

## **Submission: Housing Diversity SEEP**

3 August 2020

[REDACTED]

[REDACTED]

The purpose of this submission is to link the next release of the Housing Diversity SEEP with affordable housing close to major hospitals. The discussion paper includes a statement that affordable housing should be close to services and jobs.

Patients with chronic medical illnesses are frequently socially disadvantaged and this results in them living in places that are more affordable, frequently this is at a significant distance to health services. This does not just impact on some patient's access to service that some need to access frequently but it also significantly increases the cost to health services and community due to increased need for travel time.

Hospital in the home has been growing in Australia as demand for healthcare increase with aging and increased population with disability and chronic illness. A significant impact on the efficiency of these services is the travel time for staff to travel to patients or the resources required to transport the patients. Supported accommodation and group homes are appropriate for the care required by some people, although housing demand linked to major health service hubs are not limited to this need.

Major hospitals are not just a hub for services provided to the community but are also large employers including a significant education role. For this submission this could be considered as a size of over 100 overnight beds, it does not include hospitals like private day surgery that do not have a significant role in services to older and patients with chronic illness.

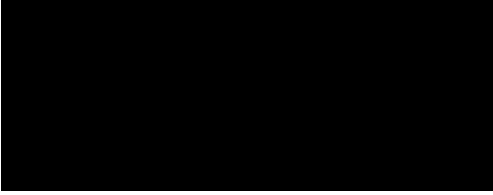
Your discussion paper considers the future of technology impacts like driverless cars. While remote electronic monitoring is of assistance in management of patient care the core care and support for patients with chronic illness and disability will continue to largely depend on care by health staff.

Major hospitals are normally transport hubs. Some are fortunate to be close to a railway station but many depend on buses or other transport. The current SEEP for boarding house development has an 800m limit for railway stations and many of these railway stations are a focus for commercial retail and not large hospitals. There are significant residential areas within 800m walking of large hospitals that do not meet the 400m bus stop walking requirement for boarding house style developments with the current SEEP. Many of these hospitals are on blocks of land that are at least hundreds of meters across and deep so that most of the 400m walking distance from the bus and taxi area that services the hospital is not available for higher density development under the current 400m walking SEEP requirement to a bus stop. These developments can be appropriate for health care students, health staff as well as patients.

Major hospitals are rarely moved due to large building costs and the links that are developed with the infrastructure and other clinical practices in the immediate vicinity create a stability in the planning role of these areas.

The issue that I would like to see the next SEEP plan is to explicitly address a policy position to expand affordable housing using a range of housing models in the immediate vicinity of major hospitals. These issues will apply in both metropolitan as well as regional and rural areas. One simple change would be to extend the 800m walking distance currently applying to railway stations to also apply to the closest boundary of a major hospital as defined above.

I am a Medical Administrator and in a past role I established the Hospital in the Home service at a large Sydney health service.





Our reference: InfoStore  
Contact: Natalie Stanowski  
Telephone: 4732 7403

1 October 2020

Department of Planning, Industry & Environment

[Sent by- Online submission]

**Final Submission- Exhibition of Explanation of Intended Effect of proposed Housing Diversity State Environmental Planning Policy**

I refer to my letter of 5 August 2020 regarding Penrith Council's draft submission prepared in response to the exhibition of explanation of intended effect for the proposed housing diversity state environmental planning policy (SEPP). Please find attached a final submission endorsed by Council at its Ordinary Meeting of 28 September 2020 for your consideration.

In recent times, Penrith has experienced a large number of development applications (DAs) and Complying Development Certificates (CDC's) resulting from the ARHSEPP, particularly Boarding Houses and some Group Homes. Council has received over 80 development applications for Boarding Houses and Group Homes over the past 10 years. The overwhelming majority of our boarding house development applications are located in the R3 and R2 zones within the suburb of Kingswood.

We have received extensive objections from our community to boarding house proposals based on impacts to neighbourhood amenity and local character. Council has strongly advocated for changes to be made to the ARHSEPP to ensure better planning outcomes than are currently occurring from these developments.

It is also noted that in 2019 Council was invited to participate in the Council Boarding House Working Group with DPIE to discuss the above concerns and we understand the feedback from the Working Group has been used to inform the SEPP amendment.

Our previous representations have raised the following issues with respect to boarding houses and group homes:

- Unsuitability of boarding houses in low density zones.
- Clustering of boarding houses and group homes in inappropriate locations.
- Affordability of boarding housing is not guaranteed.
- Limited social impact assessment of boarding house developments.
- Inadequate parking requirements for boarding house developments.
- No ongoing monitoring of impacts.

Whilst it is acknowledged that the EIE does to some level address some of the representations made, it is our view that it does not go far enough to ensure suitable planning outcomes for our community.



Specifically, we want to highlight our concern regarding the lack of proposed controls relating to the clustering of boarding houses. We recommend that the Department provide further consideration of this issue, particularly for boarding houses within R3 Zones. Further provisions ensuring the suitability of development with respect to density and locational requirements should be addressed, to ensure the intended future character of developments is consistent with Councils local plan making. Consideration of ensuring boarding houses are affordable in perpetuity would also be supported.

It is further noted that the EIE did not contain detailed provisions and controls and we seek further consultation once a draft final SEPP has been prepared, to understand the detailed considerations and implications of the SEPP.

Please find attached our submission to the EIE.

We appreciate the opportunity to provide feedback in relation to this matter. If you have any further questions on Council's submission, please contact Natalie Stanowski, Principal Planner on 47327403 or [natalie.stanowski@penrith.city](mailto:natalie.stanowski@penrith.city)

Yours sincerely

Natasha Borgia  
**City Planning Manager**

Proposed Change- Boarding Houses & Co Living	Councils Comments
'Boarding Houses' now must be managed by a Community Housing Provider (CHP)	<ul style="list-style-type: none"> <li>Support Boarding Houses being managed by a community housing provider.</li> <li>We recommend specific controls to ensure the ongoing management of these developments by CHP's.</li> <li>We would further support this by requiring boarding houses to remain affordable in perpetuity.</li> <li>The SEPP should request applicants to nominate a CHP and provide details of the registered CHP at the time of lodging a DA.</li> </ul>
Boarding Houses will not be mandated in R2 Zones	<ul style="list-style-type: none"> <li>Support Boarding Houses will no longer be able to be approved in the R2 zone.</li> <li>The proposed controls still do not adequately address the potential for the clustering of boarding houses particularly in R3 zones, where the density and impacts of boarding houses are not compatible with the existing or intended future character of this zone.</li> <li>We advocate for strengthened locational requirements to avoid any potential clustering.</li> <li>We seek the ability to provide appropriate density and design controls for compatibility with local character.</li> <li>We propose a dwelling limit is also applied to development in R3 zones where RFBs are not permitted.</li> </ul>
Land and Housing Corporation (LAHC) permitted to construct boarding houses in R2 zone on government owned land	<ul style="list-style-type: none"> <li>We note the room limit within R2 zones and recommend a similar room limit is provided for R3 Zones where RFBs are not permitted.</li> <li>We advocate for controls to ensure that the that clustering of boarding houses would occur through development by LAHC. We advocate for strengthened locational requirements to avoid potential clustering.</li> <li>The draft SEPP definition requires boarding houses to be delivered by CHP. It will need to be clarified if LAHC are considered a CHP.</li> </ul>
Bonus 20% FSR if in a zone where RFBs are permitted	<ul style="list-style-type: none"> <li>We support a small floor space bonus where this delivers affordable housing, in appropriate locations and has limited impacts on amenity outcomes.</li> </ul>
Boarding houses must be rented at affordable rates for a minimum of 10 years	<ul style="list-style-type: none"> <li>We do not support this provision and request that boarding houses under this provision should remain affordable in perpetuity.</li> </ul>
Privately owned boarding houses are now separately defined as 'Co-living' developments	<ul style="list-style-type: none"> <li>We support this as it provides clarification between 'affordable' boarding houses and those for private market rent.</li> </ul>
Co-living only mandatory where RFB's are permitted	<ul style="list-style-type: none"> <li>This is supported. RFBs are permitted in R1, R4 and B4 zones in Penrith LGA.</li> </ul>

Co-Living needs to comply with Council LEP for height and FSR	<ul style="list-style-type: none"> <li>This is supported.</li> </ul>
Co living Parking is 0.5 spaces per room	<ul style="list-style-type: none"> <li>We do not support the parking rate for boarding houses and Co-Living. Council has previously objected to this provision.</li> </ul>
Design guidelines may be developed for Co living'	<ul style="list-style-type: none"> <li>Councils should be able to set their own design criteria depending on the character of the locality. Further controls should be introduced into the SEPP to accommodate this.</li> </ul>
<b>Other Proposed Changes</b>	
<b>Build to Rent</b>	<p style="text-align: center;"><b>Council Comments</b></p> <ul style="list-style-type: none"> <li>Build to Rent (BTR) is currently being delivered in Penrith LGA under the RFB land use definition. It is not necessary to have a separate definition, as the land use is already adequately defined. The proposed definition incorporates the investment model of the building rather than a land use.</li> <li>We do not support permissibility of BTR in the B3 zone. It is not consistent with zone objectives or strategic vision.</li> <li>We do not support planning incentives for BTR that may have potential impacts on the delivery of privately owned apartments.</li> <li>There is no control over the affordability of developments- at market rate. Planning incentives should not be provided where affordability is not secured.</li> <li>Proposed parking rates are too low and should be the same as required under SEPP 65.</li> <li>Concern with the limited applicability of SEPP 65 and the potential for less amenity for occupants compared with privately owned apartments. SEPP 65 should be applicable in full to BTR developments.</li> <li>Concern that the social outcomes of less amenity may not be consistent with an integrated and connected community.</li> </ul>
<b>Student Housing</b>	<ul style="list-style-type: none"> <li>The SEPP does not address the need to regulate occupants (i.e. students vs non-students) and the compliance impost associated with this.</li> <li>Draft controls are not compatible with the current suburban nature of our university campuses and surrounding areas. Councils should have greater flexibility in determining suitable controls that match the future built form character and amenity needed.</li> </ul>
<b>Group Homes</b>	<ul style="list-style-type: none"> <li>While the amendment is generally supported, there are existing provisions of the SEPP that we seek amendments to, including: <ul style="list-style-type: none"> <li>Council only support group homes to be constructed for and operated by CHP, LAHC or disability care services through the NDIS.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• We oppose CDC's for group homes being issued to private developers, however support CDC's for those associated with LAHC, a CHP or disability care services provider through the NDIS as these have a stringent accreditation process (other than an R2 zone).</li> <li>• CDC's should not be able to be issued for group homes in R2 zones- a detailed assessment is more appropriate in low density locations.</li> <li>• Controls need to be provided for the operation and ongoing management of group homes. The definition of group home lends itself to the need for increased requirements for ongoing management.</li> <li>• Seek tighter conditions of consent for how the group home will be compliant with the management and operation requirements.</li> <li>• Group homes are not supported in rural areas, unless delivered by CHP's including those who deliver disability care. We support the SEPP relying on Council's LEP and DCP standard for group homes in rural areas.</li> </ul>
<b>Part 3 ARHSEPP</b>	<ul style="list-style-type: none"> <li>• While unlikely to impact Penrith LGA in the short term, we support the clarification for establishing if existing affordable housing is being lost and the ability to offset this.</li> </ul>
<b>Secondary Dwellings (rural zones)</b>	<ul style="list-style-type: none"> <li>• This is supported.</li> </ul>
<b>Seniors Housing</b>	<ul style="list-style-type: none"> <li>• We strongly support changes that restrict the use of taxis etc to meet accessibility requirements.</li> <li>• While we acknowledge the changes to the Site Compatibility Certificates, we do not believe SCC's are required or add value to the planning process. Local Planning Panels review the development applications, SCC's are unnecessary. Permissibility in zones should be relied upon.</li> <li>• Support the requirement of a club needing to be registered for a SCC to be issued. Further clarity is required as to the financial viability of clubs after the development is constructed and occupied.</li> <li>• Support the SEPP relying on Council LEP development standards.</li> </ul>
<b>Social Housing (ARHSEPP)</b>	<ul style="list-style-type: none"> <li>• Proposal to increase the numbers of dwellings able to be self-assessed by LAHC from 20 to 60 is not supported. There are conflicts of independence between preparing development plans and self-assessment of them. Further provisions that provide for an independent assessment of such substantial applications and the adequate consideration of Councils feedback in relation to applications should be included.</li> </ul>
<b>Social Housing (Seniors)</b>	<ul style="list-style-type: none"> <li>• Support the increase in threshold for a development to be considered state significant development.</li> <li>• We do not support different standards between private developments and developments on LAHC land including: <ul style="list-style-type: none"> <li>• lowering of parking rates for private dwellings.</li> <li>• Any lift exemptions that result in inadequate accessibility to all housing in the community.</li> </ul> </li> </ul>



## Recent changes to Senior SEPP in relation to the Metropolitan Rural Area

An amendment to the Seniors SEPP came into force on Wednesday 29 July 2020, with the purpose of excluding land in the Metropolitan Rural Area (MRA) from the application of the SEPP. This impacts rural land within Penrith Local Government Area (LGA) as well as Blue Mountains, Wollondilly, Liverpool, Fairfield, Hawkesbury, Blacktown, The Hills Shire, Hornsby and Northern Beaches LGA's. Penrith City Council was not consulted regarding the amendment.

We seek to raise our disappointment with DPIE that such a significant SEPP amendment was made without consulting Council.

We note that Seniors Housing remains a permissible land use in Penrith Local Environmental Plan 2010 (Penrith LEP 2010) including the RU5 Rural Village. Council will seek to undertake further work to consider the local context of Penrith's rural areas in respect to seniors housing. Where appropriate, we may seek to introduce suitable amendments to the Penrith LEP 2010 and Penrith Development Control Plan 2014 should Council wish to offer incentives for seniors housing in these areas.

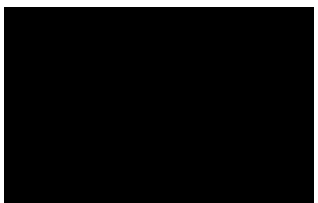
## Savings and Transitional Provisions

A number of the proposed amendments may require Council to undertake reviews of our LEP and other planning documents to accommodate new definitions and changes resulting from SEPP. In particular, we will seek to undertake the following:

- Some of the proposed new land uses may be included under the group term definition 'Residential Accommodation'. Many of these land uses may not be suitable in zones where this group term is used in Penrith, such as R4 and B4 zones. This will require an LEP review to ensure appropriate land use outcomes.
- Enable the development of student accommodation in appropriate locations.
- Any new land uses may need to be incorporated into development contributions plans to ensure developments are appropriately levied for future population growth.
- An LEP review may be required to determine if the maximum size of secondary dwellings in rural areas needs to be amended.

We will seek to obtain savings and transition provisions in order to be able to prepare amended planning documents in response to these changes.






11 September 2020

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

Dear Mr Betts

RE: Explanation of Intended Effect for a new Housing Diversity SEPP

 have been actively participating in the market for the last 18 months securing a pipeline of sites which will yield approximately 2,000 residential and commercial residential dwellings primarily in the Co-living space as defined in your Intended Effect for New Housing Diversity SEPP.

We are seeking to enhance the diversity of housing by offering facilities with heightened amenity such as in-house theatres, bars gyms as well as co-working facilities. These facilities, not only respond to the current environment whereby the function of the home is increasing (namely a place of work and play as well a place to rest) but also delivers a housing solution which encourages environmentally considerate behaviour and reduces commuting in our city.

Effectively, our business model deconstructs the home by aggregating ancillary uses in a micro share economy within on location. This also encourages the formation of a strong community within that facility and beyond. The overarching effect is to open our inner urban areas to communities of people which would otherwise not be able to afford to live in such locations. We therefore encourage the normalisation of definitions and planning framework for the evolving residential sector.

However, the proposed Housing Diversity SEPP will make co-living redundant before it is able to mature and offer a fantastic and much needed housing solution in an increasingly fluid and non-affordable marketplace.

To this end we offer up the following comments regarding the proposed Definition, Planning Provisions,

The EIE has proposed the following definition for co-living that will be included into the Standard Instrument LEP Order:

“A building held in single ownership that:

- (a) provides tenants with a principal place of residence for 3 months or more;

Co-living is about flexibility whilst the majority of customers would look to longer term tenure security of tenure (which is offered) averaging 6-18 months a certain cohort would look to use our facilities for shorter periods and with flexibility of location if they had a contract based role. We see 10-30% of customers depending on the location looking to stay shorter than 3 months.

(b) includes on-site management;

Agree

(c) includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and

Agree

(d) has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults”.

Agree although there are examples of co-living facilities in the US which are aimed at families and have childcare facilities on premises. I think if we were looking to encourage diversity there is no need to constrain the rooms to two people.

The EIE indicates a standard room in a co-living development will be approximately 30 to 35sqm. This is higher than the 12-25sqm room size for a boarding house. Whilst we currently underwrite sites for dwellings to equate to approximately 30sqm of GFA per room this includes circulation and communal facilities.

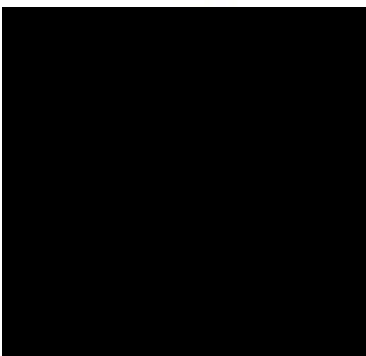
Restricting the dwelling sizes to 30sqm per room will not only restrict our ability to deliver a diversity of stock at a diverse spread of price points it will ultimately make this use uncompetitive with traditional residential and other commercial uses as it dilutes the density of income and thus delivers a yield which is not highest and best use for the site. If we cannot deliver the site then the market does not get a diversity of product and a flexible and affordable housing choice for this cohort of the market.

Furthermore given that co-living is delivering this diverse stock it requires the FSR uplift against or it will not be competitive with traditional residential and other commercial uses as it reduces the ability to derive income and thus delivers a yield which is not highest and best use for the site.

Co-living should also receive the benefit of the land tax concessions as proposed for BTR.

We therefore encourage the normalisation of definitions and planning framework for the evolving residential sector however as they are proposed there will be no co-living sector.

Yours sincerely,



Submitted on Wed, 09/09/2020 - 21:07

Submitted by: Anonymous

Submitted values are:

Submission Type: I am submitting on behalf of my organisation

First Name: [REDACTED]

Last Name: [REDACTED]

Name Withheld: Yes

Email: [REDACTED]

Suburb/Town & Postcode: BONDI BEACH

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

Submission: We have concerns with the the removal of the private sector in the supply of boarding house accommodation as this will reduce the amount of affordable housing available on the market. The proposed changes is are likely to lead to less certainty and economic investment if all boarding houses are required to be managed by a community housing provider. In response to concerns about built form impacts, boarding house development should be subject to local planning controls to ensure it meets community expectations and the desired character of an area. It makes sense to have separate controls with additional incentives for the provision of boarding houses with affordable rental levels managed by community housing providers. The removal of boarding houses from the low density residential zone and restricting the provision of boarding houses to Community Housing Providers only will result reduction in the provision of affordable housing. Furthermore, there has been no independent analysis of boarding house rents to substantiate that overall boarding house rents are not affordable compared to other types of available self-contained rental accommodation. Also, there are no design guidelines and inadequate analysis to ascertain the impact on proposed changes to boarding houses. The new provisions should only apply to new low rental buildings approved after the commencement of the new policy to avoid a retrospective change in relation to existing buildings built after that date. As the proposed SEPP would lead to less certainty for stakeholders and undermine economic investment in boarding houses any changes to the boarding house provisions should be deferred until these issues exhibited for public comment and resolved. Finally it is imperative that a savings provision is included in the new SEPP to ensure that development already lodged under the current planning rules are not subject to the new provisions in order to provide certainty and allow projects that support employment and economic development currently under consideration to proceed and avoid risk of legal challenge to the government. Given the importance associated with providing affordable housing in NSW the new policy should be made available for full public consultation.

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

9 September 2020

NSW Department of Planning, Industry and Environment

*Via online submission portal*

### **PIA Submission to the Housing Diversity SEPP Explanation of Intended Effects**

PIA appreciates the opportunity to respond to the Explanation of Intended Effects (EIE) of a proposed Housing Diversity State Environmental Planning Policy (SEPP).

PIA strongly supports the intent of the proposed SEPP to improve the prospect of affordable housing becoming more widely available. In recognition of this aim, PIA recommends that the Draft SEPP be renamed 'Diverse and Affordable Housing SEPP'.

While PIA supports the intent of the SEPP as set out in the EIE, our comments would need to be revisited once a draft of the SEPP is available for detailed scrutiny. However, PIA holds several important concerns about the SEPP as expressed in the EIE. These concerns are outlined below and supplemented by detailed comments provided in **Attachment A**.

- **Diverse housing** is not always **affordable housing** and the EIS appears to intertwine these two separates but equally important issues. To ensure both issues are considered the SEPP should be called the Diverse and Affordable Housing SEPP.
- **Build to rent** is a form of housing and is not supported or consistent with the intent of the B3 (Commercial Core) zone. The purpose of the B3 zone is to maintain economic conditions conducive to the aggregation of high intensity employment and other commercial uses. For this reason, housing is explicitly excluded. In spatial strategies across NSW the extent of areas with this zone is very limited.
- **Conversion to strata** for affordable housing development that has received a planning concession under the proposed SEPP is not supported and should remain affordable housing in perpetuity.
- **Parking provision rates** require further investigation the rates proposed may be too generic to achieve the strategic intent of each of the new housing types.

PIA also observes that the SEPP needs to be more clearly communicated and integrated amongst the suite of housing policies in NSW. The proposed SEPP would simply be a delivery element giving effect to aspects of the NSW Housing Strategy and the hierarchy of spatial strategic planning policies including Regional Plans and District Plans.

While PIA supports the rationalisation of the three SEPPs relating to affordable and diverse housing, there is further opportunity for consolidating housing matters as the [NSW Housing Strategy](#) is finalised and the proposed Place and Design SEPP is progressed.

PIA would be pleased to contribute to future iterations of the draft SEPP. If would like to discuss our submission further, please contact Audrey Marsh, PIA NSW Policy Officer by phone on 0431 019 989 or by email at [audrey.marsh@planning.org.au](mailto:audrey.marsh@planning.org.au).

Yours sincerely



Di Griffiths  
**PIA NSW Policy Committee Chair**  
**PIA NSW Vice President**

## 1. Integration with Regional and District Plans

Guided by a future NSW Housing Strategy, Regional and District Plans should set out the spatial strategic planning intent and scale for future the location, type and diversity of housing across NSW. This strategic intent for housing should be integrated with other land uses, infrastructure and services planning and complement existing and future employment strategies. Similarly, Local Strategic Planning Statements should complement this state-wide vision by establishing the location, type and diversity of housing for local council areas.

The proposed Housing Diversity SEPP, definitions and supporting codes represent shared delivery mechanisms to achieve the right housing outcomes in the right place, guided by these spatial strategic planning processes.

It would be appropriate for the EIE and future supporting documentation to explain the hierarchy of state and local strategic plans and the role of SEPPs, Codes, LEPs and DCPs in achieving their intent, rather than presenting the SEPP in the abstract and outside these strategies. .

There is the opportunity for SEPP provisions to be more fully incorporated in LEPs over time. A clearly framed spatial hierarchy of plans would assist in the alignment of planning strategy and a build consistent basis for LEPs to deliver on state and local policy. This approach can promote local capacity to achieve the best precinct outcomes. PIA considers the local absorption of SEPP provisions as a desirable outcome of a more principles-based SEPP.

### RECOMMENDATION:

Communicate the role of the proposed SEPP in the context of other spatial and housing policy.

## 2. Affordable Housing v Diverse Housing

PIA's consultation with practitioners has highlighted deficiencies in existing affordable rental housing regulation, notably that existing instruments are not resulting in a long term, steady increased provision of affordable rental housing. AHURI research has found that the incentive-based model pursued under the ARHSEPP and VPAs produced only 0.5-1% of Sydney's housing supply as affordable rental housing between 2009 and 2017.<sup>i</sup>

PIA supports the intent of the proposed Housing Diversity SEPP to improve the prospect of affordable housing becoming more widely available. This intent should be reflected in the title of the SEPP, renamed to the Diverse and Affordable Housing SEPP.

The use of the title Housing Diversity SEPP creates an industry expectation that the SEPP will address other issues of housing diversity, including tenure, ownership, dwelling type and mix of housing size. These issues could reasonably be considered in this SEPP as an element of a fully integrated housing strategy.

### RECOMMENDATIONS:

Rename the SEPP the Diverse and Affordable Housing SEPP.

### 3. Build to Rent

PIA supports the development of build to rent housing, supported not just through planning policy but also financial and tax arrangements which facilitate delivery. 'Build to rent' housing is not automatically competitive relative to 'build to buy' housing and the financial and tax arrangements required to promote construction should be finalised to complement this SEPP. The proposed SEPP should also be supported by updated design guidance for 'build to rent' housing.

Additionally, 'build to rent' housing is not an automatically affordable housing type. While PIA supports its development, it is important that requirements regarding the length of tenancy be developed to ensure that 'build to rent' housing does not default to a form of serviced apartment.

PIA does not support the provision of 'build to rent' housing in the B3 Commercial Core zone. The B3 Commercial Core plays a unique role in the land use mix, designed for a purpose of maintaining economic conditions conducive to the aggregation of high intensity employment and other commercial uses as set out in spatial strategies. While long term tenancy 'build to rent' housing is an important component of a diverse housing market, it is not appropriate in the B3 Commercial Core and should not be mandatorily permissible in this zone.

Further, PIA does not support the strata subdivision of 'build to rent' housing in any zone, even after 15 years. Build to rent is constructed with unique design components which would not support a build to buy model of ownership. Additionally, diverse housing constructed under this SEPP should remain such in perpetuity, so as not to undermine community trust in the outcomes generated by planning systems.

#### **RECOMMENDATION:**

Remove elements of the proposed SEPP which would undermine the intent of the 'build to rent' housing model, including mandatory permissibility in the B3 Commercial Core and the ability to strata subdivide 'build to rent' housing.

