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Submission: 1. Some councils such as Randwick already have an overabundance of properties developed under AHSEPP. In order to ensure housing diversity in NSW, there needs to be a limit on how many AHSEPP developments in an area (e.g. 300m radius) and in an LGA, and councils with low numbers of AHSEPP developments must create opportunities to match a target number. Currently according to the Office of Fair Trading Boarding House Register there are 84 registered boarding houses in Randwick LGA. In Pittwater LGA, for example, there are only 9. This extreme gap needs to be narrowed to achieve true housing diversity in NSW. 2. It can be argued that Randwick Council has a high concentration of boarding houses due to its proximity to the university and hospital. However, that's making an assumption that people only want to live near where they work or study. In reality, people will want to live wherever they feel comfortable, close to family or existing acquaintances. Therefore, as above, Randwick Council does not need any more boarding houses and student accommodations. 3. Providing affordable student accommodations away from University areas will encourage use of public transport. 4. All these plans and proposals for affordable housing mean absolutely nothing if there are no restrictions to the rental prices and a regulatory body to enforce it. This has been an issue for a long time and NSW Government has done nothing about it. <https://www.randwick.nsw.gov.au/about-council/news/news-items/2017/june/affordable-housing-plan-needs-to-target-those-in-need,-randwick-council-report-finds> <https://www.smh.com.au/national/nsw/new-generation-boarding-houses-leave-traditional-tenants-out-in-the-cold-20141212-125zl9.html> Example of student accommodation prices: <https://www.unistudio.com.au/rooms-rates/> <https://www.student.com.au/sydney/p/m-e-student-accommodation-randwick> Student accommodation rental prices need to be low enough so a student who is working PART TIME (since they have to study the rest of the time!) can afford it. NSW Department of Planning must set a cap to rental prices to ensure affordable housing are truly affordable and not exploited by developers. Existing student accommodations must be forced to reduce their rental prices. Alternatively, student accommodations should be removed from the affordable housing category. 5. Lessons from the pandemic: affordable housing projects tend to squeeze in as many inhabitants into a small footprint, and usually with shared amenities. Is this such a good idea anymore? We saw what happened in Victoria with the high rates of cases in public housing towers. Consider imposing a limit to the bulk and density of affordable housing, and encouraging self-contained instead of shared amenities which also means increasing the minimum unit sizes.

URL: [https://pp.planningportal.nsw.gov.au/admin/structure/webform/manage/draft\\_plans\\_and\\_policies/submission/90461/resend](https://pp.planningportal.nsw.gov.au/admin/structure/webform/manage/draft_plans_and_policies/submission/90461/resend)

## **NDS Submission to:**

Diversity Housing SEPP

Explanation of Intended Effect

September 2020

## About NDS

National Disability Services (NDS) is the peak industry body for non-government disability services. Our purpose is to promote and advance services for people with disability. Our Australia-wide membership includes approximately 1200 non-government organisations, which support people with all forms of disability. In NSW we have over 400 members.

## About this Submission

NDS welcomes the opportunity to provide input into the draft Diversity Housing State Environmental Planning Policy (SEPP) and its Explanation of Intended Effect. As the peak body for non-government disability service providers we support any measures that aim to streamline processes to provide better housing outcomes for people with disability in NSW.

This submission draws on the experiences and thoughts of our NSW members and in particular that of our NSW Accommodation Support and Housing Subcommittee. The Subcommittee consists of disability service and community housing providers across NSW and supports NDS to identify housing priority areas for the disability sector and the people with disability that they support.

In relation to the draft Diversity Housing SEPP our submission will focus on those areas that may have an impact on the provision of disability focused housing.

## Contact

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## 1.0 Introduction

The NSW Government has a responsibility to work toward providing better housing outcomes for people with disability in NSW. This includes ensuring that planning policies, and their implementation support the development and provision of housing that is affordable, accessible and contributes to the health and wellbeing of people with disability and the communities that they live in.

The Diversity Housing SEPP proposes to consolidate three pieces of NSW legislation that currently apply to the development and provision of housing aimed at people with disability. Reducing red tape and consolidating policies that have common aims and objectives is welcomed. The proposed SEPP also identifies a number of reforms aimed at supporting the NSW economy through stimulating housing development, along with other measures that respond to feedback that has been received.

When considering any policy that is likely to have an impact on people with disability and their support it is important to recognise the significant changes that the introduction of the National Disability Insurance Scheme (NDIS) has had for people with disability, disability service providers and other who are interested in housing options for people with disability. This is particularly relevant where this relates to the provision of specialist disability services funded through the NDIS.

### 1.1 The role of the National Disability Insurance Scheme

NSW has made a significant financial contribution (\$3.3 billion) to the NDIS which was fully rolled out in NSW in 2018. As at June 2020 there were a total of 127,139 people with an active NDIS plan in NSW ([NDIS June 2020 Quarterly Report](#)).

The NDIS has changed the way in which supports are provided and funded. Fundamentally the NDIS aims to support people with disability with significant support needs to explore new ways of meeting these needs. In relation to housing,

by funding individuals (as opposed to providers), new housing support and accommodation options are available to people with disability (see [Home, Equipment and Support](#) page on the NDIS website for more information about these options).

These include:

- **Specialist disability accommodation (SDA)** provides financial incentives for investment in housing that is designed and built to meet the needs of NDIS participants with significant support needs.
- **Supported independent living** provides funding for the support that a person with disability may require to live as independently as possible in the community, either in SDA or in other accommodation options such as private rental. Under the state based system housing and support were consolidated in a group home model, however the NDIS has separated these two aspects.
- **Individual living options** is a new support that enables NDIS participants to explore even more diverse living and housing options utilising a range of both funded and unfunded or mainstream support.

It is important to note that not all people with disability in NSW who require a housing response are NDIS participants, in fact the majority of people with disability will be able to have their housing needs met by a well-resourced, well designed, accessible and affordable housing market.

## 1.2 The NSW Disability Sector

Disability service providers are owners, developers and facilitators of housing options for people with disability in NSW. As of June 2020, there were 131 providers registered to deliver SDA in NSW (noting that SDA providers can both own SDA, or manage SDA on behalf of owners such as the NSW Government or private/corporate owners) ([NDIS June 2020 Quarterly Report](#)). Community housing providers have played an increasing role in providing SDA on behalf of the NSW Government, particularly for accommodation services that were transferred to the non-government sector.

Disability service providers also support people with disability to live independently in the community in SDA, their own homes, private rental, boarding houses and social housing.

## 2.0 Increased affordability and accessibility

### 2.1 Ensuring Boarding Houses are affordable

In relation to the changes proposed by the draft Diversity Housing SEPP, NDS

supports those mechanisms that aim to increase the affordability of housing models generally. We note that increased affordability requirements are proposed for boarding houses and we would support these provisions. It is important that when incentives are provided to encourage the development of properties designed to meet a specific housing need that it actually improves the outcomes for this group. Generally this would include ensuring that any financial advantage is passed on to end users (e.g.: affordability) and that the housing remains available for use for the intended group (e.g.: access). Given this we would support measures that make housing in these properties affordable for longer.

People with disability experience a range of barriers to accessing housing, even that which is affordable. These include issues related to general accessibility and discrimination. Ensuring that boarding houses are managed by entities such as community housing providers may provide added protections and opportunities to people with disability.

We would also support a genuine approach to accessibility that does not rely on the availability of point to point transport to meet accessibility criteria.

### 3.0 A contemporary approach to disability housing

Whilst the draft does not propose significant changes to the definition of disability housing or processes for the approval of new disability housing development, considering what a future inclusive disability housing market might look like in NSW is critical. The new Diversity Housing SEPP is being developed in the context of the development of a Housing Strategy for NSW (along with proposed changes to the National Construction Code) and represents an opportunity to ensure that planning processes and policy support this strategy.

#### 3.1 Streamlined process for existing dwellings

The draft Diversity Housing SEPP makes reference to a simplified quicker and easier process to allow an existing dwelling to be used a group home. As described above the term group home historically referred to a model that combined the housing infrastructure and the support that residents required. Under the NDIS these two aspects are considered separately.

The State Environmental Planning Policy (Affordable Rental Housing) 2009) identifies a group home as follows:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged

Where this definition is used to apply to an existing dwelling, the experience of NDS members would indicate that there are additional requirements imposed where people with disability may choose to live together. This includes submitting a Development Application to the relevant local council. This can impose significant cost but also time delays. The definition (and the way that it has been applied) seems to imply that a group of people with disability living together are different in some way to a group of people without disability who live together or share a house. On the surface it appears that the mere fact that the residents have a disability invokes a 'change of use' of provision.

We would support a simplified process that applies only where necessary. We are aware that common concerns identified by local councils relate to infrastructure such as car parking and amenity, however we would challenge the assumption that a group of people with disability living together (either with or without any support) will always have a greater impact on these issues than any other group or people.

Exemptions and simple complying pathways (similar to those that apply to new developments) should be developed that appropriately consider real issues as opposed to assumed impacts. These pathways should also be communicated to relevant stakeholders and well understood by relevant staff within council.

### 3.2 Encouraging new models to meet the housing needs of people with Disability

Given that the nature of support is evolving and changing under the NDIS, notions of a 'group home' have changed and may no longer be a relevant classification, particularly where it may operate to reduce housing options and choices for people with disability. The Diversity Housing SEPP provides an opportunity to embed a new contemporary approach to housing that supports people with disability to engage with all of the options available to them in the market.

As discussed in the introduction, the NDIS and new models of support actively encourage people with disability to move away 'group homes'. For example Individual Living Options is seen as an alternative to a 'group home' and as such may enable participants to access a range of new housing options such as shared occupancy, or private rental using a variety of arrangements such as head leasing. It is important that NSW housing and planning policies and practices facilitate these types of options.

The development of new 'group home' type infrastructure has also undergone a

significant change. The introduction of SDA has created a new design standard and set of design guidelines ([SDA Design Standard](#)) and opens this market to a new range of investors and developers. Its funding mechanisms also mean greater diversity in the types of housing that is being developed for people with disability. The Diversity Housing SEPP needs to continue to encourage and incentivise the development of a broad range of well-located SDA in NSW.



Submitted on Mon, 07/09/2020 - 16:31

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Submission: Responding to the explanation of intended effect (July 2020) with suggestions for improvements and clarity to be considered for the new Housing Diversity SEPP. Where the criteria are met for self-assessment, LAHC should be allowed the option to pursue a development application approval with council. Development proposal that require significant augmentation of council's infrastructure (eg traffic and storm water), can achieve approval in a more timely manner through the development application process with council, instead of separate convoluted consultation with councils traffic committees and engineering departments. Clarity should be provided in the legislation about the applicability of concessions for development contributions (7.11, S68 etc) charged for social and affordable housing. High numbers of accessible car spaces in seniors development precludes use by people who don't have a disability parking permit. Consideration to be given to providing minimum width of 3.2m wide spaces for all common spaces, with reduced accessible parking.

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

Submitted on Tue, 08/09/2020 - 10:19  
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Submission: As an investor in this space, I can see the need for revising these SEPPs for clarity and efficiency, however, there are some changes in here that DO NOT support the stated aim and seem to be opposed to creating varied and affordable housing. The built to rent section is of concern where it references the US housing model, which is NOT a good parallel to our own, or one worth emulating at all. It also focuses on institutional investors, but often in my experience, there are a large number of individual investors operating in this space and the policy should encourage this more. Individual investors are often more focused on outcomes beyond the financial return and are more agile and able to respond to change. Also, the changes to the boarding house definition on page 14 is particularly concerning. The addition of 'is managed by a registered not-for-profit community housing provider (CHP), and' is a very poor addition. Smaller boarding houses are a very large part of the affordable housing stock and to limit it to being only available through CHPs will take the vast majority of current operators out of this market and drastically reduce the availability of this type of affordable housing. Anyone who is familiar with current boarding houses (approved and well run) would know that limiting them to ONLY CHPs will only reduce affordable housing.

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

Submitted on Tue, 08/09/2020 - 16:00

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Submission:

Table 1 of the EIE outlines a useful comparison for the new housing typologies.

**BUILD TO RENT (BTR)** Success of build to rent projects have relied on Government intervention to enhance supply. Policies aside, it is unclear why build to rent housing are afforded more generous car parking provisions than the existing Apartment Design Guides. There is a risk that delivery of BTR housing will ultimately result in a greater parking burden to the respective local communities. Further, it is unclear how visitor parking will be accommodated in these developments. Greater clarity is required to provide feedback on the proposed BTR policies.

**CO-LIVING** Co-living appears to be a new product segment that has of late needed to adopt the provisions of the existing Affordable Rental Housing SEPP.

Given that Co-living developments appear to address housing diversity within a younger demographic segment (e.g. young working professionals), there is a need to consider mechanisms to allow greater supply of such developments. Offering a complying development certificate route may achieve this. Another option could be design guidelines similar to the existing ARHSEPP which make it difficult for small segments of vocal communities to prevent such in-demand housing be offered.

**STUDENT HOUSING** The applicability of student housing is difficult to see if the zoning decisions are left to local Councils. I am concerned that this will ultimately see a non-event arise from this SEPP. A better option would be to specify minimum design and development criteria for student housing to be successful (such as proximity to transport, proximity to educational institutions and access to mixed use centres). I am concerned that leaving this to Councils will result in the clustering of student housing in typically residential neighbourhoods (e.g. Redfern).

**BOARDING HOUSES** Greater guidance must be given to clarify how social housing providers may interact with developers seeking to increase the supply of affordable housing. My personal experience has seen it difficult to engage with social housing providers to partner and deliver product in areas of extreme need. Explicit parameters must be provided for the income eligibility requirements, as current thresholds are inadequate at providing affordable solutions.

Further, minimum car parking provisions limit the opportunity to deliver boarding house accommodation in a cost effective manner. I propose that a very narrow exemption be offered to allow very well serviced developments be allowed a dispensation of the car parking requirement. Such an exemption could take the form of 400m of a train station AND

200m of a bus stop with a service every hour AND grocery store with operating hours of 9.00am to 9.00pm.

OVERALL Greater specification must be provided for the management of these such developments outlined in Table 1. Existing governance arrangements, e.g. on-site management, suffer from a lack of clarity in the SEPP and create the opportunity for mismanagement of developments. This is particularly the case where noise issues make up the bulk of issues in these developments.

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

Submitted on Thu, 10/09/2020 - 10:55

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Submission file: [webform\_submission:values:submission\_file]

Submission: Briefly, it is commendable to review all SEPPs regularly. Demographic and land supply issues, together with a crisis in affordable housing warrant reviews of planning regulations. Definitions: a) please don't use 'boarding houses' in any definition. Poisoned chalice. b) Never allow definitions in a LEP take precedence over those in a SEPP Details: a) Obviously JVs with a private company on government owned land with reduce car parking requirements will be very attractive, but this 'bonus' should come with the obligation to clearly state livable housing design guideline (LHDG) elements at gold level is mandatory to encourage compliance to various international, federal and NSW obligations for people with disability and for inclusion. b) The SEPP HSPD had a schedule 3. When fleshing our new HD SEPP must remove all AS1428.1 and AS4299 Level C elements within Class 2 dwellings as these properties are not specialist disability properties and such inappropriate elements assume everyone with a disability is in a wheelchair. Replace the above with LHDG elements at Gold level (aligns with Option 2 in the NCC RIS re accessible housing) which has societal benefits that a 'diversity' SEPP should promote. c) In regards to 'diversity', will there be any further thought to Co-ops and multi-generational housing in residential zones? Final comments: is the age limit as per the SEPP HSPD to be retained? Thank you

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

Wednesday 9<sup>th</sup> September 2020

Can the Government fix the Housing Affordability and Severability problem we have in Australia without investors?

That is the question, if your answer is yes? Keep do what you are doing.

If the answer is No? why are you making it so hard? Investors will leave and go to where they can make money and our government will not make as much money, and our councils will become a ghost town.

Good Example: Make studying at SIT Free and the Town Boomed, That's looking past today and building a future: Southern Institute of Technology is one of New Zealand's largest institutes of technology, with 13,758 students in 2017 for a total of 4,922 EFTs. Established in 1971, SIT has since become famous for its Zero Fees Scheme. Invercargill is now Booming

I can't see good in your proposals sorry; Board knowledge has gone out the door, area knowledge experts makes so much more sense in todays world. Please rethink your direction.

How many varieties are there of apples? 7500? An apple is not an apple, which one keeps the Doctor away? Similar with accommodation what suits one person doesn't suit another.





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**ABN** 32 353 260 317

Department of Planning, Industry and Environment  
Submission via website

8 September 2020

Dear Sir/Madam,

**RE:    Housing Diversity SEPP EIE**

Thank you for the opportunity of making a submission to the Housing Diversity SEPP Explanation of Intended Effects (EIE).

Given current workloads and deadlines associated with this Housing Diversity SEPP, this submission has not been endorsed by Council but is based on current planning policy at North Sydney Council. Council's main issue relates to the Build to Rent (BTR) provisions outlined in the proposed new SEPP provisions.

**General**

The BTR provisions in the Housing Diversity SEPP EIE are described as “*purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector*”. This type of housing is proposed to be a mandated permissible use in various zones including the B3 - Commercial Core zone. Further, it is proposed “*that BTR housing would be assessed as State significant development (SSD) where the development has a capital investment value of \$100 million or more*”.

North Sydney Council is fundamentally opposed to this approach as it will weaken and potentially undermine the commercial/employment base of the B3 zoned centres of North Sydney and St Leonards. The unique approach to create jobs growth within the B4 zone in St Leonards/Crows Nest, will also be compromised as a result of this proposal. This is described in more detail below.

**The North Sydney CBD**

The North Sydney CBD is a relatively small but economically robust CBD with low vacancy rates and a high level of sustained commercial interest. Since 2001, Council has had in place a B3 - Commercial Core zone, to ensure that it can deliver sustainable levels of employment floor space to meet state job targets consistent with the relevant Regional and District plans over time. This has been achieved by a combination of favourable economic conditions and Council interventions. Perhaps the most significant of these interventions has been the continued prohibition of residential development in the B3 zone during a long period of very robust and sustained residential growth throughout

Sydney. Residential development within the CBD has and continues to be, considered a threat to the economic viability Council's planning strategies. Residential development has been carefully located to the periphery of the CBD within the B4 zone, which provide ample opportunities for high density residential development which have existed and continue to be taken up by the market.

Whilst it is sometimes argued that residential development can add life and vibrance to a CBD, the North Sydney CBD is simply too small to sustain such development without undermining the viability of the centre as an economic and commercial hub.

Milsons Point at one point in the 1990s and early 2000's for example, was largely a commercial centre. The planning controls allowed mixed use development which over time, overwhelmed commercial activities to the point that commercial floor space now accounts for a very small proportion of total floor space in that precinct. As a result, the precinct is a largely dormant one with very little of the life and invigoration that had been predicted when the planning controls were amended.

Unlike the City of Sydney with its relatively vast CBD, the North Sydney CBD is a very constrained geographical area that contains a B3 zone as a chief driver of retaining and enhancing the employment character of the centre. The B4 zone which has a very wide application throughout the North Sydney LGA, including on the periphery of both the North Sydney CBD and St Leonards, provides sufficient capacity to deliver this type of housing.

It is noted that there are some limitations being placed on the BTR development type (e.g. removing the ability to strata subdivide). However, once the property is built and the ability for it to be sold within 15 years, there would be pressure to rezone that land in the future to continue the residential use of the land further placing strain on Council's ability to deliver employment floorspace, especially in centres which are constrained to grow laterally, such as North Sydney.

Council currently has a very centrally located residential building in Berry Street (the *Beau Monde*) which introduces a very different set of planning considerations when assessing development applications nearby. These include overshadowing, loss of views and spatial separation issues. Because residential amenity is not otherwise an issue, commercial development within the CBD is devoid of such considerations which adds certainty to the investment/development process for such development.

Another major consideration is the prestige and corporate identity associated with investment decisions in commercial centres like North Sydney. The notion of adjacent residential development with balconies and domestic activities, has the potential to detract from this. The clustering and agglomeration benefits of a CBD like North Sydney may be eroded if BTR development begins to take advantage of the proposed new provisions.

### **St Leonards**

The St Leonards/Crows Nest 2036 Plan was released on 29 August 2020. It identifies the planned creation of 16,500 new jobs over the next 20 years.

Employment retention and generation is a major theme of the 2036 Plan. The three Councils that participated in the Plan preparation process with DPIE, consistently raised employment as a major issue. This is particularly relevant given that on the whole, the



Plan seeks to achieve the bulk of this growth within mixed use buildings. The ambitious targets rely on a building typology that has not traditionally delivered significant numbers of jobs in Sydney. This jobs growth will be achieved by dictating minimum non residential floor space ratios.

In terms of development feasibility and buildability, there is a high likelihood that proponents may nominate BTR apartments in lieu of the minimum commercial floor space that would otherwise be required to be accommodated on site. Developers have often argued that the quantum of minimum non-residential floor space required to be delivered in the precinct can detract from the feasibility of mixed use developments in St Leonards.

In St Leonards, where the employment land use character of the place has been changing for some years, this proposal represents a real risk to the jobs creation objectives of the 2036 Plan and one that should be avoided. It has the potential to undermine the long term economic/employment role of St Leonards and instead, create a more residential precinct with the real prospect that ambitious jobs targets remaining unrealised.

### **Finally...**

Whilst the general thrust of creating more semi-permanent rental product is supported, it is fundamentally not a land use planning problem. In terms of permissibility, built form and land use BTR can be developed now. Then NSW Government should consider whether other incentives can be created for the delivery of this product.

Of significant concern is the suggestion that SEPP 65 may not apply. The setting aside of these planning considerations should not be seen as the incentive to provide this type of housing. The amenity of future residential dwellings should not be compromised by their tenure.

If the Standard Instrument LEP is to be amended to mandate it as a permissible use in a particular zone, then it should not be permitted in the B3 Commercial Core zone, nor fulfill the minimum commercial floor space requirements of North Sydney Council's B4 zone as they primarily seek to deliver employment outcomes as articulated in the zone objectives. As BTR is effectively a "residential accommodation" land use type, the SEPP should simply mandate it as permissible wherever an Environmental Planning Instrument permits "residential flat buildings" or "multi-dwelling housing" (noting it applies to a development with more than 50 dwellings) as permissible with consent in a particular zone. This would ensure that the character of a locality is not significantly changed as a result of the proposal.

Please call me on 9936 8302 if you would like to discuss this submission further.

Yours sincerely

Marcelo Occhiuzzi  
**MANAGER STRATEGIC PLANNING**

Submitted on Tue, 08/09/2020 - 13:27

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Submission:

Submission for Northern Beaches Co-Housing NSW Thankyou for the opportunity to submit comments on the SEPP. Revisions in the SEPP present an opportunity to include co-housing along other models of housing presented in the SEPP revisions. These include build-to-rent housing, student housing, and co-living developments. Co-housing is distinct from these models. Although co-living and co-housing share some characteristics, notably, co-living largely targets millennials, usually short-term living and is a profit-driven approach. As will be described later, this is different from co-housing. Co- housing 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 food, vehicles, tools, lawnmowers, and renewable energy infrastructure. Sharing of spaces increases the efficiency and can decrease both the physical and environmental footprint of developments. Through shared spaces, co-housing models are one option that can both reduce housing costs and provide stronger, networked communities. Co-housing 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 (Ruiiu 2014). Co-housing communities emphasise social connections and design for 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). Research has shown co-housing residents give and receive significantly more socially supportive behaviours than demographically similar non-co-housing residents (e.g. for primary caregivers of children, elderly support) and are more civically engaged (Riedy et al. 2018). Members of co-housing and intentional communities have been shown to score highly on well-being metrics (Grinde 2017).

Co-housing provides opportunity for designing for supportive communities, a model for intergenerational living, community childcare and aging in place. 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. However, this is becoming increasingly difficult, and there has been a 50% increase in the number of older people at risk of homelessness in NSW in the last five years. Single elderly women in particular are one demographic who are at higher risk of homelessness. In this regards, co-housing can reduce the cost burden of elder care, child care and affordable housing. Often co-housing targets the gap between social housing and market rates and as

mentioned above there are examples of mixed models which include both owners, rentals and community housing. Existing co-housing initiatives in Australia which have incorporated community housing with owner/occupiers, include Murundaka (Vic) and Pinakarri (WA). There are existing co-housing models in other states, while in NSW it is still new. Demand is growing in Australia. Nightingale, a company who facilitates co-housing type arrangements has a waiting list of over 3000 people for future developments.

