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Submission: I am an Architect who prepares several applications a year under the affordable rental housing SEPP. This makes up a significant portion of my work for my business. Proposing to change legislation in the midst of a pandemic does not help create certainty and reduces potential investment. Enquiry since the release of this report has dropped off due to worry regarding changes to legislation. This has already affected my financial well being as well as the well being of my staff, my family and colleagues.

Submission on the Housing Diversity SEPP Explanation of Intended Effect

9 September 2020

2200540

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

Dear Mr Betts

SUBMISSION ON THE HOUSING DIVERSITY SEPP EXPLANATION OF INTENDED EFFECT

HammondCare is pleased to make this submission on the Housing Diversity SEPP - Explanation of Intended Effect (EIE). HammondCare is strongly supportive of the Department of Planning, Industry and Environment's (DPIE) intent of facilitating more diverse and affordable housing forms, and in particular the review of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP). However, HammondCare is seriously concerned that the EIE as currently drafted will generate significant issues for the seniors housing sector and that the intended outcome will not be achieved.

This submission sets out our key issues with the EIE as well as making a number of suggestions based on our detailed experience working with the Seniors SEPP.

1.0 Key Recommendations

As set out in detail in Section 3.0, HammondCare requests that DPIE:

- not amend the SEPP to allow development standards in the LEP to prevail as this will result in a direct reduction in the supply of seniors housing and add new barriers to the approval of much-needed seniors housing projects;
- not limit clause 4.6 variations to 20%, as this arbitrary number has the potential to prevent merit-based assessment and the delivery of more innovative developments that provide positive planning outcomes for the community and Australia's ageing population;
- undertakes a holistic review of the Seniors SEPP in consultation with the seniors industry and develop a new policy that genuinely supports the increase in the supply and diversity of residences that meet the needs of older people and people living with a disability;
- provide for both a 20% FSR and height bonus for development comprising seniors housing with a minimum of 10% as affordable housing to enable seniors housing to be financially competitive with other uses and deliver positive social outcomes; and
- provide a new planning incentive to support the renewal of existing seniors housing stock to allow providers to upgrade their assets to deliver contemporary standards of care to their residents which is currently inhibited by the existing planning framework.
- remove the affordable places provisions of Clause 45(6) for aged care providers who already meet the 'supported resident ratio' under the Act.

In addition to the above recommendations, this submission (See Section 4.0) also makes a number of other recommendations that we would request DPIE to consider as part of its review.

2.0 Background to HammondCare

HammondCare is an independent Christian charity (ABN 48000026219) that specialises in dementia and aged care, palliative care, rehabilitation and older people's mental health. We are committed to supporting people of low or no financial means as part of our mission and we are recognised both nationally and internationally as being one of Australia's most innovative health and aged care providers. We offer hospital care, residential aged care, and community services across NSW, QLD, ACT and Victoria. HammondCare also runs the national Dementia Support Australia service in every state and territory.

In 2019, HammondCare cared for approximately 25,000 people, employed 4,089 staff, and delivered a social dividend¹ of \$26 million. Our current portfolio of land in NSW includes 14 sites across Sydney metro and regional NSW, with a total area of over 50 hectares and one site in Victoria. We are actively acquiring new sites to develop new residential aged care and independent living accommodation as well as constantly seeking to refresh our existing stock in order to ensure fit-for-purpose, evidence-based accommodation for older people that also provides a high level of quality care. This includes small, domestic and familiar residential aged care environments, which, in conjunction with a social model of care, are shown to increase quality of life for residents, reduce presentation to a hospital or emergency department and reduce provision of potentially inappropriate medications.²

Our active role developing new sites and redeveloping existing ones, has provided us with extensive experience working with the Seniors SEPP and allowed us to develop a detailed understanding of the benefits and issues with the policy that need to be considered as part of the process of drafting the new Housing Diversity SEPP.

3.0 Key Issues

3.1 Local controls must not prevail over State Policy

HammondCare's greatest concern with the EIE is the potential for LEPs to prevail over the Seniors SEPP. This proposed amendment is significant in that it reverses a long-standing and important 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 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. A practical example of the impact of this is in most low-density residential zones, which have an FSR of 0.5:1 or lower. The proposed change will mean a reduction in the permissible FSR of seniors development and in particular Residential Aged Care Facilities (RACF), which will see a reduction in floorspace down from 1:1 to 0.5:1. The impacts of this change will be enormous, and will considerably impact on the feasibility of new developments for aged care. If the intention of the SEPP is to improve delivery, this will do the opposite.

In addition to the building height and FSR development standards of the LEP prevailing, we have serious concerns that councils will seek to impose seniors housing specific development standards (such as access to services, increased parking rates etc) to further control or restrict seniors development in their respective LGA.

¹ Calculation of the cost of services and activities that would not otherwise occur if HammondCare did not exist.

² Dyer SM et al, 'Clustered domestic residential aged care in Australia: few hospitalisation and better quality of life' *the Medical Journal of Australia*, 208, 10 (2018): Access: <https://doi.org/10.5694/mja17.00861>

The proposed changes will therefore reduce the development potential of many seniors housing sites, and more generally is likely to make the provision of seniors housing more challenging than it already is.

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 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 most development applications proposing seniors housing rely on the provisions of the Seniors SEPP for both permissibility and/or viability reasons.

If DPIE goes against established legislative planning practice and implements the proposed changes it will directly and significantly reduce the provision of seniors housing, completely undermining the overarching objective of the original Seniors SEPP and the new SEPP. It would also impede likely recommendations by the Royal Commission into Aged Care Quality and Safety (Royal Commission) which has heard evidence about the *'specific need for more social affordable housing that is suitable for older people to age in place'*.³ As a result, HammondCare strongly requests DPIE not amend the SEPP to allow development standards in the LEP to prevail.

3.2 Clause 4.6 must not be capped

Development standards within the Seniors SEPP have always been able to be varied. This has been an important function of the Seniors SEPP and has allowed for site specific responses to be accommodated, where appropriate, and of merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which appears to be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of merit.

The current process for getting the support of a clause 4.6 variation is extremely difficult and variations greater than 10% are rarely granted by consent authorities. However, there are specific circumstances where such variations are appropriate and in the public interest. For example, when HammondCare developed the first aged homeless accommodation in Darlinghurst it was supported by a clause 4.6 variation that exceeded 20%. The variation allowed for the delivery of additional specialist care for older people who are homeless or at risk of homelessness, which was considered to be strongly in the public interest. Applying an arbitrary 20% limitation on clause 4.6 would have significantly reduced HammondCare's ability to develop this important service which provides both accommodation and aged care needs for older people that are homeless. It is for this reason that clause 4.6 exists, as it enables appropriate flexibility, and HammondCare requests that DPIE not constrain its potential given the risk that it could prevent better planning outcomes such as the Darlinghurst project.

3.3 A holistic review and complete redrafting of the SEPP is required

SEPP No. 5 Housing for Older People or People with a Disability was first introduced in 1982. This 40 year old policy forms the basis of the current Seniors SEPP, which along with the Guidelines are now outdated and do not reflect the modern forms of seniors accommodation that the market demands.

³ Transcript of Sydney Hearing 3, Accommodation, 13 August 2020, p 8711. Accessible: https://agedcare.royalcommission.gov.au/sites/default/files/2020-08/13%20August%202020%20-%20Transcript_0.pdf

The drafting of the SEPP also creates regular confusion and often requires an understanding of multiple decisions of the Land and Environment Court in order to interpret. HammondCare is regularly required to provide legal advice to consent authorities in order to confirm aspects of the SEPP which are uncertain.

The uncertainty created by the current legislation has a significant impact on HammondCare's ability to make commercial decisions, which in turn impacts on our ability to provide seniors housing and care for some of NSW's most vulnerable people.

HammondCare is concerned that based on the EIE, the current SEPP will be relocated into the new SEPP with further amendments. This approach will fail to address the numerous existing problems in the current policy and potentially have further unintended consequences. Accordingly, HammondCare requests that DPIE undertake a holistic review of the Policy in consultation with the seniors industry and develop a new policy that genuinely supports the increase in the supply and diversity of residences that meet the needs of seniors or people with a disability. We note that we would welcome the opportunity to work with DPIE to prepare the new Policy and any associated Design Guidelines. The Royal Commission is also considering the development of new 'National Aged Care Design Principles and Guidelines' which may be relevant to the new SEPP.⁴

Further it is noted that whatever form the draft SEPP takes it is absolutely essential that it be publicly exhibited to allow for a detailed review and stakeholders to review the practical implications of the draft Policy and make submissions accordingly.

3.4 Greater planning incentives are required for affordable seniors' providers

The EIE makes note that approximately 20% of the housing that LAHC provides is for seniors and people with a disability. There is no recognition that a large proportion of seniors housing is provided by other not for profit entities such as HammondCare, of which a significant percentage is provided as affordable.

DPIE's recent decision to prevent seniors housing in the Metropolitan Rural Area has further reduced the quantum of land available for seniors housing and its ability to be financially competitive when compared to standard residential development.

Seniors housing (both ILUs and RACFs) are also typically larger than standard residential development due to mobility spatial requirements, and often require provision of onsite services. As such seniors developments typically generate lower yields when compared to standard residential apartments and are thus less financially competitive in the market. Whilst the standardisation of definitions is generally a welcome change, the revised definition will reduce the effective development yield of seniors projects.

If DPIE wants to facilitate the delivery of seniors housing to meet the needs of the State's ageing population, as set out in the aims of the new SEPP, it must reduce the barriers to their development and introduce greater planning incentives in urban areas to allow the sector to be financially competitive. This is also consistent with consumer preferences to 'age in place' and the Royal Commission into Aged Care Quality and Safety's draft proposition AC2 to develop '*Incentives for construction of accessible housing for ageing Australians*'⁵.

It is our view that the existing Vertical Village bonus, whilst helpful, does not provide sufficient incentive to achieve the objectives of the SEPP, and that DPIE should review the clause to assist the seniors housing sector and in particular not for profit and charitable organisations that provide affordable seniors housing. Accordingly, HammondCare requests that the new SEPP provide for both a 25% FSR and height bonus for

⁴ Royal Commission into Aged Care Quality and Safety Sydney Hearing 3 (Accommodation) Draft Proposition AC5: <https://agedcare.royalcommission.gov.au/system/files/2020-08/RCD.9999.0420.0001.pdf>

⁵ Royal Commission into Aged Care Quality and Safety Sydney Hearing 3 (Accommodation) Draft Proposition AC2: <https://agedcare.royalcommission.gov.au/system/files/2020-08/RCD.9999.0420.0001.pdf>

development comprising seniors housing and which complies with the 'supported resident ratio' set by the Department of Health (refer to Section 4.2 below). The FSR bonus will assist with making seniors financially competitive and the height bonus will remove the regular tension created by the additional FSR which cannot be accommodated within the height control.

3.5 Renewal of ageing seniors housing stock

The findings of the Royal Commission, the impact of COVID 19, the implementation of the new Aged Care Quality Standards and HammondCare's own commitment to high quality care reinforce the need to constantly renew existing seniors housing stock. However, in many cases updates are not feasible due to the fact that many sites are already built to their full development potential and more area is now required per resident to meet contemporary standards.

Facilitating the orderly redevelopment and increasing density would allow HammondCare and other providers to sustainably renew and increase their existing seniors housing stock, in areas where seniors are already established and importantly allow them to deliver contemporary standards of care to residents which is currently inhibited by the existing planning framework.

A new provision could be implemented for the renewal of existing Seniors Housing owned and managed by not for profit / charitable organisations that works in a similar way to the vertical villages provision. Such a clause could apply to facilities that were mostly (i.e. minimum 50%) constructed at least 20 years ago. A time period is preferred for the trigger, rather than a specified date, so that the eligibility for the bonus moves with the SEPP as it ages. Should a site meet these criteria, then it would be eligible for a 20% FSR bonus and building height bonus. Specific provisions could be introduced into the SEPP, such as design excellence and amenity provisions, to ensure that the additional density is appropriate in the context of the site.

4.0 Other Matters

4.1 Overnight respite centres

One of HammondCare's service offerings is the provision of respite facilities to assist primary care givers to take a temporary break from their carer's role whether it be for a day, overnight or longer-term stay. The key to providing this service is the flexibility to work around the needs of the carer and those requiring care. However, the delivery of this model is often complicated by the current uncertainty surrounding the land use categorisation of this type of development.

The Standard Template LEP includes a standard land use definition for respite day care centres, however, this definition excludes the provision of overnight accommodation and there is currently no definitive land use definition for an overnight respite centre. As a result, HammondCare has experienced inconsistencies between LGA's in the approach to categorising this kind of development which creates uncertainty and additional risk in the acquisition or leasing of sites and therefore the delivery of this important community service. The use could potentially be categorised as either a "group home" (permanent or transitional), "health service facility" or "hostel". Yet, none of these definitions are considered to accurately reflect the actual use of providing respite care and, depending on which categorisation is used, may be restricted in the areas where it is most suited.

Given that there is a distinct definition for respite day care centres, it is considered that the SEPP should also include a definition for overnight respite centres or that the existing land use could be broadened to allow overnight accommodation (noting that the potential environmental impacts associated with this type of development is generally not significantly different). This would provide greater clarity around the land use and increase the opportunities for this low-impact use to be delivered in areas where it is most needed.

4.2 Affordable Places

Clause 45(6) of the Seniors SEPP requires developments which utilise the vertical villages floor space bonus to designate at least 10% of the dwellings for the accommodation of residents as 'affordable places'. This requires the provider to identify which of the dwellings in the development will be set aside as affordable places. Whilst the provision of affordable and equitable care is supported by HammondCare, and is in fact a core objective of its Mission, the requirement to nominate specific dwellings can be problematic for its operations as it can result in the unfortunate situation whereby someone may be denied care because they do not qualify for the affordable place, despite one being available.

Furthermore, the current requirements do not allow HammondCare to target affordable places where they are most needed across their aged care facilities, as demand dictates. Demand for affordable places can be relatively low in some areas but much higher elsewhere but the SEPP currently requires a blanket 10% of places to be provided on a site-by-site basis. While HammondCare contests this requirement for aged care providers (see next paragraph), if the requirement stands, it would be a more effective use of HammondCare's resources to allow a higher proportion of non-subsidised places to be provided in more socioeconomically disadvantaged regions. It is also worth noting that the demand for affordable places will vary overtime and the current blanket requirement does not provide the necessary flexibility to target these services as needed.

Aged care providers are already under strict obligations to meet the 'supported resident ratio' of the region in which they are located. This ratio is set by the Department of Health in accordance with section 14-5 of the *Aged Care Act 1997 (Cwlth)*. Depending on the region, the ratio varies between approximately 15% and 40%⁶ and is set as a condition of allocation of aged care places. HammondCare has committed to a higher supported ratio and across HammondCare's residential aged care services approximately 46% of aged care recipients are of low means. For independent living, approximately 15% of rooms are concessional. Providers like HammondCare therefore already comply with, and exceed, the minimum affordable housing requirements of the SEPP. Requiring not for profit aged care providers who exceed the required minimum supported ratios to also register under the affordable housing scheme is as such unnecessary, unduly burdensome and an inefficient use of a provider's resources.

As such, it is recommended that the affordable places provisions not apply to aged care providers who already meet the 'supported resident ratio' under the Act. This will not only allow organisations to best direct their services to the people and regions most in need, it will remove the need for local government and/or the DPIE to engage in compliance monitoring associated with the current affordable places provisions as this is already ensured by the existing framework established by the Department of Health.

4.3 Location and access to facilities

Clause 26 of the Seniors SEPP nominates a range of services and facilities that a seniors housing development must have convenient access to in order to benefit from the SEPP. This includes facilities such as shops, banks, community services and medical practitioners.

HammondCare encourages the Department to undertake a review of the nominated services to ensure that they remain relevant to current care models and technologies. To this extent, the clause should recognise and allow for these services to be provided on site where relevant to reflect current practices and to avoid unreasonably restricting the use of the SEPP where it can be demonstrated that equivalent (or often improved) access is provided. For example, many of HammondCare's facilities have regular on-site visits by general practitioners, allied health staff and other medical practitioners which means residents do not need to leave the site to access these services. Some HammondCare homes such as Caulfield Village in Melbourne also have

⁶ For current ratios, please see: <https://www.health.gov.au/initiatives-and-programs/residential-aged-care/responsibilities-of-residential-aged-care-providers#supported-resident-ratios>

a 'village' atmosphere and include on-site services such as a salon, supermarket, men's shed and cottage gardens. However, based on the current drafting of the clause, it is unlikely that this would be accepted despite being a more convenient, safe and preferred option for residents.

Similarly, where suitable means of access cannot be provided via public transport or a suitable access pathway within the Greater Sydney area, provision should be made to allow for the service provider to offer their own means of safe, convenient travel such as the operation of a bus shuttle to a nearby centre or train station. It is noted that areas outside the Greater Sydney area are not restricted to access to only "public transport" and instead are only required to demonstrate access to "a transport service" to satisfy this clause. Extending this avenue to sites within Greater Sydney would open up opportunities that may otherwise be unsuitable due to the topography of surrounding land or other constraints which are largely outside the control of the provider. Again, this could result in enhanced outcomes for residents as the service could be tailored to the specific needs of the facility.

In addition, the drafting of Clause 26(b)(iii) should be reviewed to clarify that access to a public transport service is only required to be available from a development once each morning and afternoon between Monday and Friday. The current drafting of the clause could be read as requiring access to public transport seven days a week in the morning period but only between Monday and Friday in the afternoon period (which is understood not to be the intent of the provision).

4.4 Environmentally sensitive lands

Schedule 1 of the Seniors SEPP lists a range of environmentally sensitive land types on which the SEPP does not apply. These land types have significant implications for some sites, in that they can prevent the use of the SEPP, and therefore it is important that they are clearly defined. We support a review of the listed terms to ensure their relevance within the current planning framework and the terms should be standardised where possible and/or clearly defined. For example, on one of HammondCare's development sites it was unclear whether 'flood prone land' would fall under the category of 'floodway' which is nominated as an environmentally sensitive land type under Schedule 1.

Secondly, Clause 4(6) of the Seniors SEPP should include explicit provisions that confirm any restrictions on land to which the policy applies, is only applicable to the portion of the lot that is actually impacted by the environmentally sensitive land type. There are numerous cases across HammondCare's properties, for example in North Turrumurra and Wahroonga, whereby only a small portion of the site is affected by a potentially environmentally sensitive land type (such as flood prone land) but the whole development has been excluded from the SEPP provisions, despite not being located on the mapped land and being able to appropriately manage the issue. This is particularly relevant for seniors living developments which are often located in fringe areas and consequently border environmental areas.

This could be achieved by adopting a similar provision to that contained within *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* in relation to State Heritage Items (Clause 1.17A(3)) which makes clear that if an item does not comprise the whole of the relevant land, that the exclusion only applies to the part of the land that is described/mapped within the relevant EPI. This approach would ensure that the relevant land is protected whilst avoiding unnecessarily restricting land that is otherwise suitable for development.

4.5 CDC provisions for group homes

The Affordable Rental Housing SEPP currently contains provisions that permit the construction of Group Homes as complying development (Clause 45). This is supported on the basis that it promotes the efficient delivery of vital community housing and these provisions should be carried over into the consolidated SEPP.

In addition, it is considered that Clause 45 and the associated development standards at Schedule 2 of the SEPP, should be reviewed to make it explicit that an existing dwelling which is constructed in accordance with the applicable development standards may be used for the purposes of a group home. The current drafting of the provisions could be interpreted as only applying to new buildings, however, there is no reason why an existing dwelling that already meets these standards should not be able to be effectively converted to a group home.

Although a minor change to the SEPP, clarification of this matter would greatly assist HammondCare deliver their critical services to communities across NSW, in particular regional communities, as their current model relies on renting suitable dwellings in residential areas and converting these to temporary group homes for the purposes of offering respite care to those in need. As HammondCare utilise existing rental houses, the ability to use a CDC to change the use to a group home is critical to the efficient delivery of this service. This is because a DA would not typically be submitted until such time as a lease is obtained and the payment of rent commences, resulting in uncertainty, wasted money and delayed delivery of care whilst a DA is assessed (which can take upwards of 3 months for a simple change of use application).

Furthermore, if the above recommendation concerning overnight respite centres is adopted, it is considered that the CDC provisions should apply equally to this land use.

4.6 Clarification regarding the triggers for a Site Compatibility Certificate

The wording of Clause 24(1)(a)(i) of the Seniors SEPP requires review to make it explicit that a Site Compatibility Certificate (SCC) is not required for developments on land that adjoins land zoned for urban purposes, where the site itself is zoned primarily for urban purposes.

Clause 24(1) of the Seniors SEPP currently reads:

24 Site compatibility certificates required for certain development applications

(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if—

(a) the development is proposed to be carried out on any of the following land to which this Policy applies—

(i) land that adjoins land zoned primarily for urban purposes,

(ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),

(iii) land that is used for the purposes of an existing registered club, or

(b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.

In HammondCare’s experience, consent authorities, including DPIE, have misinterpreted this clause and have requested a SCC for sites that adjoin land zoned primarily for urban purposes, despite the site itself being zoned primarily for urban purposes. In particular, this issue has arisen where the site is zoned special uses and is surrounded by land that is also zoned for urban purposes (and is therefore considered to be zoned for urban purposes in accordance with Clause 4(5) of the SEPP).