Support the provision of 'build to rent' housing via specific design guidance, financial arrangements and requirements regarding length of tenancy.

### 4. Boarding Houses

PIA strongly supports changes to the definition for boarding houses to require that they be affordable rental dwellings. This has been a significant issue, particularly across metropolitan Sydney, where boarding houses were being rented at market rates as a form of student housing or studio apartment.

PIA does not support the removal of mandatory permissibility of boarding houses in the R2 Low Density Residential zone. While PIA acknowledges the concerns of some Councils regarding streetscape, local character, parking and amenity issues that can arise with boarding house developments, this issue is better dealt with via clear design guidance for proponents of boarding houses.

There remains a real need for diverse affordable housing in all zones and a sympathetically design boarding house development should not be automatically excluded from construction in the R2 zone.



However, PIA acknowledges the role of councils in curating place outcomes for residential communities and boarding houses in R2 zones must be sympathetic to local character. Local character can be defined in Local Character Statements and reflected in development controls.

Some factors that could be introduced to mitigate the possible negative built form elements of boarding houses in the R2 zone include removal of the floor space bonus in this zone, clear design guidance and the opportunity for Councils to lodge an LEP amendment to remove boarding houses as permissible in the R2 zone in their local government area.

Additionally, PIA does not support a reversion of boarding houses to market rent houses, especially given the density bonuses granted as part of a boarding house development. This suggestion should not be pursued in the finalised SEPP.

The change to the boarding house definition also included a change from "one or more persons" residing in the home to "one or two persons". PIA is concerned that this may exclude children who are staying in that environment with their parents and this definition should be changed to "one or two adults" to be consistent with the co-living definition and not exclude supported children.

**RECOMMENDATION:**

Consider alternative means to address Council concerns regarding built form impacts of boarding houses in the R2 Low Density Residential zone.

Remove the ability for boarding houses to revert to market rent at any time.

Update the definition of boarding houses to ensure supported young children are not excluded.

## 5. Student Housing

PIA supports the provision of a clear definition for student housing. It is noted that student housing is not the same as affordable housing and additional controls and/or bonuses may be required to create affordable student housing. The student housing definition should be supported by location requirements, similar to Seniors Housing Site Compatibility Certificates, acknowledging the need for this housing to be constructed close to defined tertiary educational institutions, transport infrastructure, retail and essential facilities such as medical centres. This housing typology may also be aided by the provision of design guidance to ensure the best built form and streetscape outcomes are achieved.

**RECOMMENDATION:**

Support appropriate student housing outcomes through the requirement of site compatibility certificates with respect to proximity with education institutions and access to key infrastructure and the provision of specific design guidance.

## 6. Co-living Housing

PIA is concerned that the intent of the co-living definition may be undermined by the rigid requirements of more than 10 rooms and minimum car parking requirements. This would appear to limit creativity in the design of co-living housing, which is intended to be a flexible and alternative housing type. Creativity in the co-living housing type should be encouraged by removing car parking

requirements and minimum room numbers. It is not clear whether the EIE is portraying Co-living as a means of encouraging genuine innovation or is simply a re-interpretation of a Boarding House. Co-living should not emerge as a replacement for the unaffordable 'next gen' boarding houses currently common in the market. Consideration should be given to requiring an amount of co-living housing by affordable rental housing and a review of the products generated under this definition undertaken at an appropriate period to understand what housing the market is providing.

**RECOMMENDATION:**

Remove the car parking minimum and minimum room number to encourage genuine creativity in how co-living housing is provided and designed.

Consider the application of a minimum percentage affordable rental housing in co-living housing.

## 7. Changes to Seniors Housing

PIA supports the exclusion of the application of the Seniors Living SEPP from the Metropolitan Rural Area. High intensity seniors living units are not consistent with the rural and landscape values of the designated Metropolitan Rural Area set out in the Plan for Greater Sydney. Exclusion of the operation of the relevant components of the Seniors Living SEPP from the Metropolitan Rural Areas is supported.

The local character provisions currently included in the Seniors Housing SEPP are an important tool for state and local government assessing these applications to ensure proposals are sympathetic to their surrounding context. The language used in the proposed SEPP should not undermine the application of such provisions.

**RECOMMENDATION:**

Exclude application of the Seniors Living SEPP application from the Metropolitan Rural Area as proposed in the EIE.

Ensure the important local character provisions in the existing SEPP are retained or enhanced in the proposed SEPP.

## 8. Social Housing and LAHC

PIA supports the critical role of the LAHC and strongly supports the growth of the social and community housing sector. It is acknowledged however that some Councils have raised concerns about the extent of proposed housing which can be self-assessed by the LAHC, raised from 20 units to 60 units. The built form impacts of a 60-unit development is likely to be far greater than 20 units and it is understandable that Councils may wish to have some additional oversight regarding these developments. PIA encourages DPIE to engage with local government and LAHC on this issue.

**RECOMMENDATION:**

Address concerns from local government regarding the scope of self-assessment is proposed to be granted to the LAHC.

## 9. Parking

There should be a consistent logic communicated for determining maximum and minimum car parking rates across build to rent, student housing and co-living. At present these rates do not appear to be linked to the strategic intent of each of the new housing types. Considerations should include the nature of demand, access to public transport, local connectivity and proximity of services. Car parking rates should be able to be nil if this can be justified. Additionally, there should also be greater requirements for bicycle parking across all three housing types.

### RECOMMENDATION:

A consistent basis for determining car parking rates across the diverse housing typologies is necessary, reflecting transport choices and local accessibility, and in some case be nil.

## 10. Affordable Housing Contributions

PIA strongly supports deletion of the 28 January 2000 date relating to when affordable housing previously occurred to ensure councils can continue to mitigate the loss of affordable housing by requiring monetary contributions.

PIA have already requested that cl 49(1) be removed (or the 2000 date modified), to ensure the effective application of Part 3 of the ARHSEPP which enables consent authorities to refuse developments that would have a significant and irreversible impact upon the affordable housing supply in the, and to impose a contribution to mitigate the loss of affordable housing.

### RECOMMENDATION:

Remove ARHSEPP cl 49(1) and any reference to 28 January 2000 date.

## 11. Group Homes

PIA is concerned that adequate consideration has not been given to the provision of group homes. While it is acknowledged that the SEPP proposes more streamlined conversion of dwelling houses to group homes, this does not address existing issues. Group homes have unique accessibility requirements that impact the built form and internal configuration of the development. Streamlined pathways to convert dwelling houses will likely not result in adequate consideration of these unique design issues. It is important that this housing achieves appropriate standards for the community it serves.

### RECOMMENDATION:

Consider how appropriate, accessible and high quality group homes may be provided, rather than simply streamlining dwelling house conversions.

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<sup>i</sup> Gurran, N., Rowley, S., Milligan, V., Randolph, B., Phibbs, P., Gilbert, C., James, A., Troy, L. and van den Nouwelant, R. (2018) *Inquiry into increasing affordable housing supply: Evidence-based principles and strategies for Australian policy and practice*, AHURI Final Report 300, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/300>, doi: 10.18408/ahuri-7313001.

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**PLATINO**  
PROPERTIES

Tuesday, 8 September 2020

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

**Re: Explanation of Intended Effect for a proposed new Housing Diversity State  
Environmental Planning Policy (Housing Diversity SEPP)**

Dear Mr Betts,

We thank you for the opportunity to provide the Department with our comments regarding the exhibited material, including the Explanation of Intended Effect for a proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP).

We fully support the Department's objective of providing for a greater level of housing affordability within NSW, and for a wider range of housing choice. We also agree that the creation of new categories of housing is a positive step towards providing for true diversity within the NSW housing market.

The ARHSEPP and the SEPP (Seniors) contain provisions that facilitate development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. We applaud the fact that the Department has reviewed these provisions to ensure they remain fit-for-purpose and aligned with wider Government priorities as set out in *Future Directions for Social Housing in NSW* (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy. Under Future Directions, it



the proposal that LAHC will partner with the private sector and community housing providers to deliver new housing projects will allow for legacy estates and concentrated areas of disadvantage to be redeveloped as modern and accessible developments containing a mixture of private, affordable and social housing. This approach has been found to reduce the concentration of social housing and stigma, as well as improve community benefits and tenant wellbeing. The approach articulated in Future Directions was not contemplated at the time the existing housing related State planning policies were made, and the changes proposed will support the new approach. We believe that this is a positive outcome.

However, we do hold concerns about some aspects of the proposed changes to the current planning framework that supports the provision of a diverse range of housing types. These concerns, as well as our comments, are provided below for your consideration.

#### **Need to allow for variation within co-living provisions**

Under the exhibited material, by definition a co-living development has at least 10 rooms and each room has a size of 30-35m<sup>2</sup>. This compares with the current provision (as well as proposed new provisions) for boarding houses that allow for smaller rooms.

The proposal should provide for greater size variation for co-living rooms to create diversity of co-living room types that would have potential to cater for a wider market.

#### **Provisions are too prescriptive**

The provisions contained in the exhibited material are very prescriptive and would not provide for design variation and product diversity.

#### **Incentives should be retained**

Removing the bonus FSR that currently applies to boarding houses for future co-living and student housing will remove any incentive for these dwelling types to be built – because financially it will be more attractive to develop ‘standard’ residential apartments. If this is the case, the housing diversity that the new plan is seeking to achieve will not be achieved as building affordable housing will be financially unviable.

#### **No need to restrict the size of dwellings to make them affordable**

There is not a “one-size fits all” approach to housing affordability.

There are two main aspects to the cost of providing affordable housing:

1. The cost of the land; and
2. The cost of construction.



It is an acknowledged fact that land cost is generally lower in areas that are further away from facilities and services. Hence housing built in these areas can be more affordable, regardless of the size of the dwelling.

There is therefore no need to restrict the size of dwellings to make them affordable. In areas where the land cost is lower, larger dwellings can be built and still be affordable, while in areas where the land cost is higher, the dwellings would need to be smaller to make them more affordable.

The application of a standard minimum dwelling size may hamper affordability, especially in areas where the land cost is high. It should be ensured that any minimum size applied does not unduly restrict diversity and housing choice. The same approach to minimum dwelling size should therefore be applied to all forms of “affordable housing” including boarding houses, student housing and build to rent dwellings.

With regard to dwelling size, the market should be used as the principal mechanism to dictate dwelling size.

### **Student housing**

We agree that there needs to be an over-arching State government plan for the provision of student housing that clearly sets out where this type of housing is appropriate. If this doesn’t happen, some Councils will continue to stifle the provision of new affordable housing for students, even in suitable areas where this form of housing is necessary to support a student population.

It is unclear from the material exhibited exactly how student housing will be provided for under the new SEPP. The documents state that it is not intended to be a compulsory permitted use in any land use zone. Rather, it will be left to individual Councils to determine where this form of housing should be permitted and what the specific requirements should be. This approach provides absolutely no certainty about where student housing will be allowed, and is particularly concerning given the opposition demonstrated by many Councils to applications for student housing. It also means that it is unlikely that a consistent approach to the provision of student housing across the state will be provided, and each Council may have a different approach.

To ensure that the ability to provide for student housing in appropriate locations is maintained, savings provisions should be in place such that until individual Councils have a clear policy for the provision of student housing that is endorsed by the Department of Planning as being in alignment with the State government’s strategy, the existing boarding house provisions should continue to apply in those LGAs. Once Councils have had a plan endorsed, the new provisions for student housing could be applied.



If savings provisions are not introduced, there is a high risk that investment in student housing (and affordable housing generally) will fall due to a lack of certainty about what will be permitted and where.

### **Seniors Housing**

There is a considerable lack of clarity surrounding the information in the documents exhibited regarding the proposed changes to the planning framework for the provision of Seniors housing.

The SEPP (Seniors) was introduced to provide for the delivery of a greater amount of housing for seniors and people with a disability. It provides a mechanism for seniors housing to be delivered in locations that are appropriate, but may not be provided for under a Local Environmental Plan. The new SEPP must be written in a way that provides greater certainty about where this form of housing is suitable (and is therefore permitted), rather than generating ambiguity and the ability for Councils to challenge applications and cause considerable delays and huge costs (in legal fees etc).

Of greatest concern is the intention to “*clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP*”. The very intent of a state planning instrument is that it determines an appropriate and consistent planning approach across the state. In most circumstances, the local development controls are not relevant for seniors housing developments and it is appropriate for the state policy to take precedence. It also needs to be made very clear that permissibility is determined by the SEPP and does not in any way default to an LEP.

The way in which it is intended to “update the provisions of Schedule 1” needs to be made very clear as it potentially impacts considerably upon the future development for seniors living. The future SEPP must provide a definitive set of criteria for land to be included in Schedule 1 so that Councils do not implement an inconsistent approach across the state. Schedule 1 land should not be able to be readily amended by Councils.

The new SEPP should consider how developers can integrate seniors housing developments with other forms of housing, including affordable / social housing and Key Worker housing. In addition, incentives should be provided for different housing forms to be integrated within developments. For example, an FSR bonus could be given where affordable housing is provided. Innovators in the sector are already looking at how the future integration of housing types can be delivered, and this needs to be encouraged.





**Further public exhibition is essential**

The draft SEPP should be placed on public exhibition once it has been drafted to provide the opportunity for the public and the development industry to consider the proposed instrument and to provide feedback.

While the Explanation of Intended Effect provides an indication of the Government's thinking and intention, it is very important that those who will be working with the future SEPP are given the opportunity to review a draft version. Particularly given that the introduction of new provisions could impact considerably upon the viability of the provision of affordable housing, it is essential that the Department provides further opportunity for comment and input to ensure that unintended effects are not mistakenly imposed.

We trust that our comments will be useful for the Department in its review of the issues and in the drafting of the proposed instrument. Housing affordability and diversity is a matter of critical importance for NSW and hence it is vital that the new SEPP is successful in facilitating many different forms of residential dwellings. Please contact me on 0425 285 837 if you wish to discuss any of the issues raised in this submission further.

Yours sincerely,

**George Revay**  
Managing Director  
Platino Properties



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<b>Circular Economy Villages</b>	<b>W</b> <a href="http://polisplan.com.au">polisplan.com.au</a>
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9 September 2020

NSW Department of Planning, Industry and Environment

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

## **SUBJECT: Submission to ‘Housing Diversity SEPP - Explanation of Intended Effects’**

Thank you for the opportunity to make a submission in respect of the above matter. We support the State Government’s objective to integrate the Seniors SEPP with those related to Affordable Housing and to incorporate new forms of development.

This submission provides comments on four issues. The first three, planning for life stages, retire the retirement village and terminology are somewhat inter-related and are intended to identify potential future issues in relation to characterisation of emerging development types. The fourth issue relates to your request on page 9 for “feedback on appropriate provisions for BTR housing in regional areas”.

To provide some context, we argue that the Housing Diversity SEPP is essentially a result of continued innovation in the housing sector. This innovation arises in part due to a number of **social** trends, including an ageing population and new demographic groups such as digital nomads and grey nomads generating demand for different forms of housing. The underlying **economic** tension between housing affordability and development feasibility is also driving innovation. One consequence of this economic tension over the past twenty years has been the ongoing pressure from developers to reduce their contributions to the provision of local infrastructure at a time when public expectations of infrastructure are increasing. **The onsite provision of services, shared assets and community rooms in most of the ‘diverse’ forms of housing addresses this shortfall in local community infrastructure.**

With increasing expectations for renewable energy, shared electric vehicles, Water Sensitive Urban Design, urban agriculture, better waste management and remote work hubs, further innovation is inevitable. Another broad transition in the economy is from ownership to access, where more and more goods are now offered as services and BTR is housing as a service. A parallel example is the transition in transport to Mobility as a Service (MaaS).

PolisPlan is contributing to this innovation and has designed a precinct-scale, development model for rural and regional areas that is based on the convergence of all these trends. The **Circular Economy Villages (CEV)** development model has been based on research at The University of Sydney by the author of this submission. CEV’s are proposed to be owned and managed as build-to-rent and would house a diverse demographic in terms of age, socio-economic capacity and length of stay. It will also incorporate circular economy, precinct scale infrastructure—a renewable energy micro-grid, water micro-grid and regenerative food system. More information is available at our website [beautilitydevelopments.com.au](http://beautilitydevelopments.com.au).

We are currently at the preliminary stages of developing three pilot projects, two in NSW and one in Victoria.

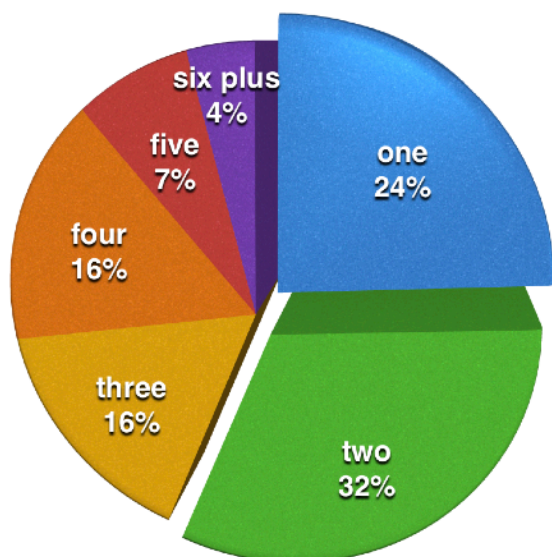
## Planning for life stages

Student housing and co-living for digital nomads reflects housing expectations at an early life stage prior to the need for a larger family home. Seniors Living similarly reflects the life stage after raising a family. Housing at these two life stages—which have lengthened relative to the family stage—illustrate why one and two person households are growing as a market segment. These smaller households require access to shared assets and spaces that encourage community connection and—for the younger cohort—flexible tenancy arrangements (ie. renting rather than ownership).

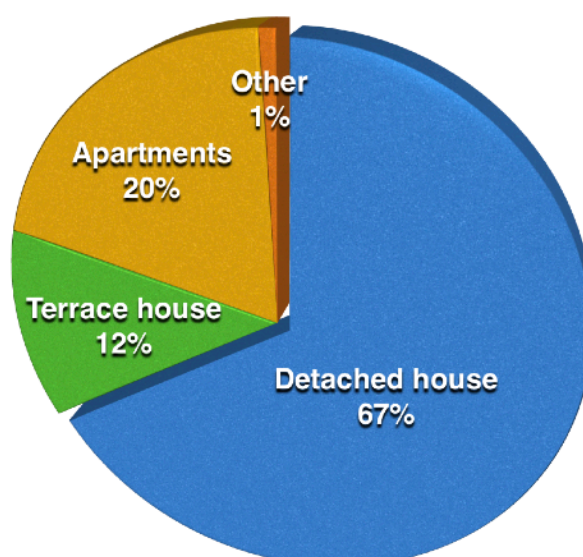
The key issue arising from our suggestion to plan for different life stages can be gleaned from **Figures 1 and 2** below. Whereas 67% of all dwellings are detached houses, essentially designed for families, 56% of households have only one or two occupants. This implies a substantial need for more options that are tailored to one and two person households that are collectively managed with shared facilities and services.

This perspective highlights the commonalities between seniors housing, student housing, build-to-rent and co-living.

**Figure 1.** Occupants per occupied dwellings in NSW, ABS Census of Population and Housing, 2016, table G31)



**Figure 2.** Dwelling structure in NSW of occupied dwellings, ABS Census of Population and Housing, 2016, table G32)



## Retire the Retirement village

Recent research has confirmed a well-known and significant issue with the concept of seniors housing. That is, that they signal that residents are no longer valuable contributors to society. A workshop run by researchers from QUT and UQ sought to “identify ways to prepare and adapt Australian cities to capitalise on older Australians living longer, healthier and more productive lives.” The research is described in an article in *The Conversation* entitled Retire the retirement village:

*Together the participants concluded that designing for older people is actually “inclusive design”...*

*They designed spaces to enable people over 65 to continue to make creative and productive contributions.*

*By creating inclusive infrastructure, such as closely connected living and learning “**micro-neighbourhoods**”, **people of all ages** remain the “heart” of the economic, social and cultural life of communities. A mobility “ecosystem”, including automated buses and electric ride sharing, could connect specialist knowledge and skill centres to local hubs.*

Rather than separately planning for older people, the retirement village concept could become a more comprehensive development unit. Micro-neighbourhoods could be planned for diverse populations of

all ages with housing integrated with a range of services for living, working, entertainment and learning, also incorporating electric transport services.

This perspective also highlights the commonalities between seniors housing, student housing, build-to-rent and co-living.

## Terminology

The above perspectives suggest the need for a parent term that embraces seniors housing, student housing, build-to-rent and co-living.

Before doing so, it is important to note that the hotel industry is also changing and many are encouraging digital nomads to stay longer, they are transforming foyers into remote work hubs and like new masterplanned housing precincts, they are using app-based engagement and communication platforms. Articles about this trend can be found on [the hotel conversation](#) and [commercial real estate manager JLL](#). Essentially these hotels could be characterised as co-living developments.

At the same time AirBnB is also blurring the definitional boundary between residential and tourist accommodation.

The problem in the near future will be one of characterisation of the development. The dimensions of change include:

- (a) the need for housing projects to target a diverse rather than a singular age demographic
- (b) The shift from ownership to access, driven partly by the unaffordability of housing but also by the flexibility they offer, particularly for singles and couples who are less anchored to place
- (c) Sharing economy trends that allow houses to be used as hotels and hotels to be used as houses.

As these definitional boundaries become more blurred, further innovation may be constrained simply due to permissibility issues as potential new development types fall between two definitions. For example, a BTR project may wish to cater for digital nomads, staying for a few months as well as long-term tenants. In our view, the potential of BTR should not be constrained by including a minimum tenancy of 3 years. The difficulty in enforcing the length of stay is also an issue.

We believe that the department should synthesise all these development types into a singular generic or parent term, perhaps *Managed Residential Accommodation*, *Housing as a Service* or *Accommodation as a Service* (although the latter would have an unfortunate acronym). This would include build to rent, co-living, student housing, boarding houses, seniors housing, hostels and hotels. The definition would be similar to that proposed for BTR but as follows:

***Housing as a Service*** means a building or place that:

- contains 3 or more rooms or dwellings that are offered separately for rent;
- is held within a single ownership;
- is operated by a single management entity;
- Includes shared assets, rooms and services; and
- includes on-site management.

The taxation and financing options and obligations should be the same for all of these creating a level playing field. Funding by large-scale institutional investors should not be offered to some and not to others and the same applies to land tax discounts.

This may also require that the definitions in the Standard Instrument for ‘**residential accommodation**’ and ‘**tourist and visitor accommodation**’ should also be reviewed, with residential accommodation divided into the two broad categories related to individually owned and the collectively managed Housing as a Service.

## Provisions for BTR housing in regional areas

In our opinion, BTRs developed in an **urban** context, whether in Sydney or regional townships, should be subject to the same provisions.

A distinction should be made for development on **greenfield** sites on the edge of existing towns or in the development of new settlements. In such cases, the key to encouraging Housing as a Service (HaaS) is in the co-delivery of supporting infrastructure with any new housing.

Whilst urban and greenfield HaaS could be defined within the same parent term, we would suggest separate terminology and provisions for greenfield developments. We have previously used the term 'regenerative villages' but have more recently settled on the term Circular Economy Villages (CEVs) that acknowledges that such projects incorporate next-generation, neighbourhood-scale, circular economy infrastructure.

For the provision of such infrastructure to be feasible, the development process must capture the land value uplift that arises from permitting residential development on rural land. In other words, the purchase price for the land should be close to other rural land values in the area but development would be contingent upon delivery of supporting infrastructure prior to, or together with, the housing.

A description of the development model and strategic planning processes to deliver such projects is outlined in my peer-reviewed journal article: 'Implementing a new human settlement theory: Strategic planning for a network of regenerative villages'<sup>1</sup>.

The key elements of the process would be as follows:

1. Strategic and locality planning. Identification of appropriate localities (not specific sites) where this development would be permitted and the number of new CEVs. These could be included in the housing strategy and/or in the Local Strategic Planning Statement. The development process should include an expedited Planning Instrument Amendment process where the development conforms with the identified preferred localities. Our suggestion would be that localities should be near existing towns and villages to offer complementary infrastructure and services.
2. Whilst there can be no requirement for a Voluntary Planning Agreement, it would be triggered by the proposal to amend the Planning Instrument. A standard VPA policy should be prepared by the Department and modified, if necessary, by Councils when the locality planning is carried out and prior to the SEPP applying to a local government area. The VPA policy should include and address:
  - 2.1. effect on any development contributions required pursuant to Sections 7.11 or 7.12 of the EP&A Act;
  - 2.2. effect on any charges for water supply, sewerage and storm-water drainage facilities under s64 of the Local Government Act 1993;
  - 2.3. requirement for the VPA to run with the land pursuant to Section 7.6 of the EP&A Act;
  - 2.4. effect on waste levies; and
  - 2.5. effect on ordinary rates or requirement for any special rates.
3. The SEPP should include the following provisions:
  - 3.1. requirement to prepare a Concept Development Application in accordance with Division 4.4 of the EP & A Act;
  - 3.2. defined requirements at different stages prior to the rezoning of land (e.g. what must be done on land portion that is not to be rezoned, what must be done before Council resolves to refer to the Department, prior to advertisement, prior to final resolution, prior to referral to Minister for signing and publication);

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<sup>1</sup> Liaros, S. (2019), "Implementing a new human settlement theory: Strategic planning for a network of regenerative villages", *Smart and Sustainable Built Environment*, Vol. 9 No. 3, pp. 258-271. <https://doi.org/10.1108/SASBE-01-2019-0004>

- 3.3. the minimum total land area and the proportions of the site area for the three precincts (i.e. conservation/rehabilitation area, agriculture and live/work hub). Our proposal is to plan for 40 hectares (100 acres) of which 5 hectares would be rezoned for the live and work hub to house a maximum of 200 people.
- 3.4. minimum requirements for harvesting, management, storage and distribution of water, food and energy; Our proposal is that 100percent of the energy and water requirements to be provided on-site. For water, this relates to quantity and quality.
- 3.5. design principles for buildings. Our proposal is to have a maximum two storey height limit.
- 3.6. preparation of a transport plan for the site as well as impacts on the surrounding road network. Our proposal is to include a plan with electric golf carts and bikes for internal transport within the village and shared electric cars for travel outside the village.

