for development being carried out by, or on behalf of, social housing providers.</p> <p>0.4 spaces per room for development being carried out by, or on behalf of, social housing providers not in an accessible area.</p> <p>0.5 spaces per room for development <u>not</u> being carried out by or on behalf of social housing providers.</p> | <p>Council does not support the proposal for student housing to not provide any minimum amount of parking onsite. Given significant concern has been raised by the community in relation to insufficient parking being provided onsite for boarding houses (which as seen in the adjacent column, does require a minimum amount to be provided), the provision of no minimum parking (and having this as a non-refuse development standard) will likely cause traffic and parking issues on local streets and significant opposition from the community.</p> <p>The EIE explains that it is likely councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal. The permissibility of student housing most certainly should have an accessibility requirement to ensure they are located within a particular proximity to educational establishments or a well serviced transport hub that connects students to educational establishments. However, it is still not recommended to have no minimum car parking spaces. Car ownership amongst students, particular those in student accommodation, is still typical especially if they are from remote areas and need to drive home to visit family; or if they need a car for part-time/casual work.</p> <p>Council's LSPS outlines that the City of Ryde residents use their own car for approximately 70% of trips that they make; and almost 80% of people coming to Ryde</p> |

| | | | |
|--------------------|--------------------------------------|---|---|
| | | | use their car. Council has identified this as an opportunity to collaborate with the State Government to advocate for improved sustainable transport links. However, in the interim, not providing any onsite parking for student accommodation is not recommended to prevent parking and traffic issues on local streets. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel. |
| Bicycle parking | One space minimum per three bedrooms | At least one parking space for a bicycle for every 5 boarding rooms. | <p>Council supports the bicycle parking rate which is an increase from the boarding house standard. This promotes sustainable travel and will assist in accessibility.</p> <p>However, it is noted that a boarding room can have up to two occupants. Therefore depending on the tenure of a boarding house, this could result in less available spaces per resident.</p> |
| Motorcycle parking | One space minimum per five bedrooms | At least one parking space for a motorcycle for every 5 boarding rooms. | <p>The student housing rate is consistent with the boarding house rate.</p> <p>However, it is noted that a boarding room can have up to two occupants. Therefore depending on the tenure of a boarding house, this could result in less available spaces per resident.</p> |
| Room size | Minimum 10 sqm | 12 - 25 sqm | <p>The EIE states that minimum room size for student housing is based on “<i>similar standards in other jurisdictions</i>”. This assertion would be supported by some examples to understand and assess the outcome of this room size.</p> <p>It also states that industry practice has found that rooms can have an area less than 10 sqm, and that room size is a discretionary development standard to allow developers to provide smaller rooms if they can demonstrate how they can still provide adequate amenity and offset the reduction in room size with shared facilities.</p> <p>Council does not support the introduction of a minimum room size of 10 sqm as this is considered too small to cater for the multifaceted aspects of student life. Such a small room size is likely to impact on mental health and impact on the overall wellbeing of a student who will likely be living in student accommodation for at least three to six months at a time. Council considers that the room sizes should mirror those of boarding houses to ensure sufficient amenity for this type of temporary accommodation. Even with increasing the</p> |

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| | | | minimum room size to 12-25 sqm, adequate communal living space is also required to promote wellbeing. In addition, the minimum room size should not be a discretionary development standard. Rooms must comply with the standard, and also should be designed to promote solar access and ventilation. |
| Communal area (indoor) | 15 sqm of communal living area for every 12 students | At least one communal living area if more than five boarding rooms. | <p>The proposed development standard of 15 sqm for every 12 students equates to 1.25 sqm per student. This is not considered adequate, especially with the proposed minimum room size of 10sqm (which, as discussed above, could be less given this is a discretionary development standard).</p> <p>Under the proposed controls, working with the assumption a developer provides a minimum room size of 10 sqm, this coupled with 1.25 sqm of communal space per student, equals to a student having 11.25 sqm to live, study and socialise in. This is not considered adequate and should be increased.</p> |
| Communal area (outdoor) | <p>In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus.</p> <p>In other locations the new SEPP will recommend 2.5 m² of outdoor space per student.</p> | One area of at least 20 sqm with a minimum dimension of three metres. | The provision of sufficient open space is needed to support a growing, active and healthy community. It is also important to ensure long term quality of life. Council's LSPS identifies the opportunity to promote and increase open space across the LGA. Assuming student housing relies on existing open space is not supported by Council, and a minimum amount of open space should be provided onsite (irrespective to access to local open space) which is comparable to other housing types. |

Design Guidelines

The EIE explains that new design guidelines for student housing could also be developed to accompany the new SEPP. Council supports the preparation of new design guidelines for student housing and considers this crucial in delivery good planning and design outcomes for students, particularly in relation to built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy. It is recommended that any design guidelines should be drafted in collaboration with councils to ensure optimum design outcomes and to deliver on the intention of the new SEPP.

Monitoring

The EIE states the Department will carefully monitor outcomes from the introduction of this new use, and the associated development standards, to ensure that new developments are meeting the needs of the student population and that local impacts are acceptable. Monitoring and evaluation is important to ensure the planning framework is delivering the intended planning outcomes. However, it is important the controls and

design guidelines are carefully prepared now to ensure a legacy of well-design student housing is constructed from the commencement of the new SEPP.

Co-living

The EIE explains that, like student housing, the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments. These are commonly known as ‘new generation’ boarding houses. ‘New generation’ boarding rooms are typically self-contained, and have a private bathroom and kitchenette facilities, and evidence suggests there is significant demand for this type of living which is driven by affordability issues and growth in single person households.

The EIE advises that due to the new SEPP seeking to introduce an affordability requirement for boarding houses (which is discussion below in this submission), ‘new generation’ boarding houses would no longer be facilitated by the planning system. For this reason, a new land use is required to facilitate ‘new generation’ boarding houses.

New definition in the Standard Instrument

The Housing Diversity SEPP proposes a new definition for ‘student housing’ within the Standard Instrument LEP, and refers to a building that:

- is held in single ownership
- provides tenants with a principal place of residence for 3 months or more
- includes on-site management
- includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and
- has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults.

Proposed Planning Provisions

Table 2 summarises the proposed planning provisions for co-living with a comparison to the boarding house provisions. Given the boarding house provisions have been applied to date for ‘new generation’ boarding houses (now being referred to as co-living), and the nature of the tenure and land use outcomes are similar, a comparison was deemed appropriate as part of the assessment of the proposed co-living controls.

Table 2: Planning controls for ‘co-living’ compared to ‘boarding houses’

| Planning control | Proposed for ‘co-living’ | Current and/or proposed for ‘boarding housing’ | Council comment |
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| Zoning | <p>A mandatory permitted use wherever residential flat buildings are currently permitted.</p> <p>In the context of Ryde, this would be the following zones:</p> <p>R4 – High Density Residential B4 – Mixed Use</p> | <p>The ARHSEPP permits boarding houses in:</p> <p>R1 General Residential; R2 Low Density Residential zone (only in ‘accessible areas’); R3 Medium Density Residential; R4 High Density Residential; B1 Neighbourhood Centre; B2 Local Centre; and B4 Mixed Use.</p> <p>Boarding houses are also</p> | <p>The new SEPP proposes to allow Councils to determine the permissibility of student housing, which essentially is a variation of a traditional boarding house. Therefore, given ‘co-living’ (i.e. ‘new generation’ boarding houses) is another variant of the traditional boarding house, councils should also be able to determine their permissibility. This is to ensure the appropriate location of these land uses is determined to protect local character and amenity, and local streets and traffic.</p> <p>Should the new SEPP continue to mandate the permissibility of these land uses, the parking requirements need to be significantly amended to ensure sufficient</p> |

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| | R3 – Medium Density Residential | <p>mandated in these zones in the Standard Instrument LEP, regardless of whether they are in an accessible area or not.</p> <p>The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 zone.</p> | parking is provided onsite to manage impact on local communities. |
| Height of Building (HOB) | HOB to be in accordance with LEP | Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the HOB needing to be in accordance with an LEP. | Council supports HOB needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity. |
| Floor Space Ratio (FSR) | FSR to be in accordance with LEP | Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the FSR needing to be in accordance with an LEP. | Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity. |
| Car parking | 0.5 spaces per room | <p>0.2 spaces per room for development being carried out by, or on behalf of, social housing providers.</p> <p>0.4 spaces per room for development being carried out by, or on behalf of, social housing providers not in an accessible area.</p> <p>0.5 spaces per room for development <u>not</u> being carried out by or on behalf of social housing providers.</p> | <p>The co-living parking requirement is an improvement of the boarding house parking requirement, as it requires 0.5 spaces per room (irrespective of whether it is within an accessible area or not).</p> <p>However, as discussed above in the assessment of the planning provisions for student housing, given significant concern has been raised by communities in relation to insufficient parking being provided onsite for boarding houses (and having car parking as a non-refuse development standard, which can allow a consent authority to issue an approval with less spaces) will likely cause traffic and parking issues on local streets and significant opposition from the community.</p> <p>As discussed above, car usage dominates 70% of journeys in Ryde LGA. Whilst there is the opportunity to improve sustainable transport links, in the interim, not providing sufficient onsite parking poses risk to generating parking and traffic issues on local streets. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel.</p> |
| Bicycle parking | None | At least one parking space for a bicycle for every 5 boarding rooms. | Council recommends a minimum bicycle parking rate to help promotes sustainable travel and will assist in accessibility. |
| Motorcycle parking | None | At least one parking space for a motorcycle for every 5 boarding rooms. | Council recommends a minimum motorcycle parking rate to help promote alternative modes of travel. |

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| Room size | 30-35 sqm | 12 - 25 sqm | <p>The EIE explains that the room size has been crafted to deliver a room that would sit between boarding rooms and studio apartments in terms of size (<i>Note: the SEPP 65 Apartment Design Guideline (ADG) has a requirement of a studio being 35 sqm</i>).</p> <p>This intention further supports the need to increase the parking requirements, and indicates the need to introduce a comparable parking rate to that of a studio/one bedroom apartment. In Council's Development Control Plan, that is 0.6 spaces per one bedroom dwelling (noting, there is not a control for studios).</p> <p>In addition, the minimum room size should not be a discretionary development standard. Rooms must comply with the standard, and also should be designed to promote solar access and ventilation. The ADG requirement for studio apartments that states that every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area should apply to ensure adequate amenity.</p> |
| Strata subdivision | Not permitted | Not permitted | Council supports this. |
| Communal living space (indoor) | Minimum of 20 sqm plus 2 sqm per room above 10 rooms. | At least one communal living area if more than five boarding rooms. | This is broadly supported however communal living spaces should be well ventilated and have adequate solar access. These requirements need to be embedded in a design guideline that holds significant weighting in the assessment to ensure sufficient amenity is delivered to communal spaces to ensure their usability. |
| Communal open space | 25% of site area | One area of at least 20 sqm with a minimum dimension of three metres. | <p>The development standard of 25% is consistent with the ADG for apartment living. However, the EIE states that where all dwellings have private open space that exceeds the minimum requirements, a reduction in communal open space can be provided.</p> <p>This is not supported because the type and nature of the private open space (which is likely to be a titled/concrete balcony) is not comparable to the social and wellbeing benefits of open space that would be provided communally within a development. The ADG broadly requires communal open spaces to be at the ground level, co-located with deep soil, landscaped, and have a minimum dimension of 3m. It is recommended that these same</p> |

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| | | | <p>requirements apply to ensure usable and functional open space is provided, and that no concession or reduction be granted to the 25% requirement in the event private spaces are larger than the 4 sqm requirement per dwelling.</p> <p>The provision of sufficient open space is needed to support a growing, active and healthy community. It is also important to ensure long term quality of life.</p> |
| Private open space | 4 sqm per room | No requirement. | This is the balcony requirement for studio apartments within the ADG. This is supported. |

Design Guidelines

The EIE states that building envelope controls for residential flat buildings under the relevant DCP could apply. Council supports this given the building typology is similar to an RFB. The EIE also explains that new design guidelines for co-living could also be developed to accompany the new SEPP. The proposed planning provisions within the new SEPP for co-living in some instances utilise the provisions with the ADG for studio apartments. For consistency, it is recommended that co-living then adopt all the requirements of the ADG for studio apartments for other design elements as well. Any bespoke or specific design guidelines for co-living that do not apply to studio apartments within the ADG should be drafted in collaboration with Councils to ensure optimum design outcomes and to deliver on the intention of the new SEPP.

Monitoring

The EIE states the Department will carefully monitor outcomes from the introduction of this new use and the resulting built form and local impacts. As stated above in response to the student housing provisions, it is important the controls and design guidelines are carefully prepared now to ensure a legacy of well-design co-living developments are constructed from the commencement of the new SEPP.

Updating existing provisions

Proposed changes to the boarding house provisions of the ARHSEPP

The boarding house definition is to be amended to require boarding house development to be affordable

As discussed above in relation to the proposed new land use definition for 'student housing' and 'co-living', the ARHSEPP provisions have been used to facilitate traditional boarding houses, and variants such as the 'new generation' boarding houses and boarding houses for student housing. It was expected that 'new generation' boarding rooms would be a more affordable housing option than a similar residential development due to their smaller size and shared facilities. However, the EIE explains that as part of a working group set up by the Department in mid-2019 to provide advice to the Minister about boarding houses, communities and councils raised concerns around the lack of affordability of boarding house rooms. A key recommendation was to change the definition of a boarding house to include the requirement for boarding house rooms to be affordable.

Council supports the amendment to the definition of a boarding house to mean an 'affordable rental building'. However, the EIE does not include any detail around what is meant by 'affordable' and how the Department proposes to mandate or control the affordability of rents from market pressure. The EIE requests for feedback on whether it would be appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert to market rates. Allowing boarding houses to revert back to market rates, whether in the medium or long term, undermines the intention of amending the definition to include the word affordable. Establishing a boarding house with affordable rental

prices, to eventually revert back to market prices, delays the housing affordability issue. Boarding houses should retain affordable rates in perpetuity to genuinely deliver on the intention of the new SEPP and to adequately address housing affordability.

Boarding house development will not be mandated in the R2 Low Density Residential Zone

Table 1 details the land use zones that the ARHSEPP currently permits boarding houses. Permitting boarding houses in R2 Low Density Residential zone is a contentious policy matter for councils and communities across Greater Sydney (which was reinforced as part of the working group set up by the Department in 2019 as explained in the EIE). The City of Ryde has a very clear position that boarding houses in the R2 zone present compatibility issues within the well-established low-density neighbourhoods of Ryde due to their quite often excessive bulk and scale, potential clustering in certain areas, and traffic and parking implications imposed on local streets.

The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 Low Density Residential zone. The City of Ryde strongly supports this amendment and will help address the fundamental incompatibility this land use poses on the R2 zone due to their bulk, scale and nature of use. However, the new SEPP states that provisions would be put in place to allow the Land and Housing Corporation (LAHC) to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. This is not supported as it will still raise the same planning issues, however should the Department progress this, LAHC should work with Councils closely to ensure an appropriate site specific built form is developed for the site to help mitigate community concerns. In addition, a radius should apply around a government owned site to prevent more than one boarding house being delivered within this area. This is to ensure a sufficient distance is enforced between boarding houses to prevent their clustering. This is only a real consideration for LGAs where the state government owns a significant amount of land.

Proposed 20% FSR bonus for boarding house development

The ARHSEPP currently permits an FSR bonus for boarding houses developed on land within a zone where RFBs are permitted. The new SEPP proposes to amend the bonuses as per Table 3:

Table 3: FSR bonuses for boarding houses developed in zones that permit RFBs

| Current bonuses under the ARHSEPP | Revised bonuses under the new Housing Diversity SEPP |
|---|---|
| 0.5:1 if the existing maximum floor space ratio is 2.5:1 or less | 20% FSR bonus above the existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1. |
| 20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1. | |

A review of the FSR bonuses arose as part of the discussions had by the working group set up by the Department in mid-2019 to review the boarding house controls. A reduction of the bonus to 10% for sites over 2.5:1 was recommended by the working group to better manage the bulk and scale of boarding houses. However, the Department determined that this reduction would impact on the viability of boarding house development. Whilst this comment is not linked directly to boarding house provision, these sorts of economic feasibility considerations need to be disclosed in reference to other land uses proposed under the new Housing Diversity SEPP. As discussed above in this submission in response to the proposed Build-To-Rent land use definition, and below in relation to the new LAHC hybrid housing model, the FSR/development incentives needed to make these housing models feasible need to be considered in planning policy to ensure appropriate planning outcomes compatible with local neighbourhoods are delivered under the planning framework.

Whilst not explicitly stated, it is inferred from the EIE that the FSR bonuses were introduced in the ARHSEPP in 2009 to incentivise boarding houses and make them viable. Any FSR bonuses should require compliance with certain design excellence provisions to support the delivery of the additional FSR and ensure a suitable built form outcome is delivered.

Car parking

The new Housing Diversity SEPP advises that the minimum car parking rates for boarding houses (as shown in Table 1) are to be retained. It is also noted that this is a development standard that cannot be used to refuse consent, allowing a council to accept a lower rate if it was considered appropriate. As stated in Table 1 and 2, the existing parking provisions have proven to be insufficient to meet the demand of tenants, with local streets being used to supplement the deficiency of spaces provided onsite. This has been received with significant opposition by the community. In the context of Ryde, as discussed previously in this submission, car usage dominates 70% of journeys in the LGA. Whilst there is the opportunity to improve sustainable transport links, in the interim, not providing sufficient onsite parking poses risk to generating (or exacerbating existing) parking and traffic issues on local streets.

The car parking rates for boarding houses require further review to manage local traffic issues. In addition, car and bicycle share schemes to help promote more sustainable travel could also be considered.

Proposed amendments to ARHSEPP provisions

Group homes

The ARHSEPP includes a complying development pathway for the development of new group homes. However, there is currently no exempt or complying pathway for converting an existing dwelling to a group home. A change of use from an existing dwelling to a group home currently requires development consent from councils. The EIE states that this adds additional costs and can cause lengthy delays due to varying development assessment timeframes.

The State Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. The EIE does not explain what the new process is however it is inferred that this process will use the exempt and complying development process. This poses significant risk because existing dwellings are not fit for the purpose of a group home and there may be locational factors or site constraints that need to be carefully considered. Therefore a complete development assessment process should be administered to assess the suitability of an existing dwelling being converted into a group home. In addition, this would provide councils with the opportunity to assess local impacts on traffic, amenity, and neighbours.

Whilst not supported, should the exempt and complying assessment pathway be pursued by the Department, existing dwellings eligible for this pathway should meet a specific criteria including (but not limited to) whether they are within an 'accessible area' (i.e. close to public transport) and provide a certain amount of on-site parking. In addition, the conversion of heritage items should be excluded from this process due to potential heritage impacts not being adequately assessed and poses risk to destroying the heritage fabric.

Amendment to Part 3 of the ARHSEPP

Under Part 3 of the ARHSEPP, Councils can levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application. The new Housing Diversity SEPP seeks to update the provisions of Part 3 of the ARHSEPP to improve and streamline the process for Council's in delivering the intent of Part 3.

At the moment, Council can only levy monetary contributions as a condition of consent if a building was used for low-rental affordable housing as of 28 January 2000 (which was a translation of *SEPP 10 – Retention of Low-Cost Rental Accommodation*). The EIE states that proving the use of a building for affordable housing is challenging due to limitations in access to rental data, and has demonstrated to be a cumbersome exercise for Councils to carrying out during the development assessment process.

The new Housing Diversity SEPP proposes to remove reference to 28 January 2000, and allow councils to levy monetary contributions to offset the loss of dwellings that were low-rental at any time within the five years preceding the lodgement of the new development application. Council supports this administrative change to the ARHSEPP as it will better facilitate the intention of Part 3, streamline the process as access to

data will be readily available for the five year period, and linking the requirement to the date of lodgement will ensure the ongoing currency of the clause.

In addition, the new Housing Diversity SEPP proposes to remove the onus from Council in proving the low-rental housing history, requiring the applicant to demonstrate the rental history of the building. Whilst this is supported in principle, the practical application of this is queried. What mechanisms will be put in place to ensure the applicant provides sufficient, valid and legitimate evidence? Requirements need to be embedded in the new Housing Diversity SEPP around the source of the rental ledger to ensure it is legitimate and has not been amended or manipulated in favour of the applicant to remove or reduce the monetary contribution payable to Council.

Secondary dwellings in rural zones

The ARHSEPP currently permits secondary dwellings in the residential zones (R1, R2, R3, R4, and R5) and does not allow secondary dwellings in any rural zones. Councils with rural zones are able to permit secondary dwellings in their LEPs through the application of Clause 5.4(9) of the standard instrument which requires the size not be greater than 60 square metres or by a predetermined percentage of the floor area of the principal dwelling. In response to concerns around the implication of a percentage based floor space control on rural character, the new Housing Diversity SEPP is proposing to allow Councils to set the maximum size for secondary dwellings in rural zones.

The City of Ryde believes councils should be able to set the maximum size of secondary dwellings across all zones; not just rural zones. This is to ensure secondary dwellings are sympathetic and compatible to the local character and urban context of each local government area. Providing the maximum size of a secondary dwelling at a state policy level is not appropriate for this reason, and Council's should have the ability to determine what size is suitable for their development context. In addition, secondary dwellings at a minimum should be commensurate in size to that of a two-bedroom apartment, which according to the ADG is 70 sqm.

Proposed amendments to seniors housing provisions

Update definitions & 'Schedule 1 – Environmentally Sensitive Land' in the Seniors SEPP

The new Housing Diversity SEPP proposes to update the definition of 'height', 'people with a disability' and 'AS 2890' in the Seniors SEPP to be consistent with the definitions of these terms within the Standard Instrument. It also seeks to update Schedule 1 – Environmentally Sensitive Land to be better aligned with current legislation and planning conditions following terms in the schedule being obsolete or debated in the Land and Environment Court.

Council is supportive of any initiatives to simplify the NSW planning system, improve transparency, and provide consistency in the interpretation and application of the SEPP by developers and consent authorities; and importantly help deliver consistent development outcomes. In addition, Council acknowledges 'housekeeping' or administrative changes are often required to ensure the intended outcome or application of a planning policy is being achieved. Therefore, non-policy changes to improve the validity of the SEPP is encouraged and supported.

The City of Ryde has a number of environmentally sensitive lands that are currently not contained within Schedule 1 and currently are under threat from development. To address this, a Planning Proposal has been prepared by Council to ensure these lands are protected in the future from development. As a result, this will reduce the amount of land available for seniors housing; however is a necessary update to the schedule to protect these lands.

Location and access to facilities provisions

It is proposed to amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, which includes taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement. This is supported and will help ensure the intent of the accessibility requirement is met.

Site Compatibility Certificates

The Seniors SEPP permits seniors housing on certain categories of land subject to proponents first obtaining a Site Compatibility Certificate (SCC). The intention of the SCC is to ensure seniors development is broadly compatible with surrounding land uses (even on land where it would otherwise be prohibited by the zoning). The obtainment of an SCC is the first step in the development process for seniors housing, and is required before a development application (DA) can proceed to lodgement, assessment and determination.

The EIE explains that the new SEPP proposes to extend how long a SCC is valid for from 24 months to five years, provided that a development application is lodged within 12 months of the date on which the SCC is issued. The EIE states this is to accommodate the time needed to prepare and assess seniors housing proposals, and prevent the SCC lapsing before the DA has been determined.

As the current SCC process under the Seniors SEPP allows seniors housing proposals to proceed on land where seniors housing would otherwise be prohibited by the zoning, a myriad of planning issues arise as the SCC process sidesteps the Planning Proposal process usually required to ensure such permissibility questions are answered in accordance with the strategic objectives and priorities established in the planning framework. A Planning Proposal involves a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework (including the Ministerial Directions), and community consultation to ensure any changes to the land use permissibility of a site is suitable. The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and therefore results in development applications being assessed on a site where the land use is not permitted. This results in unsuitable development outcomes, often not in public interest.

Council does not support this proposed change to the validity of a SCC. The change is likely to encourage poor design outcomes, incompatible development outcomes, increase DA assessment timeframes, and can place additional pressure on the relevant consent authority to negotiate on development standards in order to determine the DA on a site where the use may not be permissible under the LEP. It is recommended that the SCC process be aligned with the Planning Proposal process to ensure the suitability of the land use be adequately assessed before a DA is lodged. This will also assist in streamlining the DA assessment process as adequate consideration of permissibility and compatibility has been carried out upfront before the DA is lodged.

In addition, a SCC application can be made on land that is used as an existing registered club. In essence, the SCC process then allows the registered club to significantly alter their land use permissibility without going through the Planning Proposal process. As described above, this has complications, and in the context of a registered club, can enable and accelerate the loss of recreational space for the community. The provision of sufficient open and recreational space is crucial in delivering on the Greater Sydney Region Plan's commitment to delivering liveable, productive and sustainable cities. Private recreation space has an important role in the mix of recreation lands required to support the community. Once land is redeveloped for alternative uses (particularly residential uses which then further compounds the existing deficit in open and recreation space experienced across Sydney) the opportunity to protect and maintain this land for the future is lost.

The EIE explains that the State Government is aware of instances where SCC applications have been made on land on which a registered club is no longer viable. The new Housing Diversity SEPP seeks to "reinforce" the requirement that if a SCC application is being made on the basis that the land is being used for the purpose of a registered club, the club must be a registered club at the time the SCC application is made. This does not address the fundamental issue outlined above relating to the loss of recreational space and the need for a proper land use assessment to be carried out which aligns with the Planning Proposal process.

Application of local development standards

The EIE outlines that the Seniors SEPP currently allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP. It is proposed that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.

Council in principle supports the development standards within an LEP prevailing in the event of inconsistency with the SEPP. However clarity is sought on whether this is for all provisions within the Seniors Housing SEPP.

Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing

The ARHSEPP and the Seniors SEPP contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. To align with Government priorities set out in *Future Directions for Social Housing in NSW* and the draft *Discussion Paper on the NSW Housing Strategy*, changes are proposed under the new Housing Diversity SEPP to enable LAHC to partner with the private sector to deliver new housing projects which deliver a mix of private, affordable and social housing.

The EIE outlines that the new Housing Diversity SEPP will amend the planning provisions used by LAHC to support the new approach of delivering a mix of housing in conjunction with the private sector. Hybrid housing models as such have been adopted internationally in major cities and have been found to reduce the stigma around social housing, increase social cohesion, improve housing affordability, and improve tenant wellbeing.

The feasibility of this new approach would be better substantiated with commentary around the economic viability of this housing model and the appetite of the private sector in partnering with LAHC and social housing providers. An understanding is needed on the private sector's minimum development requirements (or 'non-negotiables') to invest in a hybrid housing model. In other words, what is the minimum dwelling yield private developers will demand to ensure return on investment? This will have an impact on FSR controls, and needs to be tested to ensure the controls are feasible to accommodate for the 'tipping point' needed for development to be viable for the private sector, whilst also ensuring sufficient capacity is provided in the planning controls to deliver the public benefit of social and affordable housing in the hybrid model as envisaged in the new SEPP. Furthermore, a ratio of private, social and affordable housing needs to be determined based on this testing to ensure the correct balance of housing types are delivered in a development.

Should FSR controls not provide sufficient capacity, or yield, to make development under this model viable for the private sector, variations to the development standards may be exploited during the development assessment process resulting in built form and massing outcomes not suitable or compatible with the surrounding areas. Council supports planning and policy initiatives designed to ensure the diverse housing needs of the changing population are being met. However, any changes to how housing is delivered should not result in excessive bulk and scale, and be at the expense of good urban design, public domain outcomes, local character and amenity.

It is recommended that the ratio of private, social and affordable housing be established as part of the new SEPP; and that feasibility modelling and testing be carried out to determine what density controls are required to make hybrid buildings viable. The outcome of this work could then determine where these hybrid models are suitable within a LGA based on the zoning and FSR controls within the LEP. For example, if the feasibility testing demonstrates that an FSR of 3:1 is required to deliver sufficient floor area to provide the minimum amount needed for private investment, and to deliver sufficient affordable and social housing, then areas with matched density controls may be suitable (subject to other built form, site area, and frontage controls). This will help ensure compatibility with surrounding areas.

Proposed changes to the social housing provisions of the ARHSEPP

Increase the maximum number of dwellings that LAHC can self-assess; update self-approval provisions for social housing; and clarify the types of development that LAHC can self-assess

In order to facilitate the new hybrid housing model discussed above, the new Housing Diversity SEPP proposes to increase the maximum number of dwellings that LAHC can self-assess from 20 dwellings to 60 dwellings, with the maximum height of 8.5 m (two storeys) continuing to apply. It is also proposed to amend the provisions to allow LAHC to self-assess all residential development, including social, affordable and private housing components, proposed to be undertaken by or on behalf of LAHC, on any land owned by the State Government (that is permitted with consent under another environmental planning instrument).

This change is proposed in response to the LAHC's advice that in order to make the projects "*socially and economically feasible*", the number of dwellings that LAHC can self-assess needs to increase and LAHC will need to self-assess all residential development to facilitate the new model. As discussed above in relation to the transition towards hybrid housing models, the evidence base for this assertion should be included within the EIE to support and validate this significant change in policy.

In addition, the built form, massing and development outcome to result from the delivery of 20 dwellings within two storeys versus the delivery of 60 dwellings within two storeys are substantially different. Based on an average dwelling size of 100sqm, this implies that a minimum of 6,000sqm (noting this does not account for common areas) would need to fit under a height of two storeys. The urban design and site area considerations that have informed the proposed policy change have not been included within the EIE, and require careful assessment to ensure the resulting developments are suitable for the surrounding area. The assessment of such development should remain with Council's to ensure suitable development outcomes are delivered that are bespoke to the local character of the local government area.

The new SEPP also proposes to clarify that LAHC can self-assess proposals for any type of residential accommodation that is permitted with consent under another environmental planning instrument (including dwellings, dual occupancies, manor houses and terraces). It is also proposed to clarify that LAHC can self-assess boarding house developments where they are permissible with consent; and boarding houses developed by or on behalf of LAHC on Government owned land in the R2 zone.

The proposed changes will further remove planning responsibilities from Councils. It is likely to result in developments that are out of character with the surrounding local areas, potentially result in the loss of environmentally sensitive lands, and not consider other local planning matters which Councils are aware of and are managing during the development assessment process.

Design guidelines for LAHC development

When self-assessing proposals under the ARHSEPP, LAHC is currently required to consider the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. In addition, LAHC also uses its own design guidelines and standards to assess applications. The new SEPP proposes to update these guidelines to better reflect contemporary practice.

Given the size and scale of LAHC developments are likely to increase due to the new hybrid model being proposed (in response to the private sector having minimum dwelling yields to make development viable and profitable), the design guidelines should be updated to closely align with the SEPP 65 Apartment Design Guide. In addition, where there is an inconsistency with local planning provisions, the local LEP or DCP should apply to deliver consistency in planning outcomes.

Car parking requirements for LAHC development

The new SEPP proposes to apply a minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings, in a development undertaken by or on behalf of LAHC, on government-owned land. This is to allow car parking spaces to be distributed across all dwelling types.

Previously the planning framework operated on the assumption that tenants in affordable or social housing have lower car ownership and usage. As a result, reduced onsite car parking rates have applied to affordable or social housing. As discussed throughout this submission, this has resulted in tenants parking on local streets and placing additional pressure on often already congested areas. This has generated complaints from residents, and contributed to an aversion towards affordable and social housing. Consistently applying the car parking rate across all dwellings is supported and will help in addressing parking concerns.

However, this section of the EIE does not discuss parking in the context of 'accessible areas'. Therefore it is not clear whether the proposed minimum car parking rate of 0.5 spaces per dwelling is for developments within both accessible and non-accessible areas. Consideration could possibly be made for reduced parking for developments within 200m of a rail station or major transport interchange (only if the impacts of not providing parking onsite are adequately assessed); and consideration could also be made to car sharing schemes.

Expand the range of affordable dwelling types that attract a density bonus

The new Housing Diversity SEPP proposes to increase the range of development that can be awarded a density bonus for infill affordable housing. Currently a density bonus can be awarded to dual occupancies, multi-dwelling housing, and residential flat buildings. The new SEPP proposes to include the dwelling types that were introduced with the Low-Rise Medium Density Housing Code in July 2018, including manor houses and terraces, where these uses are permitted under another environmental planning instrument.

The justification for introducing a density bonus for these additional uses is not explained with the EIE. However this proposed policy will not translate entirely across all residential zones within the City of Ryde as Council is progressing with a Planning Proposal to prohibit multi-dwelling housing (including manor houses and terraces) from the R2 Low Density zone. This is to mitigate the unintended impacts of the Low-Rise Medium Density Housing Code by preventing the introduction of inappropriate building forms to the low density zone and preventing the increase in the dwelling capacity of the R2 zone beyond the level of supporting infrastructure.

Proposed changes to the social housing provisions of the Seniors SEPP

Parking concessions for seniors housing

The new SEPP proposes to clarify that the reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider also apply to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government-owned land. The intention of these proposed amendments is to improve the feasibility of delivering new communities under the development model of a mixture of social, affordable and private housing. The EIE identifies that the car parking rate is a standard that cannot be used to refuse consent. Therefore, Council would be able to accept a lower rate if it was considered appropriate in the circumstances.

As discussed throughout this submission, Council is of the opinion that the provision of adequate onsite parking for seniors living (and other types of social housing) is an important planning consideration to minimise impact on surrounding local streets, particular in low density areas. If insufficient parking is provided onsite for residents and visitors, additional pressure is inevitably placed on local streets to accommodate for the deficit in parking onsite, resulting in an increase in congestion and reducing the availability of street parking for local residents. Council is unlikely to accept a lower rate, and it is recommended the parking rates be further reviewed to ensure the minimum rate adequately responds to the

concerns of the community regarding the impact of these sorts of uses. The only exception where a reduced rate could be considered is within areas that are highly accessible to public transport.

Clarify application of lift access exemption

The Seniors SEPP includes a requirement that new self-contained dwellings for seniors located on or above the second floor must have lift access. However, there is an exemption from the lift access requirement for development applications made by, or jointly with a social housing provider. The lift access exemption provides significant savings in terms of up-front construction and ongoing maintenance costs for LAHC.

It is proposed to clarify that the lift access exemption applies to all seniors housing delivered by or on behalf of LAHC, including any dwellings that are not proposed to be used for the purpose of social housing. This is to ensure LAHC can utilise a diverse range of delivery pathways and maintain flexibility in housing provision.

Typically residential buildings with two to three storeys do not require lifts and use stairs only; and buildings with three or above levels typically require a lift. Whilst this can impact on up-front construction and ongoing maintenance, lifts should be required to ensure sufficient accessibility within senior housing given the key tenants are part of the ageing population and mobility will become an issue.

Proposed changes to the social housing provisions of State and Regional Development SEPP

The new Housing Diversity SEPP proposes to amend the State and Regional Development SEPP (SRD SEPP) so that projects will become State Significant Development if:

- they are carried out by or on behalf of LAHC; and
- they have a capital investment value of more than \$100 million (increased from \$30 million).

It is also proposed to remove the current requirement under the SRD SEPP that LAHC sites need to be mapped on the State Significant Development Sites Map in order to be SSD. The reason for this change is because it is not providing the flexibility required to deliver projects within the Communities Plus program and creates resources implications for the Department in maintaining the accuracy of the map.

As discussed previously within this submission, such changes will further remove planning responsibilities from Councils. It is likely to result in developments that are out of character with the surrounding local area and not consider other local planning matters which Councils are aware of and are managing during the development assessment process.

Submission to Explanation of Intended Effect for NSW Housing Diversity SEPP



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Executive summary

A sustainable global city must offer a mix of housing to meet the needs of a diverse population.

State and local planning controls have facilitated the delivery of around 30,000 dwellings across the city over the past decade, representing almost 38 per cent of the homes built in the Eastern City District, and over 10 per cent in the Greater Sydney Region. A large portion of these homes have been delivered through high density residential developments in the Green Square Urban Renewal area. The city's heritage conservation and residential zoned areas have a rich supply of medium density, standalone, detached, semi-detached and terrace houses and are dense with residents and jobs. The City has also contributed to the supply of 974 affordable rental housing dwellings with a further 862 affordable, social or diverse dwellings in the development pipeline, demonstrating what can be achieved through innovative approaches and a commitment to affordable outcomes.

However, supporting social and cultural diversity through the provision of diverse housing remains a critical issue for the community. Access to affordable, diverse and appropriate housing is a major challenge to sustain a diverse and equitable city. The City's local housing strategy, entitled Housing for All, was recently adopted by Council. Moving forward it identifies an additional 56,000 dwellings are to be delivered across the council area by 2036. The strategy highlights new housing must include a range dwelling types, tenures, sizes and price points to support social sustainability and economic competitiveness.

Development of a new Housing Diversity SEPP is an important opportunity to consider the correlation between different household groups in the housing market and the types of housing required to meet their needs. The City of Sydney welcomes the opportunity to comment on the Explanation of Intended Effect and provide input into the development of the Housing Diversity SEPP.

This submission is structured into four sections and provides a series of recommendations for consideration in the development of the Housing Diversity SEPP.

Proposed new housing types

While greater certainty may be required by introducing new housing typologies, the submission highlights key matters to ensure:

- build-to-rent is not classified as state significant development
- build-to-rent is not mandated in the B3 – Commercial Core zone
- built-to-rent is not incentivised over other market housing through planning controls and its transition to strata-subdivided apartments addresses affordability
- mechanisms are implemented to manage occupancy of purpose-built student accommodation and ensure its temporary use for emergency accommodation when demand has significantly reduced
- greater clarity is provided around how co-living developments should be designed to be fit-for-purpose, and
- the application of amenity standards under the NSW Apartment Design Guide and any specific design guidance is investigated, in collaboration with local government, for build-to-rent, co-living and purpose-built student accommodation developments

Recommendations

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| Recommendation 1: | Do not classify build-to-rent housing as state significant development. |
| Recommendation 2: | Do not mandate build-to-rent in the B3 Commercial Core zone and continue to protect it for retail, business, office, entertainment, community and other economically productive land uses that support regional and district level productivity. |
| Recommendation 3: | Apply the Apartment Design Guide to all build-to-rent developments and consult with local government if any additional design guidance is further investigated. |
| Recommendation 4: | Investigate the suitability of dwelling mix requirements in build-to-rent developments. |
| Recommendation 5: | Make corresponding changes to tenancy legislation to improve tenancy rights by ensuring minimum long-term leases. |
| Recommendation 6: | Further investigate mechanisms to encourage the sale of build-to-rent dwellings below market cost when transitioning build-to-rent development to strata-subdivided apartment development. |
| Recommendation 7: | Further investigate specific design standards for purpose-built student accommodation, in consultation with the City and councils where there is a large amount of student housing. |
| Recommendation 8: | Introduce a mechanism to monitor and ensure purpose-built student accommodation is only used by students. |
| Recommendation 9: | Further investigate how purpose-built student accommodation can be temporarily used for emergency accommodation when demand has significantly reduced. |
| Recommendation 10: | Ensure co-living developments do not become residential flat buildings comprising entirely studio apartments by limiting the overall number of dwellings and restricting strata subdivision. |
| Recommendation 11: | Develop appropriate sections and apply the NSW Apartment Design Guide and further investigate specific design standards, in consultation with local government, for co-living developments. |
| Recommendation 12: | Further investigate the types of communal spaces and other facilities needed for co-living developments to ensure they are fit-for-purpose and are a mandatory requirement. |
| Recommendation 13: | Retain co-living development in single ownership, restrict strata subdivision and limit the overall size given the lack of diversity within the development. |
| Recommendation 14: | Implement car parking controls as a non-discretionary 'must not refuse' provision to allow reduced car parking in accessible areas and allow local parking provisions with reduced rates. |

Updating existing provisions

While the proposed changes improve clarity for boarding houses and seniors housing, more must be done to improve affordability and accessible and adaptable housing to support the city's social and economic diversity. This can be done by ensuring:

- a clear definition for 'affordable' housing is integrated into the Housing Diversity SEPP

- boarding houses that receive bonus floor space are rented for no more than 30 per cent of a household's income, in perpetuity
- no bonus floor space ratio is applied to boarding houses in heritage conservation areas or areas with fine grained subdivision patterns
- the application of specific amenity standards under the NSW Apartment Design Guide for boarding houses
- there is housing to cater for the growing number of people who are vulnerable and/or disadvantaged in the community
- accessible and adaptable housing requirements that allows people to age in place, and
- councils have the ability to levy for the loss of affordable housing where rental data is available, a tool is provided ensuring the correct calculation is applied, and the contributions are distributed to councils that have an Affordable Housing Program in force.

Recommendations

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| Recommendation 15: | Provide a definition for 'affordable' ensuring rental rates are set at a maximum 30 per cent of income for very low, low and moderate-income households. |
| Recommendation 16: | Apply the 20 per cent floor space ratio bonus only to boarding houses which deliver genuine affordable housing outcomes, in perpetuity, and are located outside heritage conservation areas or areas with fine grained subdivision patterns. |
| Recommendation 17: | Develop minimum amenity standards for boarding houses, such as those that provide for natural light and ventilation, in consultation with local government. |
| Recommendation 18: | Introduce minimum universal housing design provisions for all group homes. |
| Recommendation 19: | Clarify measures to manage the impact of existing dwellings with heritage value converting to group homes. |
| Recommendation 20: | Include provisions to encourage new and innovative supported housing models in the Housing Diversity SEPP. |
| Recommendation 21: | The Department make available a calculator and model conditions of consent to assist councils in applying a contribution requirement. |
| Recommendation 22: | Increase the amount of development applications councils can levy a monetary contribution for the loss of affordable housing by increasing the time preceding the lodgement of a development application from 5 to 10 years. |
| Recommendation 23: | Complete the review of the Boarding Housing Financial Assistance and Boarding Housing Fire Safety Upgrade Grants, invest contributions under the Housing Diversity SEPP in the low-rental sector and consider distributing the contributions to applicable councils which have an Affordable Housing Program in force. |
| Recommendation 24: | Remove the allowance of a 20 per cent variation under a local environmental plan for seniors housing development. |

Amending the ARH SEPP, Seniors SEPP and SRD SEPP to support social housing

Addressing the housing needs of all, including very low-income earners and vulnerable people, is a key challenge in sustaining a socially just, inclusive and diverse city. Social housing, like affordable housing, is critical social infrastructure necessary to support diverse and well-functioning

areas. The Housing Diversity SEPP must guide social housing projects, managed by Land and Housing Corporation (LAHC), to create better places by ensuring:

- LAHC projects do not become State Significant Development and the City is responsible for assessing LAHC development applications and enabling the use of design guidance if they do become SSD (including over \$100m)
- the number of dwellings LAHC can self-assess does not increase and they work in collaboration with the City to renew social housing sites so that better places are created for residents, and the number of social housing dwellings is increased to have good access to employment and services
- the NSW Apartment Design Guide applies to all applicable LAHC projects
- no additional housing typologies benefit from bonus floor space ratios under the Housing Diversity SEPP

Recommendations

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| Recommendation 25: | Do not make LAHC projects state significant development in the city and ensure the City is responsible for assessing LAHC's development applications. If LAHC projects are made to be state significant developments then delegate assessment and determination to the City and Central Sydney Planning Committee, repeal the outdated Redfern Waterloo Contributions Plan 2007 and adopt design guidance as part of any LEP amendment. |
| Recommendation 26: | Do not increase the maximum number of dwellings that can be self-assessed and do not permit the self-assessment of market housing by LAHC. |
| Recommendation 27: | Apply the NSW Apartment Design Guide to all LAHC developments as applicable under <i>State Environmental Planning Policy 65 Design Quality of Residential Apartment Development</i> |
| Recommendation 28: | Ensure there is no expansion to housing typologies eligible for floor space ratio bonuses in the city. |
| Recommendation 29: | Investigate and clarify the need for infill affordable housing to be managed by community housing providers. |

Additional considerations

The Housing Diversity SEPP provides the opportunity to ensure there is housing for all social and cultural backgrounds and responds to achieving the NSW Government's goal of net zero emissions by 2050. This can be achieved by ensuring:

- new and innovative approaches are investigated to incorporate genuine affordable housing outcomes in build-to-rent, co-living and purpose-built student accommodation developments
- there is accessible and adaptable housing to meet the changing needs of occupants and people with disability
- there is more housing suitable for Aboriginal and Torres Strait Islander Peoples
- strong sustainability requirements that improve energy efficiency and performance of all residential buildings.

Recommendations

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| Recommendation 30: | Investigate and develop new and innovative approaches to integrate and deliver genuine affordable rental housing outcomes under the Housing Diversity SEPP. |
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| Recommendation 31: | Include provisions to increase the amount and improve the standard of housing that is universally designed in the Housing Diversity SEPP |
| Recommendation 32: | Include a provision for all social housing projects on NSW Government land to deliver Liveable Housing Guidelines gold level, in accordance with the target set by the National Dialogue on universal housing design. |
| Recommendation 33: | Work with First Nations communities to integrate provisions into the Housing Diversity SEPP, to deliver culturally appropriate housing on NSW Government sites. |
| Recommendation 34: | Investigate and integrate sustainability requirements through the design, build and operations cycle of residential accommodation land uses identified in the Housing Diversity SEPP. |

Introduction



The City of Sydney welcomes the opportunity to comment on the ‘Explanation of Intended Effect for a new Housing Diversity SEPP’ (EIE) and congratulates the NSW Government in considering a comprehensive approach to increase housing diversity and choice in NSW. A wide range of NSW Government policies directly and indirectly impact on housing. A consolidated Housing Diversity SEPP will help deliver different housing typologies that are fit-for-purpose, provide greater certainty and reflect community expectations.

Housing diversity is a key theme of the City’s local housing strategy, titled Housing for All, which was adopted by Council in February 2020. The City is now working with the Department of Planning, Industry and Environment (Department), who is responsible for approving housing strategies in NSW.

This submission provides feedback on the proposed planning changes associated with consolidating the following three housing-related SEPPs into the new Housing Diversity SEPP:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP)
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors SEPP)
- *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* (SEPP 70)

The Housing Diversity SEPP must respect the role of local planning and ensure development protects and enhances the economic, social and environmental values of an area. An important function of the Housing Diversity SEPP should be to recognise and address matters and impediments relating to the need for high amenity standards in residential buildings, protecting heritage conservation areas, implementing sustainability requirements, delivering associated quality public domain outcomes, ensuring development viability and supporting social and cultural diversity.

The Housing Diversity SEPP must also include innovative approaches to ensure a diverse range of housing for people of all incomes, abilities, family types and cultural backgrounds. This includes provisions and mechanisms that facilitate the retention of existing, and provision of new, social and affordable housing, culturally appropriate housing, housing for families with children, people with disability, older people, long-term residents, students, people living alone, shared households, and more.

This submission reflects the directions and actions in the City's local housing strategy and other relevant City strategies and policies. It is structured in four sections, including:

- **Proposed new housing types**, which provides the City's recommendations regarding the new housing types proposed in the EIE
- **Updating existing provisions**, which provides the City's recommendations regarding the proposed changes to existing provisions in the ARH SEPP and Seniors SEPP
- **Amending the ARH SEPP, Seniors SEPP and SRD SEPP to support social housing**, which provide the City's recommendations for development managed by Land and Housing Corporation, and
- **Additional considerations**, which provide some further matters for consideration that have not been addressed in the EIE, including increasing the amount of affordable rental housing, accessible and adaptable housing and housing for Aboriginal and Torres Strait Islander communities.

Each section includes a series of recommendations to be considered in the preparation of the Housing Diversity SEPP.

Proposed new housing types

Three new housing types

The Department is proposing to introduce three new housing types into the Housing Diversity SEPP, including build-to-rent, purpose-built student accommodation and co-living development. This section provides commentary on these new housing types as they relate to the City of Sydney.

Build-to-rent housing

The City supports improved housing choice and conditions for renters, including long term rental tenancy options. The City's local housing strategy recognises the potential benefits of build-to-rent development to facilitate housing security, increase community cohesion and new opportunities for renters to access high quality housing.

However, build-to-rent in itself does not facilitate affordable housing and should not receive special treatment in the planning framework above other forms of residential development. Acknowledging the broader build-to-rent tax incentives recently announced by the NSW Government, the City questions why a new land use is required for built-to-rent when no barriers currently exist in the planning system for this type of market housing.

Notwithstanding the above, with regard to what is proposed by the EIE, the City supports the following aspects of the proposal:

- build-to-rent should not be the recipient of any floor space bonus, particularly as it cannot be tied to an 'affordable outcome', and
- build-to-rent cannot be used for short term accommodation, thereby ensuring it delivers on its strategic purpose of increasing options for long term renters. The City seeks further clarification on how this would be monitored.

The City does not support classifying build-to-rent as State Significant Development (SSD). The reason for classifying build-to-rent as SDD has not been justified and it has not been established what will make these projects significant to the state in their size, economic value or impact distinct from other residential flat buildings, except it has an institutional owner. The SSD pathway also switches off local design guidance in development control plans. In the City and other council areas many larger residential projects are in master planned urban renewal areas with DCP controls that support place and design outcomes. SSD places at risk the place and amenity planning outcomes that have been established with local communities. If build-to-rent is made SSD, then the City supports the recommendation for projects in the city to be delegated for assessment and determination by the City.

The City recommends build-to-rent not be mandated in the B3 – Commercial Core zone. It directly conflicts with zone objectives, which are aimed at facilitating employment and facilitating non-residential land uses that serve the needs of the local community. The City has limited land zoned B3 - Commercial Core, including some sites that form part of the Green Square Town Centre. These sites, when developed for commercial uses, will make a critical contribution to the City's substantial employment targets in its local strategic planning statement.

Any inclusion of residential uses in the B3 zone will likely increase land values as non-residential uses compete with residential uses, and seriously undermine the potential of those zones to facilitate jobs and economic growth. Moreover, residential development can erode the commercial character and the desirability of centres for businesses. The City's consultation and research undertaken in preparing the Central Sydney Planning Strategy found that businesses want to locate with other businesses and don't necessarily find neighbouring residential development complementary to the character of a business precinct. This is further supported by the clear clustering and agglomeration benefits of businesses locating near other businesses. Residential development can also make it more difficult for neighbouring sites to develop for business uses by having to address overshadowing and views. Changes to zones cannot be considered only from a housing supply point of view and need to consider the effect on other strategic objectives, such as jobs creation and economic productivity.

It is inequitable that this form of development should receive preferential treatment in the planning framework, which effectively amounts to a substantial subsidy in the price of land where they are competing for sites with non-residential developers. There is no clear reason why this form of development should be so favoured, particularly above other forms of development such as genuine affordable housing that is owned and managed by community housing providers.

The City does not support any exemptions from the *State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development* and the NSW Apartment Design Guide (ADG) for build-to-rent, noting that one of its clearly discernible benefits are that it would provide housing for long term renters – people who may choose to stay in this housing for life. As a long-term housing option, it is essential that high amenity standards are maintained.

While the City does not support any waiver that may be given to the high amenity requirements under the ADG, the City should be involved in discussions about any new design guidance for build-to-rent typologies, which may also include minimum dwelling mix requirements to cater for the various household sizes in the rental market.

The City also recommends corresponding changes should also be made to tenancy legislation to improve tenancy rights and ensure minimum long-term leases.

Managing the transition from build-to-rent to strata-subdivided apartment development is important. The City supports the lease holder having first right of refusal, however further clarification is required around how dwellings would be priced to sell. The City encourages the Department to investigate mechanisms whereby the sale of build-to-rent dwellings is encouraged to be below market value, potentially to community housing providers (CHPs) for the purpose of affordable or social housing. Further consultation is required with CHPs, peak housing bodies, industry and strata groups to explore these opportunities.

Recommendation 1: Do not classify build-to-rent housing as state significant development.

Recommendation 2: Do not mandate build-to-rent in the B3 Commercial Core zone and continue to protect it for retail, business, office, entertainment, community and other economically productive land uses that support regional and district level productivity.

Recommendation 3: Apply the Apartment Design Guide to all build-to-rent developments and consult with local government if any additional design guidance is further investigated.

Recommendation 4: Investigate the suitability of dwelling mix requirements in build-to-rent developments.

Recommendation 5: Make corresponding changes to tenancy legislation to improve tenancy rights by ensuring minimum long-term leases.

Recommendation 6: Further investigate mechanisms to encourage the sale of build-to-rent dwellings below market cost when transitioning build-to-rent development to strata-subdivided apartment development.

Purpose-built student accommodation

Purpose-built student accommodation plays an important role within the inner city due to the number of tertiary institutions and colleges located nearby, high student population (particularly pre-COVID-19) and access to public transport.

