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Submission: To The Honourable Robert Gordon Stokes MP I believe some the proposed changes to the NSW SEPP plans have gone too far in relation to the Boarding house aspect of the new proposal. I have run and plan to run in future boarding houses to allow younger people, widows, older Australians, students, people in hardship, domestic violence cases and a raft of people from all walks of life an opportunity to gain some low-cost shelter in accessible areas for them to maintain independence and dignity. The changes proposed will stop people like myself being able to provide such options for these people which currently does not exist. The time it will take to get not-for-profit CHP up and running you will have THOUSANDS of Australians needing emergency accommodation that the government cannot provide. I have many other friends a colleagues that all provide this sort of options all around the country and have well run and looked after homes, keeping rents down to affordable levels according to each individuals circumstances and provide a safe environment for people to live in. These changes will take away these possibilities and render these people homeless that would otherwise have some affordable lodgings to stay under. Please re-consider this aspect of the proposed changes to enable just simple Mums and Dads as we are to do some good in the community and provide safe, affordable shelter to out fellow New South Welshmen. Many Thanks Edward Ruksens

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

4TH SEPTEMBER 2020

Jim Betts

Secretary, Department of Planning, Industry & Environment

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PARRAMATTA NSW 2124

Submission: Proposed new Housing Diversity SEPP (Explanation of Intended Effect)

Thank you for the opportunity to respond to the exhibited Explanation of Intended Effect for a proposed new *Housing Diversity State Environmental Planning Policy* (Housing Diversity SEPP).

We commend the Government and NSW Department of Planning, Industry & Environment for its initiative in consolidating and reviewing the Seniors, Affordable and Affordable Rental State Environmental Planning Policy's (SEPP's).

Sydney is currently lagging other comparable global cities in the evolution of the co-living and build to rent sector. The review of current housing controls is urgently needed to ensure planning policy better reflects housing demand, facilitates diversity of product but importantly assists the development industry in delivering the various rental housing typologies.

EG is a privately owned investment management and advisory group with specialist expertise in land-use change and development. Since its inception in 2000 EG has delivered numerous transit orientated residential communities achieving excellence in urban planning, architectural design, and in creating a true sense of community via inspired urban spaces and resident amenities.

The provision of affordable housing has and continues to be an integral part of EG's renewal mandate.

This submission respectfully suggests alterations to the draft policy provisions in order to achieve genuine diversity and affordable housing supply in the Sydney Metropolitan area.

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The introduction of co-living and build to rent as defined housing types in the SEPP is highly commendable and supported. However, we are concerned that removing existing incentives (bonus FSR) and introducing a number of onerous design controls will make co-living and build to rent housing commercially unviable. We consider incentives together with appropriate, well considered controls can still ensure high quality design outcomes and residential amenity.

We look forward to the plan's implementation and would be pleased to clarify or provide further information in relation to the matters raised in this submission.

Yours sincerely

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SUBMISSION IN RESPONSE TO: EXPLANATION OF INTENDED EFFECT, HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY (SEPP)

1.0 Overview:

We commend the introduction of 'build to rent' (BTR) and 'co-living' as new housing typologies within the proposed Housing Diversity SEPP. This is supported and we are of the opinion that such housing with the right balance of incentives can provide a highly valuable addition to the existing mix of housing stock in NSW.

Importantly the establishment of co-living and BTR as a viable development class has the potential to deliver significant benefits to the NSW economy, including:

- The formation of an established co-living sector would help stimulate employment activity and job creation in the industry both on and off site, for permanent and part time workers including concierge, community managers, leasing staff, facilities and maintenance personnel.
- The attraction of foreign institutional investors who are seeking to invest into the co-living sector in Sydney.
- A viable co-living sector would elevate Sydney's attractiveness relative to its interstate and global peers, particularly for young highly educated persons.
- Co-living housing can make a meaningful contribution towards combatting social isolation and loneliness by creating a strong sense of community within a development that can often result from communal living.
- Co-living and build to rent would 'free-up' traditional housing stock for other users, assisting in improving general housing supply and affordability in NSW.

To underpin a successful rental housing sector a number of amendments to the proposed planning control framework are respectfully requested.

They are summarised below and discussed in more detail in the following sections.

<i>Development standard</i>	<i>Proposed Control (Draft SEPP)</i>	<i>Recommended Control</i>
FSR	No FSR bonus for co-living or BTR	FSR bonus of 20-30% for co-living and Build to Rent
Room size	30-35m ² for co-living	For co-living, a <u>minimum</u> size of 18m ² for a self-contained unit (including wet areas) and maximum size of 35m ² .
Communal living space	2m ² per room	Minimum 5% of GFA
Car parking	0.5 spaces per room (non-discretionary, must not refuse provision)	<p>Agree that Council's should have the discretion at the DA stage in prescribing an appropriate parking rate based on the accessibility of the subject site. To be determined via a transport assessment. However recommend the following:</p> <p>Non-discretionary 'must not refuse' provision of zero car parking spaces per room for sites within a prescribed radius (i.e., 3km) of major strategic centres such as Sydney CBD (Central Station) Paramatta, Green Square, North Sydney, and Chatswood, etc.</p> <p>Non-discretionary 'must not refuse' provision of 0.2 car parking spaces per room in highly 'accessible areas' (as defined in the ARHSEPP)</p> <p>Non-discretionary 'must not refuse' provision of 0.5 car parking spaces per room outside of 'accessible areas' (as defined in the ARHSEPP)</p> <p>A single car-share should be equivalent to circa 10 private car spaces.</p>

Private open space	4 m2 per room	No private open space requirement for co-living. Rather a minimum communal area standard could be established, which should also consider the proximity of the site to nearby public open space.
Communal open space	25% of site area	<p>Recommend a slightly lesser open space requirement 15% of site area, whereby at least 50% of this space (i.e. 7.5% of site area) could be provided as communal open space., including on a roof top.</p> <p>Up to 50% of the total open space requirement could be satisfied via private open space (private open space requirement to be discretionary rather than mandatory).</p>
Building envelope controls	To accord with relevant Council controls for residential apartment buildings.	Flexibility to amend Council's building envelope controls (for co-living and BTR housing) to account for FSR bonus of 20-30%. Design criteria to be established and satisfied where the envelope is to be exceeded.
Transitional provisions	No specific provisions included	<p>For the new SEPP not to be applied retrospectively, i.e. Boarding Houses developed or approved under the existing ARHSEPP regime will be "grandfathered" and will not be subject to the restrictions under the new SEPP.</p> <p>Providing advanced notice as to when the new SEPP will come into effect, ensuring any Development Applications lodged prior to this date be assessed under the current legislation.</p>

2.0 Current issues associated with Co-living and Build to Rent:

There has been a number of significant obstacles to delivering commercially viable co-living schemes in NSW, whilst offering rents which are affordable and represent a strong value proposition (relative to other accommodation options) for prospective customers.

This lack of commercial viability is often prevalent in areas with the greatest demand from end users for the co-living typology, namely the inner city and city fringe.

Whilst EG believes there is significant latent demand for this type of housing in Sydney, the commercial viability of such developments is tenuous. EG along with other industry partners have identified the following challenges:

- The lack of clear planning policy direction for BTR and co-living projects has resulted in developments labelled as 'boarding houses', often inciting negative responses from the wider community in part by a lack of understanding of the co-living product and target market.
- Co-living and BTR projects often carry a significant ongoing operating cost associated with providing on-site management, maintaining a high-quality service offering, and delivering communal/social events.
- A significant proportion of floor area needs to be dedicated to non-income generating communal areas, placing a major financial burden on a development.
- Co-living and BTR developments can be expensive to build relative to traditional housing, whereby the small size of the apartments results in a high proportion of building areas being dedicated to more costly facilities, such as kitchens, bathrooms, joinery, mechanical and electrical services, fire compartments, etc.
- Co-living developments are typically built for long term ownership by the developer and are therefore built to a more rigorous standard of quality and environmental sustainability, than build to sell developments.
- Obtaining finance for co-living projects (being a relatively new asset class) can be challenging, as compared to other more established property asset classes.

The existing Affordable Rental Housing SEPP has assisted a relatively small number of developers to launch more compact co-living projects typically less than 30-40 rooms.

However, the viability of larger, institutional-scale co-living schemes has proven extremely challenging in NSW, notwithstanding the incentives associated with boarding houses, i.e., bonus FSR of 0.5:1 or 20% (whichever is greater) and rooms sizes of between 12-24 m² excluding wet areas. No large scale co-living project (i.e., 100+ beds) has been successfully delivered in Sydney despite a number of well capitalised institutions willing to invest in the sector.

3.0 Comments on Proposed Housing Diversity SEPP (Explanation of Intended Effect):

We support the recognition of co-living and BTR as a distinct and important form of rental housing in NSW. This will hopefully consolidate NSW's standing and attractiveness as a world-class location for living.

However, we have serious concerns about the commercial viability of such housing types under the proposed planning regime and the ability to deliver them in practice. Of particular concern are the following proposed changes.

- That no FSR bonus is offered, despite a significant proportion of the allowable floor area being required for communal activity.
- That rooms will have a minimum size of 30 to 35 sqm in the case of co-living.
- That building envelope controls for residential flat buildings under the relevant Council's DCP could apply.
- That the proposed car parking requirement will be 0.5 car spaces per room with no discretion.
- That the requirement for private open space will be 4 sqm for each private room.

We do recognise and fully support the Department's desire to improve the amenity and quality of co-living (boarding house style) accommodation and its compatibility with low density residential areas.

4.0 Detailed responses to the proposed Development Controls:

Zoning Provisions

We support the mandating of BTR accommodation as a permissible use in the *B3 Commercial Core* zoning.

Consideration should also be given to making co-living mandated as permitted uses in the B3 zone. BTR and co-living are very similar forms of accommodation and residential tenure. They both offer medium to longer term rental with on-site management and communal facilities. They are also typically owned and/or managed by a single entity.

Co-living (like BTR) is not able to be strata sold, and therefore can lend itself to later redevelopment as the relevant localities evolve in the future.

Accordingly, we believe co-living and BTR should become mandatory permitted uses in the *B3 Commercial Core* as well as the *B8 Metropolitan Centre* zone, as these types of locations are typically close to retail amenity, very well serviced by public transport, and located in close proximity to employment and education centres being the ideal locations for a co-living typology.

Further, both housing typologies should also be mandated as permitted uses in other business and higher order industrial zones (i.e., *B7 Business Park*). Appropriate thresholds or criteria could be established within the SEPP in order to permit BTR or co-living in these zones.

FSR Bonus:

In order to promote BTR and co-living as an emerging housing class in NSW, we strongly believe an FSR bonus of at least 20-30% must be offered to ensure their commercial viability.

By removing the 0.5 FSR bonus in low density areas where the base FSR is low (and therefore the proportional FSR uplift is greater), the major incentive for many boarding house developments is removed.

In contrast with student housing, the proposed BTR and co-living controls offer no FSR bonus, prescribe larger minimum unit sizes of 30 sqm for co-living, and establish a new onerous car parking requirement, making it extremely difficult for such projects to be financially viable.

In the absence of an FSR bonus, co-living projects will unlikely ever be economically viable, and any potential development site is likely to have an alternative higher and better use, i.e. build to sell housing.

Unit Sizes

We are of the opinion that prescribing minimum unit sizes of 30 sqm (or even 25 sqm) will make a co-living development unviable, as it will be impossible to achieve satisfactory development returns, whilst maintaining rents at an affordable level.

A mix of unit sizes (including smaller units of less than 20 sqm in some cases) is therefore fundamental to the viability of a co-living development.

A properly designed studio apartment of 18 - 35 sqm (including kitchen and bathroom) would be well received by the market and there is significant evidence globally of rooms of this size being successfully operated by large scale co-living operators.

Smaller studio sizes (which we understand are readily accepted by residents) are “key” to unlocking the co-living formula, as they allow a larger number of income-generating units, and this in turn allows the operator to deliver higher quality on-site management, communal and resident amenities in addition to community events.

The SEPP should in allowing smaller room sizes (say 18-35 sqm), focus on ensuring high quality communal areas and on-site facilities.

Car parking

The Explanation of Intended Effect suggests a non-discretionary car parking standard of 0.5 spaces per room

It is noted that demand for on-site parking varies significantly between different areas and it may be appropriate to have different on-site provision rates depending on the transport infrastructure context, such as proximity to rail or mass transit services.

We note that co-living developments in Sydney (and around the world) are typically located in highly desirable inner city / city fringe areas that are rich in amenity but also in close proximity to reliable public transport and/or places or work or study.

It is understood that residents in a co-living building will generally have far lower levels of car ownership and car usage than traditional residential flat buildings, particularly if on-site car share schemes are provided for the use of residents.

The whole co-living housing model lend themselves towards transit orientated locations. We also note that co-living lends itself to on-site car share schemes (e.g. GoGet, etc) which can significantly reduce car ownership and therefore on-site car parking requirements.

We recommend the following car parking provision rates should apply:

- ‘Must not refuse’ provision of zero car parks for sites within a prescribed radius (i.e., 3km) of major strategic centres such as Sydney CBD, Green Square, Central Station, Paramatta, North Sydney, and Bondi Junction, etc;

- 'Must not refuse' provision of 0.2 car parks per room for sites in other accessible locations (within 800m walking distance of a railway station or a Sydney Ferries wharf, 400m walking distance of a light rail station; or 400m walking distance of a bus stop);
- 'Must not refuse' provision of 0.5 car parks per room for all other locations.

We also believe that there should be scope for developers to provide on-site share car(s) in lieu of some private car spaces, where car parking is required.

Further, discretion could be applied where the proponent can satisfactorily demonstrate to the relevant planning authority that the transport context is such that the rate of 0.5 car parks per room is unnecessary.

Communal Living Space

We are supportive of communal living space within a co-living development, as these communal areas are a fundamental element of the co-living concept.

However, we do believe that the proposed provision rate (which amounts to 2sqm per room) appears excessive and goes beyond the amount of space that we and other co-living operators believe to be appropriate for this model of housing. This is particularly the case for larger schemes, where there are efficiencies of scale with regards to the provision of communal areas.

We believe the methodology for calculating the communal open living requirement should be linked to GFA rather than to the number of rooms. On this basis, we believe a requirement to provide Communal Living Space that equates to 5% of GFA would be appropriate and reasonable.

Otherwise, if the NSW Department of Planning, Industry and Environment continues to calculate Communal Living Space requirements based on room numbers, we would recommend a standard of 1.2sqm per room.

Private Open Space

Whilst we are generally supportive of the intent to improve the total quantum of private open space, the proposed provision of 4 sqm per room will be a major constraint on building design and commercial viability.

Residents in successful co-living schemes have demonstrated a willingness to trade size and amenity of living spaces for the other benefits offered by co-living (including access to desirable locations, flexible lease terms, and a communal lifestyle).

We believe co-living should not have the same design and private open space standards as traditional residential accommodation, given the extent of communal areas that are typically provided.

The application of such standards would result in not only higher development costs but a significantly lower number of compliant dwellings being achievable on any given co-living development site. In turn this would result in much higher rents being passed onto tenants.

We respectfully request some design flexibility needs to be provided for and which are more aligned with those applicable to student housing, rather than those that apply to traditional residential accommodation.

Again, the focus of the design guidance should be on the creation of high-quality communal areas, and also account for the proximity of nearby public open space and recreation facilities.

Communal Open Space

We believe the proposed control requiring a minimum of 25% of the site area could vastly limit the number of potential sites upon which a compliant co-living scheme could be delivered., i.e., on small lots, sites within business zones, or in a dense urban area.

As such we recommend that the development standard be amended to require a total open space provision equivalent to 15% of the site area.

Further, at least 50% of this space (i.e. 7.5% of site area) should be required to be provided as Communal Open Space. This would mean that up to 50% of the Total Open Space requirement can be satisfied with the provision of Private Open Spaces (noting that we propose for the provision of private open space to be discretionary rather than mandatory). Further concessions could be considered where for example the site is proximate to nearby local or district public open space.

Building envelope controls

The Explanation of Intended Effect states 'building envelope controls for residential flat buildings under the relevant DCP could apply'.

As stated previously, we would recommend an FSR bonus of 20 - 30 % should be offered for institutional-scale co-living developments.

It would therefore be necessary for co-living developments (where the bonus was applied) to be exempt from strict compliance with a Council's building enveloped controls. That is, to allow concessions based on merit.

Otherwise it may not be possible for the co-living development to actually take advantage of the FSR bonus on offer.

Transitional Arrangements

We believe it essential that appropriate transitional arrangements are included in the implementation of the Housing Diversity SEPP, so as not to undermine confidence in the NSW planning system.

We recommend:

- For the new SEPP not to be applied retrospectively, i.e. ensuring that Boarding Houses developed or approved under the existing ARHSEPP regime will be "grandfathered" and will not be subject to the restrictions under the new SEPP; and
- Providing advanced notice as to when the new SEPP will come into effect, and ensuring that any Development Applications that are lodged prior to this date be assessed under the current legislation.

9 September 2020

Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Betts

Draft Housing Diversity SEPP – Explanation of Intended Effect Submission – Lendlease-Retirement Living

We write on behalf of Lendlease-Retirement Living (LL-RL) who are pleased to make this submission on the draft Housing Diversity State Environmental Planning Policy (SEPP) - Explanation of Intended Effect (EIE). LL-RL are the largest provider of retirement living in NSW and Australia with 18 retirement villages in NSW alone and 17,000 residents in villages across Australia. As a major participant in the industry with over 60 years of development experience, LL-RL has a keen interest in the continued delivery of quality new seniors housing to the people of NSW and the renewal of its existing villages to meet growing demographic demand and market expectations.

LL-RL remains strongly supportive of the NSW 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, LL-RL is extremely concerned that the recent adoption of the Metropolitan Rural Area (MRA) Exclusion Zone within the Seniors SEPP and the EIE as currently drafted will slow the delivery of seniors housing to the NSW market at a time when this should be accelerating to meet the baby boomer generation moving into older age over the next 10-15 years.

1.0 Summary of Key Concerns and Recommendations

This submission focusses on the proposed amendments detailed in the EIE for the Seniors SEPP for its proposed inclusion in the draft Housing Diversity SEPP and also the recent adoption of the MRA Exclusion Zone into the Seniors SEPP. The following key concerns are discussed:

- The clear outcome in our review of the already commenced MRA Exclusion Zone and the draft Housing Diversity SEPP is to restrict seniors housing as a valid housing option. There is no identified alternative proposed to a housing choice which is directly providing for a growing community need, with ageing being the most significant demographic change impacting NSW over the next 10-15 years from the baby boomer generation moving into older age.
- The potential for Local Environmental Plans (LEP) to override the development standards of a State Environmental Planning Policy (SEPP) and the localisation of controls for seniors development.
- The limit on clause 4.6 variations to development standards to a maximum of 20%.
- The missed opportunities to update the controls and design guidelines within the current Seniors SEPP which are up to almost 40 years old and do not reflect modern design standards nor provide for medium or high density seniors housing.
- No incentives to increase the supply of seniors housing in urban zoned land and in particular local centres, or to spark the renewal of aging retirement villages.