It is acknowledged that this process is somewhat complex but could be refined through the development of our pilot projects.

We would be pleased to discuss these matters further. If you have any further questions or would like any additional information please do not hesitate to contact Steven Liaros at [steven@polisplan.com.au](mailto:steven@polisplan.com.au) or by phone numbers provided above.

Yours faithfully,



Steven Liaros

**Director,  
PolisPlan**

[steven@polisplan.com.au](mailto:steven@polisplan.com.au)



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

**Email:** Via Online Feedback Form

Dear Mr Betts,

## **Submission to Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy**

Port Macquarie-Hastings Council thanks the Department of Planning, Industry and Environment (the Department) for the opportunity to make a submission to the Explanation of Intended Effect (EIE) for a new Housing Diversity State Environmental Planning Policy (SEPP).

Council understands that the SEPP updates are being introduced as part of the NSW Government's response to the COVID-19 pandemic, to accelerate projects that support employment and economic development. While Council is generally supportive of the need to consolidate and update the Government's three (3) housing-related SEPPs as they have been in place for some time, we have a number concerns which are outlined below.

### **1. SEPP Affordable Rental Housing 2009**

The proposed changes to the Affordable Rental Housing SEPP are generally considered to be positive. In particular, the proposal to remove the requirement for boarding houses to be mandated in the R2 Local Density Zone is supported, having regard to the objectives of this zone to provide housing within a low density residential environment, and the compatibility and character issues which can be presented by boarding-houses within these settings. The R2 zone is currently used in limited locations in the Port Macquarie-Hastings, so it is not considered that removing their permissibility from the R2 zone would limit development opportunities for boarding houses in other residential or business zones.

Council supports the proposed change to the definition of "boarding houses" in the Standard LEP to introduce an affordability requirement so as to address concerns around the lack of affordability of boarding house rooms. The creation of a new definition for "student housing" and the introduction of specific development standards for this type of development is also welcome, noting that Councils will be able to determine the appropriate zone locations for this use under the new SEPP.

Council is concerned however, that there is no minimum car parking requirement for "student housing" proposed under the new SEPP, and that developers will be able to choose whether they provide car parking. In a regional setting such as Port Macquarie-Hastings, where public transport options are limited and the network and frequency of services is not as extensive as in larger centres and in metropolitan areas, a lot of students will have cars and need



somewhere to park. To provide no parking will lead to overflow parking in local streets, causing issues for residents. Council is of the view that a minimum parking provision for “student housing” should be included in the SEPP, as it has been for other housing types.

## **2. SEPP (Housing for Seniors and People with a Disability) 2004**

Council has some concerns about the proposed changes to the Seniors Housing SEPP in particular, the strengthening of the ‘location and access to facilities’ provisions (clause 26) so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility requirements.

Whilst Council does not disagree that it is important for “seniors housing” to be located in close proximity to transport services and facilities, any amendments to this clause should consider the regional context, whereby point-to-point transport options such as taxis are used as a transport option, as the public transport network is limited. In this regard, as the EIE does not provide details of the likely amendments to this clause, it is requested that the new SEPP not preclude point-to-point transport options as a component of meeting the accessibility requirements in regional areas such as Port Macquarie-Hastings.

In addition, Council is of the view that it would have been beneficial for the EIE to include details of the updates proposed to *Schedule 1 - Environmentally sensitive land* so that feedback could have been provided to the Department on land to which the new SEPP will not apply to.

## **3. Proposed SEPP changes to social housing provisions**

Council is concerned about the extent of proposed changes to be enabled by the new Housing Diversity SEPP for the development of social housing by Land and Housing Corporation (LAHC) on Government-owned land. Whilst Council understands there is a high number of residents in our electorate (Cowper) in need of social housing and with an ageing population that this is expected to increase, the following points are made:

- Council does not support increasing the number of dwellings in a two-storey residential development that LAHC can self-assess from 20 to 60, which will contain a mixture of private, affordable and social housing. This represents a 3-fold increase and whilst this increase may be more appropriate in the metropolitan context to address the need for social housing, the self-assessment of development of this scale is not considered appropriate for regional areas.

Council’s position is that LAHC self-assessment should remain at 20 dwellings, and above this amount a development application should be lodged at Council for detailed assessment.

- The minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings is not supported in a regional context and should be increased. As stated earlier within this submission, there is a greater reliance on private vehicles given the limited public transport options, which in turn generates a need for parking to be provided on development sites.

- Council does not support the proposal to allow “boarding houses” developed by or on behalf of LAHC (with a maximum of 12 rooms) in the R2 Low Density Residential zone. This conflicts with the proposal within the new SEPP to remove the requirement for boarding houses to be mandated in the R2 Zone which Council supports, and will undermine local planning objectives for low density residential areas.

#### 4. New housing types

In relation to the new housing type “Build-to rent housing” (BTR), Council would welcome further discussions with the Department in regard to the appropriate planning provisions in regional areas given the new Standard LEP definition provides for this to be large scale high-density development, with standards recommending a minimum of 50 self-contained dwellings.

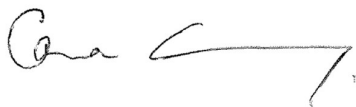
The EIE suggests that in regional areas BTR would generally be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments, however the same standard definition will apply across the State.

It is considered that statutory planning and design guidelines should be prepared by the Department to support the implementation of the SEPP for the new housing types, and that such guidelines should accompany the SEPP when it commences. It will be important for these housing types to be situated in well-located areas, close to transport, services and facilities, and for locational criteria to be established in the guidelines.

Council looks forward to the Department’s consideration of the issues raised in our submission.

If you have further questions, please do not hesitate to contact Council’s Land Use Planning Manager, Ms Carina Gregory on 6581 8576 or by email [Carina.Gregory@pmhc.nsw.gov.au](mailto:Carina.Gregory@pmhc.nsw.gov.au).

Yours sincerely



**Carina Gregory**  
Land Use Planning Manager  
Development and Environment

Cc Craig Diss

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

Dear Mr Betts,

**Re: Submission on Explanation of Intended Effect for a new Housing Diversity SEPP**

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

Port Stephens Council (Council) supports the intention of the Housing Diversity SEPP to address housing diversity and affordability, in line with the proposed NSW Housing Strategy. The NSW Housing Strategy and Housing Diversity SEPP are likely to assist Council in achieving the four outcomes of the Port Stephens Local Housing Strategy (Live Port Stephens):

1. Ensure suitable land supply
2. Improve housing affordability
3. Increase diversity of housing choice
4. Facilitate liveable communities

A range of topics are discussed in the EIE. This submission focuses on the introduction of new housing types and proposed changes to existing boarding house provisions. The submission also notes an opportunity for the Housing Diversity SEPP scope to be broadened to provide a policy framework for lifestyle villages, including manufactured home estates.

### **Introducing new housing types**

The introduction of new housing types in the Standard Instrument LEP is supported.

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

- a) The EIE notes that there are currently no impediments in the NSW planning system to the development of BTR housing. The EIE proposes the inclusion of a definition in the Standard Instrument LEP, and the development of design guidelines and development standards, including minimum lease terms and limitations to strata subdivision.

There is a risk that these new requirements and limitations may introduce barriers for the development of BTR housing. An alternative approach could be to consider incentives for institutional investors to develop BTR housing rather than a regulatory response.

- b) The EIE proposes a new definition for BTR housing which refers to a building or place that “contains at least 50 self-contained dwellings that are offered for long term private rent”.

The EIE states that BTR housing developments would generally be of a smaller scale in regional areas. This is acknowledged, however, it is unclear how the proposed definition will apply so as to permit smaller scale BTR developments in regional areas.

- c) The proposed definition requires BTR housing to include on-site management.

On-site management may be cost prohibitive and affect the feasibility of smaller scale BTR housing developments in regional areas. In addition, it is unclear if on-site management is practical for BTR housing in the form of multi-dwelling housing or terraces in regional areas.

- d) BTR housing is proposed to be subject to minimum lease terms, would not be available for short-term rental accommodation, and unable to be strata subdivided within the first 15 years.

These proposals are supported as they ensure rental housing availability for a longer term. The Housing Diversity SEPP should clarify how these requirements will be monitored and who will be responsible for this.

#### Student housing and co-living

The introduction of new definitions for ‘student housing’ and ‘co-living’ in the Standard Instrument LEP is supported as it clearly distinguishes these developments from boarding houses. The proposal for councils to determine permissibility for these uses in appropriate land use zones in their LEP is supported as it allows for place specific responses to local needs and opportunities.

In addition, it is proposed that the future development standards for student housing and co-living ensure that new development will be compatible with local character.

Finally, the EIE proposes to make co-living apartments a mandatory permitted use wherever residential flat buildings are currently permitted. The EIE does not clarify if co-living housing is proposed to be apartment style development only, or if alternative dwelling types are also proposed.

**Proposed changes to existing boarding house provisions**

The proposed amendment to the definition to require boarding house development to be affordable is supported. This requirement assists in creating a clear distinction from co-living housing developments and enables the creation of a more diverse, long term affordable housing supply.

The EIE proposes a floor space ratio (FSR) bonus of 20% for boarding house developments. It is noted that FSR controls do not apply in Port Stephens and a draft LEP Amendment to introduce FSR controls is limited to the Nelson Bay town centre. Consideration could be given to alternative development incentives that can be implemented by regional councils where FSR controls do not apply.

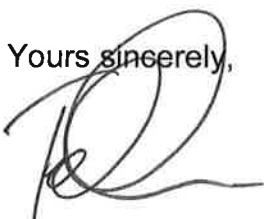
**Manufactured home estates and housing diversity**

The Housing Diversity SEPP could include a policy position on housing diversity that acknowledges the role of lifestyle villages.

Lifestyle villages and communities, including manufactured home estates and caravan parks with moveable dwellings, have increased in popularity in coastal LGAs and other parts of the State. These developments can offer residents diverse housing choices that are convenient, attractive and potentially more affordable housing options with access to onsite facilities and services.

The proposed Housing Diversity SEPP could consider the reforms outlined in the Governments discussion paper "*Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates and Camping Grounds*" (published November 2015). In February 2019 Council wrote to the then Minister for Planning (Attachment 1) proposing amendments to the Standard Instrument LEP to correct anomalies identified in the framework for lifestyle villages. These proposed changes will enable councils to continue to plan for and facilitate diverse housing choices.

Please contact Elizabeth Lamb, Strategic Planning Co-ordinator, on 02 4988 0293 or by email at [elizabeth.lamb@portstephens.nsw.gov.au](mailto:elizabeth.lamb@portstephens.nsw.gov.au) should you have any questions.

Yours sincerely,  


Tim Crosdale  
**Group Manager Development Services**  
11 September 2020



**PORT STEPHENS**  
COUNCIL

# Attachment 1

Mr Anthony Roberts MP  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister,

**Re: Proposed amendment to the Standard Instrument Local Environmental Plan – multi dwelling housing and manufactured home estates.**

Port Stephens Council has become aware of an anomaly in the Standard Instrument Local Environmental Plan (SI LEP) as a result of recent caselaw, and seeks to have the SI LEP amended to address the issue.

In *TMT Devco Pty Ltd v Cessnock City Council* [2016] NSWLEC1161, the Court held that a manufactured home estate could be characterised as 'multi dwelling housing' for the purposes of the relevant LEP.

This means that in residential zones where 'multi dwelling housing' is a mandated permissible use under the SI LEP, such as the R1 General Residential zone and the R3 Medium Density Residential zone, manufactured home estates are to be considered permissible. It will also be a permissible use in any other zones where councils may nominate 'multi dwelling housing' as permissible.

This is a change from the previous policy position outlined in the NSW Department of Planning and Environment's Discussion Paper: *Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates and Camping Grounds* (published November 2015):

*Manufactured homes and manufactured home estates are not defined in the Standard Instrument LEP as a land use term and can therefore not be included in any of the zones. Manufactured home estates can therefore only be developed under the provisions of SEPP 36, which permits them wherever caravan parks are permitted.*

State Environmental Planning Policy No 36—*Manufactured Home Estates* (SEPP 36) permits manufactured home estates in zones where 'caravan parks', as defined in the SI LEP, are permissible. Councils have previously planned for the location of manufactured home estates by only permitting caravan parks in selected zones.

As a result of the recent caselaw, councils can no longer plan for medium density development without also permitting manufactured home estates. This includes in Urban Release Areas and other locations that, whilst suitable for medium density residential development, may not necessarily be considered suitable for manufactured home estates.

In addition, if a manufactured home estate is assessed as 'multi dwelling housing' under the LEP, the matters for consideration listed in SEPP 36 will not necessarily apply to the assessment given the development is not assessed pursuant to the SEPP.

In Port Stephens, the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre, B3 Commercial Core, and B4 Mixed Use zones all permit multi dwelling housing.

Four pre-lodgement meetings with prospective applicants for manufactured home estates in these zones have been held to date, and a development application for a manufactured home estate in an R2 low density residential zone in an Urban Release Area was determined in 2018.

Council intends to continue to permit multi dwelling housing in all of these zones, given the 60% infill target for new housing identified for Hunter councils in the Greater Newcastle Metropolitan Plan.

Council is now seeking an amendment to the SI to ensure that the definition of 'multi-dwelling housing' does not include manufactured home estates or moveable dwellings. This will enable councils to continue to plan for and facilitate medium density housing in appropriate locations.

Port Stephens Council will also be requesting a local amendment to the *Port Stephens Local Environmental Plan 2013* to address the issue.

Should you require any further information on this issue, Steven Peart, Strategy and Environment Section Manager on 4988 0514 or by email at [Steven.Peart@portstephens.nsw.gov.au](mailto:Steven.Peart@portstephens.nsw.gov.au).

Yours sincerely,

Wayne Wallis  
**General Manager**

CC. Carolyn McNally, Secretary, NSW Department of Planning & Environment, GPO Box 39, Sydney NSW 2001.

Monica Gibson, Director, Hunter Region Office, NSW Department of Planning & Environment, GPO Box 39, Sydney NSW 2001.



Submitted on Tue, 08/09/2020 - 11:01  
Submitted by: Anonymous  
Submitted values are:  
Submission Type: I am making a personal submission  
First Name: Terry  
Last Name: Power  
Name Withheld: No  
Email: [terry@powerpractice.com.au](mailto:terry@powerpractice.com.au)  
Suburb/Town & Postcode: Port Macquarie 2444  
Submission file:  
[submission-points-ngbh-planning-portal-nsw.docx](#)

## Re : Proposed Changes NSW SEPP

Proposed new Housing Diversity State Environmental Planning Policy (SEPP) The proposed SEPP consolidates 3 other Housing SEPPs into a single instrument and introduce new definitions and planning controls for build-to-rent housing, student housing and co-living.

Among other changes, there will be amendments to state planning provisions and in particular will

- require boarding houses to be managed by community housing providers (CHP) as affordable housing and remove the previous floor space bonus available to boarding houses in certain zones. This will make it more difficult to provide the accommodation required and limit who can provide that accommodation.
- New and amended provisions to support the delivery of social housing developments by the NSW Land and Housing Corporation (LAHC) on government-owned land are also proposed to be introduced.

## Housing Shortage

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ABS figures, over the September quarter in NSW from January, commencements of new housing had already dropped to their lowest level in five years.

There has been a 34% drop in new construction and a 26% drop in detached house commencements from last year.

Australian Housing and Research Institute (AHURI) Research

The government estimates around 40,000 new homes will be needed each year in Sydney for the next 20 years to meet that growth.

At the end of 2019 demand for affordable rental properties for the bottom 20% of income earners, exceeded supply by around 212,000.

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

### Australian Bureau of Statistics

2016 census found that in NSW , 24% of households had one person and 33% had only two people.

Family household numbers are declining

Single-person households are increasing

The number of bedrooms per dwelling are increasing

ABS' key statistics (2017-18) show that more than three quarters (79%) of households had **at least** one bedroom spare.

The number of households without children increased by 69,183 between 2011 and 2016.

Shortage of housing stock for singles and couples we need more flexible housing options.

### Share Housing

I believe there should be 2 levels of Share Housing

1/ - Up to 6 people allowable in a R2 Zone

2/ - 6+ people - CDC approval process so can be approved through a private certifier

Properties build prior to May 2011 – No universal access

Share housing should be allowable in R2 residential zones.

In properties built pre May 2011, the upgrades need to be in line with 1b Building class.

The NSW State government should include an exemption for Universal Access for existing stock.

For up to, and including, 5 people living together, the minimum standards of the property should reflect the Queensland Development Code (Mandatory Part) MP 5.7 – Building Standards.

Should be set up around major education hubs.

Should be allowed within 400m from public transport like the current access requirements for New Generation Boarding Houses in R2 zones.

## Co – Living

Due to the shortfall of social and affordable homes will grow from the current number of 651,300 to nearly 1,024,000 by 2036

A third of that number is in NSW.

There should **not** be a minimum number of 10 private rooms for each property.

This will create more illegal share-housing.

There needs to be regulations that state the minimum standards for clarity.

Pre May 2011 –

- No universal access requirement
- 1b standard
- No more than 6 people
- No more than 5 bedrooms

Post 2011 –

- Universal access required
- CDC approval up to and including 6 people
- 6+ people not permissible in R2 zone and D.A with council

## Co-Living In R2 zone

- Up to and including a maximum of 6 people
- Maximum of 5 bedrooms

- No unrelated parties to share a room. To be a couple or siblings

Pre May 2011

- Exemption of disability access
- Upgrade to a 1b Building Class

Post May 2011

- Up to and including a maximum of 6 people
- Requires universal access

Both Pre and Post May 2011 to be approved through a CDC process by a private certifier

Car parking 0.5 spaces per room, approval by council discretion.

Residents to have their own bathroom, kitchenette (sink with no fixed cooking equipment) but can also share the facilities within the dwelling (i.e. bathrooms).

The dwelling must contain a full working kitchen as a minimum requirement for a communal area

## Affordable Rental Housing SEPP (ARHSEPP)

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It is my opinion New Generation Boarding House Policy should be allowable in all zones

So then people will rent these properties if the financial and location options are available to them

### Management by Community Housing Providers

We **do not agree** that smaller style boarding houses should only be managed by Community Housing Providers. This will adversely affect providing this service.

### Affordability

Boarding houses in R2 zones should only be removed – only if co-living properties are allowable.

Removing boarding houses from the R2 zones does not create a diverse demographic of residents.

These proposed changes would make it difficult for private middle-class developers because of the high cost of development.

Families have owned and operated NSW boarding houses for generations successfully and this should not be taken away from them.



Planning | Development | Management

7 September 2020  
Our Ref: 1343

Deputy Secretary  
Greater Sydney Place & Infrastructure  
Department of Planning Infrastructure & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

*Attn: Sandy Chappell and Margaret Kirton*

**NEW HOUSING DIVERSITY SEPP  
347 NARELLAN ROAD CURRANS HILL**

This letter is a submission in relation to the new Housing Diversity SEPP which is currently on public exhibition.

***Background***

Precise Planning has been requested by the owner of 347 Narellan Road Currans Hill (**'subject site'**), in the Camden Local Government Area to make a submission in relation to the new Housing Diversity SEPP.

A Site Compatibility Certificate (**'SCC'**) was issued for the subject site on 29 November 2017, as the land is located in an RU2 Rural Landscape zone under Camden Council LEP 2010. This was the second SCC to be issued, as an earlier SCC for an identical proposal had expired. Both SCCs were issued based on a plan showing a residential care facility (**'RCF'**) for 150 beds and 10 serviced self-care dwellings. The second SCC had a validity of two (2) years and expired on 29 November 2019.

***LEP amendment to facilitate the development***

In preparation for the RCF development application, Camden Council and the Department supported an LEP amendment, which reduced the minimum lot size for the subject site from a 40ha minimum to 2ha minimum (where the RCF was proposed) and 10ha minimum for the balance. The Gateway Determination was issued on 9 June 2016 and the LEP amendment was made in 2017.

This preparatory step (the lot size reduction) was supported by both Council and the

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W: [preciseplanning.com.au](http://preciseplanning.com.au)  
A: 152 Sailors Bay Road Northbridge NSW 2063  
P: PO Box 426 Northbridge NSW 1560

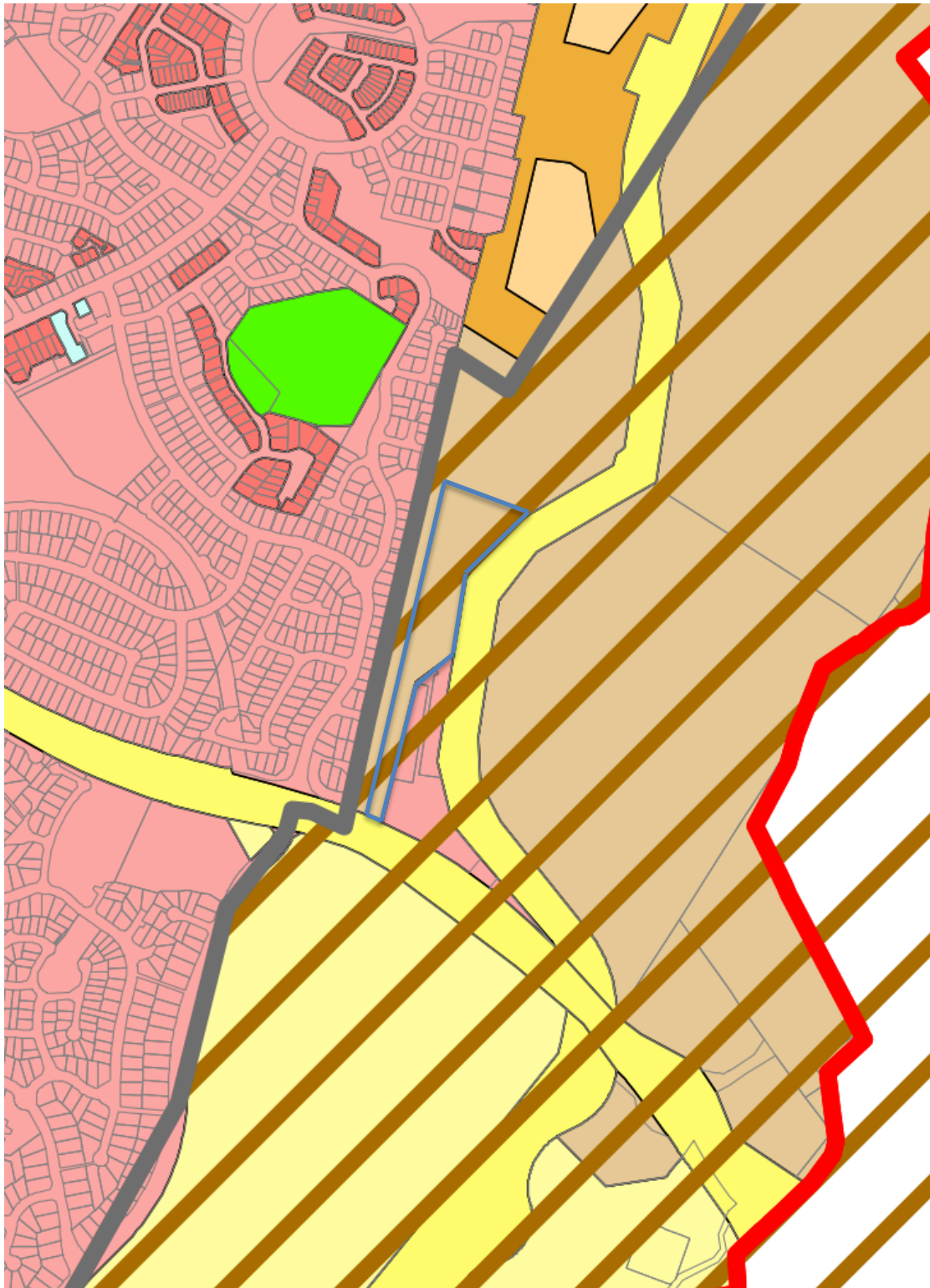
Department on the understanding that an RCF would eventually be erected on the lot that was amended to a 2ha minimum lot size. There would otherwise have been no planning justification to support the reduction in the minimum lot size and issue a Gateway Determination.

***Timing of development application for RCF***

Because of uncertainty in relation to Federal Government funding of beds within the aged care sector and difficulties in the aged care sector caused by the Royal Commission, most operators held off with significant investments into new complexes in the past few years. This has made it a little more difficult for the landowners to find an appropriate buyer to build and operate the proposed RCF. On that basis, the landowner decided to pursue the subdivision to create the lot in preparation for sale to an aged care operator, but decided to wait for the renewal of the SCC until such time as an aged care operator was found to purchase the site.

***Introduction of clause 4B to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004***

Recently, the Senior's SEPP was amended by the introduction of clause 4B and we anticipate that this new clause will be rolled into the new Housing Diversity SEPP. The effect of the introduction of clause 4B for this project is that a new SCC cannot be issued for this project, because the land has been included on the fringe of the Metropolitan Rural Area ('MRA') exclusion map for the Camden LGA (see excerpt below). There was no reason to suspect that the SCC would not be able to be renewed when an appropriate buyer was found. However, the introduction of clause 4B into the SEPP, in connection with the MRA exclusion maps, has effectively prohibited a new SCC from being able to be issued for the subject site. The obvious result of this is that the RCF will not be able to be approved.



**FIGURE 1** – Excerpt from MRA exclusion map for Camden LGA (land on which the RCF is proposed shown approximately in blue)



### ***Justification for request to exclude the subject land from the maps***

The landowner is requesting the Department consider a minor amendment to the exclusion map, so that the SEPP would still apply to the land where the RCF is proposed, for the following reasons:

1. As indicated previously, the whole planning actions undertaken over the past few years for this site, which have been supported by both Camden Council and DPIE, have been leading toward an RCF being erected on this site. It seems unreasonable to prematurely cease this process, when the expectations of the landowner, neighbours and the local Council are that an RCF will be erected.
2. Because the LEP minimum lot size map was amended for the specific purpose of facilitating the RCF on the site, if that purpose is prematurely blocked, the subdivision will still proceed and a 2-3ha lot will be created in an RU2 zone, when it was previously a 40ha minimum, and will accommodate only a single dwelling. This would be a very poor planning outcome.
3. The land in question is surrounded by the residential area of Currans Hill to the west, a Christian College and Church to the north, an approved selfcare senior's development to the south and the scenic hills to the east. There appears little planning merit in preserving a relatively small section of land between a self-care complex on one side and a church and college on the other.
4. An RCF is considered to be a complementary land use at this location, given the very obvious social synergies with transitioning residents from the existing approved self-care dwellings to a higher level of care next door. If the land remains excluded and the RCF is prevented from being erected, this co-location advantage will not materialize.