Northern Beaches Co-Housing has a community of approximately 150 people on the Northern Beaches in NSW interested in co-housing. We are one of many such communities in NSW and nationally. This time of COVID has shown the importance of caring for our neighbours, particularly the elderly, and mutually supportive communities. Co-housing is one model that might help address this, however, the dominance of profit-driven and speculative housing models provides barriers to the implementation of co-housing. I hope you consider including it in the SEPP.

## Northern Beaches Council

### Housing Diversity SEPP EIE Submission

Proposed	Response			
<b>New Definitions</b>  The Department is proposing to introduce three new definitions in the Standard Instrument LEP.  The following table sets out key requirements for the new housing types, as well as the requirements for boarding houses.	<p>The Explanation of Intended Effect refers to Covid-19 only in terms of the need to accelerate projects that support employment and economic development. It does not address the implications of Covid on future population growth and housing. The NSW Government population growth statistics need to reflect the impacts of Covid.</p> <p>The focus of the Diversity SEPP should be increasing the availability/type/diversity/affordability of housing for those that need it most.</p>			
<b>Table 1 Comparison of development standards for new housing types</b>				
<b>Tenant</b>	<b>Build to rent</b> No restriction for market rent dwellings	<b>Co-living</b> No restriction	<b>Student housing</b> Students	<b>Boarding houses</b> Eligibility based on income
<b>Affordable</b>	Local provisions apply	No minimum requirement	No minimum requirement	Yes – 100%
<b>Tenancy</b>	3 years or more	Minimum 3 months	No minimum requirement	Minimum 3 months
<b>Communal living area</b>	New design guidance will be developed	Required	Required	Required
<b>Room/Apartment size</b>	New design guidance will be developed	30 - 35 m2	10 m2	12 - 25 m2
<b>Minimum car parking provision</b>	0.5 spaces per dwelling	0.5 spaces per room	No minimum requirement	0.5 spaces per room, or 0.2 spaces for social housing providers
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<p><b>Build to Rent</b></p> <p>It is proposed that the definition for 'Build-to-rent housing' would be contained within the Standard Instrument – Principal Local Environmental Plan and would refer to a building or place that:</p> <ul style="list-style-type: none"> <li>contains at least 50 self-contained dwellings that are offered for long term private rent;</li> <li>is held within a single ownership;</li> <li>is operated by a single management entity; and</li> <li>includes on-site management.</li> </ul>	<p>More detail about the proposed market for this building type is required. It is understood that the use is targeted at institutional investors but a clear logic for the proposed definition e.g. requirement for a minimum of 50 dwellings, is not provided in the documentation.</p> <p>The targeting of rental housing with longer tenancies (3 years or more) will boost housing security. The requirement for minimum 3 years rentals should be included in the definition otherwise the use would not appear to greatly assist housing security or affordability.</p> <p>Nothing in the proposed definition prevents strata subdivision of dwellings. This will need to be addressed in LEP drafting.</p>
<p><b>Proposed planning provisions</b></p> <p><i>Locational requirements</i></p> <p>It is proposed to make BTR housing a mandated permitted use in the R4 - High Density Residential, B3 – Commercial Core, B4 - Mixed Use and B8 – Metropolitan Centre zones. 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.</p>	<p>Council does not support including this as a mandated use in the B3 Commercial Core. The objective of this zone is to provide for employment type uses – not residential (no other form of residential accommodation is mandated in B3). This would have impacts in Brookvale (i.e. allow BTR on Warringah Mall).</p> <p>Council supports this land use being prohibited within the R2 Low Density Residential Zone</p>
<p><i>State significant development</i></p>	<p>No Comment</p>

<p>It is proposed that BTR housing would be assessed as State significant development (SSD) where the development has a capital investment value of \$100 million or more. It is proposed that developments within the City of Sydney local government area would be excluded from the SSD designation and would continue to be assessed by the City.</p> <p>It is proposed that BTR housing in regional areas would be assessed as SSD where the development has a capital investment value of \$50 million or more.</p>	
<p><i>Design Guidance</i></p> <p>Generally, consent authorities, when assessing development applications for BTR housing projects, should be guided by the design quality principles in State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development) (SEPP 65). The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology</p>	<p>Council questions the need for design guidance in addition to current SEPP 65 requirements for residential flat buildings when the uses are physically the same.</p> <p>Council recommends that, based on the scale of this form of development, all BTR should be subject to a design excellence review panel process.</p>
<p><i>Development standards</i></p> <p>It is proposed to allow councils to determine controls for BTR housing through their LEPs.</p> <p>It is proposed to apply a minimum 0.5 car parking spaces per dwelling for BTR housing. Where a lower maximum parking rate applies under a council's development control plan, this rate could be applied to BTR housing.</p> <p>BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation. BTR housing is a different investment product to traditional residential flat buildings. Because it is held in single ownership, it will be much easier for the asset to be recycled at a later date. With this in mind, it is proposed that it would not be possible to strata subdivide a BTR housing development for the first 15 years and to prohibit subdivision in a B3 – Commercial Core zone, in perpetuity.</p> <p>The Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development. For example, long-term residents could be offered a right of first refusal to acquire a unit at a fair market price or a minimum percentage of dwellings for sale could be required to be retained as affordable housing.</p>	<p>Council supports the proposal that building height and FSR is controlled through local environmental plans</p> <p>No justification is provided for 0.5 car spaces per dwelling for all dwelling sizes in all locations. 0.5 spaces per dwelling is too low in some areas of the Northern Beaches without good access to public transport. Car parking rates should be based on Council's requirements for residential flat buildings especially if the proposal to allow strata subdivision for private sale of such dwellings after 15 years proceeds.</p> <p>Minimum lease terms are supported however it is not clear how these requirements are to be enforced e.g. through amendments to current tenancy legislation or through development consent conditions or through public positive covenants, or a combination of those?</p> <p>Rules to allow strata subdivision after 15 years are not supported in the absence of any supporting</p>

	<p>evidence for this requirement. Such action would appear to be contrary to the intended purpose of delivering stable longer term rental accommodation to the market.</p> <p>It would be helpful if the Department could develop recommended conditions of consent for BTR housing, so that Council's and potential developers can understand the long-term requirements for these developments and how they are expected to operate and be maintained.</p> <p>Council questions the proposed option of keeping a proportion of BTR developments as affordable housing when strata subdivision is occurs after 15 years when BTR is not defined as affordable housing at the outset. Council's current Affordable Housing Policy would require 10% (subject feasibility) of any BTR development to be affordable housing where land is "up-zoned" to permit this use.:-</p>
<p><b><i>BTR housing in regional areas</i></b></p> <p>The Government is seeking feedback on appropriate provisions for BTR housing in regional areas. It is expected that these developments would generally be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.</p>	<p>The scale of development in regional areas should have stronger contextual and character controls so as not to end with monolithic development out of context and character with the region.</p>
<p><b>Purpose-built student housing</b></p>	
<p><b><i>Proposed definition</i></b></p> <p>It is proposed that the definition for 'student housing' would be contained within the Standard Instrument LEP and would refer to a building that:</p> <ul style="list-style-type: none"> <li>• provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods; and</li> <li>• may incorporate some fully self-contained dwellings.</li> </ul>	<p>This use could be a positive addition to housing choices and is supported, subject to the comments below.</p> <p>Council notes that this will be relevant for areas attracting tertiary education, in particular, Frenchs Forest.</p> <p>Council suggests that this use be permitted only where RFBs &amp; shop top housing is permitted.</p>

<p>It is noted that under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP), development for the purpose of residential accommodation for students associated with a school or university may be carried out within the boundaries of an existing school or university respectively.</p> <p>To improve consistency across environmental planning instruments, it is proposed that both the new SEPP and the Education SEPP would rely on the proposed new Standard Instrument LEP definition of 'student housing' in the future.</p>	<p>Provisions for adequate, appropriately designed and located student accommodation for tertiary students are supported. It is not clear whether student housing be restricted to students only of TAFE and Universities and Schools.</p> <p>Council notes that the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> (Education SEPP), provides for residential accommodation for students associated with a school or university within the boundaries of an existing school or university respectively. A consistent definition of student housing across both the new SEPP, the Education SEPP and Council's LEP is appropriate into the future.</p> <p>The definition permits "some" fully self-contained dwellings. This is not sufficiently clear and could permit any number of such dwellings. It is not clear in any case why this requirement is relevant.</p>									
<p><i>Proposed planning provisions</i></p> <p>It is not proposed to make student housing a compulsory permitted use in any of the land use zones</p> <table><tr><td>Height of buildings</td><td>In accordance with the relevant LEP</td><td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td></tr><tr><td>Floor space ratio</td><td>In accordance with the relevant LEP</td><td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td></tr><tr><td>Car parking</td><td>No minimum spaces required</td><td>Developers can choose to provide on-site car parking but there will be no minimum number of spaces required and a consent authority will not be able to refuse an application on the basis of car parking. It is expected that councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal.</td></tr></table>	Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	Car parking	No minimum spaces required	Developers can choose to provide on-site car parking but there will be no minimum number of spaces required and a consent authority will not be able to refuse an application on the basis of car parking. It is expected that councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal.	<p>Council supports not making student housing a compulsory permitted use in any of the land use zones. This will enable Council to take a local approach to the provision and location of student housing.</p> <p>Council does not support developers being able to choose how much car parking is required. The Northern Beaches is not well-served by public transport, even in its major centres. Car parking should be required in accordance with Council's requirements which would take account of proximity to public transport. As an alternative the definition of student housing could be amended to include reference to public transport access e.g. 400m, from</p>
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<p><b>Bicycle parking</b></p> <p>1 space minimum per 3 bedrooms</p> <p><b>Motorcycle parking</b></p> <p>1 space minimum per 5 bedrooms</p>	<p>The minimum bicycle parking rate will be a non-discretionary, 'must not refuse' provision.</p> <p>The minimum motorcycle parking rate will be a non-discretionary, 'must not refuse' provision.</p>	<p>a bus stop that is serviced at least once every 15mins from 6am or 7am through too late at night.</p> <p>Councils will be reluctant to adopt the definition where they cannot control car parking requirements. It is not clear why rates for bicycle and motorcycle parking are established but not for car parking.</p>
<p><b>Room size</b></p> <p>Minimum 10 m<sup>2</sup></p>	<p>The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice, which is to provide a range of room options in a single development, including rooms that have an area of less than 10 m<sup>2</sup></p> <p>The proposed 10 m<sup>2</sup> standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.</p>	<p>Council does not support a discretionary 10m<sup>2</sup> minimum room size standard as it is considered too small and there is insufficient justification provided. Instead, Council suggests a minimum similar to boarding houses which is 12m<sup>2</sup> to 15m<sup>2</sup>.</p>
<p><b>Communal area (indoor)</b></p> <p>15 m<sup>2</sup> per 12 students</p>	<p>High quality indoor communal space must be provided to meet the study, social, and religious needs of students. Depending on the size of the development, multiple rooms could be appropriate.</p>	<p>No information is provided that indicates whether or not strata subdivision of the rooms would be permitted, even after a defined time period (similar to the 15 years for BTR).</p>
<p><b>Communal area (outdoor)</b></p> <p>Consider access to open space</p>	<p>In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus. In other locations the new SEPP will recommend 2.5 m<sup>2</sup> of outdoor space per student.</p>	<p>The communal indoor standard should also address social distancing – Council suggests this is too small to be 'high quality' and recommends the absolute min to be 20m<sup>2</sup></p>
<b>Co-living</b>		
<i>Proposed definition</i>		
<p>It is proposed to introduce a new definition for co-living in the Standard Instrument LEP would refer to a building held in single ownership that:</p> <ul style="list-style-type: none"> <li>provides tenants with a principal place of residence for 3 months or more;</li> <li>includes on-site management;</li> <li>includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and</li> <li>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.</li> </ul>		
<p>Generally, Council supports the introduction of this housing type in conjunction with the proposed introduction of a new boarding house definition which includes an affordability requirement.</p> <p>The distinctions between boarding house development and co-living studio-type accommodation, supplemented by access to communal facilities, will provide new opportunities for residential investment in NSW and will assist in Council's land use planning for the strategic supply of</p>		

	<p>a diverse range of housing types having regard to local needs and characteristics.</p> <p>It is not clear why a minimum of 10 rooms is included in the definition.</p> <p>No information is provided that indicates whether or not strata subdivision of the rooms would be permitted.</p> <p>Too often in developments the communal space is ill thought out with no amenity or purposeful/functional use. Co-living has a much deeper community basis whereby people share duties of cleaning cooking and sharing of main facilities. Greater focus on the quality of communal space should be considered in the standards for development as well as opportunities for a range of communal uses e.g. productive gardens.</p>						
<p><i>Proposed planning provisions</i></p> <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> <table><tr><td>Height of buildings</td><td>In accordance with the relevant LEP</td><td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td></tr><tr><td>Floor space ratio</td><td>In accordance with the relevant LEP</td><td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td></tr></table>	Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	<p>Council supports making Co-living only a compulsory permitted use in land use zones that permit residential flat buildings. It also supports the application of height and FSR controls from relevant LEPs and envelope controls from DCPs.</p> <p>There is concern however that developers will prefer this type of development, compared to traditional RFBs, as they will be able to build more units in the same amount of space. This may reduce the supply of larger which are in high demand and make them less affordable.</p> <p>Car parking is a consistent issue for the Northern Beaches community relating to boarding houses. The proposed car parking rate per room is the same as boarding houses yet rooms are substantially larger and they are not providing affordable housing. Car parking rates should have regard to location/</p>
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Car parking	0.5 spaces per room	<p>It is proposed to include car parking as a non-discretionary 'must not refuse' provision. This would allow councils to approve a co-living development with less parking when appropriate.</p> <p>In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail.</p> <p>It is noted that the demand for car parking varies significantly between different areas and it may be appropriate to have different car parking rates depending on the locational context, such as proximity to a train station.</p> <p>Stakeholder feedback is sought on appropriate car parking rates for this land use.</p>	<p>proximity to public transport. It is recommended to have a 'do not refuse' rate of 1 space per apartment, that way, if a lower rate is appropriate, Councils can use their discretion.</p> <p>More detail is required regarding justification for limiting room size to 30-35qm i.e. "between boarding house rooms and studio apartments". Question also whether kitchen and bathroom is included within this size limit.</p> <p>Can a development have a mix of uses? Eg: 5 co-living units and 5 x 2 bedroom apartments in one building?</p> <p>The logic on permitting BTR to be strata subdivided but not Co-living needs to be detailed, and it is not clear how this incentivises this form of development – will developers just build flats?</p> <p>Co-housing developments generally include communal kitchens for communal meals rather than just a lounge sitting room. There should be some flexibility.</p> <p>landscaping and functional access should also be included to the outdoor living area</p>
Room size	30-35 m2	It is proposed that co-living development would contain rooms would sit between boarding rooms and studio apartments in terms of size.	
Strata subdivision	Not permitted	Co-living developments would be held in single ownership like a new generation boarding house.	
Communal living space	Minimum 20 m2, + 2 m2 per room above 10 rooms	This would provide for adequate internal communal spaces based on the number of rooms in a development.	
Private open space	4 m2 per room	This is the same as the ADG requirement for studio apartments.	
Communal open space	25% of site area	It is proposed to provide for a reduction in communal open space where all dwellings have private open space that exceeds the minimum requirements.	
Building envelope controls for residential flat buildings under the relevant DCP could apply			
<b>Updating existing provisions</b>			
<b>Boarding House</b>			<p>Council notes that it has no controls for boarding houses. If a developer proposes a boarding house, they have to apply under the SEPP. Council should be able to make boarding houses prohibited.</p> <p>Registration of boarding houses should also occur prior to construction certificate; registration should be</p>

	<p>a condition of consent and a means by which consent can be refused.</p> <p>The scale bulk and character should also be relative to the zoning controls and compatibility with the character of the area.</p>	
<p>definition of 'boarding house' should be amended to include a requirement that boarding house rooms are affordable.</p>	<p>Council supports amending the definition to ensure that that boarding houses are affordable and managed by a Community Housing Provider however preference is that rooms are retained in perpetuity as affordable housing, not just 10 years.</p>	
<p><b>Existing definition</b>  <b>boarding house</b> means a building that—  (a) is wholly or partly let in lodgings, and  (b) provides lodgers with a principal place of residence for 3 months or more, and  (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and  (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,</p> <p>but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.  Note. <b>Boarding houses</b> are a type of <b>residential accommodation</b>—see the definition of that term in this Dictionary.</p>	<p><b>Proposed definition</b>  <b>boarding house</b> means an affordable rental building that—  (a) provides lodgers with a principal place of residence for 3 months or more, and  (b) is managed by a registered not-for-profit community housing provider (CHP), and  (c) has some shared facilities, such as a communal living room, bathroom, kitchen or laundry, and  (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or two adult lodgers,</p> <p>but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.  Note. <b>Boarding houses</b> are a type of <b>residential accommodation</b>.</p>	
<p>Boarding house development will not be mandated in the R2 Low Density Residential Zone</p>	<p>Council supports the removal of boarding house as a mandated permitted use in the R2 low density residential zone.</p> <p>Since the commencement of the SEPP, the provisions for boarding houses have resulted in many poor development outcomes which impact on local communities in the R2 Low Density Residential zone.</p> <p>The range of detrimental impacts arising from such development include loss of local character, traffic and parking impacts, landscaping impacts, loss of a</p>	

	<p>range of local amenities including acoustic and visual privacy and overshadowing.</p> <p>There has also been a proliferation of boarding house applications within the area of the adopted Frenchs Forest Hospital Precinct Structure Plan (currently zoned R2) which have been identified for rezoning for higher density. This has impacted on the overall outcome of the Frenchs Forest Hospital Precinct Structure Plan by sterilising development in these areas.</p>
<p>It is proposed that provisions will be included in the new SEPP to ensure LAHC will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. Where boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply.</p>	<p>Council notes that no justification has been provided for this provision. Why should government land be able to be developed for boarding houses when it is otherwise prohibited under Council's LEP?</p> <p>Council does not support this where it will result in the current issues some Councils are having with these developments.</p> <p>Council also questions whether the 12 room limit would apply to LAHC on government owned land where boarding houses are otherwise prohibited under the LEP?</p>
<p><i>Proposed 20% FSR bonus for boarding house development</i></p> <p>Currently, clause 29 of the ARHSEPP includes a floor space ratio (FSR) bonus on land within a zone in which residential flat buildings are permitted of:</p> <ul style="list-style-type: none"> <li>• 0.5:1 if the existing maximum floor space ratio is 2.5:1 or less, or</li> <li>• 20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1.</li> </ul> <p>It is proposed to introduce a flat 20% FSR bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.</p>	<p>Currently, clause 29 of the ARHSEPP includes a floor space ratio (FSR) bonus on land within a zone in which residential flat buildings are permitted. For the Northern Beaches, this bonus applies to a range of zones particularly under Manly LEP 2013 including zone R1 General Residential, R3 Medium Density Residential, B1 Neighbourhood Business, B2 Local Centres. The range of FSR in these local zones is below an FSR of 2.5:1 and between 0.4-0.5 in residential areas and 1:1 in centres with the exception of Manly Town Centre.</p>

<p>The proposed amendment will affect land with an existing maximum FSR of 2.5:1 or less, as it is proposed to reduce the FSR bonus from 0.5:1 to a flat 20% for such land. It should be noted that the bonus only applies in zones where residential flat buildings are permissible.</p>	<p>Council acknowledges that when the existing FSR is low, for example 0.5:1, the 0.5:1 bonus effectively doubles the allowable FSR and can contribute to excessive bulk and scale of boarding house development. Northern Beaches Council was represented on the Council Boarding House Working Group recommending that the existing FSR bonus be changed to a flat percentage bonus above existing maximum FSR. The Department's consideration of these recommendations and its proposal to introduce a flat FSR bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1 is supported.</p> <p>Council however notes that no justification has been provided for the 20% figure. Why isn't this figure 10% or 0% and has there been any feasibility undertaken to justify the need for this "incentive".</p> <p>Any bonus should also be linked to criteria around good urban design/provision of good sustainability outcomes.</p> <p>SEPP 65 should apply to larger boarding house developments regardless of whether they are affordable should not preclude the principles of good design, amenity and building standards in terms of environmental conditions, site analysis etc- it is still a building that needs to perform under certain conditions.</p> <p>Council also has questions on what would the maximum FSR allowed if an LEP does not contain an FSR control?</p>
<p><i>Car parking</i></p>	<p>Council agrees with this approach</p>

<p>The ARHSEPP currently provides reduced minimum car parking rates for boarding house development applications lodged by or on behalf of a social housing provider.</p> <p>It is proposed to maintain these provisions in the new SEPP.</p>	
<p><b>Proposed amendments to ARHSEPP provisions</b></p> <p>It is proposed to update some provisions of the ARHSEPP when they are transferred to the new SEPP, including provisions relating to group homes and provisions relating to Part 3 – Retention of existing affordable housing.</p> <ul style="list-style-type: none"> <li>• The ARHSEPP includes a complying development pathway for development of new group homes. However, there is currently no exempt or complying pathway for converting an existing dwelling to a group home.</li> <li>• The Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home.</li> </ul>	<p>As a general comment, Council notes that the CDC provisions for new group homes are too generous (and far less stringent in terms of site cover and open space than Council standards for Dwelling Houses) and are resulting in out of character outcomes in R2 zones (an example of a poor outcome in the Northern Beaches LGA is located at 89 Wyadra Avenue, North Manly).</p>
<p><b>Group homes</b></p> <p>Proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home - via complying development pathway</p> <p><i>Amendment to Part 3 of the ARHSEPP</i></p> <ul style="list-style-type: none"> <li>• Part 3 of the ARHSEPP requires a council to consider whether there will be or is likely to be any reduction in affordable housing as a result of a proposed development. A reduction in the availability of affordable housing could occur through the demolition or strata subdivision of an existing building that contains low-rental dwellings.</li> <li>• Part 3 of the ARHSEPP also permits a council to levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application.</li> <li>• Clause 49 of the ARHSEPP states that Part 3 of the ARHSEPP only applies to buildings that were low-rental residential buildings as at 28 January 2000</li> <li>• Councils and industry groups have advised the Department that some 20 years later, it can be difficult to establish whether a building was a low-rental residential building as at the 28 January 2000 date because rental data from that period is not readily available</li> </ul>	<p>Council acknowledges group homes are an important accommodation choice for people with a disability or people who are socially disadvantaged and supports the aims of the ARHSEPP is to facilitate the development of this type of housing in R zones only with consideration given to appropriate locational requirements closer to services and facilities. In this regard Council supports provisions to limit to where dwelling houses are permitted and exclude the development on this basis in E zones.</p> <p>Council notes however that detail is required, how does allowing an existing home to be converted into a group home protect this vulnerable group? What are the impacts for the residents of the group home and for the broader community by not undertaken the development assessment process and undertaking consultation with the broader community?</p>