Our key recommendations are:

- That the development standards of the Seniors SEPP continue to override LEP controls and continue to provide consistency and certainty in respect of controls applying to seniors housing development. Without this, the SEPP is effectively rendered inoperable.
- No numeric maximum for clause 4.6 variations.
- Specify the zones that are “primarily zoned for urban purposes”.
- Update and modernise clause 26 Location and access to facilities.
- That the incentive provisions of clause 45 be retained and expanded to also apply where shop top housing is permitted and for the renewal of ageing retirement villages.
- A new overarching seniors specific design guide should still apply, with an updated version of the 2004 Seniors Living Policy Urban Design Guidelines for infill development that covers low, medium and high density seniors housing development.
- Not require 100% of spaces to meet disability standards, which creates a significant and unnecessary cost burden that does not reflect actual need.
- That given the significant impact of these proposed changes and uncertainty of their implications on the development, construction and operation of seniors housing, that it is critical that any new SEPP be exhibited for further comment.
- The MRA Exclusion Zone only apply to rural zoned land located within the MRA.

2.0 Seniors Housing Industry relationship with the Seniors SEPP

The Seniors SEPP’s predecessor SEPP No. 5-Housing for Older People or People with a Disability (SEPP No. 5) was drafted almost 40 years ago, commencing in 1982. SEPP No. 5 aimed to increase the supply of seniors housing by setting aside local planning controls that would otherwise prevent seniors housing from being developed. This was effectively an intervention by the NSW State Government as local governments as a whole were failing to deliver seniors housing to meet growing demand at the time. The industry quickly utilised the powers of SEPP No. 5 given the consistency of development standards across the various local government areas (LGA) of the state and inherent advantages it provided the industry over other (mainly residential) developers who the industry would otherwise not be able to compete with when securing sites. In the years following its introduction SEPP No. 5 substantially bolstered the supply of seniors housing and aged care in NSW.

In 2004, SEPP No. 5 was repealed and replaced with the current Seniors SEPP that retained much of the content of the older repealed instrument. Despite its flaws, complexity and requiring updating to better reflect the modern seniors housing market, the Seniors SEPP (and SEPP No. 5) has provided a level of planning approval certainty and known risks for the industry over the past 38 years and thereby has delivered thousands of seniors housing developments across NSW allowing the industry to keep pace with demographic change and growing demand for people to age in place.

The Seniors SEPP is fundamental to the delivery of seniors housing in NSW and most councils do not have suitable controls in place or even understand some of the key considerations and drivers for this type of housing. Indeed, it has long been the practice for controls and issues covered by SEPPs to be taken out of LEPs and DCPs so as to not duplicate controls and as such, many LEPs do not cater for seniors housing and do not make it a permissible use within their residential zones as this was not seen as necessary given the permissibility granted by the Seniors SEPP. This approach has also allowed for consistency and certainty in the seniors housing directions and controls and while the controls are now due to be updated, the state-wide approach, as opposed to taking on an ad hoc approach that is applied on a LGA by LGA basis, has been acknowledged nationally as industry leading. The directions in the EIE would appear to set NSW back 40 years and would, if enacted as appear to be proposed, to reduce rather than encourage housing choice and diversity across NSW.

What has come as a surprise to LL-RL is that after many years of the industry urging the update of the Seniors SEPP to better respond to the modern landscape of seniors housing in NSW, the first significant update to the Seniors SEPP since its commencement in 2004 is proposed to effectively dismantle the only environmental planning instrument that has successfully prioritised the delivery of seniors housing in NSW.

3.0 LEPs Prevailing over the Seniors SEPP

The proposed amendment for LEPs to prevail over the Seniors SEPP 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 it is the higher order and state wide instrument. This planning practice gives the Seniors SEPP its power to consistently apply across the state, overriding local provisions where inconsistent and allows it to achieve its first aim in clause 2(1) to:

- (a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability*

Indeed, clause 2(2) then states how this aim will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy*

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. Accordingly, this change fundamentally alters the Seniors SEPP and ensures that it cannot achieve its first aim, rendering the instrument effectively inoperable. In practice, not only will the building height and FSR development standards of an LEP prevail, but this could lead to councils seeking to impose seniors housing specific development standards (such as access to services, increased parking rates, landscaping etc) to further control or restrict seniors development in their respective LGA. It remains unclear why the Seniors SEPP has been singled out in this respect, given it is one of the most successful environmental planning instruments in NSW in achieving its aims. It appears to be a victim of its own success.

Furthermore, many Sydney Metropolitan councils with LGAs attractive to seniors, believe that they provide a disproportionate amount of seniors housing development and therefore have long campaigned to be excluded from it or have it amended. Therefore, in the opinion of LL-RL many Sydney Metropolitan councils will take this opportunity to impose restrictive development standards to limit the supply of seniors housing in their LGAs.

This is expected to make the provision of seniors housing more challenging than it is already. Seniors housing (both ILUs and residential care facilities) is typically larger than standard residential development due to mobility spatial requirements, and often require provision of onsite services required for elements of communal living and in the case of residential care facilities a sub-acute environment. As such seniors developments typically generate lower yields 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 vertical villages and residential care facilities to make a more level playing field, and prior to the MRA Exclusion Zone being recently implemented into the Seniors SEPP, it allowed seniors housing on non-urban zoned land (with a SCC) that is not available to residential developers.

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 the time it was observed that the 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 as a much needed planning intervention 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. The ongoing relevance and necessity of the Seniors SEPP is evidenced by the fact that almost all of the development applications proposing seniors housing rely on the provisions of the Seniors SEPP for both permissibility and/or viability reasons. To change this now when NSW and Australia is on the precipice of the baby boomer demanding these forms of housing could have enormous ramifications that do not seem to have been thoroughly thought through in the draft Housing Diversity SEPP.

There is no evidence that anything has changed since the early 1980s when councils were failing to deliver seniors housing and a state intervention (ie SEPP No. 5) was needed. Returning planning powers to local government for

seniors housing potentially raises uncertainty, complexity and confusion over controls, development risk and is anticipated to significantly slow the delivery of seniors housing to the market.

4.0 Implications of Other Proposed and Implemented Specific Changes

4.1 Maximum Variation for Development Standards via Clause 4.6

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP No. 1 (in the case of a non-standard instrument LEP). This has been an important function of the Seniors SEPP and has allowed for site specific responses to be provided where appropriate with merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which would be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of site specific merit. Again, it is unclear why the Seniors SEPP has been singled out with this 20% maximum development standard variation when no other environmental planning instrument in NSW has been.

Also, further explanation 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 achieved to ensure compliance. The application of the arbitrary control could potentially 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.

4.2 Definition of height and Gross Floor Area

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 of delivery as indicated in some of the other amendments proposed. There needs to be clear consultation with the industry to allow considered feedback on proposed changes. If the desired outcome is improved delivery then this needs to be done in a transparent manner.

Currently the definition of Height is defined from the existing ground to the upper level ceiling. Importantly this definition acknowledges that compared to the adjoining residential development, both ILU and RACF developments require accessible compliant lift access and larger amounts of plant. The height definition to the ceiling ensures the scale of buildings is similar to the adjoining residential 2 storey dwellings but allows for lifts and plant, that are essentially always at the centre of a project but certainly 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.

Furthermore, the definition of Gross Floor Area in the Seniors SEPP differs from the Standard Instrument LEP definition. Again, no detail is provided in the EIE whether this definition will be amended and if so, there is no consideration for its ramifications.

4.3 Floor Space Ratio

Given the proposed changes will mean floor space ratio will be determined by the development standard of the applicable LEP, most R2 Low Density Residential zones have an FSR development standard of 0.5:1 or lower. This will mean a reduction in the permissible FSR of residential care facilities in R2 zones from a 1:1 FSR in SEPP Seniors to a 0.5:1 FSR. Even R3 Medium Density Residential zones typically have an FSR development standard of between 0.7-0.8:1, which is still significantly below the 1:1 non-refusable FSR development standard of the Seniors SEPP.

The impacts of this are enormous on the continued delivery of residential care facilities and the continuum of care for residents moving to aged care. If the intention is to improve delivery, this absolutely will do the opposite. For example on average a residential care facility building in a Residential zoned R2 or R3 for 96 residents will require a site area of 5,000-5,500sqm. The changes as proposed could double the required site area, this will significantly

impact the cost of future residential care facilities projects and will curtail the supply of aged care beds in NSW and also the feasibility of sites already purchased by providers.

4.4 MRA Exclusion Zone

The MRA Exclusion Zone amendment to the Seniors SEPP was adopted on 29 July 2020 and ceased the operation of the Seniors SEPP on all land identified within the MRA Exclusion Zone. This is a change that affects 13 LGAs in the Sydney Metropolitan Area.

The genesis of this amendment was a Greater Sydney Commission (GSC) investigation report released in October 2019, sparked from Hornsby Shire Council and The Hills Shire Council raising concerns over the operation of SCCs on rural zoned land that adjoins urban zoned land. The purpose of the investigation was to review the cumulative impact of the operation of SEPP Seniors on the social, economic and environmental values of rural zoned land, and in particular the MRA. The report provided eight recommendations that were:

1. *Provide a greater balance between incentives for seniors housing and rural values*
2. *Adopt a place-based approach to planning in rural areas*
3. *Strengthen alignment between the Seniors Housing SEPP, the Greater Sydney Region Plan, District Plans and Local Strategic Planning Statements*
4. *Monitor and report on development outcomes to support assessment of cumulative impacts*
5. *Develop design and landscaping guidelines for seniors housing in a rural context*
6. *Strengthen consideration of environmental values on rural land*
7. *Review the viability of planning incentives in the Seniors Housing SEPP and the effectiveness of the SEPP to deliver seniors housing*
8. *Consider a pilot for a council-led place-based approach in The Hills and Hornsby LGAs*

The MRA Exclusion Zone goes well beyond the above recommendations and has effectively shut seniors housing development out of not only rural zoned land within the MRA, but a significant amount of urban zoned land in the MRA, that includes existing urban zonings such as all residential, mixed use zonings where SCCs were not previously required, and therefore towns within the MRA as well. Therefore, this has taken away a considerable amount of land (both rural and urban) that has been for many years available to the seniors housing industry.

The ability to have SEPP Seniors operate on rural land with the support of a SCC has been a key and long-standing mechanism of SEPP Seniors, and its predecessor SEPP No. 5, that the industry has relied upon to secure sites without having to compete against residential developers (and invariably lose out) and therefore consistently deliver seniors housing in Sydney. Even more troubling for the industry is the exclusion of SEPP Seniors from applying to urban zoned land that is within the MRA, land that did not require a SCC to be issued for SEPP Seniors to apply. This amendment to the Seniors SEPP was imposed on the industry with minimal warning and no consultation or public exhibition that LL-RL is aware of.

This is a game changer for the industry and means that many existing seniors housing development within the MRA must now rely upon the “Existing Use” rights provisions of the Environment Planning and Assessment Act, 1979 as this amendment has made them prohibited development. It is unclear why DPIE did not undertake extensive industry and community consultation for such a far reaching and significant amendment to the Seniors SEPP.

It is therefore recommended that this part of the Seniors SEPP be updated to only include rural zoned land within the MRA Exclusion Zone, consistent with the recommendations and aims of the October 2019 GSC report. This also should also be only a temporary change until councils subject to the MRA Exclusion Zone can provide suitable justification to DPIE for continued rural land exclusions.

5.0 Missed opportunities

5.1 Incentives for Seniors Housing Development

The MRA Exclusion Zone amendment has resulted in a considerable amount of potential land on the urban fringe of Sydney being removed from the industry. Coupled with this the expectation that many Sydney Metropolitan councils will use the opportunity of the draft Housing Diversity SEPP to restrict seniors housing development within their LGAs. Further, no alternative has been proposed as part of the draft Housing Diversity SEPP to provide incentives for seniors housing developers and providers to re-invest in urban zoned land, such as ageing existing villages (as discussed in detail here) or in urban centres.

Indeed, it is disappointing that whilst the MRA Exclusion Zone and proposed amendments of the EIE embrace and go far beyond the recommendations of the GSC October 2019 report that relate to potentially restricting seniors housing, the only recommendation that could improve the delivery of seniors housing (No. 7) is notably absent from the imposed and proposed amendments to the Seniors SEPP.

Without these incentives enshrined in the Seniors SEPP, the delivery of new seniors housing in Sydney that meets modern amenity and accessibility standards, as well as market expectations, is anticipated to become more difficult and will slow. This is expected to lead to the industry in Sydney struggling to meet the peak challenge of the ageing population over the next 15 years as the baby boomer generation enters older age.

It is therefore recommended that the following also be considered for inclusion within the proposed Housing Diversity SEPP:

a) Vertical Villages

The vertical villages provision (Clause 45) that provides a 0.5:1 FSR bonus should be expanded to include land that permits shop-top housing. This would mean that the 0.5:1 FSR bonus could apply to business zones and therefore within local centres when a SCC is issued. The 0.5:1 should be reviewed for adequacy, given its lack of effectiveness on the ground to date. An additional height bonus could also be included with this provision to accommodate the FSR bonus.

The above incentive to develop seniors in accessible locations such as mixed use/local centres could offset the substantial loss of land at the rural fringe of Sydney where seniors housing is no longer permissible on account of the MRA Exclusion Zone. If the intention is to restrict further seniors housing development on the urban fringe, then there must be incentives to bring this investment back into our urban areas and centres and thereby reap the rewards for society by enabling older people to remain in, or move into, the full diversity of urban communities.

b) Renewal of Existing Villages

When SEPP No. 5 was introduced in 1982 the industry quickly utilised this and in the years following its introduction substantially bolstered the supply of seniors housing and aged care in NSW.

What was clearly a great success in the 1980s in delivering seniors housing and aged care to meet growing demand, is now a growing problem for the owners and operators of these ageing villages and facilities. In the 35 years since many of these retirement villages and aged care facilities were developed, community expectations for the standard and amenity of housing has increased enormously, and even more so have the needs and expectations for seniors housing and aged care in Australia.

As such, many retirement villages and aged care facilities developed in the 1980s are no longer fit for purpose and are reaching the end of their economic life. Not only are these retirement villages substantially lacking in modern design amenity, comfort and quality, and difficulty complying with current accessibility standards. Given that life expectancy in Australia has increased nearly 10 years since the introduction of SEPP No. 5 and the average age of residents in retirement villages is now 81 years, accessibility for older, more frail and impaired residents is of enormous importance.

Renewal and redevelopment is therefore urgently needed to secure the long term future of these villages and facilities. However, a major barrier for renewal lies in that many of these villages are either at or near the highest development potential afforded to them under the Seniors SEPP. Therefore, there is little or no additional density available under the current planning framework to pay for renewal. This is because SEPP Seniors is in many respects the same fundamental instrument as SEPP No. 5 and typically does not provide any additional density to spark renewal.

The Planning Proposal pathway to increase Local Environmental Plan (LEP) building height and floor space ratio (FSR) development standards applying to the site is typically the only avenue available, however this can be a long and difficult process, with uncertainty of success – and highly contingent on the local attitudes to seniors housing that differs from Council to Council. A Planning Proposal to amend an LEP is also not an ideal approach given that SEPP Seniors is the instrument that by design is intended to be used for the development of seniors housing and aged care in NSW, rather than LEPs.

In order to provide financial incentive for owners and operators to renew their ageing villages and facilities, there needs to be a planning mechanism that acknowledges the appropriateness and social benefit of the long term use of sites for seniors housing and provides a density incentive provision that allows for redevelopment beyond what would otherwise be permitted under the Seniors SEPP.

It is therefore recommended to include a new provision in the Seniors SEPP that works in a similar way to the Vertical Villages clause of Seniors SEPP (clause 45). Such a clause could apply to villages and facilities that were mostly (ie 50%) constructed prior to say 1992 and meet the site requirements of clause 40. Should a site meet this criteria, then the site would be eligible for a 0.5:1 FSR bonus and a building height bonus, provided a SCC is issued and subject to DA merit assessment.

To ensure a site can appropriately accommodate the additional density and building height, it is recommended that the provision provide specific matters for consideration to encourage good design, site planning and minimal amenity impacts upon neighbouring properties and the surrounding community. Given the recent changes to the Seniors SEPP where only Planning Panels now issue SCC's, there is additional scrutiny on local context and compatibility for SCC's that will help ensure the renewal of old villages under an incentive provision is appropriate for a locality.

5.2 Outdated development standards

Being essentially a near 40 year old instrument (commencing with SEPP No. 5 in 1982), the Seniors SEPP is now outdated and does not reflect the modern forms of seniors accommodation that the market demands. The provisions in the Seniors SEPP tend to cater for a retirement village low density style of accommodation, rather than middle ring and inner city medium and high density housing.

For example, the open space requirements for social housing providers – being a minimum of 35 square metres of landscaped area per dwelling. In inner city areas compliance with this control is not feasible or reasonable. Furthermore, the rear 25% single storey development standard of clause 40 is only practically relevant for infill development in R2 Low Density Residential zones on regular shaped lots that immediately adjoin detached dwelling-houses, yet it applies across all residential zones where residential flat buildings are not permissible.

Furthermore, car parking provisions are overly onerous, requiring 100% of spaces to meet disability standards, which creates a significant and unnecessary cost burden that does not reflect actual need.

Revised provisions should be implemented which cater for a range of dwelling types – i.e. low, medium and high density areas.