Where a site is zoned primarily for urban purposes, Clause 24(1)(a)(i) should not trigger the need for a SCC because it is effectively a continuation of the urban land rather than ‘adjoining’ urban land (which would

indicate a separation of land use). It would not make sense for clause 24(1)(a)(i) to apply to sites that are themselves zoned for urban purposes because almost all of these sites would adjoin other sites zoned for urban purposes and, therefore, the intent of the SCC process would not be achieved. It is noted that the purpose of the SCC is to determine whether the land on which seniors housing is proposed would be compatible with the surrounding land use, which is clearly the case for sites zoned primarily for urban purposes. It is only on non-urban land where it would be necessary to demonstrate that the use is suitable due to it adjoining primarily urban land.

Although it is understood that the current wording of the clause supports the above interpretation, it is considered that the drafting of this clause could be more explicit. On past occasions, a legal opinion has been required in order to convince the assessment authority that a SCC is unnecessary in the circumstances. Whilst, the assessment authorities have all subsequently accepted the advice, it has resulted in significant and unnecessary additional costs and delays to the assessment process which could be avoided via improved drafting of the SEPP.

5.0 Conclusion

It is encouraging that DPIE is reviewing the Seniors SEPP, however we believe that it is crucial that a holistic review and redrafting of the Seniors SEPP is undertaken in consultation with the seniors living industry. In relation to the specific EIE, HammondCare is greatly concerned by the proposed changes to allow LEPs to prevail over the SEPP and limitation on clause 4.6 variations. Further HammondCare requests that the Department use the SEPP to provide additional planning incentives to providers such as HammondCare to build new affordable seniors housing and renew existing housing. We would welcome the opportunity to discuss any aspects of this submission further with the Department.

Yours sincerely,



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Dear Sir/Madam

Thankyou for the opportunity to comment on the proposed Housing Diversity SEPP. Please find feedback related to the proposal.

1. The density in the new “Low Rise Diversity” code is already higher than previous densities and in many cases higher than the floor space ratios on local environment plans. Given this, the proposed code should not stack a further density bonus of 20% for affordable housing development approved under Low Rise Diversity.

Instead of adding the development types eligible for the 20% bonus as proposed, the bonus should be removed for any and all complying development – the bonus should only be for applications approved by consent as originally intended. Such a density bonus is inherently risky to apply over the top of the carefully crafted complying development code, and is likely to butchered design and amenity.

2. The new type “Co-Living”, as proposed, is inconsistent with the prevailing community sentiment which opposes large-scale micro-apartment buildings.

In existing planning processes there is a concept of producing the right mix of studio, 1-bedroom, 2 bed and 3 bed apartments in the design of a building, and relating the proposed distribution to the supply and demand of the respective types in the vicinity.

It would be better to promote Co-Living another type within the mix of dwelling types in a new building – or at least facilitate that as an option in the interests of diversity, as opposed to having the dedicated, large-scale Co-Living buildings which do not meet community expectations.

If the restrictions on Co-Living are intended to channel development into build-to-rent over other traditional types, then this is the wrong thinking. What value is this giving to the community? It is not clear why we need some of the infamous buildings seen in the US and UK, in NSW.

3. It is unnecessary to mandate a “minimum” number of Co-Living rooms (currently proposed as 10). Similarly, it is unnecessary to restrict Co-Living to high density zonings - why can't there be a low density Co-Living product – and why should lower-social-economic groups be restricted to high density living?
 - a. In rural zones: The Co-Living framework could be used to develop commune-style properties
 - b. In R2 zones: Co-living should be included but with a density consistent with that recommended by the Boarding House Working Group, for a maximum of 6 double units (12 persons).

Co-Living should be permitted in the zones R1/R2/R3 with < 10 units to meet the Departments strategy of delivering a diverse and affordable housing mix.

4. The proposal – which as proposed may effectively end “Boarding House” as a development type unless large in scale – skips over the quality and safety rationale for introducing Boarding Houses into the ARHSEPP code in 2009, without proposing an alternative solution to mitigate the re-emergence of those problems.

That is, the code is missing clarity on how such things as “rooms for let” are managed or approved (or not approved). Presently there is a propensity of 2 bedroom apartments hosting 8+ tenants and they are unregulated and dealing in cash – and not all of those tenants are students. The proposal as is will lead to this style of off-the-radar housing becoming more common - by blocking the instrument that was designed to offer a solution to it.

A better approach – is to treat “Boarding House” more as a type of use for an existing building rather than a license to develop a microapartment building of dozens of “rooms” – with development simply been that development required to bring the premises up to standard.

This also aligns to community expectation that the boarding house be more temporary in the lifecycle of a building, and it ensures consistency of bulk, scale and density.

Under this redefinition of “Boarding House”, the Boarding House “use” should either remain in all residential zones, or be removed entirely from the planning instruments, or adopt an approach consistent with the final approach adopted for Short Term Rental Accommodation.

5. Restricting Boarding Houses to be developed by a registered not-for-profit provider – as drafted - effectively ends private development in the 12-25 square meter dwelling space and is not the right way forward as it will reduce diversity and the supply of decent rental options.
This condition should be removed.

6. The proposal is over-reaching in its labeling of cohorts, classes or “castes” of the population, particularly “students”, “long-term renters” and the undefined “eligibility based on income” Boarding House cohort.

While current planning identifies certain groups there is a clear merit behind those identifications – obligations to disadvantaged individuals in the case of social housing and group homes, and in the case of seniors housing and low-income housing – to benefit all community members by having those options available as they go through life stages or fall on tough times.

In the proposed SEPP, cohorts are more specific and come across as arbitrary and overkill.

- Who is to say only students are in need very cheap accommodation?
- What business does NSW Planning have in defining long-term renters, and why does NSW Planning need to mandate for all these people to be clustered in one massive development?
- Why does “eligible low income” for a Boarding House need to be across the whole development (unlike existing low income provisions which are just for a portion of the development)?

The Department should drop the definition of “student housing” as a distinct type and resist defining a new type for “long-term renters” in the form of the “build to rent” definition. For Boarding Houses, the code should resist assuming to know who is “low income” as these facilities serve a role as a “last choice” housing option available to all individuals including those who cannot prove their eligibility, such as some types of migrants or persons escaping domestic violence.

7. The Co-Living type is likely to result in the deferment of construction of DA-approved sites, until after the pandemic, as developers choose to abandon their existing shovel-ready consents. For those sites with no active consents, new consents are only likely to be actioned once uncertainties around the feasibility of high-density living resolve.

This is, therefore, the wrong time to introduce a reformative code for affordable housing. Introducing it now will be reducing construction activity at the wrong time. Even flagging the code is wrong – as it will motivate developers to defer projects in the hope of more generous consents on the horizon. Those contrary interests need to be killed – perhaps by limiting the new code to build-to-rent only.

8. The proposal appears to have been written by special interest groups. The Universities, having advocated substandard student housing, big developers, having advocated large-scale build to rent, and Local Councils, having advocated for the ability to further specify and control who can live in their local areas via the planning instruments.

An inherent imbalance is a lack of acknowledgement for what the ARHSEPP has delivered. Around 1000-1250 Boarding House developments (Fair Trading), totaling 20-30k rooms, is increasing the housing stock in of this type by around 25% in the last 10 years while the population only increased by 9.5% - a discrepancy that will have reduced rents 5-10% from what they would otherwise been. If rent for this product is now “only” \$400 a week, then this is actively saving NSW Boarding House residents \$500 million dollars a year in rent.

The replacement will be less effective in delivering this outcome – while at the same time falling short of community expectations around overdevelopment.

There is an absence of independent assessment of the situation (as opposed to relying on the assembly of self-interested ‘inputs’ from the consultation partners) and this points to a lack of due diligence in process.

9. There appears to be no consistency between this proposal and the housing strategy published just months earlier. **Why have a Housing Strategy if it is not used to shape policy?**

10. The WHO has said it hopes COVID impacts will be less than 2 years. Any new development under these provisions will not break ground in that time and will come too late to stimulate construction.

The Department should work through these and other issues as it will be impossible regardless for these new provisions to result in new construction work before the end of the pandemic.

The ARHSEPP proposals in particular stand out as needing more big-picture thinking. The ARHSEPP changes could be decoupled from Build-to-Rent so that Build-to-Rent can be promoted and developed sooner.

Thankyou

9 September 2020

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2150

Dear Mr Betts,

RE: Housing Diversity SEPP – Explanation of Intended Effect

Harbison is a community-owned organisation which has been dedicated to providing Seniors Living and Aged Care services in the Southern Highlands of NSW for over 60 years. We currently provided services to more than 300 people across 2 sites and the broader community.

Integrated Design Group has assisted Harbison in preparing this submission.

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

As a community-owned organisation Harbison is deeply concerned that the EIE as currently drafted will generate significant obstacles to obtain future approval for these forms of residential accommodation and that significantly reduce the future capacity of its existing sites, which will make further development unsustainable and jeopardises our future as a provider of care and housing for Seniors in the Southern Highlands.

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

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- The clear intention to restrict this valid housing option, with no valid identified alternative, to a housing choice which is providing for a growing community need, with ageing being the most significant demographic change impacting NSW now and in the future.
- The potential for Local Environmental Plans (LEP) to override the provisions of a State Environmental Planning Policy (SEPP) and the localisation of controls for seniors development.
- The limit on clause 4.6 variations to a maximum of 20%.
- The missed opportunities to update the controls and design guidelines within the current Seniors SEPP which are 30 years old and do not reflect modern design standards.
- The lack of recognition of social and affordable housing providers other than the Land and Housing Corporation.
-

Our key recommendations are:

- That the SEPP continue to override LEP controls and continue to provide consistency and certainty in respect of controls applying to seniors developments.
- That the incentives be retained and expanded to apply where shop top housing is permitted.
- That incentives be provided for the renewal of ageing retirement villages.
- That if DPIE is intent on returning controls to the local level that exemptions from the Seniors SEPP only be granted where it has been demonstrated that the local provisions will deliver seniors housing to meet the demand within the relevant Local Government Area. 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, if an exclusion is applied to ensure consistency is maintained and that local onerous controls are not implemented.
- 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.

Localisation of Seniors Housing Controls

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

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

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

The consequence of this is likely to make the provision of seniors housing more challenging than it is already. Seniors housing (both ILUs and RACFs) 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 RACFs 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 Aged Care Facilities to make a level playing field, and prior to the MRA exclusion zone being implemented last month into the Seniors SEPP, it allowed seniors housing on non-urban zoned land that wasn't available to residential developers.

Implications of Specific Changes

Definition of height

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.

Harbison has previously had Council use their own height controls to limit our capacity to provide housing, only allowing single storey by measuring height to the roof ridge limiting our capacity to provide housing. Council have only recently accepted SEPP Seniors interpretation of height, approving more than 1 storey across a small portion of our site which has 3 frontages.

Floor space

It appears that the proposal suggests that floor space will be determined by the LEP, as most low density residential zones have an FSR of 0.5:1 or lower this will mean a reduction in the permissible FSR of seniors development and in particular RACFs which will see a reduction in floorspace down from 1:1 to 0.5:1.

The impacts of this are enormous on services already struggling with the removal of significant federal funding 3 years ago and now dealing with COVID. If the intention is to improve delivery, this will do the opposite. Most providers operate with models of 96 residents or 144 residents, but essentially on average a RACF building in a Residential zoned R2 or R3 for 96 residents will require a site area of 5,000-5,500sqm and 7,000-8,000sqm for 144 residents. The changes as proposed could double the required site area, this will significantly impact the cost of future RACF projects and also cripple the feasibility of sites already purchased by providers. The suggested CI4.6 path to a potential maximum 20% increase is both uncertain and will fall significantly short of the required outcome to facilitate the delivery of Seniors Living projects

Limit of Clause 4.6 variations

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP No. 1. This has been an important function of the Seniors SEPP and has allowed for site specific responses to be provided where appropriate and of merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which appears to be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of merit.

Recognition that many seniors housing providers are social housing providers

The amendments to the Seniors SEPP make note that approximately 20% of the housing that LAHC provides is for seniors and people with a disability. There is no recognition that a large proportion of seniors housing is provided by other social housing providers and other not for profit entities. The DPIE should be consulting directly with these entities to understand the challenges they face in delivering affordable housing for seniors to ensure the changes proposed will enable the key delivery of seniors housing by a range of social housing providers.

Harbsion currently provides housing for a number of residents at a concessional standard but with limited support, being able to provide more housing makes this more sustainable.

Conclusion

In summary it is encouraging that DPIE is reviewing the Seniors SEPP, however we believe that it is crucial that the Seniors SEPP is retained with further incentive provisions and that it has precedence over LEP controls. Without this:

- Councils will be likely to impose more onerous controls which will affect the viability of seniors developments;
- Seniors Housing providers will not have any certainty as to the likely approvals they will be able to obtain; and

- Seniors Housing providers will be less likely to be able to compete in the market and provision of new seniors housing will likely reduce and therefore not meet the increasing demand for this type of accommodation.

We are currently at a pivotal point in terms of providing adequate supply of housing options for the ageing baby boomer generation, in having an appropriate planning framework to deliver sufficient accommodation which is especially designed to be able to cater to the needs of an ageing population. Seniors accommodation has specific design requirements, particularly in relation communal and onsite services and as such it cannot be compared to a standard residential development. If it is to be delivered, consistent development standards need to be applied and incentives given to ensure that the market will cater for the demand.

The past has shown that intervention is required and to remove this as is currently proposed would be a significant step backwards for the seniors housing sector, that has relied on the intervention of SEPP Seniors for nearly 40 years to deliver seniors housing to NSW. Rather than returning the controls to the local level, we should be reviewing the SEPP to see how we can make the document more streamlined and relevant to the modern day style of housing. This would make the assessment of such applications easier.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Cochran', with a stylized, flowing script.

David Cochran
Chief Executive Officer

Our Ref: Housing Diversity State Environmental Planning Policy

9 September 2020

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

Dear Sir/Madam

Submission – Explanation of Intended Effect for Housing Diversity State Environmental Planning Policy

Hawkesbury City Council (Council) would like to thank you for the opportunity to make a submission on the above mentioned 'Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy' currently on exhibition until 9 September 2020.

Council welcomes the amalgamation of the three State Environmental Planning Policies (the Seniors State Environmental Planning Policy, the Affordable Rental Housing State Environmental Planning Policy and State Environmental Planning Policy 70), together with the proposed amendments to the State Environmental Planning Policies and acknowledges the proposed Housing Diversity State Environmental Planning Policy is an example of government-led action to address housing diversity and affordability, in line with the proposed NSW Housing Strategy.

The introduction of the new housing type definitions were long awaited to meet the changing needs of the Hawkesbury's population and to enable Council deliver housing diversity in the LGA which has been identified as one of the gaps through the Draft Hawkesbury Local Housing Strategy being undertaken to support the Draft Hawkesbury Local Strategic Planning Statement.

Council considered the Draft Housing Diversity State Environmental Planning Policy at its ordinary Meeting on 25 August 2020, and resolved that having reviewed the explanation of intended effects of the Draft Policy, to lodge a submission. Council's detailed comments on each of the amendments are as follows:

Build-to-rent:

The build-to-rent concept is recognised as an initiative to expedite affordable housing supply in the State. However, the explanation of intended effect does not indicate any incentives provided to landowners to entice them into this type of development.

Additionally, it is considered that provisions should be included with respect to building standards in order to ensure that the standard of housing is provided to meet the needs of prospective tenants of such affordable housing. This includes appropriate energy efficiency within the building design.

It is also considered that there should be provisions included to ensure the long term supply of affordable housing under this model in order to ensure no loss of affordable housing if sold after 15 years.

Further, the proposed definition of Build-to-rent states:

'a building or place that contains at least 50 self-contained dwellings...'



Clarification is sought as to whether this means that 50 dwellings is the minimum number of dwellings allowed for such development.

On 29 July 2020, the NSW State Government announced tax cuts to encourage build-to-rent developments by ensuring they were subject to similar overall amounts of State tax as comparable build-to-sell developments. The discount will be equivalent to at least a **50 per cent reduction in land tax**, dependent on the unimproved land value. To be eligible for the discount, a build-to-rent development in metropolitan areas must be at least 50 units, with a different threshold for regional areas to be considered.

A shared equity kind of investment with partnership with banks, or government agencies or community housing providers could be an incentive for landowners to pursue build-to-rent developments. Historically, it has been known that developers prefer to take up a project, develop the site, sell and move on. In many cases they have even sold off the plan to collect sufficient capital to cater for the development costs to some extent.

It could become a costly venture for a single landowner to take up this kind of development, where they will be locked in for 15 years before they can strata and sell the dwellings. Analysis of development costs, especially the costs of application for the DA and Developer Contributions for 50 dwellings could result in the development becoming unviable, deterring developers from such a development.

It has to be noted that the NSW Residential Tenancy Act 2010, does not have safeguards provided for landlords in terms of their losses in cases such as the current COVID 19 pandemic. Insurance companies also did not have any pandemic related coverage. Having been through this unprecedented COVID 19 situation, many landlords, especially where as many as 50 dwellings will be managed under single ownership, will need sufficient security and some level of safeguards, either through insurance or government incentives to give assurance to landlords to be confident in taking up this venture.

Also selling these dwellings after 15 years may not serve the purpose of this type of housing. If this housing type is only introduced to respond to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs, then what happens to NSW's housing affordability crisis after the COVID 19 recovery period?

It is suggested that certain bonus, mortgage or tax break incentives should be provided in order to retain a certain percentage of the development as social housing after 15 years has lapsed. It should also be noted that higher cost of development will result in higher rental for the property as the owner will need to recoup costs to make the repayment of his loan and expenses.

Finally, in order to ensure that the build-to-rent developments are within the objectives of the Affordable Rental Housing State Environmental Planning Policy, and is genuinely serving the purpose, there has to be some rent capping mechanism to enable people who have been affected by COVID 19 and low income households are able to afford to rent these dwellings.

Co-Living:

The introduction of a new definition, Co-Living (more so "new generation" boarding houses) housing type is also welcomed. However, its permissibility in the R4 High Density Residential and B4 Mixed Use zones could potentially undermine the potential of these zones, especially when this development will be held in single ownership.

Again, many developers and landowners may opt to undertake a residential flat development or mixed use development on these sites as opposed to Co-Living development.

It is suggested that some sort of rent capping mechanism should be in place to ensure that these developments provide rental affordability.



that the development of secondary dwellings supports and implements the housing needs of the Council including understanding of the future demographics and housing need trends.

The place-based analysis should also determine whether the rural lands, its environment and landscapes have the capacity to absorb more intensive use and development without significant or irreversible harm to the local values and character of the area.

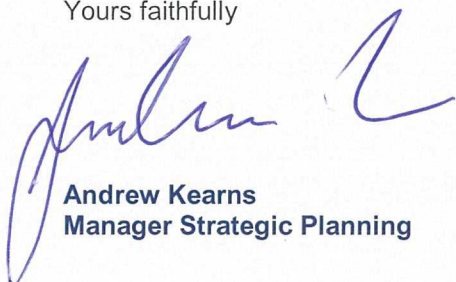
Proposed amendments to Seniors Housing State Environmental Planning Policy:

The new Housing Diversity State Environmental Planning Policy together with proposed amendments to existing provisions of Affordable Rental Housing State Environmental Planning Policy; the Seniors Housing and People with Disability State Environmental Planning Policy and State and Regional Development State Environmental Planning Policy are welcome. The exemption of lift access requirement for development applications made by or jointly with a social housing provider perhaps needs reconsideration.

The exemption of the lift access requirement from developments carried out under the provisions of Seniors Housing and People with Disability State Environmental Planning Policy is not supported by Council. It is considered that this provision will defeat the purpose of the State Environmental Planning Policy when older people and people with disability will not be able to access the upper levels of development, and as such is of considerable concern to Council. It should be noted that the value of social equity and equitable non-discrimination of seniors and people with disability outweighs significant savings in terms of up-front construction and ongoing maintenance costs savings for Land and Housing Corporation. As such, the exemption of the lift access requirement

Hawkesbury City Council is committed and always willing to work closely with the State Government (Department of Planning, Industry and Environment) in terms of the provision of diverse of housing to meet the changing needs of the community.

Yours faithfully



Andrew Kearns
Manager Strategic Planning



Further, it is considered that there should be provisions included for the onsite management of co-living housing.

Student Housing:

The introduction of student housing within the new Housing Diversity State Environmental Planning Policy is welcome. It is suggested that the definition of 'student housing' is consistent within all NSW Planning policies and standard instruments.

Acknowledging that it is not proposed to make student housing a compulsory permitted use in any of the land use zones; it is suggested that the new Housing State Environmental Planning Policy provide a criteria for a catchment to allow the student housing development. The criteria could perhaps be within certain radii of a tertiary education establishment. This method of establishing the criteria will eliminate Council's from going through the rezoning process, instead all zones falling within that established radii would be able to permit student housing permissibility. This criterion could be reflected in the Local Environmental Plans as well.

Another option is to limit the student housing development to zones, R1, R2, R3, R4, R5, B1 and B2.

In terms of the Hawkesbury LGA, the student housing definition has been awaited given the Western Sydney University Hawkesbury Campus, and Richmond TAFE. The land surrounding this educational establishment is zoned R3 Medium Density Residential and land owners could take advantage of this housing type to increase student housing stock in the LGA.

Further, it is considered that there should be provisions included for the on site management of student housing.

Secondary dwellings in rural areas:

Currently, the Affordable Rental Housing State Environmental Planning Policy allows secondary dwelling developments in the residential zones (R1, R2, R3, R4 and R5). Since the Affordable Rental Housing State Environmental Planning Policy applies to the State, it should be noted that thorough consideration of the impact of including secondary dwelling provisions in rural zoned lands be given to ensure that no environmental, social and economic impacts are sustained as a result. Not all councils state-wide permit secondary dwellings in their rural zoned lands.