However, since the introduction of the ARH SEPP in 2009, most purpose-built student accommodation has utilised its boarding house provisions, including the floor space bonus and exemption from the ADG amenity standards. In the inner-city context, where floor space ratios are already high, this has led to housing that is incompatible with the surrounding scale and character of the area. Moreover, because there is currently no mechanism available to ensure the resulting housing is 'affordable', the benefits of the development, when weighed against the impacts it can create, is questionable.

The City therefore supports creating a land use definition for purpose-built student accommodation which will enable a clearer distinction between land uses that may be similar in form, but fundamentally different in purpose.

As a short to medium term residential use and because students, as the intended users, are not expected to spend long periods of time in their room, the amenity standards of the ADG may not need to be as strictly enforced. However, the City strongly recommends considering specific design considerations and standards to ensure purpose-built student accommodation is fit for purpose to meet student needs. These include, but are not limited to:

- stating a maximum occupancy for very small rooms,
- not allowing habitable rooms below ground level,
- providing minimum open space requirements and only relying on nearby campus open space areas in exceptional circumstances,
- establishing the amount and type of communal living areas required so these spaces are used effectively for student needs, and
- and providing guidance around what must be incorporated into self-contained dwellings (for example minimum kitchen, study and storage space areas).

As a local government area that has significant experience in assessing student housing, the City should be further consulted on the above standards if bespoke purpose-built student accommodation design guide is to be developed.

More broadly, the City also seeks clarification regarding how student occupation will be monitored and enforced ensuring the rooms in purpose-built student accommodation are occupied by students for a limited amount of time, to avoid overcrowding in rooms, and ensure the development has been designed and constructed specifically for students and their needs.

The City supports using purpose-built student accommodation for emergency accommodation when demand has significantly reduced in a situation such as COVID-19. However further clarification is required around how this would be managed, for example, would temporary approvals need to be sought?

- Recommendation 7:** Further investigate specific design standards for purpose-built student accommodation, in consultation with the City and councils where there is a large amount of student housing.
- Recommendation 8:** Introduce a mechanism to monitor that purpose-built student accommodation is only used by students.
- Recommendation 9:** Further investigate how purpose-built student accommodation can be temporarily used for emergency accommodation when demand has significantly reduced.
-

Co-living

The City supports creating a land use definition for co-living developments, otherwise known as 'new generation' boarding houses. However, it cautions the new definition should not be used to facilitate micro-apartments where communal spaces and amenity standards are not required. The City requires clarification around the types of households expected to live in co-living developments and how it will meet the housing needs of these households.

The City acknowledges co-living housing can provide more flexible tenancy arrangements that may cater to the short term needs of a range of people, including low income workers. Introducing a new land use term for co-living is an opportunity to provide greater clarity around how these developments should be designed to be fit-for-purpose.

As with purpose-built student accommodation, the boarding house provisions in the ARH SEPP are currently being used to approve co-living developments. This has enabled a planning subsidy for a land-use that is, in the City of Sydney, effectively operating as micro-apartments with low amenity, and anecdotally are rented at market rates and often use standard leases.

Like student housing, the City encourages the application of the ADG, however recognises the need to provide more bespoke guidance for this use, including minimum standards relating to room sizes (that facilitate a sensible arrangement of facilities and furniture), communal areas, private open space requirements, shared facilities and the like. The City would welcome further discussion with the Department on the preparation of appropriate guidelines for this type of development.

There is evidence showing co-living developments predominantly comprise of rooms that are self-contained. The City strongly recommends the size, quality and purpose of communal spaces and other facilities and services must not be compromised due to the provision of self-contained rooms. These matters should complement each other ensuring co-living developments are distinct from a residential flat building comprising entirely studio apartments. For this reason, further investigation is required to ensure communal spaces and other facilities are meaningful areas that are fit-for-purpose.

The City does support co-living developments being permitted wherever residential flat buildings are also permitted. However, it strongly encourages implementing the ADG requirements to establish building envelopes for high density co-living developments, rather than applying the building envelope controls for residential flat buildings under a relevant development control plan.

The City recommends implementing car parking controls as a non-discretionary 'must not refuse' provision to allow reduced car parking in accessible areas and allow local parking provisions with reduced rates.

- Recommendation 10:** Ensure co-living developments do not become residential flat buildings comprising entirely studio apartments by limiting the overall number of dwellings and restricting strata subdivision.
- Recommendation 11:** Apply the NSW Apartment Design Guide and further investigate specific design standards, in consultation with local government, for co-living developments.
- Recommendation 12:** Further investigate the types of communal spaces and other facilities needed for co-living developments to ensure they are fit-for-purpose and are a mandatory requirement.
- Recommendation 13:** Retain co-living development in single ownership, restrict strata subdivision and limit the overall size given the lack of diversity within the development.
- Recommendation 14:** Implement car parking controls as a non-discretionary 'must not refuse' provision to allow reduced car parking in accessible areas and allow local parking provisions with reduced rates.

Updating existing provisions

Affordable Rental Housing SEPP 2009 and Seniors SEPP

The City supports the review of the provisions within the ARH SEPP and Seniors SEPP. The commentary in this section is provided to ensure the updated provisions deliver genuine affordable housing and improved outcomes for lower income households.

Boarding house provisions

The City supports the proposal to amend the boarding house definition to require boarding houses be managed by a registered CHP. This will ensure the floor space bonuses currently available for boarding houses under the ARH SEPP, that are proposed to be retained, are directed only towards housing solutions that increase opportunities for lower income households to access housing that is affordable.

The City seeks further clarification regarding the definition of 'affordable' to be applied to boarding houses. It is recommended the new Housing Diversity SEPP include provisions ensuring rental rates are set at a maximum of 30 per cent of income, rather than as a reduction of market rents. In the inner-city, a reduction in market rates can still mean that rents are unaffordable for lower income households.

As above, the City supports in principle the change to apply a blanket 20 per cent floor space ratio bonus for boarding house developments but only if:

- it provides genuine affordable housing outcomes
- the affordable housing is provided in perpetuity
- the boarding house is not located within a heritage conservation area or area with fine grain subdivision, and
- the boarding house incorporates specific amenity standards of the ADG.

The City does not agree with the proposal that boarding house rooms be rented at affordable rates for a minimum of 10 years only, after which they revert to market rates. This is not a sustainable approach to promoting long term solutions to Sydney's affordable housing crisis. In the City of Sydney and other inner-city council areas, there is limited land availability, which calls for the need to retain as much affordable rental housing as possible now as it will be too hard to replace in the future.

The ADG requirements with regards to access to sunlight, cross ventilation and so on should apply to boarding house developments as it is a type of residential accommodation where residents could live for long periods of time. However, the City acknowledges some bespoke design guidance for this form of development is required, either in the Housing Diversity SEPP itself, or in a new design guide. The City would welcome further discussion on any proposed design guideline.

City acknowledges that 'boarding house' developments are very similar to the proposed 'co-living' development type, with the key difference being that boarding houses are now proposed specifically for lower income individuals and households. Design considerations are similar to those above mentioned for 'co-living' development but may need additional consideration with

regard to room size where it can be demonstrated there is sufficient community facilities provided. The co-location of support facilities may also be considered.

Despite the proposal not to mandate boarding house development in the R2 Low Density Residential zone under the Housing Diversity SEPP, the City supports the ability to continue permitting the use in this zone under *Sydney Local Environmental Plan 2012*.

- Recommendation 15:** Provide a definition for 'affordable' ensuring rental rates are set at a maximum 30 per cent of income for very low, low and moderate-income households and not as a below market standard.
- Recommendation 16:** Apply the 20 per cent floor space ratio bonus only to boarding houses which deliver genuine affordable housing outcomes, in perpetuity, and are located outside heritage conservation areas or areas with fine grained subdivision patterns.
- Recommendation 17:** Develop minimum amenity standards for boarding houses, such as those that provide for natural light and ventilation, in consultation with local government.

Group home provisions

Group homes are an important type of accommodation for a range of people within the community. It provides opportunities for vulnerable people, or people who need additional assistance, to live together in a home environment with skilled support staff and carers.

The City supports the proposed amendments providing a quicker and easier pathway for converting existing dwellings into a group home. However, the Housing Diversity SEPP should also include universal housing design provisions to improve and increase the amount of group homes that are adaptable and accessible.

The City requires clarification around how it will manage existing dwellings having internal heritage value and require intrusive alterations, such as for accessibility measures, in order to convert to a group home.

The City is concerned the proposed new Housing Diversity SEPP has limited provisions to support and encourage new and innovative supported housing models, which cater for the needs of people who are vulnerable and/or disadvantage in the community. Supported housing is an umbrella term describing various approaches to providing affordable housing with support services. Supported housing can benefit people with disability who seek support to live independently or in a group setting. It can cater towards older people who require support to age in place and continue living in their neighbourhood where they maintain community connections. It also benefits people who are living with mental illness or people who have experienced or are at risk of homelessness who need support to maintain their tenancy.

- Recommendation 18:** Introduce minimum universal housing design provisions for all group homes.
- Recommendation 19:** Clarify measures to manage the impact of existing dwellings with heritage value converting to group homes.
- Recommendation 20:** Include provisions to encourage new and innovative supported housing models in the Housing Diversity SEPP.

Part 3 – Retention of existing affordable housing

The City supports the pathway allowing councils to levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application. This would encourage the retention of lower cost housing for lower income households.

The City encourages the Department to develop tools for assisting councils to apply this requirement, including development of a calculator and model conditions of consent, to ensure consistency in levying for these monetary contributions.

The City also supports the removal of the reference to the 28 January 2000 date under clause 49 of the ARH SEPP, which currently states that Part 3 of the ARH SEPP only applies to buildings that were low-rental dwellings as at 28 January 2000. However, the proposal to allow councils to levy a contribution on a dwelling that was low-rental at any time within the five years preceding the lodgement of the development application is not long enough and should instead be 10 years. Rental data is readily available from 2010, which allows councils to levy for the loss of affordable housing.

The City notes that the Boarding House Financial Assistance and Boarding Housing Fire Safety Upgrade Grants programs are under review. It is recommended the review be completed as soon as possible and any contributions collected under the Housing Diversity SEPP be invested in low-rental and affordable housing. The review could include consideration of distributing funds to councils that have an Affordable Housing Program in force, which discloses distribution and management of contributions relating to affordable housing. This would help facilitate the increased provision of affordable housing.

Recommendation 21: The Department make available a calculator and model conditions of consent to assist councils in applying a contribution requirement.

Recommendation 22: Increase the amount of development applications councils can levy a monetary contribution for the loss of affordable housing by increasing the time preceding the lodgement of a development application from 5 to 10 years.

Recommendation 23: Complete the review of the Boarding House Financial Assistance and Boarding Housing Fire Safety Upgrade Grants, invest contributions under the Housing Diversity SEPP in the low-rental sector and consider distributing the contributions to applicable councils which have an Affordable Housing Program in force.

Seniors housing

The City supports the proposed changes under the Seniors SEPP, including updating definitions and terminology to align with the standard instrument, improving accessibility requirements and relevance of Site Compatibility Certificates. The City also agrees with proposed changes allowing development standards in a local environmental plan to prevail to the extent of any inconsistency with the Housing Diversity SEPP.

The City supports the use of Clause 4.6 in a local environmental plan to vary a development standard under the SEPP, however has concerns about allowing a 20 per cent maximum variation. Floor space and height variation requests should be assessed on merit, respond to site constraints and should be minimised on sites within heritage conservation areas.

There is a growing proportion of older people living in Australia, which has implications for the types of housing required to meet their needs. Seniors housing and aged care facilities are generally a market driven product and there are no impediments in the planning system to development this housing type in appropriate locations. However, the cost of land in high value locations makes it feasibility challenging to provide across the city. This is a critical issue which may not be able to be addressed in the Housing Diversity SEPP but should be considered further by the Department.

Recommendation 24: Remove the allowance of a 20 per cent variation under a local environmental plan for seniors housing development.

Amending the ARH SEPP, Seniors SEPP and SRD SEPP to support delivery of social housing

Proposed changes to facilitate the delivery of social housing managed by Land and Housing Corporation

Addressing the housing needs of all, including very low-income earners and vulnerable people, is a key challenge in sustaining a socially just, inclusive and diverse city. Social housing, like affordable housing, is critical social infrastructure necessary to support diverse and well-functioning areas.

The city contains a number of significant social housing sites, many of which are on land owned by NSW Government and managed by Land and Housing Corporation (LAHC). These sites often comprise large consolidated land holdings and are well-located for access to transport and jobs.

The City supports the Department's intention to ensure the provisions under the ARH SEPP, Seniors SEPP and *State Environmental Planning Policy (State and Regional Development 2011)* (SRD SEPP) are fit-for-purpose and align with wider Government priorities. However, the City has a number of concerns and questions regarding the proposed changes, which are discussed below.

Making Minister for Planning consent authority for LAHC projects

The City is concerned about the proposal to amend the SRD SEPP, by making the Minister for Planning the consent authority for projects over \$100 million on government-owned land across the city, with the power to delegate to the City, if deemed appropriate. This would essentially apply to all the LAHC projects located across the council area.

The City does not support LAHC projects becoming State Significant Development (SSD) applications. In November 2019, the Minister for Planning and Public Spaces determined the City would be the plan making authority for a number of LAHC owned sites within the City. The City is actively working with LAHC on several planning proposals to establish new planning controls for the site to facilitate redevelopment that supports increased social and affordable housing outcomes. This also includes the preparation of development control plans (DCP) that are necessary to deliver good design and place outcomes and manage dense and complex developments. Under an SSD pathway DCPs are not a matter for consideration creating significant risk to delivering good and coordinated planning outcomes. Design guidance is necessary under an SSD pathway given the complexity and potential impact from these projects. Guidance can be provided in the form of guidelines approved by the Secretary, such as that referenced under clause 6.45(2)(d) of the Sydney LEP 2012 for the Waterloo Metro Quarter.

As such, it is appropriate the City be the consent authority for the associated development application. The City has a demonstrated ability to manage large development applications in an efficient manner ensuring high quality-built form and public domain outcomes that are consistent with the expectations of its community.

The City has significant concerns that making LAHC's Elizabeth Street, Redfern, Waterloo Estate and Explorer Street, Eveleigh projects SSD will require contributions be levied under the Redfern-Waterloo Development Contributions Plan (2007). This contributions plan is over 13 years old and no longer provides adequate funding and appropriate infrastructure to meet the needs of the community. The plan no longer satisfies the principles of the Department's Development Contributions Practice Notes 2005 as the nexus between new development and the Plan is broken given the extended life of the plan; there is no reasonableness in the timely delivery of infrastructure as INSW do not have a capital works program for the area; and there is a lack of accountability and transparency in the funds which are held under the Plan. Not only would these significant developments be subject to substantially lower contribution but there is no infrastructure works program to expend the contribution. The City has raised the matter with the Department to address this issue and until the Plan is repealed it is not appropriate these sites be identified as SSD.

Other feedback regarding LAHC development

The ADG should apply to all LAHC developments to ensure consistent amenity standards between private, affordable and social dwellings. Ensuring high amenity standards for lower income households is arguable more critical than in market housing, where owners potentially have greater ability to install air-conditioning units and the like. If the Department prepare alternative design guidance, the City and community housing providers should be involved in the process.

While Sydney LEP 2012 provides maximum parking rates, the City supports the option for councils to prepare local plans with reduced car parking rates for LAHC developments, which would prevail over the minimum car parking rates required by the Housing Diversity SEPP.

Increasing maximum number and type of dwellings LAHC can self-assess and subdivision

The City does not support the proposal to increase the maximum number of dwellings that LAHC can self-assess from 20 to 60 dwellings. There are also concerns about proposing to allow subdivision of Government-owned land without consent and expanding the types of dwellings LAHC can self-approve to include affordable and private housing components, in addition to social housing.

The City should continue to assess all social housing estate applications, particularly as LAHC projects will also incorporate market and affordable housing. A number of matters need to be addressed, some of which include associated infrastructure requirements and specific building design and public domain requirements. The City is well placed to provide advice on what is required to create better places for residents while increasing the number of social housing dwellings on land with good access to employment and services.

Expanding developments eligible for floor space ratio bonus

The City remains concerned about the standards under Division 1 of Part 2 of the ARH SEPP, which provides a density bonus for infill affordable housing that only needs to be rented as affordable housing for 10 years. This is not a sustainable way to ensure adequate affordable housing for a growing population and also has significant impact on building amenity, bulk and scale.

The City does not support the proposal to expand the range of housing typologies, to include manor houses and terraces, which are eligible for a density bonus for infill affordable housing. In the city, manor houses and terraces are often located in heritage conservation areas or areas exhibiting a fine-grained subdivision pattern and two-storey scale-built form. Developments on these sites should continue to comply with local development standards set specifically to respond site constraints and respect local character.

As mentioned previously under the boarding house section, the Housing Diversity SEPP should amend the infill affordable housing provisions ensuring any development awarded a floor space ratio bonus provides genuine affordable rental housing in perpetuity, ensures they are not located in heritage conservation areas or areas with fine grain subdivision, and development incorporates the amenity standards of the ADG.

The City also requests further investigation to clarify who would be responsible for managing infill affordable housing. The City recognises CHPs could assist in this due to their growing role in developing and managing social and affordable housing.

- Recommendation 25:** Do not make LAHC projects state significant development in the city and ensure the City is responsible for assessing LAHC's development applications. If LAHC projects are made SSD then delegate assessment and determination to the City and CSPC, repeal the outdated Redfern Waterloo Contributions Plan 2007 and adopt design guidelines as part of any LEP amendment.
- Recommendation 26:** Do not increase the maximum number of dwellings that can be self-assessed and do not permit the self-assessment of market housing by LAHC.
- Recommendation 27:** Apply the NSW Apartment Design Guide to all LAHC developments as applicable under the *State Environmental Planning Policy 65 Design Quality of Residential Apartment Development*.
- Recommendation 28:** Ensure there is no expansion to housing typologies eligible for floor space ratio bonuses in the city.
- Recommendation 29:** Investigate and clarify the need for infill affordable housing to be managed by community housing providers.
-

Additional considerations

Increasing the amount of affordable housing

The Housing Diversity SEPP creates an opportunity for government to think more broadly about how it may increase the amount of affordable housing in New South Wales. While the expansion of SEPP 70 to all council areas is welcome, it will not deliver the quantum of affordable housing required to address the critical shortage we are currently experiencing across the state. There are no measures proposed for inclusion in the Housing Diversity SEPP to increase the amount of affordable housing.

The high cost of housing is an important economic and social issue in Sydney, particularly where housing prices are among the highest in Australia. The inability to access affordable housing pushes very low, low and moderate-income households (collectively known as lower income households) to the city fringes. The majority of lower income households who remain are increasingly in housing stress or crisis and will eventually be forced to move out as housing costs continue to escalate ahead of wage growth.

The City considers housing to be affordable where the cost of rent does not absorb more than 30 per cent of the gross income of a very low to moderate income household. Affordable housing is defined under the *Environmental Planning and Assessment Act 1979* and very low, low and moderate-income households are defined under SEPP 70, with the income ranges published annually.

In the inner city, where the median cost of housing is very high, affordable rental housing is used to describe housing that is owned by government or a registered community housing provider and rented to a mix of very low to moderate income households for no more than 30 per cent of household income.

The NSW Government should investigate and develop new and innovative approaches for inclusion in the Housing Diversity SEPP to accommodate affordable rental housing for lower income earners.

Recommendation 30: Investigate and develop new and innovative approaches to integrate and deliver genuine affordable rental housing outcomes under the Housing Diversity SEPP.

Housing to support others in the community

Accessible and adaptable housing

The City is concerned the proposal does not include accessible and adaptable housing. With an ageing population and approximately 20 per cent of the Australian population living with disability, the need for universally designed, accessible and adaptable housing across Sydney is expected to grow.

Accessible and adaptable housing enables people with disability and older people to live with independence and dignity, and age in place. Housing that is universally designed is more versatile and can better meet the changing needs of occupants, including families, over their lifetimes.

Housing for Aboriginal and Torres Strait Islander communities

The City is concerned the proposal does not integrate housing for Aboriginal and Torres Strait Islander communities or other forms of culturally appropriate housing. New housing is not typically designed to meet the needs of all First Nations communities, resulting in a lack of suitable housing supply and experiences of overcrowding, housing insecurity and risk of homelessness. The City's Housing for All identifies the need for culturally appropriate housing for Aboriginal and Torres Strait Islander Peoples, which speaks to dwelling design, affordability, ownership structure and management.

Recommendation 31: Include provisions to increase the amount and improve the standard of housing that is universally designed in the Housing Diversity SEPP

Recommendation 32: Include a provision for all social housing projects on NSW Government land to deliver Liveable Housing Guidelines gold level, in accordance with the target set by the National Dialogue on universal housing design.

Recommendation 33: Work with First Nations communities to integrate provisions into the Housing Diversity SEPP, to deliver culturally appropriate housing on NSW Government sites.

Sustainability measures in residential developments

Energy use in buildings continues to be the largest contributor to greenhouse gas emissions in Greater Sydney. The Housing Diversity SEPP provides an opportunity to better integrate and increase energy efficiency and performance of all types of residential buildings.

The different residential typologies identified in the Housing Diversity SEPP offers an opportunity to design sustainable accommodation that is affordable and equitable. To realise this opportunity and improve the resilience of residential communities, those principles should be included in the objects of the Housing Diversity SEPP. Specific standards for sustainability should be incorporated across the design, build and operations cycle for residential buildings. Higher BASIX requirements for apartment buildings should also be considered at design stage (to enable tracking and high operational energy/water performance). This is particularly possible for developments under single ownership and should be explored.

Recommendation 34: Investigate and integrate sustainability requirements through the design, build and operations cycle of residential accommodation land uses identified in the Housing Diversity SEPP.

Timing for finalisation

The City would appreciate further information around when the Department intend to finalise the Housing Diversity SEPP.



9 September 2020

Our Ref: P18-197 LK/JG

Ms Sandy Chappel

Department of Planning, Industry & Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Dear Ms Chappel,

RE: SUBMISSION ON PROPOSED HOUSING DIVERSITY SEPP

This submission has been prepared by City Plan Strategy & Development P/L (City Plan) on behalf of Pathways Residences in response to the Explanation of Intended Effect (EIE) for the proposed new Housing Diversity State Environmental Planning Policy (SEPP). This submission specifically focusses on the proposed amendments to provisions associated with senior housing, which are predominantly reflected in the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP).

For context, Pathways Residences has been operating in the aged care industry since 1993 and currently owns and operates five boutique aged care facilities located at Killara and Roseville in Sydney's Upper North Shore, Northbridge in Sydney's Lower North Shore, and Cronulla in the Sutherland Shire. Collectively, these facilities provide high and low care services to approximately 475 residents.

The organisation is planning to expand its operations and is currently exploring new aged care opportunities in Lane Cove and Cremorne on Sydney's Lower North Shore and Leura in the Blue Mountains.

Facilitating projects in well-located areas

The EIE proposes to carry forward provisions that already limit the potential for new projects in well-located areas. These include the recent changes made through the introduction of the "Metropolitan Rural Areas Exclusion Zone" maps under the Seniors SEPP, which extend across Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, The Hills Shire, Hornsby, Liverpool, Northern Beaches, Penrith, Sutherland Shire and Wollondilly. This, in effect, discourages seniors housing on any site located within a mapped "Exclusion Zone" unless permissibility and relevant development standards (Height, FSR, etc.) can be established under the Local Environmental Plan and so will rely on a more onerous and uncertain Planning Proposal pathway to facilitate new projects.

This also recognises the term "water catchment" in Schedule 1 effectively excludes any projects in the Southern Highlands and Blue Mountains from the operation of the Seniors SEPP, which will continue to disadvantage townships with high amenity and access to services such as Leura, Bowral, Mittagong, and Moss Vale.

To avoid delays to projects in these areas, we recommend the provisions currently reflected in Schedule 1 of the Seniors SEPP are reviewed before being finalised in the Housing Diversity SEPP.

Tailored SEPP standards should prevail

The Seniors SEPP offers a state-wide level of consistency in terms of the assessment processes and standards applying that afford a degree of certainty, transparency, and incentives needed to support new seniors housing projects. This is imperative given recent demographic data indicates a tsunami of baby boomers coming to aged care.

The EIE proposes to amend current provisions to clarify that development standards in a Local Environmental Plan would prevail to the extent of any inconsistency with the SEPP. In our experience, most Councils have not developed seniors housing specific standards within their Local Environmental Plans or Development Control Plans and the standards applying to all developments are not readily transferrable to purpose-built seniors housing projects. It is important that the Housing Diversity SEPP provisions provide a consistent approach in the application of standards for factors that influence the feasibility of these projects, including (but not limited to) building height, density and scale, landscape area, deep soil, solar access, private open space, and parking.

We recommend development standards and 'do not refuse' provisions that are specific to seniors housing should be retained and should prevail over individual Councils' generic LEP standards. In particular, the new SEPP should assist in the provision of specialised residential aged care housing.

We also recommend that the SEPP retains the alternative definitions of 'height' and 'gross floor area' to those adopted in Standard Instrument LEPs. This recognises that:

- In relation to height, seniors housing projects typically require accessible compliant lift access and larger amounts of plant equipment compared with other types of development projects and benefit from the more generous definition afforded by the SEPP, and
- In relation to GFA (for example) alignment with the standard LEP definition would be particularly disadvantageous to residential care facilities as the inclusion of service areas would limit the quantum of bedrooms that could be provided.

Retain and update standards to reflect contemporary needs

Purpose-built seniors housing projects must meet different design requirements - either to address statutory obligations or to otherwise meet residents' specific needs. These requirements often mean seniors housing struggles to compete with other land uses, especially where land values are already high. The development standards and 'do not refuse' standards reflected in statewide policy are, therefore, important tools for facilitating new developments and ensuring these are fit-for-purpose.

The EIE does not clarify the extent to which some important provisions would be retained in the Housing Diversity SEPP, including:

- Parking provisions, which include minimum requirements for parking and alleviate seniors housing projects of maximum parking restrictions that have been imposed by some Councils
- Bonus floor space provisions for vertical villages, which compensate for the statutory design standards required for purpose-built seniors housing projects,

A review of the current standards applying under the Seniors SEPP is also warranted so that the Housing Diversity SEPP, once finalised, more adequately reflects market demands. This review should ensure the standards are not narrowly focused on low-density, retirement village style projects, but instead cater for a wider range of dwelling types and densities. For example:

- Standards for residential care facilities, such as Clause 40(4) relating to height in zones where residential flat buildings are not permitted and Clause 48(c) relating to landscaped area could be adjusted to allow for more innovative design responses to site constraints,
- The criteria provided under Clause 26 could differentiate between location and access to facilities planning requirements for different types of seniors housing administered under the SEPP, recognising the distinct needs of people living in residential care facilities (who are often limited by mobility or cognitive impairments) compared to those living independently in self-contained dwellings, and
- Expanding the application of seniors housing provisions to allow greater flexibility for the co-location of complementary and compatible uses such as (but not limited to) health consulting rooms, medical centres, and childcare centres can provide opportunities for intergenerational care programs and psychological and social benefits for residents.

We recommend further engagement with industry to review and update the development standards applying in more detail before the Housing Diversity SEPP is finalised.

Concluding remarks

On behalf of Pathways Residences, we thank you for considering our insights and recommendations when finalising the Housing Diversity SEPP. Overall, we are very supportive of the intentions behind this important reform and consolidation of the three existing housing SEPPs into one comprehensive and consolidated SEPP.

Our submission highlights opportunities to more effectively facilitate new seniors housing projects across NSW by:

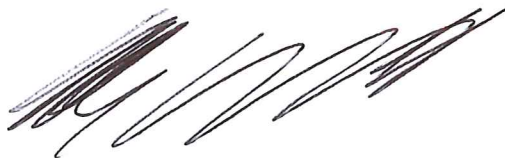
- Removing or amending provisions that may limit the potential for new residential aged care facilities in well-located areas;
- Ensuring state-level provisions and standards prevail for those factors that most strongly influence the viability of new projects, and
- Updating the standards applying to differentiate between different seniors housing types and ensure the assessment considerations for new projects are reflective of residents' diverse needs and expectations.

Should you wish to discuss this submission further, please do not hesitate to contact Juliet on (02) 8270 3500 or julietg@cityplan.com.au.

Yours sincerely,



Juliet Grant
Executive Director
City Plan Strategy and Development



Graeme Skerritt
Managing Director
Pathways Residences

10 September 2020

Our Ref: 20-210 LW/LK

Ms Sandy Chappel

Department of Planning, Industry & Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Dear Ms Chappel,

RE: SUBMISSION ON PROPOSED HOUSING DIVERSITY SEPP

This submission has been prepared by City Plan Strategy & Development (City Plan) in conjunction with Uniting in response to the Explanation of Intended Effect (EIE) for the proposed new Housing Diversity State Environmental Planning Policy (SEPP). We have focussed specifically on the proposed amendments that relate to seniors housing, which are currently reflected in the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP).

Uniting is a not-for-profit organisation and one of the largest non-government community services providers in NSW. Uniting currently provides lifestyle, health and care services to 14,000 people across NSW and the ACT. As a registered social housing provider, Uniting is focussed on the on-going provision of residential aged care and independent living units to respond to the demands of our ageing population. Uniting has an interest in greenfield and brownfield land across both regional and metropolitan NSW, and currently operates over 75 sites within Metropolitan Sydney. Uniting is committed to incorporating diverse housing typologies including affordable housing projects.

Overall, we support the rationalisation of the three existing housing SEPPs into one comprehensive and consolidated SEPP. However, we believe there are several opportunities for the proposed amendments outlined in the EIE to more effectively facilitate purpose-built housing for older or more vulnerable people in NSW.

Part 1 of our submission provides a response to the proposed amendments to the seniors housing provisions that are described in the EIE. Part 2 of our submission goes on to provide considerations that were not mentioned in the EIE, that we believe should be considered and addressed before the Housing Diversity SEPP is finalised.

1. PROPOSED AMENDMENTS TO SENIORS HOUSING PROVISIONS

1.1. Update Seniors SEPP definitions

The Seniors SEPP currently provides an alternative definition of 'height' to that adopted in Standard Instrument LEPs. We understand the Housing Diversity SEPP proposes to adopt the Standard Instrument definition for consistency.

The Standard Instrument LEP defines 'building height' as "*the vertical distance from ground level (existing) to the highest point of the building*", whereas the Seniors SEPP currently defines 'height' as "*the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground immediately below that point*". This means, for seniors housing projects, anything above the ceiling of the topmost floor (such as roof parapets, stair/lift overruns, rooftop plant and equipment, etc.) is currently excluded from the height calculation.

For context, Independent living units (ILU) and residential aged care facilities (RACF) both require accessible compliant lift access and larger amounts of plant equipment compared with other types of development projects. The alternative height definition currently afforded by the Seniors SEPP to the ceiling ensures the scale of seniors housing buildings is similar to adjoining buildings, but still allows for the typical lift and plant equipment requirements to be provided above this. These elements of the building are typically located with negligible impacts to the overall design impact, but certainly require more height than standard residential buildings.

Whilst we appreciate the benefits of consistency to aid community understanding and transparency, we are concerned the proposed amendment will, in practice, will either cause projects to rely on requests to vary development standards under clause 4.6 of Councils' LEPs or effectively reduce the permissible building height of seniors housing developments.

We also note the definition of gross floor area (GFA) currently differs between the Seniors SEPP and the Standard Instrument LEP. Although there is currently no proposed amendment to align these definitions, a shift to the Standard LEP definition will also likely impact on the quantum of permissible GFA available, undermining financial viability of this form of housing. This pressure is acutely felt in relation to RACFs, where the specialised nature of their design makes it difficult to compete for well-located land in an open market. We believe the benefits of continuing to utilise the definition currently contained in the Seniors SEPP to reflect the difference in design and operation of RACF to other forms of residential accommodation warrants the retention and prevalence of this alternative definition within the Housing Diversity SEPP.

Recommendation:

Ensure definitions are appropriately aligned to reflect the specific design requirements of seniors housing by retaining the 'height' and GFA definitions contained in the Seniors SEPP.

1.2. Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP

On 29 July 2020, the Seniors SEPP was amended to exclude all land identified on the “Metropolitan Rural Areas Exclusion Zone” maps. We understand the purpose of this change was to discourage seniors housing on any site located within a mapped “Exclusion Zone” unless permissibility and relevant development standards (Height, FSR, etc.) can be established under the LEP. Areas impacted by this amendment include Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, The Hills Shire, Hornsby, Liverpool, Northern Beaches, Penrith, Sutherland Shire and Wollondilly.

While the title of the maps suggests that it only applies to metropolitan “rural” areas, the area excluded also applies to a range of residential and other urban zones. The unintended consequence of this is that the replacement or renewal of existing facilities will not be subject to the same development standards contained in the Seniors SEPP (upon which feasibility may depend). In some cases, the facility may no longer be permissible unless existing use rights can be substantiated, or until underlying LEP amendments are made. This is problematic given the abundance of seniors housing facilities across NSW which are increasingly required to be rebuilt or repurposed to cater for increasing demands from ageing populations, and otherwise adapt to newer and more innovative models of care.

The above is further exacerbated by the exclusion of all land within SEPP (Sydney Drinking Water Catchment) 2011 (Drinking Water SEPP) from the Seniors SEPP. The term “water catchment” in Schedule 1 results in almost the entirety of the Southern Highlands and Blue Mountains being excluded from the operation of the Seniors SEPP. We understand the reference to “water catchment” in Schedule 1 predates the creation of the Drinking Water SEPP and expect this outcome was likely unintentional. Notwithstanding, it creates a situation where incentives in the Seniors SEPP to encourage the provision of seniors housing are not available in largely urban environments and townships with high amenity and access to services such as Leura, Bowral, Mittagong, and Moss Vale.

Industry research consistently demonstrates that people prefer and benefit from staying close to their existing communities as they transition to independent living units or higher-needs care facilities. This

is reflected in the NSW Government's 'A Housing Strategy for NSW – Discussion Paper', which aims to encourage more housing opportunities for seniors in rural areas in particular and notes that "*retirement living or high care facilities must be well located and integrated into communities, so that people can retain family, community and cultural connections*". In this respect, state-wide SEPPs should aim to remove barriers to providing and/or maintaining these essential housing and care opportunities wherever possible.

The repercussions of the COVID-19 pandemic and the Royal Commission into Aged Care Quality and Safety also mean the aged care industry is continuing to navigate an uncertain journey while simultaneously adjusting operating models and response strategies. One of the clear challenges arising for aged care providers is meeting heightened infection control measures, which includes ensuring social distancing can be achieved between residents, staff, and visitors. Many facilities will need to be upgraded and expanded simply to maintain effective operation, particularly those which provide multi-bedded rooms. The SEPP should be amended to support existing facilities to be rebuilt and/or upgraded to ensure these can remain fit for purpose.

Recommendation:

Ensure the SEPP provisions do not pose a barrier to providing or maintaining seniors housing in rural and regional areas. This should include maintaining clear approval pathways for existing facilities, particularly those located within metropolitan rural areas, to be rebuilt/repurposed and expanded.

1.3. Location and access to facilities provisions

The EIE indicates Seniors SEPP Clause 26 provisions for location and access to facilities will be amended to prohibit the use of point-to-point transport in meeting the access requirement for all seniors housing developments, which includes a range of housing types from self-contained dwellings to high-care residential facilities.

This proposed amendment fails to recognise that people living in self-contained dwellings have entirely different access needs to those living in residential care facilities. The desire and ability to attend shops, banks, commercial services, community services, and recreation facilities tends to be more relevant to independent living unit residents. By contrast, people living in residential aged care facilities tend to have far more limited mobility and may also have cognitive limitations to the extent they require additional assistance.

We believe a better approach would be to amend the SEPP provisions to differentiate between location and access to facilities planning requirements for the different types of seniors housing administered under the SEPP.

Residential aged care facilities, by definition, incorporate nursing on-site. In practice, it is highly unusual for these residents to travel independently to access external services. Instead, these services are generally provided on-site or in a highly managed way so as to minimise residents venturing into an environment that puts their wellbeing at risk. It has become commonplace for aged care providers to rely on private bus services to give residents access to external facilities and service providers in lieu of meeting the provisions of Clause 26. This has been widely accepted in the Land and Environment Court and we would strongly encourage this distinction is made for residential aged care facilities.

Recommendation:

The location and access to facilities provisions should differentiate between the types of seniors housing. Specifically, this should amend the locational criteria currently in force under Clause 26 of the Seniors SEPP, which is suited to those who reside in independent living units but not necessarily suited to people who reside in residential aged care facilities.

1.4. Site Compatibility Certificates

The EIE proposes amendments to extend the validity timeframe of Site Compatibility Certificates (SCCs). We are generally supportive of these proposed amendments.

We do note that the extension is contingent on the lodgement of a development application (DA) within 12 months of the SCC being approved. In our experience, it can often take longer than 12 months to finalise the design and prepare the necessary documentation required to accompany a detailed DA. This is particularly relevant where projects rely on ecological surveys, which may only be undertaken seasonally. We would recommend extending the timeframe for lodging a DA to reflect a more readily achievable timeframe.

Recommendation:

Make provisions for SCCs to remain valid for 5 years provided that a DA is lodged within 24 months (not 12 months) of approval.

1.5. Application of local development standards

The Seniors SEPP currently allows development for the purpose of seniors housing to be carried out "despite the provisions of any other environmental planning instrument". The EIE proposes to amend these provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP. This is a fundamental change and will potentially set aside important 'do not refuse' standards available under Part 7 of the Seniors Housing SEPP.

The existing development standards and 'do not refuse' standards relate to residential care facilities, hostels, and self-contained dwellings and protect seniors housing development from more onerous local standards in relation to key design considerations such as building height, density and scale, landscape area, deep soil, solar access, private open space, and parking. The standards afforded by the Seniors SEPP incentivise the provision of seniors housing developments over other competing land uses by providing opportunities to offset back-of-house / support functions required for this specialised form of housing.

Research indicates that, over the past 10 years, almost all seniors housing development approvals have proceeded under the Seniors SEPP pathway in line with the development standards and 'do not refuse' standards applying. This demonstrates the extent to which these provisions provide consistency, certainty, and transparency for specific outcomes upon which seniors housing project rely.

The proposed amendment is likely to lead to a high level of uncertainty, significant delays in decision-making and approval timeframes, and an inconsistent assessment framework across various LEP jurisdictions. This recognises that many LEPs do not allow seniors housing within residential zones and, consequently, most Councils do not already have specific LEP or DCP controls in place for seniors housing. Furthermore, individual Councils may not be sufficiently aware of the key operational considerations for these specialised forms of housing and may seek to introduce standards that would be contrary to residents' specific needs. This is particularly pertinent to residential care facility models, which are designed to encourage residents to spend time in communal living spaces, for their mental health and overall well-being. Standards (e.g. solar access and ventilation) need to reflect recognised care models, where residents' bedrooms are not their primary living space.

We recommend the development standards and 'do not refuse' provisions are retained and continue to prevail over LEP standards. We also believe there is scope to review and update these state-wide standards as, in our view, many do not reflect the current market demands for senior's accommodation. Specifically, the SEPP provisions predominantly cater for retirement villages, or other low-density types of accommodation. Revised provisions should be implemented to cater for a wider range of dwelling types and densities.

For example, the landscaped area provisions for residential aged care facilities within metropolitan areas requiring a minimum area of 25sqm per residential care facility bed. This could be refocussed to ensure the provision of a variety of useable, functional and well-kept spaces. Similarly, Clause 40(4) relating to height in zones where residential flat buildings are not permitted, restricts heights of buildings to 8 metres or less. This clause could be adjusted to accommodate innovative designs on sloping sites, where level floor plates are required to deliver modern, high quality care.

Recommendation:

Seniors housing specific development standards and 'do not refuse' provisions should continue to be made under the SEPP and should prevail over LEP standards.

These standards should also be reviewed and updated to reflect current market demands, catering for a broader range of dwelling types and densities.

1.6. Clause 4.6 requests

The EIE proposes to restrict development standards of the Seniors SEPP to a maximum variation of 20% using Clause 4.6. The EIE implies that this would act as a prohibition in the Housing Diversity SEPP.

We are not supportive of this proposed amendment and would like clarification as to the intention of imposing a numerical maximum upper limit. Specifically, the introduction of an arbitrary 20% maximum appears to contradict recent case law on Clause 4.6 variations where the imposition of strict numerical limits has been resisted. Instead, there is a preference for sites to demonstrate that compliance with a development standard is unreasonable or unnecessary in the specific circumstances of the case. This allows for site-specific responses to be provided as appropriate to the local context and for these to be considered on merit.

We also have concerns about what this would mean in relation to Clause 26 of the Seniors SEPP, which relates to location and access to facilities. Clause 4.6 can be used to vary this standard where a seniors housing development provides a private bus service to and from a seniors housing development to a range of external facilities. It is unclear how this non-numerical development standard could be varied.

Recommendation:

Do not include a blanket restriction of 20% to vary development standards under the Seniors SEPP.

2. FURTHER CLARIFICATIONS SOUGHT RE EXHIBITED DOCUMENTS

We have extensive experience implementing the Seniors SEPP to deliver successful high-quality seniors housing. Based on this experience, we have identified additional areas not mentioned in the EIE that we believe should be amended, updated, or otherwise retained. These are briefly discussed below.

We also strongly recommend a copy of the draft legal text is provided for public comment prior to the gazettal of the proposed Housing Diversity SEPP to allow a further review and consideration of the proposed amendments and how these would be implemented in practice.

2.1. Parking provisions for seniors housing

The Seniors SEPP currently provides 'do not refuse' standards for parking, which help to incentivise seniors housing projects. These include minimum requirements for parking in relation to any project and reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider. These provisions also alleviate seniors housing projects of maximum parking restrictions that have been imposed by some Councils, which would otherwise prove challenging to

meeting the needs of older residents who rely more heavily on cars to meet their transport needs. This is particularly relevant for residents of independent living units.

The EIE does not provide any clarification as to whether the current parking concessions will be retained in the Housing Diversity SEPP. Retaining these provisions, including the concessions made in relation to social housing projects, will continue to support the feasibility of new seniors housing projects, whilst allowing flexibility for providers. This will also assist with providing a consistent basis for assessment of proposals across NSW.

Recommendation:

Retain the parking provisions and standards currently available under the Seniors SEPP.

2.2. Bonus floor space provisions for vertical villages

Part 6 of the Seniors SEPP provides bonus floor space provisions for vertical villages, but the EIE does not confirm whether these would be retained in the Housing Diversity SEPP.

To qualify for the additional GFA, the development must:

- provide on-site support services, which tends to be common practice within the industry, and
- at least 10% of the units must be provided as affordable places which has a significant community benefit

These provisions are an effective way of incentivising vertical village developments, as purpose-built seniors housing essentially requires larger units to meet minimum design standards. The additional GFA afforded equally benefits both for-profit and not-for-profit community housing providers. This is particularly important to the viability of vertical village projects when competing against other land uses in the market, such as residential.

Recommendation:

Retain the existing bonus floor space provisions currently available in the Seniors SEPP.

2.3. Application of Schedule 3 of Seniors SEPP

Schedule 3 of the Seniors SEPP relates to standards concerning accessibility and useability for hostels and self-contained dwellings, but the EIE does not confirm whether these provisions will be retained in the Housing Diversity SEPP.

The Schedule is effective at providing clear guidance on the standards for these types of seniors housing.

Recommendation:

Retain the standards concerning accessibility and useability for hostels and self-contained dwellings currently available in the Seniors SEPP.

2.4. Additional opportunities to re-use and re-develop existing sites

Our submission previously described the importance of supporting existing seniors housing locations to be rebuilt and/or upgraded to ensure they remain fit for purpose. In our view, there are opportunities to provide additional incentives in this regard. This would include the formulation of baseline development standards for the redevelopment of existing seniors housing sites. For example, bonus provisions for FSR and building height bonuses could be made available, provided certain built form and amenity criteria can be met.

To enable providers to respond to changing community needs, the provisions should also allow for the re-development or expansion of one type of seniors housing to another provided certain criteria can be met.

Recommendation:

Provide incentives to support the re-development and expansion of existing seniors housing developments

2.5. Flexibility of land uses

The definition of seniors housing should be amended to provide more flexibility and enable complementary land uses such as medical consulting rooms and medical centres to co-exist with residential care facilities. Furthermore, recent international research has highlighted demand for intergenerational care, with aged care facilities co-located with childcare. The psychological and social benefits of intergenerational care programs are well recognised.

Recommendation:

Ensure current land use definitions and zoning do not prevent innovative design by restricting complementary land uses.

2.6. Social and affordable housing

The Seniors SEPP contains specific provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC). We are supportive of the retention of these provisions and believe there are opportunities to extend these to more clearly recognise and incentivise projects provided by social and affordable housing providers other than the LAHC.

We request further detail is provided in the Housing Diversity SEPP to identify the timeframe that would apply to social and affordable housing availability through places and ownership arrangements. We recommend a 10-year period of availability / ownership is required.

These provisions are also relevant to the application of local contributions exemptions for social and affordable housing, including those currently prescribed by Clause 25(J)(3) of the Environmental Planning & Assessment Regulation 2000. In our experience, Councils each have different approaches to applying these exemptions, and the sector would benefit from greater clarity and certainty surrounding the timeframe and ownership of affordable housing places.

Recommendation:

Clarify timeframes for social affordable housing and ownership provisions, and local contributions exemptions for social and affordable housing providers.

3. CONCLUDING REMARKS

City Plan and Uniting welcome the opportunity to provide this submission in response to the exhibition of the EIE for a new Housing Diversity SEPP. We strongly support the rationalisation of the three-existing housing SEPPs into one comprehensive and consolidated SEPP. However, we are greatly concerned that the proposed amendments detailed in the EIE will reduce the opportunity to provide diverse and innovative forms of housing tailored to the needs of aged and vulnerable members of our community in NSW.



We strongly recommend that the full draft SEPP is placed on public exhibition for further consultation to ensure that detailed content and practicability is ensured.

Should you wish to discuss this submission further, please contact us on (02) 8270 3500.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Juliet Grant".

Juliet Grant
Executive Director, City Plan

A handwritten signature in blue ink, appearing to read "Adrian Ciano".

Adrian Ciano
Head of Property, Uniting



9 September 2020

NSW Department of Planning, Industry and Environment

Submitted via the NSW Planning Portal:

<https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>

To whom it may concern,

NEW HOUSING DIVERSITY SEPP – EXPLANATION OF INTENDED EFFECT SUBMISSION

1. INTRODUCTION

City West Housing (CWH) welcomes the opportunity to provide input into the proposed draft *State Environmental Planning Policy (Housing Diversity) 2020* (Housing Diversity SEPP) by responding to the Explanation of the Intended Effect (EIE) published by the Department of Planning, Industry and Environment (DPIE) on July 2020. CWH supports DPIE's goal to consolidate and update the Government's housing-related policies to reflect current conditions and provide greater certainty for all stakeholders. We are pleased that provisions relating to affordable housing will continue to feature in the Housing Diversity SEPP.

Since 1994, CWH has successfully partnered with all levels of government to realise its vision of *"building stronger communities and improving people's lives through the provision of affordable housing"*. CWH has extensive experience developing, owning and managing some 900 affordable rental properties in NSW, particularly in areas of high demand such as the City of Sydney local government area (LGA), and has recently expanded into the Bayside LGA with the acquisition of two adjacent land parcels in Rockdale.

This submission includes a brief overview of CWH's history and operations, to provide context for the submission's comments. It then draws on our longstanding experience to provide recommendations for how the Housing Diversity SEPP should support community housing providers (CHPs) to deliver more cost-effective and high-quality affordable rental housing.

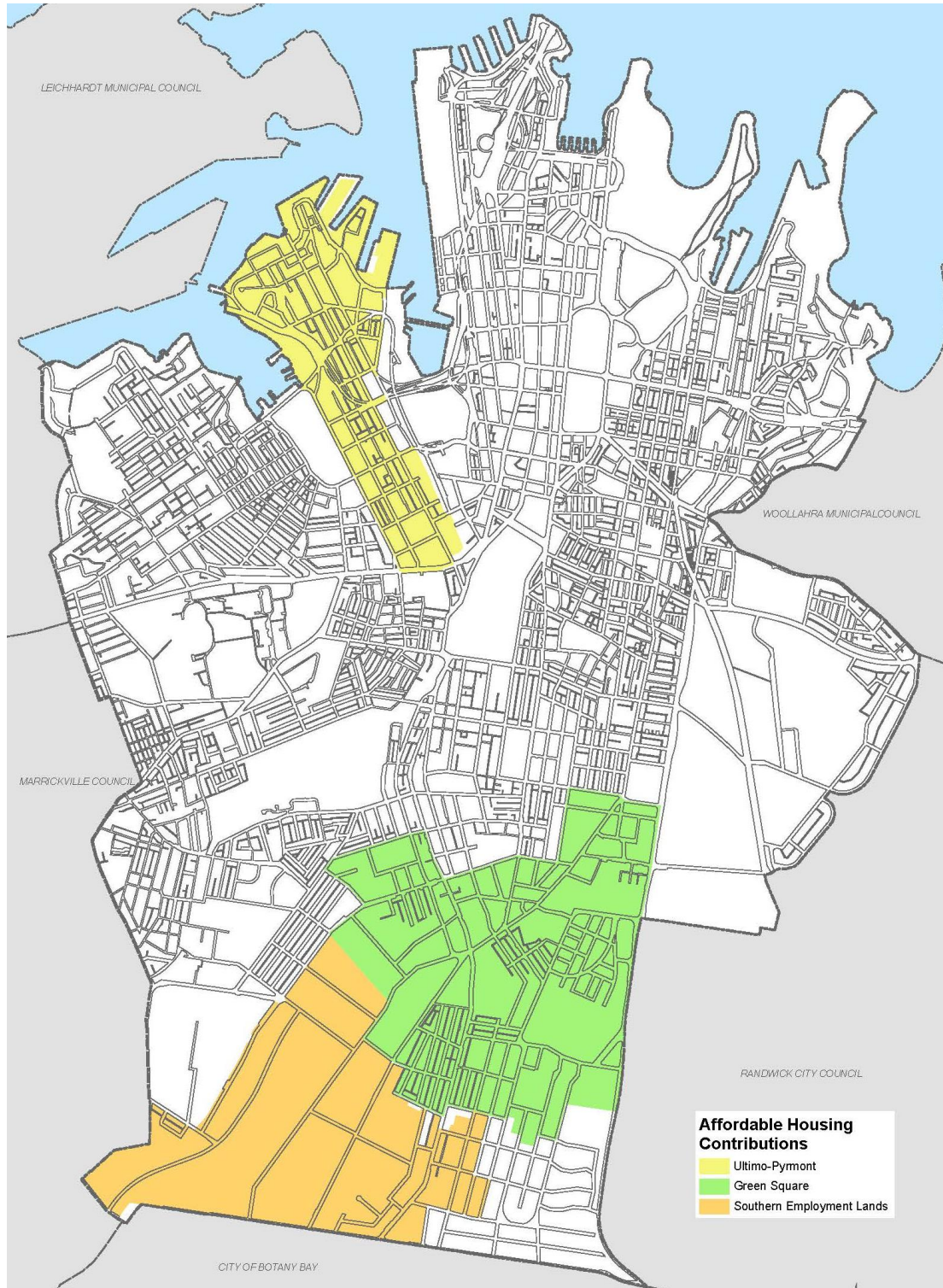
2. CITY OF SYDNEY'S AFFORDABLE HOUSING CONTRIBUTIONS PROGRAM

The City of Sydney's affordable housing contributions program ("Program") form a condition of development consent and are implemented through the following legislation:

- [Environmental Planning and Assessment \(EPA\) Act 1979](#) identifies the provision of affordable housing as a function of Council and section 7.32 of the Act allows for the collection of contributions for affordable housing.
- [State Environmental Planning Policy \(SEPP\) No. 70 Affordable Housing \(revised schemes\) \(SEPP 70\)](#) identifies that there is a need for affordable rental housing in the City of Sydney (it has recently been expanded to all NSW LGAs). The SEPP also defines affordable housing for the purposes of these schemes.
- [Sydney Local Environmental Plan \(Sydney LEP\) 2012](#) contains controls for the calculation, provision and management of affordable housing contributions. The LEP also identifies any development that is excluded from making a contribution under the schemes. This LEP is enacted by the EP&A Act and SEPP 70.

The provisions of the environmental planning instrument prevail where there is an inconsistency between this Program and any environmental planning instrument applying to the same land.

Under this Program, most development in Ultimo-Pymont (City West), Green Square and the Employment Lands (under separate programs) requires the developer to make a contribution towards the cost of providing affordable housing (see map below where the programs apply).



City of Sydney's Affordable Housing Contributions Program Map¹

¹ City of Sydney, *Affordable Housing Contributions Map*, June 2015:
https://www.cityofsydney.nsw.gov.au/data/assets/pdf_file/0010/237187/Affordable-Housing-Contributions-June-2015.pdf.