6.0 Specific Comments on the Seniors SEPP

Clause	Comment
Clause 2	The Aims of the Seniors SEPP are fundamental and must remain and be supported by it prevailing over LEPs to the extent of an inconsistency.
Clause 3	The suggested change to the Height definition is addressed in the body of the letter. The height needs to be understood in the context noted above.
Clause 4	Clarity should be given as to precisely what zones are considered to be 'primarily zoned for urban purposes'
Clause 5(3)	Must remain or the Seniors SEPP is rendered effectively inoperable - 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.
Clause 26	The Seniors SEPP should recognise L&E Court decisions to accept mini bus service for residential care facilities, further the reality of the frailty of most residents in residential aged care needs to be acknowledged, they are not physically able to use public transport. This development standard however must prevail over similar LEP provisions and must be able to be varied on merit, not by a maximum percentage.
Clause 40 (4)(c)	The requirement for single storey in the rear 25% of a lot is no longer consistent with the development of most adjoining residential development. The setbacks are often 3-5m to 2 storey dwellings. This clause is 30 years old and needs to be removed.
Clause 45	The 0.5:1 (or additional) bonus should apply where RFBs and shop top are permissible. RFBs not mandated as being permissible within B1, B2 or B4 zones, however these would be a highly suitable location for a vertical village. A new incentive clause could also be added in respect of renewal of ageing retirement villages. A height incentive needs to also be considered in this clause to enable it to work. The lack of uptake of clause highlights the need to thoroughly review and identify viable ways forward
Clause 45 (6)	Needs to be reviewed, in actual fact this clause means that there are very few organisations capable of using the Vertical Villages bonus, you essentially have to be a community housing provider and it prevents standard Aged Care providers from utilising this bonus and therefore limits the provision of Aged Care in some circumstances
Clause 48(c)	Given the reduced mobility of residents in Aged Care, the landscaping needs to be understood in terms of access to terraces up the upper levels also. If 25sqm is retained, then it should be that up to 30% of this requirement can be provided as upper level terraces
Clause 49(d)	Reduce resident parking requirements if a share car is provided.
Clause 50(b)	Floor space should be increased to at least 0.6:1 to account for the larger sized apartments and shared facilities.
Clause 50(e)	Solar access, if Council's insist on compliance with the ADG, for ILUs, then solar access should be 2 hours in Urban Areas
Clause 50(h)(ii)	Parking reductions for share cars should be provided. Eg Reduction of up to 10 spaces for every share car provided.
Schedule 1	Support clarifying what environmentally sensitive land means. These changes have significant implications for the ability to use the Seniors SEPP and should be publicly exhibited.
Schedule 2	Car parking spaces should not need to be 100% accessible.

Schedule 3	It should be clear that an Access Report accompanying a Development Application is sufficient to meet this requirement and Council's should not need to request detailed documentation to address this item at the Development Application stage
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7.0 Conclusion

LL-RL welcomes the review of the Seniors SEPP and the opportunity to provide a submission. However, LL-RL remains extremely concerned that the amendments proposed in EIE and those already implemented with the MRA Exclusion Zone will have the effect of dismantling the only environmental planning instrument that has successfully prioritised the delivery of seniors housing in NSW. However imperfect the Seniors SEPP is, it has provided the industry with a level of certainty and known approval risk for almost 40 years and has been extremely successful in achieving its aims.

LL-RL is hopeful that the above submission and recommendations are thoroughly considered by DPIE and the integrity of the Seniors SEPP is maintained, together with the imposition of improvements to its operation and incentives to spark seniors development in our urban centres and the renewal of older villages.

Should you have any queries, LL-RL would welcome the opportunity to discuss the direction of the Seniors SEPP and the draft Housing Diversity SEPP with DPIE.

Your sincerely



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11 September 2020

Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Mr Betts,

Draft Housing Diversity SEPP – Explanation of Intended Effect Submission – Wesley Mission

We write on behalf of Wesley Mission who are pleased to make this submission on the draft Housing Diversity SEPP - Explanation of Intended Effect (EIE). Wesley Mission is a significant not-for-profit operator of seniors housing, aged care and affordable housing in NSW and Australia. As a not-for-profit provider with a tradition spanning over 200 years helping and housing those in need, Wesley Mission has a keen interest in the continued delivery of quality and affordable new seniors housing to the people of NSW and the renewal of its existing villages and land holdings to meet growing demographic demand and market expectations.

Wesley Mission remains strongly supportive of the NSW 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) and the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).

However, Wesley Mission holds concerns that the recent adoption of the Metropolitan Rural Area (MRA) Exclusion Zone within the Seniors SEPP and the EIE as currently drafted may slow the delivery of seniors housing and affordable housing to the NSW market at a time when demand is increasing as the baby boomer generation moves into older age and to house those in need as NSW recovers from the COVID-19 pandemic.

1.0 Affordable Housing and Boarding Houses

Wesley Mission manages over 300 tenancies throughout New South Wales in Sydney, the Central Coast and Newcastle, supporting individuals, families, young people, people who are ageing, and people with disability.

Our community housing arrangements include:

- crisis accommodation
- transitional housing
- general social housing
- affordable housing
- specialist disability accommodation

Wesley Mission is a social housing provider and is supportive of the DPIE's proposal to expand incentives for the delivery of infill affordable housing which will assist in the delivery of a range of social and affordable housing types.

However, Wesley Mission note that some of the changes proposed to the boarding house provisions in the ARH SEPP, as proposed under the EIE will likely hinder the ability of Wesley Mission to provide this form of

accommodation. The removal of boarding houses as a mandated permissible use in the R2 Low Density zone is considered to be a backward step in this regard.

In a time where demand for affordable housing is at an all-time high, the DPIE should be seeking to facilitate and make the provision of affordable housing as easy as possible. Letting local councils decide where this land use is permissible will result in a likely reduction of permissibility and therefore a reduced ability to deliver this type of accommodation. The DPIE has set out that LAHC will be able to deliver a boarding house regardless of permissibility if dwelling houses are permissible. This should be expanded to all community and social housing providers.

The negative connotations associated with the term 'boarding house' and a lack of understanding by the community as to what people actually occupy this form of accommodation often means that there is large opposition to such developments and many end up in the Land and Environment Court which is a costly exercise. Simply changing the name of this type of accommodation and also undertaking a broader community campaign to explain such developments would go long way to resolving this issue.

Under the current provisions of the ARH SEPP, a bonus of 20% FSR is available for the delivery of boarding houses. Whilst this bonus is a positive step in incentivising this type of accommodation, it is often not possible to realise the FSR bonus because the height and FSR controls are usually closely linked and to be able to achieve the bonus FSR a variation to the maximum height control is required. Councils are often hesitant to approve both height and FSR variations. In order to resolve this, we hope that DPIE would consider height and/or FSR bonus as this would increase the flexibility to be able to incentivise this type of development.

Finally, the exemptions relating to lifts and parking as proposed for the LAHC in the Seniors SEPP should be expanded to all social housing providers and not just the LAHC. Community and social housing providers face the same viability issues as the LAHC and should be afforded the same dispensations to assist with the delivery of affordable housing.

2.0 Seniors Housing Industry relationship with the Seniors SEPP

The Seniors SEPP's predecessor SEPP No. 5-Housing for Older People or People with a Disability (SEPP No. 5) was drafted almost 40 years ago, commencing in 1982. SEPP No. 5 aimed to increase the supply of seniors housing by setting aside local planning controls that would otherwise prevent seniors housing from being developed. This was effectively an intervention by the NSW State Government as local governments as a whole were failing to deliver seniors housing to meet growing demand at the time.

The industry quickly utilised the powers of SEPP No. 5 given the consistency of development standards across the various local government areas (LGA) of the state and inherent advantages it provided the industry, and particularly the not-for-profit sector, over other (mainly residential) developers who the industry would otherwise not be able to complete with when securing sites. In the years following its introduction SEPP No. 5 substantially bolstered the supply of seniors housing and aged care in NSW.

In 2004, SEPP No. 5 was repealed and replaced with the current Seniors SEPP that retained much of the content of the older repealed instrument. Despite its flaws, complexity and requiring updating to better reflect the modern seniors housing market, the Seniors SEPP (and SEPP No. 5) has provided a level of planning approval certainty and known risks for the not-for-profit industry over the past 38 years and thereby has delivered thousands of seniors housing developments across NSW allowing the industry as a whole to keep pace with demographic change and growing demand for people to age in place. The Seniors SEPP is fundamental to the delivery of seniors housing in NSW.

There is no evidence that anything has changed since the early 1980s when councils were failing to deliver seniors housing and a state intervention (i.e. SEPP No. 5) was needed. Returning planning powers to local government for seniors housing is expected considered a retrograde step that creates uncertainty, development risk and is anticipated to significantly slow the delivery of seniors housing to the market.

It is important to note that local government has long undertaken the practice of allowing controls and issues covered by SEPPs to be taken out of LEPs and DCPs so as to not duplicate controls between instruments. Indeed, many LEPs do not cater for seniors housing and even do not make it a permissible use within their residential zones as this was not seen as necessary given the permissibility granted by the Seniors SEPP. This approach has also allowed for consistency and certainty in the seniors housing industry with the state-wide approach, as opposed to taking an LGA by LGA approach. Wesley Mission would like to see the revised directions in the EIE established to encourage housing choice and diversity across NSW.

After many years of the industry unsuccessfully asking for SEPP Seniors to be updated to better respond to the modern landscape of seniors housing in NSW, the proposed changes could result in the Seniors SEPP having its power significantly reduced and therefore making the seniors housing landscape more uncertain in NSW.

3.0 Localisation of Seniors Housing Planning Controls

The proposed amendment for LEPs to prevail over the Seniors SEPP 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 it is the higher order and state wide instrument. This planning practice gives the Seniors SEPP its power to consistently apply across the state, overriding local provisions where inconsistent and allows it to achieve its first aim in clause 2(1) to:

- (a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability*

Indeed, clause 2(2) then states how this aim will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy*

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. Accordingly, this change fundamentally alters the Seniors SEPP and could hinder the achievement of its aims.

In practice, not only will the building height and FSR development standards of an LEP prevail, but this could lead to councils seeking to impose seniors housing specific development standards (such as access to services, increased parking rates, landscaping etc) to further control or restrict seniors development in their respective LGA.

Furthermore, many Sydney Metropolitan councils are of the opinion that they provide a disproportionate amount of seniors housing development and therefore have campaigned to be excluded from Seniors SEPP or have it amended. Therefore, in the opinion of Wesley Mission many Sydney Metropolitan councils could take this opportunity to impose restrictive development standards to limit the supply of seniors housing in their LGAs.

This is expected to make the provision of seniors housing more challenging than it is already, even for the not-for-profit sector. Seniors housing (both ILUs and residential care facilities) is typically larger than standard residential development due to mobility spatial requirements, and often require provision of onsite services required for elements of communal living and in the case of residential care facilities a sub-acute environment.

Accordingly, seniors housing developments typically generate lower yields 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 vertical villages and residential care facilities to make a more level playing field, and prior to the MRA Exclusion Zone being recently implemented into the Seniors SEPP, it allowed seniors housing on non-urban zoned land (with a SCC) that is not available to residential developers.

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 the time it was observed that the 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 as a planning intervention 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. The ongoing relevance and necessity of the Seniors SEPP is evidenced by the fact that almost all of the development applications proposing seniors housing rely on the provisions of the Seniors SEPP for both permissibility and/or viability reasons. To change this now when NSW and Australia are rapidly aging and demanding these forms of housing could have enormous ramifications that do not seem to have been thoroughly considered in the draft Housing Diversity SEPP.

4.0 Implications of Other Proposed and Implemented Specific Changes

4.1 Maximum Variation for Development Standards via Clause 4.6

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP No. 1 (in the case of a non-standard instrument LEP). This has been an important function of the Seniors SEPP and has allowed for site specific responses to be provided where appropriate with merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which would be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of site specific merit. Again, it is unclear why the Seniors SEPP has been singled out with this 20% maximum development standard variation when no other environmental planning instrument in NSW has been.

Also, further explanation 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 achieved to ensure compliance. The application of the arbitrary control could potentially 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.

4.2 Floor Space Ratio

Given the proposed changes will mean floor space ratio will be determined by the development standard of the applicable LEP, most R2 Low Density Residential zones have an FSR development standard of 0.5:1 or lower. This will mean a reduction in the permissible FSR of residential care facilities in R2 zones from a 1:1 FSR in SEPP Seniors to a 0.5:1 FSR. Even R3 Medium Density Residential zones typically have an FSR development standard of between 0.7-0.8:1, which is still significantly below the 1:1 non-refusable FSR development standard of the Seniors SEPP.

The impacts of this are enormous on the continued delivery of residential care facilities and the continuum of care for residents moving to aged care. If the intention is to improve delivery, this absolutely will do the opposite. For example, on average a residential care facility building in a Residential zoned R2 or R3 for 96 residents will require a site area of 5,000-5,500sqm. The changes as proposed could double the required site area and this will significantly impact the cost of future residential care facilities projects, hindering the supply of aged care beds in NSW and also cripple the feasibility of sites already purchased by providers.

4.3 Exclusion of Social Housing Providers from Developer Contributions

Whilst “Social Housing Providers” are excluded from the payment of developer contributions under the Section 94E Ministerial Direction dated 14 September 2007, this exclusion is considered best placed within the Seniors SEPP itself to reinforce its status and ensure it is not overlooked by Council’s and not-for-profit providers alike.

4.4 MRA Exclusion Zone

The MRA Exclusion Zone amendment to the Seniors SEPP was adopted on 29 July 2020 and ceased the operation of the Seniors SEPP on all land identified within the MRA Exclusion Zone. This is a change that affects 13 LGAs in the Sydney Metropolitan Area.

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1. *Provide a greater balance between incentives for seniors housing and rural values*
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The MRA Exclusion Zone goes well beyond the above recommendations and has effectively shut seniors housing development out of not only rural zoned a significant amount of urban zoned land within the MRA, that includes existing urban zonings such as all residential, mixed use zonings where SCCs were not previously required. Therefore, this has taken away a considerable amount of land (both rural and urban) that has been for many years available to the seniors housing industry.

The ability to have SEPP Seniors operate on rural land with the support of a SCC has been a key and long-standing mechanism of SEPP Seniors, and its predecessor SEPP No. 5, that the industry (and the not-for-profit providers) has relied upon to secure sites without having to compete against residential developers (and invariably lose out) and therefore consistently deliver seniors housing in Sydney. Even more concerning for the industry is the exclusion of SEPP Seniors from applying to a significant amount of urban zoned land that is within the MRA, land that did not require a SCC to be issued for SEPP Seniors to apply. This amendment to the Seniors SEPP has been introduced to the industry with minimal warning and without consultation and public exhibition.

This also could mean that many existing seniors housing developments within the MRA must now rely upon the “Existing Use” rights provisions of the Environment Planning and Assessment Act, 1979 as this amendment has made them prohibited development. It is therefore recommended that this part of the Seniors SEPP be updated to only include rural zoned land within the MRA Exclusion Zone, consistent with the recommendations and aims of the October 2019 GSC report.

5.0 Missed opportunities

5.1 Incentives for Seniors Housing Development

The MRA Exclusion Zone amendment has resulted in a considerable amount of potential land on the urban fringe of Sydney being removed from the industry. Coupled with this the expectation that many Sydney Metropolitan councils will use the opportunity of the draft Housing Diversity SEPP to restrict seniors housing development within their LGAs. Further, no alternative has been proposed as part of the draft Housing Diversity SEPP to provide incentives for seniors housing developers and providers to re-invest in urban zoned land, such as ageing existing villages (as discussed in detail here) or in urban centres.

Indeed, it is of concern that whilst the MRA Exclusion Zone and proposed amendments of the EIE embrace and go far beyond the recommendations of the GSC October 2019 report that relate to potentially restricting seniors

housing, the only recommendation that could improve the delivery of seniors housing (No. 7) is notably absent from the imposed and proposed amendments to the Seniors SEPP.

Without these incentives enshrined in the Seniors SEPP, the delivery of new seniors housing in Sydney that meets modern amenity and accessibility standards, as well as market expectations, is anticipated to become more difficult and will slow. This is expected to lead to the industry in Sydney struggling to meet the peak challenge of the ageing population over the next 15 years as the baby boomer generation enters older age.

It is therefore recommended that the following also be considered for inclusion within the proposed Housing Diversity SEPP:

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The above incentive to develop seniors in accessible locations such as mixed use/local centres could offset the substantial loss of land at the rural fringe of Sydney where seniors housing is no longer permissible on account of the MRA Exclusion Zone. If the intention is to restrict further seniors housing development on the urban fringe, then there must be incentives to bring this investment back into our urban centres and thereby reap the rewards for society by returning older people to urban life.

b) Renewal of Existing Villages

When SEPP No. 5 was introduced in 1982 the industry quickly utilised its powers development in the years following its introduction substantially bolstered the supply of seniors housing and aged care in NSW.

What was clearly a great success in the 1980s in delivering seniors housing and aged care to meet growing demand, is now a growing problem for the owners and operators of these ageing villages and facilities. In the 35 years since many of these retirement villages and aged care facilities were developed, community expectations for the standard and amenity of housing has increased enormously, and even more so have the expectations for seniors housing and aged care in Australia.

As such, many retirement villages and aged care facilities developed in the 1980s are no longer fit for purpose and are reaching the end of their economic life. Not only are these retirement villages substantially lacking in modern design amenity, comfort and quality, but many also do not comply with current accessibility standards. Given that life expectancy in Australia has increased nearly 10 years since the introduction of SEPP No. 5 and the average age of residents in retirement villages is now 80 years, accessibility for older, more frail and impaired residents is of enormous importance.

Renewal and redevelopment is therefore urgently needed to secure the long-term future of these villages and facilities. However, a major barrier for renewal lies in that many of these villages are either at or near the highest development potential afforded to them under the Seniors SEPP. Therefore, there is little or no additional density available under the current planning framework to pay for renewal. This is because SEPP Seniors is in many respects the same fundamental instrument as SEPP No. 5 and typically does not provide any additional density to spark renewal.

The Planning Proposal pathway to increase Local Environmental Plan (LEP) building height and floor space ratio (FSR) development standards applying to the site is typically the only avenue available, however this can be a long and difficult process, with little certainty of success – and highly contingent on the local attitudes to seniors housing that differs from Council to Council. A Planning Proposal to amend an LEP is also not an ideal approach given that SEPP Seniors is the instrument that by design is intended to be used for the development of seniors housing and aged care in NSW, rather than LEPs. The Planning

Proposal scenario is a planning pathway that Wesley Mission is currently considering for its older existing villages as no mechanism exists under the current controls to spark renewal.

In order to provide financial incentive for owners and operators to renew their ageing villages and facilities, there needs to be a planning mechanism that acknowledges the appropriateness and social benefit of the long term use of sites for seniors housing and provides a density incentive provision that allows for redevelopment beyond what would otherwise be permitted under the Seniors SEPP.

It is therefore recommended to include a new provision in the Seniors SEPP that works in a similar way to the Vertical Villages clause of Seniors SEPP (clause 45). Such a clause could apply to villages and facilities that were mostly (i.e. 50%) constructed prior to say 1992 and meet the site requirements of clause 40. Should a site meet this criterion, then the site would be eligible for a 0.5:1 FSR bonus and a building height bonus, provided a SCC is issued.