<p>it is proposed to amend the provisions by removing the reference to the 28 January 2000 date.</p> <p><i>The proposed SEPP will instead allow a council to levy monetary contributions to offset the loss of dwellings that were low-rental at any time within the 5 years preceding the lodgement of the development application.</i></p> <p>the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time will also rests with the applicant (rather than the local Council)</p>	
<p><b>Secondary dwellings in rural zones</b></p> <p>The ARHSEPP currently permits secondary dwellings in the residential zones (R1, R2, R3, R4, R5) and does not allow secondary dwelling in any rural zones.</p> <p>Councils can, if they choose to, permit secondary dwellings in rural zones under their local environmental plans with maximum size of a secondary dwelling is set by Clause 5.4(9) under the Standard Instrument LEP of 60sqm or a \$ of the total floor area of the principal dwelling</p> <p><i>It is proposed to amend the ARHSEPP so that councils have the discretion to set a maximum size for secondary dwellings in rural zones.</i></p>	<p>Council agrees with this approach however notes that adding a secondary dwelling onto every rural property (a possibility if these rules are changed) could double the population of sparsely populated areas and increase the risks (particularly bushfire) to life and property.</p>
<p><b>Proposed amendments to seniors housing provisions</b></p> <p><i>Update definitions in the Seniors SEPP</i></p> <p>The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP.</p> <p>It is proposed that the following definitions be updated:</p> <ul style="list-style-type: none"> <li>• the definition of 'height';</li> <li>• the definition of 'people with a disability'; and</li> <li>• the definition of 'AS 2890'.</li> </ul>	<p>Council notes that the current standard is an existing frequency of bus services as 1 per hour, and there is the opportunity for this requirement to be refined. 1 service per hour is considered infrequent for development within the Metropolitan Sydney area. 1 service per 30 minutes may be considered more appropriate as this delivers a high level of frequent service.</p> <p>Council supports the proposed amendment to the definition of height in the SEPP to provide consistency with the future Northern Beaches LEP.</p>
<p><i>Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP</i></p>	<p>An update of the provisions of Schedule 1 – Environmentally sensitive land in the Seniors SEPP is supported to align with current legislative and</p>



<p>The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land.</p> <p>Schedule 1 has not been comprehensively updated since the commencement of the Seniors SEPP in 2004.</p> <p>It is proposed that Schedule 1 will be updated, to be better aligned with current legislation and planning conditions.</p>	<p>planning conditions, however Council needs to further understand what is changing for the new Northern Beaches LEP, particularly application of e Zones and potential impacts on SEPP application.</p>
<p><i>Location and access to facilities provisions</i></p> <p>It is proposed 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.</p>	<p>Council supports this approach and agrees that the accessibility requirements of the SEPP i.e. 'location and access to facilities' provisions, are not to be satisfied by point-to-point transport such as taxis, hire cars and ride share services.</p>
<p><i>Site Compatibility Certificates</i></p> <p><i>Validity of Site Compatibility Certificates</i></p> <p>A site compatibility certificate (SCC) is usually valid for 24 months. Once a SCC has been issued, development consent is sought through a development application lodged with the consent authority, which is usually the local council.</p> <p>Because of the 24 month timeframe for the validity of a SCC, and the time needed to prepare and assess seniors housing proposals, SCCs sometimes expire before a development application has been determined.</p> <p>It is proposed to introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.</p>	<p>Council suggests that 2 years with a stop the clock provision may be a better option. This will stop multiple DAs being lodged on the property if the first DA is refused (and the appeal options are exhausted).</p>
<p><i>Registered clubs</i></p> <p>Currently, a SCC application can be made on land that is used as an existing registered club. Over the years, there have been a number of SCC applications made on land on which a registered club is no longer viable.</p> <p>To improve certainty for all stakeholders, it is proposed to reinforce the requirement that if a SCC application is being made on the basis that the land is being used for the purpose of a registered club, the club must be a registered club at the time the SCC application is made.</p>	<p>Council supports amendments which clarify how the SEPP applies to land being used for the purposes of a registered club.</p>

<p><i>Application of local development standards</i></p> <p>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'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.</p> <p>It is proposed that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.</p>	<p>Council supports SEPP amendments to ensure that development standards in the future Northern Beaches Local Environmental Plan prevail to the extent of any inconsistency with the SEPP. Also, any scenario in which an applicant may decide whether to lodge a DA under the provisions of either the SEPP or the LEP is problematic and results in inconsistent development outcomes.</p>
<p><b>Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing</b></p> <p>The approach articulated in Future Directions (it is proposed that LAHC will partner with the private sector and community housing providers to deliver new housing projects.) was not contemplated at the time the existing housing-related State planning policies were made and it is proposed that changes to the planning provisions used by LAHC will be made as part of the new SEPP to support the new approach.</p>	
<p><b>Proposed changes to the social housing provisions of the ARHSEPP</b></p>	
<p><i>Increase maximum number of dwellings that LAHC can self-assess</i></p> <p>LAHC currently uses the ARHSEPP provisions to deliver small scale redevelopments with up to 20 dwellings with a maximum height of 8.5 m (two storeys).</p> <p>To facilitate LAHC's new model, which will contain a mixture of private, affordable and social housing, it is proposed to increase the maximum number of dwellings that LAHC can self-assess to 60. The maximum height of 8.5 m (two storeys) will continue to apply.</p>	<p>This is not supported. The new model for LAHC developments has no relationship with potential environmental impacts. 60 dwellings has potential for greater impact than 20 dwellings. What is the data that suggests developments of this size have not been an issue for the community? The community, particularly the affected neighbouring residents, should be able to have their say before approval is granted.</p> <p>It is also strongly recommended that large social housing developments be avoided. It is much better to spread the same amount of dwellings throughout the community rather than in one large development.</p> <p>In addition, there should be an element of good design/design excellence or an independent panel of experts to assess the compatibility with character and the design standards - GANSW Design Review panel</p>

	for development of such a scale rather than just being self-assessed.
<p><i>Design guidelines for LAHC development</i></p> <p>When self-assessing proposals under the ARHSEPP, LAHC is currently required to consider the Seniors Living Policy: Urban Design Guidelines for Infill Development. In addition, LAHC also uses its own design guidelines and standards to assess applications. It is proposed to update these guidelines to better reflect contemporary practice.</p>	<p>See Councils comments with respect to LAHC undertaking self-assessment of development.</p> <p>LAHC development should also be subject to an independent design review panel.</p>
<p><i>Car parking requirements for LAHC development</i></p> <p>It is proposed to apply a minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings, in a development undertaken by or on behalf of LAHC, on government-owned land.</p> <p>If a lower car parking rate is proposed in a LAHC development, there would be an option to lodge a development application with the relevant local council for a merit-based assessment</p>	<p>Carparking is an on-going issue within the Northern Beaches LGA. This should be based on proximity to public transport. It is recommended that certain areas be able to require a higher rate, particularly areas with relatively poor public transport (eg: all areas not within walking distance of the main North/South transport route along Pittwater Road).</p> <p>Council also queries the justification for 0.5 spaces for private dwellings in a development when Council's controls would require 1-2 spaces for the same size private dwelling?</p> <p>Car parking rates of 0.5 spaces per dwelling should only apply to social and affordable housing.</p>
<p><i>Expand the range of affordable dwelling types that attract a density bonus</i></p> <p>Division 1 of Part 2 of the ARHSEPP provides for a density bonus for infill affordable housing. The provisions are currently limited to dual occupancies, multi-dwelling housing and residential flat buildings.</p> <p>It is proposed to increase the range of development that can be carried out under Division 1 to include other types of residential accommodation, such as manor houses and terraces, where these uses are permitted under another environmental planning instrument. These are dwelling types that were introduced with the Low-Rise Medium Density Housing Code in July 2018.</p>	<p>Council acknowledges that if density bonuses are justified/ required, then it is appropriate that they apply to these forms of development.</p>
<p><i>Clarify the types of development that LAHC can self-assess</i></p>	<p>Council does not support the ability for LAHC to self-assess, particularly in relation to boarding houses.</p>

<p>It is proposed to clarify that LAHC can self-assess proposals for any type of residential accommodation that is permitted with consent under another environmental planning instrument. This will include dwellings and dual occupancies permitted under an LEP, as well as manor houses and terraces that are facilitated under the Codes SEPP.</p> <p>The self-assessment will be limited to development with a height of 8.5m or less.</p> <p>It is also proposed to clarify that LAHC can self-assess boarding house developments where they are permissible with consent. As noted above, it is proposed to no longer mandate boarding house in the R2 zone. However, boarding houses developed by or on behalf of LAHC with a maximum of 12 rooms would still be permitted in the R2 zone, on Government owned land.</p>	<p>The community, particularly the affected neighbouring residents, should be able to have their say before approval is granted.</p> <p>Council also notes its previous objection to permitting boarding houses on government owned land in R2 Low Density Residential zoned where Council has otherwise prohibited them in its LEP.</p>
<p><i>Update self-approval provisions for social housing</i></p> <p>The self-assessment provisions in the ARHSEPP are currently limited to residential development undertaken 'by or on behalf of the Land and Housing Corporation'.</p> <p>The Government is proposing to include provisions in the new SEPP that will facilitate LAHC's development model, with includes a mixture of social, affordable and private housing. The amended provisions would allow LAHC to self-assess all residential development, including social, affordable and private housing components, proposed to be undertaken by or on behalf of LAHC, on any land owned by the State Government.</p> <p>These developments would still be limited to the 8.5 m maximum height and the proposed 60 dwelling limit as discussed above.</p>	<p>Council does not support the ability for LAHC to self-assess. The community, particularly the affected neighbouring residents, should be able to have their say before approval is granted.</p> <p>Also note Councils comments with respect to the size of developments for self-assessment (up to 60 dwellings)</p>
<p><i>Expand density bonus outside the Sydney metropolitan region</i></p> <p>There is a significant amount of land in centres outside Sydney that satisfies the definition of 'accessible area' within the SEPP but is not located within 400 metres of land zoned B2 – Local Centre, or B4 – Mixed Use. It is therefore proposed to apply the infill affordable housing bonus to all 'accessible areas' across the State</p>	<p>No comment</p>
<p><i>Subdivision of Government-owned land</i></p> <p>To support the delivery of the Government's social housing program, it is proposed to allow subdivision of Government-owned land without consent</p>	<p>Insufficient justification has been provided for this new provision, how does this link to proposed outcomes?</p> <p>Council would support this provision where the subdivision complies with controls that would be relevant (eg: minimum lot size and dimensions,</p>

	driveway access and slope). Subdividing land prone to bushfire should still be subject to assessment.
<b>Proposed changes to the social housing provisions of the Seniors SEPP</b>	
<p><i>Parking concessions for seniors housing</i></p> <p>The Seniors SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider.</p> <p>It is proposed to clarify that the reduced parking rates also apply to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government-owned land.</p>	<p>What is the justification for reduced car parking rates for the private dwelling component of a senior housing development?</p> <p>Car parking rates of 0.5 spaces per dwelling should only apply to social and affordable housing.</p>
<p><i>Clarify application of lift access exemption</i></p> <p>The Seniors SEPP includes a requirement that new self-contained dwellings for seniors located on or above the second floor must have lift access. However, there is an exemption from the lift access requirement for development applications made by, or jointly with a social housing provider. The lift access exemption provides significant savings in terms of up-front construction and ongoing maintenance costs for LAHC.</p> <p>It is proposed to clarify that the lift access exemption applies to all seniors housing delivered by or on behalf of LAHC, including any dwellings that are not proposed to be used for the purpose of social housing.</p>	<p>What is the justification for the exemption from lift access requirements for seniors housing delivered by LAHC?</p> <p>Lift access should either be required for all development or none, whether or not it is provided by LAHC.</p>
<b>Proposed changes to the social housing provisions of SRD SEPP</b>	
<p>It is proposed to amend the SRD SEPP so that projects will become SSD if:</p> <ul style="list-style-type: none"> <li>• they are carried out by or on behalf of LAHC; and</li> <li>• they have a capital investment value of more than \$100 million (increased from \$30 million).</li> </ul> <p>It is proposed to remove the current requirement under the SRD SEPP that LAHC sites need to be mapped on the State Significant Development Sites Map in order to be SSD.</p>	<p>No Comment</p>

It is proposed that for Government-owned land within the City of Sydney, the Minister for Planning would be the consent authority for projects over \$100 million, with the power to delegate to the City of Sydney, if deemed appropriate.



8 September 2020

Dear Hon Robert Stokes and Department of Planning Team,

**RE: Submission to Proposed new Housing Diversity SEPP**

We find it encouraging that the Department of Planning is collaborating together with Councils' to reassess the needs and definitions related to Housing Diversity provisions, and that as a result a new SEPP is being proposed.

We note that we have already provided extensive recommendations on the changes we believe are necessary in relation to Boarding Houses, Disability and Seniors Housing SEPP's; and environmental protection as it relates to housing SEPP's (refer to our letter of 1 August 2019 and our meeting with the Hon Robert G. Stokes where we submitted our full Brief).


We would request that all these recommendations be included in the new proposed Housing Diversity SEPP.

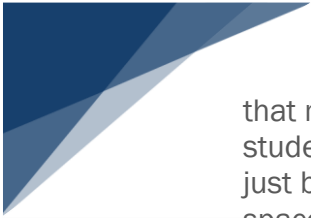
Please find below our initial comments on the proposed new Housing Diversity SEPP.

1. In relation to the table on page: 7 our comments:

	Build-to-rent housing	Co-living	Student housing	Boarding houses
Tenant	Accepted.			
Affordable	Definition of Affordable, clarification of minimum requirements and local provisions is considered necessary.			
Tenancy	Accepted.			
Communal Living Area	Clarification on New design guidance is considered necessary (refer also to comments below).			
Room/ Apartment Size	Clarification on New design guidance is considered necessary.	Rooms less than 25m2 need elaboration on design requirements.	Increase Minimum to 15m2 and ensure rooms are able to accommodate a queen size bed, work desk plus storage in conjunction with other external provisions ie: bathroom, laundry community living, kitchen and manager.	Rooms less than 25m2 need elaboration on design requirements.
Minimum Carparking	0.5-1 space per dwelling room depending on proximity to existing high transit corridor LGA infrastructure.	0.5-1 space per dwelling room depending on proximity to existing high transit corridor LGA infrastructure.	Minimum of 0.5 per room and increase to 1 space per dwelling room depending on proximity to existing high transit corridor LGA infrastructure.	Should still consider increasing to 1 car parking space per room in LGA's.




- 
2. We consider the 0.5 parking limit to still be low and would expect to see 1 parking space for each boarding house room, build to rent room, and co-living housing room.
  3. For purpose-built student housing, we would expect to see at least 0.5 per room plus allocation for motorbikes and bicycles. In country university areas for example there is more land and distance for students to travel to seek services. There is less public transport and more students would drive. Accordingly, higher parking ratios should be applied. These should be mandatory requirements that cannot be waived by council, panel or court.
  4. We agree a minimum of 10 years for affordable housing is appropriate.
  5. We support the density bonus for mixed use in-fill affordable housing.
  6. Any change in densification to offer further housing diversity in rural areas must carefully consider the needs of the area, there is no point building high density development in rural areas if the soft and hard infrastructure are not there to support it. I.e: roads, utilities, hospitals, schools, sporting fields etc.
  7. Quantum of Affordable Housing contribution schemes, requires detailed clarification.
  8. Site Compatibility Certificates (SCC) should not be extended to 5 years. This places undue stress on surrounding residents of the block of land subject to the SCC by creating elongated uncertainty on the future scape and property values in their street.
  9. It seems unreasonable that the LAHC powers will appear to override any Council process as this will create inconsistency in the delivery of the housing diversity within a Local Government Area. This requires a transparent governance mechanism.
  10. The minimum requirements of apartments should be incorporated across all boarding house, build to rent, co-living and purpose-built student housing developments. This will ensure greater consistency across building types, setbacks, heights, FSR, solar access, carparking, green buildings and so-on.
  11. The criteria for what constitutes affordability must be tested across all the housing types to be outlined in the new SEPP. I.e student housing must be affordable and means tested to student incomes.
  12. In some areas such as French's Forest there is already an oversupply of boarding houses with more applications being submitted as developers seek to make a quick buck. Limits within suburbs, zonings and streets must be created to ensure we don't end up with over supply and over densification everywhere.
  13. Council's local planning response must incorporate engaged community feedback to ensure the best outcomes for everyone. We also recommend integration of boarding house rooms into apartment blocks instead of them being built as stand-alone micro-apartment buildings. Low rise medium density apartment blocks of 6 or 8 are still less dense today than a 12 room boarding house for example, however they deliver a better quality of life through larger FSR and car parking allocation.
  14. We agree that alternatives to boarding houses should be sought to meet the needs of the community in terms of housing diversity. However, for any new housing types to be introduced (such as such as the build to rent, purpose built student housing and co-living housing), any of these buildings which constitute apartment/micro apartment style living should meet the minimum apartment policies and requirements. This is necessary to ensure we don't end up with exploitation of the loopholes in these newly defined housing types which deliver high profits for developers but which don't actually provide a quality of life or level of affordability



that meet the needs for which they were “intended”. It is unacceptable to expect a student to live in a 10sqm bedroom for example, it is discriminatory to expect that just because a student is a student that they don’t need a reasonable amount of space such as that of a 1 bedroom apartment.

15. The measurement of delivery of boarding houses under an LEP should include the impact criteria each boarding house has had on the surrounding dwellings, streets and suburbs. This is needed to ensure a holistic understanding of the impacts on the character of the area, and that the livability of people living within the area is properly understood, as today this is largely disregarded.
16. It is imperative that Councils have a chance to respond before any revocation of LEP overrides takes place.
17. All over Sydney there has been continual pushback from communities over several years in relation to the locations, accessibility and sizes of boarding houses, particularly in R2 zones. Unfortunately, time and time again panel decisions have been overturned at Land and Environment Court which has negatively impacted communities and quiet suburban streets, as well as lifestyle and property values. The densification of a boarding house in R2 is simply not acceptable. It is destroying the landscape and character of our suburbs. **Boarding Houses must be removed from R2 zones altogether regardless of who owns the land and builds them. Councils must be granted the right to remove this from their LEP’s. Agree there should be a limit of 1 person per room as we have seen families with children living in 1 boarding room.**
18. We have provided detailed recommendations for changes to the ARHSEPP as it is too easily manipulated and open to interpretation to benefit developer outcomes over the needs of the existing community at Land and Environment Court today. Accessibility as it relates to disability must be addressed in addition to, not as an either/or scenario.
19. Accessibility must not just relate to transport to and from a site. It must also relate to whether a physically or mentally disabled person can actually navigate to the site and all areas within that site safely (think wheel chairs, steep pathways etc) The Disability Discrimination Act outlines this. This must apply for all housing types. Remember not all students are able bodied or youths, some are old, some are disabled. The removal of lifts for some housing types is discriminatory.
20. We agree Student housing needs must be appropriately addressed. However, it must be affordable and include a student means test, otherwise this housing type will end up be like boarding houses. I.e: small micro apartment blocks that no one wants to live in and no student can afford to rent. Student housing should contain the same minimum requirements as those which apply to apartment blocks, particularly in terms of zoning such as R3, proximity to greenspace, high transit corridors, facilities height, setbacks, parking and so-on. In addition, it must match the needs of the current community at the local level and Council’s should engage the Community in this process. Student accommodation should not just be targeted for “overseas students”, it must consider the needs of all Australian students of varying economic backgrounds as well, including those with disability or senior students.
21. The test of compatibility with the local area must also include compatibility with the current surrounding housing mix and the people who reside there. For example, if a street currently consists of houses in R2 with young families and retirees, then boarding houses, student housing, build to rent and co-living are NOT in keeping with the character of that area as 12 single people living in one dwelling is not the same.



Character must include the character of the intended diversity mix in the area, not just the building itself.

22. In terms of open space across all housing diversity types, planted out garden beds and paths are not adequate open space for tenants to relax. Open space should specifically also include large grass areas with trees, landscaping etc, that can actually be used for rest and recreation. All new builds should meet green build requirements, ie: solar, local battery energy storage, water tanks, grey water for gardens, and designs to take advantage of natural elements such as sun and wind.
23. Agree boarding house rooms are too small and the minimum FSR should be increased to meet those sizes similar to a 1 bedroom apartment. They must also contain windows.
24. All housing diversity types must take into consideration additional design guidelines and must include designs that reflect the current and future state of an area.
25. FSR incentives should be consistent with design excellence including green design provisions which are more responsive to its context.
26. Alignment across laws is needed for consistency, and in addition other Acts such as Anti-Discrimination Laws and Environmental Laws must be considered as higher acts that over-ride the SEPPs, LEPs and DCPs to ensure these National Acts are not ignored at the Land and Environment Court state level.

Yours sincerely



9 September 2020

Department of Planning, Industry and Environment

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

Dear Sir / Madam

**NSROC submission on the Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy**

Northern Sydney Regional Organisation of Councils (NSROC) appreciates the opportunity to make a submission to the Department of Planning, Industry and Environment on the *Explanation of Intended Effect (EIE) Housing Diversity State Environmental Planning Policy (SEPP)*.

NSROC is a voluntary association of eight local government authorities in northern Sydney whose member councils service an area of 639km<sup>2</sup>, stretching from the Hawkesbury River in the north to Sydney Harbour and Parramatta River as far upstream as Meadowbank in the south and west of Middle Harbour.

In summary, NSROC feedback on the *EIE Proposed Housing Diversity SEPP* focuses on the following points:

1. NSROC supports the intended streamlining into one Housing Diversity SEPP and recognises the increasing pressures of housing affordability on our communities
2. NSROC is supportive of amendments that allow local controls to prevail over one size fits all State policies
3. NSROC recommends amendments to permitted zones for some housing types to align to existing provisions and allow flexibility to cater for local policies and priorities
4. Car parking requirements should be cognisant of local transport accessibility and impacts on local communities
5. Our member councils would like to work with DPIE collaboratively to address the issues we have raised in the submission and the detail required for implementation as identified in the EIE.

Further detail on these points can be found in the attached.

Should you require further information, please do not hesitate to contact me on (02) 9911 3660 or by email at [MKenyon@lanecove.nsw.gov.au](mailto:MKenyon@lanecove.nsw.gov.au).

Yours sincerely



**Maxine Kenyon**  
Executive Director

# Submission

## NSW Department of Planning, Industry and Environment

### Explanation of Intended Effects for a New Housing Diversity State Environmental Planning Policy

9 September 2020

Prepared by Northern Sydney Planners and Northern Sydney Regional Organisation of Councils

**Member Councils:**

- Hornsby Council
- Hunter's Hill Council
- Ku-ring-gai Council
- Lane Cove Council
- Mosman Council
- North Sydney Council
- City of Ryde Council
- Willoughby City Council

**Contact:**

Maxine Kenyon  
Executive Director, NSROC  
[mkenyon@lanecove.nsw.gov.au](mailto:mkenyon@lanecove.nsw.gov.au)



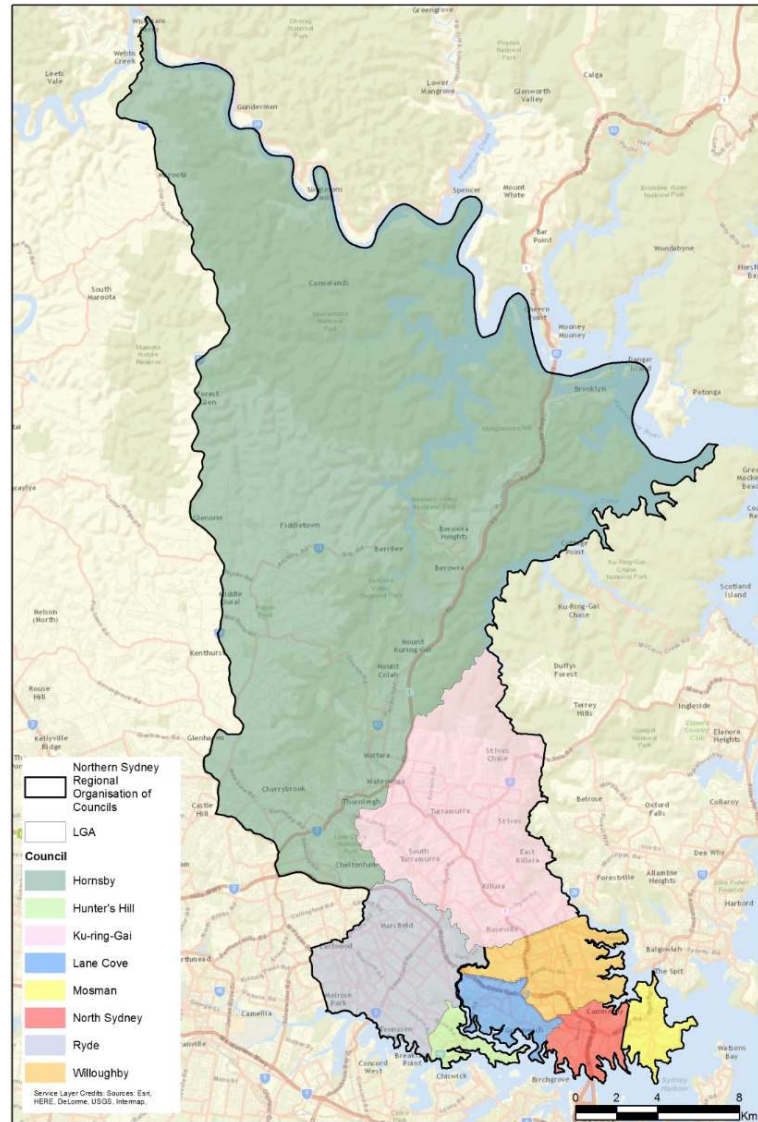
## INTRODUCTION

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to make this submission to the Department of Planning, Industry and Environment (DPIE) on the *Explanation of Intended Effect (EIE) Housing Diversity State Environmental Planning Policy (SEPP)*.