It should be also noted that allowing secondary dwelling provisions in rural zoned lands through the Affordable Rental Housing State Environmental Planning Policy could seriously undermine agricultural activities and potentially cause a land use conflict. It is paramount that the provision of secondary dwellings in rural areas does not create further land use conflicts, the amenity expectations of these new residents, significantly impact on the primary production, biodiversity or cultural values. Also it should be noted that permitting secondary dwellings in rural zones may generate a demand for costly community services and infrastructure needs.

Historically, the Affordable Rental Housing State Environmental Planning Policy had introduced the development of secondary dwellings on residential zones only, mostly to cater for growing population and housing needs in the urban areas. The 60sqm total areas sufficed the smaller lot sizes of 450sqm.

It is important that the need to allowing secondary dwelling provisions in rural zones should be considered against the State, Regional and local strategic planning policies and objectives for each area. Most rural areas in the fringe Metropolitan Sydney are classed as Metropolitan Rural Area and the Metropolitan Rural Area objectives with the NSW Planning Framework prohibits additional residential developments in these areas. Unless Council's have identified through their Local Housing Strategy's that the provision of secondary dwellings in its rural zones will enable them to meet its housing targets to cater for its forecast increase in population and changes in the household structures and composition or unless a place-based analysis supports with evidence

Madam, Sir,

September 9th, 2020

SUBMISSION TO: Proposed new Housing Diversity SEPP

I am writing in support of the proposed changes currently exhibited by the Department in relation to changes proposed to the ARHSEPP (2009) as my community has been badly affected by the exploitation of the current ARSEPP provisions by developers.

I am completely in favour of an increase in the amount of affordable housing stock in my community. Over the years I have seen my area hollowed out from being a vibrant, socially mixed space to being a happy hunting ground for speculators and absentee landlords. Where there used to be a community made of all strata of society we are now increasingly faced with high income residents and tourists. Young people growing up in Bondi can no longer stay in their own community. I support the boarding house legislation (ARHSEPP 2009) which is now being considered for revision. Currently it is not achieving its central purpose which is to increase the stock of affordable housing.

I particularly wish to support three of the proposals which will go some way to making sure that the current wave of boarding house construction will in fact lead to an increase in affordable housing stock in NSW. It is quite apparent and acknowledged by both the Minister and last year's report from the University of NSW that the current legislation is not doing what is intended. The survey of "Recent Boarding House Developments in Central and Southern Sydney" by City Centres Research Centre (UNSW) shows that more than 80% of buildings constructed under this legislation ultimately become, tourist, backpacker, student or young professional lifestyle accommodation. Whilst there are generous bonuses offered to developers by the current legislation the massive wave of constructions seen in LGAs around Sydney are simply not providing the accommodation intended.

The problems we face here in Bondi are two-fold;

1. Market forces being the governing criteria for rents does not work when you are a short distance from one of the world's major tourist destinations. The short term rental market is decimating our community with locals being driven out by speculators asking extraordinary rents, and getting them, for flats/rooms let to groups of backpackers and tourists.
2. Councils are not able to require affordability conditions as part of a DA consent. There is nothing to stop these places becoming tourist accommodation in a tourist hotspot. The UNSW report confirms this. Compliance with Development Application conditions is directly related to the budget, staff numbers and political will of individual LGAs. In my own municipality Waverley Council has very few staff, tiny budget and in relation to tourist accommodation has a long track record of inability to enforce compliance;

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With the above two concerns in mind I believe that locking in criteria for affordable rents for a 10 year period will help to address the problem we are currently facing in Bondi where tiny rooms are often let out at \$500-\$600pw. This is not in any stretch of the imagination affordable.

I strongly support the proposal that not-for-profit (NFP) organisations be required to manage the place for the period of the controlled rent and that this be included in the revised ARHSEPP. Given the high yield of these boarding houses and other generous bonuses on offer I urge consideration be given to requiring these NFPs be financed by a levy on developers at the DA stage.

I also strongly support the proposed developer FSR bonus be limited to 20% on any “new generation” boarding house.

I am just a local who wants to see communities develop in a way that is sustainable and human friendly. Over the years, we have seen so many civic schemes start out with good intentions and gradually become subsumed in minor changes which end up with the original purpose being completely defeated. I am writing to you with all my doors and windows closed and rattling as the noise of construction roars on in the street opposite me. The UNSW report indicates that the average size of boarding houses is 15 rooms. Waverley Council has approved this one at 45 rooms, increased the FSR, decreased the parking requirement and signed off on a plan of management that effectively transfers monitoring of the site to neighbours and NSW police after business hours. We're all working from home and already it's a nightmare. The developer has just lodged a S.4.55 Modification to the generous discretionary changes already agreed in the DA approval.

The ARHSEPP is an excellent start to dealing with the lack of affordable housing in NSW, as tax payers we are offering Developers generous bonuses to be part of the solution to the problem. What is needed is closure of the loopholes which are allowing the intent to be defeated and further segmentation of our communities to continue apace. I urge the Minister to introduce the changes described in the exhibition of Proposed new Housing Diversity SEPP Explanation of Intended Effect changes as this is a beneficial piece of legislation which is being thwarted at the moment.

Yours sincerely,

Haydn Keenan
P.O. Box 7265
Bondi Beach, NSW, 2026

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Email: smart.street@bigpond.com

Submitted on Wed, 09/09/2020 - 18:29

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: Heather

Last Name: Davie

Name Withheld: No

Email: heather.davie@gmail.com

Suburb/Town & Postcode: Marrickville

Submission file: [webform_submission:values:submission_file]

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Submission: Points to be considered for housing and development. N.B my points are related to provision of housing in Sydney

* Transport Oriented development is good however developers should still comply with LEPs and development controls. Too many unsuitable developments are being built or planned along the new Metro routes.

* Planning for population growth needs careful planning. EG of what NOT to do can be seen in Sydenham to Bankstown Urban Renewal strategy where 800 metre circles were drawn around stations and that is where the development was to be located. This meant clear felling whole streets of houses, many of them historic villas. stone houses rows of Federation cottages, with no regard for heritage, character, streetscape, topography, flooding issues etc. Lovely old homes to be demolished to be replaced with ugly poorly constructed cement slab buildings with no character and many defects.

* Local Councils and communities should be able to have more say in development within their communities and should not be overridden by developers and State Planning agencies.

* Urban infill, using vacant blocks or buildings close to existing services makes sense (instead of clearing land on outskirts) however developers should be forced to comply with Development control and height and FSR set.

* Developers need to heed Airport height controls and ANEF (Aircraft Noise Exposure Forecasts) to limit increased densities where noise damaging to people's health i.e above 20-25.

* Desperate need for Social housing. Inner city housing sold but where is the new housing promised? Demand is high as costs of housing soar, Covid economic boost to construction should concentrate on building more social housing and maintenance on current old properties. * Affordable Housing for purchase and rental needed. Rent to buy programs have worked well in the UK and should be promoted here.

* Demand increases whilst stock diminishes with boarding houses and old cheaper rental housing demolished and social housing sell offs.

* Any social housing block demolished should replace the units lost in the same block, increasing the number of units removed.

* Need mandated targets for affordable housing. Major Global cities have had programs in place since the 70s. In London e.g., 35% to max.50% of all new developments need to be affordable.

* Where government land is used at least 50% should be devoted to affordable rentals/sales.

* Inner West Council set 15% . Developers should not be able to trade controls such as a few more stories and higher FSR in order to provide affordable rentals. Recent DA for boarding house in Marrickville wants 33% increase in height & 66% increase in FSR.

* New generation boarding houses need stricter controls. Currently developers dream cash cows! They cram as many rooms in as possible and are vertical cruise ships and pandemic friendly! Affordable housing percentage should not be determined by the manager as is eligibility and rentals. This is not going to provide quality living or security of tenancy.

* Developers all wanting to build studios and 1 & 2 bedroomed units. Marrickville Council had a formula to ensure that any block over 6 units provided units of varying sizes to accommodate students and families of varying sizes to cater for diversity in our communities.

* With gentrification many families and lower income earners are being forced to leave their homes so it is very important to provide housing for all sizes of family and increase the supply of affordable housing. Housing Mix should also be mandated within new developments.

* Providing accommodation for key workers close to the city is also important and should be considered in new developments close to the cities.

* Character, heritage and streetscapes need to be respected and preserved to make our cities liveable and not just cement high rise.

* In many major global cities Development is not approved unless infrastructure is in place to support new population densities. This should also apply here and be taken into account when setting housing targets. Sydenham Bankstown Urban Renewal Strategy e.g of what not to do. i.e plan was to increase population along the new Metro line with no plans for additional schools, hospitals or upgrades, increased child care care & aged care facilities services like fire stations, health services etc. Sporting fields and Open space already overused and their shortages have been exacerbated during lockdown with thousands of people trying to exercise in limited spaces.. These aspects all need to be considered if we are to enjoy healthy lifestyles.

* Developers must contribute more to community services, especially if they have made a windfall upzoning land.

* Practice of spot rezoning.land banking, pressure placed on neighbours to sell to developers all needs to be curbed.

* Need to preserve Industrial/employment lands. Industrial land had disappeared in Alexandria, Waterloo, Zetland, St Peters, Newtown, Lewisham, Sydenham, Mascot, Rosebery, Botany, Mascot Leichhardt, Stanmore & Marrickville. Need to save areas left so that people can have jobs closer to home and the land should not be rezoned as residential. Planning for housing should consider Climate change. There need to be controls that stop people from building on sand dunes or too close to coastline or rivers. Changing weather patterns, increased tidal surges, increased storm events and flooding damaging houses. Fire prone areas should also be considered unsuitable and no green tape cutting should be permitted if people are to have homes that will be safe to live in for many generations.

Developers should not be able to dismiss flooding issue by saying that they will fix them with "flood mitigation strategies" If land used to be a swamp or wetland no housing should be built there.

* Myth that the greater supply of property will mean more affordable housing has been exposed in inner city areas like Marrickville where there has been much new development and you cannot buy a new 2 bedroomed unit under \$1.2m.

* Problems for first home buyers are great in the city. It is heartbreaking to go to inspections and auctions where young people are competing with investors looking to negatively gear yet another property. Negative gearing needs to be curbed to help improve affordability and increased housing stock.

* Airbnb properties also need controlling and limiting the time that they can be used for temporary accomodation. In Suffolk Park on the far north coast the whole community has changed. Local people can no longer rent or live there because so many houses are now only Airbnb. Owners of these properties should pay higher rates or pay and an "Affordable Housing levy" to support the people they have displaced.

* In other countries such as Canada higher rates are applied to properties that are left empty and not lived in to encourage their release for rental or sale. Too much Sydney property is left empty and if it was released there would be a change to supply available for rent or sale.

* Talk of diversity of choice as an older person worries me. I would like to stay in my own familiar home for as long as I can. Choices only seem to apply to apartment living with strata costs and tales of very unhappy community living for some of my friends regarding Strata issues and difficult neighbours.

* Other countries manage to retain their old houses so I can't see why we shouldn't continue to leave house as a choice for housing.

* Concern that Sydney is becoming overcrowded and that population density growth is overtaking infrastructure and our quality of life is diminishing.

* Observing new developments in my local area I despair that they are already looking like slums and in need of costly repairs for the owners of the apartments. Building Controls and certification needs much stricter supervision and consequences for shoddy , short cut work so that all can live in safe, comfortable homes.

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

Submitted on Tue, 01/09/2020 - 16:14
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:

Submission: Dear Department I am writing to express concern that the new Diverse and Affordable housing code is artificially prioritising renting over owning, and big developments over smaller developments. In particular 1. Large scale Co-Living developments should be limited, not advocated. In other countries where these exist they are associated with ghettos. 2. Boarding House use in the R2 low density residential zone has been permissible historically and should remain so. Houses used as rooming houses have always been a feature of NSW housing. Small scale development such as this should be advocated to improve diversity of the housing stock. 3. Rent controls make sense for the Boarding House type in preference to restricting to nonprofit organizations - which have shown an inability to deliver. For consistency, the same rent control framework should also be applied to Co-Living and Student Housing, ensuring the affordable outcome is delivered as is being promised. Regards [REDACTED]

URL: https://pp.planningportal.nsw.gov.au/admin/structure/webform/manage/draft_plans_and_policies/submission/89891/resend

9th September 2020

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

Dear Sir/Madam,

**RE: SUBMISSION BUILD TO RENT HOUSING
PROPOSED DIVERSITY SEPP**

We would like to thank the DPIE for proposing a SEPP that creates definitions for new property classes as Built to Rent, Purpose Built Student Accommodation and Co-Living.

Founded in 1992, Highgate Management is an Australian-based project and development management advisory consultant. We also complete developments in our own right.

This submission relates to the build to rent housing as it is being defined under the proposed Diversity SEPP. We both have in the past and currently represent a number of owners that have or are looking to develop properties that are below the 50 unit mix who are looking to create these as a build to rent investment. These developments are more niche in size and located within Inner West Council, Northern Beaches Council, Mosman, North Sydney and Wollongong City Council LGA's.

We believe that the current proposal for build to rent needs to be expanded to allow for smaller scale developments so that these non-institutional investors can also be encouraged to develop purpose built build to rent developments. This will provide the opportunity for smaller unit blocks being developed in areas that are less likely to have larger scale development and hence increase the housing options available to long tenants. Similarly any tax incentives available to the larger developments should be provided to these smaller scale build to rent developments.

Yours sincerely,

Highgate Management Pty Ltd



David Hume
Director

9th September 2020

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

Dear Sir/Madam,

**RE: SUBMISSION CO-LIVING AND NEW AGE BOARDING HOUSE
PROPOSED DIVERSITY SEPP**

We would like to thank the DPIE for proposing a SEPP that creates definitions for new property classes as Built to Rent, Purpose Built Student Accommodation and Co-Living.

Our submission looks at the commercial viability of Co-living and how we believe the SEPP can address these matters so that this asset class grows, creating jobs for NSW and is an affordable rental option.

We believe the current proposal will stifle the private sector from developing New Age Boarding Houses (NABH). It is a major deterrent for developers. NABH are currently affordable, if the current guidelines for affordable accommodation are imposed on these properties, a segment of the current tenants will not meet the income requirements for very low, low and moderate income levels, they will be excluded from living within these developments. CHP's have limited financial resources based on the regulated loan to value ratio, we cannot see CHP using these limited resources to build NABH.

Yours sincerely,
Highgate Management Pty Ltd



David Hume
Director

About Us

Founded in 1992, Highgate Management is an Australian-based project and development management advisory consultant. We also complete developments in our own right.

We are currently involved in three co living developments, Erskineville (which comprises 35 apartments) is about to start construction and is due to open in Q1 2022. Our second development, Dee Why (comprising 26 apartments) is currently being assessed by Northern Beaches Council. The third development is within Brisbane and comprises some 140 micro apartments.

Highgate has also been involved in a number of Purpose Built Student Accommodation developments and work with and for a number of Community Housing Providers.

Introduction

We strongly commend the NSW Department of Planning, Industry and Environment for its initiative in including co-living as a housing type within the newly proposed Housing Diversity SEPP.

Whilst the overall framework is very much heading in the right direction, we believe that in order to allow the creation of this important rental housing sector - and thereby to produce benefits for end users and the economy alike - a number of amendments to the proposed SEPP are required.

We will outline the following, some background on co-living, co-living providing moderate income affordability as a response for the need for affordable accommodation.

Co-Living Fills a Housing Need in NSW

Co-living is an emerging asset class that has rapidly gained popularity in major markets in North America, Asia and Europe over the last 7 years.

Whilst there are many different variants on the co-living model, the common themes tend to include:

- Fully furnished accommodation;
- Flexible medium term (e.g. 3+ month) rental periods;
- Buildings which includes shared/communal living spaces;
- Communal social/events programmes to foster a sense of community and social interaction between residents;
- Typically located in highly desirable areas that are rich in amenity and are located in close proximity to reliable public transport and/or places of work or study.

Co-living is ideally suited to upwardly mobile young professionals (typically aged 20 – 35), who in many cases are willing to trade size of living spaces for the features noted above.

However, the appeal of co-living is not exclusively limited to the “Millennials” demographic, and in other markets around the world this emerging form of housing has found popularity with people outside of this cohort that are drawn to the flexibility and lifestyle that co-living offers.

We consider the key demand drivers for co-living to include the following:

- Affordability challenges;
- Transient populations;

- Desire for community;
- Scarcity of flexible, fully furnished accommodation designed for medium term stays;
- Population growth;
- Urbanisation;
- Growth in single person households.

We firmly believe that co-living can provide a hugely valuable addition to the existing mix of housing stock in NSW.

Economic Benefit to NSW

Establishing a workable framework for development of the emerging co-living sector will deliver economic benefits to NSW in a number of ways:

- Investment into NSW – there are multiple well-capitalised local and foreign institutional investors that are known to be actively seeking to invest significant quantities of capital into the co-living sector in NSW.
- Construction industry – the economic drivers for co-living are slightly different to those of other property asset classes, which has been demonstrated by the continued demand from end-users during recent times (i.e. since the onset of Covid) when demand for other forms of new development (e.g. residential for sale, hotels, office, retail) have been very subdued. The formation of an established co-living sector would help create activity and jobs in the construction industry which are counter-cyclical.
- Ongoing jobs creation – given the enhanced service offering associated with a co-living property, jobs are created for onsite and offsite staff, namely: concierge, community managers, service providers for the communal/social programme, leasing managers, facilities managers, etc.
- Attractiveness for young workers – by enabling co-living to become a widely available common housing option, Sydney's relative attractiveness as a city can be elevated when compared against its interstate and global peers, and therefore assists in attracting young and talented people to live and work in Sydney and contribute to the NSW economy.
- Mental health – NSW currently allocates over \$2 billion per annum towards mental health services and this figure is trending upwards. Often associated with mental health issues are feelings of loneliness and a sense of isolation. Co-living makes a meaningful contribution towards combatting these issues, as enjoying a strong sense of community and the relationships that form from communal living are well established as being beneficial for a person's mental health.
- Re-allocation of housing stock – by offering a form of housing that is tailored to the lifestyles of younger renters, we believe that co-living can free up traditional housing stock (i.e. existing residential dwellings) for other users, assisting in improving general housing affordability in NSW.

Co-living Economic Model Under Current NSW Planning Controls

Whilst we believe that significant latent demand exists for this type of housing, there are various challenges to delivering commercially viable co-living developments.

These challenges include the following factors:

- In a co-living development, a significant proportion of the allowable floor area needs to be dedicated to the provision of (non-income generating) communal areas, placing a major financial burden on a development;
- Co-living properties carry a significant ongoing operating cost associated with providing on-site management, maintaining a high-quality service offering, and delivering a programme of communal/social events;
- Co-living projects are expensive to build - 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 properties are typically built to be retained for long term ownership by the developer, and are therefore built to a more rigorous standard of quality and environmental sustainability, than residential-for-sale developments which incentivise more short-sighted approaches from developers;**
- There is currently much greater difficulty in obtaining finance for co-living projects (being a relatively new asset class), as compared with other more established real estate asset classes; and
- The lack of a dedicated planning pathway for co-living has led to the use of the 'boarding house' designation, which has resulted in resistance by councils and neighbouring owners driven in part by a lack of understanding of the co-living product and target market vs the more traditional boarding house product.

Given the above factors, there have been significant commercial 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 has been, ironically, most pronounced in the areas with greatest demand from end users for the co-living typology, namely the inner city / city fringe.

In these locations, co-living developers will generally struggle to justify paying competitive prices for development sites when competing with developers that are targeting alternative uses (e.g. residential for sale, hotel, retail, office, etc).

Notwithstanding the challenges listed above, the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) has until now provided a potential route to achieving a viable co-living project through the following critical elements:

Currently there is a floor space bonus in the ARH SEPP that applies to boarding house developments in zones where residential flat buildings are permitted.

- 0.5:1 if the existing maximum FSR is 2.5:1 or less.
- 20% of the existing maximum FSR, if the existing maximum FSR is greater than 2.5:1.

and

- The small allowable unit sizes of 12 – 25sqm (excluding kitchen and bathroom) have allowed operators to keep rental pricing at a relatively affordable level. It is our strong belief that these room sizes, if properly designed, are readily acceptable by the target market, many of whom have a willingness to trade size of living spaces for the other benefits offered by co-living (including access to desirable locations, flexible lease terms, and a communal lifestyle).

The current ARHSEPP controls have helped a small number of developers to launch small scale co-living schemes (typically less than 40 rooms).

However, we do note that making larger, institutional-scale co-living schemes financially viable in key urban locations has been extremely challenging in NSW, notwithstanding the incentives noted above.

It is noted that in general, residential-for-sale developments have the potential to generate significantly higher Internal Rates of Return (IRRs), as (i) dwellings can be pre-sold off-the plan, prior to commencing construction; (ii) there is a relatively deep market for senior and mezzanine finance for pre-sold projects, which enable developers to fund these projects with relatively smaller equity contributions; and (iii) the time that this equity funding is “out the door” on these projects is often relatively short (e.g. 2 – 3 years), given that home sales will typically settle at or shortly after the completion of construction. Given these factors, IRR’s of 25% p/a or significantly greater are often achievable on residential for sale projects.

By contrast, co-living projects will typically: (i) be built by the developer for long term ownership, and will therefore have a much longer period where contributed equity remains “out the door” whilst a development is completed, the asset is leased up, and then enters into its stabilised operational phase; (ii) development funding (both senior debt and mezzanine debt) is far less readily available, given the absence of pre-sales and the status of co-living as a new emerging asset class; and (iii) there are higher costs associated with delivering and operating a co-living facility (as noted earlier in this paper), including provision of communal areas, on-site management, and a programme of social events.

As a result of the above factors, and given the differences in the respective profitability of residential-for-sale and co-living, it is extremely difficult - *even under the current ARHSEPP framework* - for co-living developers to pay competitive prices for development sites in suitable areas, whilst achieving even a more moderate IRR of say 15% p/a that would be commensurate with the project’s likely weighted average cost of capital.