To ensure a site can appropriately accommodate the additional density and building height, it is recommended that the provision provide specific matters for consideration to encourage good design, site planning and minimal amenity impacts upon neighbouring properties and the surrounding community. Given the recent changes to the Seniors SEPP where Planning Panels now only issue SCC's, there is additional scrutiny on local context and compatibility for SCC's that will help ensure the renewal of old villages under an incentive provision is appropriate for a locality.

6.0 Conclusion

Wesley Mission would like to thank DPIE for the opportunity to provide a submission in respect to the draft Housing Diversity SEPP. Wesley Mission as a significant not-for-profit provider of seniors housing, aged care and affordable housing has a keen interest in planning matters that could potentially impact its delivery of housing to those most in need.

As such, Wesley Mission remains concerned that the amendments proposed in EIE and those already implemented with the MRA Exclusion Zone could have an adverse effect in the delivery of seniors housing and affordable housing in NSW. However imperfect the Seniors SEPP is, it has provided the not-for-profit industry with a level of certainty and known approval risk for almost 40 years and has been extremely successful in achieving its aims. Furthermore, the proposed amendments to the boarding house provisions in the ARH SEPP, as proposed under the EIE may hinder the ability of Wesley Mission to provide this form of accommodation.

Wesley Mission is hopeful that the above submission and recommendations are considered by DPIE and the integrity of the Seniors SEPP and ARH SEPP is maintained, together with the imposition of incentives to spark seniors living development and affordable housing in our urban centres and the renewal of older villages.

Yours sincerely,



Daniel West
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Ethos Urban

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9 September 2020

NSW Department of Planning, Industry and Environment

Evolve Housing - Response to the Submission on the Explanation of Intended Effect for a new Housing Diversity SEPP

Thank you for the opportunity to comment on the Explanation of Intended Effect for a new Housing Diversity SEPP. Evolve Housing strongly supports the consolidation of three existing SEPPs; the Affordable Rental Housing SEPP, SEPP 70, and the Seniors Housing SEPP and commends the Department for streamlining and strengthening the ability to use the planning system to contribute to the provision of affordable housing where there is a demonstrated need. Please find attached our submission.

Yours sincerely

Jitender Balani

General Manager, Strategic Asset Management and Business Growth

Evolve Housing

Thriving communities for all people.

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Evolve Housing Limited ABN 16 127 713 731





Evolve Housing - Response to the Explanation of Intended Effect for a new Housing Diversity SEPP

Introduction

Evolve Housing (Evolve) is one of the largest not-for-profit Community Housing Providers (CHP) in Australia, based in Western Sydney, but providing housing throughout Metropolitan Sydney, Central Coast and the Hunter Region. We have a portfolio of over 3900 properties in NSW, housing some 8,000 residents. The portfolio includes approximately 2600 social housing properties and more than 1300 affordable housing properties. As a Tier-1 registered CHP we have a long history of providing quality social and affordable housing and linking our residents to the support services they need. Evolve Housing as a not-for-profit CHP has been developing different forms of 'Built-to-rent housing' models, ranging from mixed tenure (mix of social, affordable and private dwellings), Specialist Disability Accommodation (SDA) units, micro studio apartments and new generation boarding houses.

Evolve is also a registered Specialist Disability Accommodation (SDA) provider, providing transitional housing support services for homeless youth through our Evolve Housing for Youth Division (EHY). Through three-way partnerships, we deliver support housing between Evolve, many of our support providers and the clients of our support providers. We have also recently established Safe Foundations, a housing model to provide medium term housing, to supporting women and children fleeing domestic and family violence, exiting from crisis housing.

A wonderful achievement is Evolve's for purpose real estate agency, EchoRealty. We specialise in property management of our affordable housing which consisting, mostly of NRAS properties, dwellings delivered under the Affordable Housing Rental SEPP and housing managed on behalf of two Council's (Parramatta and Willoughby), Sydney Olympic Park Authority as well as some private market properties. Unlike traditional real estate agencies whose sole objective is to generate profit, Echo Realty is a profit-for-purpose real estate agency where all profits are reinvested to grow the supply of affordable and social housing and to fund social inclusion programs.

Evolve owns and manages housing across 38 Metropolitan LGAs in Sydney.

Our position on the Explanation of Intended Effect for a new Housing Diversity SEPP

Evolve Housing strongly supports the consolidation of the three existing SEPPs including the Affordable Rental Housing SEPP, SEPP 70, and the Seniors Housing SEPP. We commend the Department of Planning, Industry and Environment for their work in making 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 a positive step forward. We support most of the proposed steps in this Explanation of Intended Effect (EIE), but set out a number of recommendations below that we feel would strengthen the effort.

Why do we need more affordable rental housing?

Our organisation sees working families in housing stress who are struggling to keep housing connections to the places where they live or work. We also see the increasing vulnerability of older single women, youth who are unable to meet rising rental accommodation costs and women escaping domestic family violence in search of housing support as a bare minimum necessity for life.

Affordable rental housing is essential infrastructure and is critical to strong, diverse and livable communities. Stable, affordable accommodation allows children to access and maintain contact with schooling and parents, which enables the family to have a base from which they can seek and maintain employment. Well-located affordable rental housing throughout the Sydney Metropolitan area, means that people in lower paid jobs can live in the communities that they work and thrive in.

The social and economic impacts from the lack of affordable rental housing can be significant. *The Strengthening Economic Cases for Housing Report* measured some of the direct impacts they have on individuals and our economy, by building more affordable housing near jobs and services. This research indicates that by building affordable rental housing near to jobs and services, there will be direct benefits to the economy, including:

- \$2.26 billion in travel time savings
- \$736 million that consumers can spend in local communities
- \$12 billion in increased household earnings and labour productivity

MacLennan¹ estimates that across Sydney, moderate-income renters are typically paying around \$6,000 per year in rent, which is above the 30% threshold of household income in rent. ABS data indicates that 14.2% of Sydney renters are in housing stress, an increase of nearly 13% since 2011.

Housing stress is the main risk factor for homelessness. The 2016 Census estimated that there were 37,715 people experiencing homelessness in NSW, a 37% increase from 2011².

¹ [Strengthening Economic Cases for Housing](#) MacLennan et al (2019)

² [Homelessness in NSW factsheet](#)

There was also a 74% increase in people living in severely overcrowded homes, a symptom of housing affordability challenges and the inadequacy of housing types.

Housing Diversity SEPP as a mechanism for increasing supply of affordable rental housing

Evolve supports the proposed consolidation and revision of three existing SEPPs including the Affordable Rental Housing SEPP, SEPP 70, and the Seniors Housing SEPP. Evidence from numerous housing studies, including those commissioned by the Department of Planning and the Environment show the need for affordable housing throughout Metropolitan Sydney and parts of regional New South Wales. Widespread application of inclusionary zoning provisions tailored to local housing markets, Federal Government initiatives through the National Housing Investment Corporation and Bond Aggregation Model, as well as government guarantees will enable all levels of government, the private sector and the Community Housing sector to collaboratively contribute to the provision of a much-needed increased supply in affordable housing.

It is envisaged that the proposed Housing Diversity SEPP will:

- deliver moderate increases in the supply of affordable rental housing in high cost areas through the provision of Boarding Houses and Co-living provisions;
- have no effect on the viability of new housing supply developments in those areas; and
- provide certainty for landowners, developers and the community about the various products around affordable rental housing, e.g. Build-to-rent (BTR), Boarding Houses and Co- living.

Key Recommendations:

It appears that the current provision of affordable housing as articulated in ARHSEPP and SEPP 70 are somewhat diluted in the drafted Diversity SEPP EIE. In the absence of new affordable housing schemes, the wind down of the National Rental Affordability Scheme (NRAS) combined with economic down turn associated with the current pandemic will create even greater need for affordable housing. Our recommendations are as follows:

- Ensure delivery of affordable housing is a key objective of the Diversity SEPP;
- Ensure provision of affordable housing is included in all types of build form, ranging from Build-to-rent to Co-living, and not just limited to Boarding House developments; and
- All exemptions granted to Land and Housing Corporation (LAHC), e.g. parking concessions, development of Boarding House within R2 zone and any density bonuses are extended to community or social housing providers.

Build-to rent (BTR) housing

- Evolve Housing as a not-for-profit CHP has been developing different forms of 'Built-to-rent housing' models, ranging from mixed tenure (mix of social, affordable and private dwellings), Specialist Disability Accommodation (SDA) units, micro studio apartments and new generation boarding houses. We note that the Department has proposed a threshold of at least 50 self-contained dwellings under the built-to-rent housing definition. It is recommended that for CHPs, this threshold requirement of minimum 50 units should be removed given our typical development projects vary from 10- 50 units. The rest of the requirements that relate to on-site management, single ownership and single management as drafted can easily be complied with by CHPs. We would suggest removing the minimum apartment size in Build to Rent, or reducing the number significantly.
- Evolve Housing strongly recommends that when a private development is granted a density bonus over and above the permissible Floor Space Ratio (FSR), the additional bonus should be used solely for the purpose of affordable housing.

Co-living

- Evolve Housing supports the inclusion of Co-living in the Housing Diversity SEPP to facilitate the delivery of diverse rental housing options. We would promote such housing options as they act as transitional accommodation for youth having little savings to draw upon or women escaping domestic violence looking for low cost accommodation in the community.
- It is recommended that the minimum car parking provisions of 0.5 spaces per room should be reduced to 0.2 spaces if the development is owned and managed by a community or social housing provider for affordable housing. This would be in line with current car space provision for boarding houses. Reduced car parking provision is likely to reduce project cost and make the project financially viable.
- Evolve Housing strongly recommends that when a private development is granted a density bonus over and above the permissible Floor Space Ratio (FSR), the additional bonus should be used solely for the purpose of affordable housing.

Boarding houses

- We strongly support the inclusion of the requirement for affordability of Boarding house developments.
- Evolve Housing supports the removal of the requirement for Boarding houses to be mandated within the R2–Low Density Residential zone. We note that LAHC is permitted to develop Boarding Houses within the R2 zone. We recommend that the new SEPP should

allow similar provision be extended to CHPs if the project is owned and managed by CHPs. These exemptions could also be extended to private development provided a CHP has a long-term management rights and the development must be used for the affordable housing.

- Evolve Housing notes that the FSR bonus for boarding house development is a standard 20%. Limiting the density bonus to a maximum of 20% could adversely affect financial viability of the project. We recommend, if the development is carried out by or on behalf of CHPs, the density bonus could be extended to 0.5 or 20%, whichever is higher (as per current provision). Evolve Housing also emphasises that bonuses should only apply to genuine affordable developments.
- We support minimum car parking provision for Boarding houses to be 0.2 spaces for social housing providers.
- Evolve Housing also recommends to change the name of Boarding houses in the proposed definition (p.14 – Table 4 Existing and proposed definitions for boarding house) to be called 'micro apartments' or something similar, as there is a stigma attached to the name 'Boarding houses'.
- Evolve Housing strongly supports the proposed definition in Table 4(b) suggesting that Boarding house means an affordable rental building that is managed by a registered not-for-profit community housing provider (CHP). This will ensure that the dwellings are always rented at affordable rents.
- We note that the government is seeking feedback for Boarding Houses to be rented at affordable rates for a minimum of 10 years and whether to revert to full market rates after that period (p.15). We would recommend that the period of affordable rental rates on Boarding Houses should be minimum 20 years so that the affordability and affordable housing stock for the state can be retained for a longer period.

Proposed amendments to the ARHSEPP and Senior Housing Provisions

We have a continued huge impact of an ageing society, larger numbers of elderly retiring with housing debt and low incomes with their desire to downsize, but to remain within their community and/or region. The number of older people in NSW is increasing, and the proportion of older people within the total population is growing. *By 2031, around 20 per cent of NSW, or 1.8 million people, will be aged 65 and over, and more than 1.5 million will be aged 50 to 64.* We need to plan for this demand with affordable and suitable homes for our senior members of our society.

The current NSW Ageing strategy makes a very clear commitment to increase the availability of housing for seniors housing and it would be prudent that any changes in the Senior SEPP is aligned with NSW Ageing Strategy:

- Evolve Housing supports the retention of existing affordable housing (p16 – Group Homes) and easing the current process of converting existing dwellings into group homes. We also commend the Department on proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. We affirm that there is an ample need for people looking for group homes as we get many enquiries from support groups for the same.
- We support the Department's proposal to extend the validity for Site Compatibility Certificates (SCC) for 5 years, given that the DA is lodged within 12 months of issuance of the certificate (p.19).

Proposed changes to the social housing provisions of the ARHSEPP

- It is noted that car-parking provisions for LAHC developments stipulates a minimum of 0.5 spaces per dwelling, it is distributed across and applies to all dwelling types in multi-tenure development (p.20) including private market housing. We support the intention of the Department to promote the housing model where private, affordable and social housing can co-exist in a healthy way. We would recommend that similar amendments be provided for a CHP in the SEPP when they are developing a housing mix on their own land or in partnership with the private sector.
- Evolve Housing supports LAHC to self-assess (up to 60 dwellings) all residential developments, including social, affordable and private housing on land owned by state government or LAHC.

Conclusion

Evolve Housing welcomes the opportunity to provide feedback on a new Housing Diversity SEPP.

We urge the Department of Planning, Industry and Environment to consider our submission and implement our recommendations.



In reply please quote: 20/14844

Contact: Patrick Warren 9725 0215

29 September 2020

Housing Policy Team,
Department of Planning Industry and Environment
Locked Bag 5022, Parramatta NSW 21124

Attention: Sarah Pritchard

Dear Sarah

FAIRFIELD COUNCIL SUBMISSION ON THE EXPLANATION OF INTENDED EFFECTS FOR SEPP HOUSING DIVERSITY

The Department of Planning Industry and Environment (DPIE) have publicly exhibited an Explanation of Intended Effects (EIE), for draft State Environmental Planning Policy, Housing Diversity (Housing Diversity SEPP). On 22 September 2020 Council resolved to support the submission on the EIE. The submission is detailed below.

1. BUILD TO RENT HOUSING

The following issues are considered relevant to this form of housing in the City:

Appropriate mechanism – BTR Housing is essentially a residential flat building or large multi-dwelling housing development with certain temporary restrictions on the ability to strata subdivide a constructed building.

It is unclear why there is a need for a new land use term and it is questionable whether this is the most appropriate mechanism to achieve longer-term provision of rental housing. Clarification is sought on what other options the DPIE investigated prior to supporting introduction of this new definition.

Future strata subdivision – The EIE also does not make it clear what mechanism would facilitate the strata subdivision and sale of BTR housing after 15 years (e.g. caveats on title or changes under the Strata Titles Act. It is also unclear if a proportion of units would be required to be retained for affordable housing or if an affordable development contribution would be required prior to strata subdivision.

Active frontages – Permitting these types of residential uses within the B3 and B4 zone raises concerns as there does not appear to be provision relating to active street frontage or minimum retail or commercial space.

A BTR development in the B3 or B4 zone without an active frontage would significantly influence the streetscape and public domain of town centers. It is recommended that the residential component of BTR housing must not be permitted at the ground level and that there should be a requirement for active street frontages.

Design – The EIE indicates that further detail guidelines will be prepared covering communal living areas, room and apartment size. It is recommended that additional guidelines should be prepared for BTR housing, requiring but not limited to:

- o Bulk and scale;
- o Traffic and parking;
- o Proximity to public transport; and
- o Amenity impacts.

Affordability – BTR housing will have an affordability requirement, being the local provisions for affordable housing relevant to the particular Local Government Area (LGA). At the time of writing Fairfield LEP 2013 does not have a specific affordable housing requirement for new housing developments.

However, consultants have recently been engaged by the Western Sydney Planning Partnership to prepare recommendations for provision of affordable housing for Councils in Western City in relation to affordable housing to be provided in private development.

It is expected that this Strategy will provide guidance to Western City Councils, however if it is not in place at the time the use is mandated there will be a period where no local affordable housing provisions will be in place for the City.

2. STUDENT HOUSING

Council agrees in-principle with the new definition of Student Housing but raises the following key issues:

Non-mandated use – It is noted that at this stage the Student Housing would not be a mandated land use in any zone. This would allow Council to determine if it wishes to allow this form of housing in various residential/business zones of the City.

Educational institution – The EIE proposes to allow for provision of Student Housing that has access to or is in proximity to an 'educational institution'. Currently the Fairfield LEP contains the standard definition of 'educational establishment' (includes schools, tertiary institution).

However, no detailed information has been provided as to what constitutes an educational institution in the above context. Noting that the Fairfield LGA does not have a university campus, with Wetherill Park TAFE campus being the only significant tertiary institution in the LGA. The submission seeks clarification as to what constitutes an educational institution.

Proximity criteria – The EIE has not defined proximity requirements in relation to the maximum distance student housing can be away from an educational institution. It is unclear if an applicant could seek to have student housing in another suburb or LGA from the educational establishment. An example is whether applications could be submitted for student housing in Fairfield or Cabramatta to support university campus' in Liverpool or Parramatta.

Enforcement – Clarification is sought on the enforcement of who lives within student accommodation developments and to ensure that this form of housing is maintained for bona fide student accommodation in the long term.

Additional use – The EIE states that outside of peak periods for educational establishments, additional uses for student accommodation could be considered. While this results in an efficient use of the building, it could also lead to a temporary change of use and result in significant amenity impacts on the surrounding community.

Accordingly, Council seeks clarification on what the proposed additional uses could be and recommend that appropriate development standards be in place to address that use, such as car parking.

3. CO-LIVING HOUSING

Council agrees in-principle with the new definition of Co-living Housing but required further clarification on the following issues:

Mandated use – It is noted that at this stage Co-living Housing will be a mandatory permitted use wherever residential flat buildings are permitted.

No affordability requirement – Co-living housing will be similar to the new generation boarding house however, there will be no affordability requirement that means that these smaller dwellings/rooms can be rented at the market rate.

Car parking – The proposed parking rate is 0.5 spaces per dwelling. This rate may be acceptable in some circumstances, however, the requirements of car parking differ depending on the location of the development to significant public transport, particularly in Western Sydney.

The Fairfield City Wide DCP 2013 recognises this by applying a rate of 1 space per dwelling for residential flat buildings. This is in line with the existing Apartment Design Guide requirements.

The EIE states that if a lower parking rate (lower than 0.5 spaces per dwelling) is introduced by the Council then this would apply. However it is unclear whether a higher parking rate (greater than 0.5 spaces per dwelling), if applied by the Council would prevail. Council recommend total discretion in the application of a parking rate for Co – Living Development. The same concern is raised for BTR housing.