The redevelopment of these areas has increased land values, which has increased the cost of buying or renting homes, making them beyond the reach of low to moderate income households. Providing affordable housing ensures people living in low to moderate income households can continue to live and work in the city, thereby helping their communities to be more diverse, strong and resilient. As the City of Sydney's recommended affordable housing provider, CWH receives the affordable housing contributions and has used these funds to develop and operate affordable housing within the City of Sydney LGA. The provisions in SEPP 70 form part of the new Housing Diversity SEPP.

3. ABOUT CITY WEST HOUSING

In 1994, the NSW Government established CWH as an independent not-for-profit housing provider. The initial focus was on developing and delivering affordable rental housing as part of a mixed residential community in the Ultimo/Pymont area for people on very low to moderate incomes. As a result of its initial success, CWH expanded its operations to Green Square and now owns and manages affordable rental housing across the City of Sydney.

Today, CWH is a Tier 1 registered community housing provider (CHP) with a strong development capability and a commitment to service delivery. CWH develops, owns and manages affordable housing for the long term. Our ongoing investment in the areas in which we operate, and the support we provide to our residents across a range of income groups to help them access the benefits of living close to jobs, support networks, and other amenities, helps us contribute to inclusive communities and the functioning of our city.

Earlier in 2020, CWH finalised two new developments in the City of Sydney LGA – in Glebe and Forest Lodge (pictured below) – which have brought the number of affordable rental apartments we own and manage to 894.

In terms of our future growth plans, over the next five years, our project development pipeline will see us deliver more than 400 additional apartments, housing some 1,000 new residents within Sydney.

With an income-based rent model and rental income that averages 50% of market rent, CWH would be unable to deliver affordable rental housing and maintain it in perpetuity without some form of subsidy, be it the affordable housing contributions referred to earlier, density bonuses for affordable housing, access to land through dedication under a Voluntary Planning Agreement, or some form of grant funding or subsidy.



Blackwattle in Glebe (99 apartments)



Ironbark in Harold Park, Forest Lodge (75 apartments)

4. EIE ON HOUSING DIVERSITY SEPP

CWH's long-standing experience in developing affordable housing, and the challenges in securing funding and opportunities for the delivery of additional affordable housing, have informed the comments and recommendations made in this submission.

GENERAL COMMENTS

CWH is broadly supportive of the Housing Diversity SEPP's aims to deliver a planning framework that:

- Will assist the State's economic recovery following COVID-19;
- Consolidates existing State level housing-related planning provisions into a single instrument;
- Is in a format capable of being expanded and amended as future needs may require; and
- Facilitates the delivery of housing that meets the needs of the State's growing population.

We support the consolidation of the following housing-related SEPPs into a single instrument to help streamline the NSW planning system by reducing the number of state policies:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP);
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors SEPP); and
- *State Environmental Planning Policy No. 70– Affordable Housing (Revised Schemes)* (SEPP 70).

However, there are parts of the proposed new SEPP that need to be considered and explored further to ensure that it will achieve its aims, enable more diverse and affordable housing, and provide greater certainty and efficiencies for all stakeholders.

SPECIFIC COMMENTS & RECOMMENDATIONS

Affordable Housing Definitions

There are varying definitions and understandings of "affordable housing" in the public, private and non-profit sectors within NSW and Australia. This creates challenges for affordable housing developers, such as CWH and other CHPs, as we try to manage misconceptions about the product, to whom it is targeted, and how it is funded.

It would be prudent for the NSW Government to set a standard definition for "affordable housing" for inclusion in the new SEPP and across any other planning instruments or related policies, and to make it clear that the goal is to facilitate an affordable rental product. Clarity and consistency around minimum tenure would also provide greater certainty for developers, future consumers of the built product, and other key stakeholders.

Recommendation:

The Housing Diversity SEPP should clearly define "affordable housing" and use the term "affordable rental housing", where relevant, to provide clarity to all stakeholders.

Affordable Housing Term Length

ARHSEPP has the following provision:

17 Must be used for affordable housing for 10 years

- (1) *A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that—*
 - (a) *for 10 years from the date of the issue of the occupation certificate—*
 - (i) *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
 - (ii) *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
 - (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.*
- (2) *Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.*

This 10-year limit is problematic for the following reasons:

- There are difficulties in regulating this 10-year limit and other affordable housing requirements as there are no monitoring programs and no repercussions for not adhering to these requirements.
- Residents who rely on affordable rents to meet household need may be forced out of their homes after the 10-year limit ends if they are unable to pay the market rents at the time. This will only increase the burden on the NSW Government's social housing system and rates of homelessness.
- Future affordable housing supply will be reduced once the 10-year limit for the housing ends. The need for affordable housing is only growing, and even more so due to the impact of the COVID-19 pandemic, so NSW Government should be provisioning for an ever-increasing supply of affordable housing instead of providing limits.
- Some CHPs require longer terms to meet funding requirements.

Recommendations:

The Housing Diversity SEPP should recognise the role that boarding houses can play as a supply of affordable rental housing and require the boarding houses to be managed by registered CHPs. CWH would support this form of housing being designated as affordable housing in perpetuity, and not just for ten years.

With regards to other housing typologies, where the requirement for use as affordable housing is time limited there should be an obligation for this housing to be managed by registered community housing providers for the duration of this term to ensure that the housing is genuinely affordable and targeted to the right households.

Housing Classifications

We note that the following three new housing types are proposed to be added to the new SEPP:

- Build-to-rent housing;
- Purpose built student housing; and
- Co-living.

CWH supports the addition of new housing types to better reflect the changing housing needs of our communities but feels this could be expanded to better reflect a range of different ownership and occupancy models.

With the exception perhaps of boarding houses the EIE does not recognise that affordable rental housing is also “build to rent housing”. In particular, there is little recognition of the role that CHPs have played over many years in managing long-term rental housing, or the benefits that additional planning provisions or concessions could play in facilitating more affordable housing.

By way of example, CWH’s portfolio comprises 20 apartment buildings, wholly owned, and managed as affordable rental housing in perpetuity. CWH is required to comply with design standards set out in the *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* (SEPP 65) and associated *Apartment Design Guide* (ADG). We pride ourselves on developing a quality product, indistinguishable from market housing but tailored to reflect our long-term ownership and management. However the obligations placed on us from a planning perspective are the same as for a private developer, which can come at a significant cost.

The EIE does not recognise the overlaps in design and planning considerations for different forms of housing. There must be a balanced approach in providing a clear planning framework to facilitate appropriate housing in appropriate contexts, without unduly or unintentionally limiting diversity, growth, innovation, and efficiencies for those developing and operating the housing.

Greater flexibility in design that recognises the long term nature of the affordable housing product, its ownership and occupancy could also go a long way towards helping CHPs such as CWH deliver a quality product at a lower cost.

Recommendations:

There should be a more comprehensive review of the housing classifications, planning provisions and development and design standards in the proposed SEPP, to address overlaps in design and planning considerations for all types of housing and to ensure that the SEPP facilitates appropriate housing in appropriate contexts.

The Housing Diversity SEPP should ideally include planning provisions based on clearly defined housing typologies (built form) that also gives consideration to housing tenure (the ownership and occupancy model).

A possible framework is set out in **Table 1**, with housing typologies detailed in **Table 2**. Where there is a proposal for a mixed tenure product with some affordable housing, the majority product in the development could dictate which planning design and approval path is followed.

As shown in the framework in Table 2, CWH encourages DPIE to consider a designated build to affordable rent (BTAR) housing product with its own provisions, noting there is already a proposal to prepare specific guidance on those parts of SEPP 65 that could apply to build to rent (BTR) housing more broadly.

Factors that might differ from a market BTR product include minimum number of apartments and car spaces and the requirement for on-site management. An affordable housing ‘build to rent’ product could be designated as affordable rental housing in perpetuity, to be managed by a registered CHP, but without the requirement for on-site management. Similar considerations could be given to the co-living model.

Table 1: Possible Framework: Housing Typology and Housing Tenure Classifications

| Housing Typology Built form types based on similar functions or forms | | | | Housing Tenure Ownership and occupancy model | | | | | |
|--|------------------------|---------------------|--|---|--------------------------|-------------------------|-----------------------------|---|-------------------------------|
| Possible Classifications | Relevant SEPP | Unit | Common Areas | Development Purpose | Owner | Sale | Manager | Resident | Rent |
| Apartments | SEPP 65 | Self-contained* | As per SEPP 65 ADG requirements | Build to sell (BTS) | Units individually owned | Market value | Building / property manager | Owner-occupier or lessee | Market rent |
| Affordable Apartments | SEPP 65 | Self-contained* | As per SEPP 65 ADG requirements | Build to sell (BTS) | Units individually owned | Affordable market value | CHP | Owner-occupier or lessee | Affordable rent / rent to buy |
| Flats | Housing Diversity SEPP | Self-contained* | TBC (Like SEPP 65 ADG requirements) | Build to rent (BTR) | Building owned | N/A | Building owner / manager | Lessee | Market rent |
| Affordable Flats | Housing Diversity SEPP | Self-contained* | TBC (Like SEPP 65 ADG requirements) | Build to affordable rent (BTAR) | Building owned | N/A | CHP | Lessee meets CHP's eligibility criteria^ | Affordable rent |
| Co-Living Units | Housing Diversity SEPP | Not self-contained* | TBC (Like SEPP 65 ADG requirements <i>plus</i> any areas not included in the unit accommodation) | Build to rent (BTR) | Building owned | N/A | Building owner / manager | Lessee (may specify type, e.g. student, profession type, seniors, disability) | Market rent |
| Affordable Co-Living Units | Housing Diversity SEPP | Not self-contained* | TBC (Like SEPP 65 ADG requirements <i>plus</i> any areas not included in the unit accommodation) | Build to affordable rent (BTAR) | Building owned | N/A | CHP | Lessee meets CHP's eligibility criteria^ | Affordable rent |

* "Self-contained" means the unit has its own bathroom, kitchen, living, dining and private open space areas.

^ "CHP's eligibility criteria" differs for each CHP but generally the residents will have very low to moderate household incomes.

Table 2: Current & Proposed Housing Typologies in Possible Classifications

| Possible Classifications | Current SEPP | New SEPP | Housing Typologies in Current SEPPs and Proposed in New SEPP |
|------------------------------|------------------------------------|-----------------------------------|--|
| Apartments | SEPP 65 | SEPP 65 or Housing Diversity SEPP | Apartments |
| Affordable Apartments | SEPP 65 SEPP 70 | Housing Diversity SEPP | Apartments In-fill affordable housing |
| Flats | ARHSEPP Seniors 70 | Housing Diversity SEPP | Build-to-rent housing* Residential care facilities (high-care accommodation with on-site services) Hostels (low-care accommodation with on-site services) Self-contained dwellings (serviced self-care housing) Self-contained dwellings (un-serviced in-fill self-care housing) |
| Affordable Flats | ARHSEPP Seniors SEPP SEPP 70 | Housing Diversity SEPP | In-fill affordable housing Residential flat buildings developed by social housing providers, public authorities and joint ventures with the Land and Housing Corporation (LAHC) Residential development carried out by LAHC |

| | | | |
|-----------------------------------|------------------------------------|---------------------------|--|
| Co-Living Units | ARHSEPP Seniors SEPP | Housing Diversity SEPP | Boarding houses Supportive accommodation Group homes Residential care facilities (high-care accommodation with on-site services) Hostels (low-care accommodation with on-site services) Self-contained dwellings (serviced self-care housing) Self-contained dwellings (un-serviced in-fill self-care housing) Purpose built student housing* Co-living* |
| Affordable Co-Living Units | ARHSEPP Seniors SEPP SEPP 70 | Housing Diversity SEPP | In-fill affordable housing Boarding house Co-living* |
| Secondary Dwelling | ARHSEPP | Housing Diversity SEPP | Secondary dwellings Supportive accommodation |

* indicates the new housing types proposed by DPIE in the new Housing Diversity SEPP.

Development Standards

The EIE *Table 1 Comparison of development standards for new housing types* outlines minimum tenancy, room/apartment size and car parking provisions for BTR, co-living, student housing and boarding houses. Although these minimum requirements have been set to protect residential amenity and tenant rights, they may not be suitable for all housing typologies and housing tenures and resident needs. The tenancy requirements may also be difficult to enforce and regulate, unless housing required to be affordable is managed by a registered CHP.

As stated above, there are also overlaps in design and planning considerations between traditional apartments that are build to sell (BTS) and flat units that are build to rent (BTR), whether they are affordable or not.

Recommendations:

The Housing Diversity SEPP should have clear development standards (e.g. minimum car, bicycle and motorcycle parking requirements, room/apartment/flat/unit size, communal area (indoor) and communal area (outdoor)) based on a set of broader housing classifications that also recognise an affordable ownership and occupancy model that more closely approximates the market and does not just provide studio apartments.

Given the overlap in design and planning considerations between traditional apartments that are build to sell (BTS) and flat units that are build to rent (BTR), Government may wish to consider whether the Housing Diversity SEPP also includes SEPP 65 and associated ADG to provide greater clarity for developers and a more streamlined planning framework.

The EIE indicates that all LAHC developments must provide a minimum 0.5 car spaces per dwelling for developments on LAHC land. While this can be varied based on a merit assessment (via a DA) this seems unusually onerous. Minimum car parking provisions should be in reference to local context including the proximity of the site to public transport infrastructure. Car parking provisions should also be reduced if car share parks and vehicles are included in the development. Recent case law has ruled that one car share park replaces 10 to 12 residential car parks.² This allowance should be provisioned for within the new SEPP.

Any housing required to be affordable Build-to-rent should be managed by registered CHPs, recognising they have the knowledge, systems and processes in place to ensure affordable rents.

² NSW Land and Environment Court, *Turner Architects v City of Botany Bay Council* (2016).

Affordable Housing Provisions and Concessions

Expanding the supply of affordable housing is more critical now than ever, and planning mechanisms that help CHPs to fund and deliver more high-quality affordable rental housing will not only be welcomed by the community housing sector, but more importantly, our residents and their communities. In addition to special planning provisions / additional planning incentives for a broader range of housing typologies with an affordable housing tenure, Government could also consider an accelerated planning pathway for affordable developments.

Recommendations:

BTAR developments (i.e. CWH proposed classifications of Affordable Apartments, Affordable Flats and Affordable Co-living Units) are largely developed and/or operated by non-profit CHPs. BTAR is a subsidised product which requires subsidies, and planning incentives go part way towards meeting this 'funding gap'.

CWH recommends these incentives come in the following forms:

- **Accelerated planning pathway (to reduce holding costs)**
 - To accelerate assessments, approvals and responses to developer RFIs:
 - Prescribe development application and development application modification (section 4.55) assessment timeframes; and
 - Require affordable developments to be assessed by a dedicated affordable development assessment team or personnel.
- **Development standard concessions**
 - Provide density bonuses, i.e. building height and Floor Space Ratio (FSR) bonuses, for affordable developments to increase BTAR yield.
 - No requirement to strictly comply with ADG requirements if adequately justified by the development applicant and their project team (or reduced requirements for compliance).
 - Reduce car and motorcycle parking requirements, particularly if the site is located within close proximity to public transport infrastructure, e.g. the City of Sydney do not require any car parks for BTAR developments as all the properties within the LGA are close to public transport. This significantly reduces construction costs, particularly for basements.
- **Financial concessions**
 - Maintain Affordable Housing Contributions outlined in SEPP70 and ensure contributions are levied on all new developments, not just new residential developments.
 - Exempt CHPs from paying infrastructure contributions, affordable housing contributions, land tax and Council rates on all properties owned by CHPs, to ensure that maximum resources are available to invest in the delivery of more affordable housing.

These incentives should be considered as investments in critical social and economic infrastructure, which would facilitate wider public acceptance of affordable housing as well as development industry support for affordable housing contributions across NSW.

5. CONCLUSION

We appreciate the opportunity to provide input into the Housing Diversity SEPP.

CWH has recently made submissions regarding the NSW Housing Strategy Discussion Paper and NSW Infrastructure Contributions Review Issues Paper. We recommend that this review of NSW's housing-related SEPPs and the drafting of the Housing Diversity SEPP be a part of a coordinated approach within the NSW Government alongside the reviews of the NSW Housing Strategy and Infrastructure Contributions. This will ensure NSW government policies, frameworks and mechanisms that incentivise the delivery of all housing typologies, including subsidised housing, that is simple to understand, and provides certainty and efficiencies to all stakeholders.

We welcome the opportunity to review the draft Housing Diversity SEPP in due course, and would also welcome the opportunity to provide feedback for the review of the new SEPP within 24 months of its introduction to ensure it is functioning as intended.

Kind Regards

A handwritten signature in blue ink, appearing to read 'L. King'.

Leonie King
Chief Executive Officer



ClubsNSW Submission Draft State Proposed Housing Diversity SEPP

ClubsNSW thanks the NSW Government for the opportunity to provide feedback on the Draft State Proposed Housing Diversity SEPP, which would consolidate housing-related state environmental planning policies applying to affordable rental housing and housing for seniors and people with a disability.

In 2007, the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the Seniors Housing SEPP) was expanded to apply to club land. Since this time, almost 20% of all SCCs issued have been issued assist clubs to develop a seniors housing facility.

Under the Seniors Housing SEPP clubs have been able to offer more than 680 aged care beds and up to 1,600 self-contained seniors dwellings allowing individuals to remain active members of their respective communities, as well as helping to accommodate the increasing demand for affordable housing in NSW.

Given the strong connection between not-for-profit clubs and their communities, clubs are well placed to identify the needs of their local area, and to use their land to develop and provide those facilities.

Due to their not-for-profit status, giving clubs this function mitigates the risks that the planning framework will be exploited for personal gain at the expense of the local community.

Despite these positive outcomes, recent amendments to the Seniors Housing SEPP – made without consultation – provides that the Policy no longer applies to large parts of Sydney, effectively preventing many clubs from developing seniors housing on their land. By revoking the ability for clubs in some parts of Sydney to use their land to provide seniors housing, clubs and their communities would be deprived of mutually beneficial arrangements which have been evident to-date. Under these arrangements, clubs may use their land to develop seniors housing, generating additional revenue which is reinvested back into community-benefitting activities, such as veteran welfare or junior sports. The community further benefits from access to much-needed seniors housing, which gives residents an opportunity to continue to live in their local area in retirement, at a location which is proximal to other amenities and services offered by the club.



These benefits will be particularly pronounced during and after the COVID-19 pandemic, as many elderly individuals will seek to reconnect with their communities.

Depriving clubs of the opportunity to use their land for seniors housing would also create a shortage within the sector that must be filled through government investment. Through the Site Compatibility Certificate (SCC) process, clubs have injected over 1,600 seniors dwellings and almost 680 aged care beds into the greater Sydney region. An investment that will only increase as clubs seek to diversify in a post COVID environment.

ClubsNSW comments

As expanded in the sections below ClubsNSW submit the below comments on the Draft State Proposed Housing Diversity SEPP.

- ClubsNSW does not support the recent amendments to the Seniors Housing SEPP which revoke the ability for clubs in some areas of Sydney from using their land to develop housing for seniors or people with a disability.
- ClubsNSW recommends appropriate amendments to restore streamlined planning arrangements for clubs.
- ClubsNSW recommends that clubs be given a similar ability to be issued a site compatibility certificate to develop affordable housing, including purpose-built student housing as well as build-to-rent, noting the demonstrated ability for clubs to identify the needs of their communities and provide essential facilities.
- ClubsNSW supports the proposal to prolong the duration of site compatibility certificates from two to five years.
- The Draft State Proposed Housing Diversity SEPP would limit the ability of clubs to apply for SCCs exclusively to land operating as a club. ClubsNSW supports this proposal in principle, and would welcome further consultation to ensure that any amendments appropriately achieve this policy objective, while retaining the range of commercial arrangements under which clubs develop facilities on their land.
- It is noted that the Draft State Proposed Housing Diversity SEPP would provide that point-to-point transport cannot be used to meet the “accessibility requirements”. ClubsNSW recommends that provision of club courtesy buses be retained as an appropriate mechanism to achieve the accessibility requirements, given that they are routine services which the club actively operates and facilitates.

Recent changes to limit the application of the Seniors Housing SEPP in Metropolitan Rural Areas

Recently, the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020* was enacted, which effectively prevents clubs across large parts of Sydney from making use of the streamlined planning arrangements in the Seniors Housing SEPP.

Despite the Seniors Housing SEPP achieving positive outcomes the changes were made without consultation or forewarning. Both are steps which are essential for legislative amendments of such magnitude, particularly since statutory instruments are not subjected to parliamentary scrutiny. Removing some clubs from the scope of the Seniors Housing SEPP would deprive clubs and their communities from these mutually beneficial planning arrangements, under which clubs can diversify their revenue streams and communities can access much-needed facilities.

The Draft State Proposed Housing Diversity SEPP is an opportunity for the NSW Government to ensure that clubs can continue to provide much-needed facilities to their communities, and any significant changes to long-standing arrangements should be made in conjunction with this review.

The recent creation of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020* effectively prevents clubs across large parts of Sydney from making use of the streamlined planning arrangements, and was enacted without consultation. The Seniors Housing SEPP has generated positive outcomes for clubs and their communities, and ClubsNSW recommends appropriate amendments to restore this ability for clubs and consider any amendments in the context of the consultation and review process for the Draft State Proposed Housing Diversity SEPP.

Site Compatibility Certificates (SCC)

ClubsNSW acknowledges the intent underpinning the Proposed Housing Diversity SEPP is to streamline existing processes, as well as encourage an increase in housing affordability and supply. Site Compatibility Certificates are a key mechanism to ensuring developments are broadly compatible with surrounding land uses before they proceed to the lodgement of a development application (DA). The issuing of a SCC does not mean the development has been approved and can be constructed – it is only the first step in the assessment process.

While there is contention around what constitutes ‘broadly compatible’, the community consultation process undertaken through the SCC and DA process provides adequate opportunity for the community and stakeholders to be engaged and submit their concerns or comments.

Clubs are a significant provider of community accessible open space. Clubs provide these services, irrespective of their commercial merits, because clubs are not-for-profit (NFP) with constitutional objects that drive the betterment of their communities. The provision of these services places significant resourcing requirements on the club to maintain the facilities. The current SCC process enables the club to generate additional revenue from seniors housing which is reinvested back into the club and its facilities, including green space. Most seniors who move into facilities around clubs access the club's facilities. By providing clubs with the ability to provide seniors and affordable housing, changes in the Draft State Proposed Housing Diversity SEPP will allow for the continued accessibility of open space provisions.

The current COIVD operating climate has resulted in a situation where 34% of NSW clubs have serious liquidity issues. For many of these clubs, the construction of seniors or affordable housing on their land is increasingly essential to the ongoing viability of the club. Clubs who have not secured an SCC may experience financial distress and permanent closure. Where a club ceases to operate before a SCC or other means of increasing revenue has been approved, there is no guarantee that appropriate open space will be retained in any future development. In the instance where this has occurred, proposals are generally suggested for a multi-storey high-rise development, with significant community opposition to the development going ahead. While there is no guarantee that a for-profit provider will not maintain the same amount of community accessible open space, there is no historical precedent stating that they will.

ClubsNSW supports the proposal to prolong the duration of site compatibility certificates from two to five years.

The Draft State Proposed Housing Diversity SEPP would limit the ability of clubs to apply for SCCs exclusively to land operating as a club. ClubsNSW supports this proposal in-principle and would welcome further consultation to ensure that any amendments appropriately achieve this policy objective, while retaining the range of commercial arrangements under which clubs develop facilities on their land.

Registered clubs as an emerging community centric seniors housing provider with beneficial locations and access to facilities

Clubs across NSW provide a range of services to their members and the broader communities including entertainment venues, social sporting clubs, fitness centres, swimming pools, child care facilities and aged care facilities (The McKell Institute, 2014, p. 8). Clubs across NSW made a social contribution valued at \$1.3 billion in 2015 (KPMG, 2016, p. 33). The size of these contributions demonstrates that, as not-for-profit organisations, clubs reinvest a high proportion of surplus funds into their communities.

Provision of disability and carer services and aged care were some of the main areas of contribution (KPMG, 2016, p. 35). Providing affordable accommodation services, and seniors living facilities is in line with the established club ethos of supporting the community.

Registered clubs are often located on established sites with pre-existing transport and infrastructure connections to the community, shopping, and medical facilities. This geographic advantage may go a long way to alleviating the risk of detrimental social impacts like social isolation, lack of integration with the broader community, difficulties associated with accessing services and the lack of walkability that may occur. Case studies such as the Harbord Diggers Club, show that the 'club model' – under which clubs provide essential facilities which are proximal to other amenities – is a beneficial solution.

Ensuring that there will be sufficient supply to meet the growing demand for aged care services was a major focus of the Productivity Commission's Caring for Older Australians report released in 2011 (Productivity Commission, 2011). The Greater Sydney Regional Plan promotes a mixed housing strategy that allows people to relocate within their local area and stay connected to community services, family and friends (Greater Sydney Commission, 2019, p. 57).

Clubs are uniquely placed to meet these established policy objectives, while reducing government outlay in capital infrastructure. The Productivity Commission estimates that additional pressure on government budgets for health, aged care and pension expenses will be the equivalent of 6% of GDP by 2060 (An Ageing Australia: Preparing for the Future, 2013, p. 2). Investment by clubs in seniors housing will assist in alleviating some of that financial burden.

Clubs are able to provide efficient low-cost service delivery while ensuring that affordability can be maintained and accessibility is expanded. A report by the McKell Institute highlighted that clubs are well placed to make a significant contribution to both seniors and affordable housing. (The McKell Institute, 2014, p. 23)

The role of registered clubs in increasing the supply and diversity of housing to meet the needs of seniors or people with a disability has seen a significant increase over the last 10 years. Importantly, much of this housing provision has been targeted to seniors who are neither wealthy nor asset rich, yet do not qualify for aged care support.

Of the Site Compatibility Certificates (SCC) issued between October 2009 and July 2020, clubs were the applicant for almost 20%. Due to the issuance of these SCCs, clubs have been able to provide up to 680 beds and 1,600 self-contained dwellings to members of their communities. (NSW Department of Planning, Industry and Environment, 2020)

ClubsNSW does not support the recent amendments to the Seniors Housing SEPP which revoke the ability for clubs in some areas of Sydney from using their land to develop housing for seniors or people with a disability.

It is noted that the Draft State Proposed Housing Diversity SEPP would provide that point-to-point transport cannot be used to meet the "accessibility requirements". ClubsNSW recommends that provision of club courtesy buses be retained as an appropriate mechanism to achieve the accessibility requirements, given that they are routine services which the club actively operates and facilitates.

The transition of clubs into affordable housing

Clubs are in a unique position to provide suitable affordable housing because clubs are a social and communal hub for the community in which they are situated. By extending the club provisions in the Seniors Housing SEPP to the affordable housing SEPPs, the Draft State Proposed Housing Diversity SEPP will enable clubs to provide additional affordable housing supplies using the same proven model as seniors housing.

Broadening clubs' services into the delivery of affordable housing is generally aimed at addressing areas of unmet need within local communities. Importantly these services are provided with minimal government investment.

Clubs are often located within proximity to existing transport, medical and shopping facilities making them an ideal site for providing affordable housing, without changing the fabric of a community. Where these facilities are not readily available, clubs are often integral in providing these services. These new facilities are generally available to local residents, which mitigates the risk of detrimental social impacts like social isolation, and a lack of integration with the broader community.

There are instances where clubs have sought to develop affordable housing which was unsuccessful due to residents opposing the presence of affordable housing tenants in their community. Recently, a club based in GyMEA sought approval from the local council to develop 23 affordable housing dwellings, and 16 boarding house rooms on land owned by the club. Affordable and accessible housing for certain workers (first responders, police, firefighters, teachers, and nurses) was a need that was identified by the Club and the community. The Club had recognised that the cost of housing in the Sutherland Shire was pricing many key workers out of the market.

The proposal to develop the housing was halted by a protest group and the initiative was ultimately discontinued. The current land zoning allows for the construction of higher density housing such as townhouses, however the Club recognises that is not in line with their values.

ClubsNSW notes that the reasoning underpinning the creation of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the Seniors Housing SEPP) was to allow the development of seniors housing which would otherwise be subject to an onerous set of regulations and restrictions under local planning instruments, thereby disincentivising the development of important community facilities. Clubs NSW would welcome the continuation of this spirit into the Proposed Housing Diversity SEPP.

ClubsNSW recommends that clubs be given a similar ability to be issued a site compatibility certificate to develop affordable housing, including purpose-built student housing' as well as build-to-rent, noting the demonstrated ability for clubs to identify the needs of their communities and provide essential facilities.

The diversification of the Club industry – Harbord Diggers

The diversification of not-for-profit clubs into seniors living and affordable housing enables the revenue generated from these operations to be reinvested back into the club and the wider community. This is at odds with the for-profit model.

Harbord Diggers Club, located in Freshwater, is dedicated to improving the lives of its members and the community in which they live.

Watermark Freshwater – luxury living residences for over 55s – was developed by the Harbord Diggers Club under the Seniors Housing SEPP and the SCC process (SCC reference number SCC_2018_NBEAC_005_00). This development saw over \$200 million reinvested back into the club and local community. The revenue generated by this seniors living facility has enabled the club to support its core purposes of veteran support as well as providing services to its members, and the wider community.

This ability to reinvest back into the club and the community has seen the club develop not just the seniors living facility but a larger precinct, featuring three restaurants, bars, a cafe, a fitness centre, and lifestyle outlets, in addition to the luxury living residences. The Harbord Diggers precinct is designed so that the wider community can utilise the space the club provides, meaning that the seniors residents in the area are at the core of community engagement and social activity. Indeed, one of the core component of the clubs operating ethos is the “... aim to encourage social engagement and inclusion amongst all members of our community, reducing the risk of social isolation, particularly amongst older residents.” (Mounties Group, 2020)

This significant development of community based assets would not be possible without the ability for the club to diversify into seniors housing.

Conclusion

ClubsNSW appreciates the opportunity to provide feedback and looks forward to further consultation. Should you wish to discuss this submission further, please contact ClubsNSW Executive Manager of Policy and Government, Anthony Trimarchi, on 02 9268 3000, or by email at ATrimarchi@clubsnsw.com.au.

Publications

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Cohousing Australia (NSW Chapter) submission to *Housing Diversity SEPP*

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1. Intro

We thank you for the opportunity to make a submission for the new Housing Diversity policy.

Cohousing Australia (and the NSW Chapter) supports the NSW Government commitment to ensuring that there is an adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live.

At this time when the government is reviewing the planning provisions for new housing in NSW, we propose the introduction of a fifth land-use term – **co-housing** - within the updated SEPP to proactively support the aim of delivering new housing in place that people want to live, that are affordable, and designed and delivered in a style and quality that reflects the needs of the people who will live in them.

This submission contains a brief introduction of cohousing, with further information included in Appendix A. It discusses key reasons why we would like to see cohousing included in the SEPP, a proposed definition cohousing developed by Cohousing Australia, and suggested planning provisions. NSW representatives of Cohousing Australia are available to discuss any details regarding this submission.

What is Cohousing?

Cohousing is one of the most well-known models of [collaborative housing](#). Since gaining popularity in northern Europe in the 1960's, cohousing developments have spread across Europe and North America, with a small number now in parts of Australia (1–3).

In essence, cohousing is a contemporary version of a village co-designed by the people who live there to suit their needs. It is a type of housing that strengthens community, reduces social isolation and, at the same time, delivers every household privacy and security.

Developments create a sense of community and social belonging through a design that emphasises social interaction through **shared space**. **Co-design of the development** and **co-creation of an ongoing management** process empowers residents to ensure that the development meets their collective needs and vision

Projects are generally located in urban or suburban areas and are of a scale that supports easy informal social contact between community members – usually between 10-40 households.

Further information about cohousing and the benefits can be found in Appendix A and in the Cohousing Australia submission to the NSW Housing Strategy (4).

2. Why include cohousing in the Housing Diversity SEPP?

Given the critical role land use terms play in the planning system, both Cohousing Australia and the NSW chapter believe there is a strong need for the inclusion of cohousing as a distinctive and well-defined addition to residential development typography.

We agree there is greater flexibility needed to meet NSW's housing needs over the coming generations. However we believe a missing component is a SEPP that specifically facilitates resident-led development, of which cohousing is an exemplar. There are a number of contributing factors that combine act as barriers to cohousing. These include obtaining finance, the recognition of residents as developers, and the speed with which land is required. We touch on these in our submission to the NSW Housing Strategy.

Cohousing can deliver a number of positive housing outcomes (social, affordability and environmental) in line with the vision proposed in the NSW Housing Strategy

Housing that supports security, comfort and choice for all people at all stages of their lives, achieved through supply that meets the demand for diverse, affordable and resilient housing and responds to environmental, cultural, social and economic contexts.

Cohousing done well can reduce or remove the speculative development risk of new housing, and reducing or eliminating developer profit from the business model, and reducing the cost of delivering new housing (5–7). Involving future residents in upfront design and planning decisions incentivises housing quality, end user value and building life cycle cost as opposed to profit on sale at completion of construction (5). The co-design process and focus on shared, communal spaces can also deliver benefits in terms of social cohesion and reduced isolation (8–10). Further discussion of benefits can be found in Appendix A.

This SEPP is an appropriate space for addressing cohousing in the NSW planning system. Cohousing shares some features with the other housing typologies covered in the SEPP. However, there are significant points of difference also, which point to the inclusion of cohousing as a separate typology. Table 1 has been provided to illustrate cohousing in comparison to the other new housing types in the Housing Diversity SEPP.

We recognise that the typologies covered in this SEPP as presented largely represent large-scale speculative development models. We feel that this only strengthens the case for recognition of community-driven housing models such as cohousing in the planning system to provide community-led projects with the ability to compete on an equal with big business when developing housing.

Table 1: Cohousing added to the Comparison table of development standards for new housing types

| | Build-to-rent housing | Co-living | Student housing | Boarding houses | Co-housing |
|--------------------------------------|--|------------------------|------------------------|---|--|
| Tenant | No restriction for market rent dwellings | No restriction | Students | Eligibility based on income | No restriction for market dwellings. Eligibility based on income in CHP partnerships |
| Affordable | Local provisions apply | No minimum requirement | No minimum requirement | Yes–100% | No minimum requirement |
| Tenancy | 3 years or more | Minimum 3 months | No minimum | Minimum 3 months | To be determined, but suggestion to encourage long term resident ownership /occupancy |
| Communal living area | New design guidance will be developed | Required | Required | Required | Required (design guidance to be developed) |
| Room/ Apartment size | New design guidance will be developed | 30-35 m2 | 10 m2 | 12-25m2 | Local provisions apply with % size reduction for individual rooms if proportional increase in common living area provided – new design guidance will be developed. |
| Minimum car parking provision | 0.5 spaces per dwelling | 0.5 spaces per room | No minimum requirement | 0.5 spaces per room, or 0.2 spaces for social housing providers | One car parking space per six dwellings for share cars End of trip, lockable bicycle storage and maintenance space for all residents |

Inclusion of cohousing in the SEPP will firstly to ensure that only intentional, co-governed resident-driven housing communities are recognised as ‘cohousing’ and, thus, eligible to gain relevant exemptions and incentives (preventing developers to exploit the category as a loophole).

Cohousing developments largely consist of local community members creating housing for themselves. They are often disadvantaged when competing with sophisticated developers in accessing finance and land. Including a definition for cohousing in the Housing Diversity

SEPP will help cohousing groups to operate on an equal footing in the eyes of the planning system. Expectation of planning approval is a key nexus for realising and funding cohousing developments, and can improve the opportunities for community groups to access land, navigate planning approval processes and negotiate appropriate funding models with lending bodies and community housing associations.

A distinctive definitions of cohousing developments and cohousing communities will:

- Facilitate the formation of specially designated inclusionary zones, value uplift overlays and statutory planning processes for cohousing developments and cohousing communities as a specific housing/accommodation/land use typology
- Enable special provisions, such as car parking exemptions and/or requirements, including permanent car sharing schemes where parking spaces have been minimised, and for shared water and energy provision/infrastructure for multiple dwellings within cohousing developments
- Require and acknowledge specific positive social and environmental amenity outcomes such as enhanced neighbourhood green spaces and activities, and sustainability hubs provided by the cohousing development and community
- Provide the strategic basis for listing cohousing development exemptions e.g. from Developer/Development Contributions, third party appeal rights

Comments have been received from two existing NSW based cohousing groups supporting the inclusion of cohousing in the new Housing Diversity SEPP.

“Having co-housing defined and implemented into the planning scheme would save cohousing groups time and energy. It took NewCoh over a year of engagement with our local council to educate and promote cohousing, now it is included in their local Affordable Living Policy, with a commitment to edit their DCP to include cohousing. Once council and the mayor understood the benefits of cohousing they were onboard with facilitating projects.”

Karen Deegan - President of [NewCoh](#), Newcastle Collaborative Housing

The outcome has been protracted, expensive and a compromise to fit a planning framework which is fundamentally not fit for purpose. It appears that only a SEPP that overrides the unpredictable whim of local planning staff and breaks the culture of enforced suburban social isolation can effectively address the problem and facilitate the development of more sustainable and affordable intentional community projects in NSW.

Narara Ecovillage

Differences from Co-living

There is the potential for confusion in terms between Co-living and cohousing. Cohousing developments have a few key differences from co-living developments:

- Cohousing is aimed at providing secure long-term housing for residents, whether through resident ownership or secure rentals (e.g. 3+ years), rather than shorter term housing typical of co-living (e.g. 3+ months)
- Cohousing communities are generally managed by the residents themselves, not an external management company. There are a few examples of cohousing managed by Community Housing Providers; typically these also have resident management committees and long-term residents.
- Co-housing developments consist of communities of houses or apartments (studio apartments or larger) which are self-contained and augmented by communal living facilities.

3. Proposed definition

The term cohousing has been used to describe a range of different housing types depending on the country and region in which it is located. We (Cohousing Australia) would be willing to work with relevant government bodies to refine a definition that is appropriate to the NSW context.

However, we would propose to introduce a new definition for co-housing in the Standard Instrument LEP that would refer to a cohousing development as being a development that at a minimum would need to demonstrate that it has:

- A formal legal constitution as a co-governing residential cohousing community dwelling — or planning to dwell — in a cohousing development
- An established or planned development that features both private dwellings and substantial specifically-designated and co-managed shared spaces and facilities (at a minimum, a common house including shared and co-governed kitchen and dining facilities; shared garden areas; shared bicycle and (if applicable) car parking – See Table 2)
- Future residents participated — or are participating — in co-designing a cohousing development that facilitates community use, management and interaction.

Banyule Council (Victoria) developed a definition of cohousing for use within their Planning Scheme. A summary of this definition has been included as Appendix A. However, a definition that is too prescriptive may not work for cohousing when future resident co-design and responsive to local site are so integral to the development type. The definition above is designed to highlight the key distinguishing features.

4. Proposed planning provisions

We propose also including a definition for cohousing in the SEPP which address resident co-designed and co-managed housing, with significant use of communal spaces. Proposed planning provisions are outlined below, including key development standards in Table 2.

Table 2: Proposed key development standards for cohousing

| Development standard | Proposed standard | Comment |
|-----------------------|---|--|
| Height of buildings | In accordance with the relevant LEP | Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations. |
| Floor space ratio | In accordance with the relevant LEP | Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations. |
| Car parking | Minimise proportion of site footprint dedicated to parking and vehicles | Binding Green Travel Plan between residents to enable shared-car use, bike use and public transport use |
| Room size | In accordance with the relevant LEP with 10% reduction available | Propose minimum room size that agrees with the Apartment Design Guidelines with a reduction of 10% allowable given size of communal areas. |
| Strata subdivision | allowable | Ownership structure to depend upon resident co-design process |
| Communal living space | Develop specifications for required communal living space | <ul style="list-style-type: none"> - Fully operational communal kitchen and storage space to cater for all residents - Communal living area to seat all residents for social activities and dining - Communal waste collection and recycling facilities to service all residents - Communal toilet and bathroom facilities attached to shared spaces for all residents and visitors <p>The cohousing development must also include at least one of the following:</p> <ul style="list-style-type: none"> - Communal laundry facilities and drying room to service all residents; and / or - Communal garden that includes shared meeting and potential for food production spaces for all residents; and / or - One guest room with ensuite or access to shared bathroom facilities per 10 households |
| Private space | | Independent self-contained living quarters with small kitchen or kitchenette, small living area, bathroom and storage |
| Private open space | TBD | Allow access to private open space to be traded/offset against communal open space. |
| Communal open space | TBD | Communal open space requirements to be developed for different typologies representing certain percentages of total site area. Provision of sufficient open space for communal gardening facilities |

Locational requirements

Well located for walking, cycling and public transport to support Green Travel Plans.

Design Guidance

Where cohousing developments take the form of apartments, design guidance should be guided by the design quality principles in *State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development)* (SEPP 65).

Specific advice should be developed for those integration of communal space into the apartment built form.

Design guidelines for co-housing (other than apartments) may be developed to accompany the new SEPP. The design guidelines could address issues such as built form, use and location of communal space, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

Development standards

The Department would carefully monitor outcomes from the introduction of this new land use, and the associated development standards to ensure that new developments are meeting the needs of occupants and that local impacts are acceptable.

It is proposed to allow councils to determine the relevant height and Floor Space Ratio (FSR) controls for cohousing through their LEPs.

Co-housing in regional areas

It is expected that cohousing developments in regional areas (outside of major regional cities) would generally be of a smaller scale and could take the form of multi-dwelling housing, semi-detached dwellings or terraces rather than apartments.

Who is Cohousing Australia?

Cohousing Australia is a national organisation that advocates for and supports the creation and delivery of cohousing. It is incorporated as a non-distributing Cooperative Ltd with a strong historical presence in Victoria but a network of cohousing communities (aspiring as well as actually built and realised), in other States and Territories.

Cohousing Australia's Strategic Plan says:

"We believe there is the need and demand for housing alternatives in Australia. There is an opportunity to address a range of social, environmental and economic issues through the development of more diversity in the housing sector. We see cohousing as one important housing typology largely missing from the Australian urban experience.

"Cohousing Australia promotes collective models of housing, housing diversity, and housing choice. This includes mainstreaming these "alternatives" in the Australian cultural psyche, making them an available option for all, and embedding them in the legal, planning, regulatory and financial systems."

Cohousing Australia (NSW Chapter)

Cohousing Australia (NSW Chapter) is a network of local cohousing groups in NSW who want to co-create their own cohousing community and built project. We are a 'Chapter' or sub-group of the national body Cohousing Australia.

We (in this submission 'we' refers to the NSW Chapter) have direct experience of some of the barriers to making cohousing a reality in Greater Sydney and other parts of NSW.

We thank you for the opportunity to make this submission, and are available to discuss any parts of the submission.

Regards,

Karen Deegan, Matt Daly and David Alonso Love
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6. Appendix A

Background

Cohousing is one of the most well-known models of [collaborative housing](#). Since gaining popularity in northern Europe in the 1960's, cohousing developments have spread across Europe and North America, with a small number now in parts of Australia.

Cohousing is a type of housing focused on an approach to living that strengthens community: it is about sharing more living spaces and reducing social isolation, while recognising that every household wants privacy and security

What is Cohousing?

Cohousing is both a particular type of multi-dwelling built development and a legally constituted residential community organisation for co-governing their commonly shared land and built spaces, facilities, services and amenities. Cohousing can include one or more forms of tenancies: home-owners, private tenants and social housing tenants.

Cohousing developments typically aim is to create a sense of community and social belonging through a design that emphasises shared space and social interaction. Typically, a co-design and management process gives residents greater say in the design and ongoing governance of their home and community.

As with other collaborative housing types, the size, structure and design of a cohousing community can vary depending on the vision of the members. However, cohousing projects are typically located in urban or suburban areas, and are of a scale that supports easy informal social contact between community members – usually between 10-40 households.

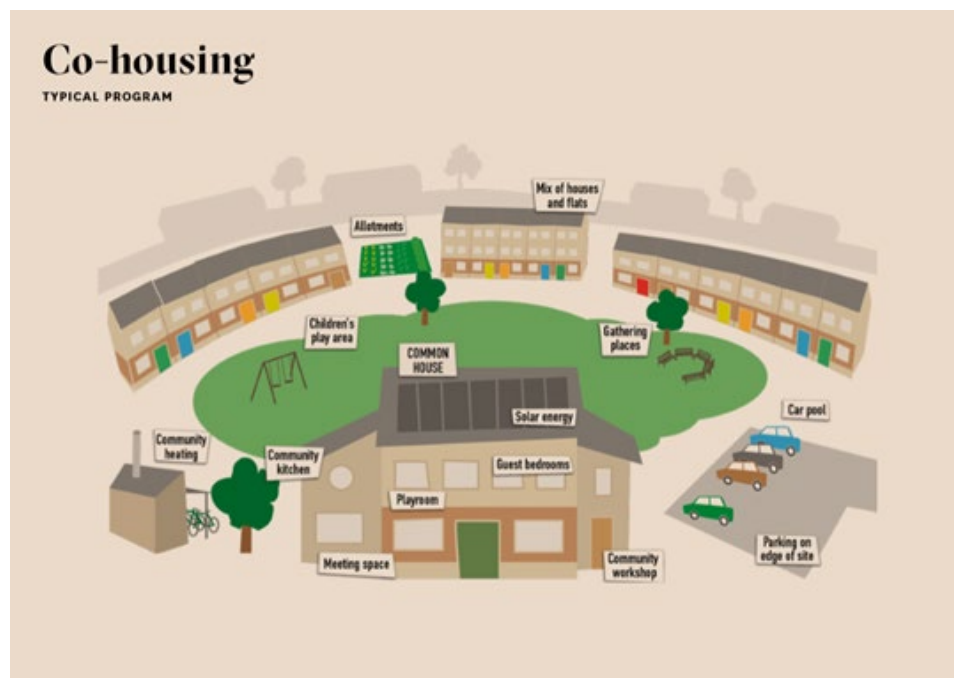


Figure 1: Generalised schematic of cohousing design features

Key features of cohousing developments include (2,11):

Resident involvement in co-design of the community: Projects are community led meaning some or all of the eventual residents are involved in the design process

to make sure the mix of private and shared spaces meets their needs, along with other aspects of the development such as inclusion of sustainability technologies with high up-front costs but long-term benefit.

Significant use of communal living facilities, along with private space: Typically, each household has their own self-contained dwelling, but shared spaces provide a place for households to come together. A common rule of thumb in cohousing is that all individual dwellings are 10% smaller than typical, with that saved space used for the common dwellings. While private space is smaller, the overall space a household has access to is made greater by collaborating with the neighbours.

Shared spaces might include gardens, common kitchens and entertainment areas, community rooms, common lounges, and shared guest facilities. Sharing meals is described by many cohousing advocates as the glue that makes a collaborative housing community special. An example layout of a cohousing development (from the UK Cohousing Network) is shown below.

Resident-managed: Residents generally manage cohousing developments, with decisions about the community made by the people who live there. Usually, decision-making is based around some form of deliberation and discussion aiming to foster cooperation and collaboration. This resident control and stewardship is built into the legal form and decision-making structure of the community.

Benefits of cohousing

Social

Cohousing developments aim to encourage social contact among residents, with the potential to reduce isolation.

Participatory decision-making keeps residents actively involved in the community, including decisions on their neighbourhood. Close-knit communities provide a sense of social connectedness and meaning, which are relevant factors for well-being. There is good evidence that being part of a supportive community improves physical, emotional and mental health. The informal social contact provided by collaborative housing reduces the risk of social isolation and greatly improves wellbeing (8,12). For vulnerable individuals, cohousing provides an opportunity for residents to pool the costs of care and may enhance feelings of safety and security.

Economic and affordability benefits

Well-designed cohousing can reduce ongoing overall living expenses and provide an affordable housing alternative.

While cohousing developments may reduce the size of private living spaces, efficient use of shared spaces increases the total liveable area that each resident can utilise. As cohousing residents are involved in the design of their future home, they can prioritise technologies and design aspects that may increase upfront costs, but significantly reduce the ongoing operation costs of their homes. Depending on the cohousing model, affordability gains can be realised through:

- capping of developer profit by reducing their speculative risk (developer margins) and avoiding the need for pre-sale marketing costs;
- shared spaces mean fewer materials required in the design of new housing developments, relative to access to liveable area;
- reducing ongoing operation and maintenance costs for smaller private dwellings;
- pooling resources to reduce the costs of services and facilities (e.g. the costs of care for seniors).

Environmental and sustainability benefits

There are a number of reasons why well-designed cohousing can be good for the environment (13–15).

Sharing of less commonly used spaces in the home (e.g. laundries) can reduce the size of private dwellings. Clustering dwellings and increasing housing density increases total access to livable area. This can minimize the physical and environmental footprint of resources needed to build housing. Sharing facilities also improves resource efficiency (embedded energy and water) and cuts the ongoing costs of living. Through active engagement in the management of cohousing developments, residents can exchange knowledge and expose others to lesser-known environmental practices.

Residents might also elect to implement pro-environmental practices that are easier or make more sense at a community scale, such as installing community scale renewable energy, reducing the number of car spaces to encourage car share and public transport, or choosing to use more sustainable materials in the construction of new developments. In collaborative housing communities, sharing often extends beyond physical space to include equipment, tools, transport and other items.

7. Appendix B

Cohousing Development as defined by Banyule City Council, Victoria

Banyule City Council in Victoria has developed a definition of cohousing. Developments must meet this definition to qualify for exemptions from development contributions. Details available [here](#)¹.

In their definition, cohousing must have:

- At least six separate dwelling units and households
- Independent self-contained living quarters with small kitchen or kitchenette, small living area, bathroom and storage
- Fully operational communal kitchen and storage space to cater for all residents
- Communal living area to seat all residents for social activities and dining
- Communal waste collection and recycling facilities to service all residents
- Communal toilet and bathroom facilities attached to shared spaces for all residents and visitors
- End of trip, lockable bicycle storage and maintenance space for all residents
- Evidence of all doorway widths and fixtures that enable wheel-chair access to all dwellings and shared spaces
- One car parking space per six dwellings for share cars
- Property valuation information to demonstrate the cohousing development will deliver a more affordable housing outcome for proposed dwellings in comparison to fully self-contained private dwellings with the same number of bedrooms in the same suburb.

The cohousing development must also include at least one of the following:

- Communal laundry facilities and drying room to service all residents; and / or
- Communal garden that includes shared meeting and potential for food production spaces for all residents; and / or
- One guest room with ensuite or access to shared bathroom facilities per 10 households.

The cohousing development must also include all of the following:

- Creation of a legal entity or entities (such as an incorporated association) with responsibilities for a:
 - o Binding Maintenance Agreement between residents for their effective management, maintenance and use of all shared spaces
 - o Binding Green Travel Plan between residents to enable shared-car use, bike use and public transport use
 - o Maintenance Agreement & Green Travel Plan attached to title and periodically reviewed by a legally constituted entity.

¹ - <https://shaping.banyule.vic.gov.au/C115>

8. Appendix C

Narara Ecovillage Case-study

Narara Ecovillage (NEV) is a member owned Co-operative. The Co-operative members are the developer, the owners and the residents.

In May 2013 the site purchase from the Department of Primary Industries (the former Horticulture Research Station) was finalised.

Comprising of 64 hectares, the property has an existing dam, a creek and an abundance of beautiful views. The land is bordered on three sides by the award-winning Strickland State Forest. Approximately 12 hectares of the land is zoned for residential development with another 12 hectares available for agriculture and community gardens. The remaining hectares of native forest and bushland are to be dedicated to conservation.

Our objective was to build a socially and environmentally sustainable community. While some privacy is desirable, the focus is on social connection and engagement, not on isolation. The Community Management Statement precludes most boundary fences and the Co-op is seeking to maximise the use of shared facilities. This allows for a smaller built footprint per person and encourages more social interaction.

Early in the process, a master plan was developed by the renowned urban designers Hill Thalís.

<http://www.hillthalis.com.au/index.php?id=141>

<https://wiki.nararaecovillage.com/display/NBLS/Building+Standards+-+Hill+Thalis+Design+Report>

A DA for the Stage 1 subdivision was prepared including 32 individual house lots and an 18 swelling cluster development (a mix of units and townhouses). The cluster development was lodged under an earlier planning instrument and would not have been permitted under the Gosford LEP 2014.

Following discussions with planners at Gosford Council we were advised to make a start within the constraints of the existing R2 (Low Density Residential) zoning while seeking a more suitable zoning via a planning proposal. The option of a “village” zoning or a “special” zoning were discussed as the most suitable to achieve our planning objectives of greater density within the village footprint and a greater mix of activities within that footprint.