These challenges are evidenced in the fact that no larger scale co-living projects (e.g. 100+ beds) have been successfully delivered in the Sydney city/city fringe areas to date, despite there being a number of well capitalised institutions that are seeking to invest heavily into the sector in Australia.

If there is no FSR bonus this asset class will cease to exist and further damage housing affordability.

Co-living is the fastest growing residential property asset class globally, it is currently increasing annually at 200%. Source Coliving insights report No.2

Globally co-living micro apartments dwelling sizes are between 12 sqm to 30 sqm within major cities. The 30 – 35 sqm proposed within the Diversity SEPP is excessive compared to current co-living global standards and would impact the viability of this emerging asset class.

Co- Living providing accommodation within the Gross Annual Household Income Moderate.

The majority of current co-living operations and new age boarding houses approved under the ARH SEPP excluding building operated as Purpose Built Student Accommodation (PBSA) rental rates are under the threshold for moderate income earners as defined in the **NSW Affordable Housing Ministerial Guidelines 2019 – 2020**.

Household Members	Gross Annual income Moderate
Sydney	
Single Adult	\$66,300
Each additional adult (18 years or over)	Add \$33,200 to the income limit

Extract from Table 2: Household income Bands by Household Size NSW Affordable Housing Ministerial Guidelines 2019 -2020

Weekly Rental maximum based on 30% of the Gross Annual Income Moderate

Weekly rental formulae = (Gross Annual Income Moderate X 30% / 52)

Single room weekly rate (size of room as defined under ARHSEPP) \$382.50

Double room weekly rate (size of room as defined under ARHSEPP) \$574.03

We acknowledge that current market rates do not fall within the guideline for Very Low and Low income thresholds.

The majority of New Age Boarding houses and Co-Living operators market rents are under this threshold. Note co-living operators and some New Age Boarding houses charge an inclusive rent covering internet, utilities and furnishings. Our market research indicates that the weekly outlay for these services are:

Internet \$21.90 Source – The New Daily Dec 2019

Utilities \$34.00 Source – Finder.co.au

Furniture \$25 Source -The Apartment Guide Aug 2019 over a 5 year period

This equates to an additional \$80.90 per week that should be subtracted from inclusive rents.

The Planning for Boarding House Development, Report to the Minister, from the Council Boarding House Working Group August 2019. Key Recommendation

Recommendation 1 - Amend the definition of boarding houses in the ARHSEPP to ensure that boarding houses are affordable.

We have demonstrated that the current moderate affordable income level as a weekly rent is defined as affordable. We believe there is no reason to impose a restriction on the rental pricing of boarding houses or co-living developments as they are currently within the ministerial guidelines for moderate affordability and residents income levels should not be a factor when applying to rent a new age boarding house or co-living development.

Co-Living and New Age Boarding Houses in R1 and R2 Low Density Areas.

We feel that co-living should not be permissible within these areas and should only be permissible in Medium to High Density Residential and Commercial Zones within close proximity to public transport and infrastructure.

We believe there is a need for New Age Boarding houses within Low Density areas that are close to public transport and infrastructure that are of a small scale and appropriately fit within the street scape and local context.

CHP as operators of New Age Boarding Houses.

We see new age boarding houses as an essential key to providing affordable accommodation as defined under the thresholds set by the ***NSW Affordable Housing Ministerial Guidelines 2019 – 2020***. We also see that New Age Boarding houses are an asset class that are suited to SMSF, investors and self-funded retirees.

We recently surveyed a number of Tier 1 CHP and none of them currently have any New Age Boarding houses under their management/ portfolio. None of the CHP surveyed had any plans to enter into this form of affordable housing.

We strongly advise the NSW Department of Planning, Industry and Environment NOT to make new age boarding houses only manageable by CHP. We would ask the department to liaise with CHIA to gather information on how many CHP manage new age boarding houses, how many will allocate financial resources towards producing and operating new age boarding houses given the

restrictive covenants of a CHP debt to equity lending ratio.

We believe that the recommendations from ***The Planning for Boarding House Development, Report to the Minister, from the Council Boarding House Working Group August 2019***, if adopted into the Diversity SEPP will stifle the ability for new age boarding houses to be developed in the future and will thus reduce the diversity of housing available to a large sector of the community.

Summary of Proposed Development Standards for Co-Living Micro Apartment Development

Development standard	Proposed by Adjani
Height of buildings	One storey increase in Commercial zones where FSR bonus is possible. No change to R3, R4 zones
Floor space ratio	FSR bonus as per ARHSEPP but only in B1, B2, B3, B4, B6 and B8. Where Residential Flat Buildings, Shop Top Housing or Serviced apartments are permissible.
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 6 private car spaces</p>
Dwelling size (Micro Apartment)	<p>Micro Apartment sizes of 16 – 30 sqm (including kitchen and bathroom)</p> <p>Note we envisage a 2 bedroom micro apartment could be 50sqm (including kitchen and bathroom) to create diversity and multi-generational living.</p>
Strata subdivision	As per current draft SEPP - Not permitted
Communal living space	9% of GFA up to 2,000 sqm, 5% if greater than 2,000 sqm
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 <ul style="list-style-type: none"> 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

Conclusion

We differentiate co-living from New Age Boarding Houses by the additional space allocated to communal use, the provision for active management and engagement/ activities curated for residents. Our resident's ability to work within our vertical villages communal areas.

If there is no commercial competitive edge like an FSR uplift, ability to develop in Commercial zones that preclude Residential Accommodation so that Co Living can be an alternate to Build to Sell... This emerging market will never eventuate and the current space within the accommodation sector that it is filling, which is providing affordable dwellings for Millennials, key workers, temporary accommodation for divorcees, global nomads and migrating work force will sense to exist.

We commend the NSW Department of Planning, Industry and Environment for its initiative in including co-living as a housing type within the new Housing Diversity SEPP, but we strongly believe that the proposed definition and development standards for co-living encompassed in the SEPP should be amended to reflect the changes noted above, in order to foster the growth of this exciting new industry in NSW.

We acknowledge that parts of this proposal have been extracted from Urbico's proposal and we thank them for their efforts in putting forward a submission to help create a positive outcome so that co-living can thrive within NSW.

Referenced within the submission are:

NSW Affordable Housing Ministerial Guidelines 2019 – 2020.

The Planning for Boarding House Development, Report to the Minister, from the Council Boarding House Working Group August 2019

7 September 2020

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

By digital submission only.

Re: Housing Diversity SEPP Explanation of Intended Effect

This submission is made on behalf of [REDACTED] in relation to the Housing Diversity SEPP Explanation of Intended Effect currently on exhibition. [REDACTED] thanks the Department of Planning, Industry and Environment for the opportunity to comment on this important strategic policy.

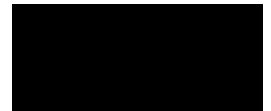
[REDACTED] is Australia's largest fully-funded Build-to-Rent (BTR) housing platform with an established track record of sourcing, developing and funding BTR projects in Australia including:

- 400 apartments under construction in Southbank, Melbourne;
- 350 apartments, retail centre and flagship Coles supermarket under construction in Richmond, Melbourne;
- 600 apartments in planning in Docklands, Melbourne;
- 450 apartments under construction Parramatta, Sydney; and
- 300 apartments in planning in St Leonards, Sydney.

[REDACTED] is creating high-quality apartments, purposefully designed and constructed for the rental market which feature professionally-managed services to create a holistic resident experience. The apartments will be held in a portfolio as a long-term investment.

Policy Issue	Comment & Recommendation
LEP Standard Definition	
BTR classified in LEP template as building or place that: <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.	Support in principle. 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. The definition should go further to recognise the often mixed-use nature of BTR assets, see further comments below in relation to SSD.
Mandatory Permitted Use	
BTR a compulsory permitted use in the following zones: <ul style="list-style-type: none">• R4 – High Density Residential• B3 – Commercial Core• B4 – Mixed Use• B8 – Metropolitan Centre It will also be permitted in R3 – Medium Density Residential where residential flat buildings are permitted. Councils could make BTR housing permissible in other land use zones through amendments to their LEPs.	Support. Recommend mandatory inclusion in the following additional zones: <ul style="list-style-type: none">• B5 – Business Development• B7 – Business Park; and inclusion in: <ul style="list-style-type: none">• IN1 – General Industrial; and• IN2 – Light Industrial, providing certain criteria can be met. Recommended that the criteria include:

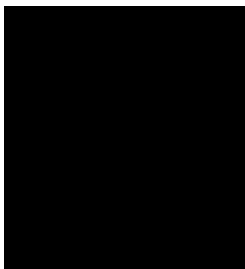
Policy Issue	Comment & Recommendation
	<ul style="list-style-type: none"> site must be within 400m of zone where BTR is a mandatory permitted use; and site must be within 800m of railway/metro station; and site cannot be subject to future strata subdivision. <p>BTR generates significantly more employment opportunities than typical residential uses. On-site active management provides direct jobs whilst communal facilities for co-working recognises and fosters the growing working from home and freelancing trends. As such BTR should be recognised as employment generating floor space and be permissible within minimum non-residential floor space requirements where defined.</p> <p>Given the operational synergies between BTR and co-living, further guidance regarding the co-location of these two complementary tenures should be provided.</p>
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.	Support in principle. The NSW Government should prioritise the development of specific development standards for the BTR typology.
Minimum Tenure as BTR	
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. 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.	Not supported. Restriction on strata subdivision should be limited to ten years. 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. Therefore, planning controls should not be consistent with this approach, but account for it, whilst also ensuring a significant hold-period is enforced. 10 years is a significant hold period, being two cycles of a standard review of strategic plans (Metro plan, District plans, SEPPs and LEPS)
Minimum lease terms for tenants	
Proposed mandatory minimum lease terms for tenants of three years or more.	Not supported. Investors and operators must retain discretion to manage their properties and tenancies. 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.
BTR in the State and Regional Development SEPP	
BTR development in excess of \$100m of Capital Investment Value will be assessed as State Significant Development in metro areas and \$50m in regional areas. City of Sydney excluded from SSD provisions.	Support. Recommend a further clarification that any BTR proposal seeking to be considered SSD must have at least 50% of the gross floor area of the development for BTR uses. This will allow the co-location of additional non-residential uses within a BTR development.
Affordable Housing Contribution	



Policy Issue	Comment & Recommendation
No mandated provision of affordable housing in BTR developments. <i>Guidelines 'must include policies to promote the development of new affordable housing and social housing in build-to-rent properties'.</i>	Do not support. The imposition of any conditions relating to the provision of affordable and social housing in BTR properties developed on private land. Should the NSW Government seek to promote the provision of affordable and social housing within BTR proposals, it must be confined only to development on public land. Any imposition of affordable or social housing contributions on BTR developments will significantly impact development feasibilities and preclude any growth in the sector.
Car Parking Standards	
A minimum of 0.5 car parking spaces per dwelling in a BTR development. Where a lower rate applies in a Council DCP, this rate could apply.	Do not support. A maximum of 0.5 car parking spaces per dwelling in a BTR development should be mandated. Where a Council standard is higher, the 0.5 car parking rate should prevail. This is the more appropriate planning policy outcome, ensuring BTR is appropriately and strategically located in conjunction with existing transport infrastructure.

Once again, [REDACTED] thanks the Department for the opportunity to comment on this important strategic policy at this early stage. We would be pleased to meet with the Department to discuss the content of this submission, if required.

Yours sincerely,





15 September 2020

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Dear Sir/Madam

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 State Environmental Planning Policy (SEPP)*. The purpose of this letter is to confirm Council's draft submission which was sent ahead of its meeting on 9 September 2020.

Council has now considered Group Manager's Report No. PL19/20 (further copy attached) and resolved as follows:

1. *A submission regarding the proposed Housing Diversity State Environmental Planning Policy be forwarded to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):*
 - a. *Support for the proposal to no longer mandate boarding housing as a permissible use in the R2 – Low Density Residential zone;*
 - b. *Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone; and*
 - c. *Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.*
2. *Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.*
3. *The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.*

Although the resolution includes two additional points concerning a Councillor workshop, the content of the report and submission have not changed and have been endorsed. For completeness, another summary of Council's concerns and feedback on the EIE is provided below and in detail in the attached report.

1. Consolidation of SEPPs

The concept of reducing the number of State policies is supported. However, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Council already has concerns with the growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change.

State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

2. Build-to-rent (BTR) housing

Council objects to the proposal to mandate BTR housing in any land use zone, especially in outer-ring areas. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics. The BTR definition is not compatible with Hornsby Council's development standards or its strategies for employment land.

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Hornsby Council could uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with 'serviced apartment' style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council's draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

Concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation.

Concern is also raised to BTR housing being transitioned to a strata-subdivided apartment development after 15 years. Subdivision of BTR housing should be prohibited in any zone in perpetuity as subdivision would undermine the intention and definition of this new type of residential accommodation.

3. Purpose-built student housing

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

4. Co-living Developments

Integration of the design of co-living developments with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained.

Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision and the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Co-living developments should not be permitted in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

5. Proposed amendments to the Affordable Rental Housing SEPP

Boarding houses - The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use. The prohibition should equally apply to the NSW LAHC.

Boarding houses should be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

Secondary dwellings in rural zones - The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern is raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection is also raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwelling in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument is supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

Group homes - Concern is raised to the proposed quicker and easier process for converting an existing dwelling into a group home as there may be additional locational and/or site constraints to be considered to determine whether an existing dwelling is fit for purpose for a group home. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home. Council recommends that heritage items should be excluded from any quicker and easier process.

6. Proposed amendments to the Seniors Housing SEPP

Update definitions, provisions and Schedule 1 - The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals at substantial cost to Council.

The Schedule should be reviewed with input from Council staff, and a workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Application of local development standards - Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Site Compatibility Certificates (SCC) - A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. The Site Compatibility Certificate process should be aligned with the Planning Proposal process to ensure suitability of the land use prior to lodgement of a development application.

7. Proposed amendments to social housing provisions for NSW Land And Housing Corporation (LAHC)

Self-assessment of dwellings by the LAHC - Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Car parking requirements for LAHC development - Concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Subdivision of Government-owned land - The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned would not achieve the desired outcomes within varying land use zones.

Lift access exemption - Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed. Residents of a Government owned seniors housing development should not be subject to limited accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

8. Other issues

Design Excellence - Council is currently progressing amendments to the HLEP 2013 to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and

amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Development Contributions - Concern is raised with regard to the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all new types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Once again thank you for the opportunity to comment. Council will forward a copy of the meeting minutes to confirm this submission after its meeting on 9 September 2020.

Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Vickery', with a stylized, cursive script.

Katherine Vickery
Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Director's Report No. PL19/20
2. Hornsby Shire Council Meeting Minutes – 9 September 2020

13 EXHIBITION OF THE PROPOSED HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY

EXECUTIVE SUMMARY

- The Department of Planning, Industry and Environment (DPIE) is proposing to prepare a new Housing Diversity State Environmental Planning Policy (SEPP).
- Three existing housing-related SEPPs are being reviewed to ensure they are fit-for-purpose and reflect current conditions and community expectations for NSW residents.
- The proposed Housing Diversity SEPP would consolidate and update the three existing housing related State policies, introduce new land use terms to assist facilitate housing projects and amend planning provisions to provide greater certainty for all stakeholders.
- Three new definitions are proposed under the new SEPP for build-to-rent housing, purpose-built student housing and co-living housing, with applicable planning provisions.
- This report outlines the key amendments and provisions for the new SEPP which are contained in the exhibited Explanation of Intended Effect, discusses the implications for Hornsby Shire and notes areas of support and matters of concern.
- It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in Director's Report No. PL19/20.

RECOMMENDATION

THAT a submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):

1. Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
2. Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
3. Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.

PURPOSE

The purpose of this Report is to present an overview of the proposed *Housing Diversity State Environmental Planning Policy* (SEPP), its application for housing diversity within the Hornsby LGA and seek Council's endorsement for a submission to the DPIE in response to the proposed new SEPP.

BACKGROUND

Currently, the NSW Government has three SEPPs to facilitate the delivery of diverse housing types. These include *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, and *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*.

State Environmental Planning Policy (Affordable Rental Housing) 2009 facilitates the increased supply and diversity of affordable rental and social housing in NSW through expanded permissibility, floor space ratio bonuses and reduced car parking rates for various types of affordable rental housing.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The Seniors SEPP facilitates new seniors housing development by setting permissibility at the State level and providing less stringent planning requirements than would otherwise apply to other forms of housing. For more than a decade, Hornsby Council has raised concerns that the Seniors SEPP overrides Council's local planning controls.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) allows all NSW local government areas to implement an affordable housing contribution scheme for a particular area.

These SEPPs have been in place for some time and the NSW Government has identified that, with a growing and ageing population coinciding with the impacts of the COVID-19 pandemic, the housing needs and preferences of the community have changed and will continue to change in the future.

The proposed Housing Diversity SEPP would consolidate and update the existing housing related State policies and its aim is to deliver a planning framework under a single instrument that will assist NSW's economic recovery following COVID-19, provide an adaptive format capable of meeting future requirements and facilitates the delivery of housing targets for the State's changing and growing population.

DISCUSSION

DPIE has publicly exhibited an Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP, which aims to introduce new land use terms to assist facilitate housing projects and amend certain planning provisions to provide greater certainty for all stakeholders. This report presents an outline of the key components of the proposal as outlined in the EIE (copy attached) for a new Housing Diversity SEPP and the implications for Hornsby Shire.

1. Consolidation of existing housing related SEPPs

The new SEPP would consolidate the *Affordable Rental Housing SEPP*, the *Seniors SEPP* and *SEPP 70* to streamline the planning system by reducing the number of State policies.

Comment

Although it is difficult to determine potential implications arising from the new SEPP based solely on the EIE, the concept of reducing the number of State policies is supported. Streamlining three separate existing housing related SEPPs may provide greater clarity and understanding.

However, for more than a decade, Hornsby Council has raised concerns about State policies which override local planning controls, in particular the Seniors SEPP. Council already has concerns with the

growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change. State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

Recommendation

It is recommended that Council's submission outline support for the proposal to consolidate and streamline the planning system by reducing the number of State policies. Notwithstanding, the submission should also note that Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies.

2. Introduction of New Housing Types

The EIE outlines three definitions for new housing types in the Standard Instrument LEP, including build-to-rent housing, purpose-built student housing and co-living developments.

DPIE indicates that these are being introduced to support new investment and address concerns with boarding houses including the lack of affordability of boarding house rooms. The boarding house definition would be amended to include a requirement that boarding house rooms are affordable (see below under 3.1 Boarding Houses). This would exclude purpose-built student housing and co-living developments as they are not truly affordable or managed by a community housing provider.

The EIE includes proposed definitions and planning provisions, permissibility requirements and development standards for the new housing types as follows:

2.1 Build-to-rent (BTR) housing

Build-to-rent housing is purpose-built high-density rental housing, situated close to transport and amenity, held in single ownership and professionally managed. It is designed to attract institutional investment with long-term leases. The building would not be able to be strata subdivided for the first 15 years (subdivision would be prohibited in the B3 – Commercial Core zone in perpetuity).

The EIE states that the NSW Government is seeking to provide more certainty for this type of development and encourage build-to-rent housing. It is suggested that this development type responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

The proposed definition for 'build-to-rent housing' is *"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."*

BTR housing is proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential, B3 – Commercial Core and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development controls for BTR housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP.
- A minimum 0.5 car parking space per dwelling (or lower maximum parking rate if a Council's development control plan specifies).
- A minimum lease term, with no availability for short-term rental accommodation.

The EIE seeks feedback on appropriate provisions for BTR housing in regional areas, which may be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.

Comment

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential zone. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Council would uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum of 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with ‘serviced apartment’ style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council’s draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

BTR housing in accordance with the definition proposed and mandated in the R3 and R4 zones would impact on the character and landscape setting of Hornsby Shire. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics.

Concern is also raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. This may result in on-street parking pressure within the vicinity of these developments.

The transition of BTR to a strata-subdivided apartment development after 15 years would undermine the intention and definition of this new type of residential accommodation. Subdivision of BTR housing should be prohibited in any zone in perpetuity.

Recommendation

It is recommended that Council’s submission object to the mandating of BTR housing in any land use zone, especially in outer-ring areas. The submission should also raise concerns regarding the integration and compatibility of the BTR definition with Council’s development standards and its strategies for employment land. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation. Council’s submission should also seek prohibition of subdivision of BTR housing at any time in any zone.

2.2 Purpose-built student housing

Under the current planning framework, student housing does not have a separate definition and is developed under the boarding house provisions of the *Affordable Rental Housing SEPP*.

The EIE proposes to introduce a new definition for ‘student housing’ which would refer to “*a building that provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods and may incorporate some fully self-contained dwellings*.”

Student housing is not proposed to be mandated in any zones, as universities across the State have widely varying land use contexts. Therefore, councils would decide the permissibility for this use. The development standards for student housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- No minimum car parking space requirement due to the expectation of close proximity to educational establishments.
- Non-discretionary minimum bicycle and motorcycle parking requirements.
- A minimum 10m² room size, with the option to reduce room sizes while also achieving adequate internal amenity through shared facilities.
- Requirements for indoor and outdoor communal areas depending on size and proximity to relevant education establishments.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

The EIE does not outline design guidelines for purpose-built student housing. However, it is indicated that specific design guidelines are to be developed to address built form, amenity, storage, solar access, ventilation and privacy.