A 12km radius is the typical catchment area for the population of the market penetration for a retirement community development. This is because social, health and family connections are maintained through this type of suburban commuter. Important community connectivity to clubs, churches and local medical practices can be maintained. These familiar patterns of support for the aging population are fundamentally important to their wellbeing and quality of life. Being able to live independently but still with a connected social framework is now understood to be a fundamental wellness criterion. This site is strategically well located in an area that is undersupplied with seniors housing.

In addition, research has identified a link between moving and mortality, that is, in the over 65 population there is a statistical co-relationship between moving accommodation and morbidity. The social effects of having to find new networks of support, care and friendships has an underlying stress on this population, to the point that more strategic and closer physical accommodation moves are beneficial to the longevity of this population.

### **General discussion**

The introduction of clause 4B to the Senior's SEPP, which was introduced without consultation, has effectively stopped this development altogether. This has occurred simply because the SCC was not re-applied for at the date of the introduction of clause 4B. Yet, the landowner was still proceeding through all the preparatory work (LEP amendment, subdivision) so that the RCF could be erected at the appropriate time. Whilst it is acknowledged that the impacts on this specific project are likely to be unintended, nevertheless it has been a devastating blow to the proponents and in our view now is the time to correct the unintended consequence by amending the map as requested or else some other action that would permit the project to proceed. For example, if the Department is not persuaded to amend the maps, another alternative may be to include a clause permitting the Department to consider an application for an SCC on any land where an SCC has previously been issued.

We would be happy to discuss this matter further with the Department if it would be helpful. Thank you for the opportunity to comment.

Yours faithfully

**PRECISE PLANNING**



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**Jeff Bulfin**



Planning | Development | Management

7 September 2020  
Our Ref: 1343

Deputy Secretary  
Greater Sydney Place & Infrastructure  
Department of Planning Infrastructure & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

*Attn: Sandy Chappell and Margaret Kirton*

**NEW HOUSING DIVERSITY SEPP  
STRATFORD HOUSE, ROCKFORD ROAD, TAHMOOR**

This letter is a submission in relation to the new Housing Diversity SEPP which is currently on public exhibition.

***Background***

Precise Planning has been requested by the owner of a site bounded by Remembrance Driveway, Rockford Road, Hawkins Road and Stratford Road at Tahmoor in the Wollondilly Local Government Area ('**subject site**') to make a submission in relation to the new Housing Diversity SEPP.

A Site Compatibility Certificate ('**SCC**') has been issued for that part of the subject site which falls within the RU4 Primary Production Small Lot zone under Wollondilly LEP 2011.

The SCC certifies that, in the opinion of the Panel:

- The site is suitable for more intensive development;
- The development of the site for a (maximum) 120 bed residential care facility and (maximum) 220 serviced and self-care units is compatible with surrounding development; and
- The development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding land uses only if it satisfies certain requirements specified in Schedule 2 of the SCC.

The SCC was issued on 22 March 2019 and has a validity of two (2) years.

A development application was lodged with Wollondilly Council for the serviced and self-care housing component of the project in December 2019. This DA remains undetermined, although we believe determination and approval will only be a couple of months away.

### ***Timing of development application for RCF***

Because of uncertainty in relation to Federal Government funding of beds within the aged care sector, the proponent has not lodged a development application for the residential care facility ('RCF') component of the project. There was no reason to suspect that the SCC would not be able to be renewed at the expiry of the two-year validity period (22 March 2021) and so the proponent was awaiting a more opportune time to lodge the RCF development application.

The Department will be aware that any development application lodged under a valid SCC must be determined whilst the SCC is still valid. There are no savings provisions available that simply require a DA to be lodged (but not necessarily determined) during the 2 year validity period.

### ***Introduction of clause 4B to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004***

Recently, the Senior's SEPP was amended by the introduction of clause 4B and we anticipate that this new clause will be rolled into the new Housing Diversity SEPP. The effect of the introduction of clause 4B for this project is that a new SCC cannot be issued for this project. Whilst we have acted immediately since the introduction of clause 4B to prepare a development application for the RCF, and we anticipate lodging the application this week, we are very concerned that the Council may not be able to assess and determine the application before the expiry of the SCC (22 March 2021). Obviously, if the application is not determined by this date, Council will be unable to approve the proposal under the existing SCC and, subject to the new clause 4B, a new SCC will not be able to be issued.

### ***Effect of proposed changes contained in the Housing Diversity SEPP***

It is noted from page 19 of the document entitled *Explanation of Intended Effect for a new Housing Diversity SEPP*:

*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.*

*Because of the 24 month timeframe for the validity of a SCC, and the time needed to prepare and assess senior's housing proposals, SCCs sometimes expire before a development application has been determined.*

*It is proposed to introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that the development application is lodged within 12 months of the date on which the SCC is issued.*

*The 5 year timeframe is consistent with the current timeframe for SCCs in Division 5 of the ARHSEPP for development of residential flat buildings by public authorities or social housing providers.*

The extended validity of SCCs from 2 years to 5 years is a good idea. However, the extension should apply to existing SCCs, not just new SCCs. Further, the 12 month timeframe for lodgment of a DA should be either:

- Extended to 2 years to cover situations where existing SCCs may become invalid due to the proponent not taking action previously because such a restriction did not exist; or
- The 12 month time frame for existing SCCs commence on the date the new SEPP comes into force.

Such requirement would allow an existing proponent holding an SCC to prepare and lodge a development application and thereby preserve the value of the existing SCC.

The proposed changes would essentially be transitional arrangements only, as eventually the projects caught up in this scenario would reduce over time to zero.

### ***Social impact of non-action***

An RCF is considered to be a complementary land use at this location, given the very obvious social synergies with transitioning residents from the existing approved self-care dwellings to a higher level of care next door (214 serviced and self-care dwellings). If the changes proposed above are not implemented and the RCF is prevented from being erected, this co-location advantage will not materialize.

A 12km radius is the typical catchment area for the population of the market penetration for a retirement community development. This is because social, health and family connections are maintained through this type of suburban commuter. Important community connectivity to clubs, churches and local medical practices can be maintained. These familiar patterns of support for the aging population are fundamentally important to their wellbeing and quality of life. Being able to live independently but still with a connected social framework is now understood to be a fundamental wellness criterion. This site is strategically well located in an area that is undersupplied with seniors housing.

In addition, research has identified a link between moving and mortality, that is, in the over 65 population there is a statistical co-relationship between moving accommodation and morbidity. The social effects of having to find new networks of support, care and friendships has an underlying stress on this population, to the point that more strategic and closer physical accommodation moves are beneficial to the longevity of this population.

### ***Effect of adopting our proposed changes***

Should the Department see merit in either one of our suggestions above, and given the development application for the RCF will be lodged with Wollondilly Council this week, the amendments proposed by us would relieve the pressure on the determination of the application prior to 22 March 2021 and provide a greater opportunity for this important item of social infrastructure for the area to materialise.

### ***General discussion***

The introduction of clause 4B to the Senior's SEPP, which was introduced without consultation, has placed the proposed RCF at the Stratford House project in jeopardy. Wollondilly Council has taken over 9 months with the assessment of the serviced and self-



care housing DA. Whilst Council officers are supportive of the RCF proposal, we are not confident that the DA can be determined by 22 March 2021, particularly if the proposal is referred to the Local Land Panel for determination. From a social planning perspective, the RCF is of great importance to the local area, being the only new RCF in the area for many decades. The need in the area for a new RCF is great, as Council could attest, and the actions of the Department in introducing clause 4B without consultation will likely have perilous consequences for an important piece of social infrastructure.

Whilst we are certain the Department would have based its decision to introduce clause 4B unilaterally to the Senior's SEPP on rigorous research, it is concerning to note that, to our knowledge, not a single senior's development has been built in the Wollondilly area in the past few decades on land where senior's housing is a permitted use. In other words, in all cases, to our knowledge, every senior's development in Wollondilly's metropolitan rural area that has been built in the past few decades has had to rely on the provisions of the senior's SEPP to enable permissibility. The price of land in the area that is zoned to permit senior's housing (and therefore does not have to rely on the senior's SEPP) is simply too expensive to justify its use for senior's housing. The outcome of the introduction of clause 4B into the SEPP will be a huge reduction in affordable housing options for seniors in the area, because supply will dry up whilst at the same time demand will increase.

A better option, in our view, would have been for individual councils to work with the Department to mandate either exclusion areas, or else senior's permissibility areas, and introduce these as maps into each local LEP. The decision by the Department to effectively introduce exclusion areas through the SEPP appears to be a clumsy approach that has created unintended consequences. Developments such as the RCF proposed for Stratford House should be given every encouragement and opportunity to materialize. If either of the dot point suggestions made previously are taken up, it will be sufficient to preserve this important proposal for the Wollondilly area.

We would be happy to discuss this matter further with the Department if it would be helpful. Thank you for the opportunity to comment.

Yours faithfully

**PRECISE PLANNING**



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**Jeff Bulfin**



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## Creating for Generations

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11 September 2020

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

Dear Mr Betts

### Explanation of Intended Effect for a new Housing Diversity SEPP

The Property Council welcomes the opportunity to provide the Department with comments on the Explanation of Intended Effects (EIE) for a new Housing Diversity State Environmental Planning Policy (SEPP). The release of the EIE, in conjunction with the Department's broader planning reform agenda, are welcome initiatives that will assist in the recovery of the housing sector, as well as the broader economy, after the COVID-19 induced recession.

As Australia's peak representative of the property and construction industry, the Property Council's members include investors, owners, managers and developers of property across all asset classes. We recognise, in particular, the economic significance of residential construction with recent analysis by the National Housing Finance and Investment Corporation revealing that every \$1 million of residential construction supports nine jobs.

#### Policy objectives

The intention of the draft SEPP to facilitate the delivery of housing that meets the needs of the State's growing population is broadly supported and inclusion of three new emerging housing typologies – Build-to-Rent, student housing and co-living – into the planning system is welcome. As the housing continuum continues to evolve to meet changing household preferences, it is essential that the proposed policy balances the importance of recognising and defining these different housing types while still facilitating innovation and diversity in housing typologies. Rigid or onerous planning requirements could impede the emergence of these new housing forms.

The policy also seeks to consolidate three existing housing-related State environmental planning policies to streamline the planning system by reducing the number of State policies. This aspect of the proposal is also supported, subject to our comments below.

#### Build-to-Rent as a stimulus measure

The Government's interest in Build-to-Rent housing, demonstrated through land tax concessions, identification as State significant development and recognition of the need for specific design requirements, is very positive. As you know, BTR is well-established internationally, providing long

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term rental accommodation and a better rental experience via improved security of tenure and higher quality stock.

Given Build-to-Rent will be a new housing product in the NSW context, we urge the Government to be as flexible as possible when establishing the planning provisions and strongly encourage accelerating the Build-to-Rent aspects of the EIE to support jobs and deliver much needed housing supply as we work our way through the COVID-19 induced recession. A similar approach was undertaken in the United Kingdom during and after the global financial crisis where the government recognised the role Build-to-Rent could play as a counter-cyclical measure which kept housing being delivered and kept critical jobs in the property and construction industries.

### **impact for seniors housing and other specialised housing types**

It is unfortunate that the positive aspects of this proposal are in part, undermined by a number of other changes proposed to the Affordable Housing SEPP and the Seniors Housing SEPP that will significantly reduce the supply of specialised housing types intended for seniors, people with disabilities and key workers.

In particular, the SEPP does not apply to heritage conservation areas within the Greater Sydney Region (until at least 1 July 2021) and metropolitan rural areas in the Greater Sydney Region. Amendments to the policy, that were not subject to public consultation, were made recently to exclude the policy's operation in these areas.

There is a clear need for more appropriate housing for seniors across all of Sydney. Diversity of housing choice should reflect the demand for housing types that accommodate our ageing population, and be located close to services, health and transport infrastructure. The automatic exemption from the state-wide planning rules will encourage Councils to avoid implementing the development local planning controls for these much-needed diverse housing types.

We urge the Department to reconsider these changes and instead look at how local Councils can use their strategic planning work underway to seek exemptions from the provisions of State planning controls.

### **Other considerations**

In addition to the issues noted above, the following matters should also be addressed in order for the SEPP to be able to achieve its aims of supporting the supply of diverse housing in NSW:

- There is a need to recognise that the economic conditions have changed due to the COVID-19 induced recession, and as such it is critical that consideration be given to fast-track or accelerate planning approvals to stimulate and incentivise development of the diversity of housing stock this strategy seeks to enable the market to deliver.
- The Housing Diversity SEPP must be an enabler of housing diversity and provide detailed planning controls that override local planning controls where they are inconsistent with the relevant local council LEP.
- Housing diversity must reflect the diverse needs between city dwellers, and those who live in rural and regional areas - there is not a 'one-size-fits-all'.
- It should be acknowledged Build-to-Rent housing, student housing and co-living are different from traditional apartment developments. They have more communal than private spaces, they need to accommodate tenants moving in and out in their design of corridors and stairs, and require lower off-street parking rates, recognising locations tend to be close to public transport and residents more likely to utilise car-share options.
- There are some inconsistencies between local, state and state to state regulations (i.e. between boarding houses and co-living) that require resolution. We acknowledge the efforts to do this,



but further work is required. In addition, in order to deliver on the outcomes being sought, State policy must prevail over local provisions.

- The scope of this proposed housing diversity SEPP is very broad and will impact many businesses across the housing continuum. Therefore, we urge the Department to consider a staged approach to the implementation of these changes to provide industry to adjust to the new arrangements.

These points are discussed further in our submission. Furthermore, we request that the draft instrument should be publicly exhibited once it has been drafted by Parliamentary Counsel, and we would be happy to provide further feedback throughout this process.

If you have any questions regarding the content of this submission, do not hesitate to contact Troy Loveday, NSW Policy Manager, on 0414 265 152 or [tloveday@propertycouncil.com.au](mailto:tloveday@propertycouncil.com.au)

Yours sincerely



**Belinda Ngo**  
**Acting NSW Executive Director**  
**Property Council of Australia**

# **Submission to the Department of Planning, Industry and Environment**

## **Explanation of Intended Effects for a new Housing Diversity SEPP**

**11 September 2020**

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## 1.0 Introduction

The Property Council welcomes the Government's commitment to planning reform and the release of the EIE for a new Housing Diversity SEPP.

### 1.1 Timely response to COVID-19 induced recession

As the Productivity Commission Green Paper notes, the NSW planning system is currently failing to deliver economic outcomes, resulting in a failure to deliver enough housing over many years.

The Government's commitment to planning reform is crucial in ensuring NSW emerges from the COVID-19 induced recession in a stronger economic position and with more productive and efficient policy settings.

If implemented effectively, the proposed Housing Diversity SEPP – particularly the recognition of Build-to-Rent housing – will support jobs and deliver much needed new housing. Recent analysis by the National Housing Finance and Investment Corporation indicated that every \$1 million of residential construction supports nine jobs<sup>1</sup>.

### 1.2 Need for greater housing diversity in Sydney & NSW

In June 2020, the NSW Government released a discussion paper for "a Housing Strategy for NSW". The strategy would form a whole-of-government approach to meeting the housing needs of the community for the next 20 years and beyond. Government and industry data indicate that housing needs and preferences of the community have changed over time and will continue to change.

Housing diversity is a broad concept and includes diversity for many different parts of the community, including the housing needs of older people, younger people, different cultural groups, household types, different types of housing tenure from social housing, to affordable rental housing to home ownership. The Housing Diversity SEPP should balance the importance of recognising and defining different housing types, with the importance of allowing flexibility in policy settings to encourage innovation and dynamic responses to changing consumer preferences.

The need for a more diverse mix of housing types and tenures is just as important in regional and rural NSW as it is in the Greater Sydney region. However, the planned response in regional and rural areas must recognise the unique nature of the demands arising from population change, and the ability of markets to deliver that change in these areas. In other words, it is not a one-size fits all solution for the whole of NSW and it is important this is part of the strategic planning framework.

### 1.3 Need for alignment between State and Council planning objectives

It is very clear that many SEPPs have been introduced over the last 40 years (see Appendix 1) to address the critical issue of housing diversity that was not being delivered through council-led local planning. Our planning framework must be designed with sufficient strategic vision and flexibility to allow the market to respond to the ever-changing needs of households and families and deliver housing that matches these demands.

This is an issue of strategic and economic significance and should rightly remain within the State Government's control. We are concerned that the proposed policy will downgrade the status of State planning controls and they will become less impactful and place much needed housing diversity at risk. It is concerning that many of the detailed design requirements and development standards will become more localised as those standards will now be determined by councils.

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<sup>1</sup> National Housing Finance and Investment Corporation, Building Jobs: How residential construction drives the economy, June 2020

## 1.4 Implementation

The Housing Diversity SEPP must be an enabler of housing diversity and provide detailed planning controls that override local planning controls where they are inconsistent with the relevant local council LEP. It is vital that the State Government provide a pathway in the planning system for the implementation of greater housing diversity especially where councils and their local plans fail to deliver that diversity.

There are aspects to the policy that will require more direct intervention by the State Government if local councils are not supportive of the housing types allowed by the SEPP. We strongly argue that the three emerging housing types, Build-to-Rent housing, student housing and co-living, will fail to attract investment unless they have certainty and clarity regarding their planning requirements. They will need appropriate design standards without being constrained by highly prescriptive design obligations imposed by local councils.

Given the very broad scope of the proposed changes, consideration should be given to implementing the SEPP in stages. This would allow for the many changes being made progressively implemented rather than all at once.

We would welcome the opportunity to provide the Department with constructive feedback on the proposed legal instrument after the Parliamentary Counsel Office has finalised its drafting.

Should the Department be seeking to establish a working group to provide advice regarding the policy's implementation, we would have members with technical expertise and industry knowledge who would be willing to assist with this process.

## 1.5 Recommendations

Below is a summary of the recommendations the Property Council has provided for the Department's consideration. Each of these recommendations relates to issues raised throughout the body of this submission.

### **Build-to-Rent**

- 1) Define Build-to-Rent in the new SEPP but ensure this definition and the related planning requirements do not impede the flexibility and innovation required to support the emergence of this new housing type.
- 2) Ensure that local councils cannot mandate a certain number of dwellings in Build-to-Rent housing to be rented at affordable rents separate from any obligation to provide affordable housing under a SEPP 70 Affordable Housing Contribution Scheme.
- 3) Not proceed with a 3-year minimum tenancy for Build-to-Rent as part of this SEPP as this is not a valid planning consideration.
- 4) Seek to provide incentives to encourage long-term institutional investment in Build-to-Rent housing and less focus on its transition to Strata-subdivision.
- 5) Mandate Build-to-Rent as permissible uses within the B5-Business Development and B6-Enterprise Corridor zones.
- 6) Ensure that the SEPP provides an opportunity for a reduced rate of off-street carparking in locations that are near frequent public transport services.
- 7) Ensure that local councils cannot impose additional off-street carparking requirements for visitor parking.
- 8) Consider opportunities for a reduction in off-street carparking requirements where provision is made for car share services within a Build-to-Rent housing development.
- 9) Provide a temporary reduction in the threshold for State Significant Development from \$100 million to \$50 million for a period of 5 years following the SEPP's commencement.
- 10) Consider opportunities to encourage local councils to fast-track Build-to-Rent housing projects during the COVID-19 recovery period.

- 11) Review the proposed exemption from State Significant Development for the entire City of Sydney LGA and have a consistent SSD threshold applied across the State with no areas carved out from this requirement.
- 12) Consider incentives or discounts from full infrastructure contributions whilst Build-to-Rent housing is still an emerging housing typology.
- 13) Undertake stakeholder consultation with the advice on specific design issues for Build-to-Rent housing as soon as possible.
- 14) Revise the definition of Build-to-Rent housing for regional NSW that refers to a smaller number of dwellings.
- 15) Consider mandating Build-to-Rent as a permissible use for the R1, R2, RU5 and B2 zones in Regional NSW.
- 16) Reduce the SSD threshold to projects over \$20 million for regional parts of NSW.

### **Student housing**

- 17) Clarify the definition for student housing regarding what is meant by teaching periods and if the housing can be used outside of formal university terms or semester periods.
- 18) Identify areas close to tertiary institutions where student housing could be provided under the Housing Diversity SEPP using Site Compatibility Certificates or mandated zones where this type of housing will be permissible.
- 19) Apply a merit-based approach to communal and open space requirements, rather than fixed requirements.
- 20) Lead a process with local councils in regional NSW to identify any shortage in student accommodation with a view to identifying the appropriate locations to allow student housing to be developed.

### **Co-living Housing**

- 21) Refer to studies or evidence to justify the recommended room size or clarify the range of acceptable room sizes for co-living housing developments as between 18sqm and 28sqm.
- 22) Consult with local councils with regard to business zones (B2 and B3) where small co-living housing developments would be compatible with local character.
- 23) Impose a reduced carparking rate of 0.2 spaces for each room.
- 24) Provide guidance for applicants in the form of examples of what it considers acceptable practices for meeting these requirements.
- 25) Extend the updated FSR bonus that will apply to affordable boarding houses to co-living housing developments.
- 26) Provide a set of standardised design guidelines for co-living housing that will prevail over any local requirements.

### **Affordable Housing**

- 27) Not proceed with the proposal to change the current threshold for retention of low-rental dwellings beyond those as at 28 January 2000.
- 28) Not proceed with the proposal to require applicants to demonstrate that buildings do not contain low-rental dwellings affected by this clause.

### **Seniors Housing**

- 29) Ensure that councils benefiting from the current heritage conservation area moratorium implement their strategic planning work before the current moratorium expires on 1 July 2021.
- 30) Review the current prohibition applying to seniors housing in the MRA to make it temporary and provide a defined expiry date.
- 31) Undertake further consultation regarding the review of environmentally sensitive land to be included in Schedule 1.
- 32) Allow for consideration of point to point transport services and ride sharing services for the purpose of meeting accessibility requirements.

- 33) Not proceed with this requirement that a registered club must be a registered club at the time the application for a site compatibility certificate is made.
- 34) Retain the long-standing requirement that the provisions of a State policy prevail over local provisions in the event of an inconsistency.
- 35) Provide further clarification regarding the proposed clause 4.6 and 20% cap to be applied to development standards in the Seniors SEPP.

**Social Housing**

- 36) Require LAHC to refer to the most up to date requirements and advice from Transport for NSW regarding carparking rates.

**Miscellaneous**

- 37) Include a savings and transitional arrangements clause in the instrument.
- 38) Include the prohibition on Seniors Housing within the MRA as part of this post-implementation review.



## 2.0 New Housing Types

The EIE introduces three new housing types, Build-to-Rent housing, purpose-built student housing and co-living, which are proposed to be allowed under the new SEPP.

Further consideration of each housing type is provided below. We would welcome the opportunity to review and provide feedback as the guidelines for these new housing types are developed further.

### 2.1 Build-to-Rent

We applaud the Government's leadership in recognising the important role Build-to-Rent housing can provide in NSW's housing supply continuum. As set out in the EIE, Build-to-Rent is well-established internationally, providing long term rental accommodation and a better rental experience via improved security of tenure and higher quality stock.

Given Build-to-Rent will be a new housing product in the NSW context, we urge the Government to be as flexible as possible when establishing the planning provisions – this will allow the market to respond and evolve to customer needs and enable this asset class to emerge and flourish over time. We include more specific comments below.

We would also strongly encourage accelerating the Build-to-Rent aspects of the EIE to support jobs and deliver much needed housing supply as we work our way through the COVID-19 induced recession. This includes the proposed State Significant Development approach set out in the EIE, although we would recommend a lower capital investment value threshold during the COVID-19 recovery period. Unlike a typical build-to-sell medium or higher density development, Build-to-Rent does not rely on pre-sales as a financing option. This means it can be launched much more quickly fuelling economic activity and job creation as well as provide housing supply in circumstances where it might otherwise not eventuate.

#### 2.1.1 Proposed definition

The EIE has proposed the following definition for Build-to-Rent housing:

*“a building or place that:*

- (a) contains at least 50 self-contained dwellings that are offered for long term private rent;*
- (b) is held within a single ownership;*
- (c) is operated by a single management entity; and*
- (d) includes “on-site management”.*

This definition is generally supported, however we note that:

- with respect to the 50 dwellings minimum – note that care will need to be taken with this element of the definition to ensure that a Build-to-Rent asset can be included where the dwellings are held in more than one building, but are still within the same project (e.g. townhouses and apartments within the same project). The Department should also consider a reduced number of dwellings for regional areas (refer to section 2.1.6 below).
- with respect to the management requirements – overwhelmingly Build-to-Rent assets will have a single manager, but it will be important to ensure asset owners are free to determine whether they deliver management and building services internally (provided by the asset owner) or by external managers.

***Recommendation 1: The Department should define Build-to-Rent in the new SEPP but ensure this definition and the related planning requirements do not impede the flexibility and innovation required to support the emergence of this new housing type.***



### 2.1.2 Proposed planning provisions

#### Local council affordable housing requirements

The Government has recognised that Build-to-Rent housing delivers a new form of at-market rental product which provides greater diversity of choice for people who rent.

Concerningly, Table 1 of the EIE notes that with respect to the Build-to-Rent category, local provisions will apply concerning affordability. Given the emerging nature of the Build-to-Rent product, we do not support local councils being authorised to impose requirements for a proportion of a development to be offered at reduced rents. Should there be any obligation to contribute to an existing affordable housing contribution scheme, it should be at the developer's discretion whether that obligation is satisfied through a monetary contribution or dedication of land/dwellings.

***Recommendation 2: The Department should ensure that local councils cannot mandate a certain number of dwellings in Build-to-Rent housing to be rented at affordable rents separate from any obligation to provide affordable housing under a SEPP 70 Affordable Housing Contribution Scheme.***

#### Minimum tenancy requirements

Table 1 of the EIE indicates that a minimum tenancy of 3 years will apply to rental dwellings. This is not consistent with the preferences of tenants, who would prefer the flexibility of shorter leases with the knowledge that the institutional ownership model behind Build-to-Rent housing provides them security of tenure.