NEV spent about \$300,000 in consultant fees and a large amount of time preparing the Planning Proposal in accordance with the agreed approach from discussions with Gosford Council Planners. The Planning Proposal included a greater mix of uses and a more diverse range of built forms to cater for inclusion of smaller foot and more affordable housing options. Following the council amalgamation (with Gosford and Wyong Councils merged to form The Central Coast Council) the new senior planner rejected the planning proposal outright and would not entertain anything other than a very conventional suburban building form on separate lots. He demanded that the Planning Proposal be withdrawn and promised that under the new consolidated LEP the minimum R2 lot size for Gosford would be reduced from 550sqm to 450sqm. Three years later this still hasn't occurred.

In 2018 the Subdivision Certificate for Stage 1 was issued by Central Coast Council and Titles were transferred to the members purchasing lots. Subsequently house construction got underway and now there are an increasing number of occupied houses on site.

In May 2020 a DA was lodged for a stage 2 subdivision on the basis of the current Gosford LEP with a minimum lot size of 550sqm because we were left with no other practical option given that the Co-op was now carrying substantial debt from the extended period of holding costs.

The outcome has been protracted, expensive and a compromise to fit a planning framework which is fundamentally not fit for purpose. It appears that only a SEPP that overrides the unpredictable whim of local planning staff and breaks the culture of enforced suburban social isolation can effectively address the problem and facilitate the development of more sustainable and affordable intentional community projects in NSW.

Provided by Richard Denham, Narara Ecovillage

<https://nararaecovillage.com/>

8 September 2020

Margaret Kirton
Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta, NSW 2150

By Email Margaret.Kirton@planning.nsw.gov.au

Dear Margaret

Submission in relation to proposed Housing Diversity SEPP

1. We act for Civic Disability Services Limited (**Civic**) and are instructed to prepare this submission concerning the proposed new Housing Diversity SEPP.
2. We previously lodged a submission to the Department of Planning, Industry and Environment (**DPIE**) regarding disability discrimination in NSW planning laws, dated 5 December 2019, which is **enclosed** for ease of reference. This submission does not reiterate all of the points made in that earlier submission, but that submission should be read again in light of the proposed HD SEPP.
3. One of the services that Civic provides is arranging accommodation for people with disabilities, including shared rental accommodation. Different levels of support are catered for by Civic, depending on the needs of individuals. This is done with a view to also gradually increase the residents' levels of independence.

Purpose of this Letter

4. The purpose of this letter is twofold, namely to:
 - (a) identify the challenges faced by Civic in renting properties and converting existing dwellings into dwellings suitable for people with disabilities; and
 - (b) identify how the Housing Diversity SEPP can be drafted in a way that alleviates those challenges.
5. We request that this submission be considered in the drafting of the Housing Diversity SEPP, as it is important that the law not diminish the choice and control of disabled people and that they be treated in the same way as people without a disability when selecting residential accommodation.
6. This submission is comprised of the following sections:
 - (a) background, setting out Civic's role and the issues it has faced in securing accommodation for people with disabilities in rental properties and conversion of dwellings to group homes;

- (b) relevant parts of the Explanation of Intended Effect for the Housing Diversity SEPP (**EIE**) to the issues faced by Civic; and
- (c) how the Housing Diversity SEPP (**HD SEPP**), and associated amendments being made to the Standard Instrument - Principal Local Environmental Plan (**SI LEP**) can alleviate issues faced by Civic.

(A) Background

7. Civic is a service provider that supports individuals with a disability to exercise choice and control in their lives, achieve their goals and participate in the community.
8. Civic employs approximately 600 people, provides accommodation for approximately 250 people, along with supporting 300 other people with service supports. Civic receives funding to support its housing operations via grants, tenders, rental income and investment income. Primarily Civic provides support services to people receiving NDIS or My Aged Care funding to live in community and/or remain in their own home.
9. It provides accommodation services, which include the following:
 - (a) supported independent living;
 - (b) shared living;
 - (c) aged care accommodation;
 - (d) specialist disability accommodation; and
 - (e) apartment living via Concierge Support Services.
10. Under the current planning laws, Civic has faced numerous difficulties in securing residential accommodation for people with disability, simply because of the disability of those in need of the accommodation. This is partly due to the prejudices of landlords, tenants, agents and neighbours within the community - prejudices which are reinforced by NSW planning laws - as well as the difficulties involved in characterising the use of property into the definitions contained under the planning laws.
11. As you are aware, the Standard Instrument - Principal Local Environmental Plan (**SI LEP**) requires a development consent for properties with a use characterised as a 'group home'. Unlike a development application for a dwelling, group home development applications appear to be assessed based on the particular individuals who intend to reside there, rather than based on broader planning questions.
12. This is a result of the definitions contained in the SI LEP.
13. Not only do development applications for group homes include this higher bar of assessment, but the definitions also implicitly endorse an archaic view that disabled people cannot live a "full and active life", and as such can only live in a group home, rather than elect to live in a dwelling with other members.
14. This enables prejudices from council officers who are put in a position of having to assess whether a person with a disability meets the SI LEP's definition of a "people with a disability". That is beyond the ambit of the local Council Ranger or enforcement officers within a Council, or even a Council planner's expertise.
15. These difficulties are not alleviated by the proposed new Housing Diversity SEPP. The Explanation of Intended Effect for the Housing Diversity SEPP (**EIE**) does not include any intent to make the process simpler or easier for service providers like Civic.

16. The uncertainty in the definitions contained in both the Standard Instrument and the proposed new Housing Diversity SEPP creates a burden for service providers like Civic, as the onus is placed on them to explain their position to consent authorities if and when questioned as to why they propose to use a dwelling as a dwelling, rather than a group home.

(B) Relevant parts of the EIE

17. The EIE proposes, amongst other things, to:
- (a) introduce new definitions into the SI LEP for build-to-rent housing, student housing and co-living developments;
 - (b) update some provisions of the ARH SEPP when they are transferred to the new SEPP, including provisions relating to group homes, including:
 - (i) providing "a quicker and easier process to allow an existing dwelling to be used as a group home".

(C) How the HD SEPP can be drafted to alleviate issues in providing housing for people with disabilities

Amendments to definitions in the SI LEP

18. It is recommended that further amendments to the definitions in the SI LEP are included as part of the HD SEPP and associated amendments. It is appropriate that the following definitions be reconsidered in this tranche of amendments to the planning regime, given the intention of the amendments.

"People with a disability"

19. Firstly, the definition of "people with a disability" needs to be contemporised.
20. The current definition in the SI LEP is anachronistic, stating:
- "people with a disability means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives."*** (emphasis added)
21. The phrase "*substantially limited opportunities to enjoy [a] full and active [life]*" implicitly endorses a view of disabled people that they lack opportunity for a full and active life, when such a life can be had despite some level of "impairment". It also requires a subjective assessment to be made. There is also no commentary available to assist an applicant or a consent authority to determine whether this definition is met, nor is there any case law to assist in interpretation of this definition.
22. It is inappropriate that this definition invites Council officers or others involved in the planning process to pass judgment on whether particular individuals "*have substantially limited opportunities to enjoy full and active lives*".
23. This definition is also not in line with the more appropriate definitions of "person with a disability" as set out in anti-discrimination law.¹

¹ See section 4 of the *Disability Discrimination Act 1992* (Cth) and section 4 of the *Anti-Discrimination Act 1977* (NSW).

24. It is important that this definition is amended to reduce subjectivity in interpretation of provisions that include the term "people with a disability". At the moment, the uncertainty involved in whether a person is deemed to have a "full and active life" places undue burden on service providers like Civic when challenged by local Councils to justify their position on characterisation of the use of a property. An example of when this occurred is explained in our earlier submission dated 5 December 2019 (**enclosed**).

"Group Home"

25. The EIE states that "Group homes are an **important accommodation choice** for people with a disability or people who are socially disadvantaged" (emphasis added).
26. A Group Home is defined in the SI LEP as:

"group home means a permanent group home or a transitional group home.

Note—

Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary."

27. There are two types of Group Homes under the SI LEP, which are defined as follows:

"Group home (permanent) or permanent group home means a **dwelling**—

(a) that is occupied by persons as a single household **with or without** paid supervision or care **and whether or not** those persons are related or payment for board and lodging is required, **and**

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note—

Permanent group homes are a type of **group home**—see the definition of that term in this Dictionary.

group home (transitional) or transitional group home means a **dwelling**—

(a) that is occupied by persons as a single household **with or without** paid supervision or care **and whether or not** those persons are related or payment for board and lodging is required, **and**

(b) that is used to provide **temporary accommodation** for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide **half-way accommodation** for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note—

Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary." (emphasis added).

28. Despite group homes being an important accommodation choice, it is Civic's experience that where a group of people who have disabilities choose to live together in a dwelling (as opposed to a group home), Civic is pressured to explain to the Council how this is not a breach of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) or under what basis is the existence of the home justified.
29. Clarification is required in either the SI LEP or the Housing Diversity SEPP that while a person with a disability can opt to live in a group home, they equally can opt to live in a dwelling without the need for a separate permanent group home development consent.
30. This is particularly important in circumstances when Civic rents a property on behalf of a disabled person. Often, leases are for 12 months. If Civic must apply for consent for a use as a group home each and every time a tenant(s) with a disability wishes to move in, it takes an unreasonable proportion of the length of the lease to obtain that consent. It costs money, and ends up feeding the fears and anxieties of local objectors. People with disabilities as renters need certainty that they are able to enter leases for properties with consent for use as dwellings, without the fear that Council will stop them or seek to stop them from moving in due to the uncertainty in the current definitions in the SI LEP. This is a real issue that needs to be addressed, as this is exactly what occurred in the example complained of in our 5 December 2019 submission.
31. It should not be the case that if a disabled person requires a carer to come and go from the dwelling, or if some minor modifications to the property are required, that they must lodge a development application for a permanent group home. That is no different from allowing elderly people to continue to live in their own homes or homes that are let (which have consent as dwelling houses) despite needing carers and modifications e.g. installations of handrails and the like. It is also very common for families to have carers coming and going from their houses, and sometimes even living with them (such as a nanny). People with disabilities should not be forced out of living in dwellings for these reasons, as that would involve applying different standards to those that are afforded everyone else solely due to their disability.
32. Having paid supervision or care is also not something that is excluded from the definition of "dwelling". That definition is silent on the matter. People with disabilities should be given the choice between living in a dwelling or a permanent group home in those circumstances, and also given the definition for group home is agnostic on these concepts, using the words "with or without" and "whether or not".
33. People with a disabilities do not all require the same levels of care, supervision or needs. Without clarification that they can live together in a dwelling, rather than being forced to obtain consent for a group home, people with disabilities are denied choice and control in their residential accommodation.
34. This clarification would allow people with disabilities to access far more properties to rent (subject to overcoming real estate agent/ landlord prejudices) given that properties with existing consents for use as dwellings are far more prevalent than properties with a consent for a use as a group home.

Amendments to Group Homes provisions in the HD SEPP

35. The EIE contains a brief mention that the provisions of the ARH SEPP will be amended to "*provide a quicker and easier process to allow an existing dwelling to be used as a group home*". However, no further detail is available.
36. The following questions are posed as it is currently unclear how that goal is intended to be achieved:

- (a) Will Councils still require explanations as to why people with perceived disabilities have not obtained development consent for a group home, when a property is being used as a dwelling house? The drafting for this quicker and easier process must be sufficiently clear so that this situation is avoided.
 - (b) How will this process be "quicker" if a development consent is still required? The current planning system is already designed for responsiveness, with appeal rights crystallising within 42 days of lodging a DA. However, the practical reality is one of delay, inertia and cost. If the process proposed is exempt or complying development, drafting must still be sufficiently clear otherwise it will create yet another opportunity for community groups with prejudices against people with disabilities to commence litigation, putting service providers to the expense of defending their position that would otherwise be better spent on providing more and better care for these people.
 - (c) What mechanisms will be established to make this process "easier"? Civic's experience is that it is so difficult to convert an existing dwelling to a group home under the existing planning regime that it is cheaper and quicker to build a new group home instead. This leads to a wasted opportunity.
37. In order to facilitate "quicker and easier" conversion of existing dwellings to group homes, this should be a category of exempt development.
38. The criteria to fall within this category of exempt development should be kept simple, or else it will just be a new version of the same complicated process that already exists. In particular, the standards to be met should be equivalent to what is required for a dwelling. This would recognise that it is often the case that vulnerable people live in dwellings (infants, people with disabilities, elderly people, and so on) and the standards acceptable for a dwelling should also be acceptable in group homes up to a certain size. This would allow easier conversion from a compliant dwelling to a group home.
39. Currently, service providers are required to meet higher standards for group homes which often make conversion of existing dwellings to group homes not possible. It also leads to perverse outcomes for example where two brothers, in their 30s, could not continue living in their family home where they had lived for about 20 years, because setback requirements that meant conversion from a dwelling to a group home was not achievable. Despite being willing to lease or purchase the house from the family to convert it to a group home for the brothers, as the conversion was not possible, Civic bought another property where a new group home is now being built. A rental property could not be found despite over 200 attempts made by Civic to rent a property. In the meantime, Civic is providing in home support to the brothers while they remain living with their parents (who wish to retire interstate) in the dwelling that cannot currently be converted into a group home.
40. It should also be recognised that the assessment process under planning legislation is not the only assessment process that is undertaken for people with disabilities, and the planning legislation does not have to duplicate all of the other assessments that already occur. Before a service provider like Civic provides residential accommodation to a person with a disability, assessments of individuals are undertaken by occupation therapists to determine whether home modifications are required for that individual. These assessments occur under for example under the Specialist Disability Accommodation rules within the NDIS framework, and the Liveable Housing Design Guidelines. It is more appropriate to conduct assessments in this individual manner, than for the planning legislation to declare a 'one size fits all' approach that may result in unnecessary home modifications. It is evident from the example outlined in our submission dated 5 December 2019 that Council planning/ investigation officers are ill-equipped to understand the type of home modifications that are required for different individuals. In that case, we are

instructed that the Council officer was insisting upon accessible toilets being installed to the dwelling for women who had intellectual, and not physical, disabilities.

Guidelines for Councils

41. In addition to any amendments that are made in accordance with the above suggestions, there is a need for a guideline to be published the new Housing Diversity SEPP and its associated amendments to the SI LEP. This is fundamental so that the intent of the new requirements is abundantly clear for those enforcing and implementing these laws.
42. Any uncertainty places service providers like Civic in the difficult and expensive position of having to justify themselves to Council officers, and potentially to the Court where challenges may be brought by prejudiced or otherwise agitated members of the community.
43. While the HD SEPP cannot resolve those prejudices, planning law is too often used as a vehicle to exclude disabled people from certain areas, and the HD SEPP must be alive to that.
44. A clear guideline explaining the intended operation of the HD SEPP would alleviate the burdens and risks placed on service providers like Civic in navigating the new requirements.

Next steps

45. Please let us know if there are any further details that can be provided regarding this.
46. We would be happy to comment on any proposed drafting of the HD SEPP or SI LEP if that could be made available.

Yours faithfully



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5 December 2019

The Hon Rob Stokes
Minister for Planning and Public Spaces
Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

CC: The Hon Gareth Ward, Minister for Families, Communities and Disability Services

By online submission

Dear Ministers

Disability Discrimination in NSW Planning Law: Group Homes

1. We act for Civic Disability Services Limited (**Civic**) and are instructed to prepare this submission concerning disability discrimination in NSW.
2. One of the services that Civic provides is arranging accommodation for people with disabilities, including shared rental accommodation. Different levels of support are catered for by Civic, depending on what residents need, while also gradually increasing the residents' levels of independence.

Purpose of this Letter

3. The purpose of this letter is to notify you of underlying disability discrimination that appears to currently exist under NSW planning law, which has the impact of restricting the availability of accommodation for people with disabilities who wish to live in a shared rental property.

Background

4. This discrimination has become apparent to our client recently, when arranging rental accommodation for four young women with disabilities. These women are 20 years old, and wish to move out of their family homes and into a rental property together.
5. However, because the women are disabled, the local Council (Sutherland Shire Council) considered this arrangement to be a group home.
6. Our client received a letter from Council on 5 February 2019 (**attached**) which stated:

"During the inspection it was advised that the dwelling would be used for 4 people who would require assistance when required by support staff.

...

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BRISBANE MELBOURNE SYDNEY

A search of Councils [sic] records has failed to provide any lawful consent for a Group Home to operate, development consent will be needed to be obtained from Council through the submission of a Development Application to Council for assessment."

7. This puts service providers like our client, and disabled persons in the difficult and expensive position of having to justify the land use as a dwelling house, or alternatively, preparing and lodging a development application for a group home when one might not have been necessary if non-disabled persons had leased the property.
8. This only arises because the women who were moving into the property are disabled. It is not something that young non-disabled persons moving out of home for the first time are forced to contend with.

Council's view on why development consent would be required

9. The *Standard Instrument—Principal Local Environmental Plan (SILEP)* directs how land use tables in Local Environmental Plans are to be drafted.
 - (a) Direction 5 relating to the Land Use Table contains an extensive list of type of development and states "Only the following types of development may be included in the Land Use Table."
 - (b) Group Homes and Dwelling Houses are two separate types of development in that list.
10. Council has adopted this classification in its LEP.
11. Dwelling house is defined by the Dictionary in the SILEP as follows (which Council also adopts):

"dwelling house means a building containing only one dwelling.

*Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary."*

12. The definitions of the types of group homes in the Dictionary within the SILEP (and Council's LEP) are:

"group home means a permanent group home or a transitional group home.

*Note. Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary."*

group home (permanent) or permanent group home means a dwelling:

*(a) that is occupied by persons as a single household **with or without paid supervision or care** and **whether or not** those persons are related or payment for board and lodging is required, and*

*(b) that is used to provide permanent household accommodation for **people with a disability** or **people who are socially disadvantaged**,*

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note. Permanent group homes are a type of group home—see the definition of that term in this Dictionary." [Emphasis added].

"group home (transitional) or transitional group home means a dwelling:

(a) that is occupied by persons as a single household **with or without paid supervision or care** and **whether or not** those persons are related or payment for board and lodging is required, and

(b) that is used to provide temporary accommodation for the relief or rehabilitation of **people with a disability** or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note. Transitional group homes are a type of group home—see the definition of that term in this Dictionary."

13. The same or similar definitions are provided under other State Environmental Planning Policies.¹ For the purposes of this submission, we have not analysed these instruments but we would submit based on recent experience in the Land and Environment Court acting for a provider of a transitional group home that these definitions cause significant problems in that setting also, although for different reasons.
14. Residential accommodation is defined in the SILEP (and Council's LEP) as follows:

"residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks."

¹ For example: State Environmental Planning Policy (Affordable Rental Housing) 2009; and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

15. Based on the comment in Council's letter (see above at paragraph 6), Council has assumed the elements of the definition of "group home" have been met. However, there are several issues with that definition, outlined below.
16. The SILEP requires that development consent be obtained for any use that is characterised as a group home in zones R1 General Residential, R2 Low Density Residential, and R3 Medium Density Residential.

The issue with the definition

17. The definitions of permanent and of transitional group homes require an assessment of whether the dwelling is to be used by "*people with a disability*" or "*people who are socially disadvantaged*", which in turn is defined in an unhelpful way which stigmatises those that are perceived to fall within the definition.
18. In this regard, the definition of "*people with a disability*" in the SILEP is anachronistic:

"people with a disability means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have *substantially limited opportunities to enjoy full and active lives*." (Emphasis added).

- (a) The phrase "*substantially limited opportunities to enjoy [a] full and active [life]*" implicitly endorses a view of disabled people that they lack opportunity for a full and active life, when such a life can be had despite some level of "impairment". It also requires a subjective assessment to be made.
- (b) There is also no commentary available to assist an applicant or a consent authority to determine this.
- (c) Nor is there any relevant case law on this particular aspect of the definition.
- (d) This definition is vastly different to the definition of similar terms in other legislation, and that disparity goes unexplained. In that regard, section 4 of the *Disability Discrimination Act 1992* (Cth) defines disability, in relation to a person, as meaning:

"(a) total or partial loss of the person's bodily or mental functions; or

(b) total or partial loss of a part of the body; or

(c) the presence in the body of organisms causing disease or illness; or

(d) the presence in the body of organisms capable of causing disease or illness; or

(e) the malfunction, malformation or disfigurement of a part of the person's body; or

(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or

(g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

(h) and includes a disability that:

(i) presently exists; or

(j) previously existed but no longer exists; or

(k) may exist in the future (including because of a genetic predisposition to that disability); or

(l) is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability."

- (e) Section 4 of the *Anti-Discrimination Act 1977* (NSW) defines disability as:

"(a) total or partial loss of a person's bodily or mental functions or of a part of a person's body, or

(b) the presence in a person's body of organisms causing or capable of causing disease or illness, or

(c) the malfunction, malformation or disfigurement of a part of a person's body, or

(d) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, or

(e) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour."

- (f) The definition of *"people with a disability"* in the SILEP is inherently uncertain and ultimately leads to circumstances like those encountered by our client, where a consent authority presumes that a development application is required based on a view that the people proposed to reside in the dwelling have *"substantially limited opportunities to enjoy full and active lives"*.

19. The definition of *"people who are socially disadvantaged"* in the SILEP is also problematic given its generality:

"(a) people who are disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or

(b) people who require protection because of domestic violence or upheaval."

20. Council officers are in no position to assess whether a person meets the definition of *"people with a disability"* or *"people who are socially disadvantaged"*, particularly without details of the individuals who will be living at the property. If the onus is placed on those with social disadvantage or who are disabled to obtain development consent, then this imposes a cost and general burden which given their circumstances, and may not be equipped to satisfy.

21. It is unfair to place the burden of resolving the ambiguity within the definitions of group homes on disabled persons or service providers like our client. They risk of having to defend themselves in extremely expensive² criminal proceedings in the Land and Environment Court should the Council reach a different conclusion and prosecute the person for a breach of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**).

² Judicial Commission of New South Wales *"Transparent and consistent sentencing in the Land and Environment Court of NSW: orders for costs as an aspect of punishment"* Research Monograph 40, June 2017 at page 137, Table 14a, states the range of "Total" costs imposed by the Court (combined amount of the fine for the principal offence and prosecutor's costs) for development without consent under the EP&A Act is \$11,200-\$255,000.

22. This is not conducive to encouraging an increase in the supply and diversity of residences for people with a disability, and making efficient use of existing infrastructure and services for that purpose.³
23. Separating "group homes" from "dwelling houses" manifests systematic indirect discrimination in housing policy and practice. While an attempt is made to alleviate this through other State policies, in our view, the subjective assessments inherently required in the Instrument are not a proper basis on which to characterise a land use, and trigger legal requirements to obtain development consent.
24. The separation of group homes from dwelling houses, and the inherent requirement to consider someone's personal characteristics in differentiating between these land uses militates against other State policies designed to increase the supply and diversity of residences for people with a disability.⁴
25. It also creates a potential situation where simply because four people seeking accommodation together as a single household have a disability, or are socially disadvantaged, they fall within the definition of group home and trigger the need to obtain Development Consent. If they were not disabled, or socially disadvantaged, development consent for a change in use from a dwelling home would not be required.

The issue is not alleviated by existing anti-discrimination law

26. This issue is not alleviated by NSW or Australian anti-discrimination law.
27. Australia's federal anti-discrimination laws relating to disability, are contained in the *Disability Discrimination Act 1992* (Cth).
 - (a) Sections 5 and 6 of this legislation relate to direct and indirect discrimination respectively. However, both begin in the same way:

"a person (the discriminator) discriminates against another person (the aggrieved person)..." [Emphasis added].
 - (b) This legislation relates to discrimination by a person, rather than discrimination inherent in the law.
28. The relevant legislation in NSW is the *Anti-Discrimination Act 1977* (NSW).
 - (a) The only section of this Act relevant to discrimination against disabled persons in relation to accommodation is section 49N:

*"(1) It is unlawful **for a person**, whether as principal or agent, **to discriminate** against a person on the ground of disability:*

 - (a) by refusing the person's application for accommodation, or*
 - (b) in the terms on which the person is offered accommodation, or*
 - (c) by deferring the person's application for accommodation or according the person a lower order of precedence in any list of applicants for that accommodation."*

³ *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (NSW) section 2(1).

⁴ See for example clause 2 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

- (b) However, it is clear from the drafting of section 49N that it is not intended to impact or interact with the planning regime, nor does it make it unlawful for a law to be discriminatory.

29. Therefore neither the relevant Federal or State anti-discrimination laws assist in our client's circumstances.

Further issues that arise if a DA is required

30. As you may be aware, when group home development applications are submitted they are often the subject of hostility by community members who unreasonably consider people with disabilities should not be allowed live nearby.
31. It is therefore imperative that the statutory framework lead consent authorities and service providers like our client with clearer and fairer laws. That way, demonstrated by the example of our client, four women with mild disabilities would not be subjected to Council compliance officers issuing show cause letters, and the risk of other enforcement activities being pursued. Currently, this is not clear to Council compliance officers (or service providers) given the problems with the SILEP outlined above.
32. It is very difficult for people with a disability or those who are socially disadvantaged, or a service provider, all of which lack an understanding of these technical planning law matters and who have limited resources to employ people with such an understanding, to conclude whether a development application is required or not. This often results in those service providers being forced to spend a considerable amount of time and money obtaining advice and then in certain situations seeking development consent, exposing the provider and potential occupants to community objection.
33. This complex and expensive process is yet another hurdle which people with a disability would not need to face but for their disability.
34. We would be pleased to discuss potential ways around this if that would assist.

Yours faithfully



Todd Neal
Partner
Email: todd.neal@cbp.com.au
Direct Line: 02 8281 4522

Contact: Mollie Matthews
Solicitor
Email: mollie.matthews@cbp.com.au
Direct Line: 02 8281 4429



Our Ref: CR18-303348

05/02/2019

Civic
103 Cawarra Rd
Caringbah NSW 2229
Australia
PO BOX 2230 Taren Point NSW 2229

Dear Civic,

Re: 497 Kingsway, MIRANDA NSW 2228

Council has received an enquiry in relation to unauthorised works being carried out for the purpose of a boarding house at 497 Kingsway, MIRANDA NSW 2228 (the subject premises).

An inspection of the subject premises was carried out by Council on 11 December 2018 indicating that minor works had been carried out for example, extra smoke detection in rooms, installation of fire extinguishers, store room built in garage and a stair handrail.

During the inspection it was advised that the dwelling would be used for 4 people who would require assistance when required by support staff.

When determining whether a land use is permissible or prohibited the use needs to be defined in the first instance with the use of Councils Local Environmental Plan, Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). This instrument contains a dictionary which provides definitions for land uses. Council understands that the premises are being utilised as a home by four disabled women with the assistance of support staff.

Measuring this land use against the dictionary contained within SSLEP 2015 the following term is likely, in Councils opinion, to best summarise such a use.

Definitions

***Group home** means a permanent group home or a transitional group home.*

Group homes are a type of residential accommodation

Group Home (permanent) or permanent group home means a dwelling:

- a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Permanent group homes are a type of group home.

Group Home (transitional) or transitional group home means a dwelling:

- a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refugees for men, women or young people,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Note.

Transitional group homes are a type of group home

Permissibility

Permitted or prohibited development of SSLEP 2015 for the R3 Medium Density Residential zone provides the following objectives and land use permissibility:

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and people with a disability.
- To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.
- To allow development that is of a scale and nature that provides an appropriate transition to adjoining land uses.

2 Permitted without consent

- Home occupations

3 Permitted with consent

- Attached dwellings; Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing

4 Prohibited

- Any development not specified in item 2 or 3

The objectives of this zone indicate that the creation of varying types of housing and the supply of housing particularly for older people or those with a disability is strongly encouraged however in order to establish a land use that is mentioned within Part 3 - Permitted with consent, development consent is required.

A search of Councils records has failed to provide any lawful consent for a Group Home to operate, development consent will be needed to be obtained from Council through the submission of a Development Application to Council for assessment.

Please advise Council of what your intentions are with regard to this matter within 14 days of the date of this letter.

If you require further information regarding this matter, please contact Christopher Freeman on Ph 9710 0974 Monday to Friday during business hours.

Yours faithfully



Christopher Freeman
Compliance Officer
Environment, Health & Building Unit

Submitted on Tue, 04/08/2020 - 08:13

Submitted by: Anonymous

Submitted values are:

Submission Type: I am submitting on behalf of my organisation

First Name: [REDACTED]

Last Name: [REDACTED]

Name Withheld: Yes

Email: [REDACTED]

Suburb/Town & Postcode: NSW

Submission file: [webform_submission:values:submission_file]

Submission:

1. Not all boarding houses are rented at unaffordable levels. Your report is based on Sydney and metro areas only.
2. An affordable cap on the rental is a great concept.
3. CHP do not have the expertise to manage boarding houses.
4. You can cap the room rental on boarding houses in a much easier way by using the affordability index that exists for land tax exemption.
5. Most good boarding houses operate as a community if you let CHP only operate them you will lose the opportunity for good providers to continue in the market.
6. You will increase homelessness in this sector because people will just be a number in a room they will have no community.
7. CHP does not operate their properties as a community they are numbers only.
8. Affordability is key but you cannot allow CHP to be judge and jury as to who goes into a property because it will not be based on human contact.
10. I urge you to introduce affordability caps as they are for land tax and leave the smaller private operators to create homes in the boarding house market not a blanket CHP Model
11. What happens in areas where no CHP is available.
12. Your working group should call and see how hard it is to get a CHP to take a boarding house it doesn't happen.

Housing Diversity SEPP

September 2020

About the Committee for Sydney

The Committee for Sydney is an urban policy think tank. We are advocates for the whole of Sydney, developing pragmatic and innovative solutions to the most important problems we face.

We take pride in our independence and work with decision makers across the political spectrum. Our work is collaborative, inclusive and forward looking. It is underpinned by rigorous, evidence-based policy work that is passionate but balanced and steeped in the experiences and expertise of our members and stakeholders.

Most of all, we are passionate about Sydney and its future.

Executive Summary

Over the next two decades, Greater Sydney will need to accommodate more than one million new homes. Not all of these homes should look the same. This enormous wave of development will do the most good for the most people if it comes in a variety of shapes, sizes, price points, and tenure arrangements, to meet the highly diversified needs of the growing Sydney community.

We commend the Department of Planning, Industry and Environment for its work to make a diversity of housing types more feasible to build and operate. Simplifying the number of SEPPs and reviewing existing rules to ensure they remain fit for purpose is also positive. We support most of proposed steps in this Explanation of Intended Effect (EIE), but set out a number of recommendations below that we feel would strengthen the effort.

Make affordable housing an objective

There is significant missing element to this SEPP – a lack of focus on affordable housing. We are concerned that in amalgamating two SEPPs that specifically look at affordable housing under a SEPP that has no objective to support the delivery of social and affordable housing will lead to a decreased focus on the need to grow their number and proportion in Sydney and NSW.

The August 2020 Anglicare [Rental Affordability Snapshot](#) notes that 433,000 affordable dwellings are needed nationally. [City Futures research](#) in 2018 suggest that Sydney needs 136,100 social and affordable dwellings to 2036 – just under 10,000 per year – to bridge the gap between existing stock and need.

We estimate that current mechanisms for delivering social and affordable housing (including Communities Plus and SEPP 70) are delivering a fraction of the need, approximately 1,000 dwellings per year. Clearly a significant change is required. While planning mechanisms will not alone help bridge this gap, we believe this SEPP should do whatever it can to facilitate social and affordable housing provision.

In order to facilitate that, we propose an affordable housing working group be formed, similar to the existing Boarding Housing working group, with representation from the CHP sector, to input into this SEPP with the purpose to explore additional development standards and streamlined approval pathways that might make the delivery of social and affordable housing more feasible.

Recommendations:

- Change the title of this SEPP to the “*Diverse and Affordable Housing SEPP*”
- Include the delivery of affordable housing an objective of the SEPP.
- Form an Affordable Housing working group to input into this SEPP with the objective of increasing social and affordable housing delivery using planning levers.
- Make specific changes to individual housing types – noted below.

Reduce parking requirements

While we accept that parking minimums may have a role to play, for dense housing close to trunk public transport like train stations, we believe that there should be no parking minimums. The additional cost for development and maintenance of parking (typically underground) reduces the affordability of housing – contrary to the aims of these forms of housing. Removing this requirement is one of the most direct ways to reduce the high cost of constructing new units of housing:

- An underground parking space can up to \$100,000 to the cost of a new home and cost between \$50,000 and \$200,000 per space to build.
- The shared lighting and ventilation energy costs of underground parking are approximately \$300 per parking space, contributing to household bills and building operating costs.
- On average, a Sydney household spends over \$10,000 per year on car ownership and use, this includes the costs of fuel, insurance and maintenance.

Recommendation:

- Remove all parking minimums for housing in this SEPP within walking distance of high-frequency public transport. This could be achieved through a generic 800m catchment from each public transport node, or a more nuanced tool like the [Public Transport Accessibility Tool](#).

Build to Rent housing

Build to Rent (BTR) is an exciting new tenure model for rental housing, offering new opportunities for people to access secure housing without ownership, while offering a model for delivering housing supply when house prices (to purchase) are depressed. The Committee for Sydney is a strong supporter of the expansion of BTR.

Currently the proposed design requirements adhere to the Apartment Design Guide. This has the consequence of requiring a 50 sq/m minimum apartment size. The Committee for Sydney believes this minimum size is artificial and should be removed across all housing – including for BTR.

Specifically, BTR has an aim to provide greater shared amenity and curation of shared space, which reduces the requirement for minimum apartment sizes as a proxy for amenity.

Build-to-Rent also provides a model for creatively integrating work and living space. Beyond social and affordable housing, the opportunity for a more affordable lifestyle requires flexibility when thinking about shared spaces in a development. For example, Create NSW's Value of Place Report identifies the opportunity for pilot projects to help solve the affordability crisis for the creative sector as a key priority. Reducing the minimum apartment size is likely required if we are to see pilots supporting the creative industries emerge.

Similarly, the fact that the developer of the building retains ownership, there is a built-in market mechanism to ensure high quality housing and appropriately sized dwellings – if they are too small, people won't want to live in them.

Recommendation:

- Remove (or reduce significantly) the minimum apartment size in SEPP 65, removing the minimum apartment size for Build to Rent.

Co-Living & Boarding Houses

The changes proposed to co-housing and boarding houses may result in substantial changes to housing delivery in NSW. They likely require more consideration, and we encourage DPIE to undertake more consultation with the local government, development, planning and affordable housing sectors to inform these sections.

With that in mind, we propose a way forward for the housing types.

The term “boarding houses” has too much stigma. We should get rid of the term. Instead of the proposed division between boarding houses and co-living, all new building should happen under the ‘co-living’ term – with boarding housing re-named “Affordable Co-Living”.

We also note that current proposed changes make delivering boarding houses, even for CHPs, harder (lower FSR bonus, removal of mandating in R2 zones). We believe housing diversity should be made easier to deliver – not harder – and so propose the below changes.

| | Affordable Co-Living | Co-Living |
|--|---|--|
| <i>Who can build</i> | Community Housing Providers and Registered Boarding Housing Providers | Anyone |
| <i>Affordability requirements</i> | Average rents across a development set at 20% below market rate | None |
| <i>Private open space requirements</i> | None | None |
| <i>Parking minimums</i> | 0.2, 0 within 800m of a public transport hub | 0.5, 0 within 800m of a public transport hub |
| <i>Zones permitted</i> | R1, R2, R3, R4, B1, B2, B4 | R3, R4, B4 |
| <i>Minimum Apartment size</i> | 12-25 sqm | 12-25 sqm |
| <i>FSR Bonus</i> | 20% | None |

Within co-living, there should be two separate pathways for approval: general 'co-living' and 'affordable co-living'.

Affordable co-living would be available to either CHPs or Registered Boarding Housing Providers who can provide housing at ~20% sub-market in perpetuity.

Affordable co-living would also receive the FSR bonus provided currently to Boarding Houses. Affordable co-living would access the zoning permissions currently available to Boarding houses – R1, R2, R3, R4, B1, B2 and B4. It would also link across to existing allowances for boarding houses in regards to GST, withholding tax etc.

The FSR bonus provided to affordable co-living needs to provide flexibility around height limits – in some instances, the FSR bonus is unable to be utilised as it would either breach building height limits or create unreasonable bulk on a site. In some instances, local government has been flexible about these height breaches, but the provision of affordable housing should be clearer.

General co-living would have access to the proposed zones currently set out under the co-living banner – R3 (in certain instances), R4 and B4.

The current proposed requirement for private open space in co-living requires a space that is too small to be reasonably useful (best practice notes that spaces smaller than ~8sqm are unlikely to see much use), while reducing the feasibility of providing better shared open space. This requirement for private open space should be removed.

Recommendations:

- Undertake further consultation on co-living and boarding housing types to inform the SEPP.
- Remove Boarding Houses as a housing type, and create a new sub-type within co-living for Affordable Co-Living – with the above characteristics.
- Adopt the above characteristics for General Co-Living.
- Develop a clear standard for FSR bonuses and height limit breaches in consultation with Local Government and Community Housing Providers.

Conclusion

The Committee for Sydney welcomes the opportunity to provide feedback on a new *Housing Diversity SEPP*.

The Committee is aware of the complexities in creating an efficient and manageable housing continuum. However, we believe that this presents us with an immense opportunity to ensure that we plan strategically for how housing is delivered into the future.

We urge the Department of Planning, Industry and Environment to consider our submission and implement our recommendations.

Should the you require further information, please reach out to Eamon Waterford, Director of Policy, at eamon@sydney.org.au or 0431 534 790.



Housing Policy Team
**Department of Planning Infrastructure
and Environment**

Via Submission Link:

<https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>

Re: Proposed New Housing Diversity SEPP

Common Equity NSW (CENSW) is the Peak Body for Co-operative Social Housing in NSW. We currently oversee and co-manage 511 properties and 32 Housing Co-operatives – with more in development. Our submission to follow responds to the proposed Housing Diversity SEPP as it relates to the uniquely positioned Co-operative Housing Sector. Co-operative housing is an established form of collaborative or “co-living” housing which has been operating formally in NSW since the 1980’s. The co-operative housing model is unique in its operations and in the built form requirements that best enable co-operative living and its many benefits.

As a community co-operative housing developer, CENSW have encountered a number of obstacles within local in planning controls which have inhibited opportunity for flexible built form responses; and/or have been prohibitive in the provision of dwellings that dually meet both diverse and affordable housing planning criterium.

Co-operative housing is an established international movement and one which is gaining interest and momentum in Australia. It is our hope, that through sharing some of our insights and suggestions that we are able to assist further enabling the potential for greater housing diversity in NSW.

CENSW welcomes the opportunity to discuss our suggestions and the co-operative housing model with you further. We would also like to nominate as interested stakeholders for future consultation relating to further development of the Housing Diversity SEPP.

In the meantime, we are happy to answer any questions you may have or provide you with any further information relating to our response. I look forward to speaking with you and can be contacted on 0416 324 131.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Nick Sedell".

CEO



CENSW Feedback Submission: Housing Diversity SEPP

Providing a Co-operative Housing Perspective

September 2020



Introduction

Common Equity NSW (CENSW) is a Tier 2 registered community housing provider and peak body for housing Co-operatives. CENSW was formed in 2009 and oversees the function and operation of thirty-two housing Co-operatives across NSW managing over 500 properties.

CENSW manages key strategic and business activities related to all housing Co-operatives. CENSW has a strong track record in supporting and developing Co-operatives and creating the relevant interface between housing Co-operatives and the needs of government to deliver a quality Co-operative housing sector.

About: Co-operative Housing Snapshot

What is Co-operative Housing?

Co-operatives are democratic organisations, owned and controlled by its members for the common benefit of its members. Co-operatives are bound by both specific co-operative legislation and international principles of cooperation. Housing co-operatives are aligned with these requirements and operate as independent organisation setting their own objectives and rules.

Co-operative housing is community driven and focused. Housing Co-operatives manage a portfolio of properties under delegation from CENSW as their peak body and registered housing provider. A formal committee takes on the legal obligation while each other member of the Co-operative is required to participate as an active member, contributing to the running of the Co-operative.

Co-operative housing has a focus on community development and benefit. As such Co-operative housing builds a special kind of community and enables a housing solution which amasses to more than the sum of its parts.

Co-operative housing in NSW currently operates as a social and affordable housing rental program. However, there is opportunity to expand the scope of the sector to include equity-based models. This opportunity would greater grown diversity of housing stock as well as housing outcomes and can be readily enabled through planning controls which consider the uniqueness of this model.



Section 1: Response - Intent and Components

CENSW welcomes and supports the initiation of a Housing Diversity SEPP (the SEPP) which acknowledges and facilitates a greater diversity of built form and housing types. There are many benefits to be gained by the framework of controls proposed within the SEPP. Also, there are a number of controls within the framework that we would like to provide feedback on.

CENSW attended the CHP discussion hosted by CHIA and we support many of the general CHP responses. Our response however provides particular comment from the co-operative housing perspective and sits additional to CHIA's broader response.

1. Overall Intent

CENSW is in agreement that housing needs and priorities continue to shift and evolve that new controls are needed to enable this. In particular controls which:

1. Enable stakeholders to deliver effective housing solutions. To this we would also like to add:
 - Key stakeholders have also evolved - As with LAHC, CHPs are looking for new ways to deliver effective and responsive housing outcomes which are more diverse than the BAU 2 bed unit apartments.
 - A new stakeholder group is emerging – *Community led housing groups* who are taking a collaborative housing approach. This stakeholder group's requirements should also be considered.
 - Crucial to a strong social housing sector is housing choice and diversity.
2. Enable housing which is fit for purpose and responsive to community expectations and changes. To this we would like to add:
 - Flexibility, adaptability and responsiveness is key to ensuring fit-for-purpose housing stock.
 - Consultation and collaborations with all key stakeholders will render more responsive planning controls and better fit for purpose housing development. Key stakeholders include, but are not limited to:
 - Local government
 - Residential developers
 - LAHC



- CHPs
- Community led housing groups
- Architects and designers (e.g. Government Architects)
- Specialist researchers (such as The Institute for Sustainable Futures – UTS; and Louise Crabtree UWS)
- Industry specialists working towards alternative housing models (such as Jason Twill; the Nightingale Group; Assemble)

While we agree with the overarching intent of the SEPP and the two identified focus areas, we believe that the scope of these areas could be broadened to provide greater opportunity for diversity at a range of levels. We invite consideration of the following that we have found evident in our recent work.

1. There is wide-spread and increasing community interest in collaborative living approaches as a solution to the housing affordability crisis. Interest extends beyond that of young and mobile singles residing on a on a relatively short-term basis – but includes families, couples, shared households, multi - generational household etc. Innovative design solutions and communities of practice are emerging to respond to this interest. Examples include the *Pixel Pilot* – finalist in the City of Sydney’s Alternative housing Ideas challenge and the *Collaborative Housing Guide* compiled by researchers and practitioners (see reference list for links).
2. Diverse housing should aim to facilitate diverse communities – representative of broader demographics. This should be considered at the micro/fine-grain (such as within the one development) as well as at macro level. Diversity would be greatly increased through the inclusion of an affordable housing component in each of the housing types permissible under the SEPP. While in a housing affordability crisis, ideally no new developments should not include an affordable quota as a requirement for approval.

CENSW agrees with the recommendation to review the SEPP in 24 months and we encourage a review not only of additional provisions but also a continued review of how housing diversity can be continuously increased through creative, innovative and evolving planning control responses.

While we understand that there is a desire to prepare a SEPP which will enable development and the stimulus this will bring post COVID. Forward thinking about the new housing demands that COVID and Post COVID living will bring is equally important and an opportunity to move away from BAU.



The planning provisions proposed within the SEPP are still largely a speculative development enabler – where dwellings are built and filled. Repetitive patterns of design, delineated by specific types of controls, run the risk of producing homogenous communities with minimal opportunity for diversity. See the reference list for a link to a developer article which further unpacks this concept and the need to do something new (*How the Suburbs can Evolve from Covid-19*).

History however has shown that diverse communities are more functional and more successful largely due to the varied skills, interests and abilities of the people who live there. Our responses below aim to build on the strengths of the planning controls presented and identify opportunities where diversity could be enabled and extended through the built form.

2. Key Components of the SEPP

| SEPP Change | Our Comment |
|--|---|
| Boarding Houses - Removing requirement for boarding houses to be mandated within the R2-low density zone | Disagree. We request CHP allowances be equal to LAHC's for this housing form (p19)* |
| Boarding Houses - Amending FSR bonus to boarding house development to 20% | Disagree. Low FSR and restricted dwelling size inhibit diverse application of this housing form as an important affordable social housing option* |
| Seniors Living - Amend the 'location and access to facilities' provisions so that point-to-point transport such as taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirements | Disagree. ** |

*See further discussion in feedback by type below



3. Introduction of New Housing Types

| | Build-to-rent housing | CENSW Comment | Co-living | CENSW Comment | Student housing | Boarding houses | CENSW Comment |
|-----------------------------|--|---|------------------------|--|------------------------|-----------------------------|--|
| Tenant | No restriction for market rent dwellings | Portion of Eligibility based on income | No restriction | Portion of Eligibility based on income | Students | Eligibility based on income | Low to middle Income to promote diversity |
| Affordable | Local provisions apply | Min 20% | No minimum requirement | Min 20% | No minimum requirement | Yes – 100% | Social/affordable mix |
| Tenancy | 3 years or more | Yes | Minimum 3 months | Yes | No minimum | Minimum 3 months | Yes |
| Communal living area | New design guidance will be developed | Provision made for the option to include | Required | Yes | Required | Required | Yes |
| Room/Apartment size | New design guidance will be developed | Varied configurations – Studio to 3 bedroom Apartments Specific FSR bonuses for CHPs or developments with larger affordability components e.g. 40% | 30 - 35 m2 | Increase to 35m2 as minimum | 10 m2 | 12 - 25 m2 | Consider increasing maximum size to allow for greater livability and opportunity for universal design (aging and disability allowance) |



Minimum car parking provision

0.5 spaces per dwelling

Reduced if an appropriate transport access plan can be demonstrated

0.5 spaces per room

Reduced if an appropriate transport access plan can be demonstrated

No minimum requirement

0.5 spaces per room, or 0.2 spaces for social housing providers

Yes



Section 2 - Feedback by Housing type

Overall, it is our view that somewhere within the Housing Diversity SEPP subset there needs to be a more adaptable set of controls which allow for true diversity. Built form which accommodates diverse household configurations enables diverse housing communities and all its benefits.

We see most opportunity for more adaptable planning controls to be included within either the build to rent or co-living subsets. Build to rent controls may have the most opportunity as they are yet to be fully detailed and design guidelines have yet to be established. Alternatively, the draft co-living planning provisions could present opportunity to fulfill a greater diversity of needs if more diverse apartment configurations are allowed for.

As a CHP of affordable co-operative rental housing, the two dominant models appropriate for us (from the subset of new housing types available) are: Build to rent (if allowances for appropriate provisions for co-living are included) and Boarding houses (if appropriate maximum size is increased).

As a developer of housing which aims to be fit for purpose for Co-operative and collaborative living there are also a number of inhibitors in the existing Affordable housing SEPP which we would like to take the opportunity to comment on.

1. New Housing Types

CENSW sees a gap in diverse housing planning options which can be accessed for smaller developments led by smaller CHPs and community led housing groups. This gap falls somewhere between: the new Build to Rent and current Affordable Housing Development controls; and the new Co-Living and previous Boarding House planning provisions.

Our feedback below suggests that one or more of the SEPP planning provisions may be extended to provide greater access – to a wider range of stakeholders – to develop diverse housing.



Build to Rent Housing

Build to rent housing has the least developed guidelines so far and therefore the most potential to include further affordances to increase housing diversity outcomes. Key features that we would like to see included in the build to rent guidelines are:

- Diverse configurations of dwelling size and type
- Explicit allowance for a communal space/s which includes a space large enough for residents to meet, socialise, prepare meals etc.
- Explicit allowance for a lockable administration space (to endure security of records)
- Explicit allowance for shared utility areas such as laundries, kitchens, outdoor zones etc. (as with Co-living controls)
- Additional CHP provisions:
 - o Minimum dwelling concessions for CHPs (e.g. 20 rather than 50) – making it a more accessible model for CHP's to utilise
 - o FSR benefits for CHP's utilising this model (comparable to affordable rental housing controls)
 - o Reduced mandatory car parking provisions for CHP's (from 0.5 to 0.2 - as with Boarding House CHP provisions)
 - o Mandatory approvals for CHP's (developing under build to rent provisions) in all areas where residential flat buildings are permitted (as with Co-living controls).
- Department Guidance to council's regarding the above – particularly as it applies to CHP development applications

We also recommend that the department consider applying the above points to community led housing groups looking to utilise this control subset.

Co-Living

Alternatively, similar goals to the above could be achieved by further diversifying dwelling types within the co-living controls. Recommended amendments include:

- Longer term rental periods
- Diverse dwelling configurations
- Make mandatory for CHPs in R3 zoning
- Reduced car space concessions for CHP's and or community led housing groups - with or without the provision of a transport access plan – e.g. onsite car share/car-pooling options etc or if the site meets public transport opportunities.



- Increase minimum dwelling size to 35m²+ (greater for studios for couples and multi-room dwellings) to increase liveability, and application of universal design principles (disability and aging access) and encourage/facilitate longer term tenancies.

2. Updating Existing Provisions

Boarding houses

CENSW views the introduction of the new generation boarding house controls in the previous SEPP as positive contribution to more diverse housing options. While we understand concerns that have arisen from implementation of this control, we have been able to use it successfully to develop:

- a fit for purpose co-operative dwelling (complete with 2 accessible studios)
- in a low-density residential zone – keeping within the allowable building envelope and in keeping with the feel of the surrounding neighbourhood.

We see this form of housing as highly beneficial for a diverse range of low to middle income singles and couples who would otherwise struggle with finding affordable, secure and appropriate accommodation.

In particular this form of housing presents a dignified option for single older people and older couples at risk of homelessness and with the opportunity to provide a greater number of housing outcomes within a single residential block. References to the dependency and suitability of this housing form are included in a reference list to this document.

With this in mind, our feedback is to:

- Reinstate mandating this housing type in R2 residential zones – where residents can benefit from the community and environmental context.
- Increase minimum and maximum room sizes to:
 - o Allow for better quality of life and liveability – eg through separation of living and sleeping zones;
 - o Facilitate longevity of tenancy – through higher level of comfort; and
 - o Enable universal principles of design to be applied to allow for greater accessibility and more successful aging in place.

Amendments to the ARHSEPP

We suggest a reconsideration of the maximum distances from public transport accessibility. Perhaps with special concessions/distance bonuses for CHPs applying for development under this provision. Current access distances can be prohibitive and further inhibit affordable



housing developments which produce higher yields and therefore a greater number of housing outcomes.

Seniors

CENSW disagrees with the decision to amend the 'location and access to facilities' provisions so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility. These forms of transport are being used far more frequently and add to options for seniors' transport. Particularly in the COVID environment such forms of transport may be preferred and safer for older people than public transport options.

The proposed changes further limit opportunities for CHPs (especially smaller CHPs such as CENSW) to develop under seniors housing controls due to further property specification requirements when purchasing.

Special provisions could be put in place for CHP's for making development applications under the Seniors Housing controls. CHPs could be required instead to submit a transport access plan through DA process to demonstrate that appropriate transport availability and solutions have been considered. This could include links with government subsidised transport programs, partnership arrangements with community transport organisations or onsite car share or car-pool volunteer roster etc.



Section 3 – Social Housing Provision Changes

CENSW notes the additional provisions intended for LAHC redevelopments under the SEPP. We recognise and commend the positive impact of this on social and affordable housing delivery.

We would like to note however that provisions producing a similar outcome (i.e. streamlining assessments) would greatly benefit CHP's who are independently (and on non-government land) developing social and affordable housing projects. Department guidance to Council's on how to support this would be highly beneficial in increasing the supply of social and affordable housing stock.

CENSW notes the extended density bonus for LAHC and the application of these to a greater range of development types. We strongly advocate for CHPs' access to this arrangement to be equal to LAHCs. Such an arrangement further broadens the scope of the diversity of built form provisions able to be accessed for development.

Likewise, we advocate for the same parking bonuses as apply to LAHC to be available to CHP developments.