Recommendation

It is recommended that Council's submission outline support for allowing councils to decide the permissibility for student housing, suggest the inclusion of a locational requirement for LGAs that contain universities, tertiary education facilities or large railway stations close to campuses and the inclusion of minimum car parking rates to cater for students who may own vehicles.

2.3 Co-living Developments

As with student housing, co-living developments do not currently have a separate definition and are developed under the boarding house provisions of the *Affordable Rental Housing SEPP*, defined as 'new-generation boarding houses'.

The EIE proposes to introduce a new definition for co-living developments which would refer to *"a building held in single ownership that provides tenants with a principal place of residence for 3 months or more, includes on-site management and a communal living room, may include other shared facilities, such as a communal bathroom, kitchen or laundry, and has at least 10 private rooms (some or all of which may have private kitchen and/or bathroom facilities) with each private room accommodating not more than two adults."*

Co-living developments are proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development standards for co-living developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- A non-discretionary minimum 0.5 car parking space requirement to allow councils to consider less parking when appropriate.
- A minimum 30-35m² room size to sit between boarding house and studio apartment room sizes.
- A minimum 20m² communal living space, plus 2m² per each room over 10 rooms.
- 4m² per room private open space.
- 25% of the site area for communal open space, or less if all dwellings exceed minimum private open space requirements.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

Mandating Co-living developments in the R3 and R4 zone is consistent with the current mandated permissibility of boarding houses. However, integration with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained. Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision.

Concerns are raised with permitting co-living developments in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

The EIE states one of the reasons for the introduction of the definition of Co-living developments is to allow this type housing with self-contained rooms with private bathroom and kitchenette facilities to occur without an affordability requirement to cater for demand and the growth in single person households. However, single person households may be vehicle owners and concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Recommendation

It is recommended that Council's submission raise concerns with amenity impacts, low car parking rates which do not appear to be dependent on the location of the development (in proximity to transport) and request clarification on how local character would be maintained with the introduction of Co-living developments in the R3 and R4 zone.

3. Proposed amendments to the Affordable Rental Housing SEPP

Since the introduction of the Affordable Rental Housing SEPP, councils and communities have raised concerns about the boarding house provisions. Key concerns include the lack of affordability of boarding house rooms, the excessive scale and bulk of some boarding house developments and the compatibility of boarding house development with low-density residential areas. The proposed Housing Diversity SEPP seeks to address those concerns through a number of changes as follows:

3.1 Boarding houses

Permissibility

The EIE proposes that boarding houses would no longer be mandated in R2 - Low Density Residential zones, in response to concerns regarding compatibility of such development with low-density residential areas.

However, provisions would be included in the Housing Diversity SEPP to ensure that the NSW Land and Housing Corporation (LAHC) would be able to continue to develop boarding houses (limited to 12 rooms) on government-owned land in the R2 zone, regardless of permissibility within an LEP.

Definition

The EIE proposes that the definition of boarding house would be amended to require the building to be managed by a registered not-for-profit community housing provider (CHP) to ensure that they are affordable. DPIE is seeking feedback on whether to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, or in perpetuity.

Comment

The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. Boarding houses are often incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use.

The introduction of an affordability requirement and management by a community housing provider is supported. Given the purpose of boarding houses, the objectives of the Affordable Rental Housing SEPP and the need for affordable rental housing stock in Hornsby Shire, the affordability requirement should be in perpetuity.

Recommendation

It is recommended that Council's submission outline support for no longer mandating boarding houses as a permissible use in the R2 – Low Density Residential zone and suggest that the prohibition equally apply to the NSW LAHC. The submission should advocate that boarding houses be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

3.2 Secondary dwellings in rural zones

Currently, the Affordable Rental Housing SEPP permits secondary dwellings in urban areas. Secondary dwellings in rural zones are permitted under the HLEP 2013. The size of secondary dwellings is set under Clause 5.4(9) of the Standard Instrument as either 60m² or a percentage set by Council, whichever is the greater (Hornsby Council sets 33% as the percentage for rural areas).

In response to concerns from councils that the Standard Instrument clause does not have the flexibility to prescribe a different square metre size for urban and rural areas, the EIE proposes to amend the Affordable Rental Housing SEPP to allow councils the discretion to set a maximum size for secondary dwellings in rural areas.

Comment

The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern would be raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection should be raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwellings in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument would be a preferred approach to apply to secondary dwellings in both urban and rural areas with the discretion to set a square metre maximum instead of a percentage separately for urban and rural areas. This is consistent with the approach recommended in the Rural Land Study.

Recommendation

It is recommended that Council's submission raise concerns with any proposal to amend the Affordable Rental Housing SEPP to include rural secondary dwellings and provide a complying development pathway. Instead, an amendment to Standard Instrument Clause 5.4(9) should be supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

3.3 Group Homes

Currently, there is a complying development pathway for group homes. However, the EIE indicates there is uncertainty as to whether there is a complying development pathway for converting an existing dwelling into a group home. The new SEPP proposes to introduce a quicker and easier process to allow an existing dwelling to be used as a group home (presumably the exempt and complying development process).

Comment

Further clarity is required around the quicker and easier process. There may be additional locational or site constraints that need to be considered to determine whether an existing dwelling is fit for purpose for a group home or potential impacts of traffic and amenity. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home.

Recommendation

It is recommended that Council's submission raise concerns and request further clarity on the quicker and easier process for conversion of an existing dwelling to a group home. The conversion of heritage items should be excluded from any exempt or complying development pathway due to the requirement for adequate assessment of such a conversion and potential impacts on the heritage significance.

4. Proposed amendments to Seniors Housing SEPP provisions

Some of the recommendations of the Greater Sydney Commission (GSC) investigation into the challenges relating to seniors housing developments in rural areas are proposed to be incorporated into the Housing Diversity SEPP as follows:

4.1 Update definitions, provisions and Schedule 1

The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP, leading to inconsistency in interpretation and application. It is proposed that the definition of 'height', 'people with a disability' and 'AS 2890' are to be amended in line with the Standard Instrument LEP.

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. Over time, since the introduction of the SEPP in 2004, some of the terms in Schedule 1 have become obsolete and others contested in Court. It is proposed to amend Schedule 1 to better align with current legislation and planning conditions.

The EIE proposes to amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement.

Comment

The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals and substantial cost to Council.

The Schedule should be reviewed with input from Council staff. A workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Recommendation

It is recommended that Council's submission outline support for the proposal to update definitions, Schedule 1 terminology and location and access provisions. Further, a workshop with assessment planners should be requested once Schedule 1 has been redrafted.

4.2 Application of local development standards

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'.

To provide clarity, it is proposed to amend the SEPP provisions so that development standards in an LEP prevail when there any inconsistencies with the Seniors SEPP. Also, under this amendment, development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, to a maximum of 20%.

Comment

As discussed above (under 1. Consolidation of existing housing related SEPPs) Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Recommendation

It is recommended that Council's submission outline support for any amendments which allow local controls to prevail rather than one-size fits all State policies and request clarification on the detail of how this would be achieved. The submission should object to the proposal to allow a maximum variation of 20% and request an immediate review into the effectiveness and interpretation of the application of Clause 4.6 variations.

Site Compatibility Certificates

The new SEPP proposes to extend how long a Site Compatibility Certificate (SCC) is valid for from 24 months to five years, provided that a development application is lodged within 12 months of the date on which the SCC is issued. It is suggested that this timeframe is required to allow the preparation and assessment of seniors housing proposals, and prevent the SCC lapsing before the DA has been determined.

Comment

A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. This can result in unsuitable development outcomes, especially in Council's rural areas. Although the Seniors SEPP has recently been amended to exclude SCCs in the Metropolitan Rural Area, they can still be applied for under other circumstances in urban areas.

Recommendation

It is recommended that Council's submission raise concerns with the SCC process and request it be aligned with the Planning Proposal process to ensure the suitability of the land use prior to lodgement of a DA.

5. Proposed amendments to social housing provisions for NSW Land and Housing Corporation (LAHC)

The EIE proposes to implement changes to planning provisions within the *Affordable Rental Housing SEPP* and the *Seniors SEPP* to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC). These provisions would align with wider Government priorities set out in Future Directions for Social Housing in NSW (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy and include the following:

5.1 Self-assessment of dwellings by the LAHC

The existing *Affordable Rental Housing SEPP* provisions allow the LAHC to self-assess and deliver small scale redevelopments with up to 20 dwellings and a maximum height of 8.5 m (two storeys). However, the EIE proposes to increase the maximum number of self-assessable dwellings to 60, including all residential development permitted with consent under another environmental planning instrument, or under a local environment plan and facilitated under the Exempt and Complying Development Codes SEPP, with a maximum height of 8.5 m.

The EIE also proposes to update the required design guidelines, including the Seniors Living Policy: Urban Design Guidelines for Infill Development, as well as the LAHC's own design guidelines and standards, to better reflect the increased threshold for self-assessable dwellings.

Comment

Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Recommendation

It is recommended that Council's submission request consideration of the cumulative impacts of increased density and associated infrastructure implications that may result from the increased self-assessment threshold. Further, the submission should advocate for all LAHC self-assessments to adhere to council's Development Control Plans to maintain local character.

5.2 Car parking requirements for LAHC development

The EIE proposes to apply a minimum car parking rate of 0.5 spaces per dwelling for a development undertaken by or on behalf of LAHC, on government-owned land, and 0.2 spaces per room for boarding houses by social housing providers. These reduced parking rates would also apply to the private dwelling component of a seniors housing development under the Seniors SEPP on government-owned land.

Comment

As previously discussed, concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Recommendation

It is recommended that Council's submission raise concerns with the likely increased on-street parking pressures generated by low car parking rates in areas not in close proximity to transport nodes.

5.3 Subdivision of Government-owned land

The EIE proposes to support the delivery of the Government's social housing program by allowing subdivision of Government-owned land without consent.

Comment

The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned land would not achieve the desired outcomes within varying land use zones.

Recommendation

It is recommended that Council's submission object to a blanket approach to Development without consent on Government-owned land and request further details concerning the proposed criteria for this type of development on Government-owned land.

5.4 Lift access exemption

The Seniors SEPP currently includes an exemption for development applications made by, or jointly with, a social housing provider requiring new self-contained dwellings for seniors housing located on or above the second floor to have lift access. The EIE proposes to amend the lift access exemption so it applies to all seniors housing delivered by or on behalf of LAHC, including dwellings not proposed as social housing.

Comment

Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed.

The EIE also fails to clearly explain the reasons for this exemption applying to LAHC developments. Residents of a Government owned seniors housing development should not be subject to limited

accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

Recommendation

It is recommended that Council's submission advocate for the retention of the existing lift access requirements for all types of multi-storey seniors housing developments, regardless of the developer or land owner.

6. Other issues

General concerns relating to various aspects of the proposed SEPP are discussed below and include design excellence and the application of development contributions for the provision of infrastructure to support development.

6.1 Design Excellence

Council is currently progressing amendments to the HLEP to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Recommendation

It is recommended that Council's submission request that further refinements to development standards for the new housing typologies and specific design guidelines be drafted in consultation with councils to ensure design excellence is achieved.

6.2 Development Contributions

As discussed above (under 1. Consolidation of existing housing-related SEPPs) Council already has concerns with the growth in housing needs and related infrastructure requirements. The proposed SEPP would introduce further residential dwelling typologies and development pathways. However, there is no clarity on the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Recommendation

It is recommended that Council's submission request confirmation that the proposed SEPP would not permit exemptions to the payment of development contributions for development permitted under the SEPP which would generate infrastructure needs.

CONSULTATION

The Explanation of Intended Effect for the Housing Diversity SEPP is on exhibition until 9 September 2020. DPIE has been provided with an advance copy of Council's draft submission, subject to potential changes and/or endorsement by Council.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The EIE was prepared to set out the Department of Planning, Industry and Environment's proposal to prepare a new Housing Diversity SEPP to consolidate and update state level planning provisions for diverse and affordable housing types. DPIE advise that the proposed changes set out in the Explanation of Intended Effect will ensure that the residential development sector is well-placed to assist the economic recovery of NSW following the COVID-19 pandemic.

CONCLUSION

The EIE for the proposed Housing Diversity SEPP attached to this report outlines a proposal to consolidate and update the NSW Government's housing related policies, introduce new land use terms to help facilitate housing projects, and amend certain planning provisions to provide greater certainty for all stakeholders.

This report outlines the key changes and proposals outlined in the EIE and the implications for Hornsby Shire and notes areas of support and concern. The proposal to no longer mandate boarding houses as a permissible use in the R2 – Low Density Residential zone as part of the new SEPP is welcomed. However, there are areas of concern with the new SEPP as outlined above, including the proposal to mandate build-to-rent housing in the R3 Medium Density zone and B3 Commercial core and any proposal to amend the Affordable Rental Housing SEPP that would include rural secondary dwellings and provide a complying development pathway.

It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Strategic Landuse Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY

Manager - Strategic Landuse Planning
Planning and Compliance Division

JAMES FARRINGTON

Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1. Explanation of Intended Effect - Housing Diversity SEPP

File Reference: F2004/07599-02

Document Number: D07978652

13 PL19/20 Exhibition of the Proposed Housing Diversity State Environmental Planning Policy

(F2004/07599-02)

RESOLVED ON THE MOTION OF COUNCILLOR MARR, seconded by COUNCILLOR BROWNE,
THAT:

1. A submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):
 - a) Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
 - b) Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
 - c) Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.
2. Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.
3. The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.

FOR: COUNCILLORS BROWNE, DEL GALLEGOS, HEYDE, HUTCHENCE, MARR, MCINTOSH, NICITA, RUDDOCK, TILBURY AND WADDELL

AGAINST: NIL



HOUSING INDUSTRY ASSOCIATION



Submission to NSW Department of Planning, Industry and Environment

**Explanation of Intended Effect for new Housing Diversity State
Environmental Planning Policy - July 2020**

Submission made 11 September 2020



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ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. Our members are involved in delivering more than 150,000 new homes each year through the construction of new housing estates, detached homes, low & medium-density housing developments, apartment buildings and completing renovations on Australia's 9 million existing homes.

HIA members comprise a diverse mix of companies, including volume builders delivering thousands of new homes a year through to small and medium home builders delivering one or more custom built homes a year. From sole traders to multi-nationals, HIA members construct over 85 per cent of the nation's new building stock.

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into the manufacturing, supply and retail sectors.

Contributing over \$100 billion per annum and accounting for 5.8 per cent of Gross Domestic Product, the residential building industry employs over one million people, representing tens of thousands of small businesses and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

"promote policies and provide services which enhance our members' business practices, products and profitability, consistent with the highest standards of professional and commercial conduct."

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The association operates offices in 22 centres around the nation providing a wide range of advocacy, business support services and products for members, including legal, technical, planning, workplace health and safety and business compliance advice, along with training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services.

1.0 INTRODUCTION

HIA welcomes the opportunity to comment on the Explanation of Intended Effect (EIE) for the new Housing Diversity State Environmental Planning Policy (new SEPP), and we thank the Department for meeting with HIA on 4 September 2020 to provide an overview of the new SEPP.

HIA notes that the key elements of the new SEPP, as outlined in the EIE, are as follows:

1. Consolidation of three housing-related SEPPs
 - i. State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
 - ii. State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
 - iii. State Environmental Planning Policy No 70–Affordable Housing (Revised Schemes) (SEPP70)
2. Introduction of new definitions for build-to-rent housing, student housing and co-living
3. Amending some state-level provisions, particularly regarding boarding house and seniors housing development
4. Updates to social housing provisions to support redevelopment of government-owned land with a mixture of social, affordable and private dwellings on a single site, involving the clarification and expansion of the self-assessment provisions for development carried out by NSW Land and Housing Corporation.

HIA understands that the Department proposes to support the delivery of diverse housing types across NSW in a number of innovative ways. Whilst HIA generally supports the approach, the purpose of this submission is to offer comments and suggestions in regard to the following sections of the EIE:

- Introducing new housing types
- Proposed changes to boarding house provisions of ARHSEPP
- Proposed amendments to ARHSEPP provisions
- Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing

HIA would like to raise some concern about the duplicated use of the term *housing diversity* across different policy areas and the confusion that may arise from this. The community may assume that the housing type addressed in the new *Housing Diversity SEPP* is the same as the housing type addressed in the *Low Rise Housing Diversity Code*. However, we appreciate that this is not the case as the new SEPP covers State level planning policy for both medium and high density housing types (and tenures), whereas the focus of the diversity code is narrower and provides a complying development pathway for medium density housing only.

2.0 INTRODUCING NEW HOUSING TYPES

2.1 INTRODUCTION

This section addresses each of the new housing types introduced within the EIE and provides comments on each; build-to-rent, purpose-built student housing and co-living.

HIA supports diversity in housing type and tenure. A copy of HIA's *Housing Affordability Policy* is attached. A fundamental principle of HIA's policy is that every Australian should have access to a home. The policy identifies private rental and subsidised private rental housing as key types of housing supply in Australia.

The concept of the '*Housing Continuum*' (refer diagram below) has been developed by HIA and describes the broad variety of housing types that make up the housing supply chain and provides a comparison of these housing types by tenure and delivery mechanism.



HIA notes that the EIE proposes the introduction of definitions and planning provisions for the three new housing types in the new SEPP, as follows:

- Build-to-rent (BTR)
- Purpose-built student housing (student housing), and
- Co-living

Specific comments relating to these new housing types are set out below. However, more broadly it is critical the Government recognise that for development of these new housing types to be taken up by the market, meaning industry and the community, they must be presented as a model that is commercially viable.

Measures to support the delivery of affordable rental housing across the state are supported, along with new initiatives that include mainstream builders and developers in the delivery of these housing types.

2.2 BUILD TO RENT (BTR)

Background comments

Compared to other countries, large scale ownership of private rental of housing has not been a major feature of the Australian housing market. Private rental ownership has primarily been the realm of small-scale investors who supply housing across Australia at the market rate.

HIA understands that BTR as proposed within the EIE refers to developments specifically designed and built for longer term renters in the private market with the developer or major investor maintaining ownership of all the properties rather than selling them to individual buyers. The aim of the BTR system being to provide a more secure tenure option for those in the rental market through offering longer-term leases.

The large scale institutional investors now focussing on this investment asset class in Australia are looking to build and construct, retain ownership of these dwellings for the long term, and harvest the income from rents. This can operate in an identical way to commercial property construction and management arrangements.

Why should Build-to-rent housing be limited to developments of minimum 50 Units?

The proposed land use definition for BTR is restrictive in that it requires BTR developments to be comprised of 50 or more dwellings which essentially eliminates any diversity and 'pigeonholes' BTR into being within apartment / high-rise developments only.

Considering the most recent introduction of the *Low-Rise Housing Diversity Code*, BTR should also be encouraged in this medium density form and a lower number of dwellings should be eligible.

The proposed definition for BTR appears to suit the major builders and not the second or middle tier builders. We understand that the larger developers have been the early promoters of BTR and have provided a commitment to this type of development, however a second or middle tier developer should also have the opportunity to generate BTR across diverse product types encompassing 'horizontal' BTR.

In addition, if the BTR product is available to smaller builders they would also be able to benefit from the fifty percent Land Tax subsidies being explored by the Government. It is unfair that the smaller builders would potentially miss out on the financial incentive that will be offered by the government through the BTR Land Tax proposal.

Why should BTR and Co-Living have a requirement for on-site management?

The limitations of the 'planning system' need to be recognised in developing the BTR scheme. With the 'real-time' advantages of current app style technology, BTR (and co-living) should not be subject to a requirement to have on-site management. Developers and operators should have flexibility to manage their assets in accordance with market expectations. Further, whilst tenure / titling is relatively easy for councils to control, how would they control the presence of an on-site manager?

The requirement for an on-site manager could also directly impact rents and the affordability of these co-living units for the tenants. If the salary of the on-site manager is factored into rents, this would add an additional cost for tenants.

What impact will BTR have on B3 Commercial Core zones?

Many councils do not permit any type of residential accommodation in the commercial core to reduce land use conflicts and to limit any reduction in employment-generating floor space. The potential adverse economic and land use impacts from mandating BTR as a permissible use in the B3 zone needs to be carefully considered.

Feedback Comments

Strata-subdivision: The EIE seeks feedback from stakeholders on appropriate mechanisms that could be incorporated into the new SEPP to manage the transition from BTR (excluding BTR in B3 zones) to a strata-subdivided apartment development after 15 years in the future. HIA is generally supportive of the solutions proposed - residents being offered a right of first refusal to acquire a unit at a fair market price, or a minimum percentage of dwellings required to be retained as affordable housing. This is an area that should be further workshopped with stakeholders.

Regional areas: HIA agrees that BTR developments in regional areas could generally be of a smaller scale and take the form of multi-dwelling housing or terraces rather than apartments. However, as outlined above, HIA strongly supports provision for the smaller scale medium density style BTR developments in metropolitan areas as well.

2.3 PURPOSE-BUILT STUDENT HOUSING

Monitoring of new housing type

HIA is supportive of the introduction of a definition and development standards for purpose-built student housing. However, we agree that the Department should 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 the student population and that local impacts are acceptable.

In which zones will purpose-built student housing be permitted?

The EIE does not seek to mandate zones in which student housing will be permissible. This may result in ad-hoc arrangements between different local council areas, which may be confusing for developers working across one or more council areas. Some guidance on appropriate land use zones for student housing should therefore be considered by the Department.

Development standards

To mitigate local impacts, we recommend that purpose-built student housing developments should include provision for staff parking and a service bay for trades people and deliveries. In addition there should be a mandatory requirement for kitchen and bathroom facilities to be provided to reflect the number of students accommodated, similar to those required under the National Construction Code for these housing types.