Furthermore, the length of a tenancy should not be a planning consideration for Build-to-Rent housing.

***Recommendation 3: The Department should not proceed with a 3-year minimum tenancy for Build-to-Rent as part of this SEPP as this is not a valid planning consideration.***

#### Minimum hold period

As Build-to-Rent housing developments are to be held in single ownership, the EIE proposes a restriction on Strata-subdivision for a term of at least 15 years (except for the B3 – Commercial Core zone where strata subdivision will be prohibited in perpetuity).

While we understand the intent behind requiring a minimum hold period, we believe this is unnecessary given the long-term investment horizons of the institutional investors in Build-to-Rent housing.

In the event that a minimum hold period is deemed essential, the EIE does not provide any explanation to indicate why a 15-year restriction on Strata-subdivision was selected. A shorter timeframe, say 10 years, may be suitable in some situations. Covenants to hold Build-to-Rent for this time period (as happens elsewhere) could be deployed to achieve this, especially if it has greater recognition in the planning system.

We do not believe there needs to be any mechanisms incorporated in the SEPP to manage the transition from Build-to-Rent housing to a strata-subdivided apartment development – in particular, there should be no requirement for a minimum percentage of dwellings to be retained as affordable housing given Build-to-Rent housing is an at-market product. Furthermore, providing tenants with a right to buy could discourage institutional investors who are seeking long term safe cashflows. This type of condition of consent would limit the growth of Australia's Build-to-Rent sector.

***Recommendation 4: The Department should seek to provide incentives to encourage long-term institutional investment in Build-to-Rent housing and less focus on its transition to Strata-subdivision.***

### Locations and zones

The EIE has suggested that Build to Rent would be compulsory permitted uses in the following zones:

- R4 – High Density Residential zone,
- B3 – Commercial Core,
- B4 – Mixed Use and
- B8 – Metropolitan Centre zones.

It would also be permitted in R3 Medium Density Residential zone where residential flat buildings are permitted. We support the proposal to mandate Build-to-Rent housing in identified land use zones.

Councils that identify shortages of land for employment land uses should be able to seek exclusion of Build-to-Rent housing from their business and employment zones where they can demonstrate there will be a significant impact upon their ability to meet jobs targets.

Consideration should also be given to allowing Build-to-Rent housing as permissible land uses in the B5 - Business Development zone & B6 – Enterprise Corridor zone where it would not be inconsistent with the zone objectives and where those zones are close to public transport corridors.

***Recommendation 5: The Department should mandate Build-to-Rent as permissible uses within the B5-Business Development and B6-Enterprise Corridor zones.***

### Parking requirements

The EIE has indicated that carparking would be required at the minimum rate of 0.5 spaces per dwelling. This requirement may be appropriate in some locations, however there will be many other locations where off-street carparking should be imposed as a maximum requirement. Many areas where a Build-to-Rent housing development will be developed will be in close proximity to a frequent public transport service and a reduced rate of car parking would be a more appropriate outcome.

***Recommendation 6: The Department should ensure that the SEPP provides an opportunity for a reduced rate of off-street carparking in locations that are near frequent public transport services.***

There should be no additional visitor parking required and if visitor parking is to be included in the development, it should be dual spaces provided for both residents and their visitors.

***Recommendation 7: The Department should ensure that local councils cannot impose additional off-street carparking requirements for visitor parking.***

Build-to-Rent housing developments that also make provision for car share services (such as Go Get, Car Next Door and the like) should be taken into consideration for a reduction in their overall off-street carparking obligations. Many residents of this type of housing are less inclined to own a private motor vehicle and would prefer to either use a car sharing or ride sharing services.

***Recommendation 8: The Department should consider opportunities for a reduction in off-street carparking requirements where provision is made for car share services within a Build-to-Rent housing development.***

### **2.1.3 State Significant Development pathway**

The EIE has identified a Capital Investment Value (CIV) threshold of \$100 million that will determine if a development can proceed through the State Significant Development (SSD) assessment pathway.

We welcome this aspect of the proposal that will allow large Build-to-Rent housing proposals being categorised as State significant development. The proposed CIV threshold will only

capture the largest Build-to-Rent proposals (300 plus dwellings) which would ordinarily be reasonable. However given one of the aims of the new SEPP is to assist the State's economic recovery following COVID-19, we would suggest a temporary reduction to \$50 million for a period of 5 years following the SEPP's commencement which would apply to Build-to-Rent housing schemes with about 150 dwellings.

***Recommendation 9: The Department should provide a temporary reduction in the threshold for State Significant Development from \$100 million to \$50 million for a period of 5 years following the SEPP's commencement.***

All other Build-to-Rent housing proposals should be considered regional development and be determined by regional planning panels.

In the context of a COVID-19 response and economic recovery, consideration should be given to providing incentives that will encourage local councils to fast-track or accelerate the assessment stages of Build-to-Rent projects. Incentives could take the form of grants for open space and sporting facilities and other items of community infrastructure.

***Recommendation 10: The Department should consider opportunities to encourage local councils to fast-track Build-to-Rent housing projects during the COVID-19 recovery period.***

We have noted that no Build-to-Rent housing projects will be categorised as SSD within the City of Sydney LGA no matter its CIV. We do not support this proposal because NSW needs a planning framework that should be consistent across all LGAs with no exceptions or carved out areas. This reflects the position strongly advocated previously by Minister Stokes and the City of Sydney.

***Recommendation 11: The Department should review the proposed exemption from State Significant Development for the entire City of Sydney LGA and have a consistent SSD threshold applied across the State with no areas carved out from this requirement.***

#### **2.1.4 Local and State infrastructure contributions**

At this stage there is no clarity regarding how development contributions will be levied on Build-to-Rent housing. In the absence of any clear advice, industry will make assumptions that the same contributions regime that applies to residential flat buildings will also apply to Build-to-Rent.

Other contributions such as Special Infrastructure Contributions, voluntary planning agreements and levies under Affordable Housing Contribution Schemes will also be relevant to determine the financial viability of Built-to-rent projects. Given this will be an emerging housing typology that will fill an important segment of the housing continuum, there should be incentives provided to encourage these developments to be pursued and be viable.

***Recommendation 12: The Department should consider incentives or discounts from full infrastructure contributions whilst Build-to-Rent housing is still an emerging housing typology.***

#### **2.1.5 State Environmental Planning Policy No.65 & the Apartment Design Guide**

We welcome the statement made in the EIE that the provisions of SEPP 65 & ADG should only be used as a "guide" for Build-to-Rent housing developments. There will be aspects of these guidelines that will not be relevant to Build-to-Rent as they are to traditional build to sell apartments.

The statement that the Department of Planning, Industry and Environment will be preparing specific advice on design issues is a positive signal to the Build-to-Rent housing industry. It is important that there is wide consultation on this design advice with industry stakeholders.

Poorly prepared design guidelines could have a detrimental impact on the viability of Build-to-Rent housing projects. The Property Council and our members are looking forward to

reviewing a draft of this advice when it is finalised, which should be as close as possible to the commencement of the relevant provisions of the SEPP.

There are several aspects of SEPP 65 and the ADG where a modified approach can be applied for Build-to-Rent housing when compared with traditional apartment developments. This includes recognition of the provision of more communal spaces and less private spaces, inclusion of indoor recreation facilities (gymnasiums, games rooms, etc) and the design of corridors and stairs – where they should be designed to avoid damage through frequent movement of furniture as tenants move in and out.

***Recommendation 13: The Department should undertake stakeholder consultation with the advice on specific design issues for Build-to-Rent housing as soon as possible.***

### **2.1.6 Build-to-Rent in Regional Areas**

The EIE is seeking feedback regarding appropriate provisions for Build-to-Rent housing in regional areas. We suggest regional areas should include both the Hunter and Illawarra regions and the Central Coast as these areas operate independently of the Sydney housing market.

The definition of Build-to-Rent for regional areas should be altered to allow developments of less than 50 dwellings – this would better reflect the scale of housing in these markets.

***Recommendation 14: The Department should revise the definition of Build-to-Rent housing for regional NSW that refers to a smaller number of dwellings.***

Most regional cities and towns have a limited number of zones within their Standard Instrument LEPs. For this reason, we request that the Department consider Build-to-Rent housing being included as a mandated land use in the following zones in regional NSW:

- R1 - General Residential;
- R2 - Low Density Residential;
- RU5 – Village; and
- B2 – Local Centres.

***Recommendation 15: The Department should consider mandating Build-to-Rent as a permissible use for the R1, R2, RU5 and B2 zones in Regional NSW.***

The EIE has proposed a CIV amount of \$50 million for assessment as State Significant Development. For Build-to-Rent to become accepted as an alternative housing product in broader NSW, it needs to be supported during its emerging planning and development stage and that may mean greater State intervention until it becomes established. For this to occur there may need to be more Build-to-Rent housing approved as State Significant Development. Therefore, we strongly request the Department to consider reducing this threshold to \$20 million for regional parts of NSW.

***Recommendation 16: The Department should reduce the SSD threshold to projects over \$20 million for regional parts of NSW.***

## **2.2 Student Housing**

Australia's tertiary education sector is one of the nation's primary exports. The growth in international students studying at NSW universities has led to the need for purpose-built student accommodation.

Purpose-built student accommodation is different to other classes of residential assets with significant shared facilities including common rooms, laundry and gyms. These buildings are usually managed by an on-site team who have responsibility for the running of the buildings, providing maintenance and conducting interviews for new tenants.

Changes to the existing planning requirements for purpose-built student accommodation should be carefully considered to ensure they do not adversely impact future supply. Any reduction in the supply of purpose-built student accommodation could place further pressure

on housing markets, particularly in areas near university precincts. If students are unable to find beds in purpose-built student accommodation they will need to turn to the private rental/sales market for their housing needs.

### **2.2.1 Proposed definition**

The EIE proposes the following definition:

*“A building that:*

- (a) provides accommodation and communal facilities principally for students enrolled to study at an educational establishment during teaching periods; and*
- (b) may incorporate some fully self-contained dwellings”.*

The Department will need to clarify whether this definition allows for the use of student housing buildings outside of defined teaching periods. In many cases, universities offer summer schools and alternative teaching calendars that do not follow strict interpretations of “teaching periods”. The definition needs to be clear to ensure that the use of student housing is not unnecessarily restricted by its definition.

***Recommendation 17: The Department should clarify the definition for student housing regarding what is meant by teaching periods and if the housing can be used outside of formal university terms or semester periods.***

### **2.2.2 Proposed planning provisions**

#### Locations and zones

Student housing is generally a land use that is provided in close proximity to a tertiary campus and close to the types of services that university students require.

The EIE indicates that the Government does not propose to make student housing a compulsory permitted use in any land use zone. Instead the intended approach will involve local Councils determining the locations where student housing will be permissible and providing for this through their LEPs.

Unless student housing is mandated as permissible use in compatible zones, many Councils will choose not to identify areas where this type of housing can be developed. There will be areas close to tertiary institutions where there is greatest need for student housing and those areas could either be identified either using a Site Compatibility Certificate process or through zones being mandated within the *Standard Instrument LEP Order*.

***Recommendation: 18: The Department should identify areas close to tertiary institutions where student housing could be provided under the Housing Diversity SEPP using Site Compatibility Certificates or mandated zones where this type of housing will be permissible.***

#### Parking requirements

The EIE has stated there is no minimum number of spaces required for student housing developments and the failure to provide any off-street carparking cannot be used as grounds for refusal.

As most student housing is located close to public transport and in locations with high level of services used by tertiary students, it is very unlikely that considerable off street carparking will be required and any parking provided on site should be only to serve loading/deliveries and caretaker/onsite management employees only.

We support this aspect proposal.

#### Room Size

The EIE is proposing a minimum room size of 10sqm which based on the minimum room sizes found in other jurisdictions and is reflective of current industry practice.



A 10sqm minimum room size is supported. Developers and operators of student housing should have flexibility to provide rooms above this minimum based on the market and occupant preferences, however, there should be no penalty for a development that is fully compliant with the 10sqm minimum room size.

### Communal and Open Spaces

The EIE has proposed a requirement for a minimum of 15sqm of indoor communal areas per 12 students for the study, social and religious needs of students. The indoor space target is reasonable, however there should be some consideration to other areas being included in this such as gyms, cinema rooms, yoga rooms, communal kitchens etc.

In addition, proposals for student housing that are located more than 400m from a university campus will need to provide 2.5sqm of outdoor space per student (balconies, decks, roof terraces). The outdoor space requirement will be too onerous if the 400m is strictly applied. This requirement should be considered as part of a merit-based assessment. Acquisition of development sites suitable for student housing within a 0.5 to 1-kilometre radius of a university campus within in Sydney is challenging. Imposition of this outdoor space requirement does seem to be unreasonable.

Instead we suggest that this distance be expanded to approximately 1.5-kilometre, and that the requirement of 2.5sqm be a high-end target only, that includes indoor and outdoor space. We would recommend a merit-based approach to these standards.

***Recommendation 19: The Department should apply a merit-based approach to communal and open space requirements, rather than fixed requirements.***

### **2.2.3 Student Housing in Regional areas**

Student housing is just as important in regional areas as it is in Greater Sydney. Where demand for student housing cannot be met on campus, there should be opportunities provided for allowing student housing to be developed off campus.

As most of the tertiary institutions (universities, TAFE and other skills-based training facilities) in regional NSW tend to be set in campuses settings within suburban or semi-rural areas, providing for off-campus student housing would most likely involve locating within a low-density residential zone or equivalent zoning.

We would encourage the Department to lead a process with councils in regional areas to identify any shortages in student accommodation and identifying the appropriate locations to allow student housing to be developed. Given the intensive nature of this type of strategic planning process, it should be led by the Department working across several LGAs at once.

***Recommendation 20: The Department should lead a process with local councils in regional NSW to identify any shortage in student accommodation with a view to identifying the appropriate locations to allow student housing to be developed.***

## **2.3 Co-living Housing**

Co-living development is a new housing definition that has been introduced to capture the type of housing that is currently labelled as “new generation” boarding houses under the ARH SEPP since 2009. These provide an affordable housing option, albeit mostly at market rents, for singles and couples usually in highly accessible locations or near employment centres such as hospitals and universities.

We welcome the recognition of this new housing type, but are concerned that the proposed planning requirements will not meet the needs of the market and make this product financially unviable.

This type of housing differs from traditional rental accommodation as they are usually:

- Fully furnished with up to \$10,000 of appliances and furniture per unit (reducing up-front capital cost);

- Flexible (provides greater degree of flexibility for tenant depending on employment or education situation);
- Secure (on site management provides greater security);
- Privacy (unlike share house accommodation);
- Affordable (rents are inclusive and often fully furnished);
- Location (close to work and services and public transport); and
- Maintained (by onsite management).

Co-living developments provide a unique entry point into the housing continuum for singles and couples. They offer a good sense of community that can be lacking in other housing types found across Sydney. They can also offer an affordable point of entry into the housing market when furnished. The large capital cost of buying furniture and household appliances can become a significant barrier to entry for young people leaving home and living alone. New generation boarding houses provide an easy pathway into the housing market and if these types of developments were to cease being supplied, there will be adverse consequences on younger generations.

### **2.3.1 Proposed definition**

The EIE has proposed the following definition for co-living that will be included into the Standard Instrument LEP Order:

*“A building held in single ownership that:*

- (a) provides tenants with a principal place of residence for 3 months or more;*
- (b) includes on-site management;*
- (c) includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and*
- (d) 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”.*

The EIE indicates a standard room in a co-living development will be approximately 30 to 35sqm. This is higher than the 12-25sqm room size for a boarding house. There is no information provided in the EIE to indicate why this particular standard was selected. As 30sqm room sizes are approaching the size of a typical studio apartment, a reduced room size between 18sqm and 28sqm would be more appropriate, and better recognises the greater use of communal areas which negates the need for typically sized apartments.

The proposed SEPP needs to be clear regarding this standard as the non-alignment of these standards is very confusing. The Department should point to studies or other evidence to justify the choice of this numerical requirement as it will have significant implications on the financial viability and business models for the development and operation of co-living developments.

***Recommendation 21: The Department should refer to studies or evidence to justify the recommended room size or clarify the range of acceptable room sizes for co-living housing developments as between 18sqm and 28sqm.***

### **2.3.2 Proposed planning provisions**

#### Locations and zones

The EIE has proposed for co-living apartments to be made a mandated permitted use through the Standard Instrument LEP Order in all zones where residential flat buildings are currently permitted. It has indicated that appropriate zones would be R4 – High Density Residential zone, B4 – Mixed Use zone and R3 – Medium Density Residential in some areas where residential flat buildings are permissible in that zone. Unfortunately, in many of these zones, residential flat buildings will be the higher and best use which will limit development of alternative housing types.

Councils should also be encouraged to permit small co-living housing developments in other zones where they are appropriate, including B2 – Local Centres and B3 – Commercial Core where they are consistent with the local character of the area.

***Recommendation 22: The Department should consult with local councils with regard to business zones (B2 and B3) where small co-living housing developments would be compatible with local character.***

#### Parking requirements

The EIE has identified a requirement for co-living housing developments to provide 1 car spaces for every 2 rooms within the development. This requirement will be a non-discretionary standard. The carparking requirement will significantly increase construction costs, particularly for inner city locations, and impact project feasibility. We would urge the Department to undertake surveys of car ownership within co-living developments to determine if this requirement aligns with actual rates of motor vehicle ownership.

***Recommendation 23: The Department should impose a reduced carparking rate of 0.2 spaces for each room.***

The EIE does not indicate any requirement for visitor parking to be provided. Any visitor parking must be met from the above requirement and local councils should not be allowed to impose a separate obligation to provide car parking spaces for visitors.

Car share is becoming an increasingly accepted form of transport in inner city areas. Where a development can provide carparking spaces for car share companies within their developments, this should be encouraged through parking development standards for these development types.

#### Communal and open space

The EIE is proposing a requirement for both communal living areas (minimum of 20sqm and 2 sqm per room above 10 rooms) and private open space (4sqm per room). Increasing the requirement for private open space to 4sqm per room will be a further challenge to project feasibility.

A requirement for 25% of the site area to be provided as communal open space is also proposed. This requirement may be reduced where all dwellings have private open space that exceeds the minimum requirements. A merit-based approach is required for these standards.

The proposed SEPP should provide examples of what would be considered acceptable to meet these requirements. Given there are many possible innovative design responses such as balconies, wintergardens, rooftop terraces and the like, it would be useful from a project design perspective to understand what would be needed to meet the requirements of the SEPP. This is particularly important where local councils will be assessing development applications and the Council assessment staff have preconceived ideas about what would and wouldn't meet these requirements.

***Recommendation 24: The Department should provide guidance for applicants in the form of examples of what it considers acceptable practices for meeting these requirements.***

#### Application of local provisions

The EIE has proposed that important planning controls such as building height and FSR should be in accordance with the relevant LEP. It states that maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.

As co-living housing developments are currently categorised as boarding houses under the ARH SEPP, they are designed to the development standards contained in that policy. Boarding houses are subject to the LEP height but there is a generous FSR incentive bonus provided by clause 29(1)(c) of the policy. It is imperative for co-living housing to continue to



be a viable alternative housing model it must be allowed to continue with the current planning provisions that are allowed under the ARH SEPP.

Based on the new planning framework that has been developed for co-living housing within the SEPP, it is highly likely that this housing type will no longer be supplied due to the business model no longer being financially viable. This is because, without the density bonus that apply to boarding house developments, the incentive to develop co-living housing will be lost and this important housing type simply won't be developed. Just as boarding houses, co-living is a housing type which contributes to greater housing diversity, especially in parts of Sydney where singles and couples would ordinarily struggle to buy a home or rent a traditional apartment at market rents.

***Recommendation 25: The Department should extend the updated FSR bonus that will apply to affordable boarding houses to co-living housing developments.***

Design issues (DCP and design guidelines)

In the absence of any specific design advice set out within the proposed Housing Diversity SEPP for co-living housing, the requirements of the relevant council DCP would be applied to assess issues such as setbacks, building articulation, landscaped area, etc.

The EIE indicates that design guidelines for co-living may be developed. It is crucial that there is a standard set of design requirements applied consistently across the State. Unless the Department intervenes and imposes design guidelines, projects for co-living will be assessed against hastily prepared policies or councils will seek to impose design controls for residential flat buildings.

***Recommendation 26: The Department should provide a set of standardised design guidelines for co-living housing that will prevail over any local requirements.***

## 3.0 Updating Existing Provisions

This section of the EIE proposes a series of amendments to the following three environmental planning instruments:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)*
- *State Environmental Planning Policy (Housing for Senior or People with a Disability) 2004 (Seniors Housing SEPP); and*
- *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*

### 3.1 Boarding Houses

#### 3.1.1 Definition of Boarding House

The EIE proposes several significant changes to the definition of boarding house (which have been highlighted in red underlined text below).

“An affordable rental building that:

- provides lodgers with a principal place of residence for 3 months or more;*
- is managed by a registered not-for-profit community housing provider (CHP);*
- has some shared facilities, such as communal living room, bathroom, kitchen or laundry, and*
- has rooms, some or all of which may have private kitchen and bathroom facilities that accommodate one or two adult lodgers*

*but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment”.*

The changes to this definition are generally supported, however should the definition also not include student accommodation, which is now proposed to be separately defined.

We understand that this change has been made in response to a long history of concerns raised to the Department that many ‘next generation’ boarding house developments have not been let to tenants at affordable rents. The criticism is that the ARH SEPP planning pathway and density bonus have been exploited to develop an alternative housing product that has been offered at market rents.

These changes will have a detrimental impact on the supply of these ‘next generation’ boarding houses which have developed as a unique housing type over the last decade - without the generous density bonus.

Feedback is also being sought on whether this would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they would revert to market rates.

It is not clear whether these changes have been socialised with the Community Housing Provider (CHP) sector. Managing boarding houses would be an additional responsibility for that sector which is currently expanding to manage council-owned properties. It is also unclear how existing boarding houses managed by private owners will be treated after these amendments are made in terms of gaining existing use rights under the *Environmental Planning and Assessment Act 1979*.

#### 3.1.2 Boarding Houses in the R2 Low Density Residential Zone

The EIE is proposing to remove boarding houses as a mandated land use within the R2 Low Density Residential zone. Clause 26 of the SEPP identifies the land use zones where the policy applies and includes most residential and business zones.

Since February 2019 there has been a 12-room limit for boarding houses within the R2 Low Density Residential zone. This restriction was made to reduce the impact of large boarding house developments in low-density residential areas.

The industry has had almost two years to adapt to this amendment and the complete prohibition of boarding houses from the R2 Low Density Residential zone is appropriate but does reduce housing diversity by ending the development of small niche boarding houses.

### **3.1.3 FSR bonus for boarding houses**

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

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

The EIE is proposing the introduction of a flat 20% FSR bonus to the existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.

We suggest that this FSR bonus should be carried over to apply to co-living housing as it has been applied to boarding houses as outlined under recommendation 25.

### **3.1.4 Car Parking**

The EIE states that the ARH SEPP currently provides a reduced minimum car parking rate for boarding houses lodged by or on behalf of social housing providers. This reduced rate will be maintained.

This is an appropriate outcome.

## **3.2 Affordable Rental Housing SEPP provisions**

### **3.2.1 Amendment to Part 3 of Affordable Rental Housing SEPP (former SEPP 10)**

#### Remove References to 28 January 2000

Part 3 of the ARH SEPP includes the requirements of the former *State Environmental Planning Policy No. 10 – Retention of Low-Cost Rental Accommodation* (SEPP 10). Clause 51 of the SEPP permits a council to levy a monetary contribution as a condition of consent if it considers that approval of a proposed development would result in the loss of affordable housing on land that is the subject of the application.

Currently this requirement only applies to buildings that were ‘low-rental residential buildings’ as at 28 January 2000, which was when *State Environmental Planning Policy No 10 – Retention of Low-Cost Rental Accommodation (Amendment No.6)* was made.

The EIE has proposed modification of this clause so that it would be applied to low-rental residential buildings at any time within the last 5 years preceding the lodgement of a development application. This change will significantly expand the application of this clause to include buildings that were not low-cost rental premises after 28 January 2020 but may become so into the future.

Consequently, Councils will be entitled to levy contributions for affordable housing where a building that has been a “low-rental residential building” in the past 5 years for any development that will demolish, alter or add to the internal/external fabric or strata-subdivide the building.

The EIE has not included any information to assess the regulatory impact of this amendment or the number of additional buildings that will be subject to the amended clause. Given the significant expansion to the application of this policy, the Department should provide more justification for this major policy shift.

***Recommendation 27: The Department should not proceed with the proposal to change the current threshold for retention of low-rental dwellings beyond those as at 28 January 2000.***

### Developers to demonstrate whether a building is low-rental

The other change proposed in the EIE is to reverse the current onus of providing evidence that a building did not contain low-rental dwellings at the relevant time from the Council the applicant.

At face value it would appear appropriate to make this reversal if the test to determine the application of the policy remained buildings that were or became low rental before or as at 28 January 2000. However, as the EIE also intends to expand the policy to consider all buildings that were low-rental in the last 5 years, the change will add a considerable administrative burden and expense to a very large number of development applications.

We do not support these changes as the costs associated with these changes will add considerable cost to the supply of new housing.

***Recommendation 28: The Department should not proceed with the proposal to require applicants to demonstrate that buildings do not contain low-rental dwellings affected by this clause.***

### **3.2.2 Secondary Dwellings**

This proposal will allow rural councils to permit secondary dwellings in rural zones through their LEPs. Currently a Council can allow a secondary dwelling using a clause within the Standard Instrument LEP Order. The maximum size of a secondary dwelling is limited to the greater of 60sqm or a nominated percentage of the floor area of the principal dwelling. The proposal is to amend the ARH SEPP so that councils have discretion to set a maximum size for secondary dwellings in rural zones that is not connected to the floor area of the principal dwelling.

Having regard to the justification provided in the EIE, this change is appropriate and therefore not opposed.