NSROC is a voluntary association of eight local government authorities in Sydney. The councils service an area extending from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River, as shown in Map 1. The region is home to over 625,000 people, over 400,000 jobs, over 82,000 businesses and a Gross Regional Product of \$68.65 billion, representing 11.52% of the state's Gross State Product.

Our member councils directly employ nearly 3,300 staff and provide an array of services and infrastructure for the benefit of the community. As consent authorities, any changes to the current planning framework will have substantial impacts on our strategic planning, funding models, operational processes, and also directly impacts our communities and the type of benefit they can anticipate from development.

It is in this context that NSROC makes this submission, which represents the view of our member councils, while noting, individual councils may also make a more detailed independent submission.



Map 1: Northern Sydney Regional Organisation of Councils area

## SPECIFIC FEEDBACK

In principle, NSROC supports the development of a more streamlined process that minimises red tape, provides consistency and transparency with the intent of delivering improved processes and outcomes.

We recognise the increasing pressures on our communities given projected population increases, the changing demographics and the increasing housing affordability pressures on our communities. We are supportive of processes that minimise any negative impact on quality of life for our communities. In fact, many member councils have an affordable housing policy, strategy, or are proactively delivering affordable housing in their local areas.

Although there is an understanding of a streamlined approach to delivering the Housing Diversity SEPP, the evidence base that created the proposed framework as outlined in the Explanation of the Intended Effect (EIE) is unclear. Given all councils have recently delivered a Local Strategic Planning Statement (LSPS) to meet the projected population growth, clarification on how these have been used to identify the need for the change, or how they demonstrate the implied under performance of the current framework would be useful.

NSROC has made numerous submissions to DPIE in 2020 and continually note quality of life being the core outcome required from development. A development alone does not provide this, significant supporting infrastructure (e.g.: social and cultural facilities, open space, transport infrastructure) and services are required to truly improve the quality of life of new and existing residents. The Planning framework and all developments must consider how they contribute to the quality of life outcomes for the community.

Given this, developer contributions should not be exempt for certain types of development or developers. Given the increased population, these contributions are essential to cater for additional infrastructure requirements not funded and as outlined above.

In addition, local planning controls have been developed over time through considerable engagement with the community. To not only reflect the State Government requirements and increasing pressures faced across the State but also those pressures on the local government area, local character, local impacts and the supporting infrastructure requirements. Local planning controls should not be overridden by one size fits all State policies.

Member councils would welcome further engagement in the development of detailed design requirements, standards for housing typologies and any other detail that will assist in the successful implementation of the proposed provisions.

Detail on key components is detailed below.

### **Build to rent (BTR) housing**

- Although undertaken overseas, the value of this scheme in our environment needs to be considered. The proposed provisions rely on very subjective terms which need to be more clearly defined and qualified to enable consistency of approach. More detailed understanding and discussion is required to understand what will make these developments viable to consider the real impacts on their communities.
- Mandating BTR in any land zone is not supported. There are differences across local government areas and there is no one size fits all. The potential impacts on development standards for height and building envelope as well as employment floorspace could be considerable. Councils and their communities are best placed to understand the local impacts and consideration of the broader outcome of housing diversity and affordability.
- A more localised approach will enable councils to work through already endorsed plans and priorities, which will provide more benefit to the community than a State wide approach with no consideration for the maturity of the area and its planning provisions.
- Assessment of this housing type should remain with councils. There is no reasoning provided in the EIE of why it should differ to existing provisions and also, why City of Sydney should be excluded, as proposed.
- Specific design guidelines for the BTR housing type should be developed in conjunction with councils to ensure optimum design outcomes are achieved and inserted into SEPP 65.

- Given the similarity of the BTR and the residential flat buildings, the same parking rate should be applied. This will provide consistency in management of land use and to minimise local traffic impacts.
- The issue of future subdivision as outlined in the EIE minimises the long term intent of this new housing type and the proposed benefits of the provision of long term housing affordability. This is not supported.

### Purpose built student housing

- This type of housing is consistent with the Educational Establishments and Child Care Facilities SEPP 2017, which allows for student accommodation within the boundaries of a school or university. Given this, it is recommended that these two SEPPs rely on one definition of student housing to deliver consistency and simplify application and understanding from the community.
- Location of this housing type should be in line with location of educational facilities.
- Although the locational requirement will likely minimise the need for vehicles, a minimum car parking space is still recommended to address community feedback and anticipated local road impacts with students who may own a vehicle.
- The proposed room size is very small and unlikely to provide adequate space and therefore impact quality of life. Having a minimum size consistent with boarding houses would be more appropriate for this type of accommodation.
- As outlined above, any future design guidelines should be developed with councils to deliver quality design outcomes.

### Co-living

- Clarification is required on how local character will be maintained, particularly in R3 and R4 zone.
- As outlined above, location requirements and a low car parking rate are seen to be a concern and should be addressed.

### Proposed changes to the boarding house provisions of the Affordable Rental Housing SEPP

- Boarding houses not being permitted in the R2 zone is supported, however the 'affordable rental building' needs to be defined and how it will be managed needs clarification.
- Allowing rents to revert to market rents after a period of time defeats the intent of affordable housing to address the proposed population growth in the future. Unless affordability is in perpetuity, the intent is minimised and lost.
- The new SEPP highlights the NSW Land and Housing Corporation (LAHC) will be able to develop boarding houses on government owned land in the R2 zone, irrelevant of an LEP prohibiting boarding houses in that zone. This is not supported as it will raise incompatibility issues within well-established low density neighbourhoods, traffic and parking impacts and often bulk and scale. In addition, provisions should be identified to prevent LAHC clustering this type of housing. No more than one should be in an area to minimise the local impacts.
- Car parking rates should be reviewed to enable improved local outcomes after consideration of alternative transport options and accessibility are explored.
- Councils should continue to assess group homes to enable consideration of their location or site constraints, amenity, traffic and other local impacts, particularly for existing dwellings. As opposed to the proposal in the EIE being they will fall under the exempt and complying development process.
- Rural secondary dwellings should be managed through councils LEP and DCP controls, rather than a Statewide SEPP. The development application process will enable appropriate consideration and ability to plan locally.



### Proposed amendments to Seniors Housing SEPP provisions

- The site compatibility certificate process is a challenge given the seniors SEPP allows for seniors housing on sites where it would be prohibited by the zoning. This is a key issue that would be addressed if the planning proposal process was used to undertake a detailed assessment and ensure suitability prior to a development application being lodged.

### Proposed amendments to social housing provisions for the NSW Land and Housing Corporation (LAHC)

- The proposal to allow LAHC to self-assess residential development and increasing from 20 to 60 dwellings is not supported. The assessment process should remain with council to ensure appropriate consideration is given to existing local provisions and processes, and that outcomes are delivered for the community.
- Given the proposed car parking rates, consideration must be given to proximity to transport nodes, car sharing schemes and the increased pressure on on street parking given the low parking rates.
- Existing lift access requirements for all developments, regardless of the developer or land owner, is supported. Given the ageing population all seniors housing should be encouraged to provide lift access.
- No detail is provided on the process and requirements for the State Government owned land to be subdivided, this should be made clear.

## CONCLUSION

NSROC understands the significant pressures increased population, changing demographics and the economic impact of COVID have on the already challenging environment of housing affordability. The development of a streamlined Housing Diversity SEPP is intended to create a simpler and more transparent process to make it easier to address the housing affordability issues facing NSW.

The proposal as outlined in the EIE for a Housing Diversity SEPP, does make some improvements but also highlights challenges for local government. These challenges need to be addressed to make the implementation of the SEPP appropriate for local areas, and not negatively impact on local communities and their quality of life.

Our member councils would like to continue to work with DPIE to address the issues raised in this submission.

**- ENDS -**

# **Greens NSW Response to ‘Housing Diversity SEPP’ Explanation of Intended Effect September 2020**

**Submitted September 2020**

**Prepared by the offices of**

**Jenny Leong MP, Member for Newtown and Greens NSW Housing spokesperson**

**Jamie Parker MP, Member for Balmain and Greens NSW Planning spokesperson**

**JENNY LEONG MP**  
MEMBER FOR NEWTOWN

**JAMIE PARKER MP**  
FOR BALMAIN

## **Acknowledgement: Always was, always will be Aboriginal Land**

As a matter of protocol and a mark of respect, we acknowledge it always was and always will be Aboriginal land and pay our respects to Aboriginal elders past, present and emerging. We also submit that any intervention in planning and housing related policies must prioritise a recognition of Aboriginal land, and ensure Aboriginal housing needs are met along the housing continuum. This means resourcing Aboriginal-led homelessness services, supporting Aboriginal-led community housing providers, proactively involving Aboriginal-led organisations in the development and implementation of policies and programs, as well as recognising through reparation that the land that is the focus of this work is stolen land that was never ceded.

## **Recommendations**

- 1. Any changes to Housing SEPPs should only be considered after the NSW Housing Strategy is completed.**
- 2. Any changes to Housing SEPPs must have the aim of facilitating large scale development of affordable and social housing.**
- 3. Build-to-Rent housing and Student Housing definitions in the proposed Housing Diversity SEPP must ensure they are affordable housing and remain as affordable housing.**
- 4. Any changes to the Land & Housing Corporation's ability to self-assess development should not come at the expense of rigorous and genuine community engagement.**

## **Introduction**

The Greens NSW welcome the opportunity to provide feedback and comments on the Explanation of Intended Effect regarding the proposed Housing Diversity SEPP. We are concerned that the proposed SEPP preempts the outcome of recent Housing Strategy discussion, that it will fail to facilitate the large scale development of much-needed social and affordable housing across New South Wales, and that it will introduce new types of housing development into our housing system that will divert resources away from the construction of social and affordable housing.

## Pre-empting the Housing Strategy for NSW

Given the NSW Government's current development of a housing strategy which began in May 2020 with the release of 'A Housing Strategy for NSW Discussion Paper', it seems unclear why, and somewhat misguided, that there is a parallel process occurring to progress changes such as those outlined in the Explanation of Intended Effect regarding a new Housing Diversity SEPP. It is our strong view that one of the major challenges we have faced in addressing housing affordability and ending homelessness in this state is the siloed approach to these issues. As such, it is our recommendation that the finalisation of this proposal should be deferred until after completion of the NSW Housing Strategy.

The focus of this EIE appears to be on strengthening the residential development sector so that it is *'well-placed to assist in the economic recovery of NSW following the COVID-19 pandemic and provide greater certainty for all stakeholders.'* This omits the largest and most concerning post COVID-19 issue, which is a looming rental debt and eviction crisis and the flow-on effects for housing affordability. The NSW Government's priority at this time should be to address the shortfall of available social and affordable housing, while ensuring communities are being properly engaged and consulted around how this will be achieved.

The deficiencies in the NSW Housing system well and truly predate the covid-19 outbreak. Over several decades the lack of targeted investment by governments has led to significant numbers of people experiencing homelessness, and the large percentage of people who rent or live in social housing facing unaffordable rents. There is an entrenched lack of affordable and/or social housing, and ongoing housing stress for a growing number of people. These issues must be addressed in the forthcoming strategic policy document and then incorporated into any new or existing SEPPs.

*Recommendation: any changes to Housing SEPPs should only be considered after the NSW Housing Strategy is completed.*

## Facilitating large scale development of affordable housing through Build to Rent

It is self-evident that *"the housing needs and preferences of the community have changed over time and will continue to change"* and that there are opportunities for developers to introduce new types of housing into our residential centres, however including this statement as part of the rationale for the proposed Housing Diversity SEPP overlooks these structural failings within our current housing system. The proposed Housing Diversity SEPP is a product driven response to an issue that requires a systemic overhaul. It will benefit property owners and developers far more than any households seeking affordability and/or more flexible housing options.

Increasing the range of housing types and tenures in NSW is something to be done as a matter of course, but we would like to point out that diversity is not a proxy for affordability. Introducing new

types of housing such as Build to Rent, Co-living and Student dwellings into the planning system may add housing choice to relatively well-off consumers but is shown to have not addressed the affordability issue for people or households on low or moderate incomes - something our system should be supporting. On the other hand, such changes will increase the range of possibilities for developers and investors wishing to pursue the highest rates of return when assessing options for developable land.

The Build-to-Rent housing definition in the proposed Housing Diversity SEPP must include the requirement for all such developments to be affordable and that they remain as affordable rental housing. The generous land tax concessions for Build-to-Rent developments delivered recently by the NSW Government, with support from the Opposition, should come with a requirement that the rents in such developments are affordable and that the properties will be maintained as long term rental properties indefinitely. The same principle should apply to any new type of housing that is being considered on the basis that it can be constructed more quickly and affordably by developers.

*Recommendation: changes to Housing SEPPs must have the aim of facilitating large scale development of affordable and social housing by mandating affordability within new housing types such as Build-to-Rent, Co-living and student housing.*

## **Retaining affordability over time**

We note that “there are currently no impediments in the NSW planning system to the development of new housing for rental purposes” and as such query what the introduction of Build-to-Rent in planning policy really offers. We do not support the fifteen year time limit that would allow Build-to-Rent properties to be sold into the private market as this will entrench the displacement of long-term communities and see established neighbourhoods being dismantled down the track.

It is our view that providing a more targeted definition of Boarding Houses and the introduction of an affordability requirement is also necessary. We support the ongoing maintenance of properties developed as Boarding Houses with no reversion to commercial private rental.

Regarding the new Student Housing definition and planning provisions, we note the acknowledgement that there is a significantly reduced demand for student housing for international students currently during the Covid-19 emergency period and that this type of housing ‘could also provide emergency accommodation in a situation such as COVID-19’. The explanatory notes indicate that this type of building would provide accommodation *principally* for students enrolled in an education establishment and may incorporate some fully self-contained dwellings. We have concerns about the minimum room size for this category of dwelling and the likelihood that developers will look to build using this model due to the small FSR, rather than build urgently needed affordable housing. Serious consideration also needs to be given to the workability and functionality of shared common spaces given the realities of COVID and what could be a new normal.

*Recommendation: definitions in the proposed Housing Diversity SEPP must ensure new housing types are affordable and that once constructed as such they remain as affordable without being sold into the private market.*

## **Community engagement and consultation**

Finally, we are concerned that the proposed changes to the Land & Housing Corporation's ability to self-assess new development could lead to further stigmatisation of social and affordable housing. Community engagement and consultation is a key principle in planning and assessment and while there is a strong need for the Land & Housing Corporation to produce more social and affordable housing this should not come at the expense of community engagement. The NSW Government should set the standard by listening to and responding to communities where development is proposed, ensuring social and affordable housing can be delivered into neighbourhoods who appreciate and accept the urgent need for it.

*Recommendation: the Land & Housing Corporation's ability to self-assess development should not come at the expense of robust community engagement.*

## **Conclusion**

Planning instruments need to be designed to solve the challenges of our times. There is a need for an overarching strategy and a commitment to high quality and sustainable developments that work for people and for our state. Interventions that drive our housing sector towards affordability is key to this. Ensuring we take a holistic approach to this will be critical - as the impact of the global pandemic tightens and our economy continues to contract, one of the most effective forms of stimulus will be to ensure people can find and keep a place to call home.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Subject:** NSW Rural Fire Service Comments - Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP)

Hi Suzanne,

I hope this finds you well.

Thank you for agreeing to receive NSW Rural Fire Service (NSW RFS) comments on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) for and on behalf of the NSW Department of Planning Infrastructure and Environment (DPIE).

Please find below the comments requested based on our review of the documentation provided on your website for the Explanation of Intended Effect (EIE) as follows.

### **Background**

DPIE is exhibiting the EIE for a proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) that:

- Introduces new definitions for build-to-rent housing, student housing and co-living;
- Amends some state-level planning provisions, particularly for boarding house and seniors housing development;

- Amends some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (LAHC) on government-owned land; and
- Consolidates the three housing-related SEPPs as below:
  - State Environmental Planning Policy (Affordable Rental Housing) 2009
  - State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004
  - State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes).

NSW RFS comments below are provided within the context that proposed changes, as set out in the EIE, will ensure that the residential development sector is well-placed to assist in the economic recovery of NSW following the COVID-19 pandemic and provide greater certainty for all stakeholders.

### Comments

The comments contained in this email are based on review of the EIE and therefore a detailed review of the proposed SEPP is suggested and requested.

Accordingly, please find the below comments:

- Section 100B of the *Rural Fires Act* prohibits Complying Development for any uses and proposed developments that are considered to be Special Fire Protection Purpose and/or subdivisions as identified in section 100B. Any proposed SEPPs need to be very clear on this and articulate this accordingly in their scope and application sections so that there can be no misunderstanding by those wishing to develop.
- Any uses and developments covered by this SEPP which fall under section 100B need to be provided with bush fire protection to the satisfaction of the NSW RFS Commissioner (as per section 100B) and/or must comply with *Planning for Bush Fire Protection 2019*.
- New proposals for the accommodation of Seniors that include residential care facilities, hostels, self-contained dwellings (ie self-care or care), boarding houses and/or group homes are considered to be Special Fire Protection Purpose Developments under section 100B of the *Rural Fires Act* and should be required to comply with requirements of *Planning for Bush Fire Protection 2019*.
- Built to rent housing, purpose built student housing and/or co-living proposals may or may not fall under section 100B of the *Rural Fires Act*. This needs to be further explored within the SEPP so that appropriate boundaries for scope and application can be determined and articulated accordingly.
- Proposed developments and uses are typically addressed differently by the NSW RFS if they are to be used for less than or greater than six weeks.
- It is understood that this SEPP may also apply to emergency housing and/or other uses that may fall outside of traditional and current provisions of *Planning for Bush Fire Protection*. Opportunities to explore innovative bush fire protection measures commensurate with risk and bush fire protection controls should be investigated and be provided for this SEPP as appropriate.
- Any and all proposed developments and uses on bush fire prone land need to comply with section 100B of the *Rural Fires Act* and/or *Planning for Bush Fire Protection 2019*.
- Proposals to erect secondary dwellings on sites that are bush fire prone need to allow for future building to Bushfire Attack Level-29 or less so that future owners are not encumbered with the additional costs of building and maintaining to BAL-40 and/or BAL-Flame Zone.
- It is understood that it is proposed to consider subdivision of State-owned land which is bush fire prone without consent based on self-assessment by the entity developing the land. Irregardless of the approvals pathways adopted, subdivisions on bush fire prone land would need to comply with the requirements of section 100B of the *Rural Fires Act* and/or *Planning for Bush Fire Protection 2019* unless the legislative and regulatory framework specifically dictates otherwise. It is suggested that any approvals pathways and framework be designed so that confidence is achieved in both process and compliance terms.



- Notwithstanding the above, any assessment and approvals pathways should be able to demonstrate that they will result in compliance with *Planning for Bush Fire Protection 2019*, this SEPP and/or section 100B of the *Rural Fires Act* as appropriate.
- The potential for on-selling of any State-owned subdivisions, land and/or buildings needs to be explored in terms of the aims and objectives of *Planning for Bush Fire Protection 2019* and the provisions of section 100B of the *Rural Fires Act*.

It is recognised that the SEPP is intended for unique situations and therefore the NSW RFS is happy to explore new and innovative approaches towards addressing the needs and challenges which this SEPP is intended for.

I would be happy to catch-up with you or anyone else in DPIE to start exploring appropriate alternative ways forward.

Please consider this email and comments as the formal NSW RFS response on this EIE.

If you have any questions or wish to discuss just let me know.

Thank you, with kind regards,  
David



9 September 2020

The Hon. Robert Stokes MP  
Minister for Planning and Public Spaces  
GPO Box 5341  
SYDNEY NSW 2001

By online submission and email: [REDACTED]

Dear Minister

**RE: PROPOSED HOUSING DIVERSITY SEPP – EXPLANATION OF INTENDED EFFECT**

On behalf of the New South Wales Vice-Chancellors' Committee (the Committee) I thank the Department of Planning, Industry and Environment (the Department) for inviting submissions on the proposed *Housing Diversity SEPP – Explanation of Intended Effect*.

Please find **enclosed** our submission in response. A copy of this correspondence will be submitted to the Department via the online portal for submissions.

Should there be an opportunity for further stakeholder consultations then a list of our NSW university town planners has been included in our submission. The Universities would also be delighted to host you or your Department for a campus tour to fully appreciate the various student accommodation facilities and operational management which benefit our students.

[REDACTED]  
[REDACTED] Otherwise we look forward to reviewing and commenting on the draft Housing Diversity SEPP when it becomes available.

Yours sincerely



**Professor Adam Shoemaker**  
**Vice-Chancellor, Southern Cross University &**  
**Deputy Convener, New South Wales Vice-Chancellors' Committee**  
Cc. NSWVCC members

**Enclosure:** NSWVCC submission

**NSWVCC MEMBERS:**

Australian Catholic University • Australian National University • Charles Sturt University • Macquarie University • Southern Cross University  
University of Canberra • University of Newcastle • University of New England • University of New South Wales • University of Notre Dame  
The University of Sydney • University of Technology, Sydney • University of Wollongong • Western Sydney University  
Contact: Ellen Goh, Executive Officer [ellen\\_goh@nswvcc.edu.au](mailto:ellen_goh@nswvcc.edu.au) 0455 229 084

# New South Wales Vice-Chancellors' Committee

## SUBMISSION TO THE NSW DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

9 SEPTEMBER 2020

### INTRODUCTION

1. The New South Wales Vice-Chancellors' Committee (the Committee) welcomes the opportunity offered by the NSW Department of Planning, Industry and Environment to make a submission regarding the proposed *Housing Diversity State Environmental Planning Policy – Explanation of Intended Effect*.

### BACKGROUND

2. Established circa 1995, the Committee is comprised of the 14 universities established in NSW and the ACT. It is an unincorporated forum for these universities to share information and engage with Ministers, government departments and agencies, and the community.
3. The fourteen members are:

1. Australian Catholic University	8. University of Newcastle
2. Australian National University	9. University of Notre Dame, Sydney
3. Charles Sturt University	10. University of Sydney
4. Macquarie University	11. University of Technology Sydney
5. Southern Cross University	12. University of New South Wales
6. University of Canberra	13. University of Wollongong
7. University of New England	14. Western Sydney University
4. This submission is made on behalf of the 12 NSW based universities and is intended to provide the Department a sector perspective, in combination with individual submissions made by some of these universities.

### DISCUSSION

5. The proposed *State Environmental Planning Policy (Housing Diversity) 2020* (draft SEPP) has relevance to the university sector because the *Explanation of Intended Effect* (EIE) proposes a definition for 'student housing' and many, if not all, universities have some form of student housing.
6. This submission seeks to respond to three areas:
  - a. The proposed definition of student housing;
  - b. The interplay with the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Education SEPP); and
  - c. Table 2 Proposed key development standards for student housing.

### PROPOSED DEFINITION OF STUDENT HOUSING

7. The EIE proposes that the definition of 'student housing' would be contained within the Standard Instrument LEP and would refer to a building that:
  - a. provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods; and
  - b. may incorporate some fully self-contained dwellings.
8. The universities support the Department's proposal to define 'student housing', however for the reasons outlined in the following section (paragraphs 9 -11), the universities strongly **recommend**:
  - a. That cross references between the draft SEPP and Education SEPP be strengthened to clarify application, and where to locate appropriate definitions, planning pathways and planning controls.
  - b. Recognise that student housing is provided year-round (not only during teaching periods) and not only for students e.g. visiting families, academics and non-student visitors.

## STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017

9. Currently, student housing is categorised as Boarding Housing and was developed using those provisions. While this has been beneficial to the greater part in the absence of anything else, this has lacked the necessary certainty or clarity originally and consistently sought by the Committee and the respective universities in relation to the following ongoing reviews:
- the Education SEPP; and
  - Circular D6 Crown Development Applications and Conditions of Consent (D6)*.
10. Noting the intent of the draft SEPP is to provide greater clarity and certainty, the universities caution that it may not have the desired effect for the following reasons:
- The draft SEPP will only introduce a definition of 'student housing' into the planning lexicon. It otherwise provides no intended provisions to enable direct delivery of 'student housing' under that definition whether within a university or in land around a university.
  - It relies on Councils to bring the definition into use in the next review of each relevant LEP (whenever that may arise). The universities anticipate that this will result in a fragmented and piecemeal integration of 'student housing' into planning for universities across NSW. Note, that only 10 member universities are listed in regulation 277 of the *Environmental Planning and Assessment Regulation 2000* as public authorities. Given the discrete number of universities and campuses, a more direct approach to student housing would be welcome. This would uphold the Department's desire to provide incentive for development, clarity and certainty.
  - In the meantime, without a direct approach, the existing and proposed Boarding House and new Co-Living provisions would apply, maintaining a lack of clarity and certainty. In fact, concurrent changes to Boarding House provisions have the potential to further reduce incentive for student housing development, such as a reduced Floor Space Ratio bonus as proposed.
  - The draft SEPP assumes the Education SEPP already enables and provides for student housing on university campuses. This is incorrect. Clause 44 of the Education SEPP explicitly excludes student housing from consideration under that SEPP. Accordingly, the draft SEPP appears to only consider student housing outside of a university campus on the assumption it is otherwise catered for. No facility under planning legislation provides for any student housing directly under the Education SEPP.
11. Based on the Explanation of Intended Effect and the above, it is **recommended** that:
- Address Student Housing more directly in both the Education SEPP (for on-campus development) and in the draft SEPP (for off-campus development).
  - Insert new controls into the Education SEPP via this process to enable the Education SEPP to deal with student housing and for student housing to be able to be approved on-campus via either of Complying Development or Development without Consent with parameters and controls commensurate with other forms of development already accepted under the Education SEPP.
  - Allow for off-campus student housing provisions (permissibility and parameters/controls) where the development or land adjoins a campus and/or is within a list of prescribed zones (as is and has been the case for a range of public authority developments for some time now). This avoids the need to wait for a Council to come to the party with its LEP review. This provides for clarity, certainty, immediate effect, and incentive. Given the discrete number of universities and campuses, the exercise of determining the relevant prescribed zones would be simple.
  - Avoid introducing Design Guidelines for student housing. Simple minimum standards for Student Housing would be a superior approach. Flexibility is warranted rather than adding further detail and complexity to something which is essentially temporary accommodation and does not need to be designed to the same extent as residential accommodation (e.g. SEPP 65 and the ADG). There are general standards within which student housing providers operate similar to that of the hotel industry, which also does not have or need Design Guidelines under the NSW planning system.

### TABLE 2 PROPOSED KEY DEVELOPMENT STANDARDS FOR STUDENT HOUSING

12. The EIE proposes 8 key development standards.
13. While the universities are generally supportive of minimum standards, it is critical that the Department appreciates the difference between student housing located on campus or off campus. For example, on campus student housing has the benefit of facilities within its precinct (parking, bike racks and communal areas), all within walkable distance and therefore the imposition of minimum standards is

unnecessary. Whereas off campus student housing can be considered 'silo' buildings and therefore the imposition of minimum standards is reasonable. The Committee **recommends** that the Department consider this important distinction when drafting the final instruments and engage closely with the universities.

14. The sector's responses to each of the 8 key development standards are noted below:

Development standard	Proposed standard	Comment	Sector response
Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	Generally supported by the sector. However, student housing can be significantly taller than other university buildings <u>on campus</u> .
Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.	<b>Recommendation</b> for flexibility regarding height and FSR controls for student housing carried out within the bounds of a university establishment where it can be proven to not have any adverse overshadowing impacts on neighbouring residences, or something to that effect.
Car parking	No minimum spaces required	Developers can choose to provide on-site car parking but there will be no minimum number of spaces required and a consent authority will not be able to refuse an application on the basis of car parking. It is expected that councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal.	Generally supported by the sector.
Bicycle parking	1 space minimum per 3 bedrooms	The minimum bicycle parking rate will be a non-discretionary, 'must not refuse' provision.	Generally supported by the sector.
Motorcycle parking	1 space minimum per 5 bedrooms	The minimum motorcycle parking rate will be a non-discretionary, 'must not refuse' provision.	However, student housing is usually communal in nature and has greater walkability on campus. <b>Recommendation</b> for lower rates for student housing located on campus in recognition of less demand and greater walkability.
Room size	Minimum 10 m2	The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice, which is to provide a range of room options in a single	Clarification required.  If this standard refers to apartment style student housing, then <b>recommend</b> that provisions should specify

		development, including rooms that have an area of less than 10 m <sup>2</sup> The proposed 10 m <sup>2</sup> standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.	minimum sizes including and excluding kitchen and bathroom facilities as sometimes they are provided as shared facilities outside the apartment and sometimes the apartment is all inclusive with only student commons and group study spaces shared outside the apartment.
Communal area (indoor)	15 m <sup>2</sup> per 12 students	High quality indoor communal space must be provided to meet the study, social, and religious needs of students. Depending on the size of the development, multiple rooms could be appropriate.	Generally supported by the sector.  Universities accept that communal areas (both indoor and outdoor) are an important part of student mental health and wellbeing.
Communal area (outdoor)	Consider access to open space	In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus. In other locations the new SEPP will recommend 2.5 m <sup>2</sup> of outdoor space per student.	

15. Finally, the Committee **strongly recommends** that its university town planners be included in further stakeholder consultations with the Department. A list of universities town planners is provided below, and each would welcome a visit from Department officials to view student housing to appreciate university operational facilities and management:

University	Name	Position title and email
Australian Catholic University	Paul Campbell	Deputy Chief Operating Officer <a href="mailto:Paul.Campbell@acu.edu.au">Paul.Campbell@acu.edu.au</a>
Charles Sturt University	Stephen Butt	Executive Director, Division of Facilities Management <a href="mailto:sbutt@csu.edu.au">sbutt@csu.edu.au</a>
Macquarie University	Cameron Kline	Senior Development Manager, Property Unit <a href="mailto:cameron.kline@mq.edu.au">cameron.kline@mq.edu.au</a>
Southern Cross University	Allan Morris	Vice-President, Operations <a href="mailto:allan.morris@scu.edu.au">allan.morris@scu.edu.au</a>
University of New England	Jo Scanlan	Director, Facilities Services Manager <a href="mailto:jo.scanlan@une.edu.au">jo.scanlan@une.edu.au</a>
University of Newcastle	Joanne Humphries	Associate Director Planning, Strategy and Engagement <a href="mailto:joanne.humphris@newcastle.edu.au">joanne.humphris@newcastle.edu.au</a>
University of NSW	Niki Douglas	Director, Development <a href="mailto:niki.douglas@unsw.edu.au">niki.douglas@unsw.edu.au</a>

University of Notre Dame	Clare Stanford	Acting Director of Estates <a href="mailto:clare.stanford@nd.edu.au">clare.stanford@nd.edu.au</a>
University of Sydney	Stephane Kerr	University Infrastructure - Town Planner <a href="mailto:stephane.kerr@sydney.edu.au">stephane.kerr@sydney.edu.au</a>
University of Technology Sydney	Kara Krason	Head of Campus Planning and Design <a href="mailto:Kara.Krason@uts.edu.au">Kara.Krason@uts.edu.au</a>
University of Wollongong	Kathleen Packer	Director, Facilities Management <a href="mailto:kpacker@uow.edu.au">kpacker@uow.edu.au</a>
Western Sydney University	Michelle Lee	Assoc. Director, Estate Master Planning and Strategy <a href="mailto:michelle.lee@westernsydney.edu.au">michelle.lee@westernsydney.edu.au</a>

**END OF SUBMISSION**

# Housing Diversity State Environmental Planning Policy Explanation of Intended Effect

**10 September 2020**

NSW Department of Planning, Industry and Environment

**Contact:** **David Edney**  
President, NSW Young Lawyers

**Katharine Huxley**  
Chair, NSW Young Lawyers Environment and Planning Committee

**Contributors:** Cecilia Fonesca, Jarrod Mitchell, Kah-Mun Wong, Peter Clarke

**Coordinators:** Brigitte Rheinberger and Peter Clarke



The NSW Young Lawyers Environment and Planning Committee (**Committee**) make the following submission in response to the Housing Diversity State Environmental Planning Policy (**Housing Diversity SEPP**) Explanation of Intended Effect (**EIE**).

## **NSW Young Lawyers**

NSW Young Lawyers is a division of The Law Society of New South Wales. NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 15 separate committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers (solicitors and barristers) under 36 years and/or in their first five years of practice, as well as law students. NSW Young Lawyers currently has over 15,000 members.

NSW Young Lawyers accepts the science and wide-ranging effects of climate change, including as outlined by the United Nations Intergovernmental Panel on Climate Change in its leading expert reports. NSW Young Lawyers considers that Australia has the ability and a responsibility to rapidly reduce emissions and actively help to keep the world's emissions within its remaining 'carbon budget'.

NSW Young Lawyers recognises that there is a climate emergency, posing an unprecedented challenge for human rights and the rule of law. In order for there to be intergenerational equity and climate justice, as well as interspecies equity and ecological sustainability, the law needs to enable and require Australia to rapidly decrease CO<sub>2</sub> (and other greenhouse gas) emissions and to be legally accountable for their adverse contributions to the impacts of climate change.

The NSW Young Lawyers Environment and Planning Committee comprises of a group of approximately 250 members interested in our natural and built environment. The Committee focuses on environmental and planning law issues, raising awareness in the profession and the community about developments in legislation, case law and policy. The Committee also concentrates on international environment and climate change laws and their impact within Australia.

## Summary of recommendations

1. The proposed Housing Diversity SEPP should set affordable rent requirements for a set percentage of dwellings where rent is set as a proportion of a household's income, with low to medium-income households charged a set percentage (for example, between 25% and 30%) of their before tax income for rent.
2. A student-centric approach is recommended in planning decisions relating to student housing. A student-centric approach in this context means that decisions about student accommodation are made with reference to the best interests of students. Understandings about the best interests of students should be guided by consultation with the students about their needs
3. The proposed 10 m<sup>2</sup> minimum room size for student housing is recommended to be implemented as a non-discretionary, 'must not refuse,' provision.
4. All new co-living premises (in addition to student housing and build to rent development) should be designed in accordance with passive solar and net zero emissions principles to minimise the ongoing operating costs of the premises as well as mitigate and/or offset the ecological impact of construction and operation.
5. Co-living plans of management should not restrict various types of companion animals that can be kept in the private rooms on the premises.
6. The requirement for boarding houses to be run by a not for profit community housing provider is supported but should be prospective in operation only.
7. The proposed change to remove boarding houses as a mandatory use within the R2 zone should not be made.
8. The 20% maximum for variation of Housing Diversity SEPP development standards is not recommended.
9. A broader review of the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (**Seniors SEPP**) should be undertaken to ensure that the Housing Diversity SEPP provisions:
  - provide incentives to encourage supply and diversity in housing in line with projected demand;
  - align with relevant strategic plans and policies; and
  - provide meaningful guidance for good design of housing for seniors and people with disability.

## Introduction

The Committee welcomes the opportunity to comment on the EIE. A broader range of housing diversity is sorely needed across the state, and more flexibility to construct different types of non-traditional housing stock would benefit communities and employers alike. However, this needs to be done in a manner which respects community consultation and does not unreasonably prevent councils from maintaining a reasonable degree of development control over residential and mixed use zones.

The Committee encourages the Department to see the Housing Diversity SEPP as an opportunity to stimulate a range of affordable and suitable housing options being made available and commercially viable to developers across the state, in addition to merely a lever to possibly assist in the economic recovery of the state. Further, this SEPP represents an opportunity for the goal of ecologically sustainable development to be achieved in terms of mandating higher building efficiency levels and striving towards carbon neutral development.

The Committee makes a number of recommendations in this respect.

## 1. Introducing new housing types

### a) Build-to-rent housing

In order to address the ongoing challenges of housing affordability and social cohesion, and contribute to a post-pandemic recovery, planning policy needs to become pro-active and purposeful.<sup>1</sup> The Household, Income and Labour Dynamics in Australia survey shows the rate of housing stress<sup>2</sup> in Sydney was 10.1% between 2001 and 2004 but reached an all-time high of 13% between 2013 and 2016.<sup>3</sup> Renters in Australia have been the category of people most affected by housing stress,<sup>4</sup> in that nationally one in five low and middle-income renters are in housing stress compared with one in 10 of those with a mortgage.<sup>5</sup>

A global study of affordability in major developed international housing markets<sup>6</sup> shows that Australia has a 'median price to income multiple' of 6.9 times their annual household income. This is substantially higher than the United States, United Kingdom, Singapore, Ireland and Canada (ranging from 3.9 to 4.8). And of the studied markets by Demographia, only New Zealand (9.0) and Hong Kong (20.9) were higher.<sup>7</sup>

However, we do not agree that a proposal to incentivise the delivery of build-to-rent (**BTR**) housing through the NSW planning system will be actively providing secure, long term rental options in the current context.

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<sup>1</sup> 'Land policy for affordable and inclusive housing, An international review', *An international review* (Web page) <<https://smartland.fi/wp-content/uploads/Land-policy-for-affordable-and-inclusive-housing-an-international-review.pdf>>, 17.

<sup>2</sup> Housing stress occurs when the household has an income level in the bottom 40 per cent of income distribution and is paying more than 30 per cent of its income in housing costs. 'Understanding the 30:40 indicator of housing affordability stress', *AHURI* (Web page) <<https://www.ahuri.edu.au/research/ahuri-briefs/3040-indicator>>.

<sup>3</sup> '13<sup>th</sup> Annual Statistical Report of the HILDA Survey Waves 1 to 16', *HILDA Statistical Reports* (Web page) <<https://melbourneinstitute.unimelb.edu.au/hilda/publications/hilda-statistical-reports>> 46-51.

<sup>4</sup> *Ibid*, 46.

<sup>5</sup> Matt Wade, 'Housing Stress in Sydney hits a new high', *The Sydney Morning Herald* (online, 30 July 2018) <<https://www.smh.com.au/business/the-economy/housing-stress-in-sydney-hits-a-new-high-20180730-p4zui1.html>>.

<sup>6</sup> '15th Annual Demographia International Housing Affordability Survey: 2019', *Demographia* (Web page) <<http://www.demographia.com/dhi2019.pdf>>.

<sup>7</sup> 'Exploring NSW Housing Affordability', *EPS* (Web page) <<https://epssolutions.maps.arcgis.com/apps/Cascade/index.html?appid=350f3ba2e36c43d8b129b6791c836ba6>>.

BTR schemes around the world have shown us that investment funds and real estate investment trusts (**REITs**) such as Vonovia and Blackstone have expanded to become significant managers of residential rental property across Europe and the US through mortgage defaults and privatisation of social housing. The attraction of foreign capital to REITs has accelerated the flow of global finance into local housing markets, reducing local access to home ownership amongst young and middle-income households and catalysing the creation of new niche BTR residential construction sector.<sup>8</sup>

In addition to the above, the description of the BTR as part of a government solution to the need for more rental housing during the recovery from COVID-19, and generation of more construction jobs is also flawed. As an example, in the UK, the introduction of a similar scheme, Buy-to-Let, meant to enable a BTR market in the country. However, underlying issues around demographic change, affordability, access to mortgage credit, risks for working households and investors, returns on other investment and the outcomes of government macroeconomic policy lie at the core of the low growth of the BTR sector.<sup>9</sup>

In proposing to shift towards more profitable forms of affordable housing and negotiating incentives by means of local planning obligations in the proposed Housing Diversity SEPP to deliver BTR housing development, we suggest that, similarly to what happened in other countries, Australia's current housing problems may not be reduced by institutional investors. Rather, this scheme is focused on profitable investment arrangements, and investors will most likely capitalise on gaps in affordable housing and are unlikely to provide for a more stable rental sector or reduce inequalities accordingly.<sup>10</sup> Global investors, being private equity firms benefitting from tax concessions, have no history of investment to addressing local housing needs, promote community partnerships or neighbourhood improvements. The focus of such entities will most likely be about the extraction of surplus revenue from managing and selling housing assets for the benefit of trust managers and REIT unit holders. As financial abstract entities, REITs will value liquidity above all and therefore value flexible regulation of rents and lease contracts. Hence, any power to raise rents and terminate a tenant's lease or water down similar tenant friendly protections will be viewed positively as this improves revenue, liquidity and allows for raising capital.<sup>11</sup> The conception of housing tenancies in terms of assets, liquidity and revenue was exemplified by a real estate analyst Lu-Andrews follows:

*'tenant bankruptcy has a less negative or more positive effect of a landlord's stock returns in a good economic condition. Their story is consistent with growth option theory that, in the event of a tenant's bankruptcy, the landlord firm can exercise the growth option associated with the departure of the tenant, and thus generate higher stock returns.'*<sup>12</sup>

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<sup>8</sup> 'Land policy for affordable and inclusive housing, An international review', *An international review* (Web page) <<https://smartland.fi/wp-content/uploads/Land-policy-for-affordable-and-inclusive-housing-an-international-review.pdf>> 55-57.

<sup>9</sup> Kath Scanlon, Christine Whitehead and Peter Williams, *Taking Stock, Understanding the effects of recent policy measures on the private rented sector and Buy-to-Let* (LSE London, May 2016) 41 <<https://www.lse.ac.uk/business-and-consultancy/consulting/consulting-reports/taking-stock>>.

<sup>10</sup> Gertjan Wijburg, 'Financialised Privatisation, Affordable Housing and Institutional Investment: The Case of England', *Critical Housing Analysis* Volume 7, Issue 1, 115 <<http://www.housing-critical.com/home-page-1/financialised-privatisation-affordable-housing->>>.

<sup>11</sup> Julie Lawson and Hannu Ruonavaara, 'Land policy for affordable and inclusive housing, An international review', *An international review* (Web page) <<https://smartland.fi/wp-content/uploads/Land-policy-for-affordable-and-inclusive-housing-an-international-review.pdf>> 56.

<sup>12</sup> Ran Lu-Andrews, 'Tenant Quality and REIT Liquidity Management' (2017) *Journal of Real Estate Financial Economics* 54:277 <<https://link.springer.com/article/10.1007/s11146-016-9575-y>>.

To combat these challenges, protecting and expanding the scarce supply of affordable and social housing will require a far more strategic and proactive approach to planning policy by both state and federal governments in the immediate future.

## **Recommendation - social housing investment as a policy priority**

According to Melbourne University, 'one of the best investments a government could make during a pandemic is in Australia's flagging social housing system.'<sup>13</sup>

The same publication adds that '[h]ousing inequalities have always compounded and reflected inequalities in health, wellbeing and productivity. The imperative to stay home during COVID-19 has amplified these effects, highlighting the need for investment in affordable and stable housing for low income households. A recent report from the Australia Institute, a think tank researching public policy, highlighted key criteria for choosing appropriate fiscal policies in a pandemic. It recommended targeting populations with a high propensity to consume, activities that create high employment and projects with obvious co-benefits, like improved health outcomes and reduced homelessness. Social housing meets all these criteria.'<sup>14</sup>

The BTR incentives proposed to be adopted in the Housing Diversity SEPP, that is likely to target medium to high-income households, does not meet the criteria.

As currently there are no impediments in the NSW planning system to the development of new housing for rental purposes, we do not recommend adopting the proposed BTR housing scheme as it stands, because it does not respond to the underlying and pressing policy issues around affordable and stable rental housing.

In the event that BTR stays as a component of the Housing Diversity SEPP, we recommend that the proposed SEPP should set affordable rent requirements where rent is set as a proportion of a household's income, low to medium-income households may be charged between 25 and 30% of their before tax income for rent. This should be part of a broader integrated BTR housing affordability program. This kind of threshold provides protection from harsher standards which could be imposed by local councils.

### **Inclusive design**

As the government 'will develop specific advice about the parts of *State Environmental Planning Policy No 65 – (Design Quality of Residential Apartment Development)* that are particular to the build-to-rent typology', we recommend that the new development design, should by default accommodate for the needs of people living with a disability, by identifying particular needs, provide inclusive modes of communication and foster effective collaboration with disability services providers.<sup>15</sup>

**Recommendation 1:** That the Housing Diversity SEPP set affordable rent requirements for a set percentage of dwellings where rent is set as a proportion of a household's income, with low to medium-income households charged a set percentage (for example, between 25% and 30%) of their before tax income for rent.

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<sup>13</sup> Katrina Raynor et al, 'Investing in social housing during a pandemic', *Pursuit The University of Melbourne* (Web page) <<https://pursuit.unimelb.edu.au/articles/investing-in-social-housing-during-a-pandemic>>.

<sup>14</sup> Katrina Raynor et al, 'Investing in social housing during a pandemic', *Pursuit, The University of Melbourne* (Web page) <<https://pursuit.unimelb.edu.au/articles/investing-in-social-housing-during-a-pandemic>>.

<sup>15</sup> Ibid.

## **b) Purpose-built student housing**

The Committee welcomes the proposal to incorporate a new definition for, ‘*student housing*,’ in the *Standard Instrument – Principal Local Environmental Plan (Standard Instrument)* prescribed in accordance with s 3.20 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**). The Committee recommends that planning decisions affecting students, both international and domestic, should be made with a student-centred approach.

### ***The need for a student-centred approach to planning student accommodation***

Tertiary education services and associated travel comprised Australia’s fourth largest export and was valued at AUD \$41 billion in 2019.<sup>16</sup> The Committee further notes the decline in this export following the implementation of travel restrictions and associated measures to mitigate the public health risks associated with the COVID-19 pandemic.<sup>17</sup> The recovery of this industry is critical to the economic recovery of Australia in the aftermath of the pandemic.<sup>18</sup>

A strong supply of accommodation that meets the needs of international students is a key driver of a rewarding student experience. Current problems distorting the student housing market include a shortage of supply in areas proximate to universities, associated upward pressure on rent and the consequent development of an unregulated shadow market in boarding houses and homestays. Students responding to a survey in the Ryde local government area were more likely to report dissatisfaction with their accommodation arrangements if they were staying in a homestay or a boarding house.<sup>19</sup>

The problems associated with unregulated boarding houses and homestays are exacerbated by the vulnerability of the international student demographic. Students often pay a deposit on accommodation before arriving and this leaves them in a vulnerable bargaining position if the accommodation is not as advertised online. Students entering boarding houses and homestays may not enter into a residential tenancy agreement under the *Residential Tenancies Act 2010* (NSW) or an occupancy agreement under the *Boarding Houses Act 2012* (NSW) and therefore may not benefit from the protections associated with such an agreement, including the provision of a condition report and deposit of the bond with the Office of Fair Trading. Students can be isolated from support networks in their home countries and may be less likely to assert their rights due to cultural differences around communication and confrontation. All of these factors make it critical to have a variety of fit-for-purpose housing options for students that are appropriately regulated, to ensure both quality and quantity of supply.

The Committee notes that there are many stakeholders in the market for student accommodation such as developers, tertiary education institutions, government and residents. The needs of all stakeholders will be best served with a student-centred approach to planning decision making. A student-centred approach in this context means that decisions about student accommodation are made with reference to the best interests of students. Decisions should be made with “thick” context about what value looks like for this demographic, including preferences for the use of private and shared spaces, price range and location. The Committee submits that this would be best achieved by involving students in the decision making process through formal

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<sup>16</sup> Department of Foreign Affairs and Trade, ‘Australia’s Top 25 Exports, Goods & Services,’ *Trade statistics* (Webpage, August 2020) <<https://www.dfat.gov.au/trade/resources/trade-statistics/trade-in-goods-and-services/australias-trade-in-goods-and-services-2019>>.