4. PROPOSED CHANGES TO THE AFFORDABLE RENTAL HOUSING SEPP

Boarding Houses in the R2 Low Density Residential zone - The EIE seeks to remove mandating boarding houses in the R2 Low Density Residential zone and is supported by Council. Generally, the areas of the City zoned R2 are reliant on private vehicle transport and not in close proximity to major transport infrastructure. In general, it is considered that boarding house development is not consistent with the prevailing built form and urban character of the low-density residential zones of the City. In the past, applications for boarding housing in the R2 zones has attracted strong community opposition.

Proposed FSR bonus - The EIE seeks to amend the Floor Space Ratio (FSR) Bonus for boarding houses development from 0.5:1 FSR to a standard 20% of the underlying zones FSR. Council support the proposed flat rate 20% FSR bonus for boarding house development.

As an example, Fairfield LEP 2013 permits an FSR of 0.45:1 in the R3 Medium Density Residential zone. The Affordable Rental Housing (ARH) SEPP currently permits an FSR bonus of 0.5:1 for boarding house development. This results in boarding house development in the R3 zone achieving excessive bulk and scale with a possible maximum FSR of 0.95:1.

If a maximum FSR bonus rate of 20% is applied, the maximum bonus FSR in the R3 zone would be 0.09:1. This would result in a maximum allowable FSR of 0.54:1. This would result in a much more acceptable bulk and scale in boarding house development in the R3 zone.

Social impact - Boarding house developments, and particularly 'assisted boarding houses' should be located within areas close to appropriate public transport infrastructure and accessible health and other support services. Council consider that they should not be located in close proximity to registered clubs or premises where liquor and gaming machines are readily available.

It is also recommend that provisions be mandated which prevent the likelihood of short-term tenancies less than 12 months.

5. PROPOSED CHANGES TO SENIORS HOUSING SEPP

Environmentally Sensitive Land - Existing schedule 1 of the Seniors Housing SEPP specifies environmentally sensitive land, which is excluded from seniors housing. Over time, the provisions of Schedule 1 have become obsolete due to the introduction of new terms by the standard instrument LEP.

Council recommends updating Schedule 1 to include high and medium flood risk precincts (i.e. up to the 1 in 100 year flood level) for both overland and mainstream flooding. It should also be required that the SEPP make reference to all bushfire prone land under Council's certified bushfire prone land maps.

Application of Local Development Standards - The EIE proposes design guidance for seniors housing on registered club sites with Council's development standards prevailing.

Currently, Fairfield LEP 2013 does not specify development standards for land zoned RE2_Private Recreation applicable to the majority of registered club sites in Fairfield LGA, that are also surrounded by land zoned R2_Low Density residential.

Council recommends that the SEPP should include objectives and provisions that require the height and built form of seniors living on club sites to be compatible with surrounding residential development, particularly at the interface with surrounding residential zones.

Given the number of larger sized local clubs adjoining residential lands, it is recommended site specific development control plans (DCP) be required where seniors housing development is proposed on club sites. This step would also help to resolve a number of other issues relevant to seniors housing (e.g. access and servicing requirements) and measures required to mitigate impacts on adjoining residential areas.

The current Site Compatibility Certificate process provides additional layers of complexity and results in outcomes that do not reflect the desired built form or outcome for the locality. It is recommended that this process be reviewed as part of the SEPP review.

Subdivision of Government owned land - The EIE proposes that Land and Housing Corporation (LAHC) be allowed to self-assess subdivision.

Currently the assessment of subdivision applications for LAHC land is undertaken by Council. It is unclear under the EIE if the minimum subdivision lot size standards relevant to the R2 zones (450m²) will still apply to these lands.

In addition, Council recommend subdivision of LAHC land be prohibited in areas of the Fairfield LGA that are subject to medium or high risk overland or mainstream flooding or are bushfire prone.

Social impact - Seniors housing development should be located within areas close to appropriate public transport infrastructure and accessible health and other support services. In-principle, seniors housing should not be located in close proximity to registered clubs or premises where liquor and gaming machines are readily available.

Development Contributions - If the Department resolves to proceed with the SEPP in the current form, there would be implications to Council's development contributions plan. It is expected that each of the proposed new land use terms would trigger a development contribution; however, clarification is sought as part of this process whether there are any proposed exemptions.

If have any questions in relation to Council's submission Please do not hesitate to contact me on 9725 0215.

Kind Regards

A handwritten signature in blue ink, appearing to read 'Patrick Warren', with a long horizontal stroke extending to the right.

Patrick Warren
SENIOR STRATEGIC LAND USE PLANNER



Freedom Development Group

Proposed New Housing Diversity SEPP Submission

About Us

Freedom Development Group (Freedom) is a Sydney based developer specialising in developing co-living assets. Over the last three years Freedom has undertaken a number of development applications including 391-393 Kingsway Caringbah (Approved for 65 rooms), 31-33 Wansey Road, Randwick (Approved for 67 rooms), 16 Warners Ave, Willoughby (Refused for 38 rooms) and 28 Longueville Road, Lane Cove (DA submitted for 44 rooms).

The CEO of Freedom Development Group Edward Fernon is also involved with UKO Co-living, which is one of the largest managers of co-living assets in Australia and has first hand experience of management of these assets.

Introduction

We strongly support the NSW Department of Planning for its initiative in including co-living as a housing type within the newly proposed Housing Diversity SEPP, however it needs to be very clear that that proposed changes are completely unworkable and will eliminate co-living and boarding house developments. If the proposed changes are approved Freedom and many other developers, we have spoken to will no longer develop boarding house or co-living assets as they will no longer be feasible or the highest and best use for each property.

We believe that in order to allow the creation of this important rental housing sector and to facilitate housing diversity a number of amendments to the proposed SEPP are required.

Background on the 'New Generation Boarding House SEPP'

The State Environment Planning Policy (Affordable Rental Housing) (AHSEPP) was published on 31 July 2009 to increase the supply and diversity of affordable rental and social housing in NSW. Since then, the concept of 'new generation' boarding houses was introduced. Instead of defining a new term for this new housing type it was less complicated for the Department of Planning to add the terms 'New Generation' as Boarding Houses were already a defined term in Council Development Control Plans and Local Environmental Plans. What this created, however was significant negative stigma by local residents and also Councils against this housing type and is a major reason why the Land and Environment Court is filled with 'New Generation' boarding house applications.

As it happens, the "New Generation" boarding house rules were launched in Sydney around the same time as 'micro-apartments' in New York. The two have a lot in common, in both physical form and social purpose, but the difference in reception is stark. New Yorkers have largely hailed them as an innovative response to unaffordable housing. It shows what a difference a name can make.

While this generalised portrayal of boarding houses has probably never been fair, it is particularly untrue of the new generation of boarding houses. These properties are very different to the traditional boarding house and are often out of reach of the most socially disadvantaged. While it is true that new generation boarding houses have predominantly not been developed in the for social housing the development of these assets have significantly improved the mix of housing stock and added additional supply into the market which has improved affordability. Furthermore, the rents of 'new generation' boarding houses often include utilities, internet, furniture and a list of other benefits so on face value appear inflated compared to the value and flexibility that the tenant gains.

'New Generation' boarding houses also have different features because they target a very different and diverse market. A growing section of Australia's population don't live in nuclear families, and the housing stock is shifting to accommodate this. There is a need for more diverse choices for people who want to continue to enjoy the amenity of suburban neighbourhoods while keep their existing social networks. These people aren't looking for family houses and often can't afford them.

New Generation boarding houses accommodate for both singles and couples and have also been sought after by students, divorcees, transient workers, first-time renters and people living with disabilities. Furthermore, many young professionals working long hours want easy and affordable accommodation close to their workplace.

The 4C's of Co-living: What it's all About.

Convenience - Long lease contracts with prohibitive lease break clauses aren't geared towards the uptick of global mobility and international assignments. Co-living on the other hand, offers flexible and shorter lease terms, and often monthly lease options making it highly attractive in today's more transient world. It's a simple solution that provides a ready-to-move-in product that's hassle free for residents. Co-living contracts generally cover all services and move-in requirements. The spaces are fully furnished, utilities are set-up, and cleaning and maintenance services taken care of. The spaces are professionally managed often by an on-site team that handles maintenance and repair requests, with most of the communication and service requests done seamlessly through technology and mobile apps.

Cost - Housing affordability is becoming problematic in major gateway cities around the world. Dwelling prices have increased considerably faster than both rental prices and wages, leaving home ownership out of reach for many. Co-living operators are using the space better and reducing underutilised space. Economies of scale for things like utilities, Wi-Fi, cleaning and furniture are also creating cost efficiencies for all parties involved. While, a co-living space may cost more than a room in a shared apartment at first glance, once all the additional costs like move-in and move-out, agent fees, utilities, maintenance and furniture depreciation are factored in, the pricing is relatively similar - with the added benefit on having flexible lease terms.

Community - The biggest differentiator for co-living compared to traditional shared residences is the emphasis on community. Loneliness and social isolation are one of the fastest growing health concerns in much of the developed world, and co-living operators are cultivating communities that fight that through organised social activities, events, workshops and classes. They also tend to match residents with other like-minded people through personality profiling. There is a hidden element of demand for this community aspect as well.

Collaboration - Catering to a young, aspirational demographic, often residents within co-living spaces enjoy the collaborative benefits that the community provides. Some co-living models cater entirely towards a certain profile or profession, with co-living operations that specifically house 'digital nomads', Blockchain communities or tech start-ups etc.



Need for Community

One of the most significant factors driving co-living is the desire from tenants to be a part of a community. This desire has been driven by the following:

- "26% of all households contain one person. Single & couple households account for over 50% of total households." ABS statistics
- "51% of Australians feel lonely at least one day per week. While 28% feel lonely for three or more days." Australian Loneliness Report, Swinburne University
- "One in five Australians aged 16-85 experience a mental illness in any year and the most significant contributor of mental health is the quality of a person's relationships" Black Dog Institute

- “People who are more socially connected to family, friends, or their community are happier, physically healthier and live longer, with fewer mental health problems than people who are less well connected” Dr Waldinger, Harvard University

Over the last four decades our cities have expanded, which has led the Department of Planning to increase density and therefore supply. The focus for too long has been on create places where people can sleep rather than people can live. Build2Rent, Co-living and student accommodation all provide common areas where tenants can meet and get to know each other and more particularly in co-living they are often managed by a group like UKO which has a community host designated towards tenant engagement. This includes organising community dinners, trivia nights, movie nights, Yoga and personal training to list just a few. In contrast, many people today living in apartments are sleeping meters away from another person but don't even know their name.

Social Trends Driving the need for Co-living

Co-living has rapidly gained popularity in North America, Asia and Europe over the last 5 years as it has addressed a number of social trends. The popularity and success of this asset class has led many institutional investors to invest into this market segment overseas. This includes Corestate's 1.1 Billion Euro's investment into Medici Living's European expansion. These social trends include:

- Transient & globally active workforce
- Millennials will have 17 jobs, 5 careers and 15 homes over their lifetime
- 57% of renters move house every 2 years
- Rising cost of living
- Rocketing housing prices which has led home ownership to drop to 66% and deteriorating.
- Decreasing job security
- Poor rental accommodation
- Inflexible, time consuming and difficult experience for tenants
- 40 years ago 8-9% of marriages ended in divorce, now 35-40% end in divorce

Broken & Out-dated Rental Market

Today renters are faced with significant costs, stress and difficulty in finding, securing and moving into rental accommodation. To fully understand this we need to consider the process of what a typical renter faces when securing rental accommodation.

1. The renter searches realestate.com.au or domain.com.au and scrolls through hundreds of listings.
2. They need to contact a local agent and hopefully get through.
3. They inspect the property at a time set by the agent.
4. They need to spend hours putting together a rental application with extensive references.
5. The landlord rather than tenant sets the lease term so they are often forced into a 12 month lease even if they only want less time
6. If they are successful they need to buy furniture for the property and organise payment of a 4 week bond.

7. They need to arrange the transfer of utilities including water, gas, electricity and internet.

In comparison with a professional co-living manager such as UKO the focus is on the tenant experience and creating a flexible and easy process. This includes being able to inspect the property at any time, a simple online application, a tenancy term to suit their situation and not dictated by the landlord. I want to note that UKO often has tenants that start with a 3 month lease and then roll their agreements to 12 months or longer. Finally, all the properties are often fully furnished with all included utilities and only require a 2 week rather than 4 week bond saving the tenant thousands of dollars in upfront and ongoing costs.

Recommendations for the Department of Planning to Consider

1. Transition Period

It is strongly encouraged that if the Department of Planning adopts any changes to the Affordable Rental Housing SEPP that a transition period be implemented. This includes advanced notice of a set date where the changes will come into place. It is proposed that any Development Applications that is submitted prior to this date be assessed based on the current legislation. In June 2018, when the parking ratio was increased from 0.2 to 0.5 for non-social housing providers in all locations, overnight the legislation changed and Developers who had purchased sites based on the old legislation and lodged their DA's up to 12 months earlier were suddenly faced with a significant negative impact to their applications.

There are a number of new opportunities that Freedom has identified for development of 'new generation' boarding houses but considering the proposal is unworkable and there is no proposed transition period we are not going to risk purchasing these sites until some further certainty is provided.

2. Floor Space Ratio Bonus

The current 0.5 Floor Space Ratio bonus is the leading reason why boarding houses are currently financially viable today. Without this bonus the site would have an alternative higher and better use such as residential. This is because boarding houses/co-living developments require a significant proportion of the allowable floor area to be dedicated to the provision of non-income generating communal areas, placing a major financial burden on a development. In addition the financing of these assets is much more difficult as there is no ability to obtain pre-sales and therefore the loan to value ratios are far lower than building residential. Furthermore, being a relatively new asset class there are far more limited number of banks willing to fund the construction of these assets and if so they are generally at a higher interest rate.

It is critical that a Floor Space ratio bonus be retained for co-living developments. If the 0.5 Floor Space is to be removed then we propose a 20%-30% increase in Floor Space PLUS internal communal area's not being included in the FSR calculation.

3. Zoning

It is currently proposed that Boarding houses be removed from Low Density (R2) and General Residential Zones (R1). We strongly support this proposal by the Department of Planning. The majority of negative Council and local resident objections has been for proposed boarding houses in Low density and General Residential Zones. We note that there has been a number of recent changes to try to limit developments in these areas, however this type of housing is not suitable in these locations as they are typically further away from transport and local amenity such as café, supermarkets, gyms etc. requiring residents to need a car. They are also in areas typically with families and single dwelling housing which means that these types of developments often fail to meet the 'character test.'

4. Parking Ratio

One aspect of the boarding house provisions that has undergone a significant amendment since its introduction relate to the provision of off-street parking for residents. This stems from concerns that the higher-intensity of land-use, which boarding houses likely represent would place additional strain on on-street parking particularly in Low Density and General Residential Zones. The amendment in June 2018, requiring 0.5 rather than 0.2 parking spaces per room has required additional underground parking leading to extensive excavation and storm-water management. This underground parking adds significant costs to a development, so would undermine the feasibility of a boarding house, relative to other potential land-uses/developments, on a given site.

We further note that the Explanation of Intended Effect for the Housing Diversity SEPP suggests a car parking standard of 0.5 spaces per room and states that:

It is proposed to include car parking as a non-discretionary 'must not refuse' provision. This would allow councils to approve a co-living development with less parking when appropriate.

Since the adoption of the 0.5 parking ratio amendment many Council's have used this to try to refuse boarding house developments even if they are in highly accessible areas and by all reasonable measures deemed 'appropriate' as they don't want to set a precedent.

A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), written by Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph in June 2019 titled 'Occupant Survey of Recent Boarding House Developments in Central and Southern Sydney' found that:

"The results of the survey were quite clear, with two thirds of tenants not owning a car."

Furthermore, it states "the survey responses did indicate that the proportion of tenants that did not own a car was higher closer to the city and lower (but still a majority of respondents) further from the city. In terms of the match between providing off-street parking and car ownership, the current requirement that one space-for-two-rooms be provided is in excess of that evidently needed. Prior to the 2018 amendments, one-space-for-five-rooms was required for boarding rooms within 400m of a public transport node, and two-spaces-for-five rooms was required in other areas. A qualitative interpretation of the distribution of survey invitations and responses suggest that this is close to actual ownership rates, and close to the difference in ownership rates across the study area."

We also conducted a survey of the UKO site managed at 30-34 Parramatta Road, Stanmore, which has 33 rooms and 7 car spaces. During the seven-day analysis period there was only one room vacant and there were less than ten vehicle movements per day and 5 residents owning a car.

Particularly considering the removal of co-living and Boarding house in R2 and R1 zones it is proposed that the Department of Planning adopt the former parking ratio of 0.2 spaces per room in accessible areas.

5. Car sharing

It would be highly beneficial if the SEPP also addressed the issue of car sharing. There have been a number of reports and evidence supporting the benefits of car share. At UKO we have formed a partnership with Goget where our residents have free membership to carshare. Although the vast majority of our residents do not own cars they do like access to a car once or twice a week to pick up groceries or do a quick errand.

The Impact of Car Sharing Services in Australia written in October 2016 by Phillip Boyle and Associates states:

"When people switch from low use car ownership to services, significant value is generated for the household and the community in which it is located. This is especially the case in areas where the population is rising and, in tandem, the resident vehicle fleet is expanding. The report considers the community benefits that flow from the switch out of ownership:

- Less car ownership: moving from ownership to services reduces the resident car fleet. For every car share vehicle in the network there will be ten fewer privately owned vehicles in the analysis areas. This reduction in the number of vehicles is of great value when the number of resident vehicles is equal to or greater than the available kerbside storage space. The car share fleet in the City of Sydney alone has taken around 10,000 cars from the municipality.
- Less car use: car share users in the City of Sydney reported travelling by car less than before – around 2,000 vehicle kilometres less each year. This reduction in vehicle kilometres is of great value in reducing congestion, pollution and road trauma while increasing public health. The City of Sydney car share network has reduced VKT by up to 37 million kilometres each year. Users of car services replace car trips with trips by public transport, walking and by bicycle. These positive steps are also a focus of Council policies.
- Drivers who do not use the service benefit from the reduction in competition for road space, parking at destinations and kerbside storage. The community benefits that derive from lower vehicle ownership and use explain why the City of Sydney and other municipalities have supported the development of car share services.: ‘the City believes this [support for car share services] is a worthwhile investment as car share reduces demand for on-street parking and traffic congestion. The City of Sydney car sharing policy states ‘Greater uptake of car sharing will consequently reduce total driving and on-road congestion.’ Individuals also benefit from reducing car ownership and use. Reducing car ownership allows households to reduce household transport expenditure significantly. Buildings with less or no car parking are cheaper to build – one the architect developer calculated that the car park free apartments were \$30,000 cheaper to provide – this lower initial cost can represent a saving five times greater over the life of a loan. Some studies estimate that the majority of this financial saving is then spent in the local economy.”