Reference List

Overall intent

Collaborative housing: Building a Great Life Together

<https://www.collaborativehousing.org.au/>

How the Suburbs can Evolve from Covid-19

https://theurbandeveloper.com/articles/how-the-suburbs-can-evolve-from-covid-19?utm_source=TUD+Master+List&utm_campaign=6e041b80b7-EMAIL_CAMPAIGN_2019_07_03_11_11_COPY_01&utm_medium=email&utm_term=0_9f25b32131-6e041b80b7-195562137

Pixel Pilot

<https://www.cityofsydney.nsw.gov.au/vision/planning-for-2050/alternative-housing/pixel-pilot>

Boarding houses

Older People and Homelessness

<https://www.homelessnessnsw.org.au/resources/older-people-and-homelessness>

Older Women Booklet

https://www.homelessnessnsw.org.au/sites/homelessnessnsw/files/2016-12/Older_Women_Booklet_Web_Version.pdf

Older Women's Studio Project

https://www.homelessnessnsw.org.au/sites/homelessnessnsw/files/2017-04/Older_Womens_Studio_Housing_Project-Web-Version.pdf

Submitted via HP Mailbox

-----Original Message-----

From: Matt O'Reilly <mattheworeillytm@gmail.com>

Sent: Thursday, 10 September 2020 9:35 AM

To: DPE PS Housing Policy Mailbox <housingpolicy@planning.nsw.gov.au>

Subject: Submission on draft housing diversity SEPP

Hello, please find attached our submission on the proposed Housing Diversity SEPP.

This submission has been prepared by the Community Alliance for Byron Shire Inc

My name is Matthew O'Reilly and I am the current CABS President.

I understand submissions were due yesterday but we were not notified y Byron Council off the exhibition and only found out about it on Tuesday evening.

We ask that you accept our late submission.

Your sincerely Matthew O'Reilly - President CABS

mattheworeillytm@gmail.com

Submission on the new Housing Diversity SEPP

By Community Alliance for Byron Shire.

The existing Affordable Rental Housing SEPP has been the most contentious Planning document in Byron Shire for the last four years. Developments have taken place under the ARHSEPP in Ocean Shores, Mullumbimby, Bangalow, Sunrise and Byron Bay. ALL of these developments have caused large community opposition but have been accepted by Byron Council under mediation because they are expressly permitted under the ARHSEPP.

In each case these developments have externalised the costs of the development onto the wider community while not providing the affordable housing that meets community expectations.

In particular we would like to draw to the Departments attention that small rural towns and villages like, Ocean Shores, Brunswick Heads, Mullumbimby, Bangalow, Sunrise, Suffolk Park and Byron Bay do not have adequate public transport links and residents cannot meet all their employment, social, cultural and local needs within the neighbouring business zones.

These inappropriate developments create huge on street parking issues as every boarding house room, every multi-dwelling housing unit every co living residence and every student residence in reality have one and sometimes two vehicles per bedroom. Yet onsite car parking is only required at a rate of 0.5 car parks per dwelling.

This has turned many of our peaceful family neighbourhoods into mini ghettos and once quiet suburban streets where children rode their bikes and played into effectively one way streets with bumper to bumper car parking along either curb.

While the density, FSR, open space and car parking discounts applied under the SEPP may be completely appropriate in larger cities and towns throughout NSW they are having a perverse and unintended consequence in small rural villages.

The proposed amalgamation and amendment of the Affordable Rental Housing SEPP, the Housing for Seniors and Disabilities SEPP and SEPP 70 provides some positive changes but it also raises some issues that we think need addressing.

CABS make the following comments on the proposed Housing Diversity SEPP

1. in-fill affordable housing under the SEPP should be used as affordable housing for 20 years instead of the current 10 years
2. Secondary dwellings are now permitted under most LEPs independent of the SEPP
3. CABS supports the new built to rent housing definition but acknowledges that it may have limited appeal in Byron Shire where real estate in B3, B4 and R3 zones is limited and developing a minimum 50 dwellings may not be easily achievable.
4. BTR Housing must not be mandated in R1, R2 or B1 zones unless Councils deliberately include this in their LEPs through Planning Proposals.
5. It is important that Councils be permitted to increase the car parking ratio above 0.5 car parking spaces per dwelling for built to rent housing as in some case in regional areas a higher ratio will be appropriate. (where public transport is not to a high enough standard)
6. CABS support the new definition of student housing and that it is not mandatory in any zones but may be included at Councils discretion.
7. CABS support a new definition for Co-living by removing it from the current boarding house definition, but we are concerned about some of the proposed planning provisions.
 - a. In Byron Shire some areas zoned B4 Mixed Use are inappropriate for this type of development particularly in Brunswick Heads. Co-living should not be mandated in the B4 zone but should be included at the discretion of individual councils.
 - b. Areas Zoned R1, R3, R2, B1, B2, B3 and B5 should not be mandated to include co-living development but should be included at the discretion of local councils
 - c. Building height and FSR should be determined by LEPs and not the SEPP
 - d. In Byron Shire reduced car parking rates for co-living developments are not appropriate. Individual Councils should be able to set their car parking rates higher than 0.5 car parks per bedroom to reduce the impact of on street parking in the neighbourhood. A car parking rate of 1 car park per bedroom is appropriate in Byron Shire.
 - e. The proposed minimum Room size, communal living space, and private open space all seem acceptable
 - f. The communal open space should remain at 25% of the site area even if private open space exceeds the minimal requirements. Car parking areas, rubbish bin areas, access paths, bike racks, boundary buffers and vegetated landscaping must be specifically excluded from the communal open space area calculation.
8. CABS support the change in boarding house definition to make it affordable and that it is managed by a community housing provider
9. CABS recommend that the rooms in boarding housing remain affordable in perpetuity or at a minimum 20 years and does not agree with them only reremaining affordable for 10 years.
10. CABS support removing the mandate that boarding houses must be permitted in the R2 zone
11. CABS also recommend that boarding houses not be mandated as permissible in R1 or B1 zones. They are currently mandated in these two zones and this decision should be left up to the local council.
12. CABS support a flat 10% FSR bonus for boarding house developments and opposes the 20% bonus suggested by the Department
13. Car parking rates for boarding houses in Byron Shire are currently too low as there is not sufficient public transport so all tenants require private vehicles. Local Councils in regional

areas should be able to apply higher car parking rates if the area is not adequately serviced by public transport.

14. CABS support the proposed amendment to allow the conversion of an existing dwelling to a group home as exempt or complying development
15. CABS support the amendment that the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time rests with the applicant
16. CABS support the amendment that councils have the discretion to set a maximum size for secondary dwellings in rural zones
17. CABS supports changes that amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement
18. CABS support the proposal to amend the SEPP Seniors provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP
19. CABS oppose including manor houses and terraces, in the list of developments that can attract a density bonus. Byron Council has prepared its draft residential strategy based on assumptions of potential housing development. Including this additional density bonus will skew these calculations.
20. CABS STRONGLY OPPOSES the proposed changes to expand the density bonus outside the Sydney metropolitan region. This is possibly the single most concerning recommendation in the new proposed SEPP. At present Byron Shire has already experienced far too many inappropriate developments that have taken advantage of the density bonus by being within 400m of a B2 or B4 zone. Unfortunately, in Byron Shire there is many areas in villages which are zoned B2 or B4 but are not suitable for density bonuses because they do not have enough local services to meet the needs of residents.
21. The major concern with the proposed change is that density bonuses will apply to all land within 800m of a railway station and 400m of a bus station.
 - a. In Byron Shire this will open up vast swathes of the community to development if they are within 800m proximity of the current three operating train stations at Sunrise, Belongil and Byron Bay North.
 - b. Byron Council is currently proposing to reopen the train stations at South Byron Bay, Lily Pily, Bangalow, Mullumbimby, Ewingsdale, Tyagarah, Myocum and Billinudgel. If this were to occur, then density bonuses would apply within 800m of all eight of these train stations.
 - c. Blanches Bus Services currently operates six regular public bus services that run through Byron Shire. It also runs dozens of regular school bus services which are still classified as regular bus services. The regular public bus services stop at just over 30 bus stops throughout Byron Shire. While at present there is not enough bus services running very hour between 6.00am and 9.00 pm each day to meet the proposed definition even a slight change to scheduling would open up 30 new areas in Byron Shire to multiple dwelling density bonuses.
 - The Passenger Transport Act 1990 defines **regular bus service** means any regular passenger service conducted by bus (including any transitway service).
 - The Passenger Transport Act 1990 defines **regular passenger service** means a public passenger service conducted according to regular routes and timetables, but does not include a tourist service or a long-distance service.

These definitions include all regular SCHOOL bus services. In regional NSW regular school bus services far exceed regular public bus services. It is completely inappropriate to include

school bus services in the calculations of the number of bus services operating from a bus stop.

22. CABS strongly recommend that the affordable housing density bonuses are not applied in Byron Shire at all as they are not having the positive desired effect that occurs in larger cities and towns.
23. CABS also recommend that the affordable housing density bonuses are reduced to a flat 10% rate in regional areas
24. Local Councils should be given the discretion to increase the minimum car parking spaces per dwelling above those currently states in the SEPP for development applications that are not by a social housing provider. Reduced car parking rates in the SEPP should still apply to social housing providers. The reduced car parking rates in the SEPP are having a negative impact on small rural villages.
25. The in-fill affordable housing provisions currently require at least 20% of the gross floor area of the development be managed by a community housing provider for 10 years. CABS strongly recommend this be changed to 30% and to 20 years. 20% and 10 years is simply not enough area or time to meet the affordable housing needs of the community.

Yours sincerely Matthew O'Reilly – President CABS



Community Housing Industry
Association NSW

Submission on the Housing Diversity SEPP Explanation of Intended Effects

15 September 2020

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About this submission

This submission is made by the Community Housing Industry Association NSW (CHIA NSW) in response to the Housing Diversity State Environmental Planning Policy (SEPP) Explanation of Intended Effects (EIE) released by the NSW Department of Planning, Industry, and Environment (DPIE).

This submission responds to the new housing types proposed in the EIE and the proposed revisions to the provisions in Affordable Rental Housing SEPP. The submission also identifies additional proposals that would further support the objectives of the Housing Diversity SEPP.

About CHIA NSW

CHIA NSW is the industry peak body for registered community housing providers in NSW. The community housing sector builds and provides low-cost housing for individuals and families who cannot afford to rent or buy a home in the private market. CHIA NSW represents more than 100 community housing providers delivering rental housing for very low to moderate income and disadvantaged households across NSW.

CHIA NSW's work is focused on four key areas:

- **Supporting sector growth** through policy, research, advocacy, communications and stakeholder engagement with government, politicians, and partners
- **Promoting service excellence and continuous improvement** through benchmarking surveys, data collection, resources, and toolkits
- **Equipping current and future leaders and staff in the community housing sector** through the delivery of accredited education and training, professional development, and events which connect our leaders and staff to share experiences, challenges, and best practice.
- **Supporting the establishment of the Aboriginal Community Housing Industry Association.**

The community housing industry in NSW is growing and diversifying and now manages more than 50,000 homes. Community housing providers develop new housing designed to meet the long-term needs of tenants and communities and work with private developers to design and deliver new mixed tenure communities. Between 2012 and 2020, CHIA NSW estimates that its members have invested more than \$1.2 billion to deliver around 3,200 new homes.

CHIA NSW response to the Housing Diversity SEPP EIE

CHIA NSW welcomes DPIE's release of the EIE and supports the proposal to consolidate SEPPs, improve the effectiveness of these affordable and diverse housing policies, and to increase the supply of affordable and diverse housing through the NSW planning system. The Housing Diversity SEPP will provide both incentives for developers to improve outcomes in communities across NSW and set requirements that ensure new housing supply meets the diverse housing needs of NSW residents.

CHIA NSW's submission responds to the proposals in the EIE and identifies opportunities to improve the consistency of affordable housing policy across the Affordable Rental Housing SEPP (ARHSEPP) and SEPP70 as part of the new, harmonised Housing Diversity SEPP. This submission addresses:

- New housing types
- Boarding house provisions
- Affordable Rental Housing SEPP (ARHSEPP) provisions
- Social housing provisions
- Updating SEPP 70 provisions

CHIA NSW welcomes the opportunity to discuss any of these recommendations with DPIE in more detail. A key recommendation of this submission is that DPIE establish an Industry Working Group to develop a framework that enables community housing providers to achieve the density bonus provisions for boarding houses and ARHSEPP Division 1 projects while addressing concerns about local character.

New housing types

CHIA NSW supports the introduction of build-to-rent, co-living, and student housing types. These housing types reflect the diverse and changing housing preferences in the community and the opportunity for the planning system to facilitate greater options in the rental housing market. The proposals in the EIE are reasonable and will support developers and investors to increase housing supply more efficiently.

There are opportunities to improve the effectiveness of these proposals, including amending the car parking provisions to reflect the trend to lower car ownership and reduce the cost of construction associated with unnecessary car parking. For all three new housing types, CHIA NSW supports reduced car parking requirements and maximum or no car parking requirements in metropolitan locations close to high frequency public transportation.

At a minimum, CHIA NSW recommends that social housing providers' car parking requirements for boarding houses be extended to co-living buildings. Where social and affordable housing is provided in locations close to high frequency public transportation, social and affordable housing tenants have significantly lower rates of car ownership.¹ The unnecessary car parking requirements are an impost that in effect reduces social housing providers' available investment for additional housing supply.

CHIA NSW recognises that there are no affordability requirements for these three new housing types, as the new housing types are designed to support investment and diversity in the private rental market. To encourage improved affordability outcomes, CHIA NSW recommends that the current ARHSEPP Division 1 density bonus provisions be extended to these new housing types.

¹ Burke, T. and Stone, J. (2014) Transport disadvantage and low-income rental housing, AHURI Positioning Paper No.157. Melbourne: Australian Housing and Urban Research Institute. Available from: <https://www.ahuri.edu.au/research/position-papers/157>.

This would provide an incentive for private developers and investors to include a component of affordable housing in well-located areas close to services and employment and better meet local housing needs. An incentive approach would allow these outcomes to be delivered but would not impede private market development and investment as proposed in the EIE.

Build-to-rent housing

Build-to-rent dwellings will enable large-scale investment in rental housing and help develop data on financial performance and risk in the private rental market. Over the medium to long-term, this is expected to contribute to improving the investment environment for both private market and affordable rental housing.

Build-to-rent housing will also address a current weakness in the NSW private rental market by requiring long-term leases. The lack of security for residential tenants in the private market is detrimental for individual and family well-being as well as affordability in the private rental market.

CHIA NSW supports the minimum size of 50 units in metropolitan areas, and in regional areas, smaller build-to-rent dwellings could be in the order of 25 units.

CHIA NSW supports the proposal in the EIE to require a contribution to affordable housing if a build-to-rent building is strata subdivided after 15 years. The benefit provided to developers through new development opportunities in expanded land use zones and the proposed financial incentives through land tax concessions requires that the community benefit provided in exchange for these incentives to be retained should the dwellings cease to provide long-term rental housing options.

Co-living

The introduction of co-living as a housing type will help distinguish the different small dwelling housing options and address community concern about boarding houses. Given the importance of the co-living dwelling type as a bridge between new generation boarding houses and studio apartments, CHIA NSW recommends that the room size for co-living rooms be amended to a range of 25m² to 35m².

The EIE proposes a requirement for an onsite manager where a co-living building has 10 units or more. This proposal is different to the requirement for boarding houses to have an onsite manager where they have capacity for 20 or more lodgers. The experience of CHIA NSW's members is that the requirement to have an onsite manager for 20 or more residents is often an unnecessary expense. Good tenancy and property management is sufficient to support community cohesion, address resident concerns, manage common area, and ensure good facility and asset management. CHIA NSW recommends that the requirement for an onsite manager should be consistent across housing types and that an onsite manager be required for a building with 30 or more co-living rooms.

If necessary, this could be a provision reserved for registered community housing providers that are highly regulated to ensure quality property and tenancy outcomes.

Summary of recommendations

- For all new housing types, provide no minimum car parking requirement and a maximum car parking requirement of 0.5 spaces per room within 400m of high frequency public transportation in the metropolitan area
- Extend social housing providers' boarding house car parking requirement of 0.2 per room to social housing provider delivery of the three new housing types
- Allow the current ARHSEPP Division 1 density bonus to be applied to the three new housing types
- Require owners of build-to-rent buildings to provide an affordable housing contribution if a build-to-rent building is strata subdivided
- Allow co-living rooms to be between 25m² and 35m²
- Amend the onsite manager requirement for co-living buildings to 30 rooms or more

Updated boarding house provisions

CHIA NSW broadly supports the proposed amendments to the boarding house provisions, including the introduction of affordability requirements for boarding houses. Boarding houses are an important form of affordable accommodation and introducing affordability requirements in perpetuity will support housing options for very low-income people and help community acceptance of new boarding houses.

FSR bonus

CHIA NSW has concerns about the proposed flat 20% FSR bonus for boarding houses. The combination of new affordability requirements, being a reduction in operational revenue, and the reduced FSR bonus will significantly reduce the development feasibility of delivering smaller dwellings for low and very low-income individuals.

Community housing providers have used the boarding house FSR bonus to deliver specifically designed housing options for young people, older women, and older tenants. The bonus has been critical to enabling providers to deliver these housing options for very low-income individuals in locations close to transport and services, which have higher land costs. Social and affordable housing development is not feasible in locations in these locations without a range of subsidies. The FSR bonus has been critical to securing housing options for vulnerable tenants in these areas.

CHIA NSW notes the work of the Boarding House Working Group and the concerns these councils have detailed. Given the significant impact the reduction in FSR will have on the overall supply of housing in the metropolitan area, CHIA NSW recommends that DPIE establish an Industry Working Group to work with designers, DPIE, and councils to develop a framework for affordable housing design that would support better outcomes for boarding house developments and affordable rental housing, while minimising the negative impact on housing supply.

The economic and social benefits of increased affordable housing supply are significant. The housing supply pipeline in the Greater Sydney area faces a potential downturn in part due to COVID 19, and it is recommended that the FSR changes be put on hold until further analysis can be completed by the Working Group.

Addressing community perceptions

Further improvements to community perceptions would be assisted by introducing the term micro-apartments for boarding houses that only have self-contained units. This would in effect replace the term new generation boarding house, which is poorly understood in the community and confused with assisted boarding houses and traditional boarding houses.

CHIA NSW understands that limited knowledge of the difference between new generation boarding houses and assisted boarding houses or traditional boarding houses has influenced local councils that have applied assisted boarding house registration requirements as a condition of consent to community housing providers, who are exempt from those requirements as they are highly regulated and ensure they provide quality housing outcomes. These negotiations with councils and the education process required add significant time and cost to delivery.

CHIA NSW recommends that DPIE introduce the term micro-apartments and clarify the intersections with the *Boarding Houses Act 2012* to reduce confusion and excess cost.

Onsite managers

As outlined above, CHIA NSW's members have found that good tenancy and property management are sufficient to ensure quality housing outcomes for tenants in boarding houses. CHIA NSW recommends that the requirement for an onsite manager apply to dwellings with the capacity to house 30 or more individuals.

Boarding house provisions

- Establish an Industry Working Group to develop a framework for designing boarding houses and affordable rental housing that enables the FSR bonus to be retained while meeting community expectations
- Change the name of self-contained new generation boarding houses to micro-apartments
- Review the intersections between the Housing Diversity SEPP and the Boarding House Act to clarify registration requirements to reduce unnecessary cost and time delays
- Revise the onsite management requirement to apply for boarding houses of 30 or more individuals

Updated ARHSEPP provisions

CHIA NSW supports the proposed amendments to the ARHSEPP provisions and has identified additional opportunities to improve the effectiveness of the Housing Diversity SEPP.

Ensuring outcomes are maintained for 10 years

CHIA NSW is currently finalising a project that explores the affordable housing outcomes delivered under ARHSEPP Division 1 and the extent to which approved projects are complying with the affordable housing provisions in the ARHSEPP.

The density bonus provisions in Division 1 enable private developers to deliver additional floor space and improve their overall development yield, in exchange for retaining a portion of the properties as affordable housing for 10 years. The ARHSEPP outlines conditions for affordable housing dwellings, including:

- Tenant eligibility
- Rent policy
- Management by CHPs

Local governments and Planning Panels have sought to ensure the affordable housing requirements are delivered by:

- Including specific conditions of consent
- Requiring a restriction on title to be registered for the designated affordable housing properties
- Requiring draft management agreements with CHPs to be in place at the time of development approval and at the time of issuing occupation certificates.

There is, however, no ongoing oversight to ensure these requirements are met over the full ten-year period required by the ARHSEPP.

Due to the difficulty accessing detailed data on development applications approved under the ARHSEPP, CHIA NSW's analysis builds on 2018 research by Dr Nicole Gurran and Dr Catherine Gilbert at the University of Sydney on development applications approved under the ARHSEPP in six LGAs and Planning Panels². The original data set has been extended so that it now covers approvals from 2009 to December 2019.

CHIA NSW's analysis has included:

- Using public data sources to identify whether construction of these projects has been completed

² Gurran, N., Gilbert, C., Gibb, K., van den Nouwelant, R., James, A. and Phibbs, P. (2018) *Supporting affordable housing supply: inclusionary planning in new and renewing communities*, AHURI Final Report No. 297, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/297>.

- Survey of CHIA NSW members to identify whether management arrangements are in place for these properties as required under the ARHSEPP
- Review of public data sources on sales and leasing of completed properties
- Review of public data on for-profit registered community housing providers and their ARHSEPP rental portfolios

The analysis undertaken to date has found no evidence of management by a registered community housing provider for 30% of the projects completed by private developers in the sample.

Without transparent monitoring and registration requirements, developers and subsequent owners have limited motivation to comply with the affordability requirements for the full ten years. The need for such a monitoring mechanism will now be even greater, as the EIE proposes that boarding houses will also be managed by a registered community housing provider.

CHIA NSW's view is that the NSW Registrar of Community Housing is well-placed to maintain a database of approved and completed affordable housing dwellings and to confirm that registered community housing providers are managing those dwellings.

Planning authorities would need to provide notice to the Registrar when approving development applications under the SEPP. Developers would be required to confirm the community housing provider management arrangements in place to the Office of the Registrar in order to receive the Occupation Certificate. Registered community housing providers would then confirm to the Registrar, on an annual basis, that the management arrangements remain in place. There would be no impediment to owners changing registered community housing providers during the ten-year period.

This mechanism would enable the Registrar to confirm the properties are meeting the affordability requirements for the full 10-year affordable housing period and enable the Registrar to provide advice on the total number of affordable housing dwellings made available through the ARHSEPP provisions. This would create a transparent and accountable system for all parties, at minimal cost to the Office of the Registrar, planning authorities, and developers.

Achieving the density bonus

The ARHSEPP Division 1 density bonus has provided significant support to the delivery of affordable housing by community housing providers who are delivering social and affordable housing for the most vulnerable people and families across NSW. Affordable housing developments are not feasible without additional incentives and subsidies, and the density bonus has been essential to developing new housing in locations with good access to transport and services.

Appropriate and affordable housing in these locations provides lower income households with the opportunity to engage in social and economic participation and addresses locational disadvantage that these households might otherwise face.

CHIA NSW has a number of examples that we can share with DPIE where these social and affordable housing developments have been unable to achieve the full density bonus due to the impact of other planning controls, e.g. height restrictions, even where the variation from planning controls is marginal and the overall planning outcomes are consistent with the objectives of the local area.

CHIA NSW proposes that the Industry Working Group would enable a collaborative engagement to shape a framework that enables developers to achieve the best development and housing outcomes and address community concerns.

Affordability period

When the ARHSEPP was originally designed, it was a leading initiative to provide incentives to private developers who would otherwise not consider development of affordable rental housing. The 10-year affordability period for properties that receive the Division 1 density bonus at the time aligned with the funding environment and the incentives available through the National Rental Affordability Scheme. The timeframe also reflected that the planning policy was new to NSW and the development industry would need time to adjust. There was also the possibility that properties that were 10 years old would be relatively more affordable, and a discount to market rent may not be needed.

Since that time, housing affordability for low income households in the rental market levelled off after a period of record-breaking new supply, but housing affordability is not improving and ten years on, the ARHSEPP affordable housing dwellings that return to market prices will not be affordable for low income households.

CHIA NSW recognises that in order for the ARHSEPP density bonus to be effective in delivering new supply, the incentive must be attractive to private developers. In exchange for the FSR bonus and the increased development profit that provides, however, the public benefit of affordable rental housing dwellings must be retained for an appropriate period.

CHIA NSW recommends that the Industry Working Group review the feasibilities of recent ARHSEPP developments and assess the potential impact on new supply should the affordability be extended, for a further time period or in perpetuity.

It is critical that any amendment to the affordability provision ensure that flexibility is allowed for how the affordability requirement is met after the 10 year period, in order to ensure that property valuations are not affected and the cost of financing does not increase.

Given the ongoing need for affordable housing supply, one option would be to extend the affordability period to 15 or 20 years, with flexibility on how the affordability outcome is delivered in years 11 to 20. This could include:

- a monetary contribution
- delivery in an alternative location within the LGA.

CHIA NSW would welcome the opportunity to discuss the detail of how such a clause would be drafted to improve affordability while not affecting valuations.

Mitigating the loss of affordable housing

The provisions to mitigate the loss of existing affordable rental housing are supported. The current DPIE *Guidelines for the Retention of Existing Affordable Rental Housing* outline that planning authorities are required to pay contributions to Department of Communities and Justice.

CHIA NSW recommends that DPIE consider allowing councils to transfer the contributions to their own affordable housing program where they have put in place an affordable housing contribution scheme. This would ensure that small contributions are applied quickly and effectively to supporting affordable housing supply.

ARHSEPP Provisions

- Introduce monitoring and registration requirements with the Registrar of Community Housing for affordable housing dwellings approved through ARHSEPP Division 1 and the revised boarding house provisions
- Establish an Industry Working Group to develop a framework that enables quality design outcomes of affordable housing that achieves the full density bonus and meets local requirements
- Ensure that the Industry Working Group review the impact on development feasibilities of extending the affordable housing period and allowing flexibility in how owners meet the affordability requirement
- Amend the *Guidelines for the Retention of Existing Affordable Rental Housing* to allow councils with affordable housing contribution schemes in place to pool their contributions

Social housing provider provisions

CHIA NSW notes the LAHC social housing provider provisions are designed to facilitate the efficient delivery of new social and affordable housing models in mixed communities. These proposals support additional flexibility to improve housing and community outcomes for the most vulnerable people in NSW.

Through Future Directions and the Housing Strategy Discussion Paper, the NSW Government has committed to leveraging the benefits of community housing providers to develop new social and affordable housing. Community housing providers and LAHC share the objectives of ensuring appropriate and affordable housing for the low income and disadvantaged households in NSW.

The Housing Diversity SEPP can further support these objectives by ensuring that the appropriate social housing provisions are extended to all not-for-profit social housing providers. At a minimum, this includes:

- applying the 0.5 spaces per dwelling car parking rate to development by registered community housing providers—noting that CHIA NSW supports lower car parking requirements within 400m of high frequency public transportation in the metro area
- allowing not-for-profit registered community housing providers to build boarding houses of no more than 10 rooms in the R2 zone

CHIA NSW would welcome discussions with DPIE on opportunities to prepare an appropriate design framework for community housing provider delivery of boarding houses in R2 zones to ensure local outcomes are supported.

Facilitating community housing approval pathways

Planning approval timeframes represent a significant cost for community housing developments, while community housing developments are largely approved with minor variations.

Consistent with the build-to-rent proposal, CHIA NSW recommends that DPIE amend the State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) to allow community housing provider developments to become State Significant Development (SSD) if they have a capital investment of \$50 million or more. This would be consistent with the build-to-rent provision and reflect the critical importance of increasing the supply of affordable housing in NSW.

For smaller developments, CHIA NSW recommends that DPIE develop an alternative approval pathway to streamline assessments and reduce development approval timeframes for community housing developments. While a range of mechanisms may be used to deliver this outcome, complying development provisions and a Code of Practice outlining design and development standards, similar to the Education SEPP would be an effective approach. Review by DPIE or LAHC could be included in the process to improve transparency and accountability.

Density bonus provisions

The EIE proposes to extend the Division 1 density bonus provisions for LAHC to new housing types and to new locations meeting specified criteria outside of the Greater Sydney area. These provisions are sensible and are not specific to LAHC objectives.

CHIA NSW recommends that these provisions be included in the Housing Diversity SEPP for all developers, subject to meeting the affordability requirements.

Social housing provider recommendations

- Apply a 0.5 space per dwelling minimum car parking rate to registered community housing providers—noting CHIA NSW supports reduced car parking rates within 400m of high frequency public transportation
- Allow registered community housing providers to develop boarding houses of no more than 10 rooms in the R2 zone, subject to agreed design guidelines
- Amend the SRD SEPP to allow community housing provider development to be considered SSD where they have a capital investment value of over \$50 million.
- Introduce streamlined approval pathways for community housing provider developments of under \$50 million, potentially including a complying development pathway
- Allow all developers to apply the Division 1 density bonus to new dwelling types and within the new proposed location criteria outside of Sydney metro to all developers

Updating SEPP 70 provisions

CHIA NSW supports DPIE's proposal to consolidate the ARHSEPP and SEPP 70 into the Housing Diversity SEPP. SEPP 70 is critical to addressing the shortage of affordable housing in NSW, while the ARHSEPP complements this by providing incentives that make the delivery of affordable housing more efficient.

The Housing Diversity SEPP should also harmonise the operation of affordable housing programs, including ensuring both provisions are mandatory across NSW and including amendments to make the implementation of affordable housing contribution schemes more efficient for planning authorities and developers.

Supporting equitable affordable housing distribution

Affordable housing contribution schemes are an effective mechanism to facilitate the supply of affordable housing. The current policy outlined in the Greater Sydney Region Plan and District Plans is for planning authorities to assess the feasibility of an affordable housing contribution in a specific location at the time of rezoning.

DPIE has supported the implementation of contribution schemes by amending SEPP 70 to ensure affordable housing contribution schemes can be prepared in any NSW local government area and by developing the *Guideline for Developing an Affordable Housing Contribution Scheme*.

Despite these significant policy improvements, there are several councils who have indicated they do not intend to prepare a contribution scheme.

There is significant evidence that affordable housing contributions do not limit the ability of the planning system to increase housing supply, but they do improve the ability of the planning system to increase the supply of appropriate housing at the required price points.

NSW has experienced record high levels of housing completions in recent years, and during this period market rents have stabilised. The new housing supply, however, has not increased the proportion of private rental supply that is affordable for households on very low or low incomes or improved housing affordability more generally. Expanding the implementation of affordable housing contribution schemes is required in order to address the significant gap between supply and need across Greater Sydney and NSW.

According to research commissioned by CHIA NSW and Homelessness NSW in 2018, it is estimated that NSW will require an additional 317,000 social and affordable homes by 2036 to meet current housing shortfall and future need driven by population growth and demographic change³.

Despite this wide-spread demand for affordable housing, there is reluctance in some councils to implement contribution schemes.

The implications of poor and uneven implementation of affordable housing contribution schemes could include poor distribution of affordable housing options across the Greater Sydney area and distortions in the private market, where developers choose to shift development to local government areas that have decided not to implement a contribution scheme.

In order to improve the supply of affordable housing under the Housing Diversity SEPP, CHIA NSW recommends that the SEPP make the preparation of affordable housing contribution schemes mandatory to ensure the required supply of affordable housing is delivered equitably across the Greater Sydney area and that the uneven implementation does not distort the housing market.

Applying contribution schemes more broadly

CHIA NSW supports the current policy of implementing Affordable Housing Contribution Schemes where land is rezoned and the feasibility of delivering affordable housing is demonstrated. In some locations, however, councils have indicated this approach is out of step with where they are at in the strategic planning cycle. Where rezonings have recently taken place, this policy would suggest that the opportunity to introduce an affordable housing contribution scheme is another cycle away, with the benefits of recent uplift already foregone.

The Housing Diversity SEPP can build on current policy by providing a vision of how these mechanisms need to expand as the policies mature. This would include allowing for preparation of affordable housing contribution schemes to low-rate, broad-based schemes over time.

A broad-based scheme would not replace the place-based schemes prepared at the point of rezoning. This scheme would sit alongside place-based schemes and would provide certainty for developers about

³ Troy, L, van den Nouwelant, R, Randolph, B (2019) Estimating need and costs of social and affordable housing delivery. Sydney: UNSW City Futures.

long-term expectations. Signalling this proposal now would allow time for the market and landowners to adjust land prices.

Internationally as well as in the City of Sydney it has been demonstrated that a broad-based contribution does not impede development, as developers incorporate the contribution into the land purchase price.⁴ On sites where developers can demonstrate that a contribution in the form of dedicated dwellings is not feasible or is not preferred, planning authorities allow monetary contributions at the appropriate rate.

Efficient program design

Councils that are designing affordable housing schemes are applying the guidances in the *Guideline for Developing an Affordable Housing Contribution Scheme*, which provide high level advice on the elements that must be included in contribution schemes and affordable housing programs.

While it is essential that local schemes reflect local priorities and the local housing market, DPIE can improve the efficiency of program design and implementation by engaging with Councils on which elements of scheme and program design could be harmonised across local government areas, in order to reduce design cost for councils and development costs for developers.

Developers in Sydney have consistently indicated willingness to deliver affordable housing or make a monetary affordable housing contribution when provided with sufficient notice and details of the contribution, including the approach to calculating the amount, the timing of providing the contribution, and the form of the contribution.

CHIA NSW recommends that DPIE and councils consider harmonising rent setting across council areas and with the ARHSEPP provision for affordable housing to improve management efficiencies and to improve understanding amongst tenants of affordable housing policies.

CHIA NSW also recommends that the Housing Diversity SEPP clarify that all affordable housing dwellings should be delivered under a consistent policy framework. The NSW Affordable Housing Ministerial Guidelines should apply to affordable rental housing dwellings delivered under the Housing Diversity SEPP. The Guidelines ensure dwellings are managed in accordance with good practice and meet outcomes required by Government.

⁴ Gurran, N., Gilbert, C., Gibb, K., van den Nouwelant, R., James, A. and Phibbs, P. (2018) Supporting affordable housing supply: inclusionary planning in new and renewing communities, AHURI Final Report No. 297, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/297>, doi: 10.18408/ahuri-7313201.

SEPP 70 recommendations

- The Housing Diversity SEPP should make it mandatory for all councils to develop affordable housing contribution schemes to avoid distortions in the housing market and to improve the capacity to meet housing need
- Commit to expanding affordable housing contribution schemes into broad based systems after 3-5 years to provide certainty to the market on the locations where affordable housing will be required and enable the market to adjust
- Establish a working group with local councils on what elements of contribution schemes should be harmonised in order to reduce cost for councils and developers
- Extend application of the NSW Affordable Housing Ministerial Guidelines to all Housing Diversity SEPP affordable housing properties ARHSEPP

Response to Proposed NSW Housing Diversity SEPP

Construction Assignments is writing to provide feedback on the on the proposed Housing Diversity SEPP.

Construction Assignments is a professional project management consultancy delivering specialist services throughout Australia. We are adept in the delivery of hotel projects and have recently delivered successful boarding house developments for private developers. We currently have two boarding house projects underway, also for private developers.

Boarding houses are typically not the highest and best use of development sites, with margins that are challenging, however recent popularity for the New Generation Boarding Houses or Co-Living, demonstrates a genuine need for this type of accommodation in the community.

The two recently completed boarding house projects have room sizes that range from approximately 16 – 25 m². Each room in these properties is self-contained with kitchen and bathroom. The rooms were occupied soon after completion, such was their popularity.

The developments provide modern fixtures and fittings and residents pay a single fee for the micro-apartments to be fully furnished while also covering all utility rates, including internet services.

Construction Assignments understands the desire for the NSW Government to consolidate three existing, housing related SEPPs, however there are many aspects of the proposed changes that we cannot support. The proposed changes by the NSW Government removes the incentives that are in place to facilitate boarding houses. The proposed changes in fact deter boarding houses as a development as the new changes restrict the management of a Boarding Houses to not-for-profit community housing providers only.

The proposed Housing Diversity SEPP Co-Living category appears to have been created to capture the New Generation Boarding Houses, however the proposal fails to understand the Co-living products that are already successfully in place. We consider the NSW Government proposal, as presented, will reduce the extent of privately developed boarding house opportunities.

Restriction on Zoning where Co-Living developments can be built.

Boarding houses are currently permitted in a wide range of zones which do not permit residential flat buildings. The NSW Government proposal restricts Co-Living housing to only where residential flat buildings are permitted. This restriction will reduce the land available for development compared to the current permissibility.

No FSR Bonus for Co-Living

As stated previously, the development of boarding house projects under the current regulations is already quite challenging and the loss of FSR Bonus in the latest proposal will detract from Boarding Houses being the highest and best use of development sites.

Co-Living Room Size

The Explanation of Intended Effect for the Housing Diversity SEPP lists a minimum size of 35 m² which is substantially greater than the current size of Boarding House rooms which are typically 12 – 25 m². It is not realistic to enforce an arbitrary increase when the cost of the development will be ultimately passed on through increased rent from less rooms. Larger room sizes are not necessarily better than smaller rooms. The key is intelligent design and clever use of space to ensure all key elements are included and affordability is maintained. Increased room sizes coupled with no FSR bonus will make future Boarding House developments near impossible to be financially feasible.

Requirement for private open space for Co-Living

The NSW Government proposal for a minimum of 4 m² of private outdoor space forces rooms to have balconies or courtyards, asserting further pressure on the sites available and the feasibility of development sites for this Co-living category.

Communal Open Space Requirement for Co-Living

The new proposal requires a communal open space requirement of 25%. No such requirement exists for boarding houses. Again, this additional requirement places pressure on the feasibility of these projects. If this was to be retained, we suggest that the internal communal area be excluded from the FSR calculation.

Car Parking for Co-Living

The Explanation of Intended Effect for the Housing Diversity SEPP suggests a car parking standard of 0.5 spaces per room. Although the proposal notes that Councils may approve a development with less parking where appropriate, we consider this will be a source of conflict. By setting the 0.5 ratio we believe Council will use this as a reason for refusal even if the development is in an area with more than adequate public transport services. We suggest that the ratio of 0.2 parking spaces per room be adopted in areas with public transport services.

Closing Statement

Construction Assignments acknowledges the NSW Government's intention to consolidate three existing, housing related SEPPs, however we consider the Co-living SEPP will seriously affect the feasibility of Co-living developments and will have the opposite effect on the Government's intention of stimulating this accommodation sector. We strongly recommend the various areas within the SEPP be rewritten to consider the changes proposed in this submission.

To Sir/Madam in regards to the Diversity SEPP on exhibition,

1. The Student Housing type is not appropriate at this time

Having this specific type instead of student housing being delivered under the more generic Boarding House/Co-Living type will mean construction does not break ground during the pandemic.

We are suggesting that under the proposal, the optimal return for proponents is achieved by banking Student Housing approvals, for possible development at a later date when uncertainty has sufficiently reduced.

Also preventing the type from breaking ground is the prospective opportunity cost - by deferring development on such an approval the developer achieves a stronger negotiation position for approval modifications, if the construction industry or international student activity has weakened further by that time.

2. The Student Housing type should be removed

The room size is too small for any alternative use and this offsets the saving in development cost from smaller room sizes – resulting in a loss of amenity for students without improving affordability.

At present the type is infeasible to build. Once the pandemic dissipates, we estimate the net initial yield – the return at which it becomes commercially feasible - would need to be at least 9% to allow for the overheads of an active management, and the inability to repurpose this ultra-dense type into any alternative use should student numbers at the local education facility reduce. For comparison, we calculate the Boarding House type to be feasible at a NIY of 6-7% - meaning the Boarding House type is feasible with projected returns of around 30% lower than for Student Housing.

This means the Student Housing type is unlikely to be cheaper to rent than Boarding House despite the substantially reduced amenity. Student Housing is therefore better served under what is currently called Boarding Houses.

3. The common car parking ratio of 0.5 per dwelling, should instead be in the range 0.1 to 0.2

Having the high number is rather a blunt instrument. It is not correct to argue that this is mitigated because consent can be granted to a lower ratio, as practically the existence of a number tends to guide the expectation and consent lower than expectation is difficult and expensive to achieve. Given the forecast impacts of advancements in rideshare and autonomous vehicles a number in the range of 0.1 or 0.2 would seem more reasonable – this will both improve delivery of affordable housing and reduce the number of cars on the road.

4. Boarding House development should not be limited to community housing providers (CHPs)

This would end development of most boarding houses and, over time, the savings that they offer renters and associated suppression of private rents.

The Local Council Working Group has published a facetious argument – that the new development is unaffordable and that by preventing the new development from happening, there is no new supply of unaffordable housing and no affordability problem.

Only by allowing a diversity of development to continue can affordability be maintained and amenity impacts minimized.

5. The Boarding House and Co-Living types should be merged into one

This will allow for room sizes between 12 to 30 square meters, resulting in a superior diversity outcome – as well as lowering rent by lowering the return proponent needs – as the proponents risk is reduced.

6. The “minimum units” requirement for Co-Living, of 10 units, should be removed.

It is being prescriptive for no value as this is a commercial viability consideration and not a planning consideration.

7. The combined Co-Living/Boarding House type should be permissible with consent in R1 and R2 zones – but with a control on the maximum rooms

The worst examples of over-development of Boarding Houses have been in the R4 zone and to a lesser extent the R3 zone.

Recently introduced density controls for the R2 zone – a condition added for a maximum 12 rooms – therefore appears to be working and it would be sensible to extend this condition to the R1 zone which is also low density.

There is also merit in lowering this room number further, to perhaps 6 to 8 rooms, to be more aligned to the number of bedrooms found in a large freestanding house. An outright ban for R2 zones is unnecessarily prescriptive and would result in a poor diversity outcome.

R4 zoning was done with traditional apartments in mind – and using the high density controls for Boarding Houses results in “slum towers” of far too many units. This is not a problem that is resolved by building “in the zone” or next to parks or shops.

8. The SEPP needs to be exhibited once it is drafted

The 'devil is in the detail' and the detail is not provided.

Kindest Regards

Corinne

Proposed Changes NSW SEPP

Below are some points that hopefully will be considered, as a small private individual investor in property, I am aware that there is a major affordable housing availability shortage in Australia and this will keep growing if not acted upon and the right policies put in place.

Small middle Class investors can make a difference if policies are put in place that will not create large expenses to set them up, but in a way that they are still being set up to a standard and legal.

Share Housing

A share house should be set a two types.

The R2 zone should allow up to 6 people in a share house.

Any more than 6 people should have a CDC approval that the process could be carried out through a private certifier.

Would be good if Share housing could be allowable in the R2 residential zones.

Another option that would help create more affordable housing would be have No universal access required on properties build prior to a certain date.

So NSW government include an exemption for Universal access to existing stock.

Co – Living type set up

There needs to be regulations that state the minimum standards.

Properties built before a certain date

- No universal access
- Property should still be brought up to a 1b standard
- Have no more than 6 people.
- Max of 5 bedrooms

Any property built after a certain date should require.

- Universal access
- CDC approval up to 6 people
- 6 or more people not allowed in a R2 zone, DA with council.

Residents can have own bathroom and kitchenette. (no fixed compliances in kitchenettes, can also share facilities in dwelling and dwelling must still have a full working communal kitchen.

The Affordable Rental Housing SEPP

Boarding style houses being managed by Community Housing Providers I believe is not the right way.

All zones should allow New Generation Boarding House Policy
These properties will be sort after if financially right and correct locations.

The proposed changes will make it hard on middle class small investors / developers as there will be higher cost involved in the development process. Higher cost does not help with the affordable housing issue Australia is facing.



Submission

Housing Diversity SEPP – Explanation of Intended Effect (EIE)

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COTA NSW

COTA NSW is the peak body representing people over 50 in NSW.

We're an independent, non-partisan, consumer-based non-government organisation. We work with politicians, policy makers, service and product providers as well as media representatives to make sure our constituents' views are heard and their needs met.

The focus of the COTA NSW submission

COTA NSW welcomes the review and consolidation of the: Affordable Rental Housing, 2009 (ARHSEPP), Housing for Seniors and People with a Disability, 2004 (Seniors SEPP) and the Affordable Housing No 70 SEPP.

COTA NSW has long called for a review of these planning instruments and the inclusion of measures that encourage and allow for responsive and innovative solutions for older people in NSW. It is evident that through the long-term advocacy of peak organisations, community housing providers and others that NSW Planning has proposed changes to the Housing Diversity SEPP that have been advocated for, particularly in the areas of boarding houses, co-living and build-to-rent housing schemes.

As the EIE acknowledges, there will continue to be a demographic shift in NSW, with an increasingly older population. The development of innovative models of affordable housing is required to facilitate the ability for older people to age in place – in areas that are well located and close to services and transport.

Underpinning any discussion of housing is the importance of housing design. COTA NSW has long advocated for the introduction of increased minimum design standards of accessibility that will allow older people and the broader community to be able to live in a home that meets their needs as their circumstances change over a life course. COTA NSW supports universal design principles as espoused by Livable Housing Australia that takes a 'whole of life' approach - that is inclusive - regardless of age, ability or background. Taken in this context, universal design should not solely be considered in the realm of 'adaptable' or 'accessible' housing but as a design standard to ensure liveable communities for all.

There is currently a significant shortfall in social and affordable housing, this is why COTA NSW supports the affordable housing sectors call for the implementation of inclusionary zoning, with targets of at least 15% on all new developments on private land and 30% on government land applied across the whole developments.

This submission will respond to those amendments and additions relevant to older people within the proposed SEPP, namely: Build-to-rent housing, Co-living, and seniors housing provisions.

Build-to-rent housing

COTA NSW welcomes the inclusion of development standards for build-to-rent housing within a new Housing Diversity SEPP. This type of house has long been a component of an affordable housing rental mix in countries such as the United States and the United Kingdom. The availability of medium to long lease terms is particularly important to older people to ensure certainty of tenure and the opportunity to develop connections to their local community.

In response to the development standards outlined within the EIE, COTA NSW raises the following points:

- The minimum requirement of 50 self-contained dwellings may inhibit the construction of these developments. As height restrictions would be determined by Councils, the ability to build a block with this number of dwellings in a particular zone or parcel of land will be limited. In the absence of an explanation as to the reasonings for this number, COTA NSW recommends that this number should be reduced to 30 self-contained dwellings. This is particularly relevant in regional areas.
- That any design guidance specifies a minimum gold level Livable Housing standard for all new builds. This will allow older people to age in place and provide accessible housing to families, people with chronic illness or people with disability.
- That the new SEPP provides links or refers to any programs or industry incentives that are developed by Government to encourage investment in build-to-rent housing such as discounts on land tax or reduction in developer contributions.
- That a definition of affordability is included within the SEPP to allow a standardised approach across local government for rent determination.
- Where Government subsidy for build-to-rent developers is made available on basis that build-to-rent properties will deliver a better tenant experience - this must be demonstrated. Mechanisms must be included with the guidelines that implement clear requirements and accountability measures in relation to security of tenure, affordability and tenant participation outcomes.

Co-living

The introduction of the new terminology to replace new generation boarding house. Unfortunately, there exists a stigma within the general community about boarding houses and those that reside within them. The term co-living has more positive connotations and accurately describes the model of housing.

COTA NSW also welcomes the requirement of co-living housing to be provided as affordable housing and managed by Community Housing Providers (CHPs). COTA NSW would argue strongly that the affordability of these housing types should be maintained as affordable in perpetuity. Further investment in co-living dwellings will generate more housing that is genuinely affordable for very low, low- and moderate-income households.

In response to the development standards outlined within the EIE, COTA NSW raises the following points:

- That any design guidance specifies a minimum gold level Livable Housing standard for all new builds. This will allow older people to age in place and provide accessible housing to families, people with chronic illness or people with disability.
- That a definition of affordability is included within the SEPP to allow a standardised approach for rent determination.
- Clarification on whether management is required to reside on-site.
- Provide guidance on the zones where this type of dwelling will be permissible.
- Clarification on application of the affordability requirement on existing dwellings classified as boarding houses.

Amendments to seniors housing provisions

COTA NSW supports amending the Seniors SEPP to ensure consistency across planning instruments. We also note the clause that will prevent access to transport services cannot be used for meeting accessibility requirements; this is welcomed.

In response to the development standards outlined within the EIE, COTA NSW raises the following points:

- COTA NSW strongly encourages the development of Government-owned land for the delivery of new social housing. It is proposed that subdivision of Government-owned land will be allowable without consent. COTA NSW would like to reiterate the importance of demonstrating that the necessary local infrastructure exists to support these developments in any plans. Older people are often reliant on public transport or the ability to walk short distances to shops and other services. Streamlining of planning processes should not exclude consideration of local factors that would support new residents.
- The extension of an exemption from lift access requirements to the LAHC is of a concern. The importance of the ability to age-in-place cannot be underestimated. All seniors housing should be built to minimum accessibility standards such as the gold level Livable Housing guidelines. This would preclude the removal of lift access to floors on levels 2 and above.

Thank you for the opportunity to provide feedback on this EIE. COTA NSW looks forward to working with NSW Planning to ensure that the needs and desires of older people continue to be planned for and addressed.



8 September 2020

Mr Jim Betts

Secretary

Department of Planning, Industry and Environment

Dear Mr Betts,

RE: SUBMISSION IN RESPONSE TO EIE FOR proposed HOUSING DIVERSITY SEPP

This submission has been prepared, with the assistance of City Plan Strategy & Development (City Plan), in response to the Explanation of Intended Effect (EIE) for the proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) currently on exhibition. Our submission responds specifically to the proposed amendments to *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP).

The Seniors SEPP is largely outdated and does not reflect the modern forms of senior's accommodation that the market demands. While we therefore welcome a review of the development standards and design guidelines within the SEPP, we are greatly concerned that the proposed amendments will negatively impact on our ability to provide high quality aged care accommodation in NSW. To be blunt we will cease to be able to construct a Residential Aged Care Facility in Metro Sydney.

We recognise that the legal text of the proposed new Housing Diversity SEPP is currently not available. However, based on our review of the EIE it appears that the proposed amendments will make it harder, if not impossible, to provide seniors housing.

Section 2 of our submission provides a response to the proposed amendments to the seniors housing provisions as detailed in the EIE, while Section 3 identifies additional matters which are not covered by the EIE, which we consider should either be amended, updated or retained. Our recommendations are then summarised in Section 4 and are based on our extensive experience using the Seniors SEPP to deliver premium residential aged care facilities across Sydney and the Central Coast.

1. ABOUT CRANBROOK CARE

Cranbrook Care is the parent company which owns and manages our aged care and retirement living residences. The Cranbrook Care team has been operating in the industry since 2000.

Currently the aged care residences (Residential Aged Care Facilities) under our ownership and management are located at Bella Vista in The Hills (two), Abbotsford in the Inner West, Sydney's Lower North Shore at Neutral Bay (two) and the NSW Central Coast. These facilities provide health and care services to approximately 539 people. We have constructed all of these facilities from green field sites using the current SEPP.

Cranbrook Care Pty Limited

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2. RESPONSE to Proposed AMENDMENTS TO THE SENIORS SEPP

2.1. The current Seniors SEPP definitions should be retained

The Seniors SEPP contains a different definition of 'height' to that adopted in Standard Instrument LEPS. We understand that for consistency, the Housing Diversity SEPP is proposing to adopt the Standard Instrument definition.

The Seniors SEPP currently defines 'height' as *"the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground immediately below that point"*. This means that anything above the ceiling of the topmost floor (such as roof parapets, stair/lift overruns, rooftop plant and equipment, etc.) is currently excluded from the height calculation.

The Standard Instrument LEP definition defines 'building height' as *"the vertical distance from ground level (existing) to the highest point of the building"*.

The definition under the SEPP acknowledges that compared to other housing typologies, seniors housing developments require accessible compliant lift access and larger amounts of plant which add to the overall height of the building. The height definition to the ceiling of the topmost floor of the building therefore ensures the scale of buildings is similar to other permissible forms of development, while allowing for lifts and plant (which are typically located in the centre of the building footprint) to be located above the height of adjoining buildings.

If the proposed amendment is adopted, the building height would need to be calculated to the highest point of the building. This would effectively reduce the permissible building height of seniors housing developments. In short in most cases limiting buildings to be single storey. While a clause 4.6 variation request can be submitted for a height variation, it is not a route which provides certainty for applicants. Furthermore, as discussed in Section 2.6 below, the Housing Diversity SEPP is seeking to cap the use of clause 4.6 variations.

In turn, a reduced building height will also impact on the quantum of permissible gross floor area (GFA) available, potentially undermining financial viability of this form of housing. This pressure is acutely felt in relation to residential aged care facilities, where the specialised nature of their design makes it difficult to compete for well-located land in an open market. Most senior Australians wish to age in their own home, those that require care in a Residential Aged Care Facility (Approximately 10% of the cohort) wish as a minimum to stay connected to their current community – retain their current Doctor and familiar friends. To this end Residential Aged Care Facilities should ideally be spread through all communities and areas in terms of locations. In Metro Sydney the highest and best use of land that Residential Aged Care Facilities compete for is a never an Aged Care use. The only way we have competed and been able to construct our past 6 facilities is relying on the SEPP to be able for use to have a GFA that allows us to compete for land. Without the SEPP Residential Aged Care Facilities will not be located where they are needed.