<sup>17</sup> Peter Hurley, *Issues Paper: International Students Vital to Coronavirus Recovery* (Issues Paper, 2020) 1, <<https://www.vu.edu.au/sites/default/files/issues-brief-international-students-covid.pdf>>.

<sup>18</sup> *Ibid.*

<sup>19</sup> Scott Cox, Submission No 22 to Social Policy Committee, *Inquiry into student accommodation*, (6 October 2011), 2, <<https://www.parliament.nsw.gov.au/ladocs/submissions/50003/sub%20no%2022%20city%20of%20ryde.pdf>>.



consultation in the design and planning of their buildings. Accommodation planned in this context will deliver a more rewarding student experience and meet demand in the shape it currently presents in the market. This will also return better incomes for investors, which is critical to motivate an increase in supply.

**Recommendation 2:** That a student-centred approach is adopted in planning decisions relating to student housing. A student-centred approach in this context means that decisions about student accommodation are made with reference to the best interests of students. Understandings about the best interests of students should be guided by consultation with the students about their needs.

### ***The need for a definition of, ‘student housing’***

The Committee submits that a chronic shortage of supply lies at the heart of problems in the market for international student accommodation. On this basis, the Committee challenges the scope of the proposed definition of, ‘student housing,’ which currently includes fully self-contained dwellings. Research by Urbis suggests that international students arriving from all of the major source countries are flexible with their living arrangements and commonly live in shared accommodation.<sup>20</sup> Medium and high density student accommodation in areas proximate to universities, which are already typically zoned for this density, better meets demand in the market.

Counterbalanced against the need to increase supply is the need to deliver appropriately sized rooms that meet student needs and expectations. The Committee recommends that the proposed 10 m<sup>2</sup> minimum room size should be a non-discretionary, ‘must not refuse,’ provision. The minimum room size of 10 m<sup>2</sup> is consistent with industry practice in different jurisdictions, as noted in the EIE (page 11). While innovation should always be encouraged, it is difficult to imagine how a room size less than 10 m<sup>2</sup> could possibly meet the needs of students. Allowing developers to propose a smaller room size runs the risk that rooms will be approved which do not deliver adequate internal amenity and do not offer adequate shared facilities to compensate for the deficit in room size. Recent lock-down restrictions associated with COVID-19 highlight the importance of having sufficient indoor space for both physical and psychological well-being.

**Recommendation 3:** That the proposed 10 m<sup>2</sup> minimum room size for student housing be implemented as a non-discretionary, ‘must not refuse,’ provision.

### **c) Co-living**

The Committee generally agrees with the outline proposed in the EIE, and with the rationale behind the introduction of this sub-set of the boarding house. It is acknowledged that this form of living is becoming increasingly popular in continental Europe, where the concept of owning property is less entrenched in national psyches than in Australia. The Committee sees this form of living as attractive to young professionals and couples seeking to stay close to employment hubs as well as to friends and family, being in areas otherwise unaffordable to purchase into or unsustainable to rent in the long term (due to the reduced living requirements for younger demographics).

The Committee strongly encourages the creation of next generation design guidelines for the development of co-living premises. The Housing Diversity SEPP represents an opportunity for co-living premises to be

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<sup>20</sup> Urbis, *Student Accommodation – Mid year market update 2019* (Market update) 2.3 “Room Preferences,” <<https://urbis.com.au/app/uploads/2019/09/P0014238-Student-Accommodation-%E2%80%93-Mid-Year-Market-Update-Condensed-Version-18092019.pdf>>.

constructed to a higher level of ecological sustainability given the whole-of-building ownership model that is proposed to be employed for the management of these premises.

The 'Co-living Design Guide' could mandate a minimum rating of five Green Stars and employ low embodied emissions construction techniques, such as minimising the use of concrete and requiring complete energy use offset measures such as complete rooftop coverage of PV arrays, a suitable quantity of kilowatt-hour battery storage in the basement or services room, and any remaining power requirements to be addressed by off-site renewable energy sources by way of community power networks or power purchase agreements from renewable energy wholesalers. Other measures could include complete rainwater capture on site in addition to greywater plumbing throughout the building, and passive solar design measures employed wherever permissible by site or topography constraints to minimise artificial heating and cooling measures required.

The Committee sees this as an integral and critical measure that would assist in pursuing the NSW government goal of net zero emissions by 2050.

**Recommendation 4:** That all new co-living premises (in addition to student housing and build to rent development) be designed in accordance with passive solar and net zero emissions principles to minimise the ongoing operating costs of the premises as well as mitigate and/or offset the ecological impact of construction and operation.

Consideration would have to be made for the structure of on-site management and the enforceability of rules of occupation, similar to current approach with plans of management. However, unlike with other boarding house arrangements, it is anticipated that co-living premises permit a broader range of pets such as dogs, cats, birds, snakes or other less orthodox species of animal.

The plan of management for a co-living premises would need to accommodate for this different style of companion animal requirements.

**Recommendation 5:** That co-living plans of management not restrict various types of companion animals that can be kept in the private rooms on the premises.

## 2. Updating existing provisions

### a) Proposed changes to the boarding house provision of the ARHSEPP

#### ***Boarding house development is proposed to be affordable***

The Committee strongly supports the concept of ensuring that 'traditional' boarding houses (as opposed to the new BTR and co-living style of alternative housing options) are preserved as affordable housing.

The proposal to have boarding houses managed by a not for profit community housing provider (**CHP**) is supported, but it is recommended that this be a requirement with a savings and transitional provision that means that all boarding houses approved prior to the Housing Diversity SEPP eventually coming into force can maintain their current management structure. The Committee is aware of a number of boarding house operators that operate on very low margins due to difficulties in the approval process and the limitation on the



number of boarders on site. The retrospective imposition of a new management provider would, in those circumstances, be inequitable.

**Recommendation 6:** The requirement for boarding houses to be run by a not for profit community housing provider is supported but should be prospective in operation only.

The other proposed changes to the definition for a 'traditional' boarding house are supported, as the Committee acknowledges the importance of this type of alternative and affordable housing close to important service providers such as hospitals, universities and employment hubs.

### ***Boarding houses not mandated in R2 zone***

The Committee notes with some concern the proposal that boarding houses will no longer be an expressly permissible use in R2 zones. The changes to the *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)* in February 2019 imposed an appropriate regime change so as to ensure that boarding houses in those zones do not present as anything other than a large detached dwelling house. The Committee contends that these proposed changes were sufficient to address amenity, bulk, scale and character concerns, and accordingly the Committee recommends that boarding houses remain a permissible use on R2 zoned land. It is important that low paid workers are able to find accommodation in residential areas in close proximity to transport and employment hubs.

**Recommendation 7:** The proposed change to remove boarding houses as a mandatory use within the R2 zone should not be made.

### ***Proposed 20% FSR bonus for boarding house development***

This proposed change is supported by the Committee for the sake of maintaining uniformity and consistency in decision making by Councils (and the Land and Environment Court on appeal).

### ***Car parking***

The Committee similarly agrees with the proposed changes to minimum car parking rates, noting that private car ownership is expected to be a declining trend amongst those living in affordable housing due to the uptake in ride hailing services, improvements in access to public transport and the eventual shift towards autonomous vehicles.

### ***Group homes***

The Committee approves of any measure to permit speedier approval pathways for group homes, being a much needed form of housing with no adverse amenity impacts to the surrounding natural and built environment.

### ***Amendments to Part 3 of the ARHSEPP***

The Committee approves of all proposed changes to this part of the SEPP, particularly the change requiring the onus of proving that a dwelling is in fact a low rental dwelling to fall on the applicant.

## **Second dwellings in rural zones**

The Committee agrees with this amendment, noting that it has been a long-term deficiency of this SEPP to permit secondary dwellings of a reasonable size in rural areas, and approves of the decision to hand this aspect of the decision-making process back to local councils to set a desired standard.

### **b) Proposed amendments seniors housing provisions**

The Committee welcomes updates to the Seniors SEPP that align definitions with the Standard Instrument.

The Committee generally agrees with the proposed definitions to be updated. In particular, the Committee welcomes aligning the definition of ‘people with a disability’ with the broader definition in the Standard Instrument. The definition in the Standard Instrument better aligns with current understandings of disability and reflects international standards for the term.<sup>21</sup>

The Committee submits that a broader review of the Seniors SEPP provides an opportunity to promote good design consistently across housing developments for seniors and people with a disability. Under the current SEPP, there are only applicable guidelines for urban infill self-care development<sup>22</sup> (which must be considered under cl 31). While Part 3, Division 2 sets out Design Principles that are generally applicable, these are broadly expressed and do not serve as a meaningful guide to assist in design or assessment of seniors housing. The Department could consider developing a Seniors Housing Design Code as a guide for best-practice design for housing for seniors and people with disability.<sup>23</sup> The code should set out guidelines for the different types of development, as well as different local contexts (e.g. urban, rural, and coastal). Similar to the current cl 31, the Code could be identified in the Seniors SEPP as a consideration in determining a development application.

We note that, in addition to “height” and “people with a disability” there are other terms in the Seniors SEPP that may require alignment with definitions in other EPIs and the EP&A Act.

The Committee also agrees that updates are required to Sch 1, identifying Environmentally Sensitive Land to which the Seniors SEPP is not to apply.<sup>24</sup> The terms used in the current Sch 1 are broad and may not match with terms used to identify land in Local Environmental Plans. “Terrestrial Biodiversity” is used in a number of LEPs,<sup>25</sup> but does not clearly correspond with any of the descriptors in Sch 1, the closest of which are “conservation” or “critical habitat”. The current Sch 1 may also unnecessarily be excluding land from the operation of the SEPP. For example, the listing of “water catchment” in Sch 1 (l), captures land under the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* (including the regional centre of Goulburn) regardless of how the land is zoned.

The most significant changes to the Seniors SEPP are the proposals to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP, and that development standards in the Seniors SEPP could be varied using cl 4.6 of the Standard Instrument, but only to a maximum of 20%. These

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<sup>21</sup> See, eg, World Health Organisation, *Disability and health fact sheet*, <<https://www.who.int/news-room/fact-sheets/detail/disability-and-health>> (16 January 2018).

<sup>22</sup> Department of Infrastructure, Planning and Natural Resources, *Seniors Living Policy: Urban Design Guideline for Infill Development* (2004).

<sup>23</sup> Matthew Paduch, *Designing Housing for Older People: The need for a design code*, (Bachelor of Planning Thesis, University of NSW, 2008) 73-91 accessed 31/08/2020 <[https://www.be.unsw.edu.au/sites/default/files/upload/pdf/schools\\_and\\_engagement/resources/\\_notes/5A2\\_35.pdf](https://www.be.unsw.edu.au/sites/default/files/upload/pdf/schools_and_engagement/resources/_notes/5A2_35.pdf)>.

<sup>24</sup> Per Seniors SEPP cl 4(6).

<sup>25</sup> See e.g., *Goulburn Mulwaree Local Environmental Plan 2009* cl 7.2; *Hornsby Local Environmental Plan 2013* cl 6.4.

amendments should be approached with caution, given the potential for fragmentation and inconsistency in housing standards. In this respect, we note that certain standards such as the location and access requirements in cl 26<sup>26</sup> should remain consistent and do not require adaptation for local contexts.

The maximum of 20% variation from Seniors SEPP standards also has the potential to operate arbitrarily, particularly where the standards are not expressed in simple numerical terms. As an example, cl 26(2)(a) and (3) set out various acceptable gradients to apply over specified short distances, as well as a standard for the overall average gradient. The application of the 20% limit to such a standard is open to interpretation, which may be the source of disagreement between applicants and consent authorities. Other standards, such as transport requirements, are not numerical and should be excluded from the operation of the 20% limit. We note that, in any case, applicants are required to demonstrate that “compliance with the development standard is unreasonable or unnecessary in the circumstances of the case” in order to justify a departure from a standard.<sup>27</sup>

**Recommendation 8:** The 20% maximum for variation of SEPP development standards is not recommended.

Apart from the proposed changes, the Department should consider undertaking a broader review of the Seniors SEPP and its effectiveness in achieving its aims of increasing supply and diversity, efficient use of infrastructure and services, and good design.

### ***Location and access to facilities provisions***

The Committee agrees with the proposed amendment to provisions regarding location and access to facilities. In particular, we note the Housing Strategy for NSW Discussion Paper (May 2020) which outlines the importance of planning for people to ‘age in place’ and the need to have diverse and accessible housing to facilitate this.<sup>28</sup> Housing diversity must encompass accessibility both in a locality and financial sense.

The investigation by the Greater Sydney Commission in October 2019 found that the Site Compatibility Certificate (SCC) approval pathway overall made a modest contribution to the senior housing supply in NSW.<sup>29</sup> In particular, where SCCs were issued for senior housing on rural land:

- Applications were concentrated in a few LGAs and the resultant supply (independent living units and residential aged care facilities) was a small part of the housing market that accommodates the growing aged and disabled population;<sup>30</sup> and
- The ad hoc nature of these developments makes it difficult to factor into strategic planning for required infrastructure.<sup>31</sup>

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<sup>26</sup> While cl 26 is not in Part 4 (Development Standards to be complied with), the clause has been interpreted as a standard, not a prohibition: *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde* [2016] NSWLEC 153

<sup>27</sup> Standard Instrument cl 4.6.

<sup>28</sup> NSW Department of Planning, Industry and Environment, A Housing Strategy for NSW: Discussion Paper (May 2020) <<https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Policy-and-legislation/Housing/A-Housing-Strategy-for-NSW--Discussion-Paper-2020-05-29.pdf>>.

<sup>29</sup> Greater Sydney Commission, *Investigation into the cumulative impacts of Seniors Housing in the rural areas of The Hills and Hornsby local government areas*, Report (2019) 34 (accessed 31/08/2020) <[http://businesspapers.hornsby.nsw.gov.au/Open/2020/04/GM\\_08042020\\_AGN\\_files/GM\\_08042020\\_AGN\\_Attachment\\_14299\\_1.PDF](http://businesspapers.hornsby.nsw.gov.au/Open/2020/04/GM_08042020_AGN_files/GM_08042020_AGN_Attachment_14299_1.PDF)>.

<sup>30</sup> Ibid 2.

<sup>31</sup> Ibid 65.

It should also be recognised that housing preferences are diverse, with only about ten per cent of people aged over 65 live in a retirement village or nursing home.<sup>32</sup> Similarly, only five per cent of people with disability live in a non-private dwelling such as a group home or aged care facility where care is provided.<sup>33</sup> Seniors' preferences, including for 'aging in place' in their local communities, should be taken into account to ensure that incentives under the Seniors SEPP are encouraging the right housing mix. Recommendation 7 of the GSC report proposed some potential planning incentives for investigation, including allowing seniors housing where shop top housing is permitted with development consent.<sup>34</sup>

In order to promote the efficient use of infrastructure and services, the SEPP should facilitate planned approaches rather than ad hoc developments. The Seniors SEPP will require greater alignment with new policies at that State and local levels, including the NSW Housing Strategy, District Plans, Local Strategic Planning Statements, and Local Housing Strategies.

**Recommendation 9:** A broader review of the Seniors SEPP should be undertaken to ensure that the new SEPP provisions:

- provide incentives to encourage supply and diversity in housing in line with projected demand;
- align with relevant strategic plans and policies; and
- provide meaningful guidance for good design of housing for seniors and people with disability.

## Concluding Comments

NSW Young Lawyers and the Committees thank you for the opportunity to make this submission. If you have any queries or require further submissions please contact the undersigned at your convenience.

### Contact:




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President

NSW Young Lawyers

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### Alternate Contact:



**Katharine Huxley**

Chair

NSW Young Lawyers Environment and Planning Committee

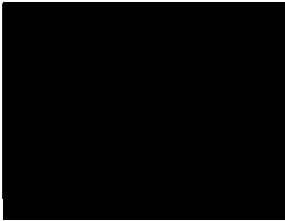
Email: [envirolaw.chair@younglawyers.com.au](mailto:envirolaw.chair@younglawyers.com.au)

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<sup>32</sup> NSW Department of Planning, Industry and Environment, "A Housing Strategy for NSW" (Discussion Paper May 2020) 45 accessed 31/08/2020 <<https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Policy-and-legislation/Housing/A-Housing-Strategy-for-NSW--Discussion-Paper-2020-05-29.pdf>>.

<sup>33</sup> Ibid 47.

<sup>34</sup> Greater Sydney Commission, *Investigation into the cumulative impacts of Seniors Housing in the rural areas of The Hills and Hornsby local government areas*, Report (2019) 69.



8 September 2020

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

Attention: Mr Jim Betts – Secretary

**Housing Diversity SEPP Submission**

This Planning Submission has been prepared in relation to the recently released Explanation of Intended Effects (EIE) for the new Housing Diversity State Environmental Planning Policy (SEPP). This Submission has focused on the impacts of the proposed new SEPP on our aged care developments and thus the provision of further specialised aged care across NSW.

The proposed new consolidated SEPP will see significant amendments to the existing SEPP Housing for Seniors or People with a Disability (SEPP Seniors). Whilst we support the move to a consolidated SEPP which reflects the growing and ageing population, we are of the view that there are issues within the proposed amendments which will impact the provision of quality aged care housing.

There appears to be a lack of consistency between the proposed new provisions of the SEPP and the existing District Plans. Furthermore, the proposal for development standards in an LEP to prevail to the extent of any inconsistency will fundamentally impact on the potential to deliver much needed quality aged care services to the ageing community.

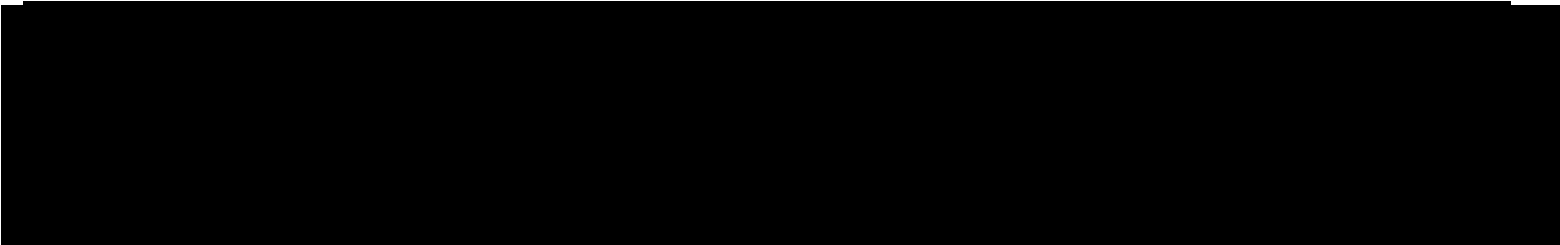
We are of the opinion that a number of key considerations have not been addressed in preparing the EIE and it does not yet provide sufficient information in terms of the unspecified changes to Schedule 1 in relation to 'environmentally sensitive land' and limiting Clause 4.6 variations to 20 percent.


We wish to make the following submissions in relation to the EIE document:

**1. ALREADY EXCLUDED LAND UNDER THE SEPP SENIORS' AMENDMENT**

On 29 July 2020 the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020* was published taking immediate effect. This effectively removed the beneficial provisions of the Seniors Housing SEPP for large areas of land mapped as 'metropolitan rural areas' to a number of Local Government Areas (LGA'S) including the majority of the Hawkesbury, The Hills and Hornsby Shire.

The ability to have SEPP Seniors operate on rural land with the support of a SCC has been a key and long-standing mechanism of SEPP Seniors. The exclusion of SEPP Seniors from applying to urban zoned land that is within the Metropolitan Rural Areas goes beyond the recommendations of the 2019 Greater Sydney Commission investigation report (October 2019). Furthermore, such a major amendment appears to have been implemented with minimal industry and community consultation. In addition, we question how further exclusions of areas allows the objectives of the District Plans in





terms of providing seniors housing in existing urban areas, which could be ideal for seniors and aged care housing in terms of location, amenity and access to services.

We see this amendment as having potentially far reaching consequences for aged care and seniors housing providers. With further unspecified changes to these provisions proposed, to allow the exclusion to be 'better aligned with current legislation and planning conditions' we seek clarification of the Department's reasons for such restrictions.

## **2. INCONSISTENCIES WITH OTHER STRATEGIC PLANNING FRAMEWORK**

The current SEPP Seniors does not reflect the priorities of the current strategic framework in terms of meeting the key Planning Priorities contained within the Greater Sydney Regional Plan and the District Plans. A key Planning Priority is to 'provide housing, supply, choice and affordability'. Whilst, the EIE may address these priorities in terms of the amendments to affordable housing, we seek clarification on the Department's view on how the proposed amendments to SEPP Seniors will allow for the continued provision of aged care and seniors housing consistent with the Plan's priorities and objectives.

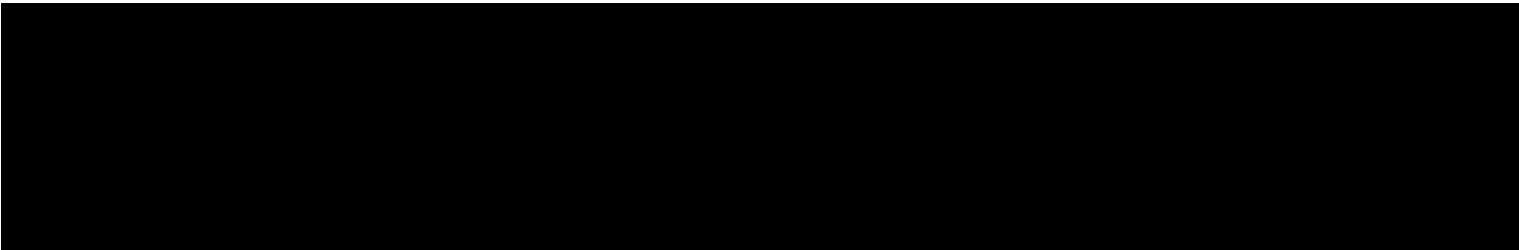
To achieve the strategic intent of the District Plan to facilitate the required growth of Seniors Living in appropriate locations, and for suitable models of care, the amendment of EPIs to permit Seniors Living in strategic locations should be adopted as a priority in the proposed Housing Diversity SEPP. It is imperative that the SEPP Housing Diversity responds to the Planning Priorities of the overriding strategic plans for NSW.

## **3. DEVELOPMENT STANDARDS IN AN LEP TO PREVAIL**

The proposed amendments detailed in the EIE include development standards of the applicable LEP to prevail to the extent of any inconsistency with the SEPP. This would result in significant changes to how a State development policy relates to local controls. We see this is as significantly impacting the feasibility of aged care developments and subsequently the provision of seniors housing to meet the needs of the community.

A Clause 4.6 variation request would now be required if it is proposed to contravene LEP height or floor space ratio controls (which would be highly likely). Under the proposed amendments, an unprecedented variation limit of up to 20% would be implemented. Placing a numerical limit on variations under Clause 4.6 will significantly impact on the ability to provide aged care and seniors housing.

Furthermore, we question how the 20% maximum variation is measured for a development standard such as Clause 26 of SEPP Seniors, where there are various services, distances and also gradients that need to be achieved to ensure compliance. Such an amendment is expected to have impacts on non-numerical standards, such as preventing a private bus service for a residential care facility being provided in lieu of a public bus service, which historically has been accepted by Councils, Planning Panels and the Court for residential care facilities via a Clause 4.6.





#### **4. FURTHER INFORMATION REQUIRED AND AREAS TO BE INCLUDED**

Schedule 1 appears to effectively prohibit SEPP Seniors' applicability to land identified as being 'environmentally sensitive land'. Its interpretation has previously been the source of debate and legal dispute. As such, any improvement in clarity and consistency is welcomed on this matter. However, the EIE appears to provide limited information on how this will be updated to better align with current planning framework.