Research undertaken by SGS Economics and Planning indicates that for every shared car, 9 to 13 private cars are taken off the road, and that a survey undertaken by GoGet, a care share provider, indicates that 62% of resident-members indicated that they had deferred purchasing a private car since becoming a GoGet member. In addition, the City of Sydney website notes that a single car share vehicle can replace up to 12 private vehicles.

It is also noted that the encouragement of the use of public transport and car share schemes as an alternative to private car ownership contributes towards environmental sustainability. We believe that this is an important selling point for the key target co-living target market – Millennials – a large proportion of whom favour living a more environmentally conscious lifestyle.

Given the factors noted above, it is our strong belief that residents in a co-living building will generally have far lower levels of car ownership and car usage than typical residential flat buildings, particularly if on-site car share schemes are provided for the use of residents.

Furthermore, there have been a number of court cases including Freedom Development Group v Randwick Council, which have led to the support of carsharing. It is unfortunate that developers rather than the Department of Planning are having to educate Council’s as to the benefits of carshare and negotiate for their inclusion in new boarding houses. It is therefore proposed that the Housing Diversity SEPP adopts a 1 car share equals 10 car spaces as per the research.

6. Room Sizes

We firstly note that the proposal has not addressed where the 30-35sqm room sizes are net or gross. Meaning whether these room sizes include kitchenettes and bathrooms.

An ability to offer a mix of unit sizes (including smaller units of less than 20 sqm in some cases) is also fundamentally important to the viability of a co-living development. It is our strong belief that a properly designed studio apartment of 16 - 30 sqm (including kitchen and bathroom) will be well received by the market and there is ample evidence globally of rooms of this size being successfully operated by large scale co-living operators.

Generally, we have found smaller sized rooms closer to the CBD as they are more readily accepted by residents.

Smaller studio sizes are effectively the “key” to unlocking the co-living formula, as they allow the developer to create a larger number of income-generating units, and this in turn allows the operator to deliver high quality on-site management and services, and maintain a programme of community events, all whilst keeping the rents at an affordable level for the target customers/residents. If minimum unit sizes of 30 sqm (or even 25 sqm) are prescribed then this will effectively kill the viability of co-living as it will be completely impossible to achieve satisfactory development returns, whilst keeping rents at an affordable level.

In considering the question of appropriate unit sizes for co-living developments, we believe that it is important to look at successful examples of the co-living model in other jurisdictions around the world where 16-30sqm sizes are the norm.

It is proposed that the New Housing Diversity SEPP allow for a greater range and flexibility in room sizes from 16sqm-30sqm including kitchenettes and bathrooms.

7. Communal & Private Open Space

Currently the SEPP does not stipulate the size of communal areas provided in each boarding house development as this is dictated by each individual Council’s DCP. We have found that generally 1-1.5sqm of communal area per room is supported by Council’s. The current proposal of a minimum 20 m² , + 2 m² per room above 10 rooms while being more than what is currently provided is supported. We do however, object to the requirement of 4sqm of private open space being required. While Freedom always strives to provide Private Open Space to all rooms it is often not possible to achieve this for some rooms due to setback and privacy concerns imposed by Council’s this is also not necessary when 2sqm per room of communal area is provided. It is proposed that private open space being discretionary for the developer.

8. Height of Building

We have no concern with adhering to development controls with regards to height of building, however we would like the Department of Planning to consider lift overruns and potentially communal rooms to be excluded from height of buildings. This is to support the provision of communal areas on rooftops, which has the best access to natural light and helps the developer achieve the proposed 25% of site area being provided for communal open space. Furthermore, if communal rooms are supported on rooftop areas it allows for more area being available to communal open space and reduces the costs for developers.

9. Minimum number of Rooms

It is not possible for a co-living property to deliver the additional services and on-site amenity without achieving some degree of scale. The proposed 10 rooms would not allow sufficient scale to reduce these on-site costs. It is advised that a 25-room minimum rather than 10 room minimum be implemented.

10. Minimum Stay

We support the proposed 3-month minimum stay and have found in the UKO Management business that the average stay has been approximately 6 months.

A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), written by Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph in June 2019 titles ‘Occupant Survey of Recent

Boarding House Developments in Central and Southern Sydney' found the following below:

Table 6 Current length of residency

How long have you lived here	Number	Proportion
Less than 3 months	22	15%
3-6 months	27	18%
6-12 months	33	22%
1-2 years	32	22%
More than 2 years	34	23%
Total	148	100%

Table 7 Expected length of residency

How long living here? (estimate)	Number	Proportion
Around 6 months	17	12%
Around 1 year	32	22%
Around 18 months	22	15%
Around 2 years	14	10%
More than 2 years	60	41%
Total	145	100%

We propose that there be a 3-month minimum stay with 20% of rooms in any co-living and boarding house site be permitted for less than 3 months to help support more vulnerable and transient people. This is particularly relevant for workers and students who may have a placement for 6 weeks at a particular location and don't want to spend this period in a hotel paying a nightly rate. It is also relevant for a number of people who are looking for larger traditional rental accommodation in locations with limited supply yet they are unable to find anything appropriate. A co-living asset would allow them to move quickly into a property for a short term while they look for alternative accommodation. In particular we have seen this with divorcees and people who have separated from their partners and need to move quickly.

Summary of Proposed Development Standards

Development standard	Proposed by Freedom Development Group
Floor space ratio	FSR bonus of 20 – 30 % with internal communal area excluded from the calculation
Zoning	Co-living not permissible in R2 & R1 zones to limit the impact on residential areas.
Car parking	<p>Non-discretionary ‘must not refuse’ provision of 0.2 car parking spaces per room.</p> <p>This would allow councils to approve a co-living development with less parking when appropriate.</p> <p>Provision of share car counting as equivalent to 10 private car spaces.</p>
Height of buildings	Some leeway applied to LEP standards to facilitate rooftop communal areas.
Room size	Unit sizes of 16 – 30 sqm (including kitchen and bathroom)
Strata subdivision	As per current draft SEPP - Not permitted
Communal living space	As per current draft SEPP - Minimum 20 m2, + 2 m2 per room above 10 rooms
Private open space	No private open space requirement for individual units
Communal open space	<p>25% of site area, but can be relaxed on a merit-based argument, where one or more of the following factors apply to the development:</p> <ul style="list-style-type: none"> ○ it provides appropriate communal open space in a landscaped roof top terrace; ○ It provides internal common space in excess of the minimum requirements; ○ it provides private open space for many of the apartments; or ○ it demonstrates good proximity to public open space and facilities and/or provides contributions to public open space.
Building envelope controls	Merit-based concessions to be considered to accommodate the FSR bonus where appropriate
Minimum Room Numbers	25 rooms to ensure management efficiency

Minimum stay	20% of rooms in a building permitted to be less than 3 months and 80% being greater than or equal to 3 months.
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Conclusion

Co-living addresses a real need in the community for affordable, convenient, flexible and community-based living. We commend the NSW Department of Planning for its initiative in including co-living as a housing type within the new Housing Diversity SEPP, but we strongly advise that the proposed co-living SEPP is unworkable. It is proposed that development standards for co-living in the SEPP should be amended to reflect the changes in the table above, in order to promote the growth of this exciting new housing type in NSW.

We would be happy to speak directly to anyone from the Department of Planning or industry and can be contacted at edward@freedomdevelopment.com.au.

Contact: Harkirat Singh
Direct Telephone: (02) 9330 6259
File Reference: D20/XXXXXX

9 September 2020

The Draft Housing Diversity SEPP Team
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Project Team

Georges River Council Submission – Explanation of Intended Effect for the proposed Housing Diversity SEPP

Thank you for the opportunity to provide feedback on the proposed Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP.

Georges River Council supports the Department of Planning, Industry and Environment's ('DPIE') initiative to prepare a new Housing Diversity SEPP by way of preparing an EIE for the proposed SEPP to ensure diverse and affordable housing is delivered by NSW planning policies.

Council has general and specific comments relating to the EIE for the proposed Housing Diversity SEPP which are broadly summarised as follows:

- Council is supportive of the proposed consolidation of the following three SEPPs to simplify the affordable housing planning framework:
 - State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
 - 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)
- Council requests detail on how housing affordability will be regulated for the various housing types (Built-to-Rent, Student Housing and Co-living); in terms of either the per cent of income paid in rent or the management of a particular housing type by a community housing provider.

- Council has concerns over the new housing types not being able to remain affordable in perpetuity.
- Council recommends that the Apartment Design Guide should apply to all new housing types, for the sake of consistency and simplicity.
- Council recommends that the proposed SEPP should ensure that the proposed new housing types will assist people over 65 to age within their communities.
- Council queries if there is a cap on the levying of monetary contributions for the loss of affordable rental dwellings in the case the approval of a proposed development would result in a loss of affordable housing on the land.

Build-to-Rent Housing (BTR Housing)

- Council requests affordability requirement for various housing types; in terms of the per cent of income paid in rent or the management of the housing type by a CHP.
- Clarity is required that the BTR developments provide affordable housing when built.
- Council has concerns with BTR housing being permitted in B3 Commercial Core Zone as Council's B3 zone is the only zone where residential accommodation is prohibited. The extent of the B3 zone is only approximately 53,400sqm. Council's Commercial Centres Strategy Part 1 notes the Centre would require an additional 77,335sqm of employment space by 2036 and calls for encouraging land uses such as with tourism, community functions, arts and culture in this zone. Permitting BTR housing in the B3 zone will effectively reduce the amount of land available for future employment opportunities and would mean the Centre would need to consider expansion to provide more commercial/retail land in the future solely for employment purposes.
- Council recommends that if BTR housing is permitted to be strata-subdivided after 15 years, the SEPP must specify mechanisms to ensure BTR developments continue to provide affordable housing.

Student Housing

- Council supports the proposed opportunity for councils to determine where student housing is permitted and recommends that student housing only be located within a reasonable travel time and easy access to educational establishments via public transport, particularly where there is no minimum parking requirement.

Changes to Boarding House Provisions in the Affordable Housing SEPP

- Council supports the new definition of 'boarding house' as it includes requirements that boarding house rooms are affordable. The new definition defines a boarding house as 'affordable rental building' and that it is 'managed by a registered not-for-profit community housing provider'.
- Council supports the removal of boarding houses as mandated land uses in the R2 zone. This will ensure the existing low density character of these areas is protected.



- Council appreciates the ability to adopt variable car parking rates for boarding houses as areas where boarding houses would be permissible (i.e. where residential flat buildings are permitted) vary significantly. In particular, this would be the case under the draft Georges River LEP 2020 where land currently zoned R3 (under either Hurstville or Kogarah LEPs) with maximum permissible heights of at least 12 metres are proposed to be rezoned to R4 in accordance with Council's establishment of a hierarchy of residential zones.
- Council supports the changes proposed to the FSR bonus for boarding houses as the current FSR bonus of 0.5:1 contributes to excessive bulk and scale of some boarding house developments
- Council strongly believes that dedication of affordable housing in perpetuity as opposed to reverting back to market rates after 10 years is essential and would provide more certainty and better address ongoing affordability challenges

LAHC Developments


- If the LAHC will be allowed to develop boarding houses in R2 zones regardless of their permissibility in an LEP, Council requests that the legislation specify a requirement that the LAHC ensure these developments consider the character of the area in which they are proposed and be located and designed accordingly.
- Council believe that the maximum of 60 dwellings that the LAHC can self-assess is too many, especially as it can include developments with density bonuses and reduced parking requirements. Council requests to have input into developments of this scale to consider their impact on local character.

Attached to this letter is a detailed submission which covers the key topics. Under each topic, Council provides comments for the consideration of the DPIE when drafting the proposed Housing Diversity SEPP. Council requests the opportunity to review the draft SEPP prior to its finalisation.

Where there is no comment, it can be assumed that Council has no substantial concerns with what is being proposed and can be taken as general support.

If you require any further explanation of the issues raised in the submission, please do not hesitate to contact the undersigned on 9330 9437 or Harkirat Singh, Senior Strategic Planner on 9330 6259.

Yours faithfully



Stephanie Lum
Coordinator Strategic Planning



Georges River Council Submission

Explanation of Intended Effect for proposed Housing Diversity State Environmental Planning Policy (SEPP)

Background

Council has reviewed the Explanation of Intended Effect ('EIE') for the proposed Housing Diversity State Environmental Planning Policy (SEPP) prepared by the Department of Planning, Industry and Environment ('DPIE') to ensure diverse and affordable housing are delivered by NSW planning policies. The key aims of the Housing Diversity SEPP include consolidating and updating the Government's housing-related SEPPs and introducing three new land use terms, including build-to-rent, student housing and co-living. In addition, the draft SEPP proposes to amend planning provisions relating to boarding houses, seniors housing development and planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (LAHC) on government-owned land.

General comments

Consolidation of three SEPPs

Georges River Council (Council) is supportive of the proposed consolidation of the following SEPPs to simplify the affordable housing planning framework:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
- 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)

Housing affordability

Council notes that although the EIE acknowledges that housing affordability is a major issue across NSW, particularly in the Sydney metropolitan area, it does not provide detail on how housing affordability will be regulated; in terms of either the per cent of income paid in rent or the management of the housing type by a community housing provider (CHP). Council has a major concern that the Built-to-Rent housing is not being provided in perpetuity.

Adherence with the Apartment Design Guide (ADG)

The EIE notes that design guidelines for the new housing types could also be developed to accompany the new SEPP. The design guidelines would address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

Council recommends that the ADG should apply to all new housing types being introduced in the draft SEPP, for the sake of consistency and simplicity.

Ageing in place

Council notes the need for housing for people over 65 and their aspiration to age within their communities. The EIE does not clarify whether the proposed new housing types will play a role in satisfying this need of our community. Council is currently investigating a way to implement multi-generational living (formerly known as 'big house conversions') in the low density residential areas of the LGA. Whilst not strictly housing for people over 65 it does allow that age group to age in place.

Monetary contributions for loss of affordable rental dwellings

Part 3 of the ARHSEPP relates to one of the key aims of the ARHSEPP which is to facilitate the retention and mitigate the loss of existing affordable rental housing. Part 3 of this SEPP also permits a council 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.

Council queries if there will be a cap on the levying of monetary contributions for the loss of affordable rental dwellings.

Developers to demonstrate whether a building is low-rental

To address the concerns raised with the application of Part 3 of the ARHSEPP following a 2016 court case which found that the onus of proving that a building contained a low-rental dwelling at the relevant date rests with the local council, the EIE proposes to clarify in the new SEPP that the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time rests with the applicant.

Council supports that the onus for providing evidence that the building does not contain low-rental dwellings rests with the developer.

Specific comments

Council recommends that the DPIE consider the following in the proposed Housing Diversity SEPP:

BUILD-TO-RENT HOUSING (BTR HOUSING)

Planning purpose and affordability requirement

The EIE notes that the BTR housing 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.

The EIE notes that BTR housing has the potential to provide long-lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment.

Council comment

Council notes the EIE does not provide clear planning purpose or sufficient justification for BTR housing. There is lack of affordability requirement in terms of the per cent of income paid in rent or the management of the housing type by a CHP.

Clarity is required how BTR developments will provide affordable housing when built.

Permissibility in the B3 Commercial Core zone

In relation to the locational requirements for BTR housing, the EIE proposes BTR housing to be mandated as a permissible use in the R4 – High Density Residential, B3 – Commercial Core, B4 – Mixed Use and B8 – Metropolitan Centre zones. They will also be permitted in the R3 – Medium Density Residential zones where residential flat buildings are permitted. Councils have the opportunity to make BTR housing permissible in other land use zones through amendments to their LEPs.

Council comment

Council does not support BTR being mandated as a permissible use in the B3 – Commercial Core zone.

The Hurstville LEP 2012 contains a B3 – Commercial Core zone in the Hurstville City Centre. One of the objectives of the zone is ‘to encourage appropriate employment opportunities in accessible locations’. The Hurstville City Centre (‘Centre’) contains the only B3 zone in the Georges River LGA and is the only zone where residential accommodation is prohibited. The extent of the B3 zone is only approximately 53,400sqm.

Council’s Economic Study which forms part of the Commercial Centres Strategy Part 1 notes the Centre would require an additional 77,335sqm of employment space, increasing the centre to around 407,350sqm by 2036, keeping in account the current vacant and floor space in pipeline. This calls for encouraging land uses associated with tourism, community functions, arts and culture in the B3 Commercial Core and B4 Mixed Use zones to improve their viability.

Permitting BTR housing in the B3 zone will effectively reduce the amount of land available for future employment opportunities. Even though the subdivision of BTR would not be permitted in the B3 zone, it is unlikely that these BTR buildings will revert to commercial/retail uses within the

lifespan of the building based on development trends, which means the Centre would need to consider expansion to provide more commercial/retail land in the future solely for employment purposes.

Development standards and adherence with ADG

The EIE states that new design guidelines will be developed to specify the minimum size of rooms and communal living areas of the BTR housing.

Council comment

Council recommends that the ADG should apply to all new housing types, for the sake of consistency and simplicity.

Council also believes the car parking rate of 0.5 spaces / dwelling is insufficient and that councils should have the flexibility to specify their own rates based on location.

Strata subdivision after 15 years

The EIE states that BTR housing is a different investment product to traditional residential flat buildings in that BTR housing is held in single ownership, making it easier for the asset to be recycled at a later date. However, it would not be possible to strata subdivide a BTR housing development for the first 15 years and subdivision in a B3 – Commercial Core zone would be prohibited in perpetuity.

Council comment

Council recommends that if BTR housing is permitted to be strata-subdivided after 15 years, the SEPP must specify mechanisms to ensure BTR developments continue to provide affordable housing.

Council also raises concerns that if BTR housing is no longer used for affordable housing after 15 years and only complies with specific parts of SEPP 65, developments will become non-compliant residential flat buildings after 15 years.

STUDENT HOUSING

Locational Criteria

The EIE does not propose to make student housing a compulsory permitted use in any of the land use zones. Universities across the State have widely varying land use contexts and therefore the EIE proposes that councils will be able to determine the permissibility of this use

through their LEPs. The Government is seeking feedback about the best way to incorporate locational requirements for student housing in environmental planning instruments.

Council comment

Council supports the proposed opportunity for councils to determine where student housing is permitted and recommends that student housing only be located within a reasonable travel time and easy access to educational establishments via public transport, particularly when there is no minimum parking requirement.

Affordability

Council comment

Council is concerned that student housing is not required to be affordable and no detail is provided on how affordability will be regulated to ensure it does not become standard housing stock under the guise of student accommodation.