Feedback Comments

Locational requirements: There should be locational requirements incorporated into the new SEPP or Local Environmental Plans to require student housing be located within an accessible area, with the definition of *accessible area*, similar to the one used within the ARHSEPP, as follows:

accessible area means land that is within—

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

This is particularly relevant as there is no provision for parking in the proposed development standards for student housing.

2.4 CO-LIVING

What incentives will there be for co-living development?

The EIE acknowledges the important function that 'new generation' boarding houses have played in delivering a class of affordable rental accommodation to meet the needs of the community. Due to the existing floor space bonus available under the ARHSEPP, a large number of boarding houses have been delivered in NSW and this has resulted in some land use conflicts. However, will the proposed co-living controls provide enough of an incentive to encourage the continued delivery of this type of accommodation and will the housing type be commercially viable for builders and operators? This is an area that may need further consideration by government and industry.

Why do co-living developments need to have a requirement for on-site management?

As outlined above for BTR, the 'real-time' advantages of current app style technology should mean that co-living would not need to have on-site management. Developers / operators should have the flexibility to manage their assets in accordance with market expectations. Further whilst tenure / titling is relatively easy for councils to control, how would they control the presence of an on-site manager?

As outlined above for BTR, the requirement for an on-site manager may also impact the cost of rents and the affordability of co-living units for residents. The salary of the on-site manager may need to be factored into the rents of the tenants, which may make the rents less competitive when compared to the private rental market, where no on-site manager is required.

In which zones will co-living be permitted?

The EIE does not seek to mandate zones in which co-living will be permissible. This may result in ad-hoc arrangements between different councils, which is confusing for developers working across one or more local government areas. As with purpose-built student housing some guidance on permissibility requirements would be useful in the new SEPP.

Feedback Comments

Design guidelines: HIA supports the development of design guidelines for co-living to accompany the SEPP and that the guidelines would address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy. These guidelines should be developed in consultation with industry.

Monitoring: The co-living housing type and associated development standards should be monitored to ensure that provision of this product is both viable for developers and affordable for occupants, whilst meeting both their needs and expectations. Equally these housing developments need to be clearly identified to avoid future unintended consequences such as 'on selling' for other housing uses, or rental to other occupant types. The ability of the planning system to adequately manage the outcome and the future risk of this housing type is extremely limited and a cautious approach needs to be taken.

3.0 PROPOSED CHANGES TO BOARDING HOUSE PROVISIONS OF ARHSEPP

HIA has reviewed the proposed changes to the boarding house provisions of the ARHSEPP, and would like to make the following comments.

The proposal to amend the definition of 'boarding house' to include an affordability (*eligibility based on income*) requirement is noted and this amendment together with the creation of the new housing types (BTR, purpose-built student housing and co-living), would provide greater clarity to the future purpose of the 'boarding-house' use.

Missing from the EIE however, is detail about how affordability and eligibility will be assessed and managed long term for boarding houses through the planning system without creating the risk of unintended consequences.

It may be appropriate to revert boarding house rents to market rates after 10 years only if it can be demonstrated that at that point, that the removal of the 'affordable' boarding house rooms has been replaced by new and equivalent stock.

4.0 PROPOSED AMENDMENTS TO ARHSEPP PROVISIONS

4.1 GROUP HOMES

There should be stakeholder consultation for any proposal to amend the ARHSEPP to introduce exempt or complying development pathways for converting an existing dwelling to a group home.

4.2 SECONDARY DWELLINGS

HIA supports the proposed amendment to the ARHSEPP to allow councils to have the discretion to set a maximum size for secondary dwellings in rural zones.

To add to this change, we suggest that consideration should be given to the permitted size of secondary dwellings in residential zones with a sliding scale introduced to determine the size of secondary dwelling permitted depending on lot size. That is the larger the lot, the larger the floor area of the dwelling, rather than capping the floor area of all secondary dwellings at 60m².

5.0 AMENDING THE ARHSEPP AND SENIORS SEPP TO SUPPORT THE DELIVERY OF SOCIAL HOUSING

Amendments to the ARHSEPP and Seniors SEPP to improve the delivery of social housing across the state are generally supported, as are new initiatives to include a greater diversity of builders and developers in the delivery of social housing. However, for the building and development industry to participate in the delivery of both social and affordable rental housing, the proposals must be commercially viable. To assess whether a project is viable, industry will require access to clear and detailed project information, during the tender process.

HIA has noted that the proposed amendments to the social housing provisions of the ARHSEPP will introduce new approval arrangements that are specific to ownership of land rather than type of development. The new provisions will give the NSW Land and Housing Corporation (LAHC) increased ability to approve new housing projects with density bonuses, not available to other housing projects. This is taken to include any private housing component within a mixed private, affordable rental and social housing scheme.

This means that the LAHC will benefit from regulatory advantages, not available to private land holders, which may raise 'competitive neutrality' concerns.

6.0 SUMMARY & CONCLUSIONS

HIA understands the objective of the new SEPP is to deliver diverse housing types across NSW in a number of innovative ways. Whilst HIA is generally supportive of the approach, there are several questions and concerns in relation to the proposals which warrant closer consideration and explanation, prior to the policies being finalised. In summary these concerns are:

- The creation of policy settings that enable greater diversity in housing types and tenure have merit, but the planning system is inherently limited in its ability to manage issues of tenure.
- The policy settings must ensure the delivery of a fair and equitable outcome for all land owners.
- Removing constraints that limit the supply of medium density housing solutions is critical.
- Confusion for stakeholders may arise in relation to the duplicate use of the term *housing diversity* across different policy areas – that is both the *Low Rise Housing Diversity Code* (for medium density housing only) and the new *Housing Diversity SEPP* (addressing a diversity of housing types and tenures for medium and high density residential development).
- HIA is supportive of the introduction of definitions and development standards for build-to-rent, purpose-built student housing and co-living housing types. However, for development of these newly defined housing types to be supported, they must each be presented as a model that is commercially viable for industry.
- The proposed land use definition for BTR is restrictive in that it requires BTR developments to be comprised of 50 or more dwellings which essentially eliminates any ‘diversity’ in housing type and ‘pigeonholes’ BTR into the apartment/high-rise developments market. Considering the most recent introduction of the *Low-Rise Housing Diversity Code*, BTR should also be encouraged in this medium density form and a lower minimum number of units permitted.
- The BTR controls appear to be drafted to suit large corporate builders and not the mid-size or small home builders. While larger developers have been the early promoters of BTR and have provided a commitment to this type of development, a medium or small builder/developer should have the opportunity to generate BTR across diverse product types encompassing ‘horizontal’ BTR.
- In addition, if the BTR product is available the smaller builders they would also be able to benefit from the fifty percent Land Tax subsidies being explored by the Government. It is unfair that the smaller builders would potentially miss out on the financial incentive that will be offered by the government through the BTR Land Tax proposal, due to the definition of BTR and the minimum number of units required.
- Specific comments and questions on the detail of the definitions and development standards for BTR, purpose-built student housing and co-living have been addressed in the main body (refer Section 2.0) of this submission.
- Comments on changes to the boarding house provisions of the ARHSEPP and amendments to ARHSEPP provisions for group homes and secondary dwellings have also been provided in the main body (refer sections 3.0 and 4.0) of this submission.
- Amendments to the ARHSEPP and Seniors SEPP to include a greater diversity of builders and developers in the delivery of social housing are generally supported. However, for the residential building and development industry to participate in the delivery of both social and affordable rental housing, the framework established must be commercially viable.

Please contact Cathy Towers, NSW Planning Adviser, (telephone: 9978 3333 or c.towers@hia.com.au) for further information about any of the issues raised in this submission.



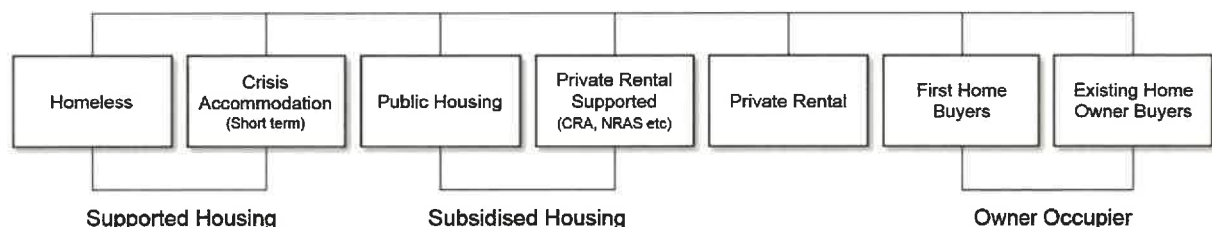


Housing Affordability

Policy Background

- A fundamental tenet of HIA's efforts to promote housing supply is that every Australian should have access to a home. Access to shelter is a basic human need and is critical to allow all Australians to participate in society to their full economic and social potential. Yet despite being a developed and economically advanced nation, housing affordability remains a challenge for many Australians.
- When considering their role in promoting housing supply, all levels of government must acknowledge that housing affordability is a function of an adequate housing supply and that by placing pressure on the supply of new homes for private rental and sale, through poor policy settings, governments effectively place pressure back down the housing supply chain, increasing the number of people seeking government assistance for housing.
- To assist in highlighting the connection between each part of the housing supply chain, HIA has developed the concept of the 'housing continuum'. This allows stakeholders to better describe the broad variety of housing types that make up the housing supply chain and provide a comparison of these housing types by tenure and delivery mechanism (i.e. government, not for profit, private).

The HIA Housing Continuum



May 2015

- Housing affordability is improved as a consequence of an adequate housing supply at an appropriate price for each cohort of the housing continuum.
- Many developers and builders contribute to ensuring sustained levels of housing affordability by offering diversity in product, including housing for the low and moderate income end of the market. Yet overall housing supply continues to fall short of underlying demand year on year.

Policy Issues

- Housing affordability is generally accepted as a term that refers to the relationship between housing costs (rent, mortgage repayments) and a household's total income. It can be applied at the individual dwelling level, but often refers to the conditions across the overall housing market.
- For the housing industry, housing affordability is intended to focus attention on achieving an outcome – that is, to create an environment where a person not currently in the private housing market has the ability to enter it, whether to rent or own.
- When affordability is low, the ability to enter the market is restricted for those on low and moderate incomes. When affordability improves, the ability to enter the market, and remain in the market, for these households also improves.

- Recent state and commonwealth government inquiries into affordable housing have been unable to clarify the various definitions for housing affordability cited by lobby groups, community housing providers, governments and regulators. Attempts to address Australia's housing affordability challenges first requires a clear definition and scoping of the problem. The housing affordability challenge has numerous cohorts, looking through different prisms:
 - Those on public housing waiting lists;
 - Those waiting on community housing providers;
 - Those requiring housing support (housing for the disabled and for emergencies)
 - Those in private rental housing, supported by Commonwealth rental assistance payments;
 - Those experiencing unsustainable increases in private rental costs; and
 - Those saving for a first home.
- HIA has a range of policies aimed at improving housing affordability by addressing specific issues that detract from affordability and supply. This statement aims to set out industry's expectations of government to support housing affordability through a range of avenues.

HIA's Policy Position on Housing Affordability

To address the imbalance between the supply of and demand for housing, which leads to reduced housing affordability, government policies need to:

- Recognise that a continuing undersupply of housing stock contributes to the unaffordability of housing in Australia – across numerous segments of the community.
- Support and enable industry to meet overall housing supply targets by creating the right environment to incentivise a wide variety of housing to be built in the marketplace.
- Support industry to voluntarily assist governments to improve the supply of low and moderate income housing stock (affordable housing), for rent or sale, as a supplement to governments own social and crisis accommodation provision (for example NRAS programs).
- Support and promote initiatives that improve housing supply and therefore housing affordability for all households including:
 - Maintaining abundant land supplies including short, medium and long term land supply in the pipeline for detached housing sites in conjunction with medium density opportunities.
 - Setting clear land supply targets for authorities to ensure land supplied for housing in both greenfield and infill sites are maintained.
 - Addressing the excessive taxation burden on housing.
 - Restricting any further development contributions being levied on housing, particularly those which levy for community infrastructure items that should be funded by general taxation measures.
 - Continuing to support and implement housing based infrastructure rather than place that responsibility back onto industry to fund this.
 - Ensuring a streamlined planning approvals process where constraints on the land are clearly identified in the first instance and standards for the subsequent design and construction of housing are specified in single residential housing codes for all jurisdictions.
 - Allowing the private sector to assist with the heavy workload of authorities in planning and ensuring better statutory time frames are delivered for housing development.
 - Identifying surplus land for residential development and facilitate its release in a timely manner.
 - Actively promoting policies which to allow for a range and mix of housing to be developed at all price points.
 - Making new housing supply and housing affordability an objective of state planning legislation.



HUNTER'S HILL COUNCIL

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Reference:

7 September 2020

Department of Planning,
Industry and Environment
Sandy Chappel
Director, Housing Policy
Planning Policy

C/- Online Submission Portal

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

Dear Sir / Madam,

Draft Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP)

Thank you for the opportunity to comment on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP). Council has reviewed the new Housing Diversity SEPP and detailed comments have been provided under each heading below:

Build-to-rent (BTR) housing – new provisions

Build-to-rent (BTR) housing is purpose-built high-density rental housing, situated close to transport and amenity, held in single ownership and professionally managed. It is designed to attract institutional investment with long-term leases. The building would not be able to be strata subdivided for the first 15 years.

Comment

The proposal for a minimum car parking rate of 0.5 spaces per dwelling, which is not dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity is not supported, and is inconsistent with the standard proposed for Co-Living and Boarding Houses, which would have a 0.5 space per room. This would result in on-street parking pressure within the vicinity of BTR developments and other dwelling types in the same vicinity. The transition of BTR to a strata-subdivided apartment development after 15 years would undermine the intention and definition of this new type of residential accommodation. Subdivision of BTR housing should be prohibited in any zone in perpetuity.

The intent of this is to build stock and provide long term leases, and this often exceeds 15 years (in examples from Australia and around the world). If stock is strata subdivided and sold in the market place after 15 years, this intent would not be realised.

The statement on Page 8 that more rental housing is needed during the COVID-19 recovery is questioned as there is substantial private rental stock available

now across Greater Sydney (with reducing rental returns and vacancies), often near transport and in established communities. The NSW Government and its NSW Housing Strategy could adopt mechanisms to take up available stock for use by institutional investors or other community housing groups. The Department of Housing has for some time taken this approach by acquiring housing for rent (new build or established).

Council's submission also objects to the mandating of BTR housing in any land use zone as it raises significant concerns regarding the integration and compatibility of the BTR housing definition with Council's development standards in the LEP and DCP, notwithstanding the stated purpose and role of the Local Strategic Planning Statement and Local Housing Strategy.

The B3 zone in Hunters Hill LGA would be a key location for meeting the NSW Government's future housing supply targets however BTR housing would undermine other planning objectives of the State government. In Hunter's Hill's case, it would undermine the place-making objectives of our town centres outlined in the LSPS, LEP and DCP. A clear understanding of locational requirements and what is a well located and accessible area should be articulated to avoid impacts from increased on-street parking generation. It is concerning that the BTR housing type is proposed in the draft SEPP with no design guidance for room/apartment sizes, which is to be developed when and this implies a lessor housing habitable space to meet a rental dwelling yield.

Purpose Built Student Housing – new provisions

Councils must retain the ability to determine in which location or land use zone any Purpose Built Student Housing is to be addressed in the SEPP, beyond the lands of educational institutions – the status quo.

Group Homes – amendment to ARH SEPP provisions

There is a complying development pathway for group homes and the new SEPP proposes to introduce a quicker and easier process to allow an existing dwelling to be used as a group home.

Comment

Clarity is sought on the wording "quicker and easier process" for allowing an existing dwelling to be used as a group home.

There may be locational or site constraints that need to be considered to determine whether an existing dwelling is fit for purpose for a group home or whether there are other potential impacts that could be of concern e.g. traffic, amenity, sensitive lands (flooding, evacuation), services proximity and availability.

This type of development should remain as being subject to being merit assessed through the development application process.

Clarification is sought on the "quicker and easier process" for conversion of an existing dwellings into a group home. The conversion of heritage items should be excluded from any exempt or complying development pathway due to the requirement for adequate assessment of such a conversion and potential impacts on the heritage significance.

Further, the conversion of heritage items should be excluded from this process due to potential heritage impacts not being adequately assessed and poses risk to destroying the heritage fabric, should the exempt and complying assessment pathway be pursued.

Seniors housing – amendment to seniors housing provisions

Application of local development standards

Comment

Council supports the intention to clarify that development standards in a LEP prevail to the extent of any inconsistency with the SEPP for Senior's housing (and any permitted by the current SEPP).

To allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%, is unclear and requires further detail as to the rationale.

Therefore, clarification on the detail of how this would be achieved must be provided and councils engaged in setting the standards. The use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Objection is raised to the proposal to allow a maximum variation of 20% and request an immediate review into the effectiveness and interpretation of the application of Clause 4.6 variations.

Reduced parking rates are intended to be introduced for private dwelling components of a seniors housing development under the Seniors SEPP, and this is of great concern and this proposal is objected to.

The introduction of low minimum car parking rates in the absence of current requirements will generate additional on-street parking pressure within the vicinity of these developments, from residents, visitors and workers.

Council LEPs must have the ability to determine car parking rates for Seniors housing to ensure their LSPs and local housing strategies are not undermined, along with stated place-making ideals of communities and the NSW Government.

Social housing provisions – amendment to ARH SEPP

In this SEPP social housing is provided via Land and Housing Corporation (LAHC) development on Government-owned lands. The intention is to increase the self-assessed dwelling threshold from 20 dwellings to 60 dwellings, and again a minimum car parking provision rate is intended to be set at 0.5 spaces per dwelling.

Comment

It has not been demonstrated that the uplift in self-assessed dwellings for social housing in LAHC developments is justified, on planning grounds.

A jump from 20 to 60 dwellings is significant and at a time when a number of new dwelling types have been introduced and are untested, since February 2020/COVID-19 period.

It does not adequately, address the primary purpose and zoning of Government-owned lands, and the intensification of land use that the broader community would expect to be merit assessed.

Development Contributions

The SEPP would not permit exemptions to the payment of development contributions for development permitted under the SEPP, which would generate infrastructure needs.

Comment

Contributions are necessary for councils to provide the required local infrastructure to support development, and no exemptions to the payment of development contributions should be considered.

Council within this submission raises issues that need to be addressed, ensuring any affordable residential accommodation delivered under the new Housing Diversity SEPP, provides well designed buildings, protects the local character and amenity of the neighbourhoods, promotes well design buildings with sufficient communal living and open spaces and delivers appropriate onsite parking to minimise impact on local streets.

Should you wish to discuss the matters raised in this submission please contact Director , Development and Regulatory Services, Mr Steve Kourepis on 9879 9411.Yours sincerely



Lisa Miscamble
GENERAL MANAGER

Submitted on Sun, 06/09/2020 - 17:08
Submitted by: Anonymous
Submitted values are:
Submission Type:I am making a personal submission
First Name: Ian
Last Name: Cunningham
Name Withheld: No
Email: bringtheglow@gmail.com
Suburb/Town & Postcode: Thirroul 2515
Submission file: [webform_submission:values:submission_file]

Submission: Thankyou for the opportunity to submit comments on the SEPP. I appreciate the changes proposed. SEPP revisions present an opportunity to include co-housing along other new models currently including in the SEPP of build-to-rent housing, student housing and co-living developments. Cohousing is an intentional community of private homes clustered around shared space. The term originated in Denmark in the late 1960s. Each attached or single family home has traditional amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Shared outdoor space may include parking, walkways, open space, and gardens. Neighbours also share resources like tools and lawnmowers. There are existing co-housing models in other states, while in NSW it's still new. Cohousing provides opportunity for designing for community and alternative models for intergenerational living and aging in place. Current trends include increased life expectancy. There's a notable absence of options for elderly to age well at home. 80% of people over 60 years old wish to live/age in their own home is their preferred living arrangement. This is becoming increasingly difficult, a 50% increase in the number of older people at risk of homelessness in NSW in the last five years. Single women are one demographic who are at higher risk of homelessness. Cohousing models are one option that can both reducing housing costs and provide community-based support to such stakeholders. There are a number of existing co-housing initiative in Australia which have incorporated community housing with owner/occupiers, including Murundaka (Vic) and Pinakarri (WA). Often co-housing targets the gap between social housing and market rates. Cohousing communities emphasise social connections and are designed to promote social interaction and social capital (Daly 2017; Williams 2005). Mutual support is a key factor for people who move into co-housing (Glass 2009; Markle 2015) Developments are designed to foster interaction, from development planning stages to physical design (e.g. shared facilities, visibility of public and semi-private spaces etc). Social capital is built through participation of residents in the development (Ruiu 2014). Research has shown cohousing residents give and receive significantly more socially supportive behaviours than demographically similar non-cohousing residents (e.g. for primary caregivers of children, elderly support) and are more civically engaged (Riedy et al. 2018) Members of intentional communities have been shown to score highly on well-being metrics (Grinde 2017). This time of COVID has shown the importance of caring for our neighbours, particularly the elderly. Co-housing is one model that might help address this. I hope you consider including it in the SEPP.

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

Submission Points – Proposed Changes NSW SEPP

To Whom May Concern,

I understand the Department of Planning Industry and Environment is exhibiting an Explanation of Intended Effect for a proposed new Housing Diversity State Environmental Planning Policy (SEPP).

However, I'd like to use this opportunity to raise my concerns of the potential impact to the housing market in NSW.

Since last year, there has been a significant drop in new houses construction for more than 30%, which has been the lowest level in the past five years.

Not to mention the demand for affordable rental properties for low income earners is on a continue rise. According to the Australian Housing and Research Institute (AHURI) research has stated that:

“..... there was a shortage of 478,000 affordable and available private rental dwellings for low-income households in 2016”

Pair the above situation with the trend of decreasing in household size, which demands for dwellings with less bedrooms (1-2) to accommodate for couples or small families.