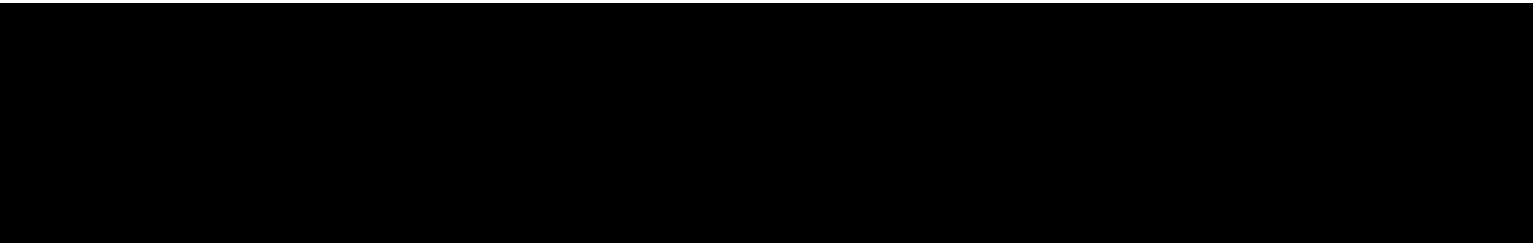
The terms in Schedule 1 need to be more specific to remove uncertainty. For example, the Coastal Management Act 2016 and Coastal SEPP. Under the current Schedule 1, a site which is identified as being within the 'proximity area' of Coastal Wetlands has been viewed by Councils as land identified as *coastal protection* and *natural wetland*. There have also been examples where all land within SEPP (Sydney Drinking Water Catchment) 2011 is excluded from SEPP Seniors because the term "water catchment" is listed in Schedule 1. This results in almost the entirety of the Southern Highlands being excluded from the operation of SEPP Seniors. Both examples demonstrate these inconsistencies. Towns within some of these identified areas are largely urban environments with high amenity and access to services, making them ideal locations for seniors housing and we believe should be based on a site by site basis rather than a blanket rule of restricting the use of SEPP Seniors.

#### **5. AMENDMENTS NEEDED BY THE INDUSTRY**

The EIE has not addressed a number of key amendments we see as being required, which would not only benefit the provision of aged care but also take the pressure off the Court and Planning Panels in determining development applications (DA's). Common issues such as site context and compatibility, amenity impacts and access to services do not yet seem to be addressed as part of the amendments. Amendments such as allowing a private bus service to satisfy Clause 26 and providing development incentives for appropriate built form outcomes to achieve appropriate context and compatibility for SCC's could significantly benefit the provision of aged care as well as simplifying the SCC process and determination of DA's. This was a key recommendation of the GCS Investigation and has not yet been implemented into the proposed amendments.

The current SEPP Seniors does not yet consider place-based planning in terms of privacy, amenity and character. A key example of a current issue in the existing provisions is aged care developments located in R2 Low Density Residential Zones where compatibility and character are key considerations for the consent authority. There is continued pressure to provide much needed aged care services for the growing ageing population, but the industry is continually faced with challenges from Councils for such development in low and medium density areas. Aged care homes are a unique and distinguishable form of development that need to be recognised within the NSW planning system given the role they play in our health system. The pressure to achieve a development which achieves the character of an area often outweighs the importance of providing a suitable home for the ageing population.

We urge the Department to consider legislative changes as part of the Housing Diversity SEPP which acknowledge the need of aged care services and concessions in terms of the design not being detached dwellings. We request priority be given to the internal floor space, configuration and services required to achieve suitable aged care over the subjective opinions of Planning Panels and Council's.





## CONCLUSION AND SUMMARY

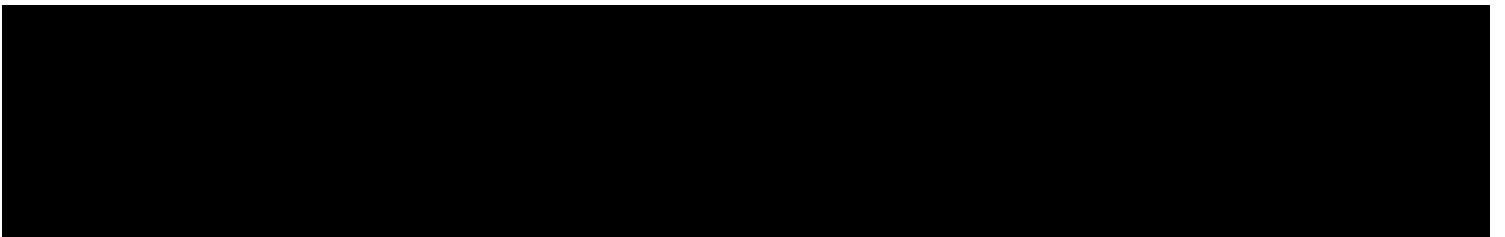
█ agrees that SEPP Seniors does require updating to reflect the needs of the State's growing and ageing population. However, we are of the view that the proposed amendments detailed in the EIE have not yet addressed the needs of the industry required to allow the effective and feasible provision of aged and seniors housing.

We welcome the extension of the proposed 5-year period for SCSs however we do not support the proposed amendments which will see LEPs prevailing over the SEPP and the 20% variation limit on Clause 4.6 variations. We also believe further detail is required regarding the amendments proposed to Schedule 1 and the further impacts this will have in terms of excluding applicable lands from the use of SEPP seniors.

We would welcome further commentary from the Department and clarity on the questions raised above as part of the draft SEPP Housing Diversity.

Should you wish to discuss the matter further, please do not hesitate to contact █.

Kind regards







Open Door is a developer and operator model with global headquarters in San Francisco and Regional headquarters based in Singapore. We co-invest with our development partners to share risk and align interests. As a pioneer in the concept of co-living, Open Door has the longest track record of any operator in the U.S. We've developed and refined our product with thousands of hours of onsite experience and resident engagement. By delivering on the promise of community, our projects are healthy socially and economically. Operating on both the PropCo & OpCo side of the deal enables flexibility in deal types, including programmatic, co-development and operator-only models. We have attached our firm overview separately for your reference.

#### OPERATING HISTORY:

1. 6 - year operating history: longest co-living operator in the U.S.
2. Completely integrated technology for management & leasing
3. 99% referral rate from existing residents on room turnovers
4. 2 - 3 month typical lease up times
5. 0.5% all time average vacancy
6. 2.5 years average tenure for our residents, with US coliving average at 12 months
7. 35x more demand than beds available for each new project
8. Open Door operating platform reduces friction and reduces total housing costs up to 30% for renters.

From a programming perspective, OpenDoor has learned during its 6-years of operations that design of the co-living floorplans and amenities spaces is vital to the success of any operation. We believe that a developer creates the most value when the built environment, matches the co-living operational strategy, services and technology platform. In addition, young professionals want to create social interaction and connection so the co-living design needs to re-enforce that desire.

Open Door established our regional HQ in Singapore in May 2019 and spent the last twelve months focused on Australia as our first overseas market for expansion. This strategic decision was underpinned by the shared characteristics between Australian major cities and other gateway markets where co-living is growing quickly. The parallels

include the market potential for our target demographic seeking a better housing alternative (mid-20's to mid-40's), lack of affordability and a clear shift in attitudes and values with young professionals who are looking for greater sense of community coupled with a service and turnkey based offering within proximity of transit and commercial nodes.

We have worked closely with Minter Ellison to evaluate our Australian corporate and operating structure and leveraged the expertise of several advisory and design firms such as Hassell and URBIS on our site selection and due diligence. We are in advanced discussions with over 22 investors (family offices, real estate funds, pensions, sovereign wealth) in Australia, Singapore, U.S., Canada, and the U.K. who understand the advantaged return profile of co-living versus traditional BTR and are keen to seize the opportunity to invest early with operators who have a proven track record. All of these groups believe there will be a similar trajectory to how the PBSA sector in Australia has grown albeit targeting a much larger demographic with less risk around foreign student inflows.

Open Door has also engaged 26 large and mid-cap Australian developers and are under negotiation to form programmatic JV's around this emerging sector. We currently have six sites under advanced due diligence totalling 1100 beds and 263M of development value. Open Door's team played an integral role in supporting the City of San Jose develop their first co-living zoning ordinance (attached separately) and are currently working with the City of Vancouver, Toronto, Seattle, Los Angeles, Portland and San Francisco as planning regulations are being adapted for co-living.

## **Introduction**

We would like to thank the NSW Department of Planning, Industry and Environment for its initiative to consider co-living as a housing type within the newly proposed Housing Diversity SEPP.

We believe strongly that a number of amendments to the proposed SEPP are required for co-living to take hold in Australia and provide a level playing field with traditional BTR players. Open Door is closely following this process to assess our market entry strategy and investment plans. Co-living is an important component of the wider BTR market which is quickly attracting capital and operator interest. We have attached two whitepapers separately which will help to frame co-living in the global context. One such example is Singapore where the government has moved quickly in the past two years to assimilate co-living as a formal use in their masterplan and planning guidelines with 9 new operating players. They recognize the outsized impact co-living offers by attracting and retaining young workers, stimulating the construction sector, social and mental health benefits as well as providing greater diversity and vibrancy for mixed-use urban and fringe CBD locations.

## **Comments on Proposed Housing Diversity SEPP**

We are encouraged the Draft Housing Diversity SEPP is now officially recognising co-living as an important and differentiated form of BTR. Sydney and Australia are far behind the progressive steps being taken by other global markets and the proposed implementation is a non-starter for our industry.

We believe that it is possible to achieve a balanced outcome with boarding houses with the following considerations:

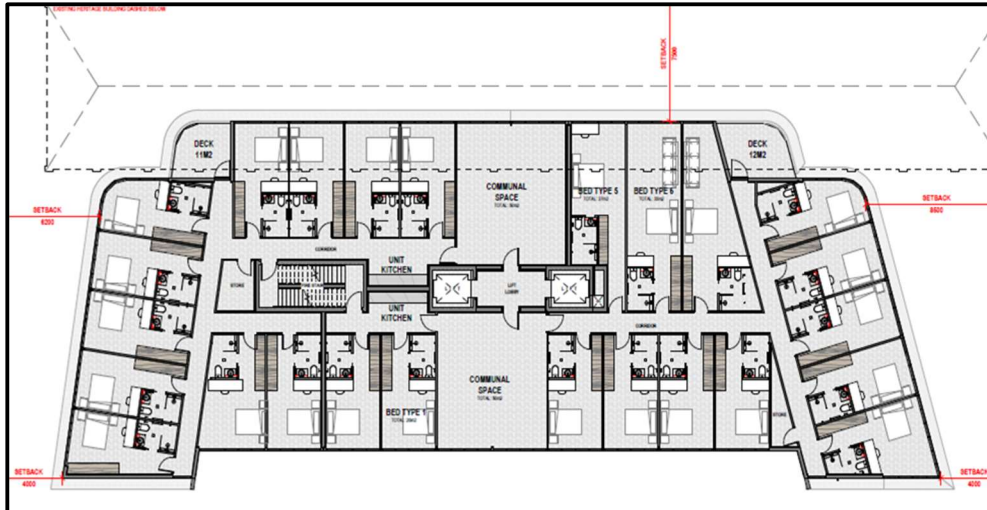
- Adoption of the proposed changes to Boarding House reflected in the proposed Housing Diversity SEPP (the provision which requires that they be managed by a registered not-for-profit community housing provider);
- Adoption of the proposal reflected in the Housing Diversity SEPP to make co-living a mandatory permitted use wherever residential flat buildings are currently permitted; and
- Amending the definition of Co-living in the proposed Housing Diversity SEPP to require a minimum of [50] private rooms (as opposed to 10 private rooms, as currently proposed).

Regarding the development standards for co-living properties, our feedback is as follows:

- FSR bonus - it is our strong contention that a 20 - 30% FSR bonus should be allowed for co-living, to enable the developer to provide adequate communal spaces within the property. These areas are non-income producing and soak up a significant proportion of the allowable Gross Floor Area, which under a normal residential scheme would be saleable/leasable area.
- Building envelope controls -We believe that an FSR bonus of 20 - 30 % should be offered for institutional-scale co-living developments.
- Unit sizes - an ability to offer a mix of unit sizes (including smaller units of less than 20 sqm in some cases) is key to the viability of a co-living development. It is our strong belief that a properly designed studio apartment of 16 - 30 sqm (including kitchen and bathroom) will be well received by the market and there is ample evidence of this size being successfully operated by large scale co-living operators in the U.S., Europe, Singapore, Greater China and Indonesia.

Open Door has iterated our product types over 12 times and offer a range of pod living concepts through to micro unit concepts. Example of some of our layout typologies are below:

- Pods of 8 - 14 bedrooms. Preferred size is 12 bedrooms.
- 300-500 sqm Pods may be on a single floor or split between multiple floors.
- Pods may be a single unit (group housing) or split between multiple units
- 4BR suites surrounding a common area



Car parking -We would therefore strongly contend that a non-discretionary 'must not refuse' provision of 0.2 car parking spaces per room should apply.

We also believe that there should be the ability for developers to provide on-site share car(s) in lieu of private car spaces.

- Communal Living Space - we are supportive of the concept of communal living space within a co-living development, as these communal areas are a fundamental element of the co-living concept. We largely support the current proposed standard with the following amendment. Minimum 25 m<sup>2</sup>, + 2 m<sup>2</sup> per room above 10 rooms
- Private Open Space - the proposed provision of 4 sqm per room will be a major constraint on building design, and project feasibility.

We note that residents in co-living buildings are often singles or couples in the 25 – 45 age group who are spending a significant time out of their room, either at work, or recreationally. This is a stage of life product post university, pre-marriage and pre-children which is continuing to grow as a cohort in all markets we are pursuing.

The average age of our co-living residents is 28 years across our portfolio and enjoy varied room sizes from 18-30 sqm. They are willing to trade size and amenity of living spaces for the benefits of community, desirability of location and our service offering.

Co-living rooms need to provide a highly efficient and useable offering of amenities such as intelligent storage concepts to murphy beds and accommodate the increased needs around remote working. It is not feasible be held to a design standard of traditional BTR / Multifamily product which would result in us never realizing a return threshold suitable to satisfy the investor premiums required for this emerging asset class. Conversely, these costs would not be able to be passed down to the resident as this would erode our core offering of providing accessible and more affordable housing for the "missing middle market".

- Communal Open Space - communal open space within a co-living development is an essential element of our offering. We believe the proposed minimum 25% would dramatically impact the number of prospective sites. We anticipate

many projects will need to re-evaluate their DA use and/or re-purpose from a commercial and hospitality asset over the coming few years thus this is a key issue that requires a more progressive approach.

We propose that the 25% of site area control should be considered on a merit-based position including some factors below:

- The development provides appropriate communal open space in the building wide amenities such as a landscaped roof top terrace;
- The development provides internal common space in excess of the minimum requirements;
- The development provides private open space for a significant proportion the apartments; or
- The development demonstrates good proximity to public open space and facilities and/or provides contributions to public open space.

### **Proposed Development Standards**

<b>Development standard</b>	<b>Proposed by Open Door</b>
Height of buildings	Flexibility applied to LEP standards, merit based
Floor space ratio	FSR bonus of 20 - 30%
Car parking	Non-discretionary 'must not refuse' provision of 0.2 car parking spaces per room  Possibility of provision of share car counting as equivalent to [X] private car spaces
Room size	Unit sizes of 16 - 30 sqm (including kitchen and bathroom)
Strata subdivision	As per current draft SEPP - Not permitted
Communal living space	As per current draft SEPP - Minimum 25 m <sup>2</sup> , + 2 m <sup>2</sup> per room above 10 rooms
Private open space	No private open space requirement for individual units

Communal open space	<p>25% of site area, but can be relaxed on a merit-based argument, where one or more of the following factors apply to the development:</p> <ul style="list-style-type: none"> <li>○ it provides appropriate communal open space in a landscaped roof top terrace;</li> <li>○ It provides internal common space in excess of the minimum requirements;</li> <li>○ it provides private open space for many of the apartments; or</li> <li>○ it demonstrates good proximity to public open space and facilities and/or provides contributions to public open space.</li> </ul>
Building envelope controls	Merit-based concessions to be considered to accommodate the 20% FSR bonus where appropriate

## Conclusion

There is an opportunity at the moment to provide more affordable housing options, boost economic activity and capture international and domestic capital seeking to invest in the development of co-living properties in NSW with the hope these regulations will be adopted in some form by other states over time. These planning guidelines will position Australia in a competitive stature otherwise there are many other competing gateway markets with compelling co-living conditions that capital will follow.

We are appreciative of NSW Department of Planning, Industry and Environment for its public assessment of our product type within the new Housing Diversity SEPP, but we strongly believe that the proposed definition and development standards need to be amended to ensure the NSW is positioned to benefit from this exciting new asset category.

Please don't hesitate to call on us with any questions or further information.

Best Regards,

Graham

### Graham Zink

+ President - Asia Pacific

+ Direct: 65.8522.8306

+ Live Better Together: [www.opendoor.io](http://www.opendoor.io)



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Level 30, 420 George Street, Sydney, NSW 2000, Australia

9 September 2020

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

## HOUSING DIVERSITY SEPP RESPONSE TO EXPLANATION OF INTENDED EFFECT

### EXECUTIVE SUMMARY

Oxford Properties (**Oxford**) and Investa congratulates the NSW Government on the initiative to specifically recognise and support the Build to Rent (**BTR**) housing product in the NSW planning system.

Oxford owns and operates over 10,000 BTR residential buildings apartments across the globe and is now applying this learned knowledge to the Sydney context. Oxford are committed to growing in Australia, adapting global BTR experience to the Australian market to elevate housing security and the rental residential experience. We seek to share our knowledge and expertise with the NSW Government to ensure that the new planning framework to be developed for BTR housing will achieve its stated aims being to “support new investment” and “incentivise the delivery of BTR housing”.

**Overall, we strongly support the intent of the initiative and the recognition that BTR generally offers:**

- Greater security and flexibility of tenure;
- Higher customer service and better choice for tenants;
- Better quality residential developments with longer term view of ownership;
- A variety of private onsite tenant amenities to foster community; and
- Typically located close to good transport links for easy commuting.

### OUR RECOMMENDATIONS

We have prepared a series of recommendations below that address the key considerations being:

- How BTR is appropriately defined
- Suitable development standards to be applied to BTR
- Facilitating BTR in the right locations



- Ensuring that the more detailed design guidance provided for BTR housing has a mindset for flexibility while not compromising the SEPP-65 design quality principles.

#### **Recommendation No.1 – Defining BTR**

That the definition of build to rent housing include the following:

- Contains at least 50 self-contained dwellings that are offered for ~~long-term~~ private rent;
- Is held within single or unified ownership.
- Is operated by a unified ~~single~~ management entity; and
- Includes on-site or centralised/localised management

#### **Recommendation No.2 – Development Standards to be Avoided**

The following development standards outlined in the Explanation of Intended Effect should not be included in the future planning controls for BTR:

- Affordable Housing provisions
- Minimum Tenancy provisions (except in the case of a minimum of 3 months)
- Minimum car parking requirements

#### **Recommendation No. 3 – Development Standards for Strata Subdivision**

- Support for the specified period prior to being permitted to strata subdivide the BTR component of the development. Strata Subdivision should be subject to ADG (or relevant compliance).
- Ensure flexibility for mixed use development in respect to subdivision restrictions, where some non-residential elements may be capable of being subdivided without eroding this intent.
- For locations in B3 Commercial Core and B8 Metropolitan Centre Zones, support for the prohibition of strata subdivision of the BTR elements of the project in perpetuity.

#### **Recommendation No.4 – Supporting BTR in the Right Locations**

- Support for BTR being a mandatory permissible use in the B3, B4, B8 and R4 zones as recommended.
- Include BTR as a mandatory permissible use in the B2 Local Centre Zone and other zones where residential flat buildings are permissible.

#### **Recommendation No.5 – Facilitating BTR in Central Sydney**

- Support for BTR to be included as a mandatory permissible use in the B8 Zone, however, this will have little effect unless BTR is differentiated from BTS in the floor space controls of the SLEP2012.
- Specific provisions need to be included in Part 6 of the SLEP 2012 to ensure that BTR housing is eligible for a class of accommodation floor space under Clause 6.4.

#### **Recommendation No.6 – Approval Pathways**

- Support the use of the SSD pathway for projects with a CIV of \$100million or greater.
- Support for the City of Sydney/CSPC as the consent authority in the City of Sydney, provided that the planning controls under the SLEP 2012 support the facilitation of BTR housing as intended.

#### **Recommendation No.7 – Design Guidance for BTR**

- To incentivise and support the delivery of BTR housing, it is essential to establish a 'companion guide' to the ADG that provides additional clarity for the BTR housing product.
- The preparation of design guidance for BTR housing needs to adopt a mindset of flexibility without compromising design quality principles.
- Specific design guidance for BTR should include:
  - Apartment sizes
  - The provision of balconies
  - The number of apartments served from a single circulation core
  - Adaptable housing provision
  - Solar access standards to consider the collective provision between private apartments and communal areas

#### **Recommendation No.8 – Floor Space Incentives for Common Facilities**

- To support and facilitate BTR, provide additional incentive floor space where associated with the provision of common amenities that otherwise absorb available GFA.

### **NEXT STEPS**

We welcome the opportunity to continue to engage with the Department of Planning to finalise both the draft SEPP that will define the BTR housing product as well as the future design guidance that will be essential that a flexible approach is applied to deliver effective housing products while maintaining high standards of amenity commensurate with the principles of SEPP-65.

If you have any questions regarding the content of this submission, do not hesitate to contact Tim Blythe Managing Partner, URBIS, [TBlythe@urbis.com.au](mailto:TBlythe@urbis.com.au).

Yours sincerely



**Ian Lyon**

**Head of Development Asia Pacific**

**Oxford Properties**

# 1. INTRODUCTION

Oxford Properties (Oxford) and Investa congratulates the NSW Government on the initiative to specifically recognise and support the Build to Rent (**BTR**) housing product in the NSW planning system.

This submission specifically addresses BTR housing which is one of the four housing types identified to be addressed in the future Housing Diversity State Environment Planning Policy (SEPP). This submission has been prepared with the input of representatives of Oxford and Investa, Woods Bagot Architects and Urbis.

Oxford owns and operates over 10,000 BTR residential apartments across the globe and is now applying this learned knowledge to the Sydney context. Oxford are committed to growing in Australia, adapting global BTR experience to the Australian market to elevate housing security and the rental residential experience.

Given our experience in this sector, it is opportune to share our knowledge and expertise with the NSW Government to ensure that the new planning framework to be developed for BTR housing will achieve its stated aims being to “support new investment” and “incentivise the delivery of BTR housing”.

This submission outlines the following:

- An understanding of Oxford and its experiences and perspectives on BTR.
- An overview of key drivers for the delivery of institutional grade BTR housing.
- Our views in respect to some of the key determinants of BTR being:
  - Ensuring that the definition of BTR and related development standards accurately captures and supports this housing type.
  - Supporting BTR in the right locations including the specific requirements needed to facilitate BTR in Central Sydney.
  - Approval pathways that support the stated intent to incentivise the delivery of BTR.
- Key considerations associated with the preparation of “design guidance” that need to be adapted from SEPP-65 and the Apartment Design Guide (ADG) to apply to the built to rent typology.

Importantly, it is necessary to have a mindset of flexibility in the application of guidelines and that BTR is not a “one size fits all product”. Understanding the local demographics and identifying target resident profiles is key to a successful BTR development. The ideal apartment mix and configuration will respond to the local market and appeal to a broad customer profile. The type of resident amenity will also vary for each development and is dependent upon the demographic of the end user including age, culture and socio-economic factors. For this reason, flexibility in the application of controls by location and targeted cohort is crucial.

Overall, we strongly support the intent of the initiative and the recognition that BTR generally offers:

- Security of tenure - longer and more flexible tenancies;
- Higher customer service and better choice for tenants;
- A variety of private onsite tenant amenities to foster community; and
- Locations close to good transport links for easy commuting.

We welcome the opportunity to continue to engage with the Department of Planning to finalise both the draft SEPP that will define the BTR housing product as well as the future design guidance that will be essential that a flexible approach is applied to deliver effective housing products while maintaining high standards of amenity commensurate with the principles of SEPP-65.