While other definitions are proposed to be amended (e.g. 'people with a disability' and 'AS 2890'), we note that the EIE does not propose to amend the definition of GFA. Currently the GFA definition differs between the Seniors SEPP and the Standard Instrument LEP and as such, an opportunity exists to align the definitions.

For similar reasons outlined above, it should be recognised that seniors housing differs in design and operation to other forms of residential accommodation. For example, a residential care facility can currently exclude any floor space below ground level that is used for service activities. If the GFA definition aligned with the LEP, the basement service areas would need to be included in the GFA calculation, thereby impacting on the quantum of permissible gross floor area (GFA) available for bedrooms. We therefore support the proposal to not update the GFA definition.

2.2. Schedule 1 – 'Environmentally Sensitive Land' should be updated

The Seniors SEPP currently does not apply to 'environmentally sensitive land' identified in Schedule 1 of the SEPP. It is recognised that many of the terms within Schedule 1 are either obsolete, ambiguous (often reliant on legal interpretation) or do not align with definitions in the Standard Instrument and other Environmental Planning Instruments. The Housing Diversity SEPP is therefore seeking to update Schedule 1 to align with current legislation and planning conditions. We are generally supportive of this, however, it is unclear what changes are proposed.

As part of the proposed updates, the terms within Schedule 1 should be clearly defined to remove uncertainty and their arbitrary nature. The term "water catchment" should also be removed entirely. Currently all land within SEPP (Sydney Drinking Water Catchment) 2011 is excluded from the Seniors SEPP because the term "water catchment" is listed in Schedule 1. This results in many existing urban areas and town centres, including the Southern Highlands and the Blue Mountains, being excluded from the operation of the Seniors SEPP.

Given that all development within a drinking water catchment is required (by either state policy via Water NSW or local Council requirements) to have a neutral or beneficial effect on stormwater, and other similar forms of development (including medium density housing) are permitted in the water supply catchment areas, the restriction on seniors housing and application of the Seniors SEPP is considered a likely anomaly within the legislation.

2.3. Existing facilities in the 'Metropolitan Rural Area Exclusion Zone' should not be penalised

The Seniors SEPP was recently amended to exclude all land identified on the "Metropolitan Rural Areas Exclusion Zone" maps.

The change means that any site located within a mapped "Exclusion Zone" (including a range of residential and other urban zoned land) can not support seniors housing, unless permissibility can be established under the LEP. This change affects 13 LGAs in the Sydney Metropolitan Area.

The unintended consequence of this amendment is that the replacement or renewal of existing facilities will also not be subject to the development standards contained in the Seniors SEPP (upon which feasibility may depend). In some cases (i.e. where permissibility is also not permitted under an LEP), the facility may only be permissible where existing use rights can be substantiated. This is problematic given the abundance of older style seniors housing facilities across NSW which are increasingly required to be rebuilt to adapt to newer and more innovative models of care.

The repercussions of the COVID-19 pandemic and the Royal Commission into Aged Care Quality and Safety mean the aged care industry is continuing to navigate an uncertain journey while simultaneously adjusting operating models and response strategies. One of the clear issues arising for aged care providers is

ensuring social distancing between residents and staff and heightened infection control. The SEPP should therefore introduce amendments which support existing facilities to be rebuilt and/or upgraded to ensure they are fit for purpose.

2.4. Requirements for 'access to facilities' under clause 26 should align with residents' needs

Given residents of residential care facilities typically have very different needs to residents living in self-contained dwellings, it is considered that there is an opportunity to amend Clause 26 to provide different 'location and access to facilities' requirements depending on the type of seniors housing proposed.

For example, people living in 'residential aged care facilities' are typically elderly, have limited mobility, and reduced cognitive impairment. Compared to residents of a 'residential aged care facility', residents of 'independent living units' would typically have greater opportunity and desire to leave their accommodation to attend shops, banks, commercial services, community services and recreation facilities.

By definition, 'residential aged care facilities' incorporate nursing on-site and it is highly unusual for residents to travel independently to external health services. In our twenty years of operation we have never had a resident independently catch public transport. These services are generally provided in-house or in a highly managed environment to minimise residents leaving the site unaccompanied where there may be risks to their wellbeing.

It has been widely accepted that in lieu of meeting the provisions of Clause 26, 'residential aged care facilities' can provide a private bus service to transport residents to required external services and facilities. This approach has been widely accepted in the Land and Environment Court and should therefore be reflected in Clause 26.

2.5. Local development standards should not prevail over the SEPP standards

The Seniors SEPP currently allows development for the purpose of seniors housing to be carried out *"despite the provisions of any other environmental planning instrument"*.

It is proposed to amend the SEPP so that the development standards in an LEP will prevail to the extent of any inconsistency with the SEPP. This is a fundamental change and will potentially mean that the 'development standards that cannot be used as grounds to refuse consent' under Part 7 of the Seniors SEPP will be set aside. Currently these provisions protect residential care facilities, hostels and self-contained dwellings from onerous local standards in relation to building height, density and scale, landscape area, deep soil, solar access, private open space and parking. As such, the development standards and 'do not refuse' standards within the Seniors SEPP should continue to prevail over any standards within any other environmental planning instrument.

Inclusion of the existing development standards and 'do not refuse' standards within the Seniors SEPP provide certainty and transparency for development outcomes. These standards incentivise the provision of seniors housing developments against competing land uses by providing opportunities to offset back of house / support functions required for this specialised form of housing.

While we understand that it is the Government's position that Council should be responsible for the delivery of seniors housing, we are deeply concerned that the proposed amendment could lead to

significant uncertainty, especially given most councils currently rely on the controls within the Seniors SEPP and do not have suitable controls for seniors housing in their own LEPs and DCPs. This may also lead to councils imposing inappropriate and restrictive development standards to control seniors housing in their respective LGA.

In the event the SEPP was to be amended so that the development standards in an LEP prevailed over the SEPP, we would request that additional provisions be imposed to ensure that the Seniors SEPP only ceases to apply once council has demonstrated that their local provisions will deliver a similar or greater level of seniors housing (i.e. depending on the demand within the relevant LGA), and that onerous local controls that stifle the delivery of seniors housing will not be implemented.

2.6. The development standards within the SEPP should be reviewed and updated

While it is important that the development standards and 'do not refuse' standards with the SEPP be retained as discussed in point 2.5 above, it is recognised that there is scope to review and update the existing standards. Many of the current standards do not reflect the modern forms of seniors accommodation that the market demands, with the SEPP catering more for a retirement village low density style of accommodation. Revised provisions should be implemented which cater for a range of accommodation types, including medium and high density seniors housing typologies. For example, the 'do not refuse' landscaped area standard for residential aged care facilities is currently 25sqm of landscape area per residential care facility bed. This could be refocussed to ensure the provision of a variety of useable, functional and well-kept spaces. Similarly, Clause 40(4) relating to height in zones where residential flat buildings are not permitted, restricts heights of buildings to 8 metres or less. Investigations should be undertaken to determine if 8m is appropriate, noting that the clause could be adjusted to accommodate innovative designs on sloping sites, where split level floor plates are unable to be provided due to accessibility requirements.

2.7. An arbitrary 20% maximum limit should not be imposed on clause 4.6 variations

It is proposed that the development standards in the Seniors SEPP can be varied by a maximum of 20% using Clause 4.6. The EIE implies that this would act as a prohibition in the Housing Diversity SEPP.

We do not support this amendment and seek further clarification on the intention of the arbitrary 20% maximum upper limit. We are concerned this contradicts recent case law on Clause 4.6 variations where the imposition of strict numerical limits has been resisted in favour of demonstrating compliance with a development standard is unreasonable or unnecessary in the circumstances of the case.

We are also concerned about what this means for non-numerical development standards, including Clause 26 which relates to location and access to facilities. Clause 4.6 is currently used to vary this standard where a seniors housing development provides a private bus service to and from a seniors housing development to a range of external facilities. However, it is unclear how this non-numerical development standard could be varied under the proposed amendment.

We need to ensure that it is viable for us as Aged Care Providers to continue to build and operate Residential Aged Care Facilities.

3. Additional matters not identified in the EIE

The following section identifies additional areas not mentioned in the EIE which we consider should either be amended, updated or retained.

3.1. Zones nominated as "primarily zoned for urban purposes" should be clearly identified

Clause 4 should be updated to specify the zones of the Standard Instrument LEP that are "primarily zoned for urban purposes". This will clearly confirm what is and what is not urban zoned land.

3.2. Parking concessions for seniors housing should be retained

The Seniors SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider. The EIE is silent on confirming whether this will be retained in the Housing Diversity SEPP.

We would strongly encourage the parking concession is maintained to improve the feasibility of delivering new seniors housing communities.

3.3 Bonus floor space provisions for vertical villages should be expanded

It is unclear whether the 0.5:1 FSR bonus for vertical villages under clause 45 of the Seniors SEPP will be maintained.

The existing bonus provisions are an effective way of enticing community housing providers (both profit and not for profit organisations) and provide good incentives for vertical village development. Typically, this form of development comprises larger units to meet minimum sizes and therefore the incentive to obtain additional GFA should be retained. This is particularly important for the viability of vertical village projects when competing against other land uses in the market, such as residential. However we don't know of anyone who has used this bonus. This should be reviewed.

The incentives in clause 45 should be retained and expanded to include land that permits shop-top housing. This would mean that the 0.5:1 FSR bonus could apply to mixed use zones and therefore within local centres when a SCC is issued. To accommodate the FSR bonus, an additional height bonus could also be included. This incentive would encourage seniors housing to be developed in highly accessible locations.

3.4 Schedule 3 of the Seniors SEPP should be retained

It is unclear whether Schedule 3 of the Seniors SEPP, which relates to standards concerning accessibility and use ability for hostels and self-contained dwelling, will be retained. We would strongly recommend the Schedule is retained given it is effective in providing clear guidance on the standards for these types of seniors housing.

3.5 Opportunities should be provided to re-use and re-develop existing developments

An opportunity exists to introduce additional incentives to redevelop and expand existing seniors housing developments. Due to the increasingly expensive price of land across the State, baseline development standards could be introduced to incentivise the redevelopment of existing seniors housing. This could

work in a similar way to the vertical villages provisions under clause 45 of the Seniors SEPP (e.g. a 0.5:1 FSR bonus and similar building height bonus could be applied, provided an SCC is issued).

3.6 Flexibility should be introduced to accommodate complementary land uses

The definition of seniors housing should be amended to provide more flexibility and enable complementary land uses such as medical consulting rooms and medical centres to co-exist with residential care facilities. Furthermore, recent international research has highlighted demand for intergenerational care, with aged care facilities co-located with childcare. The psychological and social benefits of intergenerational care programs are well recognised.

3.7 Affordable housing provisions should be clarified

The Seniors SEPP contains provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers.

Further detail should be provided in the proposed Housing Diversity SEPP to identify whether affordable housing places should remain in perpetuity or whether they should be limited to a 10-year period only. Similarly, detail should be provided in the SEPP to clarify who owns any affordable housing. Different Councils have different approaches to these matters and the sector would benefit from greater clarity and certainty surrounding the timeframe and ownership of affordable housing places.

4. RECOMMENDATIONS

Based on the above comments, our key recommendations are:

| RECOMMENDATIONS IN RESPONSE TO PROPOSED AMENDMENTS | |
|---|---|
| Seniors SEPP definitions | <i>Retain the current definition of 'height' contained within the Seniors SEPP, noting that if the Standard Instrument LEP definition is adopted it will ultimately limit the development of Residential Aged Care Facilities. Increase the 8-metre height standard to reflect the specific design requirements of seniors housing. Retain the 'GFA' definition as currently proposed by the EIE.</i> |
| Schedule 1 'Environmentally Sensitive Land' | <i>Update Schedule 1 of the Seniors SEPP to align with current legislation and planning conditions. Remove the term 'water catchment' from Schedule 1 of the SEPP.</i> |
| Metropolitan Rural Area Exclusion Zone | <i>Amend the SEPP provisions to allow existing facilities located within the 'Metropolitan Rural Areas Exclusion Zone' to be rebuilt or expanded under the operation of the Seniors SEPP. This is particularly important where the Seniors SEPP previously provided permissibility or where permissibility cannot be established under an LEP.</i> |
| Clause 26 'Access to Facilities' | <i>Amend Clause 26 to differentiate between the types of housing administered under the Seniors SEPP, noting that the existing criteria in Clause 26 is suited to those who</i> |

| | |
|---|--|
| | <p><i>reside in 'independently living units' and is not necessarily suited to frail persons who reside in 'residential aged care facilities'.</i></p> <p><i>Update Clause 26 to allow private bus services to be provided for 'residential aged care facilities'.</i></p> |
| Clause 5(3) of the SEPP | <p><i>Retain the current wording of Clause 5(3) of the Seniors SEPP which states, "If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency".</i></p> <p><i>Include additional provisions if/when the SEPP is amended so that the development standards in an LEP prevail over the SEPP. The new provision should state that any exemption from the Seniors SEPP shall only be granted once it has been demonstrated that council's local provisions will deliver a similar or greater level of seniors housing to that currently permitted by the SEPP.</i></p> |
| SEPP standards under Parts 4 and 7 | <p><i>Review and update all outdated development standards and 'do not refuse' standards provided in Parts 4 and 7.</i></p> <p><i>Introduce new provisions to cater specifically for medium and high-density seniors housing typologies.</i></p> |
| Clause 4.6 variations | <p><i>Do not impose an upper limit restriction on clause 4.6 variations to development standards, including non-numerical development standards, under the Seniors SEPP.</i></p> |
| FURTHER RECOMMENDATIONS FOR ADDITIONAL MATTERS NOT IDENTIFIED IN THE EIE | |
| Zones nominated as "primarily zoned for urban purposes" | <p><i>Specify which zones are "primarily zoned for urban purposes" within clause 4 of the Seniors SEPP.</i></p> |
| Parking concessions | <p><i>Retain the parking concessions for social housing providers available under the Seniors SEPP</i></p> |
| Bonus floor space for vertical villages | <p><i>Retain and expand the existing bonus floor space provisions under clause 45 of the Seniors SEPP to include land that permits shop-top housing.</i></p> |
| Schedule 3 of the SEPP | <p><i>Retain Schedule 3 of the Seniors SEPP.</i></p> |
| Opportunities for existing developments | <p><i>Introduce incentives (e.g. bonus FSR and height) to redevelop and expand existing seniors housing developments.</i></p> |
| Opportunities for complementary land uses | <p><i>Amend the definition of seniors housing to provide more flexibility and enable complementary land uses (e.g. medical consulting rooms and medical centres) to co-exist with residential care facilities.</i></p> |
| Affordable Housing provisions | <p><i>Prescribe the proposed timeframes for affordable housing and ownership provisions of affordable housing places.</i></p> |

5. CONCLUSION

We welcome the opportunity to provide this submission in response to the exhibition of the EIE for a new Housing Diversity SEPP.

While we support a review of the outdated Seniors SEPP provisions, we are greatly concerned that the current amendments will ultimately reduce the amount of high quality residential aged care permitted to be delivered. This is highly concerning given the current and projected shortage of seniors housing across NSW.

We also understand that the Department has expressed that it is unlikely to exhibit the draft legal text for the new Housing Diversity SEPP, and that they are targeting an end of year deadline to adopt the new SEPP. Despite the timeframes being worked towards, we strongly urge that a copy of the draft legal text be placed on public exhibition to enable further review and comments to be provided by key stakeholders. In this regard, it is considered that further consultation is essential to ensure the SEPP is practical and does not stifle the future delivery of much needed seniors housing.

Should you wish to discuss this submission further, please contact the undersigned on 0412 606 989.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Campbell Meldrum', with a long horizontal line extending to the right.

Campbell Meldrum
Executive Director, Cranbrook Care



CUMBERLAND
CITY COUNCIL

9 September 2020

Sandy Chappel
Director, Housing Policy
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref
Contact
Telephone

CS-205
D. Cavallo
8757 9850

Dear Ms Chappel

SUBMISSION ON THE DRAFT HOUSING DIVERSITY SEPP

Thank you for the opportunity to make a submission on the draft Housing Diversity SEPP and its Explanation of Intended Effects. Cumberland City Council recognises the importance of diverse and affordable housing that meets the varying needs of the community and ensuring there is an appropriate planning framework in place.

Please find attached Council's submission on the draft Housing Diversity SEPP, which focuses on the key implications for Cumberland City. Council looks forward to the submission being carefully considered as part of the review process.

If you have any queries or require additional information, please do not hesitate to contact Daniel Cavallo, Director, Environment & Planning on 8757 9850 or daniel.cavallo@cumberland.nsw.gov.au.

Yours faithfully

Hamish McNulty
GENERAL MANAGER

Encl: Cumberland City Council submission on EIE for proposed Housing Diversity SEPP.

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Welcome *Belong* **Succeed**

CUMBERLAND CITY COUNCIL SUBMISSION ON THE EXPLANATION OF INTENDED EFFECTS (EIE) OF THE DRAFT HOUSING DIVERSITY SEPP

Cumberland City Council generally welcomes the proposed changes and new consolidated housing diversity SEPP. The rationale for the proposed changes is considered positive and the proposed updates to certain planning controls is considered very timely, particularly given the rapid population growth occurring within the Central City District, and the need to encourage a genuine diversity of housing to meet the diverse and changing needs of many communities.

Cumberland City Council also notes that the proposed changes only reflect housing typologies designed for rental. Council encourages the State government to consider other mechanisms beyond rental tenure, to further address the ever-increasing pressure of Councils, particularly those in Sydney's west, which bear a disproportionate share of metropolitan Sydney's housing affordability challenge.

This submission focuses on the areas of most relevance to Cumberland City.

CONSOLIDATION OF THREE SEPPs

The proposed streamlining of the three existing SEPPs into a single SEPP is considered to be a positive change, effectively simplifying the planning controls relating to diverse housing types and consolidating them into a single location, making them easier to use.

UPDATED HOUSING TYPES AND DEFINITIONS

The new definitions are considered to be an appropriate inclusion in the planning framework, providing an important update as well as making the assessment of these types of housing developments clearer.

BOARDING HOUSE PROVISIONS

While Council understands the need for boarding houses in a broader planning context, the provision of this form of housing at the development application stage has generated significant community objections in low density residential zones.

Council supports the proposed change that boarding houses are no longer a mandatory permissible use in the R2 Low Density Residential zone. Whilst boarding houses are an important housing type, in Cumberland City's experience they are typically of a scale that is better suited to higher density zones. This proposed change will enable individual councils to determine whether or not boarding houses should be a permissible use in the R2 low density zone.

In addition, concern is raised that Land and Housing Corporation (LAHC) will be able to develop boarding houses on government-owned land in the R2 zone, even if it is prohibited in the zone under the draft SEPP. A consistent approach for boarding houses in low density residential zones is preferred by Council.

SOCIAL HOUSING

Council continues to work proactively with LAHC within Cumberland City, however concerns are raised regarding some aspects of the draft SEPP.

One concern relates to the proposed increase in self-approval from 20 to 60 dwellings without adequate Council involvement formalised in the process. This could lead to reduced transparency and potential inconsistencies in the planning approval process. In addition, it is unclear on the peer review mechanism in the self-assessment of applications, and the role of Council in understanding future development activities in this area.

Another concern is that LAHC developments with mixed land uses and ownership models could reduce car parking requirements in areas away from quality public transport services. Whilst the rationale for the proposed reduced car parking rates to apply to all dwellings, social housing or otherwise, is understood; concern is raised about the potential flow on effects on on-street parking, particularly in areas experiencing sustained and substantial population growth, such as Cumberland City.

The increased threshold for LAHC projects from \$30m to \$100m as a trigger for SSD applications is likely to also have implications for Council workloads in terms of application assessment and available resourcing.

GROUP HOMES

The proposed exempt/complying pathway for group homes could be problematic as certain factors, such as pressure on local infrastructure (especially car parking) and amenity, cannot be properly assessed outside the development application process. It is proposed that existing arrangements that require Council approval be retained.

BUILD TO RENT

The introduction of build to rent is generally supported as it has the potential to provide lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Council is aware of development in the City where this model is proposed to be implemented.

EMERGING TRENDS IN THE US MULTIFAMILY MARKET: WHAT'S NEXT IN 2020

SUSAN TJARKSEN

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 **CUSHMAN &
WAKEFIELD**

COLIVING

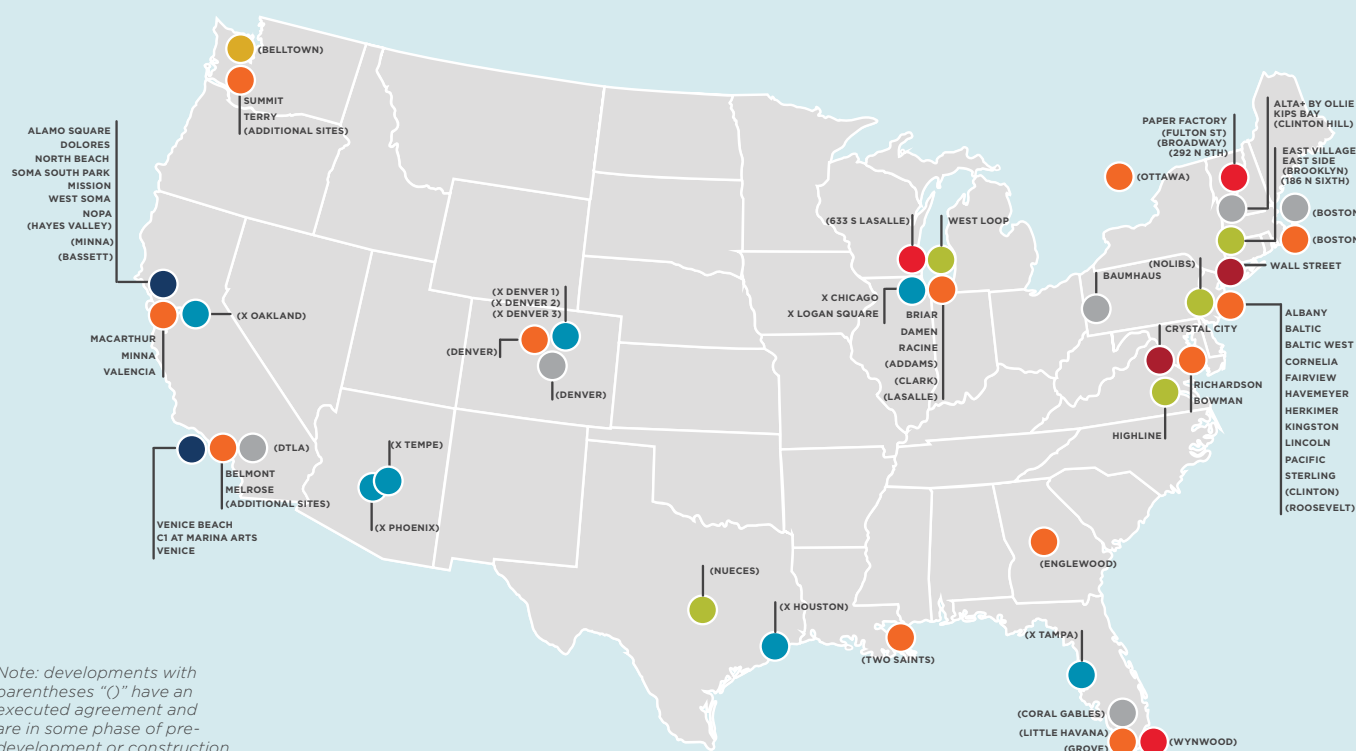
WHAT'S NEXT FOR COLIVING IN 2020

2019 In Review:

In May, Cushman & Wakefield released the most comprehensive report on the niche asset class yet. Coliving: Survey of the Landscape, enabled investors, operators and developers alike to gain a better understanding of the vitals of the sector today as well as where it will be tomorrow.

Coliving developers and operators announced over **20,000 bedrooms** to their pipeline in 2019. The year also saw the first dedicated coliving programmatic debt & equity platforms and funds announced by **Six Peak Capital** (represented by Cushman & Wakefield) and **The Collective** (fund managed by DTZ Advisors).

MAJOR U.S. RENT-BY-BED DEVELOPMENTS



Note: developments with parentheses "(X)" have an executed agreement and are in some phase of pre-development or construction.

| COMPANY | CURRENT U.S. BEDS ESTIMATED | BEDS IN PIPELINE LOWER BOUND |
|----------------|-----------------------------|------------------------------|
| The X Company | 970+ | 5,050+ |
| Common | 731+ | 10,000+ |
| Ollie | 650+ | 1,000+ |
| Quarters | 532+ | 1,800+ |
| Starcity | 250+ | 1,600+ |
| The Collective | 125+ | 1,000+ |
| WeLive | 513+ | ** |
| TOTAL | 3,771+ | 21,450+ |

● TBD Operator

* Mapped developments have been publicly announced

** Pipeline cleared

NEXT IN 2020:

1st

TRADE OF A MAJORITY
COLIVING PROJECT

1st

PLACEMENT OF
PROGRAMMATIC DEBT & EQUITY
FOR NATIONWIDE COLIVING
DEVELOPMENT

1.2K+

BEDS TO BE DELIVERED IN THE
US

The coliving market will continue to expand in the span of the next five years, conservatively totaling nearly 25,000 bedrooms by 2025. Annual demand still looks to remain robust in that time frame, with 900,000 renters (within the target demographics) seeking new leases annually just in the set of Gateway Markets.

118M+

TOTAL U.S. RENTAL BEDS

COMPRISES 35% OF TOTAL US BEDS

1M+

INVESTMENT GRADE U.S. STUDENT HOUSING
INVENTORY

17,812

INVESTMENT GRADE U.S. COLIVING
INVENTORY IN UNITS BUILT 2008-2019

3,500+

INVESTMENT GRADE COLIVING BED INVENTORY

ESTIMATION OF FUTURE COLIVING DEMAND

| 2024 ESTIMATION OF COLIVING DEMAND | | DEMAND |
|--|---------------------------------------|-----------|
| Est. Population of Income Qualified Residents 2024 | | 6,144,500 |
| X | % of Population that are Renters | 51%-71% * |
| Est. Existing Income Qualified Renter Population | | 3,852,106 |
| X | % Renters who would consider Coliving | 55% |
| Est. Existing Income Qualified renters amenable to coliving | | 2,118,699 |
| X | % of annual renter turnover in market | 37%-51% * |
| Est. Income Qualified Coliving Renters Seeking New Leases Annually | | 898,922 |

Source: Cushman & Wakefield, US Census Bureau, Alteryx/Experian, RealPage

* = % renters and % renter turnover varying by major market

Nearly 900,000 renters across major US markets in the coliving target demographic look for new leases annually

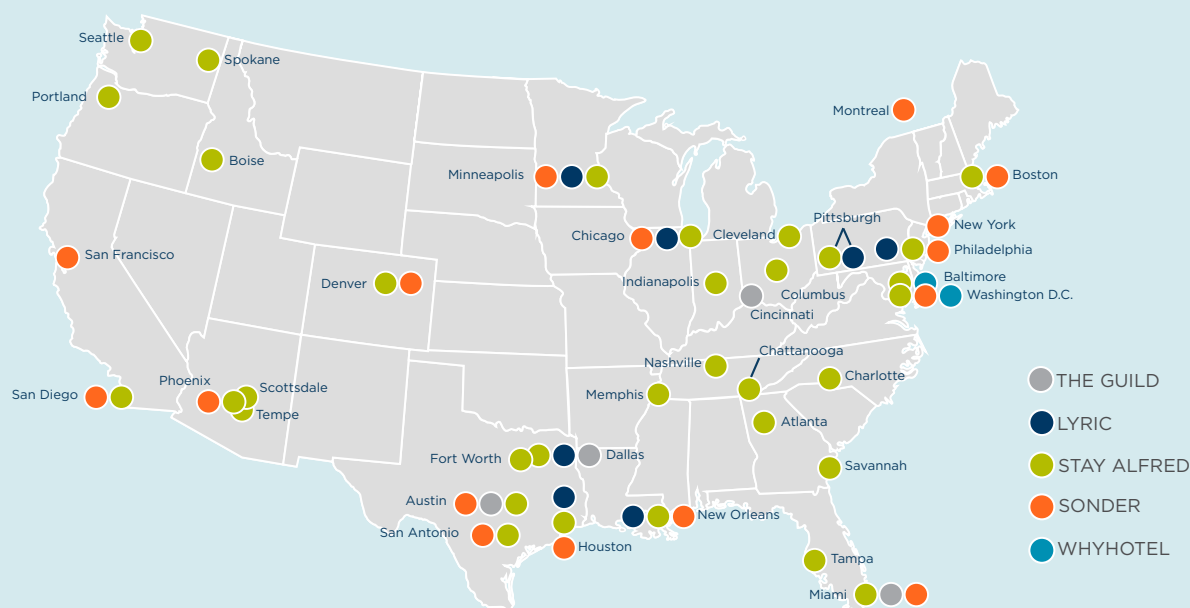
SHORT TERM RENTALS

WHAT'S NEXT FOR SHORT TERM RENTALS (STR) IN 2020

2019 In Review:

The multifamily landscape in urban markets began incorporating STR platforms as a percentage of their unit mixes. Additionally, the first whole building STR projects were announced. WhyHotel announced a development division dedicated to building ground-up STR assets. Other operators such as Stay Alfred, Sonder, Domio, Lyric and others began working with owners and developers across major markets to fully lease new multifamily developments as STRs.

MAJOR SHORT-TERM RENTAL OPTIONS NATIONWIDE



| | Current Beds Estimated | Markets Present | Venture Funding |
|-------------|------------------------|-----------------|-----------------|
| The Guild | 300+ | 4 | \$9M |
| Lyric | 400+ | 7 | \$99M |
| Stay Alfred | 2,500+ | 33 | \$62M |
| Sonder | 2,200+ | 18 | \$135M |
| WhyHotel | 400+ | 2 | \$14M |
| TOTAL | 5,300+ | 63 | \$319M |

Source: Crunchbase, The Guild, Lyric, Stay Alfred, Sonder, WhyHotel

NEXT IN 2020:

1st

DELIVERY OF BUILT-TO-SPEC
STR DEVELOPMENT

1st

COMPREHENSIVE RESEARCH
REPORT ON THE STR
LANDSCAPE

\$1T+

SIZE OF GLOBAL BUSINESS
LODGING MARKET IN 2020

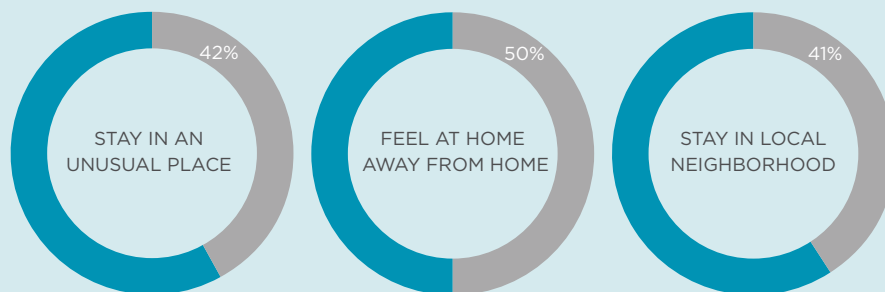
Operators will continue their expansion throughout the year, building a track record on performance of STRs compared to both traditional multifamily and hospitality developments. Business lodging & corporate housing will become a key factor in STR growth. With many corporations based in high price markets seeking to train new staff at their headquarters temporarily before assigning them to secondary and more affordable markets in the long term.

APARTMENT-GRADE EXPECTATIONS:

Travelers increasingly want to stay in places that have the complete set of amenities they've come to expect from the apartments they live in.

TOP FACTORS AFFECTING LODGING DECISION

HALF OF ALL MILLENNIAL TRAVELERS EXPECT LODGING TO FEEL LIKE A HOME AWAY FROM HOME



Source: Data from Conde Nast Traveler

OTHER EMERGING TRENDS:

• Generational Changes & Remote Work

- **2019 in Review:** Generational preferences and the affordability crisis in major markets continued to drive **Fortune 500 companies and Silicon Valley unicorns** to reevaluate how housing choices affect their talent pipelines. Institutionally-organized remote work has expanded with the first Silicon Valley Unicorn, Stripe, to expand new workers at **100% remote** with a 'hub' based in Seattle.
- **Next in 2020:** Remote work will continue to grow as Gen-Z and other workers seek to escape from high-cost Gateway Markets. Major tech companies have already been in progress expanding to secondary markets for some time (Austin, Nashville, Denver etc.) to lower worker costs and tap into wider talent pipelines – with many of these projects continuing to be realized this year, multifamily in these markets will be boosted in the years to come. Gateway markets may see growing strength in more specific areas such as high end lux and coliving / micro-living for workforce & entry-level positions.

• Modular Housing

- **2019 in review:** Construction costs continued to rise due to labor + materials, modular construction saw growing interest from venture capital & developers nationwide. The global market for **modular construction was valued at \$111B** (source: Zion Market Research), with several modular construction companies saw significant expansion & investment.
- **Next in 2020:** Developers continue to find the optima between the needs of **scale, costs, speed**, materials. 2020 will be the testing grounds for multiple companies trying their hand at scaling modular construction in a national context to prove its benefits over the traditional construction pipeline.

• Operating Systems, Branding, Amenity Networks

- **2019 in review:** The multifamily sector gained valuable lessons from hospitality in the past year, with operators developing stronger brands for their portfolios to provide a ubiquitous, service-focused experience for residents across their assets. Additionally developers began utilizing operating systems such as **Livly**, to enable a seamless level of service for all of a resident's needs and connect access to amenities across assets by a club model.
- **Next in 2020:** As these amenity networks and operating systems grow, there will be a multiplicative effect of their appeal to potential residents in major markets. Branding will similarly build rapport with the renter base in markets, with better understanding of the amenities, finishes and service that accompany a given apartment brand

ABOUT CUSHMAN & WAKEFIELD

Cushman & Wakefield (NYSE: CWK) is a leading global real estate services firm that delivers exceptional value for real estate occupiers and owners. Cushman & Wakefield is among the largest real estate services firms with approximately 51,000 employees in 400 offices and 70 countries. In 2018, the firm had revenue of \$8.2 billion across core services of property, facilities and project management, leasing, capital markets, valuation and other services. To learn more, visit www.cushmanwakefield.com or follow @CushWake on Twitter.



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CO LIVING

SURVEY OF THE COLIVING LANDSCAPE



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2019: COLIVING'S MOMENT



COLIVING: WHERE LOCATION, CONVENIENCE, COMMUNITY AND AFFORDABILITY ARE ALL MAXIMIZED FOR THE TENANT, WHILE REVENUE IS MAXIMIZED FOR THE OWNER AND OPERATOR.

INTRODUCTION

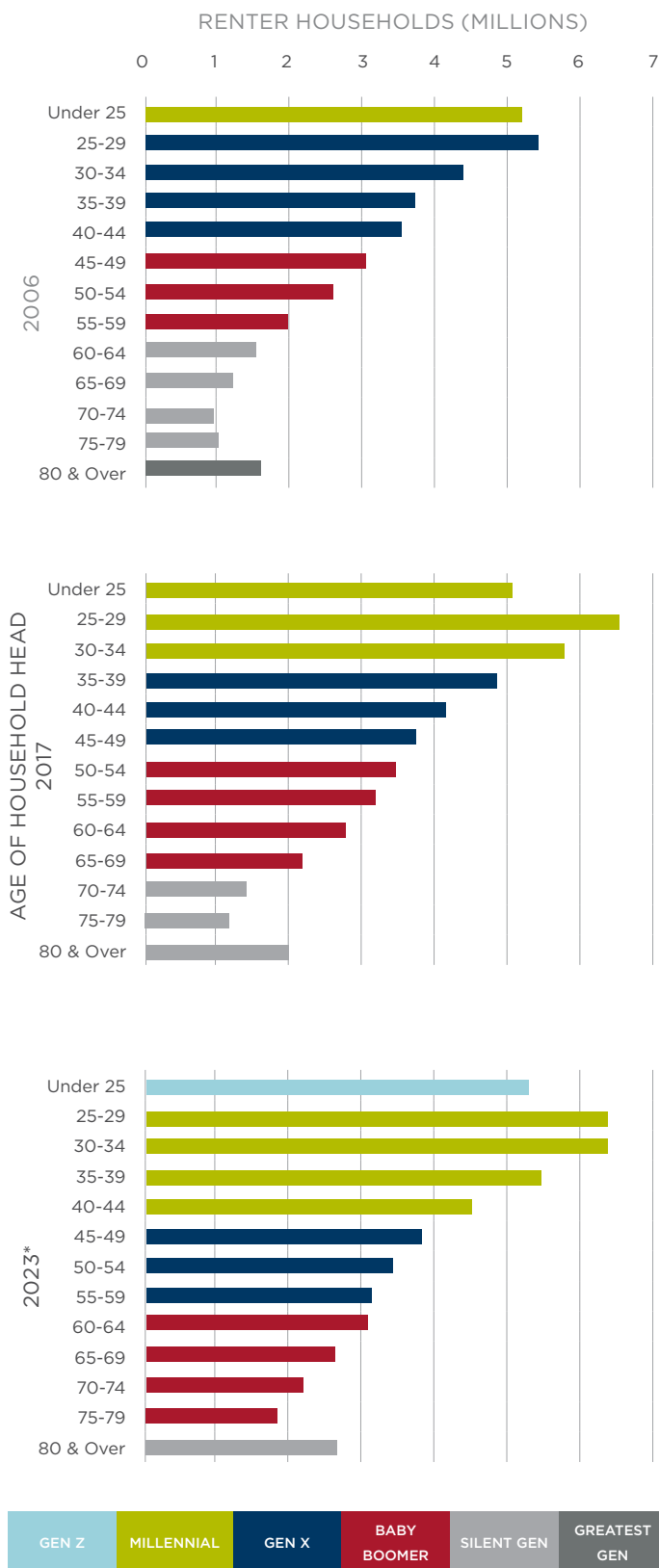
A housing crisis is raging across the United States. For decades, young professionals have been steadily emigrating into the once inert urban submarkets of major cities like New York, Los Angeles and San Francisco among many others. A positive feedback loop formed between the influx of highly-educated workers and the concentration of corporate investment and job opportunities in these areas. Over the course of this past decade, this feedback loop has heated both renter and owner housing markets. Between 40% and 50% of residents in these key markets have become cost-burdened - spending more than over 30% of their pre-tax household income on rent.

Simultaneously, other demographic trends began to affect the prime renting population in their twenties and thirties. Marriage and family formation have been delayed. Educational attainment among this age bracket is at record highs. Consequently, student loan debt is also at record numbers, along with record low savings accounts.

Coliving is a natural solution to this housing environment where tenants can share units and amenities in a cohesive community assisted by a skilled operator. Location, lifestyle, community and affordability are all maximized for the tenant. In this environment, operators are providing product that better reflects the price range and types of living situations people are looking for when they move into an urban area. **Through coliving, tenants are able to pay less rent by trading private space for more and better shared communal space. Typically, coliving providers include additional services and perks, including fully furnished units, all utilities included, hosted community events and even housekeeping, which in the aggregate represent as much as a 20% discount to living alone.** For the operator, this opens new avenues to differentiate their product, taps into a large renter base not currently served by top-end luxury product, and maximizes revenue on a per square foot basis.

First emerging among the high cost coastal markets where the necessity was greatest for young professionals, the model has continued to evolve. Coliving has now begun to appear in secondary and tertiary markets. The phenomenon has also spread to a wider range of incomes and ages. Given long-term demographic trends and the continued tightening of the housing market, coliving sits on the precipice of rapid expansion.

RENTERSHIP BY AGE



*(JCHS Projected)

Source: The State of the Nation's Housing, Joint Center for Housing Studies

OVER THE NEXT TEN YEARS, AGING BABY BOOMERS AND MILLENNIALS WILL CONTINUE TO DRIVE GROWTH IN RENTER HOUSEHOLDS.

THE AMERICAN DREAM IS SHIFTING

The American dream has always been partially defined as owning your own house. It helped elucidate status, inspire community engagement and promote a path toward financial stability if not substantial wealth. Several factors have changed this revered and longstanding model. The first of which is a demographic shift toward delayed household formation. Although the 25-to-34-year-old population has grown rapidly, this is not translating into increased household formation, meaning that headship rates have been declining (ratio of households to population). The headship rate declined from **49.2%** in 2005 to **44.3%** in 2017. The Great Recession saw economic destruction of homeownership as a means to wealth, given that an estimated 9.3 million Americans experienced foreclosure or lost their homes. Lifestyle changes have also altered the American Dream. The stigma against city living and the corresponding romanticization of the white-picket fence suburbs was the mantra of the second half of the 20th century which has evaporated due to renewed urban interest.

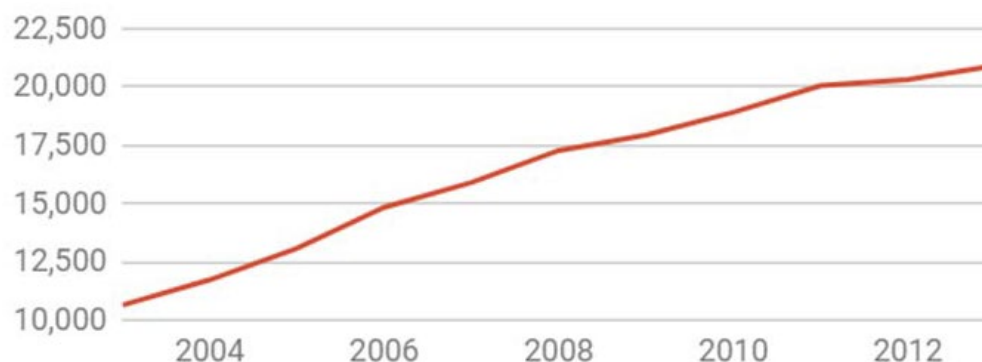
The number of 18-to-28 year olds moving from the cities

to the suburbs has decreased by 40% in the last 20 years.

Furthermore, Americans increasingly spend disposable income on experiential activities, rather than tying up equity in homes. 72% of millennials said they would like to increase their spending on experiences rather than physical things in the next year. Since 1987, consumer expenditures on experiential activities has increased by 70% relative to total consumer spending. The seismic shift from rural to urban life has also impacted the shifting American Dream. According to the United Nations, 55% of the world's population lives in urban areas, **a proportion that is expected to increase to 68% by 2050.** Additionally, the economic reality of graduating from college with student debt cripples the ability to save money for a down payment on a house. Ultimately, due to societal shifts, renting has become a viable, destigmatized housing choice, rather than just an economic necessity. Given that renting is both sustainable and socially acceptable, Americans will continue to rent indefinitely.

TOTAL INDIVIDUALS UNDER 30 WITH STUDENT LOAN DEBT

(IN THOUSANDS)



63%

OF MILLENNIALS ARE UNHAPPY WITH THE PURCHASE OF THEIR HOME. FACTORS SUCH AS ONGOING HOMEOWNER EXPENSES, SHORTAGES OF STARTER HOMES IN DESIRED LOCATION AND LIMITATIONS OF SIZE HAVE ALL CONTRIBUTED TO THESE PURCHASING REGRETS.

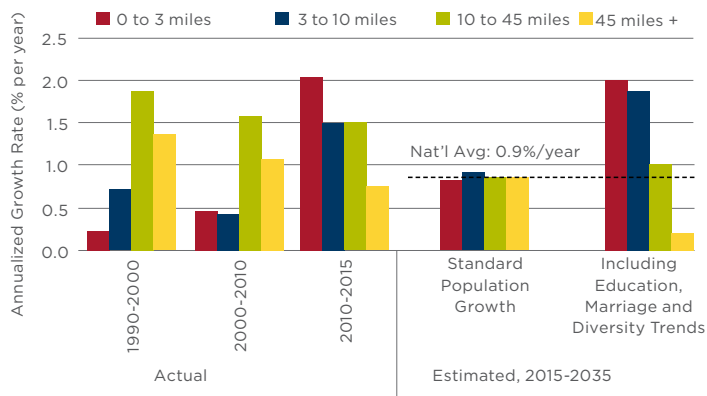
IN THE WAKE OF THE GREAT RECESSION, THE INCREASINGLY URBAN-FOCUSED HIGH-SKILL U.S. ECONOMY HAS RESULTED IN A NUMBER OF CONSEQUENCES:

Core urban areas expect continued growth

As projected by the Joint Center for Housing Studies of Harvard University, population growth will continue to center around dense urban cores. Factoring in longstanding trends in U.S. marriage rates, educational attainment and evolving diversity leads to a striking outcome: the urban cores of U.S. cities will continue to witness incredible growth.

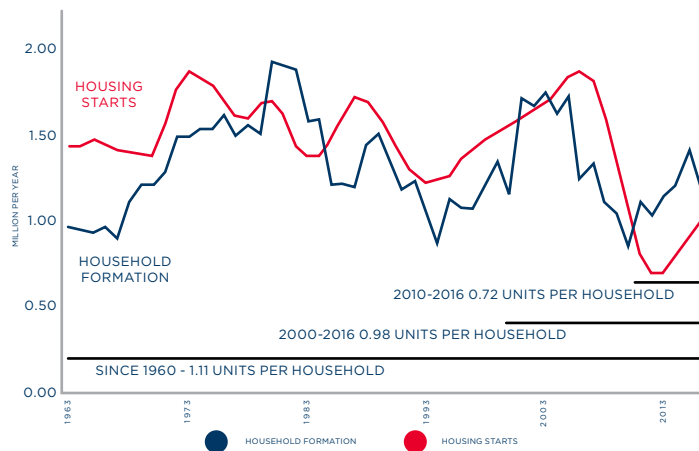
Harvard's Hyojung Lee states, "These findings indicate that while downtown areas will continue to grow, racial and ethnic diversity, delayed or non-marriage, and higher educational attainment, not the aging of millennials and post-millennials, will be the key drivers behind the continued demand for downtown living."

ACTUAL AND PROJECTED POPULATION GROWTH BY DISTANCE FROM CITY CENTER



U.S. HOUSEHOLD FORMATION VS. HOUSING STARTS

5-YEAR MOVING AVERAGE IN MILLIONS



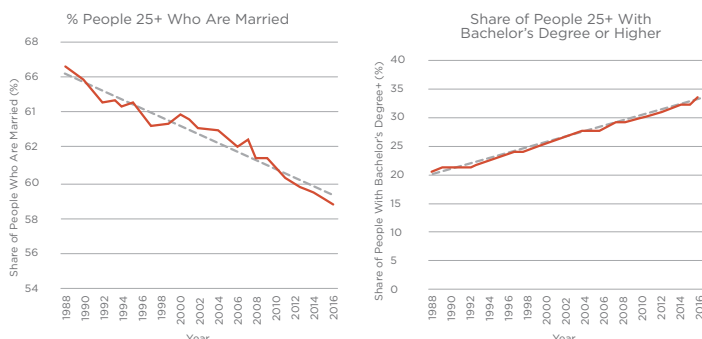
There has been a historical shortage of new housing supply in dense urban areas

Urban areas across the country have seen limited housing starts in recent times. The number of households in the U.S. grew by **10.8 million** over a 10-year period between 2008 and 2018, while only about **9.2 million** new housing units were permitted over that same period.

As the population grows more educated, marriage and family formation has begun later

From 1988 to 2016, the age of individuals over 25 who were married declined by **8%**. Over the same time period, the share of individuals with a bachelor's degree or higher increased by over **15%**. This correlation suggests that increased time dedication to education may have a delaying effect upon marriage and ultimately raising a child. A study conducted in 2017 by Pew Research Center found that 58% of millennials still wanted to marry at some point. Additionally, individuals with a bachelor's degree were more likely to get married in the long run as compared to individuals with only a high school diploma.

DELAYED MARRIAGE AND HOUSEHOLD FORMATION



US households, particularly tenants, are increasingly housing cost-burdened

During the previous 11 years, the volume of student loans issued has grown **157%** cumulatively, a number expected to increase. Both the cost of college tuition and student borrowing continue to rise, which has resulted in a widening default crisis. In comparison to student loan debt, mortgage and credit card debt fell **1%**, according to Bloomberg Global Data. This means **44 million** Americans share **\$1.5 trillion** in student loan debt (through the second quarter of 2018). The average student in the graduating class of 2016 has **\$37,172** in student loan debt. And while student loans are being issued at unprecedented rates,

tuition costs at both private and public institutions continue to grow. In terms of delinquency, student loan debt currently has the highest 90+ day delinquency rate of all household debt. More than 1 in 10 borrowers is at least 90 days delinquent, while mortgages and auto loans have a **1.1%** and **4%** delinquency rate, respectively, according to Bloomberg Global Data. The cost of borrowing has also risen over the last two years. Subsidized and unsubsidized loan interest grew **5%** last year, the highest rate since 2009.

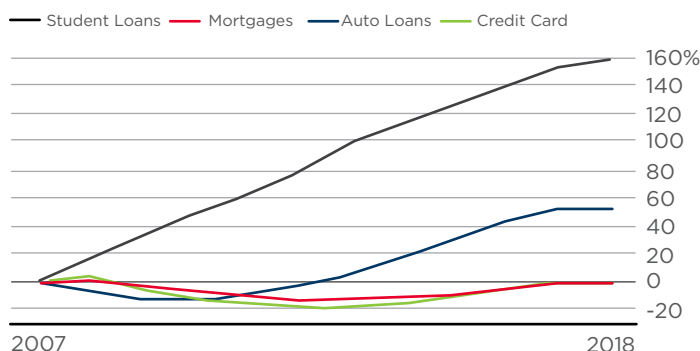
Higher attainment in education has correspondingly resulted in higher student debt

Similarly, professional degree loan interest rates grew **6.6%**, according to the U.S. Department of Education. Experts suggest that student debt has delayed household formation and led to a decline in homeownership. On average, Americans pay **6%** of each paycheck toward students loans. However, large cities

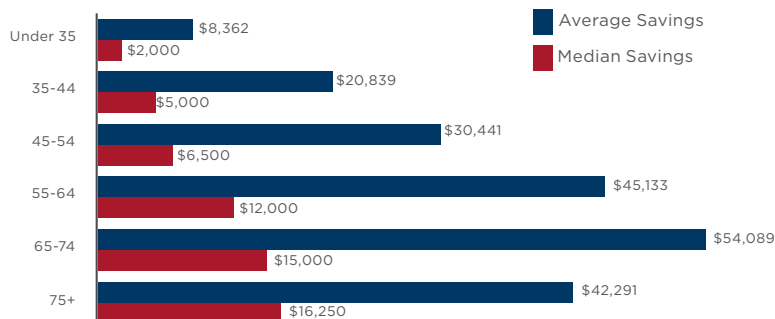
tend to contain more low-income borrowers, which drives debt burden as high as **10%**. Ultimately, when the cost of college rises nearly eight times faster than wages, the magnitude of student loan debt will only increase.

THE FASTEST GROWING SEGMENT OF U.S. HOUSEHOLD DEBT, STUDENT LOANS SAW AN ALMOST 157% GROWTH SINCE 2008.

RIISING STUDENT LOANS



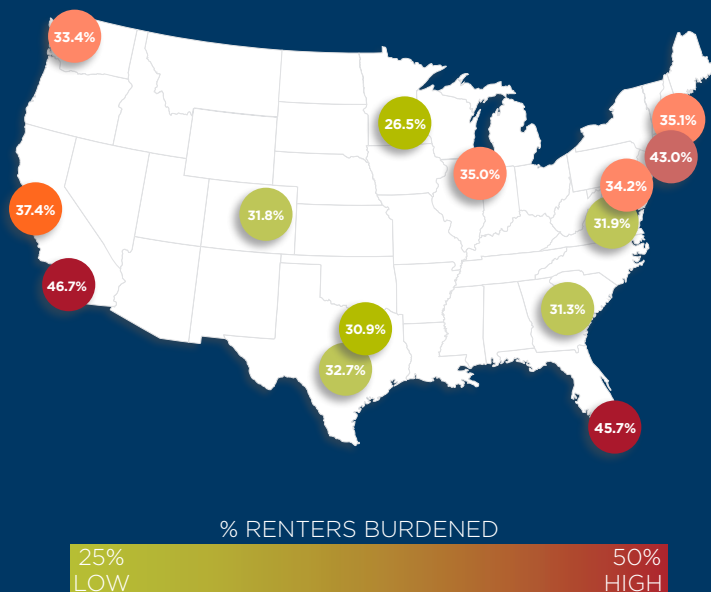
AVERAGE SAVINGS ACCOUNT BALANCES BY AGE



These and other factors have driven down savings and disposable income

Average savings accounts for Americans has plateaued, sliding from more than **\$33,000** in 2013 to **\$30,600** in 2016. The growth of disposable income and savings has not kept pace with rent growth across major U.S. metros.

PERCENTAGE (%) OF RENTER POPULATION COST BURDENED



Source: JCHS, 2018

\$45,000-\$74,999 range was used throughout this analysis as an approximation of the American middle class.