### **3.3 Seniors Housing**

As the baby boomer generation gets older, the number of people in NSW aged over 55 in 2036 will increase to 3.1 million. Demand for seniors housing in suitable locations will continue to grow, as will demand for other smaller dwelling types, as this ageing population seeks to 'rightsize' their dwellings to villa homes, townhouses and secondary dwellings.

The proposed Housing Diversity SEPP will consolidate the current provisions of the Seniors Housing SEPP and implement several new proposals described below. Critically, we are concerned that the proposed changes will impede the supply of suitable housing for seniors and people with disabilities.

It is important that the right types of housing are developed in locations that are close to services, such as health and transport infrastructure. We also know that people in making their last housing purchase, prefer to do so within 5km of where they are established in their communities, close to family and results in significantly improved health and wellbeing outcomes.

#### **3.3.1 Application of SEPP to heritage conservation areas and metropolitan rural areas**

This SEPP does not currently apply to heritage conservation areas within the Greater Sydney Region (until at least 1 July 2021) and metropolitan rural areas in the Greater Sydney Region. Amendments to the policy, that were not subject to public consultation, were made recently to exclude the policy's operation in these areas.

#### Heritage conservation areas

A temporary moratorium is in place until 1 July 2021 to allow Councils time to ensure the seniors housing provisions align with their local strategic plans and local housing strategies. The 12-month extension granted in June 2020 was provided due to the unforeseen impacts of COVID-19 that have delayed some councils completing their strategic planning work.

As many local councils have progressed draft local housing strategies through to community consultation, there is a clear need for more appropriate housing for seniors across all of Sydney. It is imperative that the State Government ensure that Councils implement their strategic planning work before the current moratorium ends on 1 July 2021.

***Recommendation 29: The Department should ensure that councils benefiting from the current heritage conservation area moratorium implement their strategic planning work before the current moratorium expires on 1 July 2021.***

#### Metropolitan rural area

The EIE supports the adoption of recommendations from the Greater Sydney Commission's report '*Investigation into the cumulative impacts of Seniors Housing in the rural areas of The Hills and Hornsby local government areas*', which was published in November 2019 but only released after amendments were Seniors SEPP on 29 July 2020. The amendments prevent new proposals for Seniors Housing on land within the Metropolitan Rural Area (MRA) of Greater Sydney. The MRA is identified in the *Greater Sydney Regional Plan – A Metropolis of Three Cities* and stretches across Greater Sydney's outer edge in all directions.

The Property Council is concerned about the impact these significant changes to the Seniors Housing SEPP will have on the supply of suitable housing for seniors and people with disabilities. Although we support local councils undertaking the very important strategic planning work of investigating local needs and opportunities for supply, the prohibition should only be temporary and have a defined expiry date.

For instance, it is unclear whether the Department has considered incentives for the development of seniors housing developments within infill locations now that all opportunities in greenfield locations have been 'turned off'.

***Recommendation 30: The Department should review the current prohibition applying to seniors housing in the MRA to make it temporary and provide a defined expiry date.***

#### **3.3.2 Definitions**

The EIE identifies the definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP Order and seeks to update or amend them to align with the definitions contained in the Standard Instrument to provide a consistent approach with other environmental planning instruments.

The Property Council supports the adoption of common definitions across planning instruments.

#### **3.3.3 Update Schedule 1 (Environmentally Sensitive Land) of the Seniors SEPP**

Currently the Seniors Housing SEPP does not apply to land identified in Schedule 1. It is understood that many of the terms used in this schedule have not become obsolete following the introduction of the Standard Instrument LEP in 2008 and others subject to much debate in the legal proceedings. Greater clarity is needed to identify land to which the SEPP applies.

The Property Council looks forward to further consultation on the specifics of this proposal in this area through a draft instrument for further consultation.

***Recommendation 31: The Department should undertake further consultation regarding the review of environmentally sensitive land to be included in Schedule 1.***

#### **3.3.4 Location and Access to Facilities**

It is proposed to amend the provisions for 'location and access to facilities' in the Housing for Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting accessibility requirements.

The Property Council understands the nature of transport is subject to ongoing modernisation and technical disruption. Our planning instruments will need to adapt to this change. The NSW Government's trial of on-demand bus services is an example of how public transport



requirements can be met without the regimented, timetabled standards of conventional bus and train timetables of the past.

To this extent, the EIE does not provide sufficient examples where current controls are insufficient and require further restrictions. The Property Council encourages the Department to exercise a cautious approach prior to ruling out future transport modes.

***Recommendation 32: The Department should allow for consideration of point to point transport services and ride sharing services for the purpose of meeting accessibility requirements.***

### **3.3.5 Site Compatibility Certificates**

#### Validity

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 in most cases is the local council.

Because of the 24-month timeframe for 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.

It is proposed to introduce provisions in the new SEPP so that a SCC is valid for 5 years. This is supported.

Development applications must also be lodged within 12 months of the date on which the SCC is issued. Given the often complex nature of preparing studies to support the preparation of a development application, and the fluctuating demand for consultants across the economic cycle, the Property Council suggests the 12 month period be either extended to 24 months or provision be made for an applicant to demonstrate that significant effort has been made to prepare an application within the prescribed time period.

#### Registered clubs

Currently, a SCC application can be made on land that is used as an existing registered club. 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.

The Property Council does not believe this approach will boost housing diversity or opportunities to deliver seniors housing or that this is a valid planning consideration. As the intention is not to provide seniors with access to a registered club, it is to provide opportunities for development of suitable land or to allow registered clubs to diversify their income stream. This change could preclude the redevelopment of a sites suitable for seniors housing and this may become more widespread as the economic impacts of COVID-19 have significant impacts on hospitality venues.

***Recommendation 33: The Department should not proceed with this requirement that a registered club must be a registered club at the time the application for a site compatibility certificate is made.***

### **3.3.6 Application of Local Development Standards**

Currently, clause 5 of the Seniors Housing 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 a LEP prevail to the extent of any inconsistency with the SEPP.

The Property Council objects to this aspect of the proposal because:

- It undermines the traditional planning hierarchy, where State planning instruments take precedence over local planning controls;

- The approach is unlikely to improve housing diversity or improve the supply of seniors housing;
- Local planning controls significantly increase the cost of delivering seniors housing and are not tailored to meet the unique needs of this market, and
- Is this the start of something bigger? What are the implications of this change in terms of the interpretation of planning law within Land and Environment Court appeals?

It is unclear what legal precedent will occur as a consequence of elevating local development standards over those in the SEPP to the extent of any inconsistency. This change is not supported.

***Recommendation 34: The Department should retain the long-standing requirement that the provisions of a State policy prevail over local provisions in the event of an inconsistency.***

### **3.3.7 Changing the effect of clause 4.6**

It is proposed that the development standards in the Seniors Housing SEPP could be varied using a clause similar to clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.

The EIE does not fully explain why such a change is necessary or how the change would operate. Is it the intention to insert a clause similar to clause 4.6 within the SEPP and that clause could be relied upon to vary the numerical standards contained within Seniors Housing SEPP. How will this change be applied by Councils and the Land and Environment Court.

***Recommendation 35: The Department should provide further clarification regarding the proposed clause 4.6 and 20% cap to be applied to development standards in the Seniors SEPP.***

## **3.4 Social Housing**

The EIE proposes amendments to the ARH SEPP and Seniors Housing SEPP to support the delivery of social housing. These instruments contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. Following a review of the relevant provisions to ensure they are fit-for-purpose and aligned with wider Government priorities, the following changes were considered necessary:

### **3.4.1 Proposed changes to the social housing provisions of the ARH SEPP**

#### **Increase maximum number of dwellings that LAHC can self-assess**

LAHC can currently deliver under the ARH SEPP provisions small scale redevelopments with up to 20 dwellings with a maximum height of 8.5 metres (2 storeys). These can be self-assessed by LAHC provided the number of dwellings does not exceed 20 on one site.

The EIE proposes to increase the number of dwellings that LAHC can self-assess to 60 dwellings. No changes are proposed to the current height restriction.

This change is supported.

#### **Design Guidelines for LAHC development**

LAHC is required to consider the *Seniors Living Policy: Urban Design Guidelines for Infill Development* when self-assessing projects. LAHC also uses its own design guidance material and standard in these assessments. The EIE indicates that all relevant guidance material will be updated to better reflect contemporary practice.

This change is supported.

### Car Parking requirements for LAHC development

The EIE indicates that it is proposed to apply a minimum car parking rate of 1 space per 2 dwellings (0.5 spaces per dwelling) to all projects including social, affordable and private dwellings in a development undertaken by or on behalf of LAHC, on government-owned land. If a lower carparking rate is proposed in a LAHC development, there would be an option to lodge a development application with the relevant council for a merit assessment.

These changes are supported in-principle. However, it would be appropriate for LAHC to refer to the most up to date Transport for NSW requirements and advice regarding carparking rates, especially for locations that are close to frequent public transport services and other amenities.

***Recommendation 36: The Department should require LAHC to refer to the most up to date requirements and advice from Transport for NSW regarding carparking rates.***

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

Currently the ARH SEPP provides a density bonus for certain infill affordable housing, including dual occupancies, multi-dwelling housing and residential flat buildings. The EIE proposes to increase the range of developments that can be carried out under this provision to other types of residential accommodation such as manor homes and terraces.

This change is supported.

### Clarify the types of developments that LAHC can self-assess

The EIE proposes to clarify the types of developments that LAHC can self-assess. It is intended that this will include any type of residential accommodation that is permitted with consent under another environmental planning instrument. This will include dwellings and dual occupancies permitted under a LEP, as well as manor homes and terraces that are allowed under the Codes SEPP. Boarding house developments under the ARH SEPP can also be self-assessed.

These changes are supported.

## **3.4.2 Proposed changes to the social housing provisions of the Seniors SEPP**

### Parking concessions for seniors housing

The Seniors Housing SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider.

The EIE indicates that 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. These amendments are to improve the feasibility of delivering new communities under the development model of a mixture of social, affordable and private housing.

These changes are supported.

### Clarify application of lift access exemption

The Seniors Housing 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 EIE explains that 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.

These changes are supported.



### **3.4.3 *Proposed changes to the social housing provisions of the SRD SEPP***

The EIE intends to further streamline the assessment of LAHC projects by simplifying the pathway for major projects to become State Significant Development. This will occur through an amendment to the SRD SEPP so that projects will become State significant if:

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

LAHC sites that are of State significance will no longer need to be identified on a map within the SRD SEPP.

For Government-owned land within the City of Sydney, the Minister for Planning will be the consent authority for projects with a CIV over \$100 million, with the power to delegate to the City of Sydney, if deemed appropriate.

These changes are supported.

## 4.0 Miscellaneous

### 4.1 Savings and Transitional Clause

It is important that the legal drafting of the new instrument includes a savings and transitional clause that will preserve existing development applications that might be impacted by the proposed changes to existing SEPP provisions.

The clause should refer to the preservation of any development application made to a Council before 29 July 2020.

***Recommendation 37: The Department should include a savings and transitional arrangements clause in the instrument.***

### 4.2 Statutory review of new SEPP

The EIE states that the Department will review the provisions of the new SEPP within 24 months of its introduction to ensure they are functioning as intended. We support this and would also recommend that this review also include the recent prohibition on Seniors Housing SEPP proposals within the Metropolitan Rural Zone should that prohibition be continued when this new SEPP is made.

***Recommendation 38: The Department should include the prohibition on Seniors Housing within the MRA as part of this post-implementation review.***

## 5.0 Conclusion

The intention of the draft SEPP to facilitate the delivery of housing that meets the needs of the State's growing population is broadly supported and inclusion of three new emerging housing typologies into the planning system is welcome.

The Government's interest in Build-to-Rent housing, demonstrated through land tax concessions, identification as State significant development and recognition of the need for specific design requirements, is very positive. The EIS has proposed a range of indicative planning controls that are under consideration and the application of local development standards (such as building heights and FSR) are workable provided there is flexibility in the design guidelines that will be applied under SEPP 65 and the ADG.

It is unfortunate that these significant outcomes have been accompanied by other amendments that will place boarding house and seniors housing developments at risk. We urge the Department to reconsider these changes and instead look at how local Councils can use their strategic planning work underway to seek exemptions from the provisions of State planning controls.

The automatic exemption from the state-wide planning rules will encourage Councils to avoid implementing the development local planning controls for these much-needed diverse housing types.

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## Appendix 1: Timeline of housing policy

Over the last 40 years there have been at least fifteen (15) State Environmental Planning Policies (SEPP) and Regional Environmental Plans (REP) made with the primary intention of encouraging greater housing diversity in NSW. The table below provides a summary of the key policies that have been implemented to encourage greater housing diversity and choice.

Year	Policy	Purpose
February 1982	<i>State Environmental Planning Policy No 5 – Housing for Aged or Disabled Persons</i> (SEPP 5)	To support the supply of housing for older people and people with disabilities and provide a wider choice of residential accommodation for aged persons and disabled persons.  In 2004 this policy was replaced by <i>State Environmental Planning Policy (Seniors Living)</i> following a comprehensive review of its operation. Recent amendments have seen the provisions of the SEPP disabled in heritage conservation areas within Greater Sydney and land within the Metropolitan Rural Area.
October 1983	<i>State Environmental Planning Policy No 9 – Group Homes.</i>	To facilitate the establishment of permanent group homes in which socially disadvantaged persons or disabled people may lead as normal a life as possible by living permanently in an ordinary residential household instead of an institutional environment.
1984	<i>State Environmental Planning Policy No 10 – Stata Subdivision of Buildings Used for Residential Purposes</i> (SEPP 10)	To facilitate the conservation of rental accommodation provided in buildings used for residential purposes for people on low to moderate incomes. In 1989 SEPP 10 was renamed <i>State Environmental Planning Policy No. 10 Retention of Low-cost Rental Accommodation.</i>
April 1983 & April 1986	<i>State Environmental Planning Policy No.8 – Surplus Public Land</i> (SEPP 8) and <i>Sydney Regional Environmental Plan No. 7 (Multi Unit Housing: Surplus Government Sites)</i> (SREP 7)	To implement the Government's urban consolidation policies my making certain parcels of Government land available for good examples of multi-unit housing.
1987	<i>Sydney Regional Environmental Plan No 12 – Dual Occupancy</i> (SREP 12) and <i>State Environmental Planning Policy No 25 – Residential Allotment Sizes</i>	To encourage more medium density housing in Sydney by allowing dual occupancy housing to be developed. also made in 1987 enabled take up of dual occupancy developments when most council planning controls did not support this type of housing product. A stated objective of this policy was

	<i>and Dual Occupancy Subdivision (SEPP 25)</i>	to encourage innovation and diversification in subdivision patterns and building designs.
September 1989	<i>State Environmental Planning Policy No 28 – Town Houses and Villa Houses (SEPP 28)</i>	To encourage urban consolidation and respond to changed and changing housing needs in terms of social, demographic and economic trends by increasing the range of dwelling types available in residential zones and promoting the availability of a range of smaller dwelling units. A further aim of SEPP 28 was to increase the supply of rental accommodation available.
November 1991	<i>State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land)</i>	To provide for the redevelopment of certain urban land for multi-unit housing. A stated objective of the policy was to ensure any redevelopment would result in “a greater diversity of housing types within a particular locality to meet demand generated by changing demographic and household needs”.
April 1992	<i>State Environmental Planning Policy No. 21 – Caravan Parks (SEPP 21)</i>	To encourage the orderly development of land used as caravan parks used for tourists and long-term residents.
July 1993	<i>State Environmental Planning Policy No 36 – Manufactured Home Estates</i>	To facilitate the establishment of manufactured homes as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements.
December 1993	<i>Greater Metropolitan Regional Environmental Plan No 1-Redevelopment of Urban Land</i>	To provide a greater choice and diversity of housing types and the fuller use of existing and likely future services, public amenities and physical and social infrastructure.
September 1997	<i>State Environmental Planning Policy No 53 – Metropolitan Residential Development (SEPP 53)</i>	To broaden the provision of housing in metropolitan areas and reduce the consumption of land for housing on the urban fringe. The policy repealed a number of other earlier policies, including SEPP 25 and SREP 12. Between 1997 and 2011 all local government areas who which the policy applied were granted exemptions to its operation once they had endorsed residential strategies adopted.
June 2000 & May 2002	<i>Environmental Planning and Assessment Amendment (Affordable Housing) Act 2000 and State Environmental Planning Policy No. 70 – Affordable</i>	These established a framework for the development of inclusionary zoning for affordable housing schemes. Two recent amendments have been made to SEPP 70.

	<i>Housing (Revised Schemes) (SEPP 70)</i>	In April 2018, an amendment listed five (5) additional local government areas where a need for affordable housing had been identified and in February 2019, an amendment was made that identified a need for affordable housing in each area of the State.
July 2009	<i>State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)</i>	To provide a consistent planning regime for the provision of affordable rental housing. This State-wide policy provided pathways for the approval of infill affordable housing, boarding houses and secondary dwellings (granny flats). The new policy transferred the existing provisions of SEPP 10 and repealed that policy.
August 2014	<i>State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Housing Diversity) 2014</i>	To encourage greater diversity of housing supply, including manor houses and small lot housing. These changes applied to precincts located in both the North West Growth Centre and the South West Growth Centre.
2018	<i>Low-Rise Medium-Density Housing Code.</i>	<p>“Missing Middle” is a term coined to refer to the shortage of housing typologies between detached houses and high-density apartments. The NSW Government exhibited a new complying development housing code in 2018 to provide for greater diversity of housing types as complying development, including duplex housing, attached terraces and manor homes.</p> <p>On 1 July 2020, the code was renamed the <i>Low-rise Housing Diversity Code</i> to reflect the housing choice that it provides.</p>

The Property Owners' Association of New South Wales



# **The Property Owners Association of NSW**

To: NSW Department of Planning, Industry and Environment  
NSW Planning Portal - Online Submission  
<https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>

## **Proposed New Housing Diversity SEPP: Explanation of Intended Effect.**

September 2020

Submission on behalf of the:

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## DISCUSSION PAPER:

Thank you for the opportunity to provide our feedback on the NSW Department of Planning, Industry and Environment Proposed New Housing Diversity SEPP: Explanation of Intended Effect, September 2020<sup>1</sup>

## BACKGROUND:

The Property Owners Association of NSW Inc (POA NSW) is the peak body that has represented property owners in NSW since 1951. POA NSW relies on the feedback and support of our membership base, which is predominantly “mums and dads” investors who collectively account for some 96% <sup>2</sup> of all property owners in NSW.

<sup>1</sup> <https://www.planningportal.nsw.gov.au/proposed-new-housing-diversity-sepp>. [https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/000/00/Housing+Diversity+SEPP+EIE+\(1\).pdf](https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/00/Housing+Diversity+SEPP+EIE+(1).pdf). [https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/000/00/Frequently+asked+questions+HDSEPP.pdf](https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/00/Frequently+asked+questions+HDSEPP.pdf). [https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/000/Report+to+the+Minister+from+the+Council+Boarding+House+Working+Group.pdf](https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/Report+to+the+Minister+from+the+Council+Boarding+House+Working+Group.pdf). [https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/000/Seniors+Housing+Investigation+Report+-+Greater+Sydney+Commission%2C+2019.PDF](https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000/Seniors+Housing+Investigation+Report+-+Greater+Sydney+Commission%2C+2019.PDF)

<sup>2</sup> “According the ATO there are just over 2 million property investors in Australia: Where 71% owned just one investment property; 19% owned two properties; 6% owned three properties; 2% owned four properties; 1% owned five properties; 1% owned six or more investment properties”. (Note this data does not include the even larger pool of home-owners in Australia) <https://www.yourinvestmentpropertymag.com.au/news/how-many-property-s-do-investors-own-258529.aspx>

## **EXPLANATION OF INTENDED EFFECT.**

We appreciate this Explanation of Intended Effect (EIE) has been developed very quickly during a health and economic crisis, instead of a more comprehensive draft proposal that would contain greater details.

That given, we have attempted to predict implied meaning. We caution that this may have an unintended effect on the way our submission is in turn interpreted.

Further we believe it will be difficult to provide a proper assessment of any proposed SEPP until it's in draft form. Often the 'devil is in the detail', and this detail is required before a robust submission can be made.

## **SUMMARY:**

We strongly endorse a regulatory system that encourages and supports micro suppliers to meet the ongoing changes in demand for housing in NSW.

We are concerned that the Proposed New Housing Diversity SEPP, while conceptually is a step in the right direction, is likely to fail to encourage market supply to deliver 'riskier' diverse housing options.

This submission will focus on some of the main concerns raised by our 'mums and dads' property investors:

## **STATED PROPOSED DIVERSITY SEPP OBJECTIVES.**

We endorse the proposal to support a greater diversity of housing supply. A lack of diverse housing options has an adverse effect on consumers who don't fall into the rigid housing supply options available.

The proposed Diversity SEPP 'headline' suggests it intends to ameliorate this regulatory constraint. Given this, we endorse many of the objectives stated in the EIE. In particular..

*Create Jobs .... assist the State's economic recovery following COVID-19... EIE pg9*

*Adds Diversity ... facilitates the delivery of housing that meets the needs of the State's growing population... EIE pg9*

*Adds Viscosity ... in a format capable of being expanded and amended as future needs may require...EIE pg9*

*Provide Certainty ... SEPP that will provide greater clarity and **certainty** for the residential development sector... (bold added).EIE pg9*

*Encourage affordable supply... Housing affordability is another major issue across NSW, but particularly in the Sydney metropolitan area... EIE Pg3*

*Provide Incentives to improve viability of supply ... the Government is proposing to incentivise the delivery of build-to-rent (BTR) housing through the NSW planning system. EIE pg 7.*

If these policy objectives can be delivered broadly to a wide range of housing suppliers, we predict that the market will move to deliver more jobs, more diverse housing options, and better affordability.

But we remain concerned that these stated objectives are not consistent with the proposed policy initiatives, and the likely outcome from Diversity SEPP as presented will be inferior economic and supply outcomes.

Areas of concern include:

## **1. PART 3: NON - PARETO OPTIMAL IMPACT.**

We are extremely concerned about the proposed amendments to Part 3 of the ARHSEPP....

*The proposed SEPP will ... 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. EIE Pg 17.*

Our interpretation of this is that going forward any rental property, at any stage, in the 5 years prior to a development application whose rental slips below the comparable median rent will be liable to a monetary levy as a condition of consent.

Obviously, we have already received a number of alarmed calls from suppliers who are concerned about being caught out by this proposal and they are currently reviewing their rental agreements so as to ensure that their rents do not lie below the median rents.

But what is even more disturbing about the feedback is the incredibly complex knock-on effect this policy will have. Basically, the market will have to add 'risk premium' to cover the cost of regulatory change, which is ultimately born by the consumer.

Let's examine the effect imposing a penalty on low rental suppliers will have on various segments of the market, in particular low rental supply:

### **Bottom Quartile Rentals**

For those housing suppliers that sit well below the median rate, they will have to discount the anticipated 'low rental retention levy' and pass that cost onto the consumer in the form of higher rents, or as research data<sup>126</sup> shows, lower levels of maintenance so poorer quality housing will prevail in that quartile. Further investment in this sector will be discouraged, reducing overall supply. The combination of these forces will lead to relatively higher rents.

### **Middle Quartile Rentals**

But what about those suppliers who are very close to their median comparable rental? This is very complex, and it will revolve around an instable equilibrium vortex that will keep pushing median rents higher.

Firstly, we expect suppliers will adjust their rates so as to ensure they do not fall below the median. But the median is a variable position, so median rents will naturally move in line with overall rentals over time (eg: if rents broadly go up, the median will rise, and vice versa). Suppliers will be forced to anticipate these future movements in median rents by the market. (Note they will be mindful that their competitors will be driven by the same incentive.)

<sup>126</sup> <https://www.brookings.edu/research/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>

This puts property owners in a very difficult position, which is made more complex because of the regulatory impact of the RTA which restricts rental increases. So, property owners will not have the flexibility to adjust rents as the median moves, they'll all have to anticipate future changes and add an additional risk premium to the median.

It's not just higher rents that will prevail, but higher supply costs and an overall reduction in supply will as well. This is because we envisage the market will move away from 'riskier' longer term tenure to shorter tenures. This will lead to greater turnover costs and reduced supply (supply is lost between turnovers).

### **Top Quartile Rentals**

Relatively, we would expect a shift in housing investment to properties that would fall safely in the top quartile of rents.

### **Discounted Rents:**

Another excellent point raised by one long term property investor is the impact such a low rental retention levy will have on suppliers that generously provide 'discounted rents', whether it be for long term secure tenures or to help out a tenant in difficulty. For example, in the current covid crisis, many tenants have been given significant rental discounts. Those suppliers will be harshly penalized for such Samaritan acts if they slip below the median and seek a development application within the next 5 years.

Alternatively, say a property is due redevelopment or reoccupation. Currently it would be offered at a negotiated discounted rate, to compensate the fact that it will be subject to major works. These properties would all have to be withdrawn from the supply pool to avoid being caught out at below median rents.

### **Uncertainty effect**

While another more vexing issue for all property owners will be whether council's decision to approve a development application will be jeopardized by the 'loss of a low rental property'. This is an unknown, and we will require further analysis, but the bottom line is that this additional regulatory uncertainty will lead to sub optimal resource use and pricing, which stifles supply and pushes up rents.

## ONUS OF PROOF

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We have identified some significant logistical issues with “ .. *the onus for providing evidence that a building not contain a low-rental dwelling at the relevant time rests with the applicant..*” pg 17.

We envisage, for this to operate effectively, every property owner will be required to maintain 5 year rolling records of rentals. Note this will include homeowners as well, as they'll have to be able to prove they lived in that site for the whole 5 years and did not rent or sublet below the median comparable rent at any stage.

Firstly, this is a significant ‘red tape’ impost on millions of NSW residential property owners. It will lead to millions of hours of lost productivity every year, to verify, record, and store at a standard that can be relied upon as ‘evidence’.

Secondly, what will happen in the 5 years preceding the start of an ‘onus of proof’ imposition? It would be unreasonable to retrospectively require 5 years of proof when record keeping requirements have not been flagged. Will a moratorium apply for the first 5 years until record keeping can catch up? Or will the inability of the property owner to adequately provide 5 years evidence automatically trigger low rental status?