CHANGES TO BOARDING HOUSE PROVISIONS IN THE AFFORDABLE HOUSING SEPP

Definition of boarding houses

The proposed boarding house definition includes explicit words pointing towards boarding houses being affordable and managed by a CHP. An excerpt from the new definition is reproduced below:

boarding house means an affordable rental building that:

...

is managed by a registered not-for-profit community housing provider (CHP), and

...

Council comment

The new definition proposed is considered more enforceable at ensuring that boarding houses are affordable as they will be managed by a registered not-for-profit community housing provider.

Boarding houses not mandatory in R2 Low Density Residential Zones

The EIE proposes that boarding houses will not be mandated within the R2 zone.

Council comment

Council supports the removal of boarding houses as mandated land uses in the R2 zone. This will ensure the existing low density character of these areas is protected.

Car parking rates

The EIE states that councils will be given the flexibility to specify appropriate car parking rates for boarding houses. It notes that the demand for car parking varies significantly between different areas and it may be appropriate to have different car parking rates depending on the locational context, such as proximity to a train station.

Council comment

Council appreciates the ability to adopt variable car parking rates for boarding houses as areas where boarding houses would be permissible (i.e. where residential flat buildings are permitted) vary significantly. In particular, this would be the case under the draft Georges River LEP 2020 where land currently zoned R3 with maximum permissible heights of at least 12 metres are proposed to be rezoned to R4 in accordance with Council's establishment of a hierarchy of residential zones.

Affordability and dedication in perpetuity

Council seeks clarification on the mechanisms proposed to ensure boarding houses are affordable. Is it because they will be managed by a registered not-for-profit community housing provider (CHP)?

Will existing boarding houses, those in the pipeline (development application lodged but not yet determined) or those waiting to receive an Occupational Certificate be required to be managed by a registered not-for-profit CHP?

Proposed 20% FSR bonus and reverting back to market rates after 10 years

Boarding houses proposed on land with an existing maximum FSR of 2.5:1 or less are proposed to have their FSR bonus reduced from 0.5:1 to a flat 20% of the existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1. It should be noted that the bonus only applies in zones where residential flat buildings are permissible. The EIE 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 to market rates.

Council comment

Council supports the changes proposed to the FSR bonus for boarding houses as the FSR bonus of 0.5:1 effectively doubles the allowable FSR in certain cases and contributes to excessive bulk and scale of some boarding house developments.

Council strongly believes that dedication of affordable housing in perpetuity as opposed to reverting back to market rates after 10 years is essential and would provide more certainty and better address ongoing affordability challenges.

LAHC DEVELOPMENTS

The ARHSEPP, the Seniors SEPP and the State and Regional Development 2011 SEPP (SRD SEPP) contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) on government owned land. The EIE notes that the LAHC will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP permits or prohibits boarding houses in that zone.

Council comment

If the LAHC will be allowed to develop boarding houses in R2 zones regardless of their permissibility in an LEP, Council requests that the legislation specify a requirement that the LAHC ensure these developments consider the character of the area in which they are proposed and be located and designed accordingly.

Council also believe that the maximum of 60 dwellings that the LAHC can self-assess is too many, especially as it can include developments with density bonuses and reduced parking requirements. Council requests to have input into developments of this scale to consider their impact on local character.

Submitted on Sun, 06/09/2020 - 16:58
Submitted by: Anonymous
Submitted values are:
Submission Type: I am making a personal submission
First Name: [REDACTED]
Last Name: [REDACTED]
Name Withheld: Yes
Email: [REDACTED]
Suburb/Town & Postcode: [REDACTED]
Submission file:

[housing-diversity-sepp-submission.docx](#)

Submission - on the Explanation of Intended Effects (EIE) of the draft Housing Diversity SEPP

I have lived for years in what is now the Cumberland LGA, on the fringe of the Merrylands CBD - my submission references will reflect this.

Please note: The Cumberland LGA has apparently been identified as needing 10,700 new affordable housing dwellings between 2016 and 2036, of which approximately 50% will need to be larger dwellings - and approximately 70% will be needed for very low income households.

And I must say I'm very surprised to learn that my Council (Cumberland Council) is lodging such a short submission on the EIE of the draft Housing Diversity SEPP - also that it hasn't made any comment on what seem to be some 'stand out' issues that surely are important. It also has ignored the Department of Planning, Industry and Environment's (the Department) specific requests for feedback on certain items.

I contacted some Cumberland Councillors and the Director of Planning regarding Council's short submission and its apparent omissions - and Council's apparent reluctance to seize the opportunity to provide input on such an important document - but their submission wasn't amended at their Council Meeting 2/9/20.

I thus have felt obliged to lodge a submission.

Concerns with proposed new land use definition / housing type of Build to Rent (BTR) - will it really provide the necessary diverse and affordable housing in the Cumberland LGA - or is it only suitable for more affluent LGAs

I can see from the Council Business Paper, 2/9/20, that Cumberland Council's submission on the Housing Diversity SEPP simplistically states that BTR developments can provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings in a stable rental environment. And Cumberland Council also advises a DA is proposed for this development concept in the LGA.

Please note: This is the Coronation development proposal (DA 2020/0220) at 233 & 249-259 Merrylands Road & 52-54 McFarlane Street in the Merrylands CBD - which consists of:

- 790 residential units with a proposed unit mix of:
 - 129 x Studios (16.3%)
 - 264 x 1 Bedroom Unit (33.4%)
 - 379 x 2 Bedroom Unit (48.0%)
 - 18 x 3 Bedroom Unit (2.28%)

and 60% of these units planned to be BTR.

Some (including myself) beg to differ with Cumberland Council's belief in the virtues of BTR complexes coming to our LGA - and I use the above example of our 1st (and Coronation's 1st) BTR development - to outline the various reasons as to why Coronation's BTR development won't necessarily deliver greater housing choice and increased housing affordability for the residents of Cumberland.

Please note: Coronation has proposed a very skewed apartment mix, with 50% dedicated to studio and 1-bedroom apartments - and only 2% are 3-bedroom units - which doesn't match the household composition and cultural diversity found in the Cumberland LGA - nor our DCP controls. (Only 20% of a development should be dedicated as studio or 1-bedroom apartments!)

BTR development is not providing affordable housing

This new BTR development does not seem to include any designated affordable housing - with an Australian Financial Review article 16/1/20 flagging that Coronation is developing this site as their first BTR project, having apparently eyed this new asset class for a while. (And I read that BTR makes more sense for property developers and their financiers - with the Sydney rental market also making this asset class more viable).

Furthermore, James Dunn - in the Financial Review 11/11/19 - quoted Bill Halmarick, head of real estate, corporate & institutional banking, at National Australia Bank - who points out that the BTR model is built around a premium rent being paid, because all sorts of shared amenities are provided - as is being proposed for the Merrylands site - 2 swimming pools, a gym, rooftop gardens etc.

A model that assumes the charging of premium rents has to be diametrically opposed to the concept of social and affordable housing. And so it's hard to believe that this development - centrepiece in the Merrylands CBD - will, in effect, help increase housing affordability in the rental market!

And there seems little regard for assisting affordability in the 'build to purchase' (owner occupier) market - when 60% of these units are apparently not even intended for purchase! And the provision of all the shared amenities - particularly swimming pools - will make strata fees phenomenal - and will impact the ongoing costs for buyers - as well as the initial purchase price - remembering the demographic of the Cumberland LGA earns well below the average for Greater Sydney.

The BTR concept is obviously restricting the number of units available to buy, and will surely make home ownership even harder for many - as well as increasing rental stress for tenants.

Catering primarily to generating high-level rentals and purchase prices, it doesn't seem to be necessarily considering the buyers and renters in our LGA who are in need of more affordable housing - and certainly not meeting the needs of the high number of large families found in this LGA.

Perhaps the BTR concept would work in more affluent suburbs with different demographics regarding household composition and income levels - remembering the demographic of the Cumberland LGA earns well below the average for Greater Sydney and consists of above average household size.

I'm not sure this BTR concept will do much to overcome the key issues in Cumberland regarding housing affordability - given the household structures, demographics and the cultural diversity of this LGA.

I fail to see how BTR projects will really help housing affordability - for renters or buyers in Merrylands, and particularly those with large families.

By definition, premium rents and unit sale prices will exist - so surely a different style of development to BTR is needed to increase housing affordability.

Please note: Cumberland Council's Affordable Housing Background Report compiled by Judith Stubbs and Associates flagged that people or families living in overcrowded accommodation - in dwellings that are too small - is a form of homelessness.

So BTR complexes in the Cumberland LGA - like Coronation's - that focus on studio or 1-bedroom apartments with only 2% dedicated as 3-bedroom units - will only be creating 'homelessness' - if Cumberland's large families are forced to live in the numerous small units provided in BTR complexes.

Concerns with BTR detail contained in Table 1, p.7 of the EIE- Comparison of development standards for new housing types:

Tenancy length

With a proposed minimum lease term of 3 years or more, how does this help those who don't want a lease for this length of time?

How many people these days know what their situation will be in 3 years' time? In today's fluid and ever-changing society, will they still be in the same living arrangement?

Will they still have a job, particularly now covid is with us?

And how does a 3-year tenancy help those who rent their whole life-time?

Affordable

Please refer to above comments regarding premium rents being charged for BTR complexes - as stated in the Australian Financial Review.

Please note: Surely it's a no-brainer that rent levels surely need to be set (or contained) in some shape or form - for all the housing types listed in Table 1.

Room/Apartment size - New design guidance will be developed

With specific planning provisions promised on p.8 of the EIE, I'm very worried that this will mean that BTR apartment sizes and rooms will undoubtedly be smaller than what is mandated in SEPP 65 and the ADG.

I had believed it was SEPP 65 and the ADG that provided consistent planning design standards for apartment dwelling across NSW - but I'm thinking that BTR renters are going to pay premium rents for less space than other renters in NSW!

And when Cumberland Council Planning Officers have chosen to ignore DCP controls regarding 1-bedder apartment mix by 150% - all in the name of a BTR development proposed by Coronation - this issue of room size surely could be a concern.

Communal living area - New design guidance will be developed

As per above - I have real concerns regarding what controls will be recommended by the Department - particularly if developments such as this Coronation one have a heavily skewed ratio toward studio apartments that only have one room.

Open space and communal space will be very important in these developments.

Minimum car parking provision - 0.5 spaces per dwelling

This ratio is a concern.

With BTRs needing to be located close to transport, people may be easily able to walk to a station BUT eg few sports grounds and facilities can be accessed by public transport in the Cumberland LGA

- so both adult and child tenants will still need access to a car - and car share is not a concept recognised in the Cumberland LGA.

Likewise, car ownership is still required, simply to visit family and friends, let alone go on a picnic - as public transport traversing areas of the LGA is exceedingly limited.

BTR housing needs to be designated beyond the proposed 15 years - perhaps in perpetuity?

BTR rental housing surely needs to be designated beyond the Department's proposed 15 years - perhaps in perpetuity - otherwise the housing issue will just be revisited in 15 years - like the in-fill affordable housing that's only designated for affordable housing for 10 years?

And again it's disappointing - and concerning - that Cumberland Council in their submission has made no comment on what seems an important issue - even though the EIE says the Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development.

I note the EIE states co-living developments aren't to be subdivided - that co-living housing will remain in single ownership like a new generation boarding house.

So why does the Government propose sub dividing BTR complexes after 15 years? And I ask this particularly as the 129 studio apartments in the Coronation development in Merrylands seem to merely resemble the newly defined co-living dwellings that may have private bathroom and kitchenette etc.

- Why is the Department suggesting BTR rooms - that will have studio units that resemble co-living units - be treated differently than co-living dwellings?

I note the Department states on p. 9 of the EIE that it could be easy for the BTR asset to be recycled because it is held in single ownership - and the Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development.

But why does the government want to change the status of the BTR accommodation - and not co-living apartments? All the Government is doing is seeking a band aid to the housing crisis - just like in-fill affordable housing that has a cap of 10 years! The Government will just defer the housing headache for 15 years!

The EIE suggests that long-term residents could be offered a right of first refusal to acquire a unit at a fair market price but what happens when there are no real long term residents. (And many residents around the Merrylands Town Centre are itinerant tenants). And what will be the definition of a 'long term tenant', come the 15 year mark?

Please note: If BTR complexes tend to mainly consist of studio and one-bedroom units, surely many of these tenants will vacate and move to larger dwellings as their life progresses - and eg they want to start a family - or upscale to more spacious accommodation.

And how many tenants who have paid premium rents will be able to buy into their unit at market price - and then have to start paying the higher strata fees for all the facilities included, such as swimming pools etc - remembering the residents in the Cumberland LGA earn well below the average for Greater Sydney.

If subdivision and sale is needed, the alternate option mentioned in the EIE could also be considered - that a minimum percentage of dwellings for sale should be required to be retained as affordable housing - but this viewpoint does not mean I agree with the BTR concept per se.

Boarding house provisions

Homelessness definition

Please note: Cumberland Council's Affordable Housing Background Report compiled by Judith Stubbs and Associates flagged on p. 27 that the ABS definition of homelessness includes persons living in boarding houses, so the Department is hardly improving living conditions of those living in NSW by encouraging and allowing lots of boarding room development as it seems to be doing!

Cumberland Council submission misleading

Cumberland Council's submission states that boarding house provision generates significant community objection at DA stage in low density residential zones:

- This is rather a misleading statement - as boarding house provision in the R4 (high density) zone has also generated community concern - and Council is not representing their Cumberland community when saying boarding houses are better suited for high density areas - and make no reference to the boarding house failings in the current ARHSEPP that have been flagged by the community - which have also been highlighted in great detail by the Department's Council Working Group on Boarding Houses.
 - As ever, Cumberland Council seems to want to look after its R2 suburban residents - as also reflected in their stated concern re the LAHC being able to develop boarding houses on government owned land in the R2 zone even if it's prohibited in the zone under the Draft SEPP.
 - Why should boarding houses be prohibited in the R2 zone - yet people living in the R4 zone are obliged to experience them? (To any reasonable person, surely this biased expectation isn't fair and reasonable).

Concerns and issues with boarding house development not addressed in the proposed SEPP:

- Certainly in the R2 Low Density Residential zone there could be a restriction on boarding house development by limiting the number of lodgers - but limitations also need to be in place for R3 and R4 zones. Consideration needs to be given to residents in these zones as well.
 - Boarding houses should not be prohibited from the R2 zone, this is the very source of traditional boarding houses - and the R2 zone can provide a much better setting for impaired or older people, or those unable to work - more peaceful and tranquil, with more access to open space for sitting or exercise etc, unlike a busy town centre.
 - But minimum rear and side setback requirements need to be introduced - for all zones - otherwise boarding houses are located very close to neighbouring properties, resulting in overshadowing, loss of deep soil and landscaping, and loss of privacy and amenity for all properties involved.
- Excessive scale and bulk of boarding house development - even in the R4 zone
 - I quote an example of this concern - the approval for 53 boarding house rooms in the tiny Wayman Place cul de sac on the fringe of the Merrylands CBD - over 7 storeys high, on a block that's only 510.3 square metres - that will have little room for grass, vegetation and trees and will be a heat island - increasing urban heat generation.
 - And it seems such a scale of development on such a tiny block - adjacent and very close to neighbouring homes - could still happen under the new SEPP?

Lack of amenity for boarding house residents:

The new SEPP still doesn't seem to apply the ADG to boarding house development - there needs to be further detailed controls in the new SEPP to maintain some level of amenity for boarding house residents.

Boarding houses shouldn't be exempt from design requirements such as those stipulated in SEPP 65 and the ADG - new and adequate controls need to be established for boarding houses, ensuring pertinent SEPP 65 and the ADG controls apply to boarding houses - and as flagged by the Department's Council Working Group on Boarding Houses.

Design guidance for boarding house development needs to include standards and/or provisions on matters such as setbacks, building depth and separation, communal open space, solar access, ventilation, visual privacy, vehicle access and parking.

- Is a 12-25sqm room an adequate size for 2 people?
 - The Department's Council Working Group on Boarding Houses referenced reconsidering maximum and minimum room size requirements for boarding houses, having regard to standards set in the ADG for studio rooms.
 - One council suggested that all forms of housing, regardless of whether affordable or not, should meet the minimum size requirements in the ADG (35m² for a studio apartment), and that no person should have to live in housing smaller than the minimum size apartment set by the ADG.
I have to concur with this.
- Shouldn't all homes provide adequate private facilities in Sydney, particularly now covid is with us?
(The Department's Council Working Group on Boarding Houses suggested boarding house rooms should include a kitchenette and ensuite area - and I concur with this).
- Sunlight and natural ventilation need to become adequately regulated in boarding rooms
- Solar access needs to be considered for boarding house rooms as well as to communal living rooms
- Visual and acoustic privacy needs to be properly considered, unlike at present
- Communal space controls need to reflect the number of rooms in a boarding house, rather than the current blanket minimum control which doesn't make any different provision for 5 rooms or 54 rooms.
- Adequate open space needs to be provided, given that current ARHSEPP controls only requires a flat minimum rate of an area of 20m² with a 3m width, regardless of whether there are 20 or 200 lodgers

Additional design guidance has to be provided for boarding house development - otherwise we are building 2nd rate homes - albeit there now hopefully will be an affordability criteria.

Affordability criteria

What will be the definition of affordable mandated in the new SEPP?

(It's obviously quite complex to determine and guarantee that boarding house rooms are let at rents and / or tariffs that are considered affordable to very low, low and moderate income households - as flagged by the Working Group on Boarding Houses).

Registration with community housing providers

I concur with the Department's Council Working Group on Boarding Houses that all boarding houses must be managed by a registered not-for profit community housing provider, to ensure the boarding house is regulated under the Community Housing Providers (Adoption of National Law) Act 2012 (NSW) and to assist with ensuring compliance with the affordability requirement.

Perpetuity clause

I agree that the current requirement that a consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house and this should be embedded in any proposed new definition of a boarding house.

Boarding houses need to continue to provide affordable housing that remains affordable - in perpetuity.

And so I'm very surprised to read that the Government 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 to market rates.

Boarding houses surely need to be affordable permanently - and the Working Group on Boarding Houses stated this - also that the current requirement regarding no subdivision of a boarding house is continued.

- The Department's Council Working Group on Boarding Houses provided numerous examples of extortionate rents for one room, with no space and limited facilities - with the boarding house rates matching 'normal' unit rents - hence the introduction of 'affordable' into the boarding house definition.
- Reverting back to market rates after 10 years contradicts the very introduction of a new definition that deems boarding houses need to be (and are to be made) affordable

And again it's disappointing - and concerning - that Cumberland Council has made no comment on the important issue of 'affordability' - even though the EIE says the Government 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 to market rates.