Rents are rising more in places with a constrained housing stock, particularly where a lack of available land or regulations limit development. A Zillow study last April found that rents in cities with the most restrictive land use policies were growing nearly three times faster than those with the least restrictive regulations. Of course, housing affordability is also influenced by the extent to which regional economies and incomes have grown. Since last summer, rents have fallen for the highest earners while increasing for workforce residents** in San Francisco, Atlanta, Nashville, Chicago, Philadelphia, Denver, Pittsburgh, Washington and Portland, Ore., among other cities.

In several other metro areas — including Los Angeles, Las Vegas, Houston and Miami — rents have risen for workforce residents and the rich alike. The ongoing increase in prices for low-end tenants poses a challenge for city officials who have vowed to lower housing costs for working-class residents already struggling with tepid wage growth in the U.S. economy. City officials have said a boom in luxury housing construction would cause rents to fall for everyone else, arguing that creating new units for those at the top would ease competition for cheaper properties. In part based on that theory, cities have approved thousands of new luxury units over the past several years, hoping to check high rents that have led more than **20 million** American tenants to be classified as “cost burdened,” defined as spending more than **30%** of one’s income on housing.

But although some advocates say the dividends could still pay off for low-income tenants, others say more direct government action is needed to prevent workforce residents from being forced out of their cities or into homelessness. They have called for the federal government to help construct more affordable units, or offer greater rental assistance for workforce families. Workforce city residents have experienced significant rent increases over the past several years. In Portland, average rents for workforce residents have risen from about **\$1,100 to \$1,600** — or by more than **40%** — since 2011. In San Francisco, the average rent at the bottom of the market has soared from **\$1,700 to \$2,600**, a nearly **50%** increase. Seattle’s workforce residents have also had their rents rise by close to **40%**. Nationwide, rents for those at the bottom have increased by **18%**. Rising rents for workforce residents threatens to put an additional severe strain on tens of millions of families, often forcing them to forgo other basic needs to avoid losing their housing.

**Workforce residents being defined as those making between 60-100% AMI for their MSA

WHAT IS RENT BURDENSHP

According to the U.S. Department of Housing and Urban Development, families that pay more than **30%** of their incomes on housing are considered cost burdened and may have difficulty affording rent as well as other necessities, such as food, clothing, transportation and medical care. While workforce families are the most likely to be cost burdened, skyrocketing home prices in U.S. metropolitan areas have caused the nation’s housing affordability crisis to spread to a large number of middle class Americans.

While housing cost burden for low-income households is often offset through housing subsidies, there are few forces protecting middle-income households from the rising cost of real estate. Fast-growing cities with high construction costs and low housing inventories have experienced some of the sharpest spikes in home prices over the past several decades, and today these cities have some of the largest shares of cost-burdened middle-class households.

Definitions of the middle class vary by housing organization and geography. Nationwide, the middle **20%** of U.S. households earn between **\$45,325** and **\$72,384**, roughly in line with the **\$45,000-\$74,999** breakout provided by the JCHS. While the incomes earned by the middle class of earners varies city to city, the

RENT BURDENSHP IS INCREASING

Soaring housing costs are largely to blame, with the national median rent rising **20%** faster than overall inflation in 1990–2016 and the median home price **41%** faster. Although better housing quality accounts for some of this increase, sharply higher costs for building materials and labor, coupled with limited productivity gains in the homebuilding industry, have made housing construction considerably more expensive. Land prices have also skyrocketed as population growth in metro areas has intensified demand for well-located sites. In addition, new regulatory barriers have also served to limit the supply of land available for homes and increased the time, complexity and risks of housing development

AFFORDABILITY CHALLENGES HAVE REDUCED HOMEOWNERSHIP IN YOUNGER POPULATIONS

First-time homebuyers accounted for **31%** of all home sales transactions in May 2018, according to the May 2018 REALTORS® Confidence Index Survey. The share of first-time buyers has hovered at about this level for most of the housing market's recovery since 2012. The share of first-time buyers has not increased even with the growing population of 25-to-34-year-olds because of slow household formation and the delayed transition to homeownership.

Homebuying has similarly been delayed due to these affordability challenges. The 25-to-34-year-olds now make up the largest population age group, at **45.3 million** as of July 2017, about six million more than in 2009. However, the number of households headed by 25-to-34-year-olds remained stagnant at about 20 million. Real wages have been slow to recover from the Great Recession, with negative to zero real growth from 2010–2014 and 1% growth from 2015–2017.

The notable shift in the relative growth rates after 2007 reflects declines in “headship” rates, that is, the share of the population identified as heads of households. By definition, the percent change in household formation equals the sum of the percent growth in population and the percent change in headship rates. This means that for over five decades headship rates in the United States had increased on average before falling off in the wake of the financial crisis.

In other words, although the 25-to-34-year-old population has been strongly rising, this is not translating into rising household

formation, meaning that headship rates have been declining (ratio of households to population). The headship rate declined from **49.2%** in 2005 to **44.3%** in 2017. This may be due to a confluence of economic (e.g., slow wage growth, student debt burden, weak credit profiles) and demographic or lifestyle factors (e.g., delayed marriage, multi-generational living, etc.). In fact, according to a Pew Research Center study, millennials in 2014 were more likely to live with their parents than with a romantic partner

The patterns in headship rates over the housing cycle differ considerably across age groups. Specifically, in recent years most of the changes were among young adults. For two groups—ages 18-to-24 and ages 25-to-29—headship rates have declined appreciably in recent years. Headship rates among older age groups have been more stable. Headship rates among young adults rose considerably from the mid-1990s up to the financial crisis. That was the period of the strong housing market, rapidly rising house prices, and booming homeownership rates, including among young adults. The movements in shares of young heads of household closely track the rise and decline in homeownership ratios.



CHALLENGES TO HOMEOWNERSHIP
HAVE DESTIGMATIZED RENTING
AS A LIFESTYLE.

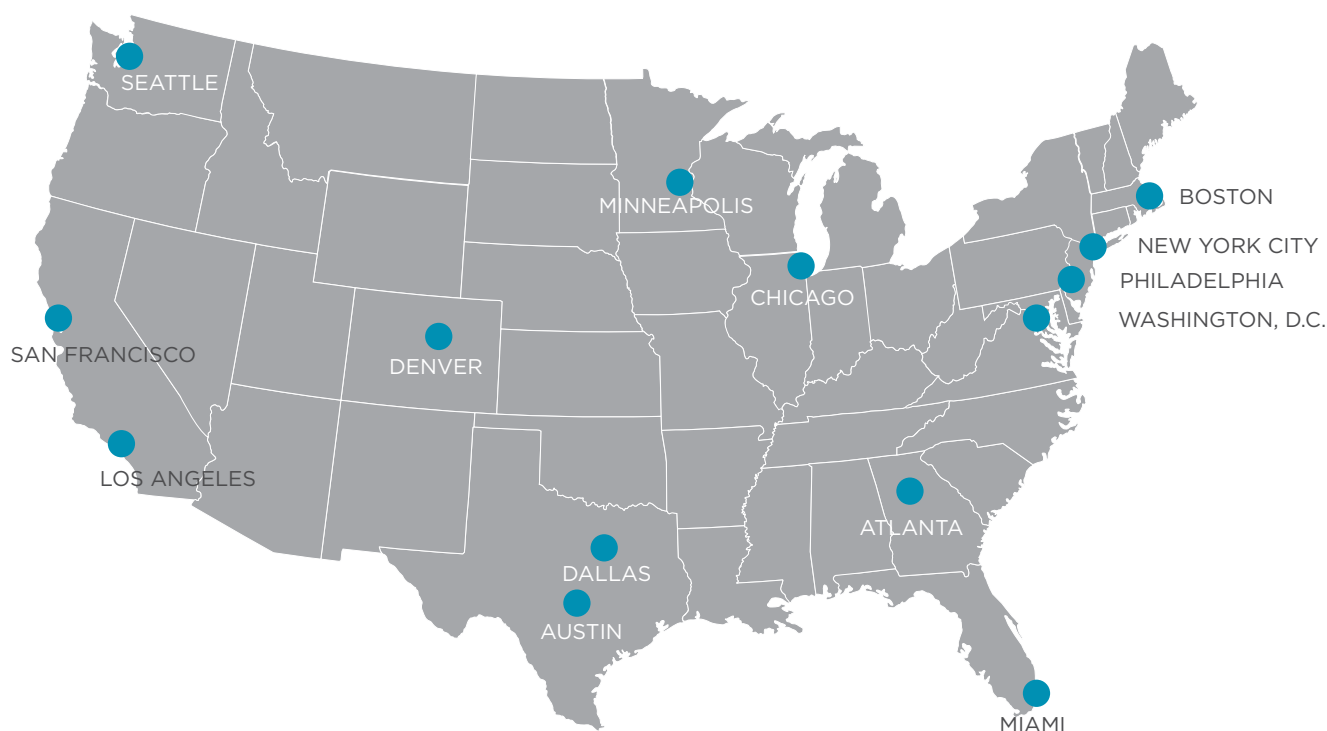




NATIONAL RENTER PROFILES



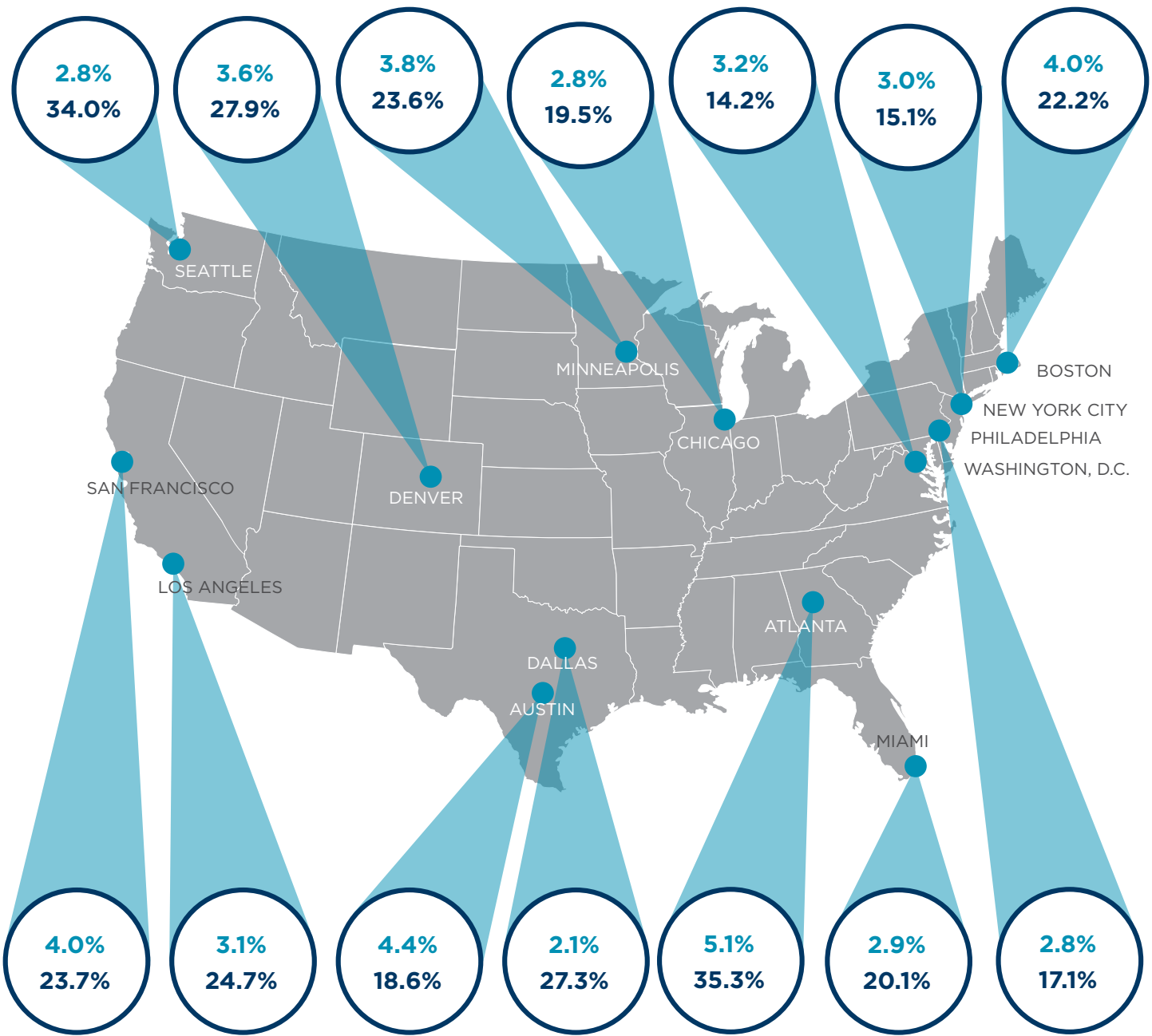
WHILE INCOMES REMAIN STAGNANT FOR POPULATIONS THAT INCREASINGLY COMPRISE RENTERS, RENT HAS INCREASED ON AVERAGE BY OVER 20% ACROSS MAJOR U.S. MARKETS.



| BY CITY BOUNDARIES | | | | | |
|--------------------|------------------|------------|---------------|-----------------|---------------------|
| | Total Population | Median Age | Median Income | Renter Occupied | Bachelor's + Degree |
| Atlanta | 475,836 | 40.1 | \$32,376 | 69.6% | 25% |
| Austin | 927,556 | 32.9 | \$65,643 | 55.3% | 47% |
| Boston | 679,660 | 32.2 | \$64,290 | 66.8% | 46% |
| Chicago | 2,736,994 | 34.2 | \$53,335 | 56.3% | 36% |
| Dallas | 1,316,726 | 32.7 | \$48,244 | 58.0% | 31% |
| Denver | 713,294 | 34.4 | \$60,437 | 51.2% | 45% |
| Los Angeles | 3,965,206 | 35.5 | \$56,797 | 63.6% | 32% |
| Miami | 443,268 | 40.1 | \$32,376 | 69.6% | 25% |
| Minneapolis | 413,416 | 32.4 | \$55,526 | 52.9% | 47% |
| New York | 8,590,165 | 36.3 | \$58,271 | 68.7% | 36% |
| Philadelphia | 1,586,356 | 34.1 | \$43,106 | 47.6% | 26% |
| San Francisco | 876,259 | 38.3 | \$104,986 | 64.4% | 54% |
| Seattle | 689,131 | 36.1 | \$82,778 | 54.0% | 60% |
| Washington D.C. | 680,420 | 33.9 | \$76,587 | 60.5% | 55% |

For each city across the U.S., several key indicators are correlated with the potential of the market for renting as well as coliving more specifically. Age is reflective of the type of workforce common in a given market; higher cost markets often have a concentration of older, and therefore wealthier populations. The percentage of the population occupied by renter delineates more renter-focused markets like New York from more homeowner-centered markets like Minneapolis.

RENT GROWTH BY CITY



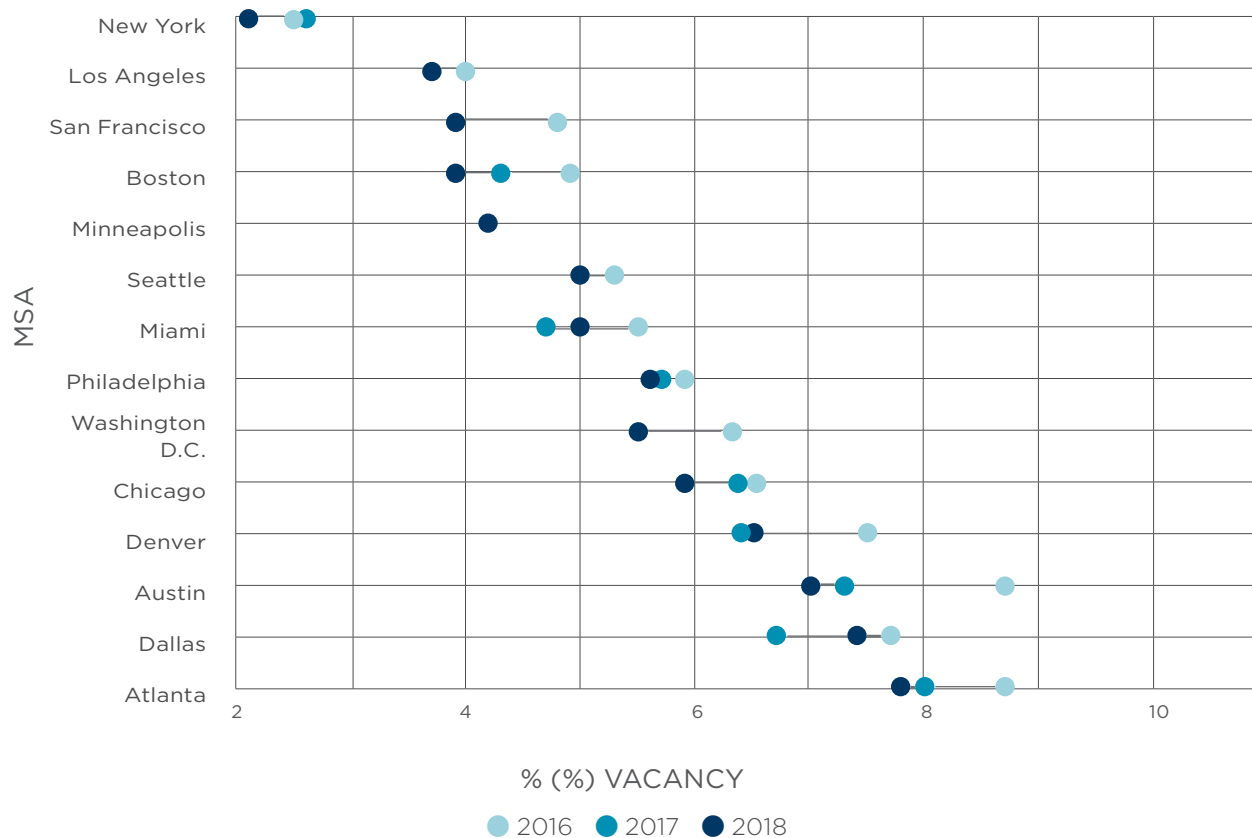
The most recent real estate cycle has led to strong, prolonged rent growth across many of the major markets across the US. As the nation enters the tenth year of this cycle, vacancy rates have begun to edge incrementally upward with rent growth also reaching a plateau within traditional multifamily product classes and types. As the cycle matures, developers and investors have begun to seek product types that will continue to be recession-proof going forward.

1 Year
5 Year
Rent Growth
MSA Boundaries

RENT GROWTH AND VACANCIES CAN VARY GREATLY BY MARKET, AN IMPORTANT CONTRIBUTING FACTOR TO WHERE RENTERS CHOOSE TO LIVE.



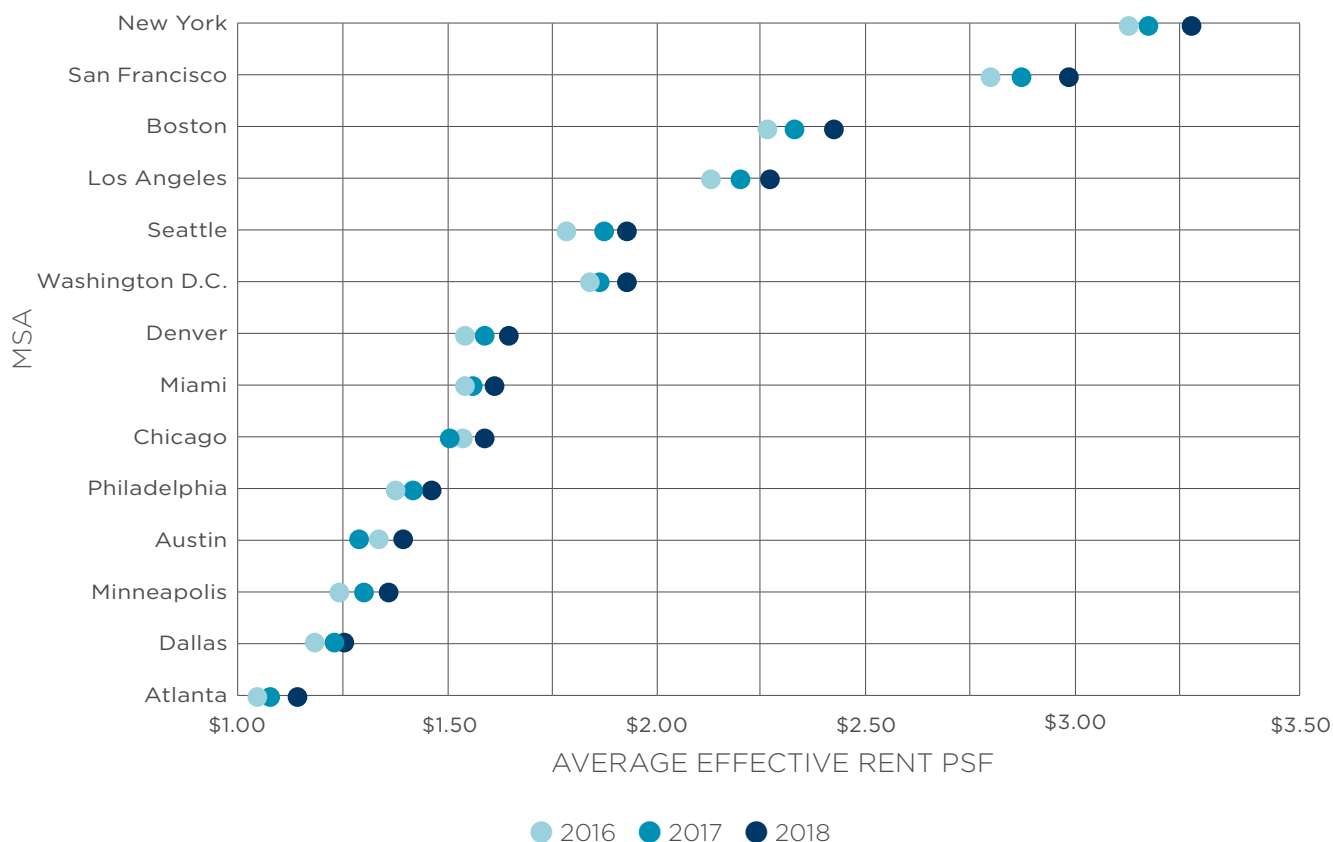
VACANCY BY MARKET 2016-2018



DURING THIS CYCLE, MANY MAJOR MARKETS HAVE EXPERIENCED STRONG RENT GROWTH.

| AVERAGE RENT GROWTH | | | | | | |
|---------------------|--------|--------------|--------|--------------|--------------|--------------|
| | MSA | | City | | Downtown CBD | |
| | 1 Year | 5 year | 1 Year | 5 year | 1 Year | 5 year |
| Atlanta | 5.1% | 35.3% | 3.3% | 21.7% | 4.3% | 20.5% |
| Austin | 4.4% | 18.6% | 3.1% | 14.1% | 3.2% | 25.4% |
| Boston | 4.0% | 22.2% | 4.4% | 18.3% | 1.9% | 12.2% |
| Chicago | 2.8% | 19.5% | 3.8% | 14.2% | 5.1% | 21.0% |
| Dallas | 2.1% | 27.3% | 3.6% | 24.6% | 4.3% | 22.7% |
| Denver | 3.6% | 27.9% | 0.7% | 26.2% | -1.4% | 18.6% |
| Los Angeles | 3.1% | 24.7% | 2.3% | 11.4% | 2.2% | 11.4% |
| Miami | 2.9% | 20.1% | 3.5% | 23.4% | 2.9% | 23.2% |
| Minneapolis | 3.8% | 23.6% | 2.6% | 24.8% | 1.5% | 13.5% |
| New York | 3.0% | 15.1% | 8.2% | 12.0% | 8.8% | 14.1% |
| Philadelphia | 2.8% | 17.1% | 1.8% | 20.3% | 0.6% | 28.6% |
| San Francisco | 4.0% | 23.7% | 0.2% | 12.0% | 0.4% | 15.6% |
| Seattle | 2.8% | 34.0% | 2.9% | 13.2% | 1.2% | 10.3% |
| Washington D.C. | 3.2% | 14.2% | 3.6% | 31.4% | 2.9% | 30.9% |

AVERAGE EFFECTIVE RENT BY MARKET 2016-2018



NEED FOR WORKFORCE HOUSING IN URBAN AREAS

The Department of Housing and Urban Development (HUD) utilizes the concept of AMI (Area Median Income) to determine which areas are in need of what types of housing. For every state and MSA, a median income is determined and percentages of that income are used to stratify need and affordability in that market. Many municipalities utilize this measure to set affordable housing goals and policies. The graphic below represents the AMI ranges for Chicago.

While traditional city programs have been targeted at individuals at below 60% AMI, in many cities individuals making between 80 and 120% AMI have increasingly become cost-burdened. According to JCHS, the income band of individuals making over \$75,000 (which falls within the 80-120 AMI range for many major markets) has witnessed the fastest increases in cost burdenship across all cohorts.

Cities have begun to realize that policies are needed to address the affordability issues for this segment of the populace, many of whom occupy vital service professions. Current policies such as inclusionary zoning have had limited results, pushing cities to search for incentive-based solutions in the private sector

EXAMPLE AREA MEDIAN INCOME (AMI) RANGES FROM THE CITY OF CHICAGO



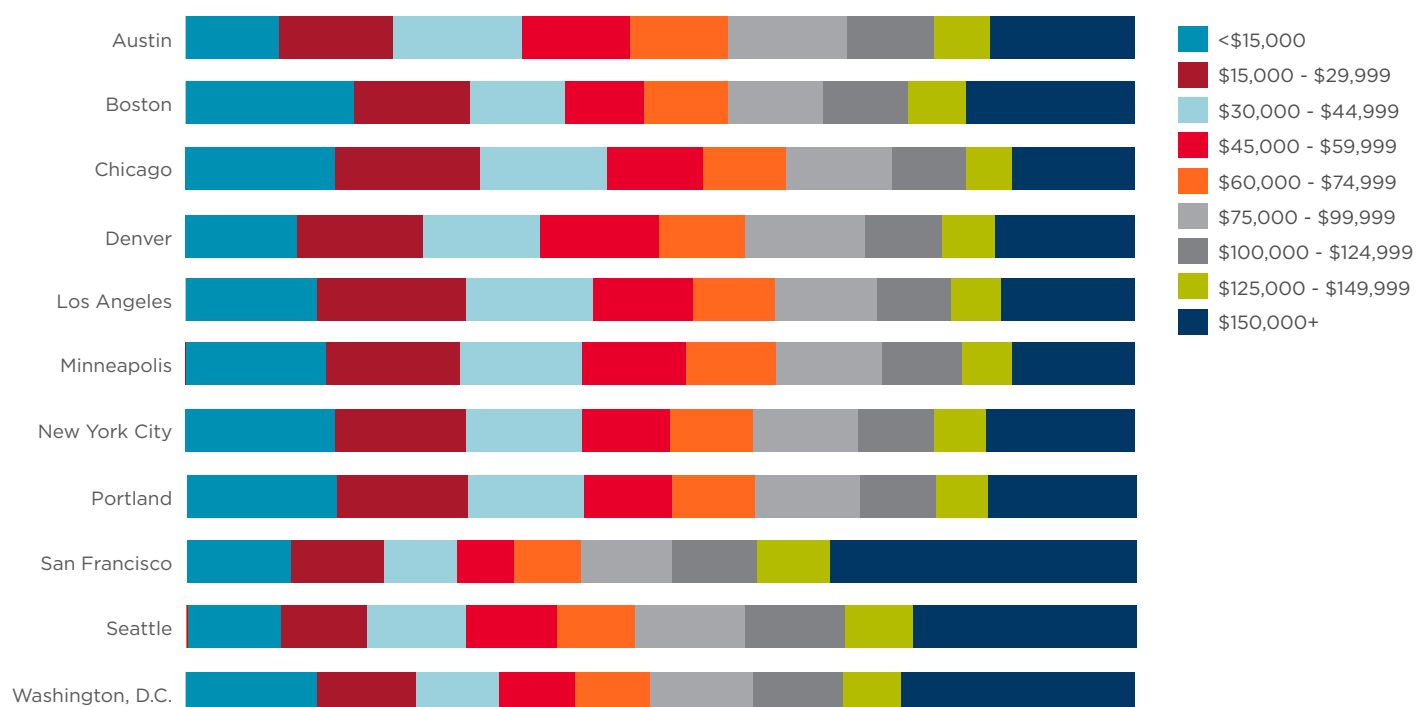
TENANTS OCCUPY PROFESSIONS THAT ARE VITAL TO ANY CITY, BUT CONTINUE TO HAVE INCOMES THAT CANNOT AFFORD THE HIGH AMOUNT OF RENT GROWTH HAPPENING IN MAJOR CITIES.

TENANTS SPAN A WIDE RANGE OF INCOME BANDS, AND THEREFORE ARE DIFFERENTLY AFFECTED BY RENT INCREASES.

MARKET POPULATION BY INCOME

| Market | Area AMI Individual | Area AMI Family | <\$15,000 | \$15,000 - \$29,999 | \$30,000 - \$44,999 | \$45,000 - \$59,999 | \$60,000 - \$74,999 | \$75,000 - \$99,999 | \$100,000 - \$124,999 | \$125,000 - \$149,999 | \$150,000+ |
|------------------|---------------------|-----------------|-----------|---------------------|---------------------|---------------------|---------------------|---------------------|-----------------------|-----------------------|------------|
| Austin | \$50,700 | \$72,400 | 35,786 | 43,290 | 47,837 | 42,462 | 38,022 | 44,046 | 34,067 | 20,593 | 55,154 |
| Boston | \$71,000 | \$107,800 | 47,236 | 31,600 | 26,217 | 22,914 | 22,118 | 26,157 | 23,767 | 16,044 | 47,176 |
| Chicago | \$59,300 | \$84,600 | 165,177 | 162,829 | 135,886 | 108,515 | 92,476 | 114,428 | 81,270 | 51,278 | 134,930 |
| Denver | \$62,900 | \$89,900 | 33,850 | 36,954 | 37,441 | 35,182 | 26,296 | 35,093 | 23,845 | 16,445 | 42,156 |
| Los Angeles | \$67,800 | \$69,300 | 188,778 | 212,568 | 183,494 | 143,198 | 121,866 | 145,629 | 107,422 | 67,193 | 194,079 |
| Minneapolis | \$62,900 | \$94,300 | 25,631 | 24,138 | 22,113 | 18,721 | 15,796 | 19,944 | 14,676 | 9,198 | 21,865 |
| New York City | \$73,000 | \$70,300 | 491,844 | 439,246 | 375,015 | 302,670 | 267,568 | 341,935 | 255,389 | 170,004 | 498,734 |
| Portland | \$57,000 | \$81,400 | 32,517 | 33,868 | 32,024 | 28,894 | 25,233 | 33,251 | 24,633 | 14,801 | 35,728 |
| San Francisco | \$102,700 | \$118,400 | 40,254 | 33,354 | 27,413 | 23,467 | 24,578 | 34,819 | 33,742 | 26,156 | 114,989 |
| Seattle | \$70,300 | \$103,400 | 31,277 | 29,493 | 31,486 | 30,849 | 26,431 | 37,338 | 31,422 | 23,079 | 73,475 |
| Washington, D.C. | \$67,800 | \$117,200 | 39,079 | 28,667 | 24,162 | 22,461 | 21,259 | 29,781 | 26,091 | 18,308 | 68,177 |

TARGET MARKET'S PERCENT POPULATION BY INCOME








EXPANDING RENTAL OPTIONS

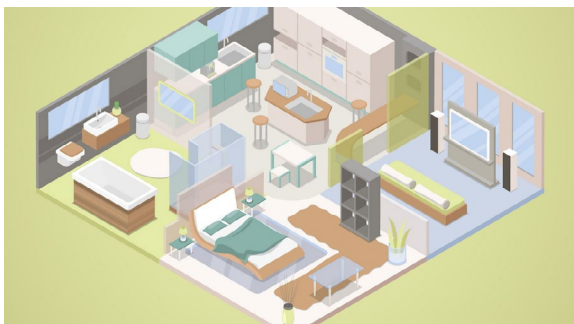




In 1960, rental buildings housed 20 million tenants across the U.S. Most of these tenants lived in traditional 3-flats across the urban landscape.

Over time, rental properties were built to accommodate the middle and lower classes who had no economic means to own a home. This often meant that rental units were located in less than desirable parts of the city. Therefore renting was stigmatized by a population focused upon homeownership. As opportunities and talent have clustered in major urban cores, prices have risen and a larger spectrum of the population in terms of age, income and education has decided to rent. Now in 2019, not only has renting become destigmatized but more communal and flexible renting models have begun increasingly become accepted by the renter population.

RENTING OPTIONS HAVE EXPANDED



TRADITIONAL RENTING

Traditional renting involves long-term leases; buildings and units offer standard amenities. For new delivery buildings, this includes a number of in-unit amenities such as a complete kitchen, living area, in-unit laundry and secure private access. Amenities not in-unit can include fitness centers, outdoor amenity decks, dogruns and coworking space.



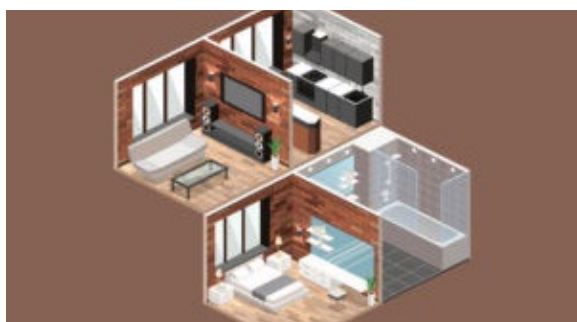
SINGLE-FAMILY HOME RENTAL

A free-standing residential building maintained and used as a single dwelling unit. In many instances renting can be cheaper than paying a mortgage, and does not require a long-term commitment. Certain life scenarios may render renting a home more optimal than outright buying one. Amenities often match those of other single family residences in the submarket.



EXTENDED STAY

Length of stay is shorter than a full-term lease - with durations often running between one to nine months. Tenants are seeking temporary accommodations, though also may value similar benefits to coliving.



MICRO-LIVING

Community tenants do not share units. Unit sizes are minimized. In-unit amenities such as kitchen and bathroom are explicitly not shared. Tenants often prefer to live without roommates.



COLIVING

A community of tenants seeking socializing, convenience, flexibility and affordability. A multifamily building with a coliving situation is one where community and sharing of common space is fundamental, often facilitated by the operator's platform. The building may have a mix of traditional unit types, micro-units and coliving units. A coliving unit is comprised of shared areas such as living room, dining room and kitchen with private bedroom and bathroom for each renter. **The additional density provided in coliving allows real estate owners to enjoy substantially higher rents per square foot, while still providing a more affordable option for renters.**

IN LIGHT OF THESE TRENDS, TENANTS HAVE INCREASINGLY SEARCHED FOR MODELS THAT OFFER BOTH AFFORDABILITY AND THE COMMUNITY LIFESTYLE THEY DESIRE. **SIMULTANEOUSLY, MULTIFAMILY OPERATORS HAVE SOUGHT MODELS THAT CAN OPTIMIZE PER SQUARE FOOT RENT WHILE UNDERSTANDING AVERSION TO HIGH UNIT RENT PRICES.**

BACKGROUND ON COLIVING

Shared and communal housing models have existed for millenia in many different forms. Since the turn of the century, a standard home included a family with multiple generations living in a 3-flat under the same roof. Then, during the WWI and WWII period, Americans began to rent with roommates in order to make ends meet. Thus began the genesis of coliving: tenants who forsook space and privacy in search for affordability. For early coliving adopters, it was an economic decision. A trend that continues to today's high cost environment.

Coliving is a type of intentional community of housing where multiple people share a single home with shared areas such as bathrooms, kitchens and living rooms as well as other amenities.

Tenants who choose coliving do so for a variety of reasons, one of which includes flexible lease terms. This allows renter to determine how long they stay at a given location and where they go next. They are only responsible for themselves and can choose to leave more easily compared with traditional lease terms. Tenants who choose to colive also do so for a sense of community belonging. The social norms of inclusion and sharing entice the modern renter more so than ever before. These tenants are also technology driven and enjoy the operating systems that coliving facilities provide. Amenities like advanced security systems and phone applications (for billing and maintenance requests) are a must for a modern renter.

AMERICANS WHO CHOOSE TO RENT EXPECT CERTAIN STANDARDS ASSOCIATED WITH THEIR LIVING ARRANGEMENT. SOME OF THESE FACTORS INCLUDE FLEXIBILITY, COMMUNITY AND AFFORDABILITY.



SOME LOCAL GOVERNMENTS HAVE STARTED TO TAKE NOTICE OF THE RISE OF COLIVING.

A MODERN VISION FOR A TRADITIONAL HOUSING MODEL

Despite market-to-market differences in application, coliving has gained mainstream prominence in recent years due in part to a surge of millennials adopting coliving as their standard of living. Financial circumstances and housing supply remain the most significant factors impacting millennial renting tendencies. Moreover, millennials tend to engage in lifestyles that align with coliving environments. Shared values, lifestyles and motivations often unite coliving tenants.

Additional newer renting models include micro-units and extended stay leases. However, according to the Urban Land Institute, no formal definition for micro-units exists. Per their study, “a micro-unit is a somewhat ambiguous term that covers anything from a relatively small studio or one-bedroom apartment to a short-term lease, SRO unit with communal kitchen and common room areas.” ULI goes on to suggest that companies are avoiding the term “micro-units” in order to avoid negative connotations associated with the term. In any case, micro-units (relative to the market in which it exists) are an economically efficient alternative to conventional renting in urban areas.

SHARENYC

New York City placed a request for information and interest to various coliving and shared housing companies in Q1 2019. The request asked for both information on the development, operations, benefits, and challenges of shared housing from private parties in the space. Furthermore, the city requested expressions of interest to develop sustainable and affordable shared housing on private land. Stakeholders selected through this second request will work in concert with NYC’s HPD’s iterative process, gaining financing or other assistance and expediting the pre-development process.

Source: NYC Housing Preservation & Development







COMPETITIVE MATRIX



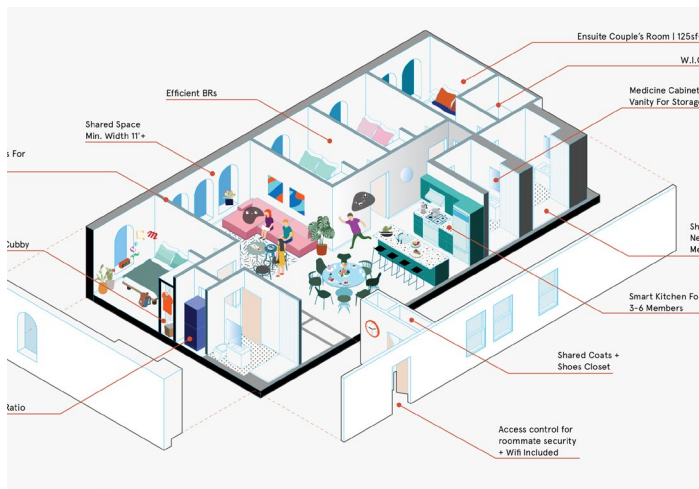
These companies feature all-inclusive amenities, though the degree to which they emphasize the coliving experience varies. Additionally, size affects the number of amenities and features that each company can provide to tenants. For example, most coliving operators offer catered social events and weekend getaways. Firms like Hubhaus and Bungalow use their platform to provide a market for single family homes to be leased on a per bed basis, building a small-scale coliving communities. The remaining investment grade operators are aiming for ever larger scale communities with resident totals in the hundreds.



COMPETITORS ACROSS NEW RENTAL MODELS

Who are some of the players in these spaces?

COLIVING



QUARTERS

X SOCIAL
COMMUNITIES

OLLIE

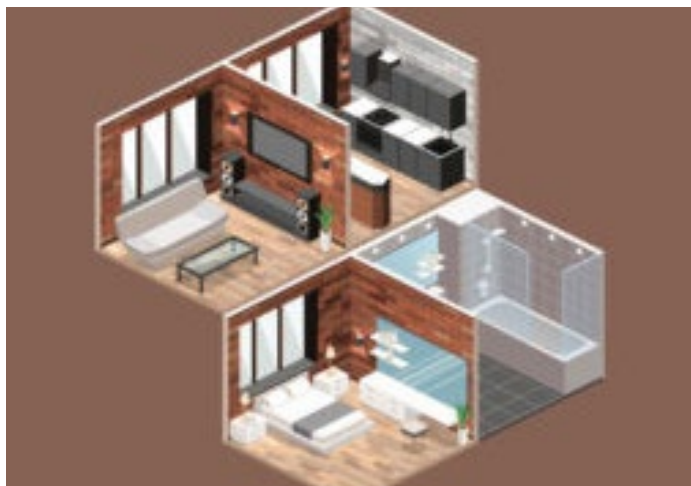
THE COLLECTIVE

COMMON

WELIVE

HUBHAUS

MICRO-LIVING



NICHOLS
PARTNERSHIP

FLATS

MONADNOCK
DEVELOPMENT
LLC.

PANORAMIC
INTERESTS

SHORT-TERM RENTAL / EXTENDED STAY



ROAM

OUTSITE

THE GUILD
HOTELS

STAY ALFRED

SONDER

WHYHOTEL

AIRBNB

LYRIC

COMPETITIVE OVERVIEW

Some of the most standard features that these companies provide are common areas that are integral to the coliving experience. These areas provide the community aspect for individuals renting in a coliving building. Integrated technology, such as in-app full-service management and complementary Wifi, are community essentials in all of these buildings. Tenants are expecting a seamless operating platform that can provide everything from necessities to communication to even planning. More specifically, this operating platform connects all aspects of

the community including: group events, catered events, fully-furnished rooms (with fully-integrated kitchens, bathrooms and washers and dryers), cleaning services, all-inclusive bills, gyms and movability. A majority of coliving firms allow tenants to move into any company-owned building throughout the country. That is, a renter coliving in Chicago who moves to New York for a new job may simply transfer to a New York building owned by the same coliving company.

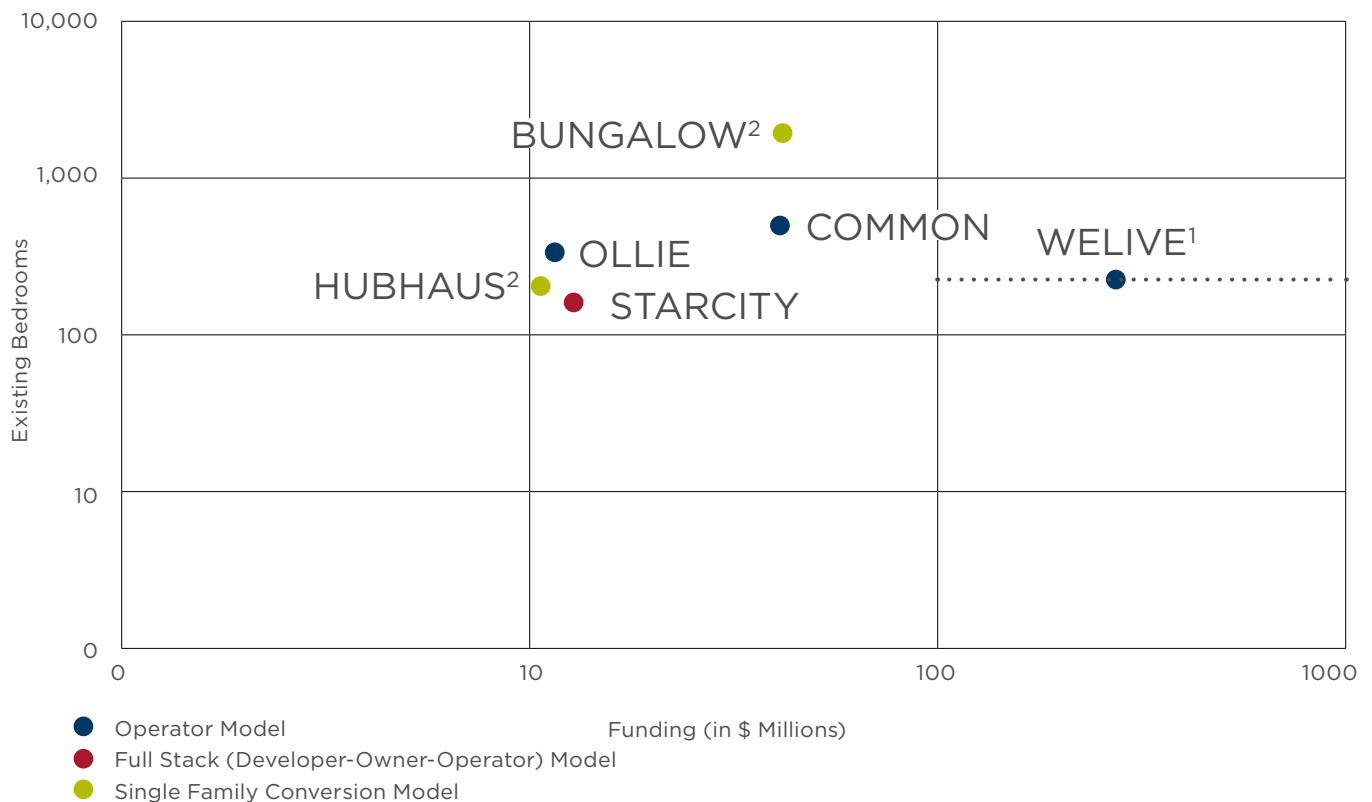
FUNDING FOR COLIVING COMPANIES IS DIVIDED BETWEEN:

- OPERATIONS: VENTURE CAPITAL OR ANGEL FUNDING FOR BUILDING PLATFORM AND FEATURES
- PROPERTY: DEBT AND EQUITY FOR DEVELOPING GROUND-UP PROJECTS

PLAYERS IN EACH SPACE

Where do these companies rank in terms of funding vs. production?

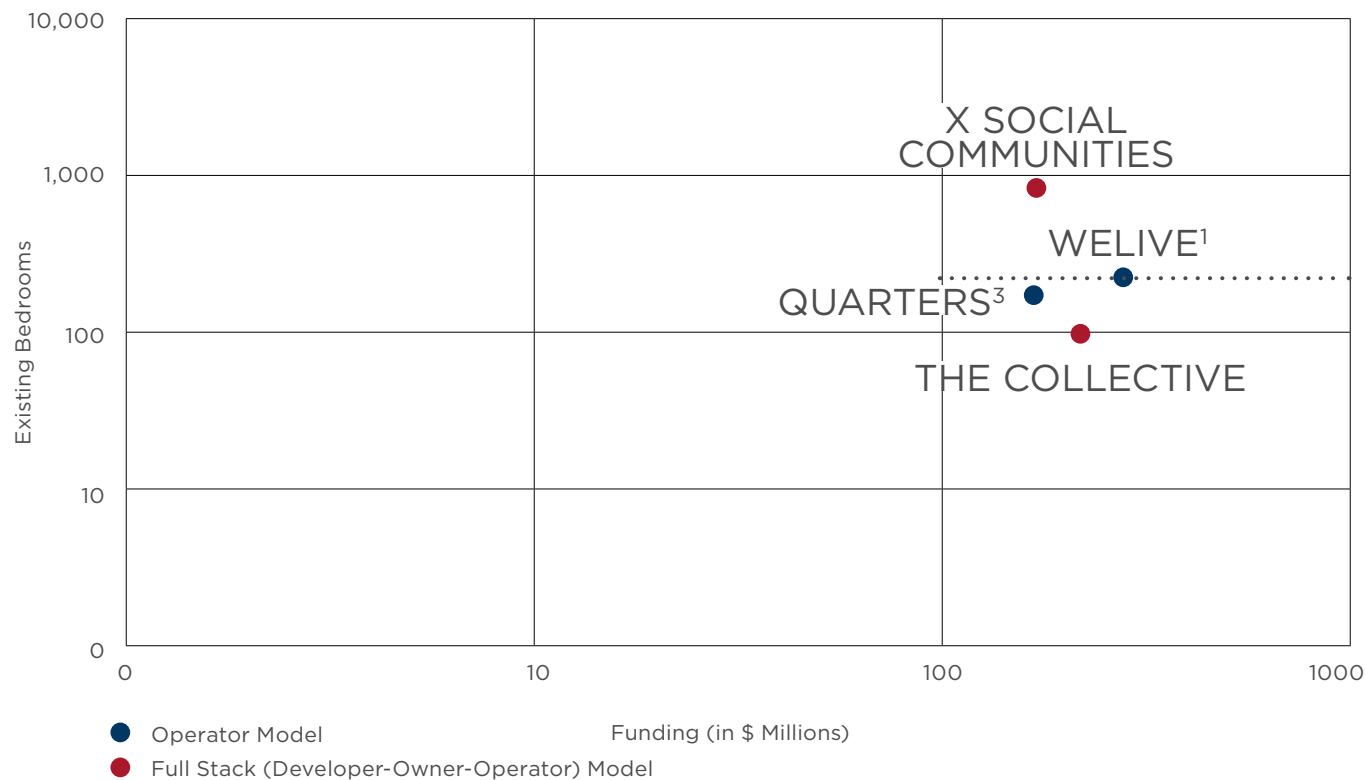
Operations Funding: Existing U.S. Bedrooms vs. Funding for Coliving Companies



1. WeWork has raised \$12.8B in venture funding and has recently opened a \$2.9B acquisitions platform, allocations toward WeLive concept have not been publicized.

2. Both Bungalow and Hubhaus utilize a different operational model - converting primarily single family homes into coliving assets

Property Funding: Existing U.S. Bedrooms vs. Funding for Coliving Companies



One other feature that distinguishes more established coliving companies from smaller firms is an integrated app. Groups like Common, Quarters and X Social Communities enhance the coliving experience by providing tenants with a phone app that makes the coliving experience easier. The phone application allows tenants to manage bills, make payments, request maintenance and interact with other community tenants through the safety and convenience of an electronic device.

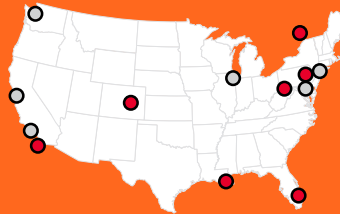
Individuals choose coliving for a variety of reasons. Firstly, the cost of living in a shared community is less than in an individual apartment. Secondly, individuals who choose coliving also do so for the network of individuals with whom they can surround

themselves. Much like an office building, the curated community in a coliving building fosters inclusivity that enables tenants to meet a variety of other individuals and expand their network. Firms that offer group activities within coliving spaces provide the opportunity for tenants to interact with other tenants, engage and build relationships. A third reason why tenants choose to colive is the ephemeral nature of community renting. Generation Y tenants are predominantly single, want flexibility and convenience and value authentic experiences.

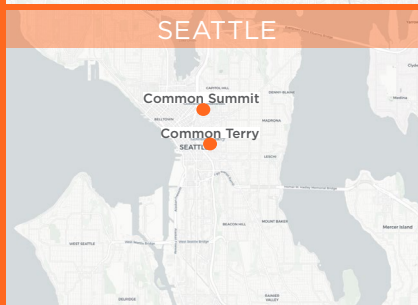
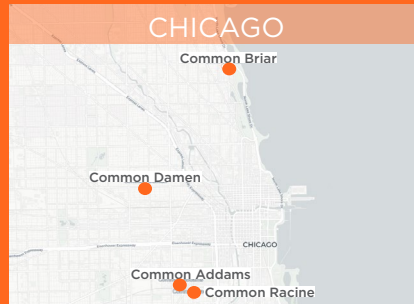
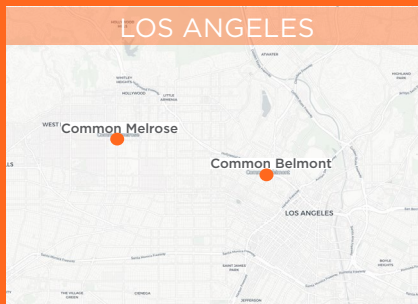
3. Includes only U.S. Quarters funding, Quarters also raised \$1.1B from Corestate Capital for European expansion.

Source: Cushman & Wakefield Research, CoStar, Crunchbase, Crain's, The Real Deal, Curbed

COMMON



● EXISTING MARKETS
● TARGET MARKETS



Business Model: Operator with development partners

Current U.S. Bedrooms Estimate: 731

Operations Funding Reported: \$63+M

Operations Fund Entities: Norwest Venture Partners, 8VC, Solon Mack Capital, Circle Ventures, Justin Mateen, Richard LeFrak, Circle Ventures, Maveron, Wolfswood Partners, Grand Central Tech, Inevitable Ventures

Partnerships: CityPads, Anew Apartments, Patoma Partners, YD Development, Duke Properties, Proper Development, Harrison Capital, Six Peak Development

Markets Existing: New York City, Washington D.C., Chicago, Los Angeles, San Francisco, Seattle

Known Target Markets: Philadelphia, Pittsburgh, Denver, Austin, Minneapolis, Dallas, Nashville, San Diego, Portland, Boston, Charlotte, O

Common is a tech-enabled, community-focused residential property manager working with real estate partners to operate traditional apartments and coliving suites. We manage 26 buildings across New York City, Chicago, San Francisco, Seattle, Los Angeles, and Washington, D.C. at a 98% occupancy rate and above-market NOI.