Further what will prevail if a person wants to buy an existing home. They may like to upgrade it within 5 years of purchase. How will they prove if it's not been a low rental property in the years prior to purchase? What if vendor can't or won't provide evidence? Should the vendor be legally required to provide verified rental evidence? Would this be required in the sale contract? If not, how will that uncertainty affect its market price?

## OVERVIEW

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We have been inundated with further mind-boggling examples of unintended impacts such a policy will have on rental supply, just too many to list here.

Overall the impact of imposing penalties on low rental supply will be to increase rents (cost and risk premiums) and increase operating costs (shorter tenure cycles and associated turnover costs). Further it will discourage investment in properties that would sit near the median rent and well below the median rent. Also, it will discourage maintenance of properties that sit well below the median rent. Investment in these sectors will also diminish, leading to further supply loss and thereby increases in rents, which sets off the vicious cycle for those rentals near the new higher median rent.

The bottom line is that this policy will lead to non pareto optimal outcomes for all, with higher rents, higher operating costs and less supply of low and median rentals.

## RECOMMENDATIONS:

### PROPOSED LOW RENTAL RETENTION LEVY.

1. As outlined above, the Part 3 proposed low rental retention levy will act as a punitive penalty on low rental supply, and it should be abolished. Further we suggest the NSW Planning Minister, (and/or the Premier for greater reassurance) should publicly revoke this proposal to ease suppliers concerns and remove this uncertainty risk that already hangs over the market. This should be done as soon as possible.
2. In the event this policy proposal is not abolished, we suggest a broad and sound economic analysis of these proposed Part 3 changes is commissioned. This in-depth study should be undertaken by a highly regarded academic team from a reputable institution. It should; review previous comparable national/international studies, identify & quantify the direct and indirect economic impacts of these changes on the various stakeholders, (especially renters seeking affordable accommodation) over the short, medium and long terms. This study should be; peer reviewed, made publicly available and included in any further public consultation on this matter.

## 2. DIVERSITY AND AFFORDABILITY:

*‘The proposed introduction of an affordability requirement for boarding house development as set out above in this EIE would mean that this type of housing is no longer facilitated by the planning system’.* page 11 of the EIE

The proposed substantial pull back of; development concessions, incentives and a loss of certainty (with loss of ‘can not refuse’ provisions by council) and imposition of



mandatory community housing provider management will trigger a collapse in new diverse housing construction in NSW. The greatest impact will be in the proposed Co-Living and Boarding House developments segment<sup>127</sup>.

## **PUBLIC V SOCIAL V MARKET HOUSING.**

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Each of the suppliers and managers of housing (Public Housing, Social Housing and Market Suppliers) have an important role to play in providing alternative and diverse housing options. The competitive tensions that interplay between these different suppliers drives each of them to excel at their relative strengths and to moderate their respective weaknesses<sup>128</sup>.

Market suppliers have a very important role to play in this mix. They can deliver diverse and affordable housing efficiently, with relatively small amounts of upfront or ongoing taxpayer assistance.

Further some 96%<sup>129</sup> of property investors are small housing suppliers. These micro-suppliers are often highly invested and motivated small businesses who will deliver if presented with viable options. The regulatory framework should encourage and facilitate these micro suppliers to realise niche supply opportunities.

This is not the case with Social housing suppliers, their cost structures often exceed market suppliers who can deliver more at less cost. We predict these social housing models will be an ongoing heavy burden on the public purse and are only justifiable in a targeted way to address specific crisis and/or care housing needs. We believe these pressures will bear out in the longer term, especially when the ‘silent killer’ depreciation and amortisation takes hold of buildings, and the cash flow impact of major refurbishments is required.

Further, a preliminary review of NCAT 2018-2019 Consumer and Commercial Division workload and performance results<sup>130</sup>, indicates a large number of NCAT Social Housing applications relative to its size. This NCAT (and other sources of) data

<sup>127</sup> We would require further analysis and data to establish the impact on the Student accommodation market, its outcome will be in the hands of the various councils that control developments near educational institutions.

<sup>128</sup> We will outline other counterproductive forces, such as the corrosive impact of illegal suppliers later.

<sup>129</sup> “According the ATO there are just over 2 million property investors in Australia: Where 71% owned just one investment property; 19% owned two properties; 6% owned three properties; 2% owned four properties; 1% owned five properties; 1% owned six or more investment properties”. (Note this data does not include the even larger pool of homeowners in Australia) <https://www.yourinvestmentpropertymag.com.au/news/how-many-property-investors-own-258529.aspx>

<sup>130</sup> Table 4 Pg 35. <https://www.parliament.nsw.gov.au/tp/files/76848/NCAT%20Annual%20Report.pdf>



should be analysed and a report produced to rate the performance of the Community Housing Provider sector.

A model weighted towards market supply to address more general affordability and diversity needs is a pareto optimal use of tax-payer funds.

## **AFFORDABILITY MANDATE**

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We believe that the proposed mandating of Community Housing Provider management in new Boarding Houses is a step in the wrong direction. This will discourage new investment and limit the diversity and viscosity of a wider range housing suppliers.

For example, there are over 2 million Australian workers in casual employment<sup>131</sup> or workers whose place of work changes regularly, so they need a flexible ‘easy in easy out’ form of housing that is affordable and generally available in diverse geographic locations, especially near amenities and transport nodes so that they can access labour markets.

*I’m a nurse, so I’m a shift worker. They get us on contracts, 3 months here, 6 months there. Flick a coin, I could be at Westmead or POW next month. I can’t get stuck with the hassles of a lease. I don’t want to. Plus, I can’t deal with flatmates dramas, I’m in Theatre most days. It just doesn’t work for me. It’s got to be affordable, clean & quiet and all set up and ready to go.*

This is a very large and important sector of housing demand, and these essential workers play a critical role in the economy. Micro market suppliers are suitably placed to cater for this segment of the market, if the planning system is able to deliver certainty and viability.

## **PAGE 14: THE GOVERNMENT IS SEEKING FEEDBACK..**

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The EIE on page 14 poses the following alternative to mandatory Community Housing Providers.

<sup>131</sup> More than two million Australians are employed casually. Women account for just over half of all casuals and 40% of casuals are aged 15-24 years, compared with 14% of other employees.  
[https://www.australianunions.org.au/casual\\_workers\\_factsheet](https://www.australianunions.org.au/casual_workers_factsheet)

*”The Government is seeking feedback on whether it would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert to market rates”. Pg14*

This model is superior to mandatory community housing management and will deliver better affordable housing supply, but it assumes that the 10 year affordability proviso can still enable viability of market supply. This becomes a complex prediction of discounting loss of yield for ten years and then trying to guesstimate property values in 10 years time. This uncertainty will invariably have to be priced, and adds a premium for the inevitable uncertainty.

A better model is using incentives to encourage markets to provide ongoing diverse and affordable housing supply. It would include incentives paid to all suppliers who meet housing targets, such as affordability and/or tenure conditions (whether it be long term tenure for families, or flexible access to transient workers). A ‘carrot’, rather than a ‘stick’ that could be tweaked as demand needs evolve so as to facilitate supplies response.

## **RECOMMENDATIONS:**

### **INCENTIVES AND DEVELOPMENT CONCESSIONS.**

A long term stable system of incentives and planning concessions are required to provide greater certainty and improve the viability of market supply in housing segments that are wanting. Some examples of policies include:

1. Development concessions:
  - i. Such as those currently available in the AHRSEPP. These could be reviewed and refined so as to mitigate unacceptable outcomes as has been done in the past.
  - ii. Reinstatement of reasonable ‘must not refuse’ provisions to provide certainty and clarity for micro suppliers who don’t have the resources to undertake complex council development assessments.
  - iii. 0.2 Parking concession to be reinstated for sites in higher density zones and next to high quality transport nodes. Car ownership is extremely low in affordable housing, and new modes such as car-

sharing and ridesharing will further reduce individual car ownership overtime.

- iv. Bulky developments in low density zones could be mitigated with similar measures as the 12 room maximum, instead of removing the R2 zone mandate.

2. Incentives tied to affordable rentals.

- i. Introduce targeted rolling land tax concession incentive agreements with market suppliers. Studies could be undertaken to establish the levels that will be required to achieve viability of supply, then the market will move to address these weak spots. Fixed rental targets that reflect comparable median rentals could be set and then averaged or indexed during agreement periods and suppliers must meet targets before incentives are provided. The NSW Department of Communities and Justice have produced various examples of such targets, eg Table of Rents for the Boarding House Financial Assistance Program- New supply<sup>132</sup>, which counterbalances local viability constraints with affordability targets.
  - ii. Council rate reductions could be offered in LGA where there are specific needs; or segments with specific challenges such as insurance or essential services maintenance costs in Boarding Houses could be targeted for additional support.
3. These incentive and concession programs could be tweaked as market needs shift, but they need to remain fundamentally stable over the long term as housing investment is long term and ‘lumpy’, and tends to lag the market and needs time to gain momentum.
4. The current ‘one size fits all’ tenancy laws forces suppliers to offer standard products, deterring supply of diverse tenure options to consumers, which causes market failure. Laws and regulations need to trade-off suppliers risks, tenure and pricing so as to encourage diverse options, whether it be for long term secure tenure or alternatively flexible easy access housing.
5. Suppliers should be encouraged and enabled to offer flexible terms that suit resident’s needs, and any rigidities imposed should have degrees of flexibility to permit a greater range of diverse supply. For example:

<sup>132</sup> <https://www.facs.nsw.gov.au/download?file=374943>. See Appendix A for a copy of TABLE OF RENTS FOR THE BOARDING HOUSE FINANCIAL ASSISTANCE PROGRAM - 2019

- i. The minimum 3 months tenure, should be amended to enable viscosity, for example 75% occupancies must meet a 3 month minimum, so as to cater for the plethora of diverse affordable demand situations efficiently. Some examples:
    1. There should be scope for an open ended 18 week stay that is subject to employment contract renewal in the 9<sup>th</sup> week, without punitive impact on the supplier, otherwise they won't offer it and unless a low paid essential worker can easily find viable housing, they won't accept the employment contract. This then has ramifications on the employers capacity to deliver their supply.
    2. There are a large and growing number of essential low paid workers that live regionally but work a few days a week in metro areas. Say one party needs accommodation mid-week, while another on the weekend. Rolling team-ups should be enabled, given all parties are agreeable. Thereby regional workers will have affordable, flexible but also stable source of housing supply.
  - ii. These are just two of many examples of demand needs that are not smoothly catered for because of unnecessary rigidities in planning and occupancy laws that prevent compliant affordable<sup>133</sup> supply from easily catering for niche demand needs. So this everchanging demand must turn to illegal suppliers. This then corrodes compliant supply. Regulations must enable and encourage compliant suppliers to efficiently cater for these demand needs. In the long run this will prevent ongoing frictions in housing markets, as market supply will constantly move to meet everchanging demand.
6. Imposition of mandatory community housing provider management will substantially reduce the diversity, efficiency, and viscosity of affordable supply vis-a-vis market managed suppliers that can respond to everchanging micro demand needs. Further, as acknowledged in the EIE<sup>134</sup>, such 'stick' approaches will inevitably lead to a withdrawal of existing and new market supply. This will have a corrosive impact on affordably options for consumers and especially essential low paid workers that are the cornerstone of the NSW's metropolitan economy.

<sup>133</sup> There are multiple existing sources of 'unaffordable' supply, such as hotels and motels, but they are too costly for a essential workers on low pay rates.

<sup>134</sup> *'The proposed introduction of an affordability requirement for boarding house development as set out above in this EIE would mean that this type of housing is no longer facilitated by the planning system'*. page 11 of the EIE

7. Social and Public housing resources should be targeted towards complex housing demand needs that market suppliers even with low levels of incentives cannot viably supply, (eg crisis accommodation, or members of society with ‘special needs that require special care services’) so that public funds are effectively utilised.

### 3.BUILD TO RENT

We support the proposed introduction of land tax incentives to encourage long term tenure. It is a step in the right direction to encourage market supply.

But we remain concerned about the societal impacts of large high density housing and large single property ownership models.

Large high density projects will put significant pressure on local infrastructure and amenities and have the potential to turn into ghettos. While single ownership will encourage oligopoly suppliers who could abuse market power. Further it encourages a less egalitarian land ownership structure in NSW which is a step in the wrong direction. These are not ideal societal outcomes.<sup>135</sup>

<sup>135</sup> The great strength of housing supply in NSW is the large percentage of housing supply owned by micro suppliers. Some 96%<sup>135</sup> of suppliers own less than 3 properties, and only 1% own more than six properties. These micro-suppliers are often ‘mums and dads’ investors, who are highly motivated and committed.

This ownership structure is an important feature of the housing market. It is a market where there are a large number of sellers. In very basic simple theoretical economic terms this housing market is most akin to a perfect competition market.

*Perfect Competition: There are a large number of buyers and sellers in a perfectly competitive market. The sellers are small firms, instead of large corporations capable of controlling prices through supply adjustments ..... Perfect competition is a benchmark, or "ideal type," to which real-life market structures can be compared..... Perfect competition is theoretically the opposite of a monopoly, in which only a single firm supplies a good or service and that firm can charge whatever price it wants since consumers have no alternatives and it is difficult for would-be competitors to enter the marketplace.*<sup>135</sup>

Given mobility constraints that prevail in established areas, especially in Sydney, large scale operators (ie more akin to an oligopoly or monopoly) could easily corner supply ownership in the various geographic segments. Armed with significant market power, they can use greater leverage to realise short term supply opportunities, but in the long run this will deliver an inferior pareto optimal supply structure. This will inevitably produce inferior societal outcomes, especially for the middle and lower classes in NSW, if property ownership becomes highly concentrated.

Instead the regulatory framework should encourage and facilitate micro suppliers to realise these normal short term supply opportunities, despite their lack of market power, so as to encourage a continuation of property ownership by widest possible range of people.

## RECOMMENDATIONS:

### BUILD TO RENT

1. Broaden Build to Rent development concessions and tax incentives so they are available to all suppliers who provide housing that meet essential targets such as long term tenure, affordability, and/or provides flexible easy access:
  - a. This will encourage smaller ‘mums and dads’ developments in a wider range of areas to address ongoing changes in demand.
  - b. Less high density developments will have a milder impact on infrastructure, amenities and communities.
  - c. Areas with high levels of amenities do not require additional ‘in-house’ amenities. Further in-house amenities lead to barriers and segregation within broader communities. This is anti-social, and not conducive of a cohesive integrated society.
  - d. More construction jobs can be generated from a greater number of projects.
  - e. Greater diversity and competition will prevail with a larger number of smaller suppliers instead of a few large and powerful suppliers.
2. Regarding the feedback request on page 9: *“the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development”*.
  - a. We understood BTR in other jurisdictions was predominantly a long term and ongoing rental model. A 15 year limit seems to curtail this stated objective.
  - b. Also subdividing the building will compromise that sites capacity to remain in a *‘format capable of being expanded and adapted as future needs arise’*(EIE)
  - c. Further governments should be cautious they don’t inadvertently incentivise developers to hold sites so as to avoid GST and then sell individually after building warranties expire. This may have a perverse impact on building standards and BTR motivation.
  - d. On balance, ongoing rental should be encouraged with ongoing incentives, beyond 15 years, but at 15 years the option should be made available for strata division if appropriate targets are met, to incentivise BTR development.

3. A 0.5 parking concession should only be granted if BTR are located very close to significant transport nodes that enable easy access to amenities and labour markets. Otherwise social problems will prevail in those sites disconnected from amenities and the labour market.

## **RECOMMENDATIONS:**

### **CO-LIVING.**

1. The proposed definition of Co-living should be broadened so that smaller than 10 bedroom Co-living developments can be constructed. We suggest the minimum number should be closer to 6 dwellings. We understand that most states in Australia that permit similar structures, set minimums in the range of 5 to 7 dwellings. As noted in our BTR recommendations, this will encourage smaller scale developments in a wider range of areas and be accessible to micro suppliers.
2. Legislation that covers non exclusive use agreements should be adapted to cater for the unique nature of share accommodation's non-exclusive use that will prevail in Co-Living premises. For example, residents need to respect other residents, use communal facilities in a responsible manner, and keep them clean and tidy.
3. Incentives, such as BTR land tax concessions should be made available to Co-living sites that meet housing supply targets like affordable housing and or easy access flexible tenure, to support supply of housing for essential workers often on contracts who need to live near work(eg shift workers at hospitals) or transport nodes.



## 4. EXISTING BOARDING HOUSES IN NSW:

Existing Boarding Houses have been playing a vital role in supplying easy in alternative accommodation with flexible tenure in established areas at affordable rates since English settlement in NSW. Most suppliers are small family businesses that have provided stable homes for residents for decades.

The following provides some key data on boarding houses:

*In total, Census data and Boarding House registration results provide that there are around 16196 residents<sup>136</sup> living in NSW boarding houses. This amounts to about 0.214% of NSW's population of 7.544 million people.*

*There were 1109 registered General Boarding Houses in NSW on 10 January 2020<sup>137</sup>. 17 of these were Assisted Boarding Houses that cater for "persons with additional needs".*

*The majority of registered boarding houses contain 5-12 residents, with the average size estimated at 10<sup>138</sup>.*

*The City of Sydney, Inner West, Randwick, Newcastle and then Waverley contain the majority of NSW boarding houses.*

*In 2017, 616<sup>139</sup> boarding houses (about 60%) complied with Revenue NSW criteria for low cost accommodation supply.*

*Affordable registered boarding houses operate with very little government assistance. In fact, in 2013 it is estimated the land tax concession amounted to just \$2.67<sup>140</sup> per*

<sup>136</sup> Pg 9 & 10 Martin C. Boarding Houses in NSW: growth, change and implications for equitable density. Chris Martin. UNSW City Futures Research Centre. July 2019 for Shelter NSW

<sup>137</sup> <https://www.parliament.nsw.gov.au/tp/files/77910/Report%20on%20the%20Statutory%20Review%20of%20the%20Boarding%20Houses%20Act%202012.pdf> pg 13

<sup>138</sup> Pg 9 & 10 Martin C. Boarding Houses in NSW: growth, change and implications for equitable density. Chris Martin. UNSW City Futures Research Centre. July 2019 for Shelter NSW

<sup>139</sup> Parliament of NSW. Parliamentary Questions #8378 BOARDING HOUSE LAND TAX EXEMPTIONS, Greenwich, Alex to the Minister for Finance, Services and Property. Question asked on 17 May 2018 (session 56-1) and printed in Questions & Answers Paper No. 183. Answer received on 21 June 2018 and printed in Questions & Answers Paper No. 192 <https://www.parliament.nsw.gov.au/la/papers/pages/qanda-tracking-details.aspx?pk=239231>

<sup>140</sup> Being 720 boarding houses with an average of 10 dwellings per building and the value of the exemption being \$7m in the 2013 calendar year. Based on Table: Appendix 9.10: Office of State Revenue data BOARDING HOUSES ACT 2012 EVALUATION REPORT 1, 2014. Final Report. Dr. Gabrielle Drake, Dr. Hazel Blunden, Kathy Newton, and Esterina Lentini. 29 September, 2014. University of Western Sydney, and as estimated in: Martin C. Boarding Houses in NSW: growth, change and implications for equitable density. Chris Martin. UNSW City Futures Research Centre. July 2019 for Shelter NSW.

*dwelling per day (note tariffs in boarding houses generally include all bills and furnishings). This is quite considerably less than Social or Public housing suppliers.*

*In a recent 5 year study of Boarding Houses, residents of registered general boarding houses were found to experience above average levels of satisfaction with their well being based on seven indicators (5.42-7.58 out of 10) and above average scores ranging from 5.83 to 7.74 out of 10 for overall satisfaction with their boarding house accommodation<sup>141</sup>.*

*There are a considerable number of unregistered boarding houses. Some are small boarding houses (ie under 5 occupants) that are not required to register, but are still required to meet council conditions.*

*There are a very large number of Boarding Houses that operate illegally. They are not registered by NSW Fair Trading, and they are likely to be operating without appropriate council and fire/safety approvals. Their number is unknown and difficult to establish as they seek to remain undetected, but some estimates have put it at 25%<sup>142</sup> or even 100% of the number of registered boarding houses. Residents in such illegal houses face significant health and safety risks and illegal suppliers undermine compliant supply and tarnish the industries reputation.*

In terms of 'fit for purpose', Boarding houses, (especially those existing 616 micro suppliers that meet the Revenue NSW low cost supply criteria), play a crucial role in providing a diverse range of easy access furnished accommodation in a wide range of locations at low cost affordable rates with very little tax payer assistance. Further, residents in these houses experience above to high levels of satisfaction. These long established compliant suppliers are clearly 'fit for purpose'. (The same can not be said for the large number of illegal operators that fly under the radar and need to be brought into line.)

A number of compliant suppliers have expressed concerns about the proposed change in the SI definition of boarding houses, ie the mandatory requirement of Community Housing Provider management. They are concerned such a move will impact existing long established suppliers.

Any adverse changes to the SEPP should not apply retrospectively, as it would have adverse impacts on their viability and thereby the preferred housing mode for the bulk of the 16000 residents of existing boarding houses in NSW.

<sup>141</sup>EVALUATION OF THE BOARDING HOUSES ACT 2012 –FINAL REPORT. DRAKE. 2018  
<https://www.newtowncentre.org/uploads/5/1/5/0/51502997/evaluation-of-the-boarding-houses-act-2012-report-4-and-final-report-2018.pdf>

<sup>142</sup> NSW Registrar of Community Housing, Regulation of Boarding Houses in NSW, Final discussion paper, From the viewpoint of the NSW Registrar of Community Housing, October 2019, pg 3

Further, existing suppliers are concerned about the impact the proposed SEPP will have on any future DA applications to existing Boarding Houses. As the Diversity SEPP is currently proposed, any future DA would have harsh effects, such as the imposition of a mandatory community housing provider and the loss of development concessions. These adverse effects plus the loss of certainty would be prohibitive and deter any future works, which in turn will lead to a slow decline in standards and overall supply of this long established market source of affordable housing.

## **RECOMMENDATIONS:**

### **EXISTING HOUSING SUPPLIERS**

1. Clear confirmation to be provided that any adverse impacts of a proposed new SEPP does not apply retrospectively to existing housing suppliers.
2. Existing housing suppliers be 'grandfathered' from proposed SEPP changes, so that future alterations and additions to existing affordable established operations are not adversely affected by proposed changes.

## **5.OTHER:**

### **ILLEGAL HOUSING SUPPLIERS.**

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A lack of diverse housing options is one of the results of a planning system that presumes that demand for housing is not fluid and sits at an arbitrary norm. As Alain Bertaud <sup>143</sup>explains.

<sup>143</sup> Alain Bertaud (Senior Research Scholar New York University author of Order without Design, How Markets Shape Cities)

*“Urban planner thinks in terms of norms and needs... if you ask a urban planner what is the optimum size of housing they’ll tell you a number, something like 50 or 60m<sup>2</sup>. If you ask the same question to an economist, the economist will say it all depends. .... Planners don’t think about viscosity. They consider what is important is what people need, and they decide on what people need based on norms.... and anything below that is socially unacceptable and they won’t allow anybody to build that. The effect of course is that in areas where people are relatively poor, and construction (&) land is expensive, they eliminate a large number of people from having legal housing. They don’t of course exclude people from the city. People don’t go away. They will just go ...(into)... either crowding existing housing or building illegally”<sup>144</sup>. (Alain Bertaud)*

No one disputes the need for genuine reasonable minimum standards, but the effect of inflexible regulation that doesn’t motivate healthy market outcomes is ultimately to fuel an inferior market outcome, ie to fuel illegal housing.

And it’s not just the occupant that is at risk within illegal housing...

*From a broader community perspective, the widespread and uncontrolled provision of illegal dwellings and the associated ‘hidden’ increase in population, generates a number of problems for provision of social services and facilities. At the local level, a proliferation of illegal dwellings undermine analysis and planning for public open space and community facilities to meet the needs of the increased population. At State level, a significant, under-enumerated informal sector undermines analysis and planning for new/additional capacity in schools, hospitals, public transport and social support services<sup>145</sup>.*

Further the illegal supply undermines legal supply, which is burdened by regulatory forces and is stuck at a competitive disadvantage to illegal supply. Over time, illegal supply flourishes at the expense of legitimate supply. So, the net effect of greater consumer protection and regulation is actually the opposite, a deterioration in the housing standards and options for consumers. This is a vicious cycle that must be reversed, so as to encourage acceptable housing outcomes.

## **Sound Regulatory Enforcement.**

<sup>144</sup> Alain Bertaud (Senior Research Scholar New York University author of Order without Design, How Markets Shape Cities) <https://www.youtube.com/watch?v=MIac1nhgCs4>. 2.00 minutes

<sup>145</sup> Pg 39 Gurrán, N, Pill, M, Maasen, S, Alizadeh, T and Shrestha, P (2019) *Informal accommodation and vulnerable households: scale, drivers and policy responses in metropolitan Sydney*, University of Sydney Policy Lab.

Installing a sound regulatory framework to mitigate the demand, and thereby supply, of illegal housing is one important part of the illegal housing problem, the other important mitigating force lies with compliance and policing of illegal supply, a role predominantly undertaken by councils.

POANSW accepts councils have a difficult role, but we believe many local councils have failed to adequately address hidden illegal housing suppliers. Regulating compliance is a core duty of local government, and our feedback is that many councils don't appear to have the appetite or the structure to execute their compliance duties in a sound and effective manner.

*“Consistent with each of the interval reports, participants from local councils, as well as agency staff from community organisations, continued to raise concerns about the ability of local governments to monitor and enforce the Act within existing resources.”<sup>146</sup>(2012)*

A better more effective system of managing illegal and non-compliance in the housing market is required. Resources need to be directed at significant and flagrant breaches of regulations rather than low risk petty misdemeanours.

As one residential property investor noted:

*“Councils are clearly in the dark, and they're just looking under the light posts”*

### **Consumer Protection laws (RTA etc)**

While it is acknowledged that a large and very important segment of demand for rental accommodation is the mainstream market ( ie Residential Tenancies), but there is also a large demand for accommodation that does not fit into this rigid regulatory framework that deters suppliers from providing a diverse range of supply options.

One example of this is the impact the Residential Tenancy Act has on many consumers access to a rental lease...