## **2. ABOUT OXFORD**

Oxford is the real estate investment arm of OMERS, one of Canada's largest pension plans. Oxford benefits from over 55 years of experience in real estate investment, development and management in Canada, the US, Europe and Asia Pacific.

OMERS was established in 1962 as a pension plan for employees of municipal governments, school boards, libraries, police and fire services, Children's Aid Societies, and other local agencies throughout Ontario. The OMERS pension plan has approximately 470,000 active and retired members and 1,000 participating employers and is funded by contributions and investment earnings.

With a mandate to maximise value while prudently managing risk, Oxford invests in, develops and manages some of the world's best real estate assets on behalf of OMERS. Today, Oxford's portfolio totals 10 million square metres across the globe in notable cities such as Toronto, London, Luxembourg Berlin, New York, San Francisco, Singapore, Sydney and Vancouver.

With approximately AU\$60billion in assets under management, Oxford continues to focus on increasing its portfolio weighting to the BtR sector. Oxford's residential portfolio currently includes more than 10,000 unfurnished and furnished BTR apartments, with an active development pipeline. The portfolio includes leading properties in Toronto, Montreal, New York, Boston, Washington DC and London and is known for delivering exceptional amenities, service and experiences to residents.

Oxford are committed to growing in Australia, adapting global BTR experience to the Australian market to elevate housing security and the rental residential experience.

### **2.1. GET LIVING, UNITED KINGDOM**

Following Oxford's successful building of a BTR business in North America, Oxford expanded into the UK in 2018 acquiring a 39% ownership interest in the Get Living portfolio and development pipeline through a co-investment platform partnership with Delancey.

The current Get Living portfolio includes over 2,000 residential units in London. The platform also has an active development pipeline of over 4,400 additional units across the UK including in London's Elephant & Castle, Manchester, Glasgow and Leeds.

Get Living launched in 2013 to introduce professional residential rental management to the UK.

Get Living is a leader in improving UK's rental landscape for residents and in shifting the mindset of the government. The platform has been recognised with a variety of awards including winning Private Landlord of the Year (RESI Awards) and Customer Service Award (Rent Awards).

### **2.2. INVESTMENT, AUSTRALIA**

Oxford entered the Australian market in December 2018 through its \$4.5 billion acquisition of the Investa Office Fund (renamed Oxford Investa Property Partners), which owned (either wholly or in partnership) a 19-asset office portfolio across Australia.

This transaction reflected the commitment OMERS has to expanding its presence in Asia Pacific. Australia is a key focus area for Oxford as part of its expanding Asia Pacific portfolio. Through the OIPP fund Oxford is committing to focusing its resources on strategic investments it plans to hold for the long term, aligning its perspective and interests with its customers and communities.

For Oxford, BTR is part of its global strategy. The logic that underpins the asset class in other global cities is also at play in Sydney and Melbourne: affordability, mobile populations and a cultural turn toward the sharing economy.

### **3. UNDERSTANDING BTR**

It is important when seeking to define the BTR housing type and any associated development standards as part of any future planning instrument that it aligns with a good understanding of what works or does not work for the delivery and curation of BTR.

As an overarching principle, due to the differing motives of BTS investors/developers compared with BTR, the design response shifts from maximising saleable floorspace, to maximising operational efficiency and tenant experience. The long-term position of BTR investors creates an alignment of interest to build and maintain quality accommodation that aligns with demand, which justifies some adjustments in design flexibility.

#### **3.1. KEY ELEMENTS OF BTR ACCOMMODATION**

Inspired by resorts and hotel services and enabled by economies of scale, BTR buildings put a greater emphasis upon community and resident amenities and front and back of house facilities than a Build to Sell (BTS) development might provide.

The BTR development model seeks to improve tenancy duration and retention by building a community including offering:

- Front of house hotel style concierge and customer service.
- Extensive resident amenities.
- Professional, dedicated onsite management and maintenance.
- Community functions to drive friendship and a sense of belonging.
- Community management of the individual, location centric social media sites.
- Potential to have/ pet-friendly apartment buildings.
- Multiple transport modal options, including car share, bike storage and flexible levels of parking provision.
- Enhanced security of tenure for the resident with genuine options for long term occupancy.

#### **3.2. DESIRED CHARACTERISTICS OF BTR**

Key characteristics of BTR renters desire are:

- Good quality design.
- A desire to be near work (within 15km of CBDs) and public transport hubs.
- A desire to have access to lifestyle facilities and suburbs with a café culture.
- Flexibility in apartment offering, appealing to all ages.
- A greater level and opportunity for community engagement and curation of programs for tenants.
- Sustainable operation, maintenance and design reflecting social consciousness, and
- Opportunity for friendship groups and social networking.

## 4. SUBMISSION ON KEY ELEMENTS ON EXPLANATION OF INTENDED EFFECT

This section specifically addresses matters raised in the Explanation of Intended Effect as relevant to BTR and is divided into the following elements:

- Proposed definition of BTR
- Proposed development standards to be applied to BTR
- The proposed locations where BTR will be specifically encouraged
- The approval pathways

### 4.1. DEFINITION OF BTR

We generally support the draft definition of 'build-to-rent housing' being a building or place that:

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

In our view this captures the key elements of the BTR housing type appropriate to differentiate it from other forms of "residential accommodation" as defined in the standard instrument. We would assume that BTR housing would be 'nested' under residential accommodation.

There are some minor adjustments to the wording recommended to ensure that the definition of BTR can practically be met. For example, the reference to a "single management entity" be replaced with "unified management entity". The rationale for this is to avoid any unforeseen limitation that would strictly interpret a single management entity as preventing arrangements that would allow effective management of the facility. The use of the word "unified" is more aligned to the intent to provide a holistic service to tenants.

#### Recommendation No.1

That the definition of build to rent housing include the following:

- Contains at least 50 self-contained dwellings that are offered for long term private rent;
- Is held within single or unified ownership;
- Is operated by a unified single management entity; and
- Includes on-site or centralised/localised management

## 4.2. DEVELOPMENT STANDARDS ASSOCIATED WITH BTR

Page 7 of the Explanation of Intended Effect outlines proposed development standards to be applied to build to rent housing.

Each matter raised is commented on as follows:

Item	Proposed Development Standard	Comments
<b>Tenant</b>	No restriction for market rent dwellings	<b>Agreed</b>
<b>Affordable</b>	Local provisions apply	<p><b>Not Agreed</b> – a more nuanced approach should be developed for BTR otherwise the application of local affordable housing provision will risk project viability</p> <p>Local provisions for affordable housing are predicated on the Build to Sell model and its valuations, where the cost of the provision of affordable housing can be factored into the residual land value where the provision was set as part of updated the LEP with re-zoning (effectively Council's value capturing the uplift in land from re-zoning). As an already 'return constrained' asset class, BTR has limited capacity without further return impediments. BTR's contribution to broader market affordability and stability should be acknowledged as the improved security of tenure (minimising forced relocation costs), and generation of an asset class that provides through-cycle supply which may ease overall housing pressure.</p> <p>In addition to the above, the application of local affordable housing requirements will unreasonably constrain BTR. Affordable housing provisions are required to be either dedicated to Council and/or managed by a Community Housing Provider (CHP) which presents management complexity with regard to interfacing of the BTR manager and CHP. This is not a desirable or acceptable outcome.</p>
<b>Tenancy</b>	3 years or more	<p><b>Not Agreed</b> - this provision acts to limit feasibility, choice and supply. It works against the stated objectives of the SEPP.</p> <p>There are no such restrictions in the general rental market and is at odds with the <i>Residential Tenancies Act 2010</i>. While this requirement will work for some tenants in giving them certainty, many tenants would be deterred by locking into a fixed 3-year rental agreement. The provision will make BTR dwellings harder to rent – therefore reducing their viability in an uncertain economic, rental and property market. There needs to be flexibility for both the tenant and the owner.</p> <p>BTR has the opportunity and flexibility to offer tenants a variety of lease tenures commencing from a minimum of 3 months.</p>
<b>Communal Living Area</b>	New design guidance will be developed	<b>Agreed</b> – see comments below in section 5.

<b>Room/Apartment Size</b>	New design guidance will be developed	<b>Agreed</b> – see comments below in section 5.
<b>Minimum car parking provision</b>	0.5 spaces per dwelling	<p><b>Not Agreed – this provision limits flexibility and fails to recognise that</b> in many urban areas and centres, the requirement for car spaces is decreasing. The City of Sydney, for example will support residential dwellings with zero on-site car parking provision in select areas.</p> <p>Any car parking controls should be expressed in a manner that allows development to be responsive to location and access to public transport and services, while also recognising alternative transport options such as car share, bicycle storage and the like.</p>

#### Recommendation No.2

The following development standards outlined in the Explanation of Intended Effect should not be included in the future planning controls for BTR:

- Affordable Housing provisions
- Minimum Tenancy provisions (except in the case of a minimum of 3 months)
- Minimum car parking requirements

#### 4.2.1. Future Subdivision of BTR Housing

BTR housing is and should be treated a long-term investment and as such the concept of both single ownership and long-term restrictions on subdivision is supported as a principle.

Consistent with comments in this submission, we acknowledge that by establishing BTR in some zones such as B3 Commercial or B8 Metropolitan, this should be accompanied by restrictions on subdivision to ensure that wider planning objectives are achieved.

Therefore, we support the prohibition on subdivision in perpetuity in the B3 Commercial Zone and also the B8 Metropolitan Zone.

The final SEPP instrument should also recognise that if BTR is built in the Business zones (B3, B4 and B8) as is proposed, a flexible approach that allows the commercial and retail components of the mixed development to be strata subdivided and sold separately. The residential component could still be mandated to be in single ownership.

#### Recommendation No. 3

- Support for a minimum period prior to being permitted to strata subdivide the BTR component of the development. Strata Subdivision should be subject to ADG (or relevant compliance).
- Ensure flexibility for mixed use development in respect to subdivision restrictions, where some non-residential elements may be capable of being subdivided without eroding this intent.
- For locations in B3 Commercial Core and B8 Metropolitan Centre Zones, support for the prohibition of the BTR elements of the project in perpetuity.



### 4.3. SUPPORTING BTR IN THE RIGHT LOCATIONS

We strongly support the proposal to facilitate BTR in the right locations including major urban centres. To this end, we endorse the recommendation to include BTR housing as a mandatory permissible use in the standard instrument for the following zones:

- B3 – Commercial Core (which captures major urban centres)
- B8 – Metropolitan Centre (which supports use in Central Sydney (but see note below).
- B4 – Mixed Use & R4 – High Density Residential

To ensure consistency and transparency across metropolitan Sydney, we would also recommend that the B2 Local Centre Zone be also included as a mandatory permissible use, given that this zone is often applied to major urban centres where residential development is already supported.

#### **Recommendation No.4**

- **Support for BTR being a mandatory permissible use in the B3, B4, B8 and R4 zones as recommended.**
- **Include BTR as a mandatory permissible use in the B2 Local Centre Zone and other zones where residential flat buildings are permissible.**

#### 4.3.1. Supporting Build to Rent in Central Sydney

The Explanation of Intended Effect includes the specific reference to including BTR housing as a mandatory permissible use in the B8 Zone which we strongly support. Oxford considers Central Sydney as an important location to provide the BTR product and is already heavily invested in the Pitt Street Metro Over Station Development project which is a BTR proposal.

It is important to recognise that while the use may be included in the B8 zone, ultimately land use outcomes are heavily influenced by the floor space controls applied under the SLEP2012. The maximum floor space available for projects in Central Sydney rely upon a combination of base FSR (typically 8:1), together with 'accommodation floor space' (typically in the range of 4.5-6:1), plus 10% for design excellence.

The City of Sydney has a prepared a Planning Proposal that is well progressed beyond exhibition that seeks to remove eligibility for accommodation floor space for residential uses. As the BTR use is likely to "nest" under residential accommodation in the standard instrument, in the absence of a deliberate action, BTR will not be capable of achieving a FSR exceeding 8:1+10% for design excellence.

Part of the strategic objective of the City's strategy is to facilitate employment floor space capacity for the future and avoid further erosion of such capacity via strata residential or 'build to sell' (BTS) residential. The opportunity with BTR is to retain long term institutional ownership of the asset and avoid the further strata subdivision of Central Sydney. Therefore, explicitly supporting BTR housing in the B8 Metropolitan Zone and ensuring that the floor space controls differentiate BTR from BTS is crucial to this success. Such an approach does not derogate from Council's strategy, noting that not every site in Central Sydney is suitable for commercial development.

#### **Recommendation No.5**

- **Support for BTR to be included as a mandatory permissible use in the B8 Zone, however, this will have little effect unless BTR is differentiated from BTS in the floor space controls of the SLEP2012.**
- **Specific provisions need to be included in Part 6 of the SLEP 2012 to ensure that BTR housing is eligible for a class of accommodation floor space under Clause 6.4.**

## 4.4. STATUTORY PLANNING PATHWAYS

We support the proposed approach that BTR housing development with a capital investment value of \$100million or more is assessed as State Significant Development (SSD).

Ensuring consistency of approach in the application of controls and the interplay with considerations such as SEPP-65 and the ADG (see section 5 below) will be crucial to facilitating BTR projects.

It is noted that this category of SSD development will exclude the City of Sydney. While we support the City of Sydney as the most resourced and capable assessment authority for major developments within Central Sydney, such support is contingent on ensuring that the legislation absolutely clarifies the floor space eligibility for BTR in the SLEP2012 as recommended above.

### Recommendation No.6

- Support the use of the SSD pathway for projects with a CIV of \$100million or greater.
- Support for the City of Sydney/CSPC as the consent authority in the City of Sydney, provided that the planning controls under the SLEP 2012 support the facilitation of BTR housing as intended.

## 5. “DESIGN GUIDANCE”

### 5.1. FLEXIBILITY WHILE MAINTAINING DESIGN QUALITY

The Explanation of Intended Effect provides limited guidance at this point in relation to how the provisions of SEPP-65 and its companion the Apartment Design Guide (ADG) will be applied to BTR Housing.

The EoIE states the following:

“Generally, consent authorities, when assessing development applications for BTR housing projects. Should be guided by the design quality principles in *State Environmental Planning Policy No.65 – (Design Quality of Residential Apartment Development)* (SEPP 65). The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology.” (our emphasis)

As a matter of principle, Oxford supports the intent that BTR should be guided by the design quality principles of SEPP-65. Maintaining high standards of design and occupant amenity is critical for all residential typologies. As a long-term investor in residential development, quality of built form and internal amenity for tenants is critical to commercial success. In essence, a BTR investor is motivated to deliver quality outcomes and this is an intrinsic component of the Oxford model.

Where it becomes problematic is that design quality principles are translated into a comprehensive set of design guidelines (being the ADG), which in turn is applied in practice as a “mandatory code”. Such an approach stifles innovation, flexibility, and diversity, all of which of key elements of quality BTR development.

Therefore, as part of the stated objective to incentivise and support the delivery of BTR housing, it is essential to establish a ‘companion guide’ to the ADG that provides additional clarity for the BTR housing product.

Importantly, it is necessary to have a mindset of flexibility in the application of guidelines and that BTR is not a “one size fits all product”. Understanding the local demographics and identifying target resident profiles is key to a successful BTR development. The ideal apartment mix and configuration will respond to the local market and appeal to a broad customer profile. The type of resident amenity will also vary for each development and is dependent upon the demographic of the end user including age, culture and socio-economic factors. For this reason, flexibility in the application of controls by location and targeted cohort is crucial.

We have set out below a range of matters that should be considered as part of developing this guidance. Importantly, the overarching intent is not to diminish quality or amenity but to provide flexibility that is warranted for the delivery of efficient and practical BTR housing.

## **5.2. BTR SHOULD BE ABLE TO PROVIDE MORE OPTIONS WITH APARTMENT DESIGN**

BTR can provide an authentic choice in the home that a tenant wants and respond to changes in the requirements of the tenant and society:

- In the private rental market, the choice is often made on what can be found in a tight restricted field, with all the attendant compromises and does not necessarily provide what the tenant wants.
- In the BTR market the tenant is given more choice, starting with price and number of bedrooms but could be extended to include say the size of apartment or access and extent of private amenity space.

This reflects how some may use their home either as:

- simply a place to sleep,
- others within a similar space would be living and working on a full-time basis,
- or some may choose a smaller one-bedroom home with a large private amenity space
- others may want a one-bedroom with study area but with no wish for an amenity space that may stay unused for the entire tenancy.

With the freedom of choice within a building, each tenant can tailor to their requirements and avoid renting space that they have little or no use for. With this in mind, we have outlined below some options for consideration as part of developing new guidance.

### **5.2.1. Apartment Sizes**

#### **Key Proposition: Variation in apartment sizes – but no change in total apartment area for each bedroom category**

##### **Overview of Approach**

- Within each apartment bedroom category, the total internal area would be at a minimum as set out in the ADG.
- However, within each category there would be the potential for varied sizes, with a baseline minimum area set for each category.

##### **Working Example**

- Three 1-bedroom apartments would in total provide at least 150sqm to meet the ADG criteria of 50sqm each (Objective 4D-1), but could vary by 5-10% below the ADG minimum as a well-planned one-bedroom apartment, complemented by larger 1-bedroom with study area (5-10% above standard) for working at home.

##### **Complementary Controls**

- Minimum sizes would be set for each apartment type being 5-10sqm less than the current ADG minimum standards.
- ADG spatial criteria (Objective 4D-3) such as room widths and the like would be required to be met addressed irrespective of these apartment area reductions. This could be enabled through increased levels of built-in joinery to optimise space utilisation and storage.

##### **Outcome**

- Provides choice for the tenant based on affordability and spatial requirements.
- Provides a greater diversity of product.
- Avoids any perception or risk in terms of diminished quality by allowing some apartments to be sized below the current ADG controls.

### 5.2.2. Apartment Balconies

Objective 4E-1 of the ADG provides design guidance that *“Increased communal open space should be provided where the number or size of balconies are reduced”*.

Notwithstanding this guidance, in practice, consent authorities strictly impose the design criteria of Objective 4E-1 which requires all apartments to have primary balconies with minimum dimensions.

Oxford supports the intent of the ADG, but which is not reflected in practice. BTR housing has greater potential to deliver alternative but improved external amenity via communal spaces, but without this being specifically called out, it will inevitably lead to planning risk. As such it is essential that the future companion guide to the ADG for BTR housing be more specific regarding what outcomes are acceptable.

#### **Key Proposition: Variation to private external amenity space provision**

##### **Overview of Approach**

- Many tenants do not make use of the external space but are paying for its provision or find the space too small or restrictive.
- Removal of maximum and minimum controls to each apartment.
- Any change to remove the provision of private amenity space to a number of apartments would need to demonstrate an appropriate increase in the provision of shared private amenity space.

##### **Working Example**

- The total external private amenity space for each bedroom category under Objective 4E-1 would be met but would be arranged through the units in varying sizes from zero.
- This aligns the space with the tenant requirements and provides choice within each bedroom category.

##### **Complementary Controls**

- There would be no minimum requirement per apartment.
- The total quantum of external amenity area would be required to be met through a combination of private apartment external open and communal open space.

##### **Outcome**

- Provides choice for the tenant based on affordability and spatial requirements.
- Provides a greater diversity of product.
- Avoids any perception or risk in terms of diminished quality by allowing some apartments to be sized below the current ADG controls, but supplemented by increased communal space.

### 5.2.3. Facilitating Communal Space/Common Areas

BTR buildings place a greater emphasis upon community and resident amenities and front and back of house facilities than a Build to Sell (BTS) development might provide. Under a single ownership model, this is part of curating a community and is an important differentiation in housing typologies. This can also improve social equity outcomes (i.e. a person renting a small 1 bedroom apartment on the first floor has the same right of access to a nice rooftop terrace as the person renting a top floor penthouse etc).

#### **Key Proposition: Support BTR by providing incentive floor space for common spaces**

##### **Overview of Approach**

- To support BTR and balance out competitive advantages of BTS, provide additional incentive floor space where associated with the provision of common amenities that otherwise absorb available GFA.

##### **Working Example**

- The total areas of common areas such as gyms, lounge areas, enclosed amenity areas and the like would be taken as incentive floor areas and excluded from the base calculation of GFA under the relevant FSR control.

### **Complementary Controls**

- The floor space incentive would exclude common circulation areas and may include a maximum percentage of the total floor of the building.
- Possible associated design standards to ensure quality of common spaces provided.

### **Outcome**

- Removes a competitive disadvantage for BTR compared to BTS by excluding common amenity areas.
- Pro-actively encourages the delivery of quality of communal spaces within a BTR building.

## **5.2.4. Common Circulation Areas**

Under the ADG, Objective 4F-1 seeks to ensure that common circulation spaces achieve good amenity and properly service the number of apartments. This is sought to be achieved through design criteria that requires a maximum of 8 apartments off a circulation core on a single level.

As outlined above, a BTR housing development seeks to curate a stronger community environment within the building, by fostering incidental and managed engagement among residents. Therefore, restrictions associated with the number of apartments serviced by a circulation core is of less importance in this environment.

Therefore, this is an opportunity to vary this provision without compromising amenity.

## **5.2.5. Adaptable Housing Provision**

The ADG requires universal design features to be included in at least 20% of apartments to promote flexible housing for all community members. It is also a requirement that a certain % of apartments are designed as adaptable to accommodate the occupant's needs.

Unlike BTS, BTR offers greater flexibility to ensure that the right proportion of adaptable apartments are provided to meet resident needs, given that the turnover of apartments is far greater than in a normal strata apartment building. The BTR residential project can offer the flexibility and has the capability to select an appropriate apartment within the building, should an adaptable apartment be required. This is unlike a BTS development where a buyer would have to wait for a nominated adaptable apartment to become available on the market. Therefore, it is reasonable and appropriate to apply a different approach to BTR than BTS, with less apartments designed to be adaptable at the development stage, with the knowledge that there is far greater flexibility in the on-going management of BTR to ensure resident needs can be appropriately met.

## **5.2.6. Bicycle Parking**

As a managed facility over the long term, BTR owners are motivated to ensure that the right level of facilities are provided within building to meet the needs of their residents. Failure to do so will mean that tenants will ultimately look elsewhere to other options.

With this in mind, BTR owners desire flexibility to adapt over time to respond to need rather than initial 'over provision' and subsequent underutilisation. The high rates of bicycle provision at the commencement of development often enforced by consent authorities and which lies underutilised is a case in point. BTR has the flexibility to manage demands over time and adapt spaces, something that can be prohibitive in a strata development where all spaces are demarcated and allocated. For example, over time some car parking spaces could be converted to bicycle storage when transport modal shifts and demand warrants this.

It is therefore recommended that greater flexibility in provision of bicycle storage be provided to BTR developments to recognise the ability to adapt over time as needs change.

## **5.2.7. Differentiating Solar Access Standards Between 'Urban and Suburban'**

A key target market for BTR is urban centres including Central Sydney and other major centres in metropolitan Sydney.

Achieving solar access standards of the ADG remains one of the greatest challenges of investing and developing in these major centres where solar access is challenged by the impact of taller buildings

surrounding. While the ADG differentiates solar access expectations between metropolitan and regional, it does not differentiate between 'urban' and 'suburban'.

BTR provides the opportunity to make this differentiation without compromising overall occupant amenity by virtue of the opportunity to provide enhanced communal amenity areas. Greater clarity is required in the companion guide to the ADG to make this distinction and offer flexibility in the solar access criteria where this can be compensated by communal outdoor and indoor spaces.

#### **Recommendation No.7 – Design Guidance for BTR**

- To incentivise and support the delivery of BTR housing, it is essential to establish a 'companion guide' to the ADG that provides additional clarity for the BTR housing product.
- The preparation of design guidance for BTR housing needs to adopt a mindset of flexibility without compromising design quality principles.
- Specific design guidance for BTR should include:
  - Apartment sizes
  - The provision of balconies
  - The number of apartments served from a single circulation core
  - Adaptable housing provision
  - Solar access standards to consider the collective provision between private apartments and communal areas

#### **Recommendation No.8 – Floor Space Incentives for Common Facilities**

- To support and facilitate BTR, provide additional incentive floor space where associated with the provision of common amenities that otherwise absorb available GFA.