The 2016 census found that in NSW, 24% of household had one person and 33% had only two people. My wife and I belong to the latter category.

With the shortage of housing stock for singles, couples and small families, we definitely need more flexible housing options for the market.

I propose there should be at least two levels of Share Housing definition:

1. Up to six people allowable in a R2 Zone
2. More than six people – CDC approval process so can be approved through a private certifier.

With properties build prior to May 2011, definitely needed to be upgrade to be compliant to 1B Building Class. However, I believe the NSW State Government should exempt the requirement for Universal Access for existing dwellings.

I also believe Share housing should be allowed in R2 residential zones, should be set up around major education hubs and should be allowed within 400m from public transport, same as current access requirements for New Generation Boarding Houses in R2 zones.

As the shortage for social and affordable homes will continue to rise, maybe even more rapidly due to the recent COVID-19 event, there needs to be regulations for minimum standards for share-housing for clarity, such as:

- Properties should NOT be a minimum number of 10 private rooms, as this WILL encourage more illegal share-housing with poor hygienic environment
- Properties pre May 2011:
 - o No universal access requirement
 - o 1B Building Standard
 - o No more than six people living in a dwelling
 - o No more than five bedrooms
- Properties after May 2011:
 - o Universal access required
 - o CDC approval up to and including six people
 - o Six people or more are not permissible in R2 Residential Zone and require D.A. with council

I believe New Generation Boarding House Policy should be allowable in all zones, as this will help more people with financial needs and more location options.

I do not agree that smaller style boarding houses should only be managed by Community Housing Providers, so long the dwellings are built to the required minimum standards stated above and management to follow regulations and requirements by council.

The removing of boarding houses in R2 zones will not create a diverse demographic of residents, as it would make it difficult for private developers due to the high cost of development. This will further reduce the supply of affordable housing options for the vast majority, especially after the huge impact due to COVID-19.

I hope that you would take my suggestions into consideration, as these proposed changes could affect the lives and livelihood for many, including my family.

Yours Sincerely,

[REDACTED]

09 Sep 2020

Submitted on Thu, 27/08/2020 - 09:57
Submitted by: Anonymous
Submitted values are:
Submission Type: I am making a personal submission
First Name: ian
Last Name: miller
Name Withheld: No
Email: ian@ianmiller.com.au
Suburb/Town & Postcode: Manly
Submission file:
[letter-to-ian-miller.pdf](#)

Submission:

I received a reply attached regarding the 50 unit lower limit on proposed build to rent and thank you for that .

I have 2 properties that are suitable for BTR and by way of example use a property in Addison road manly. Its currently an old house which rents for \$70,000 pa (which is a very full rent for it) Land tax is currently \$45,000 (65% of its gross income)

Its unsustainable at that level and I have made many submissions regarding land tax payable more closely reflecting the income that can be generated from a property and how much more government income could be obtained by properly land taxing strata investments.

This property will unfortunately have to be subdivided and 2 premium houses build to be sold to owner occupiers I have a very strong preference to be able to retain this property and develop it into 8 apartments which would be held as an investment and long term rented

Manly desperately needs this style of rental accommodation for key workers who have been priced out of the ownership market We have explored developing this property under the boarding house regulations but a maximum of 25m2 for a unit is just too small for the long term key worker style tenants in manly

Its not obvious to me why the BTR changes regarding land tax should be limited to a minimum of 50 units.

There will likely be many small property investors like me that would be happy to build small blocks within the BTR requirements hold them as a income producing asset and not strata them .

Small BTR blocks spread thru the community rather than larger high-rise blocks would seem to have significant social and community benefits and provide BTR tenants with more choice of accommodation

There is no possibility of a 50 unit BTR being built anywhere remotely near manly due to planning restrictions and the value of apartments in the area I assume there must be concerns regarding smaller blocks somehow abusing the spirit of the legislation If this was the reason for the 50 unit limit the requirements for a small BTR proposal could be tightened to ensure compliance thanks ian Miller Ph 0412223822

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



9 September 2020

The Secretary
Department of Planning, Industry and Environment
4 Parramatta Square
12 Darcy St
PARRAMATTA NSW 2150

Via the online submission portal

Dear Sir

**RE: SUBMISSION IN RESPECT OF
PROPOSED HOUSING DIVERSITY SEPP
EXPLANATION OF INTENDED EFFECT (EIE)**

Iglu Pty Limited (Iglu) provides the following submission in response to the public exhibition of an Explanation of Intended Effects (EIE) for the proposed Housing Diversity State Environmental Planning Policy (SEPP).

As background, Iglu was established in 2010. It develops, owns and operates large-scale purpose-built off-campus student accommodation in major Australian capital cities (please refer to www.iglu.com.au for details). Iglu already has a strong presence in Sydney, Brisbane and Melbourne with nine assets developed and operational and several developments either approved or in the pipeline across Sydney and Melbourne, totalling over 6,100 beds.

Student Accommodation

1. The introduction of a new defined use category for student housing will bring clarity to town planning treatment of student accommodation but could also lead to limiting student housing to Councils' perceived demand zones ie areas immediately adjoining universities. Students also want housing choice. As we know, many students seek accommodation in CBD locations or transport connected amenity hotspots rather than near-campus locations. Chatswood, Summer Hill and Mascot are all areas that may not appear obvious student accommodation locations to Councils, but our experience and research show they are desirable locations for students in differing stages of their tertiary education.

We believe the solution lies in making Student Housing a compulsory permitted use in B3 – Commercial Core; B4 – Mixed Use; and B8 – Metropolitan Centre zones as is proposed for Build-to-Rent (BTR) and Co-Living.

2. The definition of student housing should have regard to the notion of being purposely built for student housing, owned by a single entity, and operated and managed on-site by a single



professionally accredited operator, otherwise any accommodation will qualify for the concessions/entitlements.

3. Motorcycle parking – we note that the proposed motorcycle parking standard is an improvement on the current standard applied to boarding houses under the Affordable Rental Housing SEPP, as we understand it will be a ‘must not refuse’ standard whereas now, it requires a clause 4.6 variation to change the standard. Notwithstanding, many councils are currently treating “must not refuse” provisions as hard standards. This will likely lead to councils requiring motorcycle parking, despite the clear lack of demand for it by students, a requirement that would be totally out of step with actual student needs and behaviours. In 10 years of operation, Iglu is not aware of any student owning/operating a motorcycle whilst being a resident at an Iglu establishment.
4. Communal area (outdoor) – the proposed 2.5m² per student requirement will not be achievable in many high-rise developments in high-density zones due to insufficient site or surface area. As noted above, many student accommodation buildings are located in areas with good amenity that are within close proximity to universities via public transport but are well outside a 400m radius of a campus. Accordingly, the dispensation for being within 400m of a campus or large open space will not apply to many locations that are desirable to students..

The external open space requirement is unnecessary for a number of reasons but primarily due to:

- Students have access to open space at campus when they attend university/college.
- Open space does not need to increase on a linear basis as students have very variable timetables/behaviours and will not all be requiring access to open space at the same time. For example, 400 students do not require 1,000m² of external open space (which would be effectively 100% site coverage on a large city block) and is far too high for high density areas.

It is therefore suggested that in high density areas, the requirement for external open space could be up to a maximum of 25% of the site area as it is in the ADG for residential flat buildings in high density locations. The same test should apply.

5. The introduction of design guidelines needs to be carefully considered in their application to student housing. Whilst we have no fundamental objection to amenity requirements, the design standards or thresholds should not be so high so as to stymie the development of this type of housing. If the thresholds are too high, student housing will be in direct competition for sites with residential developers and this type of housing (student housing) will simply not be delivered – contrary to the Housing Diversity SEPP’s intention.

Co-Living

6. The minimum room size of 30-35m² is significantly over-sized relative to market requirements and will cause the rent to be unaffordable for most Co-Living tenants. A minimum room size of 20m² is more appropriate. Access to communal facilities and the location of Co-Living in



amenity rich areas make this reduced room size perfectly acceptable. With its interpolation of Co-Living between boarding houses and conventional apartments, and its consequential sizing requirements, the Department seems to have misunderstood the driver behind the Co-Living model. Co-living” is for young people looking for a short term “plug and play” lifestyle base and the benefits of community living; its drivers are not affordability issues or growth in single person households.

7. We note that the minimum carparking provisions are proposed as a ‘must not refuse provision however as noted above, many councils are applying such provisions as hard-line standards, therefore we request that the minimum ‘must not refuse’ car parking requirement be lowered to 0.2:1.
8. Similar to our comments above, the introduction of design guidelines needs to be carefully considered in their application to Co-Living housing. Whilst we have no fundamental objection to amenity requirements, the design thresholds should not be as high as they are for residential flat buildings because these two products have different drivers (as noted in paragraph 6 above). If the development standards are too onerous, they will stymie the development of this type of housing. Co-Living developer/operators will be forced to directly compete for sites with residential developers and this type of housing (Co-Living) will simply not be delivered – contrary to the Housing Diversity SEPP’s intention.

Yours faithfully,

A handwritten signature in blue ink, reading 'Jonathan Gliksten'. The signature is written in a cursive, flowing style.

Jonathan Gliksten
Director

9 September 2020

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

Via online submission portal

Dear Sir/Madam,

FEEDBACK ON EXPLANATION OF INTENDED EFFECT FOR A NEW HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY (SEPP)

Ingenia Communities Group (Ingenia) provide this written correspondence in relation to the Department of Planning, Industry and Environment's invitation to provide feedback to the *Explanation of Intended Effect* for a proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP).

Whilst Ingenia are encouraged by the Department's intent for updating the SEPP's relating to Affordable Housing and Seniors Housing in NSW, the content of the intended effect raises some concerns in regards to how the new SEPP may impact the private sector's ability to develop these accommodation types across NSW.

Ingenia is one of the country's leading, and fastest growing operators of residential land lease communities for over 55s (*Ingenia Lifestyles*), with fourteen (14) communities across NSW, and several communities in the planning phases. Ingenia also own and operate Seniors Build to Rent communities (*Ingenia Gardens*), including eight (8) communities across regional NSW. Ingenia is passionate about the recognition of these accommodation types within legislation and planning framework and are well positioned to provide the Department with constructive feedback on the proposed new SEPP.

Herein, Ingenia provide brief feedback in relation to the intended content of the proposed SEPP. Ingenia request that the Department take into consideration the points made in this submission when considering the impact and content of this new potential policy.

1. Build- to rent housing (BTR)

Ingenia agree with the concept to divide the existing land use of "Boarding House" into better defined categories and welcome the Department's intent to encourage the development of BTR accommodation. It is positive to see the Department include a separate definition of BTR, noting BTR is an exceptionally successful housing format internationally, and is gaining wider acceptance in Australia.

Currently, there are many hurdles to establishing BTR as an asset class in NSW, this policy could add to these hurdles if not executed appropriately. BTR developed by the private sector has the potential to be a lever for economic stimulus with little cost to government and will ignite economic activity. At present it

appears the intent of the new Housing Diversity SEPP focuses on fast-tracking government and not-for-profit funded affordable housing projects in NSW. Ingenia submit that the private sector investment into this housing format should be encouraged for better long term impact and that the Department should have regard to this in the policy.

a. BTR definition:

It is proposed that the definition for 'Build-to-rent 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.*

Ingenia question the basis for imposing the requirements of a minimum of 50 self-contained dwellings, single ownership and management entity and on-site management. Ingenia consider inclusion of these parameters into the definition of BTR to be too restrictive. The narrow definition will restrict land availability and the ability to develop across NSW, and give rise to significant increase to operating costs for any scale of development.

The SEPP should to allow for the establishment of BTR in any format of housing, not just apartments. It should be further noted that whilst apartment living is becoming an increasingly acceptable form of housing, low-income families with children and seniors also need to be provided with BTR options in the form of multi-dwellings or townhouses, offering single storey and/or a private yard. Ingenia advocate a community wide approach and that needs of certain sectors must be taken into account and allowed for when considering the parameters that the SEPP may implement for BTR.

b. Mandatory permissibility zones in LEPs are too restrictive

Ingenia submit that the proposed SEPP should include BTR as mandatory 'permissible with consent' in R1 General Residential zone as well as those proposed in the Explanation of Intended Effect. Restricting the development of BTR into the highly urbanized zones only will heavily restrict land availability for this accommodation type.

c. BTR development standards

It is noted that it is intended that council's will set the development standards for BTR development, including relevant height and FSR. Ingenia suggest that the SEPP should allow merit-based heights and FSR "bonuses" for BTR development, using LEPs standards as a guide only. Without these "bonuses" the private sector will not be encouraged to invest in this accommodation type as the economics simply will not compete with other development opportunities over the same land and zoning.

It is noted that BTR housing will be subject to minimum three-year lease terms. Whilst Ingenia acknowledge that BTR housing must consist of long-term rental accommodation, dictating a minimum tenancy of three years is considered onerous. Ingenia submit that the Department should reconsider the limiting nature of this lease term, and suggest a minimum of one year tenancy to be more acceptable for the market, for both the owner and tenant.

d. Delivery of BTR housing in regional areas

Ingenia note that the intended effect of the SEPP in relation to BTR housing appears to focus on the delivery of government or not-for-profit funded, large apartment projects in metropolitan areas of NSW. Whilst this will stimulate short term delivery of affordable accommodation and create construction jobs in the recovery from COVID-19, it does not provide for housing diversity which is the better long term solution, and will only offer opportunity for not-for-profit and government projects.

With the creation of a separate land use definition of BTR there is an opportunity to encourage the private sector to invest in this accommodation type. Many residential developers would be in a position to bring such development to the community in an efficient and effective manner. Government policy should support private sector investment, including, where appropriate, incentives for these developers to broaden their development portfolios. This SEPP is an opportunity to provide some of these incentives.

To encourage private sector investment and delivery of this housing to regional areas, as well as metropolitan areas, Ingenia make the following suggestions:

- Broaden mandatory permissibility (with consent) to all residential zones in LEPs. This allows for greater accommodation types (multiple dwelling, townhouses, terrace homes and apartments) to be provided as BTR housing. The planning provisions in the SEPP and LEPs, such as building height, FSR, proximity to services will ensure that any BTR proposed is of a suitable scale and accommodation type in that location;
- Include “cannot refuse provisions” in the SEPP that allow for “bonuses” for BTR housing developments, that will help improve the economics of this development type compared to other viable options over the same land;
- Broaden the definition of BTR – the current proposed definition which includes minimum 50 dwellings and on-site management is onerous and will limit the viability of many potential projects.

e. Suggestions for additional incentives for private investment into BTR

Ingenia welcome the addition of a new SEPP that recognises BTR as an individual form of housing. However, Ingenia advocate additional options to increase affordable housing supply and stimulate the economy should be considered. These include:

- Unlock government owned land to allow the private sector and community housing providers to deliver new BTR housing
- Undertake an annual review of landholdings
- Work with the community housing sector to redevelop existing government-owned social housing stock to deliver more appropriate, higher quality housing
- Improve land supply:
 - Work with industry to improve the land supply and development monitoring report to provide a true and accurate account of land supply across NSW
 - Leverage a housing supply expert panel to provide industry experts a greater opportunity to contribute to an accurate picture of land supply in NSW
 - Consider the impact of government decisions on developable land (impact of environmentally mapping) and amend the zoning to ensure the overlays do not inhibit consistent availability of supply
- Provide a BTR incentive program with additional subsidies for the private sector to deliver affordable, and at-market BTR housing (e.g tax reductions)
- Consider public/private partnership in delivery BTR housing

2. Seniors Housing

a. *LEP provisions to prevail over SEPP*

Ingenia raise serious concerns regarding the Department's intent to allow LEP development standards to prevail over SEPP provisions to the extent of any inconsistency for seniors housing.

This intent to have a LEP prevail over SEPP provisions appears to be a fundamental inconsistent with the purpose of any SEPP in NSW. All SEPP's are environmental planning instruments that deal with matters of State or Regional environmental planning significance. The effect of a SEPP is that it can override a LEP and can prohibit certain types of development or can allow development in a certain zone. For example, a development may be prohibited in a zone under an LEP, but if it achieves an aim of the SEPP it may be allowed.

If the State were to allow the LEP's to prevail over provisions for Seniors Housing in the SEPP, this defeats the purpose of having the SEPP. The proposed amendments allow a Local Government who may be against seniors housing developments to implement unreasonable provisions on Seniors Housing into an LEP amendment, effectively sterilising the LGA or zone from seniors housing development. The State needs to ensure the overarching housing strategy is implemented, and this means the opportunity must remain for a proposed seniors housing development to challenge the provisions of an unreasonable LEP, as per the purpose of any SEPP.

b. *Site Compatibility Certificates*

Ingenia welcome the amendment which will allow Site Compatibility Certificates to remain valid for 5 years. This change should help to reduce the numbers of seniors housing development applications that proceed to the Land and Environment Court due to time constraints.

3. Why combine affordable rental housing and seniors housing into one SEPP

It is noted that the new Housing Diversity SEPP is intended to repeal three existing SEPPs, including the Affordable Rental Housing SEPP, SEPP70 and Senior Housing SEPP.

It appears the intent of the new SEPP focuses on delivering affordable rental housing via the four new categories of housing. It is not clear to Ingenia as to why seniors housing is to be combined with these new housing types, as the nature and needs of this housing division is very different to the proposed four affordable housing categories.

Ingenia suggest, as an alternative, that the existing *SEPP (Housing for Seniors and People with Disability) 2004* be separately amended. It is suggested that, as per submissions above regarding affordable housing, seniors housing should encompass better defined and more specific accommodation types. This allows for each defined accommodation type/land use to have individual permissibility and provisions applied under a SEPP which should have the effect of encouraging the individual land uses in the right locations.

With an ageing population, the planning framework should provide a longer term solution for seniors housing that focuses on housing diversity. A better defined framework allows for permissibility to be determined for each different type of accommodation options which in turn provides the much needed

certainly not only for developers and operators of senior housing, but for local councils assessing development applications.

It also needs to be acknowledged that since the seniors housing SEPP was introduced in 2004, the nature and market for seniors (and disability) accommodation has significantly changed. Ingenia submit that legislative amendments are required to keep up with the changes since 2004. Ingenia make the following suggestions:

- Replace the Affordable Rental Housing SEPP and SEPP70 with a new SEPP
- Replace SEPP Housing to Seniors and people with disability with a separate new SEPP
- Provide for individual categories of seniors housing land use, including:
 - Retirement Village (within the meaning of the *Retirement Villages Act 1999*)
 - Nursing Home (within the meaning of the *Public Health Act 2010*)
 - Seniors Residential Community (within the meaning of the *Residential (Land Lease) Communities Act 2013*)
 - Hostel for seniors or people with disability

LEP's would then need to be updated to reflect these terms.

As the Department intend to do so for affordable rental accommodation, providing land use definitions and provisions that better suit the style of seniors' accommodation which is now provided across NSW, allows for the legislation to better direct, and provide for, these accommodation types. Currently there is a vast disconnect between the SEPP, LEPs and the industry for seniors' accommodation. This urgently needs to be addressed.

As one of the country's leading, and fastest growing operators of residential land lease communities for over 55s (*Ingenia Lifestyles*), and seniors Build to Rent communities (*Ingenia Gardens*), Ingenia is passionate about the recognition of these accommodation types within legislation. Ingenia believe the demand for both these accommodation types will only continue to thrive over coming decades and NSW legislation needs to be better equipped to provide for these developments that require large, consolidated land parcels.

Whilst the Department's proposal for the new Housing Diversity SEPP is promising, Ingenia encourage the Department to consider the feedback set out above. Ingenia would welcome the opportunity to engage with the Department and make available key personnel for discussion and consultation.

Should you wish to discuss this correspondence please do not hesitate to contact Suzanne Jensen on mobile: 0411122001 or email: sjensen@ingeniacommunities.com.au.

Yours sincerely,



Suzanne Jensen
Senior Planner



9 September 2020

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

Inner West Council submission on the proposed Housing Diversity SEPP Explanation of Intended Effect

To the relevant officer,

Please consider this Inner West Council's formal submission to the proposed Housing Diversity State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE). We thank the Department for the opportunity to comment on the proposal and hope our insights are beneficial to its refinement.

Overall, Council supports the intent of the proposed Housing Diversity SEPP as it is a step in the right direction for an integrated framework of planning provisions which will facilitate the delivery of diverse residential accommodation. Council commends the Department on moving towards a boarding house model that will deliver affordable housing as initially intended. The proposed Housing Diversity SEPP will have significant implications for the NSW community, landowners, property developers, student accommodation providers and community housing providers. This submission provides further discussion on the EIE and raises issues where the EIE does not strategically align with Council's plans, policies or strategies.

Boarding house amendments

The proposed changes to make future boarding houses affordable and operated by Community Housing Providers (CHPs) are welcomed by Council. This aligns with Council's strategic framework, including action 3D of the Local Housing Strategy, which calls for boarding house developments to be affordable and managed by CHPs in perpetuity. This is also consistent with the previous Council submissions to the Council Boarding House Working Group.

Council also welcomes the proposed changes for planning incentives including scaling back the bonus FSR to a standard 20% uplift and FSR incentives to be made available only to affordable boarding houses. However, there are concerns if the affordable housing restriction for new boarding houses remains in place for a limited 10-year period only. A boarding house developed using FSR incentives and design provisions relevant to only boarding houses should not be able to revert back to market rent and should remain affordable in perpetuity.

Council also requests for universal design standards under the Liveable Housing Design Guidelines to apply to all boarding houses, in line with its Local Housing Strategy Action 2A, to make boarding houses safer, more comfortable and easier to access for people of all ages and abilities.