Co-living

Concerns with proposed new land use definition / housing type of co-living - will it really provide diverse and affordable housing in the Cumberland LGA - should it be deleted as a housing type

Please note: It's surely a concern that Cumberland Council's submission makes no reference to the new co-living definition and housing type.

The Department's Council Working Group on Boarding Houses clearly detailed many faults with 'new-generation boarding house' provision - that had rents similar to 'normal' apartment rents - but without the facilities and amenity - and thus the Department is proposing to introduce that the 'boarding house' definition should include a requirement that boarding house rooms are affordable.

However, it seems that 'new-age generation boarding houses' will still exist - but under the new definition of co-living - the only main difference seeming to be that these new 'rooms' will have an extra 5sqm in size - and 4sqm of private open space!

The Department even says in its FAQs on the EIE that co-living type developments are currently being delivered under the boarding house provisions of ARHSEPP as 'new-generation boarding houses' - and that the new co-living 'rooms' will sit between boarding rooms and studio apartments in terms of size.

And these newly named 'co-living' homes will still apparently refer to a building held in single ownership that:

- Still only provides tenants with a principal place of residence for only three months or more
- Still only provides a private room accommodation for 1 or 2 adults
- The room still does not need to include a private kitchen and/or bathroom facilities

- The residence includes provision of a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry

And so it really is a concern that these dwellings, for 1 or 2 people, will only have a room that is 5sqm bigger than a boarding house room - with 4sqm of POS - yet will have no affordability requirement! So I fear that the issues with expensive new age boarding houses - with limited amenity - will continue.

This new type of housing will continue to resemble the existing new age boarding houses - but will have no affordability requirement - even though the Working Group on Boarding Houses so clearly flagged the undesirability of boarding house rooms that seem to have extortionate rents that match 'normal' apartment rental rates - without the provision of amenity!

But if the Government's evidence (perhaps falsely?) suggests that there is demand for this type of small and self-contained dwelling – particularly when located in close proximity to reliable public transport and services - then I suggest the demand is in more affluent suburbs - where dining out and external entertainment with friends can be a nightly pleasure.

I am a lone household - and can think of nothing worse than forever looking at 4 walls of one room - with my TV, fridge and bed all in the one room - and as a result of the covid pandemic this room can now even be my office space as well. And where does any family member or friend sleep if they want to stay over - or visit on holiday? Yes, I want access to desirable locations but any willingness to trade size of living space does not include a trade of all other rooms.

I realise financial necessity may make this trade necessary - but if there is no affordability requirement mandated with this type of development then the same issue of high rents without amenity - as currently exists with new age boarding houses - will continue to exist. And surely this major issue / rort will be reinforced and encouraged by this new housing type definition of co-living.

Need for design guidelines

I note the Government says design guidelines for co-living may be developed to accompany the new SEPP - and I suggest that guidelines are needed to address issues such as built form, setbacks and separations, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy, communal open space and parking.

I suggest the design guidelines should reflect much of the ADG - otherwise we will continue to provide 3rd world accommodation and living conditions in NSW - through new age boarding houses, now called co-living accommodation.

And all the issues that I listed above with boarding house provision will continue - and because I see it as such a serious issue - I cut and paste the pertinent concerns so that they are considered:

Concerns and issues with co-living development not addressed in the proposed SEPP:

- Minimum rear and side setback requirements need to be established - for all zones - otherwise co-living dwellings will be located very close to neighbouring properties, resulting in overshadowing, loss of deep soil and landscaping, and loss of privacy and amenity for these properties.
- Any possibility of excessive scale and bulk of co-living development - in all zones - needs to be considered - even in the R4 zone

Lack of amenity for co-living residents:

- Is a 30sqm room an adequate size for 2 people?

- The Department's Council Working Group on Boarding Houses referenced reconsidering maximum and minimum room size requirements for boarding houses, having regard to standards set in the ADG for studio rooms - with one council suggested that all forms of housing, regardless of whether affordable or not, should meet the minimum size requirements in the ADG (35m² for a studio apartment), and that no person should have to live in housing smaller than the minimum size apartment set by the ADG.
I have to concur - and co-living rooms should be no smaller than the studio apartment minimum size of 35sqm.
- Shouldn't all homes provide adequate private facilities in Sydney, particularly now covid is with us?
(The Department's Council Working Group on Boarding Houses suggests boarding house rooms should include a kitchenette and ensuite area so - ergo - shouldn't the more upmarket and expensive co-living rooms also have these amenities?)
- Sunlight and natural ventilation need to be adequately regulated in co-living rooms
- Solar access needs to be considered for co-living rooms as well as to communal living rooms
- Visual and acoustic privacy needs to be properly considered
- Communal space controls need to reflect the number of rooms in a co-living development, rather than the current blanket minimum control which doesn't make any different provision for 5 rooms or 54 rooms
- Adequate open space needs to be provided, given that current ARHSEPP controls only requires a flat minimum rate of an area of 20m² with a 3m width, regardless of whether there are 20 or 200 residents
Additional design guidance has to be provided for co-living development - otherwise we are building 2nd rate homes - that apparently will also have no affordability criteria.

Affordability criteria

If boarding houses are going to have a definition of affordable mandated in the new SEPP, why aren't co-living rooms? (The Department is surely simply transferring all of the new age boarding house issues to the newly created housing type called co-living - yet hasn't included in the new SEPP the requirement that co-living rooms need to be affordable - or at least reasonably priced - with rental rates reflecting the limited amenity provided).

Registration with community housing providers

If co-living developments simply resemble new age boarding houses, shouldn't co-living developments also be managed by a registered not-for profit community housing provider, as suggested for boarding houses by the Department's Council Working Group on Boarding Houses?

Perpetuity clause

I concur with the Department that subdivision not be permitted for the newly-proposed co-living developments - that co-living housing will be held in single ownership like a new generation boarding house - and this should be clearly stated in the SEPP.

I note the Department will 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. But this will be too late - if co-living developments have already been built - without appropriate standards and restrictions on rental rates already in place!

Any lack of space and facilities for one or two occupants in a co-living development - at rents that will likely match 'normal' apartment rents - but without the facilities and amenity - is not acceptable in our first world suburbs in NSW - and surely would not pass the pub test.

The Department needs to include in the 'co-living' definition in the new SEPP a requirement that co-living rooms are affordable.

Otherwise greedy developers will still be able to exploit planning laws and charge excessive market-place rents for accommodation that is below normal expectations and standards.

- I question if the NSW Government should even introduce this new land use definition / housing type - as it seems to be simply continuing the current new age boarding house regime under a different name - when the Department's Council Working Group on Boarding Houses so clearly discredited boarding houses and the rents charged - and wanted change - and hence the introduction of 'affordability' to boarding houses.
- And it would be fascinating to know what the Working Group on Boarding Houses thinks of this new definition of housing type.....as it seems to be in the face of all their feedback on their boarding house review.

Please note:

I fail to understand how Cumberland Council doesn't include any reference to the new co-living definition and housing type in its submission on the proposed new SEPP - particularly as Council has received much negative feedback from various residents on boarding house developments in the Cumberland LGA.

Seniors SEPP update

I note Cumberland Council makes no comment at all on Seniors SEPP provisions.

I concur with the amendment to the 'location and access to facilities' provisions - 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.

In-fill affordable housing needs to be designated for affordable housing beyond 10 years - needs to be in perpetuity?

The proposed SEPP doesn't seem to solve the issue of providing in-fill affordable housing beyond 10 years - with the developer still receiving income whilst renting these dwellings and then also deriving income from the sale of these dwellings at the end of the 10 year period.

The Department needs to seek a solution - to mandate and provide affordable housing units that will be dedicated to affordable housing in perpetuity - not simply for 10 years.

Build to purchase market

I see Cumberland Council's submission flagged that the proposed changes only affect rental housing - and that the build to purchase market also needs to be reviewed, regarding affordability.

I agree with this as I referenced in my section on BTRs - that access to affordable housing is needed to not only help people overcome rental stress - but also mortgage stress - and homelessness -and overcrowding - particularly in Sydney - particularly in the Cumberland LGA.

Housing affordability and housing mix remain key considerations for Cumberland, particularly given the household structures, income demographics and the cultural diversity of its population - and the proposed new SEPP needs to consider and better address these issues. I hope my submission can be helpful and useful in considering amendments and formulating the new SEPP. (And I apologise for the length of my submission but I wanted to explain the rationale behind my comments and suggestions - particularly as LGAs are so very different).

8 September 2020

The Hon. Robert Stokes
Minister for Planning and Public Spaces
NSW Department of Planning, Industry and Environment
By online submission

cc: The Hon. Dominic Perrottet, Treasurer

Greystar Submission – New Housing Diversity SEPP

We write on behalf of Greystar Australia Pty Ltd and our associated entities, collectively “Greystar”, in response to the Explanation of the Intended Effect for the proposed draft State Environmental Planning Policy (Housing Diversity) 2020 (the “New SEPP”). We believe the New SEPP addresses key considerations with regards to the NSW planning system and we acknowledge the inclusion of Build to Rent (“BTR”), co-living and purpose-built student housing as part of the evolving housing strategy.

Greystar believes the New SEPP is an integral step in the development of a thriving BTR sector which will unlock the full potential of the social and economic benefits of the housing product and support new investment in the recovery phase of COVID-19.

Leveraging our global experience and expertise as the global leader in rental housing, Greystar has detailed key policy issues and recommendations in response to the New SEPP, outlined in further detail in the Appendix.

Should you have any questions or wish to discuss any aspects of this submission then please do not hesitate to contact the undersigned on +61-412-459-063 or chris.key@greystar.com



Chris Key
Managing Director – Greystar Australia

Appendix

Build to Rent – Submission on NSW Government Policy Parameters

Policy Issue	Comment & Recommendation
Land Tax	
A 50% concession in Land Tax Rate for BTR class of development.	<p>Support with clarification in industry guidelines.</p> <p>Recommended that the Land Tax concession should commence at the point when developer/investor declares an intention to develop a site for the purposes of Build to Rent.</p> <p>Should a development not proceed for the purposes of Build to Rent, a claw-back mechanism could apply.</p>
Foreign Investment Surcharge	
Foreign investors exempt from stamp duty and land tax surcharge when investing in BTR.	<p>Support with clarification in industry guidelines.</p> <p>The exemption from the Foreign Investment Surcharge must apply to Build to Rent properties, and land held with the intention to develop for Build to Rent.</p>
LEP Standard Definition	
<p>BTR classified in LEP template as building or place that:</p> <ul style="list-style-type: none"> 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. 	<p>Support in principle.</p> <p>Recommend the minimum threshold be raised to 100 dwellings. This will ensure a higher standard of entry from experienced developers and operators as the nascent market grows, precluding more speculative investment.</p>
Mandatory Permitted Use	
<p>BTR a compulsory permitted use in the following zones:</p> <ul style="list-style-type: none"> R4 – High Density Residential B3 – Commercial Core B4 – Mixed Use B8 – Metropolitan Centre <p>It will also be permitted in R3 – Medium Density Residential where residential flat buildings are permitted. Councils could make BTR housing permissible in other</p>	<p>Support.</p> <p>Recommend mandatory inclusion in the following additional zones:</p> <ul style="list-style-type: none"> B5 – Business Development B7 – Business Park; and <p>inclusion in:</p> <ul style="list-style-type: none"> IN1 – General Industrial; and IN2 – Light Industrial, providing certain criteria can be met. <p>Recommended that the criteria include:</p>

Policy Issue	Comment & Recommendation
land use zones through amendments to their LEPs.	<ul style="list-style-type: none"> • site must be within 400m of zone where BTR is a mandatory permitted use; and • site must be within 800m of railway/metro station; and • site cannot be subject to future strata subdivision.
SEPP 65 Apartment Design Guidelines	
Consent authorities should be guided by the design quality principles in SEPP 65. The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology.	<p>Support in principle.</p> <p>The NSW Government should prioritise the development of specific development standards for the Build to Rent typology.</p>
Minimum Tenure as Build to Rent	
<p>Proposed that it would not be possible to strata subdivide a BTR housing development for the first 15 years and to prohibit subdivision in a B3 – Commercial Core zone, in perpetuity.</p> <p>The Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development.</p>	<p>Not supported.</p> <p>Restriction on strata subdivision should be limited to ten years.</p> <p>The Land Tax legislation creates a mechanism for a claw back where a developer changes the use of a property. The government has clearly anticipated circumstances where BtR schemes would be strata-subdivided earlier than 15 years.</p> <p>Therefore, planning controls should not be consistent with this approach, but account for it, whilst also ensuring a significant hold-period is enforced.</p> <p>10 years is a significant hold period, being two cycles of a standard review of strategic plans (Metro plan, District plans, SEPPs and LEPS)</p>
Minimum lease terms for tenants	
Proposed mandatory minimum lease terms for tenants of three years or more.	<p>Not supported.</p> <p>Investors and operators must retain discretion to manage their properties and tenancies.</p> <p>Suggest that leases must be <i>offered</i> for a lease term of up to three years to enable security of tenure, but flexibility for renters.</p>

Policy Issue	Comment & Recommendation
Build to Rent in the State and Regional Development SEPP	
<p>Build to Rent development in excess of \$100m of Capital Investment Value will be assessed as State Significant Development in metro areas and \$50m in regional areas.</p> <p>City of Sydney excluded from SSD provisions.</p>	<p>Support.</p> <p>Recommend a further clarification that any Build to Rent proposal seeking to be considered SSD must have at least 50% of the gross floor area of the development for Build to Rent uses.</p> <p>This will allow the co-location of additional non-residential uses within a BtR development.</p>
Affordable Housing Contribution	
<p>No mandated provision of affordable housing in Build to Rent developments.</p> <p>Guidelines <i>'must include policies to promote the development of new affordable housing and social housing in build-to-rent properties'</i>.</p>	<p>Do not support.</p> <p>There should not be an imposition of any conditions relating to the provision of affordable and social housing in Build to Rent properties developed on private land.</p> <p>Should the NSW Government seek to promote the provision of affordable and social housing within Build to Rent proposals, it must be confined only to development on public land.</p> <p>Any imposition of affordable or social housing contributions on Build to Rent developments will significantly impact development feasibilities and preclude any growth in the sector.</p>
Car Parking Standards	
<p>A minimum of 0.5 car parking spaces per dwelling in a Build to Rent development. Where a lower rate applies in a Council DCP, this rate could apply.</p>	<p>Do not support.</p> <p>A maximum of 0.5 car parking spaces per dwelling in a Build to Rent development should be mandated. Where a Council standard is higher, the 0.5 car parking rate should prevail.</p> <p>This is the more appropriate planning policy outcome, ensuring BtR is appropriately and strategically located in conjunction with existing transport infrastructure.</p>

26 August 2020

The Hon. Rob Stokes, MP
Minister for Planning and Public Spaces
NSW Department of Planning, Industry and Environment
52 Martin Place, Sydney NSW 2000

Dear Minister,

RE: PROPOSED NEW HOUSING DIVERSITY SEPP EXPLANATION OF INTENDED EFFECT – SUBMISSION BY GROUP HOMES AUSTRALIA

Group Homes Australia (GHA) appreciates the opportunity to prepare a submission to the Explanation of Intended Effect (EIE) associated with the proposed Housing Diversity SEPP (HD SEPP).

GHA congratulates the NSW Department of Planning, Industry and Environment (DPIE) on pursuing a holistic strategy for the housing sector, and supports the DPIE's commitment to delivering diverse, fit-for-purpose accommodation that meets the changing needs of our community. The range of new land uses proposed will support housing diversity and also complement existing land uses, such as group homes.

The proposed HD SEPP provides an important step forward for community members living with a disability or those experiencing social disadvantage in addressing unique housing needs which are developed at the highest possible standard.

Background

GHA has led the establishment of 12 group homes (with a further six in development) across Greater Sydney via Division 7 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP). This has been undertaken through the Development Application and Complying Development Application pathways. Accordingly, **GHA supports the continuation of both pathways under the HD SEPP** and appreciates the specific nature of the current complying development standards in delivering purpose-built group home development.

EIE Feedback

GHA **supports the current definition of a 'prescribed zone' which ensures group homes are established in suitable locations** where residents and staff can access essential services, transport, and community assets. With the state's population both ageing and growing, we believe that having a housing model where residents can stay connected to their local community and flourish in an accessible and socially inclusive home is fundamental.

We would welcome **clearer parameters regarding the assessment of community need as per clause 46(1)(a) of the ARH SEPP in instances where consent authorities query the extent of community need as part of their assessment**. We focus on people living beyond a dementia diagnosis (including younger-onset). In 2020, there is an estimated 459,000 Australians living with dementia, with 34% of those

Doing Dementia Differently



residing in New South Wales, and an estimated 1.6 million people involved in the care of someone living with dementia, resulting in clear need state-wide for greater housing options within local communities.

We request consideration be given to **redefining the criteria for developer concession contributions**. The significant social benefit delivered through our group homes should justify eligibility for the developer contribution concessions prescribed by respective Council's under the *Environmental Planning and Assessment Act 1979* (EP&A Act). We are currently ineligible but would welcome the DPIE considering a mechanism be embedded in the HD SEPP to expand these beyond only non-profit operators.

Finally, GHA **welcomes the proposed introduction of an exempt or complying pathway for the conversion of an existing dwelling to a group home**, being the key proposed amendment to group homes. The GHA model is focussed on creating a home environment for residents. The location of the group home forms a key consideration in the site selection process given our model seeks to provide opportunities for resident connection with their communities. This change in legislation would allow many more potential sites to fit our selection criteria and allow us to place them in more established neighbourhoods where residents can foster greater engagement with their local community.

In summary, GHA:

- Supports the retention of Division 7 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP), generally in its current form;
- Supports the retention of the Complying Development Application pathway for Group Home development;
- Supports the retention of the current definition of a 'prescribed zone';
- Would welcome clearer parameters regarding the assessment of community need as per clause 46(1)(a) of the ARH SEPP;
- Would welcome a mechanism for exemptions to Section 7.11 and 7.12 developer contributions where group homes are established by private developers;
- Supports the HD SEPPs intention to provide a quicker and easier process to allow an existing dwelling to be used as a group home; and
- Supports the consolidation of existing HD SEPPs and the intention for a more streamlined planning pathway for the housing sector.

We request that the DPIE commit to ongoing consultation with industry care providers and planning professionals in the preparation of the HD SEPP before its finalisation. GHA would welcome the opportunity to share our knowledge and sector experience through discussions with the DPIE, particularly in the event where amendments to the current provisions outlined in Division 7 of the ARH SEPP are being explored.

Yours sincerely,



Jonathan Gavshon

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