Common has a proven history of keeping vacancy low and retention high through its recognizable consumer brand, superior digital marketing and leasing capabilities, and tech-enabled tenant experience. Common currently receives 3,200 leads every week.

EXAMPLE DEVELOPMENT



COMMON ADDAMS, CHICAGO



223 BEDS

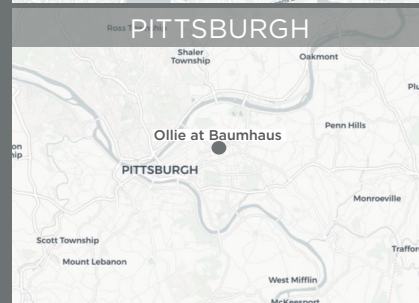
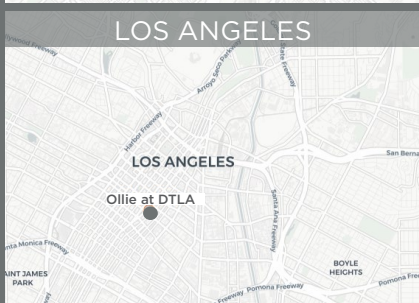


2019 EXPECTED

OLLIE



● EXISTING MARKETS
● TARGET MARKETS



Business Model: Operator with equity to joint venture on new projects

Current U.S. Bedrooms Estimate: 512

Operating Funding: \$15+M

Operating Funding Sources: Aviva Investors, The Moinian Group, Texas Employees Retirement System, Justin Mateen

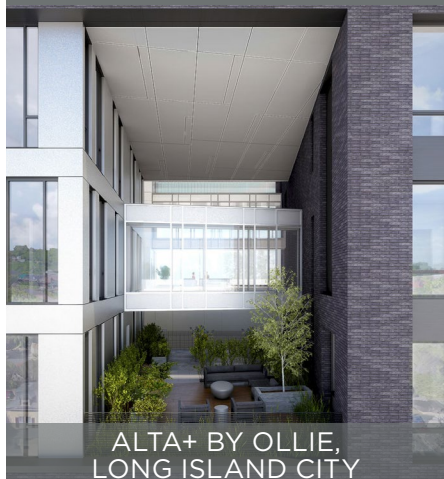
Partnerships: Simon Baron Development, Quadrum Global

Markets Existing: New York City, Pittsburgh

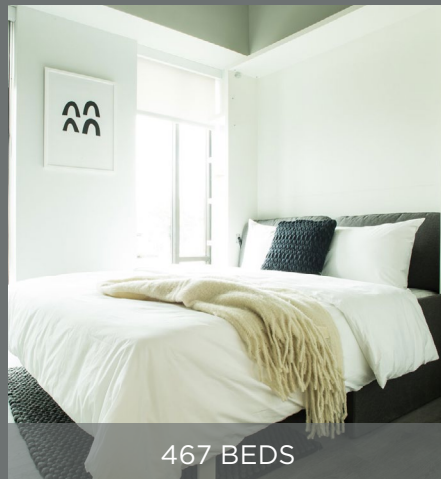
Known Target Markets: Los Angeles, Boston

Founded by brothers Andrew and Chris Bledsoe, Ollie originated in New York City and has partnered with developers for projects in Long Island City, Kips Bay and Pittsburgh - with known future developments in the pipeline for Boston and Los Angeles. Ollie has focused its efforts in not only providing an in-app interface and necessities, but also a fully furnished experience complete with a lifestyle and wellness goods division known as Ollie Provisions Co.

EXAMPLE DEVELOPMENT



ALTA+ BY OLLIE,
LONG ISLAND CITY



467 BEDS



2018 DELIVERED

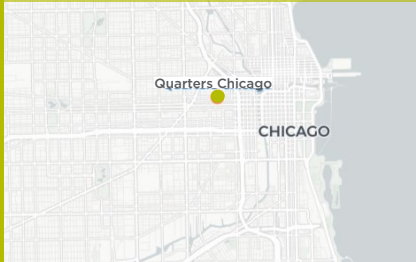
QUARTERS



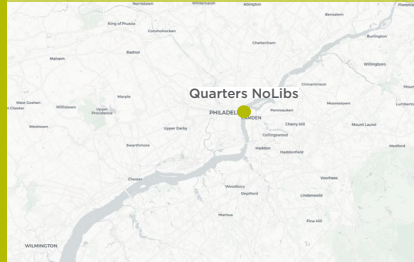
● EXISTING MARKETS

● TARGET MARKETS

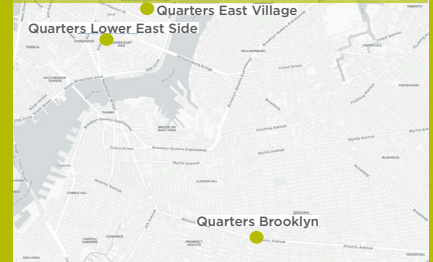
CHICAGO



PHILADELPHIA



NEW YORK



Business Model: Operator with equity to joint venture on new projects

Current U.S. Bedrooms Estimate: 293

Property Funding Reported: \$300M (U.S.), \$1.1B (Europe)

Operation/Property Fund Entities: Ralph Winter (U.S.), Corestate Capital (Europe), Medici Group

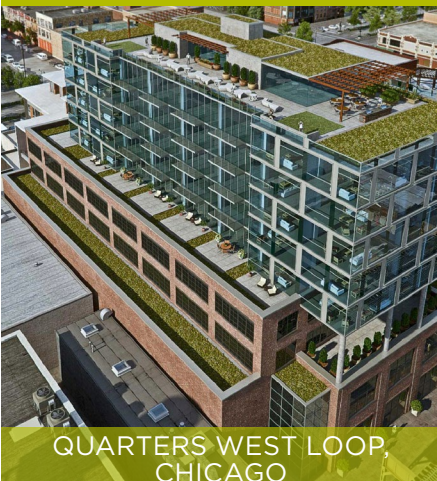
Partnerships: Caton Commercial, MCZ Development

Markets Existing: New York City, Chicago

Known Target Markets: Washington D.C., Denver, Austin, Dallas, Minneapolis, Indianapolis

Founded by Gunther Schmidt in 2015 out of Berlin, Quarters has quickly expanded across Europe and over the Atlantic to the United States. Across both continents, Quarters currently operates 1,300 rooms. In Europe, Quarters has received \$1.1B from Corestate Capital to buy and build 35 coliving projects in Europe, totaling up to 6,000 beds. This initiative will target cities over 500,000 in population and have an approximate deal size of \$22M to \$66M. Meanwhile, in the U.S., Quarters \$300M infusion from W5 Group, the family office for Ralph Winter, is targeting a national expansion that will partner with local developers in target cities, providing a portion of capital for each project. The ultimate aim of this funding is to produce 1,500 units of Quarters-managed units across the country. Quarters has also developed a proprietary app to provide an interface for resident services and property management.

EXAMPLE DEVELOPMENT



QUARTERS WEST LOOP,
CHICAGO



175 BEDS

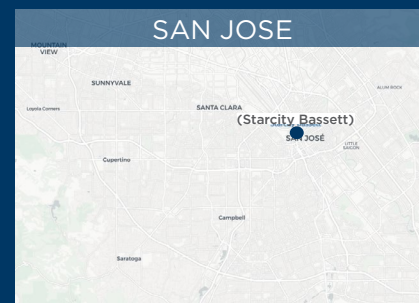
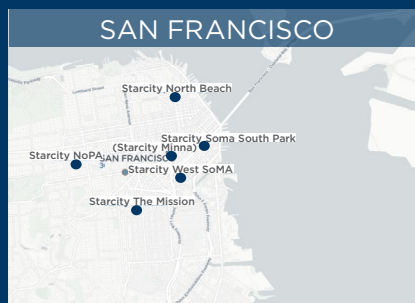


2018 DELIVERED

STARCITY



● EXISTING MARKETS
● TARGET MARKETS



Business Model: Owner and operator with equity to joint venture on new projects

Current U.S. Bedrooms Estimate: 440

Operations Funding Reported: \$20.3M

Operations Fund Entities: Bullpen Capital, Y Combinator, Urban Us, Alrai Capital, Vander Capital Partners, Social Capital

Partnerships: CLG

Markets Existing: San Francisco, Los Angeles

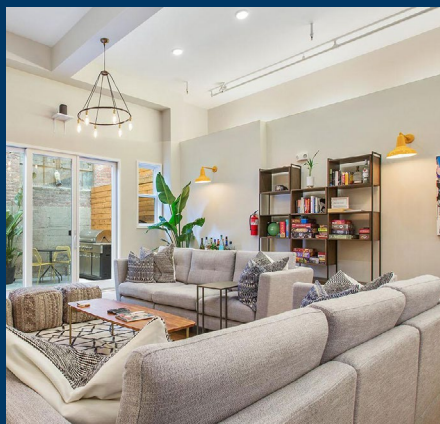
Known Target Markets: San Jose,

Established in 2016 by Jon Dishotsky, Jesse Suarez, Mo Sakrani and Josh Lehman, Starcity is a West Coast-based coliving operation based around a combined ownership and management platform. Founded by veterans of real estate, tech and hospitality, Starcity has the largest stock of coliving beds along the West Coast. With all of its current assets located in the markets of San Francisco and Los Angeles, Starcity has taken particular care in branding itself as a solution to the affordability crises in both areas, as well as a partner of local communities.

EXAMPLE DEVELOPMENT



STARCITY BASSETT, SAN JOSE



790 BEDS



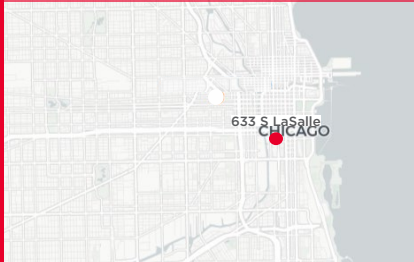
2020 EXPECTED

THE COLLECTIVE



- EXISTING MARKETS
- TARGET MARKETS

CHICAGO



NEW YORK



Business Model: Ground up Developer and Operator

Current U.S. Bedrooms Estimate: 125+

Property Funding: \$800+ M Globally

Property Fund Entities: Jonathan Teklu, Undisclosed

Partnerships: N/A

Markets Existing: London, New York City

Known Target Markets: New York City, Dublin, Chicago

Founded by Reza Merchant in 2010, the Collective began in London with the largest (currently operating) coliving development, the 546-bed Old Oak. The Collective has raised \$800M to ground-up develop 6,500 new units across Europe and the United States. Three projects been announced for New York, while two more have been announced for London as well as a third headquarters in Germany. The Collective partners with local developers to develop purpose-built locations that they will own and operate.

Development plans are in the works for three sites in Brooklyn and announced another for downtown Chicago in May, 2019. The Collective also continues to expand in Europe, dwarfing Old Oak with the 705-bed Canary Wharf development in London due July 2019. The firm has also announced plans for a site in Dublin, Ireland.

EXAMPLE DEVELOPMENT



OLD OAK, LONDON



546 BEDS



2017 DELIVERED

WELIVE

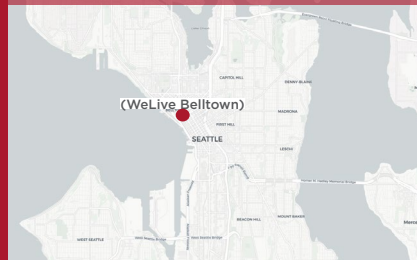


- EXISTING MARKETS
- TARGET MARKETS

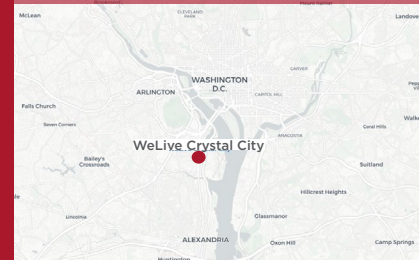
NEW YORK



SEATTLE



WASHINGTON D.C.



Business Model: Operator with equity to joint venture on new projects

Current U.S. Bedrooms Estimate: 351+

Operations/Property Funding Reported: Determined by allocation from WeWork. WeWork has raised \$12.8B in funding.

Funding Source: WeWork, SoftBank

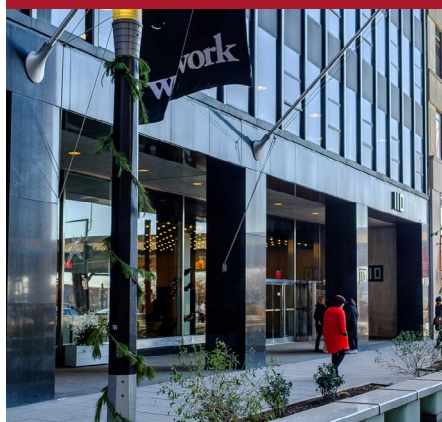
Partnerships: Martin Selig Development, JBG Smith, Rudin Management

Markets Existing: New York City, Washington D.C.

Known Target Markets: Seattle

The coliving division of WeWork, WeLive opened its first coliving operations on Wall Street and Crystal City in 2017. These provided testing sites for WeLive to determine how they wanted to execute their coliving concept, while also determining the best way to connect the concept with WeWork. In the intervening two years, WeLive worked in concert with Martin Selig Development in Seattle and WeLive concept built on what they've learned in New York and Washington DC. Plans have already been circulated for a follow-up project in Seattle. Furthermore, WeLive announced plans to debut a coliving concept in India in 2019, likely targeting cities where WeWork already has a presence: Bengaluru, Mumbai and Gurgaon.

EXAMPLE DEVELOPMENT



WELIVE WALL STREET,
NEW YORK CITY

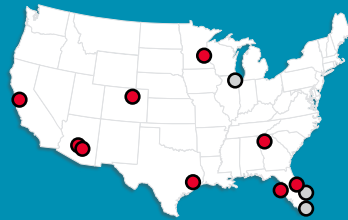


93 BEDS



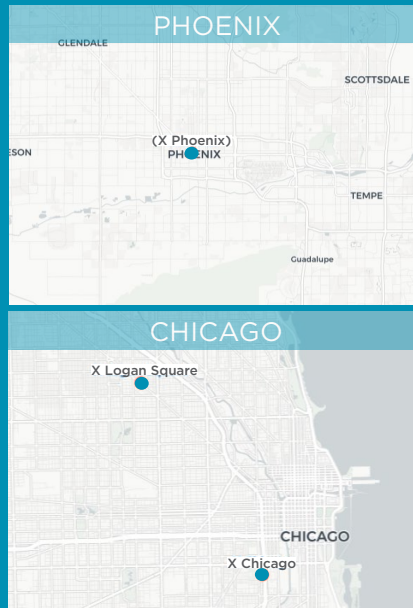
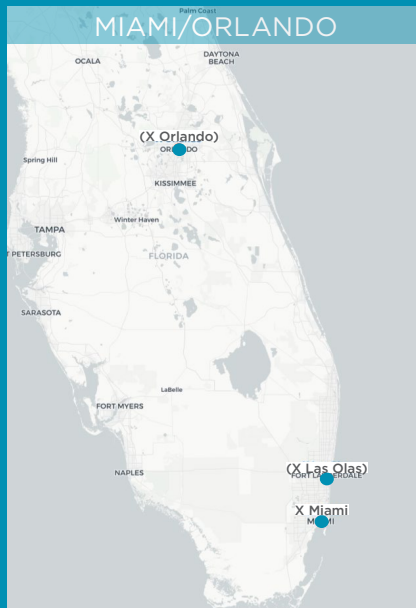
2016 DELIVERED

X SOCIAL COMMUNITIES



● EXISTING MARKETS

● TARGET MARKETS



Business Model: Full-stack developer, owner and operator

Current U.S. Bedrooms Estimate: 970

Property Funding Reported: \$300+M

Property Fund Entities: Raven Capital Management, PMG (Property Markets Group)

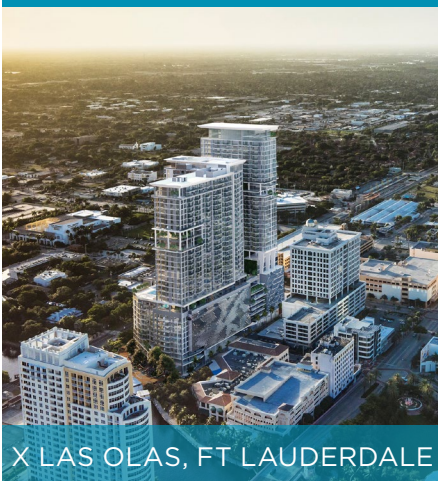
Partnerships: N/A

Markets Existing: Chicago, Miami, Fort Lauderdale

Known Target Markets: Denver, Oakland, Orlando, Phoenix, Tempe, Houston, Tampa, Minneapolis, Atlanta

A division of Property Markets Group, XSL focuses on offering its residents the experience of "social living". XSL has branded a combination of traditional units and rent-by-the-bedroom larger units under a coliving banner. XSL launched its first test projects in Chicago in 2015 and 2018, with deliveries in both Florida and Denver on the horizon. All new projects are planned to be ground-up, large-scale (from 200 to 1,500 beds) targeting markets outside of the urban centers of New York, Los Angeles and San Francisco - the logic being that these markets are fertile ground for the talent and renter base that finds coliving attractive, but are not impacted by the competition of those top three affordability-challenged markets. XSL has also made a strong push to promote the community of their developments through a fully-integrated in-app experience.

EXAMPLE DEVELOPMENT



X LAS OLAS, FT LAUDERDALE

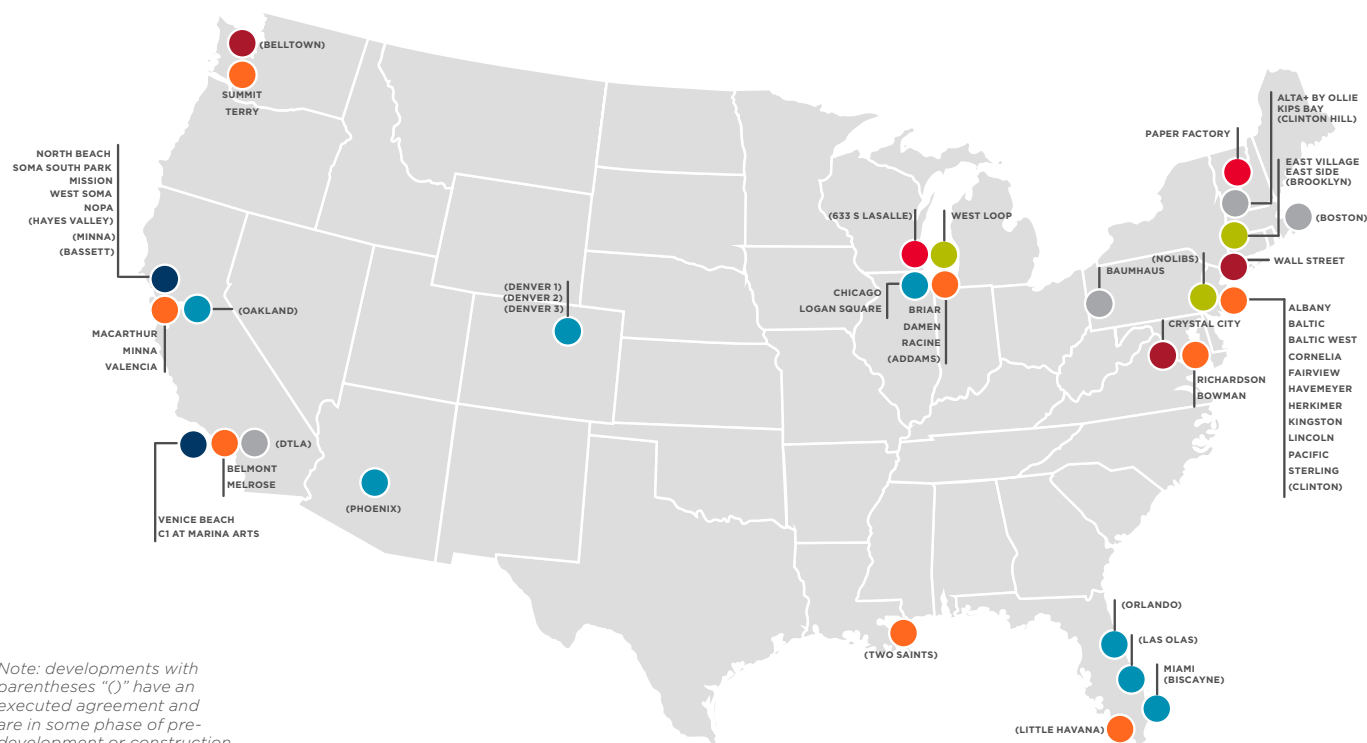


1,994 BEDS



OWNED/UNDER DEVELOPMENT

Major U.S. Coliving Developments



Note: developments with parentheses “()” have an executed agreement and are in some phase of pre-development or construction.

| COMPANY | CURRENT U.S. BEDS ESTIMATED | BEDS IN PIPELINE LOWER BOUND |
|----------------------|-----------------------------|------------------------------|
| Common | 731+ | 2,000+ |
| Ollie | 512+ | 600+ |
| Quarters | 293+ | 1,200+ |
| Starcity | 200+ | 1,600+ |
| The Collective | 125+ | 1,000+ |
| WeLive | 351+ | 400+ |
| X Social Communities | 970+ | 9,930+ |
| TOTAL | 3,182+ | 16,730+ |

| COMPANY | TYPE | FUNDING (IN \$ MILLIONS) | EXISTING U.S. BEDROOMS EST. | PARTNERS | FUNDING / EQUITY |
|----------------------|--------------------------|---|-----------------------------|---|---|
| Bungalow | Operator | Operations Funding: \$64.0 | 584 | | Operations Fund Entities: Finitive, Khosla Ventures, Founders Fund, Wing Venture Capital, UpHonest Capital, Cherubic Ventures, Wei Guo, Atomic |
| Common | Operator | Operations Funding: \$63.4 | 731 | CityPads, Anew Apartments, Patoma Partners, YD Development, Duke Properties, Proper Development, Harrison Capital, Six Peak Development | Operations Fund Entities: Norwest Venture Partners, 8VC, Solon Mack Capital, Circle Ventures, Justin Mateen, Richard LeFrak, Circle Ventures, Maveron, Wolfwood Partners, Grand Central Tech, Inevitable Ventures |
| Hubhaus | Operator | Operations Funding: \$13.4 | 240 | | Operations Fund Entities: Social Capital, General Catalyst |
| Ollie | Operator | Operations Funding: \$15.0 | 512 | Simon Baron Development, Quadrum Global | Operations Fund Entities: Aviva Investors, The Moian Group, Texas Employees Retirement System, Justin Mateen |
| Quarters | Operator | Property Funding: \$300+ (U.S.) \$1,100 (Europe) | 293 | MCZ Development, Caton Commercial | Property Fund Entities: Ralph Winter (U.S.), Corestate Capital (Europe) Operations Fund Entities: Medici Group |
| Starcity | Owner-Operator | Operations Funding: \$20.3 | 200 | CLG | Operations Fund Entities: Bullpen Capital, Y Combinator, Urban Us, Alrai Capital, Vander Capital Partners, Social Capital |
| The Collective | Owner-Operator | Property Funding: \$800+ | 125 | | Property Fund Entities: Undisclosed |
| WeLive | Operator | Determined by allocation from WeWork. WeWork has raised \$12.8B in funding. | 351 | Martin Selig, JBG Smith, Rudin Management | Operations Fund Entities: WeWork Via SoftBank |
| X Social Communities | Developer-Owner-Operator | Property Funding: \$300 | 970 | | Property Fund Entities: Raven Capital Management, PMG (Property Markets Group) |

Source: The Collective, OpenDoor, Starcity, Hubhaus, Quarters, WeLive, Ollie, Bungalow, Common, X Social Communities, Crunchbase, Pitchbook





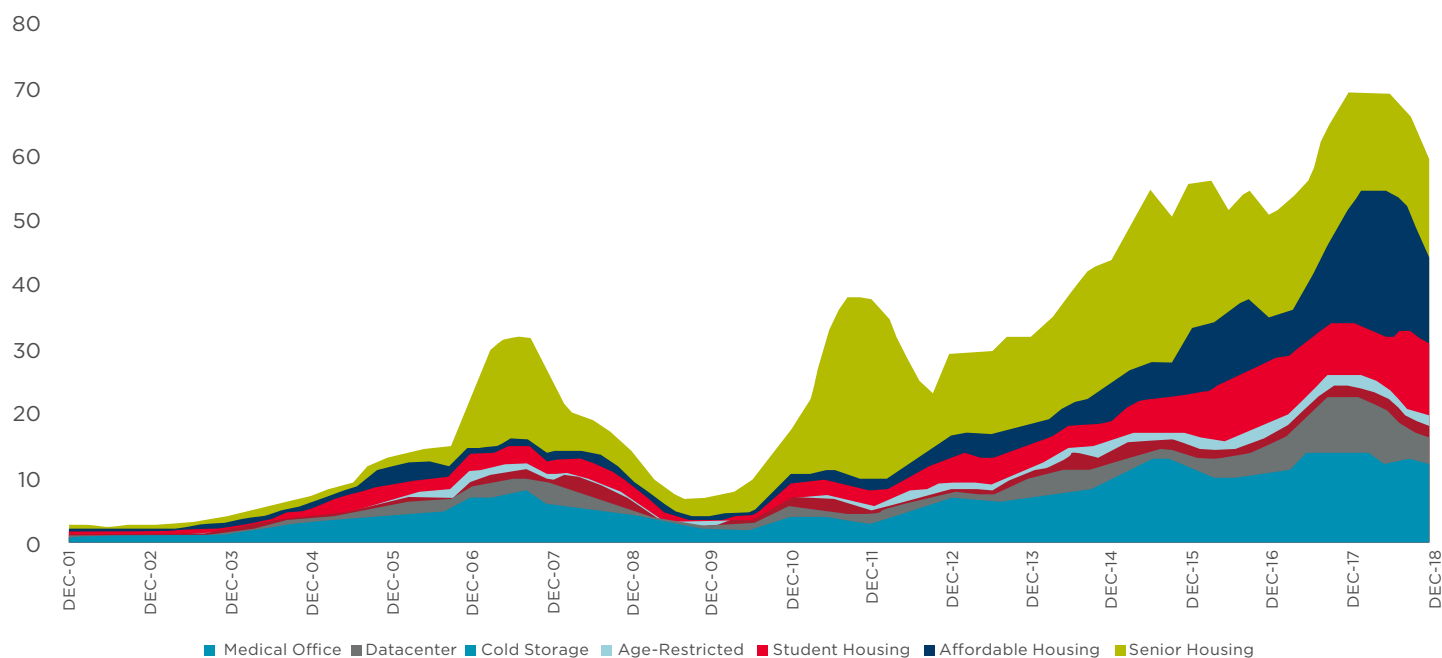
INSTITUTIONAL INVESTMENT IN COLIVING



THE HUNT FOR NICHE ASSETS

Niche Asset Investment Sales Volumes

Rolling 4Q, Dollars in Billions



Source: RCA, Cushman & Wakefield Research

RISE OF NICHE ASSET CLASSES

Post-Recession, niche real estate classes such as allocations across age restricted and affordable housing, coworking, data centers, as well as self and cold storage have soared as solid investments. Over time, investors have taken notice and many of these niche classes now make an appearance in the most prestigious portfolios. In Price Waterhouse Cooper's annual 2018 Emerging Trends in Real Estate, age restricted housing reached nearly \$14B in year-over-year transactions. In the same report, Price Waterhouse Coopers found that Medical Office was the strongest prospect among office sub-sectors for the third year in a row. More emergent niche areas have also seen signs of promise. Data centers held another banner year in 2018, absorbing over 474 megawatt users and pre-leasing more than 55% of all new developments. Coworking office space reached a record 51 million square feet globally in 2018. Cushman & Wakefield investors surveys found that many were comfortable with up to 30% of a building devoted to coworking.

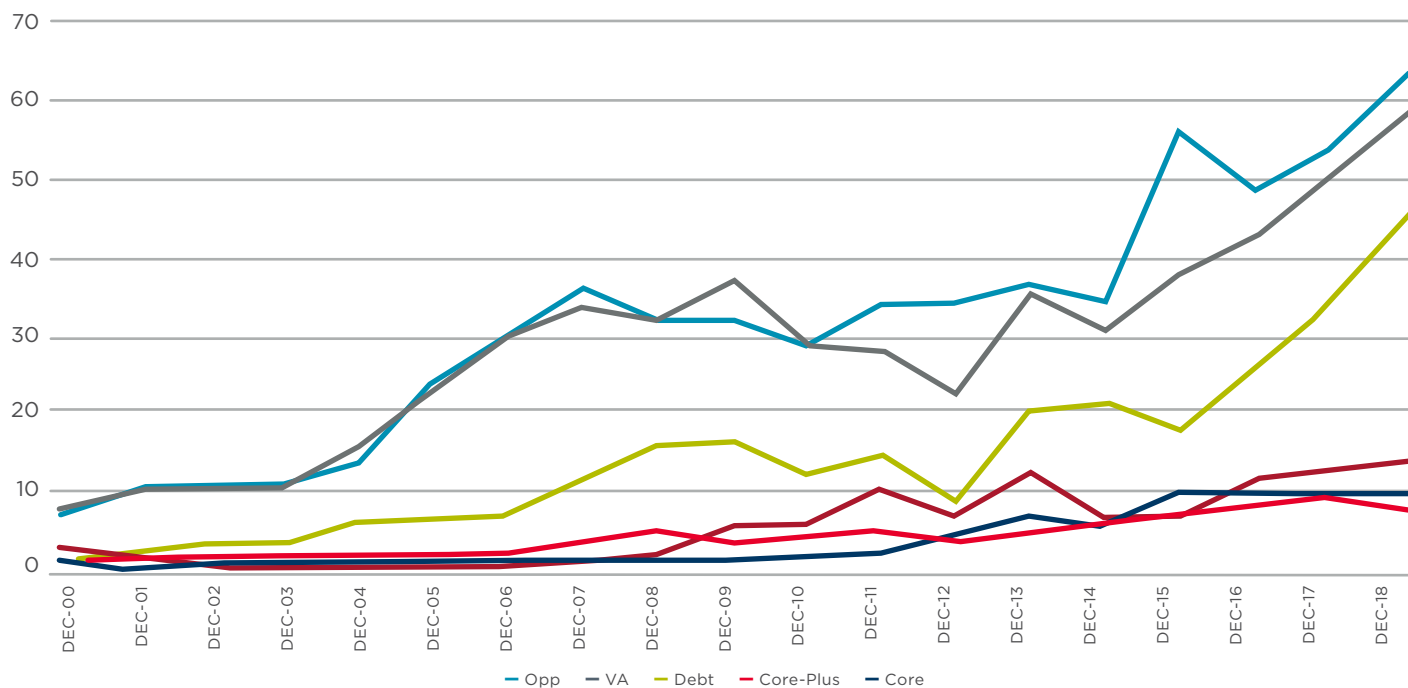
Coliving follows in the footsteps of these niche asset classes that began with a small footprint but have been making a large impact in investor portfolios.

DISRUPTION IS THE NEW NORMAL

Despite a relative nascent entrance into the real estate world housing market, coliving has already reached the beginning of a critical tipping point. There is a proven demand for the product, as evidenced by the burgeoning number of companies entering the market. From well established firms to newer players, all of these organizations are grabbing a foothold. And these organizations are evolving. They're entering new cities and markets, increasing capacity at established locations and partnering with other services to curate an experience that attracts the largest number of tenants. Demand is proven. Yet, there is still a lack of supply despite market expansion, and this enables institutions to enter during this inflection point. The ability to deploy large amounts of capital in a relatively new and small arena will have an enormous impact. However, this impact will shrink once more coliving companies emerge and more institutions with capital enter the fray.

Dry Powder Target at North America Commercial Real Estate by Strategy

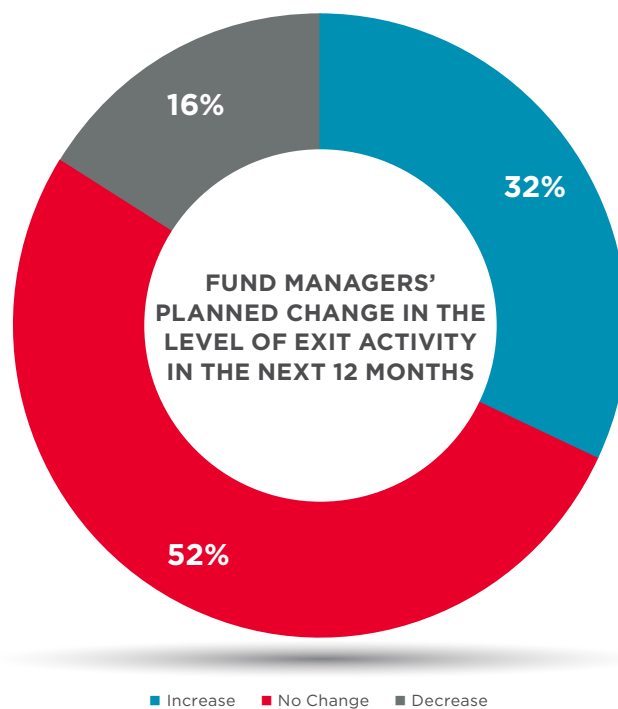
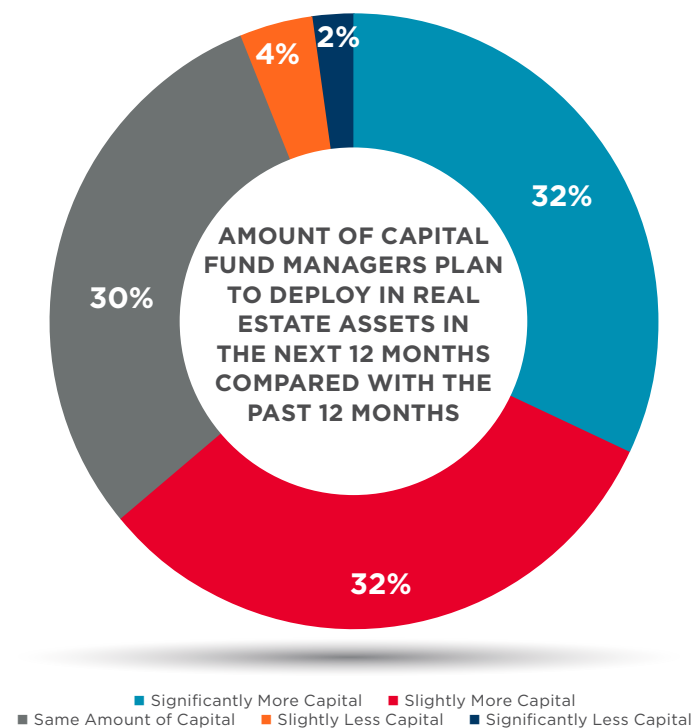
Dollars in Billions



Source: Preqin, Cushman & Wakefield Research

Intensive Competition for Assets

But also a necessary expansion of liquidity by market, sector and deal size



Source: Preqin Fund Manager Survey, Nov 2017

COLIVING IS THE CURRENT NICHE ASSET CLASS ON INVESTORS' RADAR

In order for any real estate product to achieve true market penetration and dominance, institutional capital is needed. Most of these capital sources have a number of prerequisites that must be met before an allocation can be decided. While every institution may have its own formula for requirements, they generally fall somewhere along the following sequence:

1. Proven Demand

The market must be of sufficient size to warrant investment.

79M SIZE OF MILLENNIAL AGE GROUP, WITH GEN Z ALREADY AT 74M

65% A RECORD NUMBER OF UNDER 35-YEAR-OLDS ARE RENTING

40% % OF HIGHLY EDUCATED UNDER 30 WORKFORCE WITH STUDENT DEBT

2. Lack of Supply

There must be demonstrable evidence that there is continued runway for the asset type going forward.

3.3K ESTIMATED TOTAL NUMBER OF CURRENT U.S. COLIVING BEDS



3. Proof of Concept

Coliving assets must have been successfully executed and exited.
See example to the right

- 1 TOTAL NUMBER OF SUCCESSFUL
EXITS FOR COLIVING PROPERTIES
WORLDWIDE

Proof of Concept Case Study: Institutional Refinancing In Coliving



The Collective Old Oak

Market: London, U.K.

Bedrooms: 546

Occupancy: 99%

Sale Price: £125M (\$162.5M as of date of sale)

Developer / Owner: The Collective (25% ownership) with partnership from U.K. and Singaporean Investors (75% ownership)

Operator: The Collective

Seller: Private Investors with 75% ownership

Buyer: The Collective

Buyer Senior Debt: Deutsche Bank

Buyer Mezzanine Debt: Catalina Re

While an original deal to sell the entire development to Red Door Ventures fell through in mid-2018, lenders were willing to provide substantial debt for a large-scale coliving development. The debt was also provided at a valuation much higher than the initial asking price of \$100M, with an expected 4% yield.

4. Meaningful Way to Measure Results

Deployment of capital must be tied to a defined set of metrics.

ROC HOW FAVORABLE ARE RETURN ON COSTS FOR COLIVING ASSETS

IRR WHAT IS THE EXPECTED INTERNAL RATE OF RETURN FOR A 4-YEAR HOLD?

NOI HOW DOES NOI COMPARE TO A TRADITIONAL ASSET UNDER THE SAME MARKET CONDITIONS?







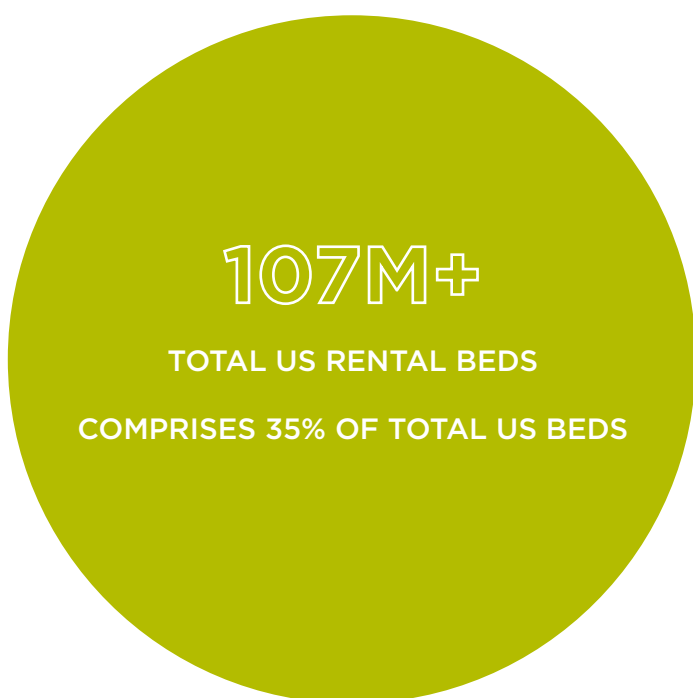
CONCLUSION



COLIVING HAS PASSED ITS EARLY STAGES, AND NOW IS A FULLY FLEDGED NICHE ASSET CLASS.

COLIVING FOLLOWS IN THE TRACKS OF OTHER NICHE ASSETS

Asset classes like student housing offer the blueprints going forward



790K+

INVESTMENT GRADE STUDENT HOUSING
INVENTORY IN BEDS BUILT 1995-2019

20K+

INVESTMENT GRADE MICRO-UNITS
INVENTORY IN BEDS BUILT 2008-2019

3,300+

INVESTMENT GRADE COLIVING BED
INVENTORY BUILT 2014 - 2019

COLIVING'S MOMENT IS NOW

indicators point to the rapid expansion of the sector in 2019

DEAL SIZE



DEAL VOLUME

OVER 52%
PERCENTAGE OF TOTAL COLIVING BEDS
WERE DELIVERED IN THE PAST YEAR

FUNDING



INVESTMENT IN COLIVING OPERATIONS
AND ASSETS HAS INCREASED
DRAMATICALLY IN 2018 - 2019

COLIVING IS NOT ONLY HERE TO STAY...

- Fueled by **increasing affordability challenges and an expanding demographic of renters**, the expansion of coliving has passed its early stages, and now is a fully fledged niche asset class.
- Over the course of the next five years, **significant capital will be deployed** toward delivery of thousands of more beds across the world.

WHERE COLIVING GOES FROM HERE

The way we live is changing. Goals of homeownership and a suburban lifestyle have given way to more urban and communal preferences for those entering the workforce. Fueled by increasing affordability challenges and an expanding demographic of renters, the expansion of coliving has passed its early stages, and now is a fully fledged niche asset class. Over the course of the next five years, significant capital will be deployed toward delivery of thousands of more beds across the world. As new generations enter the rental market space, preference will be centered upon the coliving brands that provide convenience, affordability and a vibrant community. As more companies seek to capture talent pipelines across a wider geographic area, more markets will become viable for coliving developments. Coliving options will become more ubiquitous with recent college graduates seeking to join a community and learn about a city that they are living in for the first time. Finally, coliving options will see growth in official affordable housing options, with programs like ShareNYC providing a template for further public-private partnerships in building housing for all.





APPENDIX



| LOS ANGELES | | SAN FRANCISCO | |
|--------------------------|--------------|--------------------------|-------------|
| TOTAL POPULATION | 3,965,206 | TOTAL POPULATION | 876,259 |
| AGES 25-44 | 32% | AGES 25-to-44 | 39% |
| MEDIAN AGE | 35.5 | MEDIAN AGE | 38.3 |
| AVERAGE HOUSEHOLD INCOME | \$91,137 | AVERAGE HOUSEHOLD INCOME | \$151,210 |
| MEDIAN HOUSEHOLD INCOME | \$56,797 | MEDIAN HOUSEHOLD INCOME | \$104,986 |
| UNEMPLOYED | 5.3% | UNEMPLOYED | 3.4% |
| RENTER OCCUPIED | 63.6% | RENTER OCCUPIED | 64.4% |
| BACHELORS + | 32% | BACHELORS + | 54% |
| AVG HOUSEHOLD SIZE | 2.76 | AVG HOUSEHOLD SIZE | 2.20 |
| NON-FAMILY HOUSEHOLDS | 154,696/ 11% | NON-FAMILY HOUSEHOLDS | 61,441/ 16% |

| DENVER | | WASHINGTON D.C. | |
|--------------------------|------------|--------------------------|------------|
| TOTAL POPULATION | 713,294 | TOTAL POPULATION | 680,420 |
| AGES 25-to-44 | 38% | AGES 25-to-44 | 37% |
| MEDIAN AGE | 34.4 | MEDIAN AGE | 33.9 |
| AVERAGE HOUSEHOLD INCOME | \$90,956 | AVERAGE HOUSEHOLD INCOME | \$120,013 |
| MEDIAN HOUSEHOLD INCOME | \$60,437 | MEDIAN HOUSEHOLD INCOME | \$76,587 |
| UNEMPLOYED | 2.9% | UNEMPLOYED | 6.7% |
| RENTER OCCUPIED | 51.2% | RENTER OCCUPIED | 60.5% |
| BACHELORS + | 45% | BACHELORS + | 55% |
| AVG HOUSEHOLD SIZE | 2.19 | AVG HOUSEHOLD SIZE | 2.08 |
| NON-FAMILY HOUSEHOLDS | 35,093/11% | NON-FAMILY HOUSEHOLDS | 39,971/13% |

| MIAMI | | ATLANTA | |
|--------------------------|------------|--------------------------|------------|
| TOTAL POPULATION | 443,268 | TOTAL POPULATION | 475,836 |
| AGES 25-to-44 | 32% | AGES 25-to-44 | 35% |
| MEDIAN AGE | 40.1 | MEDIAN AGE | 34.2 |
| AVERAGE HOUSEHOLD INCOME | \$58,705 | AVERAGE HOUSEHOLD INCOME | \$99,227 |
| MEDIAN HOUSEHOLD INCOME | \$32,376 | MEDIAN HOUSEHOLD INCOME | \$56,945 |
| UNEMPLOYED | 5.8% | UNEMPLOYED | 6.0% |
| RENTER OCCUPIED | 69.6% | RENTER OCCUPIED | 57.7% |
| BACHELORS + | 25% | BACHELORS + | 49% |
| AVG HOUSEHOLD SIZE | 2.44 | AVG HOUSEHOLD SIZE | 2.10 |
| NON-FAMILY HOUSEHOLDS | 19,106/11% | NON-FAMILY HOUSEHOLDS | 29,610/14% |

| CHICAGO | | BOSTON | |
|--------------------------|-------------|--------------------------|------------|
| TOTAL POPULATION | 2,736,994 | TOTAL POPULATION | 679,660 |
| AGES 25-to-44 | 34% | AGES 25-to-44 | 37% |
| MEDIAN AGE | 34.2 | MEDIAN AGE | 32.2 |
| AVERAGE HOUSEHOLD INCOME | \$82,881 | AVERAGE HOUSEHOLD INCOME | \$98,319 |
| MEDIAN HOUSEHOLD INCOME | \$53,335 | MEDIAN HOUSEHOLD INCOME | \$64,290 |
| UNEMPLOYED | 6.3% | UNEMPLOYED | 3.7% |
| RENTER OCCUPIED | 56.3% | RENTER OCCUPIED | 66.8% |
| BACHELORS + | 36% | BACHELORS + | 46% |
| AVG HOUSEHOLD SIZE | 2.50 | AVG HOUSEHOLD SIZE | 2.24 |
| NON-FAMILY HOUSEHOLDS | 113,979/11% | NON-FAMILY HOUSEHOLDS | 45,276/16% |

| MINNEAPOLIS | | NEW YORK | |
|--------------------------|------------|--------------------------|------------|
| TOTAL POPULATION | 413,416 | TOTAL POPULATION | 8,590,165 |
| AGES 25-to-44 | 37% | AGES 25-to-44 | 32% |
| MEDIAN AGE | 32.4 | MEDIAN AGE | 36.3 |
| AVERAGE HOUSEHOLD INCOME | \$84,437 | AVERAGE HOUSEHOLD INCOME | \$92,604 |
| MEDIAN HOUSEHOLD INCOME | \$55,526 | MEDIAN HOUSEHOLD INCOME | \$58,271 |
| UNEMPLOYED | 4.8% | UNEMPLOYED | 5.4% |
| RENTER OCCUPIED | 52.9% | RENTER OCCUPIED | 68.7% |
| BACHELORS + | 47% | BACHELORS + | 36% |
| AVG HOUSEHOLD SIZE | 2.19 | AVG HOUSEHOLD SIZE | 2.54 |
| NON-FAMILY HOUSEHOLDS | 27,277/15% | NON-FAMILY HOUSEHOLDS | 272,871/8% |

| PHILADELPHIA | | AUSTIN | |
|--------------------------|------------|--------------------------|------------|
| TOTAL POPULATION | 1,586,356 | TOTAL POPULATION | 927,556 |
| AGES 25-to-44 | 31% | AGES 25-to-44 | 38% |
| MEDIAN AGE | 34.1 | MEDIAN AGE | 32.9 |
| AVERAGE HOUSEHOLD INCOME | \$62,908 | AVERAGE HOUSEHOLD INCOME | \$97,002 |
| MEDIAN HOUSEHOLD INCOME | \$43,106 | MEDIAN HOUSEHOLD INCOME | \$65,643 |
| UNEMPLOYED | 6.3% | UNEMPLOYED | 3.5% |
| RENTER OCCUPIED | 47.6% | RENTER OCCUPIED | 55.3% |
| BACHELORS + | 26% | BACHELORS + | 47% |
| AVG HOUSEHOLD SIZE | 2.49 | AVG HOUSEHOLD SIZE | 2.36 |
| NON-FAMILY HOUSEHOLDS | 72,929/12% | NON-FAMILY HOUSEHOLDS | 55,171/14% |

| DALLAS | | SEATTLE | |
|--------------------------|-----------|--------------------------|------------|
| TOTAL POPULATION | 1,316,726 | TOTAL POPULATION | 689,131 |
| AGES 25-to-44 | 33% | AGES 25-to-44 | 39% |
| MEDIAN AGE | 32.7 | MEDIAN AGE | 36.1 |
| AVERAGE HOUSEHOLD INCOME | \$82,100 | AVERAGE HOUSEHOLD INCOME | \$120,379 |
| MEDIAN HOUSEHOLD INCOME | \$48,244 | MEDIAN HOUSEHOLD INCOME | \$82,778 |
| UNEMPLOYED | 4.5% | UNEMPLOYED | 4.0% |
| RENTER OCCUPIED | 58.0% | RENTER OCCUPIED | 54.0% |
| BACHELORS + | 31% | BACHELORS + | 60% |
| AVG HOUSEHOLD SIZE | 2.53 | AVG HOUSEHOLD SIZE | 2.01 |
| NON-FAMILY HOUSEHOLDS | 42,454/8% | NON-FAMILY HOUSEHOLDS | 45,916/14% |





SOURCES



| PAGE | SOURCE(S) | Boundaries |
|------|--|---------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | The State of the Nation's Housing, Joint Center for Housing Studies | National |
| 7 | Joint Center for Housing Studies, Bankrate.com | |
| 8 | Joint Center for Housing Studies, Up For Growth, Apartment List Research, Bloomberg Data, Federal Reserve | |
| 9 | Joint Center for Housing Studies, Up For Growth, Apartment List Research, Bloomberg Data, Federal Reserve | |
| 10 | Joint Center for Housing Studies, U.S. Census Bureau | MSA |
| 11 | U.S. Census, REALTOR Confidence Index Survey, Pew Research Center | |
| 12 | | |
| 13 | | |
| 14 | Alteryx | City |
| 15 | CoStar, Cushman & Wakefield Research | MSA |
| 16 | CoStar | National, MSA |
| 17 | CoStar | MSA |
| 18 | Glassdoor, Department of Housing & Urban Development (HUD), City of Chicago Quarterly Affordable Housing Report | Chicago |
| 19 | US Census Bureau, Alteryx | MSA |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | NYC Housing Preservation & Development | |
| 26 | | |
| 27 | | |
| 28 | | |
| 29 | | |
| 30 | | |
| 31 | Cushman & Wakefield Research, CoStar, Crunchbase, Crain's, The Real Deal, Curbed | |
| 32 | | |
| 33 | | |
| 34 | | |
| 35 | | |
| 36 | | |
| 37 | | |
| 38 | | |
| 39 | The Collective, Starcity, Hubhaus, Quarters, WeLive, Ollie, Bungalow, Common , X Social Communities, Crunchbase, Pitchbook | |
| 40 | | |
| 41 | | |
| 42 | RCA, Cushman & Wakefield Research | |
| 43 | Preqin, Cushman & Wakefield Research, Preqin Fund Manager Survey, Nov 2017 | |
| 44 | | |

ABOUT CUSHMAN & WAKEFIELD

Cushman & Wakefield (NYSE: CWK) is a leading global real estate services firm that delivers exceptional value for real estate occupiers and owners. Cushman & Wakefield is among the largest real estate services firms with approximately 51,000 employees in 400 offices and 70 countries. In 2018, the firm had revenue of \$8.2 billion across core services of property, facilities and project management, leasing, capital markets, valuation and other services. To learn more, visit www.cushmanwakefield.com or follow @CushWake on Twitter.



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Submitted on Wed, 05/08/2020 - 14:04

Submission Type: I am submitting on behalf of my organisation

First Name: craig

Last Name: shelsher

Email: craig@custance.com.au

Suburb/Town & Postcode: Sydney 2000

Submission:

To whom it may concern I refer to the opportunity to provide feedback on the exhibited Diversity Housing SEPP. Given that we work with the Senior and Affordable SEPPS on a regular basis, I do have one consistent issue that is affecting the ongoing assessment and approval process of some of our projects. I refer to the Seniors SEPP and two clauses that are considered a conjecture amongst parties when assessing an application, in this case a Residential Aged Care Facility.

I note the clauses Part 4, Division 1, 40 (4) (c) and Division 2, 33 (a-g). The definition for both these clauses are dubious at best and are often misinterpreted. The clauses relate to 25% rear 1 story and Neighbourhood Amenity (character). Recommend these be reviewed and confirm the intent of the clauses.

For example, the 25% rear does not factor in corner sites, the character of an area is literal rather than subjective. Council use this clause as a means to reject an application. A RACF will inevitably have a greater density and mass than residential developments, this should be recognised with the SEPP as some sites require innovative ideas that may breach these requirements.

The SEPP should include mandatory pre application meetings between council and the applicant before submitting the application. The outcome of these meetings should form part of the final assessment and demonstrate parties working together and streamlining application assessment times