Build-to-rent (BTR)

Council welcomes the new BTR land use in NSW planning system which has the potential to provide long-lasting community benefits, with greater housing choice for tenants who have access to high-quality dwellings, in a stable rental environment. However, it is questionable whether this initiative would result in genuine delivery of long-term rental accommodation. There are currently no impediments in the NSW planning system to the development of new housing for long-term rental purposes. However, the proposed standards for a development to qualify as BTR especially with at least 50 self-contained dwellings will inhibit the provision of BTR in urban-infill areas with small lots such as Inner West. There are concerns regarding the design standards that would apply to BTR as EIE

indicates that parts of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) would continue to apply but the Apartment Design Guide will not necessarily apply to BTR typology. Whilst the design standards for BTR and minimum dwelling sizes are yet to be confirmed, there are concerns about setting lower design standards for BTR as compared to standard market dwellings without sufficient justification.

Overall, it is unclear whether the new proposed BTR arrangements would actually boost the supply of such housing and prove to genuinely offer long-term stability to tenants in the Inner West. It is suggested that the land use should be refined to include provisions that offer existing long-term tenants the first rights to acquire a unit when the rental period is over. It is also highly recommended that a minimum percentage of dwellings in the building be retained as affordable housing in perpetuity.

Many councils do not permit any type of residential accommodation in its commercial core to reduce land use conflicts and limit the reduction of employment-generating floor space in its commercial cores. There are concerns regarding potential adverse economic and land use impacts if BTR is permitted in B3 Commercial zoned land although Inner West will not be directly impacted by this change as it currently does not have any B3 zoned land. The proposed changes also seek to prohibit strata subdivision in perpetuity in B3 zone. To assist with the genuine uptake of BTR, it is suggested that prohibition of subdivision in perpetuity be expanded to other zones.

Council foresees unintended consequences with the introduction of the BTR land use. We question whether there will be a mechanism to prohibit the conversion of BTR developments to private apartments for sale upon their completion. For example a BTR development located in an R4 zone is completed, and it is then claimed that there is no demand for such a use and a DA is lodged to change the land use to a residential flat building, will there be any additional powers given to Council to prohibit this change? This will be especially important if the design standards are lower for BTR.

Table 1 in the EIE states that “Local provisions apply” would apply to the affordability status of BTR housing. It is unclear whether this means that Council set its own local provisions regarding affordability and rents; and how this would be implemented and monitored. Whilst the power for councils to set affordable local provisions to BTR is welcomed, further guidance is sought from the Department regarding implementing these provisions.

Co-living developments

The new co-living land use, otherwise known as ‘new generation’ boarding houses, is supported by Council, to address the gap generated by the affordability requirement for boarding house developments. Council supports and highly commends the Department to endorse that co-living developments will not attract a floor space bonus or other incentives and that these will only be allowed where residential flat buildings are currently permitted. Co-living dwellings should be subject to the Council LEP height, floor space ratios and DCP building envelopes.

Council also welcomes the preliminary design standards which stipulate larger rooms than boarding rooms in existing dwellings. However, it is unclear if the co-living developments will include only studios and not one, two- or three-bedroom apartments; and whether the minimum area 30-35sqm would include private kitchen or bathroom facilities. Further clarification regarding the design standards is sought from the Department. It is also suggested that Council should retain full control of the design criteria through a DCP.

Student housing

The introduction of 'student housing' as a formal land use term is welcomed. The introduction of the new student housing definition and planning controls will respond to the demand for a specific student accommodation definition and specialised planning controls from industry providers. Council also welcomes the opportunity to determine permissibility of this use through its own LEP and the restriction of floorspace and height incentives. However, concerns are raised regarding the proposed planning and design controls in the draft EIE.

Whilst the new design guidelines pertaining to student housing are yet to be developed, the minimum room size in the EIE is extremely low and will result in poor internal amenity for students. The proposed minimum 10sqm per student (with the possibility of allowing smaller areas when justified as stated in the EIE) is insufficient to meet students' needs e.g. adequate sleeping, living and study spaces. Council recommends that this minimum size be revised to at least comply with the existing boarding house minimum room size of 12sqm for single rooms and 16sqm for double rooms, excluding any areas used for a kitchen or bathroom.

The proposed indoor communal space standards are also considered to be insufficient and should be increased. In addition, the EIE requires no outdoor space if the development is in close proximity to an educational establishment 'with ample outdoor space'. This is contentious and raises significant assessment issues in determining adequate access to open space. Anecdotally, Council officers have heard that students in major Universities such as the University of Sydney and University of Technology Sydney rely on Council sporting grounds due to insufficient availability of on-campus recreational spaces.

Clarification is also sought regarding which educational establishments are implied in the EIE in determining the proximity needs and whether would include schools, private colleges and TAFEs or specifically apply to universities. Regardless, the proposed control which would diminish provision of on-site open space in student housing developments is not supported.

The EIE states that student housing will be defined as providing accommodation for students during teaching periods. Council recommend that this definition or the provisions relating to student housing be refined so that student housing always be principally for the accommodation of students. Whilst we welcome flexibility in the use of this accommodation, students should always be given the priority and right to remain within their accommodation, including any teaching break periods as long as the student is registered with an educational establishment. Otherwise, Council foresees a potential unintended consequence of this being that students are removed from their accommodation during non-teaching periods to use their accommodation for quasi tourist and visitor accommodation.

Generally, the introduction of these new land uses requires Council to develop new provisions in the Local Environmental Plans (LEP) and Development Control Plans (DCP) and review existing DCP boarding house provisions to ensure these remain relevant and reflect the changes envisaged in the new SEPP. Council requests the Department to provide sufficient time to councils to review the existing LEP/DCP controls and develop new BTR, co-living and student housing controls where local DCP provisions are required. A grace period should be established to give councils adequate time to amend LEP/DCP and develop guidelines for the new land uses.

Amendment to Part 3 of the ARHSEPP

Council welcomes the proposed changes to Part 3 of the ARHSEPP. Part 3 requires proving that a building contains low rental dwellings in order to collect a monetary contribution of their loss in the

event of demolition or strata subdivision. Currently the onus is on Council to prove that a building contains low rental dwellings and, in accordance with Part 3, it must be proven that the dwellings were low rental as at 28 January 2000. The amendments propose removing reference to this date and instead require that the dwellings need to have been low rental sometime within the last five years. Onus is also now on the developer to provide such proof.

This is welcomed as it has been difficult for Council to provide proof of private rent transactions on a specific date. While there are concerns that it is within the developers' interests to prove that there are no low-rental dwellings, the information available to Councils is lacking to prove this anyway.

Site compatibility certificates (SCCs)

There are concerns with the proposed extension of SCCs, as well as the general applicability of these certificates in industrial and business zoned land, as they undermine the purpose and function of employment lands.

Extending the validity of the certificates for five years as opposed to the current two years will further undermine the purpose and function of industrial and business zones which they are applied to.

Council encourages the Department to review SCCs and consider dropping them from the NSW planning system all together.

Amendments to social housing provisions of the State Environmental Planning Policy Affordable Rental Housing (2009) (ARHSEPP)

Council supports increasing the supply of social housing. However, the proposed increase of the self-assessment threshold for Land and Housing Corporation (LAHC) developments on Government owned land from the current 20 dwellings limit to a limit of 60 and requiring assessment against design guidelines which are yet to be revealed is of concern. It is recommended that councils be consulted in developing these design guidelines, especially if the mix of housing is proposed to include private, social and affordable dwellings.

Council is concerned that there is no guarantee that this re-development model will retain existing levels of social and affordable housing. To guard against such outcomes, Council recommends that changes to the planning provisions to be used by LAHC include a guarantee that such re-developments do not result in the loss of existing levels of social and affordable housing within project areas. Council also recommends that a cap be applied on the percentage of private dwellings permissible in the LAHC developments so that the social/affordable housing remains the dominant type of dwellings.

Seniors housing

Council is generally supportive of the proposed changes to seniors' housing provisions. This includes alignment of definitions to be consistent with the Standard Instrument LEP as well as clarifying that development standards of the LEP prevail to the extent of any consistency with the SEPP.

Amendments to ensure seniors housing has access to local facilities and transport does not include access to taxis, hire cars and ride share is also supported by Council.

Council would like to use this opportunity to request the Department to reform how funds are allocated and utilised for low-rental housing through Part 3 of the ARHSEPP. Currently, these funds are managed by the Department of Communities and Justice. With an affordable housing fund now established at Inner West



Council, we are now best placed to collect contributions from the loss of low-rental dwellings to efficiently redirect this money to the provision of affordable housing within the Inner West LGA.

Thank you again for giving us this opportunity to comment on the EIE. Should you need any further information or clarification regarding the content of this letter, please do not hesitate to contact Strategic Planner **Jarrad Sheather** on 9392 5210 or by e-mail at jarrad.sheather@innerwest.nsw.gov.au.

Sincerely,

A handwritten signature in blue ink that reads "D East".

Daniel East
Acting Strategic Planning Manager



8 September 2020

NSW Department of Planning, Industry and Environment

Via online submission portal

Re: Proposed Housing Diversity SEPP, impacts on Co-Living

Innovate RE is a developer and operator of various forms of Build-to-Rent housing, with a focus on Co-Living. The principals of Innovate RE have extensive experience in the development & operation of Purpose-Built Student Accommodation (PBSA), having been involved in the development and operation of over 10,000 beds throughout Australia and overseas. This includes over 5,000 beds in Sydney, providing us with extensive insight into the operation of the NSW Boarding House planning controls and the Affordable Housing SEPP provisions.

We have also recently obtained development approval for a 502 room BTR / Co-living Facility in the Canberra CBD, which was strongly supported by the ACT government. We note that this project provided a variety of room sizes / typologies would not be viable / permissible under the proposed Housing Diversity SEPP controls, and was approved as Commercial Accommodation and not subject to the ACT Multi Unit Code (Equivalent of NSW ADG). We have provided a typical floor plate for this project with some commentary at Appendix B

We are actively looking to develop new, larger scale co-living projects in NSW, with a primary focus on Sydney metro locations. We welcome the intent by the NSW government to provide planning legislation that will support the provision of a greater diversity of housing choice within NSW, however we are very concerned with the provisions of the proposed Housing Diversity SEPP (as set out in the EIE), which we believe will render Co-Living developments unviable in NSW and direct investment into this sector out of NSW and into other parts of Australia.

We strongly recommend that the NSW Department of Planning undertakes comprehensive consultation with the Co-Living Industry to ensure that the planning framework for Co-Living in NSW is effective and sustainable.

Co-Living is an emerging asset class in Australia, and well established internationally. There is demonstrated demand for the benefits offered by Co-Living for its residents, as well as for the wider community. With strong investment appetite for Co-living in Australia, both from Australian and International investors, the proposed Housing Diversity SEPP provides an opportunity to position NSW as a prime investment destination for Co-living in Australia.

The key principles that will support the growth of this asset class are:

1. Providing for Co-Living to be a permissible form of development in suitable locations – particularly inner metro areas that have high amenity and good access to transport.

Co-living should be a permissible use in all Zones that provide for Residential Flat Buildings, and other suitable zones. We note that the EIE intends to make “BTR” permissible in B3 and B8 zones, but not Co-living. The very nature of these zones makes them suitable for Co-living.

2. Providing planning incentives to support and encourage the development of Co-Living facilities.

The bonus FSR provisions in the Affordable Housing SEPP have been a key driver of the emerging co-living sector in NSW. Ensuring that similar Bonus FSR provisions are maintained will be critical to allow Co-living to being a competitive land use in NSW.

3. Clear planning controls that provide flexibility for Co-Living operators to provide a variety of room typologies and common space provisions that meet the needs of our customers and helps drive affordability.

Whilst we understand the need to have some controls around room sizes, we note that one of the benefits of build to rent is that developer/operator has a long term vested interest in the asset, and therefore has significant incentive to ensure the rooms and communal spaces provided will be suitable for the target market. In this regard, we believe there is less need for prescriptive planning controls as would be applied to Build to Sell residential flats.

In relation to controls around minimum room sizes, and common space requirements, we strongly advocate for minimum (must not refuse) provisions that do not become prohibitive, support affordability and provide operators with flexibility to meet the needs of our customers.

4. A level playing field with all forms of BTR

We note the definitions as set out in the EIE seem to indicate that Co-Living is a separate class to “Build to Rent”. We believe it is important to note that the term “Build to Rent” is an umbrella term, that describes all forms of accommodation that is purpose built to be rented (rather than sold as individual units). We believe what the EIE is defining as “Build to Rent” is actually better described as “Multi-Family”, which is the industry accepted terminology in more established markets such as the US and Europe.

Multi-family, Co-Living, and PBSA are all subsets of Build to Rent, and it is important that all these forms of Build to Rent operate on a level playing field with regard to planning controls, and other provisions (such as the proposed NSW government land tax relief).

5. Encouraging Sustainable Transport Oriented developments

A key tenant of our Co-living model is minimizing the use of personal cars and focusing on sustainable forms of transport. In suitable locations (i.e. metro locations) we do not provide parking for private vehicles. We strongly encourage a nil minimum parking (must not refuse) requirement for co-living projects that are located in metro locations with good proximity to public transport.

Nil parking requirements in suitable locations provide many benefits, including congestion reduction, environmental benefits, health benefits and affordability benefits.

We have provided more detailed commentary and suggestions against the specifics of the EIE in the table attached at Appendix A. We are happy to provide further information as needed, and would welcome the opportunity to discuss further with the Department of Planning.

Regards



Christo Winters
Managing Director

Appendix A – Commentary on specific provisions of EIE

Item	EIE Proposed Control	Suggested Control	Comments
Definition	<p>a building held in single ownership that:</p> <ul style="list-style-type: none"> • provides tenants with a principal place of residence for 3 months or more; • includes on-site management; • includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and • has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults. 	Agree with proposed definition, but would suggest a supplementary provision that provides that in order to benefit from the FSR bonus, the facility must be at least 50 rooms.	Limiting the FSR bonus to larger projects, will encourage more investment, and a focus on larger facilities which provide a better overall offering to the residents.
Permissible Zones	<p>It is proposed to make co-living apartments a mandatory permitted use wherever residential flat buildings are currently permitted. This would generally include the R4 – High Density Residential, and B4 – Mixed Use zones, and would also include R3 – Medium Density Residential zones in some LGAs</p>	Co-living to be a mandatory permitted use wherever Residential Flat Buildings are permitted, and in B3 & B8 zones (as per the proposed provisions for BTR).	<p>Co-living is a suitable use in B3 and B8 zones. These areas generally have high employment generating uses and would benefit from housing that supports the users of these zones. Co-Living itself is also an employment generator.</p> <p>It is appropriate that Co-Living and BTR (better described as Multi-Family) are permissible in the same zones.</p>
Height of Buildings	In accordance with the relevant LEP	Supportive of proposed control	It is appropriate that height controls are met.
Floor Space Ratio	In accordance with the relevant LEP	FSR bonus of 20% to apply (where other provisions are met), subject to meeting height controls and minimum of 50 rooms.	Our experience in the PBSA sector, and in assessing many Co-Living development opportunities in NSW over the last 18 months has shown that Co-Living cannot compete with other land uses, without some

Appendix A – Commentary on specific provisions of EIE

			<p>planning incentives. The FSR bonus provision in the AHSEPP has been a key facilitator of Co-Living developments to date.</p> <p>There are strong community benefits from an increased provision of Co-Living, including:</p> <ul style="list-style-type: none"> • Attracting investment into NSW, providing economic stimulus; • Employment generation, both during construction and once the facility is operational; • Providing a wider diversity of living choices and rental price points; and, • Freeing up other forms of accommodation better suited for a different user group (i.e. freeing up share houses for families). 	<p>There are strong community benefits from an increased provision of Co-Living, including:</p> <ul style="list-style-type: none"> • Attracting investment into NSW, providing economic stimulus; • Employment generation, both during construction and once the facility is operational; • Providing a wider diversity of living choices and rental price points; and, • Freeing up other forms of accommodation better suited for a different user group (i.e. freeing up share houses for families).
Car Parking	Minimum provision of 0.5 spaces per room	<ul style="list-style-type: none"> • 'Must not refuse' provision of zero car parks for sites within a prescribed radius (3km) of key urban centers (such as Sydney CBD, Central Station, Paramatta, North Sydney, Chatswood, 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, Within 400m walking distance of a light rail station; or 	<p>Prescriptive blanket car parking requirements will likely render suitable sites unviable and provide local Council's with a blocking mechanism to prohibit Co-Living Developments where they may have objections on other grounds.</p> <p>In urban centers, there is strong drivers for more sustainable forms of transport, and our experience is that the typical residents in co-living facilities do not have cars in these locations.</p>	<p>Prescriptive blanket car parking requirements will likely render suitable sites unviable and provide local Council's with a blocking mechanism to prohibit Co-Living Developments where they may have objections on other grounds.</p> <p>In urban centers, there is strong drivers for more sustainable forms of transport, and our experience is that the typical residents in co-living facilities do not have cars in these locations.</p>

Appendix A – Commentary on specific provisions of EIE

		<p>Within 400m walking distance of a bus stop used regularly between 6am and 9pm);</p> <ul style="list-style-type: none"> • 'Must not refuse' provision of 0.5 car parks per room for all other locations 	
Room Size	30-35 m2	<p>Rather than apply a blanket minimum room size, we would suggest minimum room sizes depending on the type of product, i.e:</p> <ul style="list-style-type: none"> • Bedroom with no ensuite bathroom or kitchen – 9sqm • Bedroom with ensuite bathroom, but no kitchen – 12sqm • Self-contained unit (bathroom + kitchen) – 18sqm 	<p>Our co-living facilities will typically include a variety of room typologies, to provide a spread of price points and options for our customers. This can be seen in the example provided at Appendix B.</p> <p>In a typical project, rooms that have a size greater than 30sqm would comprise a very small component (<15%) of the total rooms on offer.</p> <p>Suitable living amenity can be provided in small room typologies that are well designed and supported by appropriate communal spaces and onsite services.</p> <p>We would note that the minimum sizes suggested are consistent with the majority of Purpose Built Student Accommodation projects that have been developed in Sydney over the last 10 years.</p>
Strata Subdivision	Not permitted	<p>We are supportive of this proposed control, but would suggest that where a co-living facility is part of a mixed use development, it is permissible to subdivide the Co-Living</p>	<p>It is important to allow Co-living to be separated and held as a specific investment, when part of a larger mixed-use development.</p>

Appendix A – Commentary on specific provisions of EIE

		component from other uses (i.e. Retail / Office) by way of a stratum subdivision.	
Communal living space	Minimum 20 m ² , + 2 m ² per room above 10 rooms	Minimum requirement equivalent to 5% of the total GFA for the co-living facility.	<p>Setting a requirement which is based on a fixed amount per room is problematic as it does not take into account different room typologies, and does not reflect the fact that as facilities get larger, there is increased efficiency within communal spaces. The proposed measure will be particularly restrictive for larger scale Co-Living projects</p> <p>Our experience in the PBSA sector has demonstrated that a provision of 5% of GFA for internal communal space is adequate.</p>
Private open space	4 m ² per room	Nil minimum requirement	<p>This is a substantial deviation from the Boarding House planning controls, which require no private open space (other than for manager units).</p> <p>A prescriptive requirement to provide balconies to each room will be prohibitive on several fronts:</p> <ul style="list-style-type: none"> • Makes it more difficult to efficiently set out floor plans, particularly on inner city, higher density sites. • Increases room construction costs by 5-10%, placing more pressure on affordability • Is a safety concern, particularly for younger and more vulnerable groups,

			<p>which will have a higher propensity to live in Co-Living facilities.</p> <ul style="list-style-type: none"> A 4sqm balcony is not a functional space and provides limited amenity to the occupant. <p>Our model focuses on providing suitable private space via larger, more functional communal open spaces (for residents only), which can be appropriately managed from a safety and security perspective.</p> <p>In some instances we will provide balconies where it is appropriate and effective to do so, but this should be left to the discretion of the operator – noting again they have a long term vested interest in the product they offer meeting the needs of residents.</p>
Communal Open Space	25% of site area	15% of site area, which can be provided by a mix of Communal Open Space (accessible to all residents) and private open space attached to specific dwellings. The overall provision allocated to Communal Open Space should be no less than 50% of the total.	<p>The proposed control of 25% would prescribe open space requirements in excess of those we typically provide. We would also note that this would also exceed the general provision within PBSA projects that have been developed in Sydney over the last 10 years.</p> <p>We believe 15% is a more appropriate minimum provision, and it is also important to provide some flexibility in how this space is planned to ensure operators can meet the constraints of particular sites, and the needs of the customers for each particular site.</p>

Appendix A – Commentary on specific provisions of EIE

Design Controls	<p>Whilst the EIE does not detail any proposed controls, it makes reference to local council DCP provisions for Residential Flat Buildings potentially applying, as well as other controls being developed.</p> <p>We note that under current controls (and the BCA) boarding houses, and by extension PBSA buildings are class 3 buildings and the provisions of the ADG do not apply. It is appropriate that these same provisions would apply to Co-Living facilities. The ADG, and Council DCP's for Residential Flat Buildings are not appropriate controls for Co-Living facilities as they are designed to address very different requirements. The application of the ADG to co-living developments would render them unviable.</p> <p>We believe that PBSA is a good precedence for Co-Living facilities, as they are also a demographically targeted accommodation offering, designed for medium stay and provide similar onsite communal facilities and services.</p> <p>It is imperative that any specific controls are developed in consultation with the Co-Living Industry to ensure they are appropriate.</p>	

Appendix B – Different room typologies, DA approved BTR / Co-living Project, 7-9 Moore St, Canberra