*Interviewees reported that single people receiving unemployment benefits, disability support payments, or the old age pension, were particularly affected by housing affordability pressures, and unable to find affordable*

<sup>146</sup> Pg 31 Evaluation of the Boarding Houses Act 2012 Final Report Associate Professor Gabrielle Drake Associate Professor Gabrielle Drake February 2018 ACU

*accommodation in the formal sector of the market. Despite being able to pay up to \$200 in rent (with the Commonwealth Rental Assistance (CRA) subsidy), these low income earners are unable to access self-contained accommodation in the private rental sector but rather need to seek share accommodation, lodging, or a boarding house room. “We find that access to some properties through certain real estate agents is becoming increasingly hard...they’ll straight up admit that they won’t take anyone who’s on Centrelink .. They want people that are working.” (Housing advocate) <sup>147</sup>*

Supply barriers created by residential tenancy conditions are not just limited to the lower income and vulnerable groups. These supply barriers also make it very difficult for the 2 million Australian workers in casual employment<sup>148</sup> or workers whose place of work changes regularly.

The reality is that mainstream supply, (ie residential tenancies) housing options are being denied to a large number of people at the edges seeking affordable flexible accommodation.

A functioning housing market is one that can cater for all types of demand. Both a healthy mainstream and alternative market is needed. Both these markets are different and have different characteristics, and each will have living arrangements that present trade-offs between location, cost, tenure security, privacy, and household formations.

*This trade-off is done differently by different households. It’s a very very important thing<sup>149</sup>. (Alain Bertaud)*

Flexible housing supply options need to be encouraged to meet all demand needs, and this innovative motivation will be deterred by ongoing tightening of regulatory frameworks that disable and discourage rental supply options.

*We don’t have a magic wand... the occupant ends up wearing it. Water always finds its level. (Residential housing supplier)*

The following conclusion drawn by Martin(2015)<sup>150</sup> is also used in the conclusion of *Informal accommodation and vulnerable households: scale, drivers and policy*

<sup>147</sup> Pg 19I Gurran, N, Pill, M, Maasen, S, Alizadeh, T and Shrestha, P (2019) *Informal accommodation and vulnerable households: scale, drivers and policy responses in metropolitan Sydney*, University of Sydney Policy Lab.

<sup>148</sup> More than two million Australians are employed casually. Women account for just over half of all casuals and 40% of casuals are aged 15-24 years, compared with 14% of other employees.

[https://www.australianunions.org.au/casual\\_workers\\_factsheet](https://www.australianunions.org.au/casual_workers_factsheet)

<sup>149</sup> Alain Bertaud (Senior Research Scholar New York University author of Order without Design, How Markets Shape Cities) <https://www.youtube.com/watch?v=Mlac1nhgCs4>. 4.30 minutes

<sup>150</sup> C Martin. (2015) The informal lodging sector in NSW. A regulatory blindspot. Concluding remark. City Blog. 14/9/15



*responses in metropolitan Sydney*<sup>151</sup> Gurran et al,(2019). It captures the direction in which regulators should move so as to address the illegal market and encourage compliant alternatives to fill the demand voids caused by regulatory failures in mainstream housing supply.

*..... We need to reform the regulation of marginal rental accommodation, to more definitely draw a line between arrangements that are exploitative, unsafe and unacceptable, and those that are tolerable for their specific purpose of relatively short-term, accessible accommodation. Such a reform would probably mean relaxing the requirements regarding development consent and related prescriptions that currently notionally apply – but in so doing could put the informal lodging sector more clearly on the radar of regulators.*<sup>152,153</sup>

## **BTR “PROFESSIONAL ON SITE MANAGEMENT”**

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How will this new standard of professional on-site management differ from existing professional property management? Will a new standard of qualification be required for BTR managers, or will they have the same qualifications as existing property managers? How will these ‘superior’ standards be regulated, and what provisions will be installed to ensure BTR fulfil the proviso on page 8 of EIE “*focused on providing a good experience for tenants through the provision of on-site services and facilities*”

Will residential tenancy agreements also regulate BTR occupancies? If so, will the qualifications that property managers carry fall under the same provisions as those currently under The Property Stock and Business Agents Act 2002? If not, how will property managers differentiate the differences between general property managers and those in the BTR sector who need to manage the same type of residential tenancies"

<sup>151</sup> <https://apo.org.au/node/232186>

<sup>152</sup><sup>152</sup> C Martin. (2015) The informal lodging sector in NSW. A regulatory blindspot. Concluding remark. City Blog.

14/9/15. <http://blogs.unsw.edu.au/cityfutures/blog/2015/09/the-informal-lodging-sector-in-nsw-a-regulatory-blind-spot/>

<sup>153</sup> Pg 52 Gurran, N, Pill, M, Maasen, S, Alizadeh, T and Shrestha, P (2019) *Informal accommodation and vulnerable households: scale, drivers and policy responses in metropolitan Sydney*, University of Sydney Policy Lab



## **BUILDING CODE CLASSIFICATIONS.**

How will the new buildings, Co-Living, Student and BTR be classified under the building code of Australia. Will Co-Living and Student accommodation fall under class 1b or Class3 buildings?

## **ROLLING 24 MONTH REVIEW.**

We concur that it is very prudent to fully ... *review the provisions of the new SEPP within 24 months of its introduction to ensure they are functioning as intended* pg10.

We expect that many of the provisions as proposed will have adverse unintended consequences, particularly in relation to the supply of affordable housing, and suggest that reviews be scheduled every 2 years, so that these impacts can be reversed as soon as possible.

## **CONCLUSION.**

Small property investors make up 96% of housing suppliers in NSW. This critical source of micro housing suppliers should be encouraged to move towards satisfying the everchanging housing demand needs in NSW.

The planning system needs to move towards providing greater certainty for suppliers who seek to invest non-mainstream housing options. Further development concessions and long-term incentives are needed to improve viability of supply in segments that are wanting, while efficiently allocating taxpayer funds.

Land tax incentives, such as BTR concessions, tied to housing supply outcomes is a step in the right direction, and they should be broadened to smaller developments and expanded to support other targets such as affordability and easy access housing.

Imposing punitive measures on affordable suppliers, such as; Part 3 retention levies, mandatory community housing supplier management, and the ‘pullback’ of development concessions will have a corrosive impact on existing supply levels and deter future investment in these sectors.

Consumers, particularly those who don’t fit into the mainstream, will be the most harshly affected by these proposed changes.

Yours Faithfully,

On behalf of The Property Owners Association of NSW.

Peter Dormia

Secretary,  
Property Owners Association of NSW.  
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## APPENDIX A

### TABLE OF RENTS FOR THE BOARDING HOUSE FINANCIAL ASSISTANCE PROGRAM - 2019

#### Maximum Tariffs for Rooms for the Boarding House Financial Assistance Program - New Supply for 2019

Based on March Quarter Rent and Sales Report on median rents and Office of State Revenue tariff limits for boarding houses

In certain LGAs tariffs higher than the Office of State Revenue are permitted due to higher median rentals (highlighted in table)

#### Weekly Tariffs for 2019 (\$)

LGA (Local Government Areas)	Rent threshold single accommodation no board and lodging	Rent threshold double accommodation no board and lodging	Rent threshold single accommodation with board and lodging	Rent threshold double accommodation with board and lodging
OFFICE OF STATE REVENUE THRESHOLDS	261	432	389	643
Albury	261	432	389	643
Armidale Regional	261	432	389	643
Ballina	261	432	389	643
Balranald	261	432	389	643
Bathurst Regional	261	432	389	643
Bayside	375	432	389	643
Bega Valley	261	432	389	643
Bellingen	261	432	389	643
Berrigan	261	432	389	643
Blacktown	261	432	389	643
Bland	261	432	389	643
Blayney	261	432	389	643
Blue Mountains	261	432	389	643
Bogan	261	432	389	643
Bourke	261	432	389	643
Brewarrina	261	432	389	643
Broken Hill	261	432	389	643
Burwood	370	432	389	643
Byron	274	432	389	643
Cabonne	261	432	389	643
Camden	261	432	389	643
Campbelltown	261	432	389	643
Canada Bay	353	432	389	643
Canterbury-Bankstown	270	432	389	643
Carathool	261	432	389	643
Central Coast	261	432	389	643
Central Darling	261	432	389	643
Cessnock	261	432	389	643
Clarence Valley	261	432	389	643
Cobar	261	432	389	643
Coffs Harbour	261	432	389	643
Coolamon	261	432	389	643
Gundagai	261	432	389	643
Cowra	261	432	389	643
Cumberland	263	432	389	643
Western Plains Regional	261	432	389	643

Dungog	261	432	389	643
Edward River	261	432	389	643
Eurobodalla	261	432	389	643
Fairfield	261	432	389	643
Federation	261	432	389	643
Forbes	261	432	389	643
Georges River	300	432	389	643
Gilgandra	261	432	389	643
Glen Innes Severn	261	432	389	643
Goulburn Mulwaree	261	432	389	643
Greater Hume Shire	261	432	389	643
Griffith	261	432	389	643
Gunnedah	261	432	389	643
Gwydir	261	432	389	643
Hawkesbury	261	432	389	643
Hay	261	432	389	643
Hilltops	261	432	389	643
Hornsby	285	432	389	643
Hunters Hill	308	432	389	643
Inner West	325	432	389	643
Inverell	261	432	389	643
Junee	261	432	389	643
Kempsey	261	432	389	643
Kiama	261	432	389	643
Ku-Ring-Gai	334	432	389	643
Kyogle	261	432	389	643
Lachlan	261	432	389	643
Lake Macquarie	261	432	389	643
Lane Cove	370	432	389	643
Leeton	261	432	389	643
Lismore	261	432	389	643
Lithgow	261	432	389	643
Liverpool	261	432	389	643
Liverpool Plains	261	432	389	643
Lockhart	261	432	389	643
Maitland	261	432	389	643
Mid-Coast	261	432	389	643
Mid-Western Regional	261	432	389	643
Moree Plains	261	432	389	643
Mosman	345	432	389	643
Murray River	261	432	389	643
Murrumbidgee	261	432	389	643
Muswellbrook	261	432	389	643
Nambucca	261	432	389	643
Narrabri	261	432	389	643
Narrandera	261	432	389	643
Narromine	261	432	389	643
Newcastle	261	432	389	643
North Sydney	410	432	410	643
Northern Beaches	350	432	389	643
Oberon	261	432	389	643

Orange	261	432	389	643
Parkes	261	432	389	643
Parramatta	308	432	389	643
Penrith	261	432	389	643
Port Macquarie-Hastings	261	432	389	643
Port Stephens	261	432	389	643
Queanbeyan-Palerang	261	432	389	643
Regional				
Randwick	355	432	389	643
Richmond Valley	261	432	389	643
Ryde	308	432	389	643
Shellharbour	261	432	389	643
Shoalhaven	261	432	389	643
Singleton	261	432	389	643
Snowy Monaro Regional	261	432	389	643
Snowy Valleys	261	432	389	643
Strathfield	293	432	389	643
Sutherland Shire	270	432	389	643
Sydney	410	432	410	643
Tamworth Regional	261	432	389	643
Temora	261	432	389	643
Tenterfield	261	432	389	643
The Hills Shire	281	432	389	643
Tweed	261	432	389	643
Upper Hunter Shire	261	432	389	643
Upper Lachlan Shire	261	432	389	643
Uralla	261	432	389	643
Wagga Wagga	261	432	389	643
Walacha	261	432	389	643
Walgett	261	432	389	643
Warren	261	432	389	643
Warrumbungle Shire	261	432	389	643
Waverley	430	432	430	643
Weddin	261	432	389	643
Wentworth	261	432	389	643
Willoughby	400	432	400	643
Wingecarribee	261	432	389	643
Wollondilly	261	432	389	643
Wollongong	261	432	389	643
Woollahra	360	432	389	643
Yass Valley	261	432	389	643

Source of OSR thresholds: <https://www.revenue.nsw.gov.au/help-centre/resources-library/lt104>



QUALITAS

14<sup>th</sup> September 2020

Alex O'Mara  
Group Deputy Secretary  
Place, Design and Public Spaces  
Department of Planning, Industry and Environment  
Level 18, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150

Dear Mrs O'Mara,

**RE: QUALITAS CREATIVE BUILD-TO-RENT VISION  
SUBMISSION ON DRAFT HOUSING DIVERSITY SEPP**

## **1. EXECUTIVE SUMMARY**

This Submission has been prepared by **Qualitas. Qualitas is Australia's leading real estate financier and investment manager**, founded in 2008, with committed capital of approximately AU\$3 billion.

Qualitas has international experience in delivering Build-to-Rent, currently in New York developing an AU \$480m multifamily scheme in joint venture with US operator and developer L&L MAG, whilst in 2019 Qualitas and the Australian Federal Government (via its Clean Energy Fund) launched its AU\$1 billion Build-to-Rent Impact Fund.

As such, Qualitas is well placed to provide advice on the opportunity to improve build-to-rent provisions within the NSW Government's Draft Housing Diversity SEPP.

The Submission's key recommendation to improve the Draft SEPP is to **define 'Creative Build-to-Rent' as a permitted use within light industrial zones** to help solve the affordability crisis for the creative sector, create jobs and accelerate economic output.

**The Draft Housing Diversity SEPP is commendable** in expanding the diversity of housing types and tenures required to realise a productive, liveable and sustainable Sydney over the next decade.

**Defining Build-to-Rent to establish a new asset class is particularly positive** and has the potential to increase Sydney's global appeal for international funds investing in this asset class, such as Qualitas.

**Build-to-Rent provides for more affordable housing / lifestyle choice**, but is not affordable housing within itself. Burdening the emerging BTR sector with mandatory affordability requirements, whilst onerous tax, design and construction requirements must also be met, must be carefully considered.



QUALITAS

**Recalibrated Build-to-Rent design guidelines to optimise benefits** must include smaller unit sizes (25sqm minimum), review and recalibration of ADG where required, and creation of more flexible design parameters to provide a diversity of product types to end users. This Submission anticipates the industry will focus on these matters in significant detail and as such, they are not addressed herein.

**With a focus on diversity a key opportunity to improve the Draft SEPP is its potential to help solve the affordability crisis of the creative sector** - a sector severely impacted by COVID. A creative Build-to-Rent model would allow artists to work and live within the one building and improve affordability by reducing the need to pay two rents and commuting costs.

**Finalising the Draft SEPP to define 'Creative Build-to-Rent' as an additional permitted use within light industrial zones** satisfying specific performance criteria is the key recommendation of this Submission.

Finalising the SEPP to enable a Creative Build-to-Rent would provide a clear planning pathway for our **Myrtle Street Creative Build-to-Rent** to create over 400 jobs and over \$250M economic output annually for Sydney's Inner West creative sector.

## 2. CREATIVE BUILD-TO-RENT: A UNIQUE OPPORTUNITY

**Treasury's 2040 Economic Blueprint** identifies the opportunity to grow the creative sector as critical to NSW's economic success. In 2016 – 17 NSW creative industries contributed \$16.4 billion and a Creative Build-to-Rent could accelerate growth.

**Create NSW's Culture, Value and Place Report** states Government should help solve the affordability crisis for the creative sector by identifying pilot projects addressing the relationship between where artists work and live. A Creative Build-to-Rent definition / model integrating workspace and BTR units within a deliberate built form is the ideal candidate for a pilot project. The Report also states Government should seek "partners within the private, philanthropic and local government sectors should be sought for these demonstration approaches". Qualitas' Myrtle Street Creative Build-to-Rent can deliver these priorities for Government.

**Creative Build-to-Rent is consistent with the current GSC Industrial Land Policy** as it;

- 1) retains the light industrial zone and total quantum of land zoned for this purpose
- 2) increases job creation and economic output for creative industries; and
- 3) guarantees in perpetuity the ownership of the entire building by a single owner with no unit to ever be strata titled or sold, thereby negating pressure on industrial land values and speculation.

**Minister Stokes identified the opportunity for Build-to-Rent within light industrial lands** as part of his Property Council keynote address in 2019. A Creative Build-to-Rent model is consistent with the directions of Minister Stokes.



**The Design of Urban Manufacturing by Robert Lane and Nina Rapport** is a resource of world's best practice to inform planning policy and principles relevant to a Creative Build-to-Rent model, with case studies ranging from Milan to Barcelona to New York.

### **3. MYRTLE STREET CREATIVE: COMBINING BUILD-TO-RENT WITH CREATIVE URBAN SERVICES**

**Qualitas' Myrtle Street Creative Build-to-Rent Planning Proposal** is lodged with the Inner West Council. Clear direction from NSW Government to Council(s) supporting a Creative Build-to-Rent model would assist the assessment of the Proposal.

**Myrtle Street Creative Build-to-Rent seeks to be a Create NSW pilot project** by redeveloping the site (3,768m<sup>2</sup>), located within an easy walk of Marrickville Station and adjoining the Carrington Rd creative precinct, into an integrated creative industries and build-to-rent development including approximately 5,565m<sup>2</sup> of creative space and approximately 225 Build-to-Rent units for workers in creative industries.

**Myrtle Street will create nearly 400 jobs with a focus on creative industries**, a sector severely impacted by the COVID pandemic.

**Myrtle Street public benefits** include infrastructure, housing and social responsibility with highlights including:

#### **Infrastructure**

- Transport Infrastructure: Micro-mobility hub with electric bikes to reduce vehicle dependence.
- Green Infrastructure, Public Spaces and Social Infrastructure: Deliver green plaza co-located with art gallery, street trees increasing tree canopy and publicly accessible green roofs.
- Service Infrastructure at no cost to Government: Target GBCA Six-Star, Green Star Building Rating.

#### **Housing**

- Deliver a significant and innovative Build-to-Rent 'pilot' for the creative sector.
- Approximately 225 Build-to-Rent units (min unit size 25sqm) with potential for 5-10% of Build-to-Rent units to be 'affordable' by agreed rental peg.

#### **Socially Responsible Projects, Green and Public Spaces, and Environmental Benefits**

- Potential to deliver 5-10% affordable creative space and units.
- In response to the COVID-19 pandemic, potential to investigate with Government and creative sector opportunity to locate an anchor tenant across the 5,565m<sup>2</sup> of creative space at little to no cost for 5 years.

#### **4. PRINCIPLES THAT UNDERPIN CREATIVE BUILD-TO-RENT WITHIN THE HOUSING DIVERSITY:**

- Enable equity by creating opportunities for creative industries to live and work within one building, particularly in response to the COVID and catastrophic impact it has had on this sector.
- Retain and manage light industrial lands by adding creative Build-to-Rent (BTR) as a permitted and complementary land use.
- Increase job opportunities and economic output of the creative sector.
- Stack a creative build-to-rent typology above the ground floor employment floor space to provide the creative sector the opportunity to work and live on site (i.e. improved lifestyle affordability).
- Ensure innovative urban and architectural design mitigates any adverse impacts of integrating build-to-rent within light industrial lands.
- Ensure new buildings complement the evolving local character of the immediate area.
- Ensure new buildings do not adversely impact on the amenity of adjoining residential neighbours.
- Pilot innovation that recognises the integration of urban manufacturing (specifically creative industries) and residential is a time-proven model for creating great places.

#### **5. PROPOSED DEFINITION OF CREATIVE BUILD-TO-RENT:**

Creative Build-to-Rent is a build-to-rent development that:

- Is located within the IN2 Light Industrial zone;
- includes gross floor area dedicated to creative light industrial or urban services uses that is dedicated to occupants of the development;
- is located within 400m walking distance of rail or Sydney metro station;
- is located within 800m of Land within a zone that Build-To-Rent is a permissible use; and
- may not be strata subdivided.



QUALITAS

## RECOMMENDATION

**NSW Government finalise the Draft SEPP to define 'Creative Build-to-Rent' as an additional permitted use within light industrial zones** satisfying specific performance criteria to provide clear planning pathway for pilot projects, such as Myrtle Street Creative Build-to-Rent.

**NSW Government, Inner West Council and Qualitas collaborate** to enable Myrtle Street Creative Build-to-Rent to be delivered as a pilot project for our creative sector.

Regards,

Julian Lenthall

Development Director  
Qualitas

9 September 2020

[ICReview@productivity.nsw.gov.au](mailto:ICReview@productivity.nsw.gov.au)

Dear Sir/Madam

## **Submission – Proposed Housing Diversity SEPP**

Thank you for providing Queanbeyan-Palerang Regional Council (QPRC) with an opportunity to make a submission on the proposed new *Housing Diversity State Environmental Planning Policy (SEPP)*. Council has reviewed both the Frequently Asked Questions and the Explanation of Intended Effect (EIE) and provides the comments below for consideration in respect of the draft SEPP.

### **General Comments**

- It is assumed that ‘*Build-to-rent housing*’, ‘*Student housing*’ and ‘*Co-living*’ would all be additional types of Residential Accommodation under the Standard instrument local environmental plan (LEP). This could be better clarified in the background documents.
- The background documents might also benefit from more explanation in respect of the how the provisions of the Affordable Housing SEPP, Seniors Housing SEPP and SEPP 70 will be transferred into the new policy. Council’s view is that the provisions around some of these policies, particularly the Seniors living SEPP, are already very complicated and may be further confused by including the provisions of all of these SEPPs, and the new proposed changes, into one document.
- The proposal to remove the requirement for ‘boarding houses’ as a mandated use in the R2 Low Density Residential zone is supported, as is the requirement to demonstrate ‘boarding houses’ meet affordability criteria.
- The proposal to amend the ‘location and access to facilities’ provisions to remove point-to-point transport (such as taxis, ride share, etc) is also supported.
- It is important these housing types not be allowed to later convert to dwellings and be sold off to the private market.
- Support expansion to definitions that require management by a registered not for profit or community housing provider.

### **Built-to-Rent Housing**

- The proposal to include ‘build-to-rent housing’ as a mandated use in the R4 High Density and B4 Mixed Use zones appears generally acceptable in QPRC given ‘residential flat buildings’ are already permissible in those zones under Council’s respective LEPs.
- However, ‘build-to-rent housing’ in the B3 Commercial Core zone would potentially permit this use in Queanbeyan’s central business district which is largely flood prone. ‘Residential flat buildings’ are currently not permissible in Council’s B3 zone

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for this reason (only shop-top housing) to ensure there are no residential uses on the ground floor.

- Additionally, the proposal to allow only 0.5 car spaces per dwelling is a significant issue of concern for Queanbeyan-Palerang. All residential flats and medium density housing in Queanbeyan are currently required to provide 2 car parks per dwelling as consistent with the demonstrated demand from these forms of housing in the past. Council would argue that the use should only be allowed in regional areas where 2 car spaces per dwelling are provided.
- Council is keen to ensure the quality of any such developments are of a high standard in the future. It is not clear if it is intended to introduce complying development arrangements for such developments. Given future developments will not be owner-occupied there is a concern this may impact on the subsequent quality of construction. Council would argue such developments should not be subject to complying development provisions to ensure high quality built outcomes.
- Similar to the point above, it should be confirmed if 'build-to-rent housing' will be subject to SEPP 65 Design Quality of Residential Apartment Development? Council supports the use of SEPP 65 design quality principles and similar design quality principles such as those identified in *SEPP (Educational Establishments)*.
- It is noted there is a proposal for an increased density/density bonus for infill affordable housing to cover lands outside Sydney. It is unclear if this is intended to cover QPRC or not.
- The minimum 50 dwelling requirement is a significant sized development in the R4 High Density Residential and B3 Commercial Core zones for Queanbeyan and will potentially have an impact aesthetically and socially.
- It will be important to avoid concentrating people of the same socio economic group within particular housing to avoid the mass social housing estates of the past.

### **Purpose built student housing**

- Council notes that the proposal for 'student housing' does not mandated its use in any particular zone. It is unlikely to be a housing form pursued in QPRC given the distances to universities and the like in Canberra.
- Council has no objections to the proposed definition.

### **Co-living housing**

- Similar to 'build to rent' housing, the proposal to include 'co-living housing' as a mandated use in the R4 High Density and B4 Mixed Use zones is generally acceptable in QPRC given 'residential flat buildings' are already permissible in those zones under Council's respective LEPs. However as previously mentioned, allowing 'co-living housing' in the B3 Commercial Core zone would potentially permit this use in Queanbeyan's central business district which is largely flood prone. 'Residential flat buildings' are currently not permissible in Council's B3 zone for this reason (only 'shop-top housing') to ensure there are no residential uses on the ground floor.
- The proposal to allow only 0.5 car spaces per room is a significant issue of concern for Queanbeyan-Palerang. As previously mentioned, all residential flats and

medium density housing in Queanbeyan are currently required to provide 2 car parks per dwelling as this is consistent with demonstrated demand from these forms of housing in the past. Council would argue that the use should only be allowed in regional areas where 2 car spaces per dwelling are provided.

### **Secondary Dwellings in Rural Zones**

- It is unclear why this issue needs to be addressed in the ARHSEPP. Council's view is it would be more logical allow for it in the Standard Instrument Clause 5.4(9) to make it clearer to regulate and administer.
- Council would be supportive of a provision that allows it to determine the size of secondary dwellings in relevant rural and environmental zones. Allow clause 5.4(9) to have the distinction between rural zoned secondary dwelling and the residential zoned secondary dwellings.

### **Review of SEPP in 24 months**

- What data and measures are going to be used in the proposed review of the provisions of the new SEPP within 24 months?
- There should be social measures as well as built form outcomes. The review data should not solely report on numbers of dwellings built – this fails to adequately capture the quality of housing and quality of life afforded to the residents.

If you have any further enquiries please feel free to contact myself on 6285 6277.

Yours sincerely



**Martin Brown**  
Program Coordinator - Land-Use Planning  
**Queanbeyan-Palerang Regional Council**

## **SUBMISSION: EXPLANATION OF INTENDED EFFECT FOR A NEW HOUSING DIVERSITY SEPP**

### **Introduction**

Randwick City Council (Council) welcomes the opportunity to comment on *Explanation of Intended Effect for a new Housing Diversity SEPP* (the EIE). Council notes that the proposed Housing Diversity SEPP would consolidate three SEPPs that are currently in use in NSW:

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

Randwick Council has long been an advocate for changes to these policies, particularly regarding boarding house development and purpose-built student accommodation. This advocacy more recently included writing to the Minister of Planning and Public Spaces regarding purpose-built student accommodation and in Council's submission to the NSW Housing Strategy Discussion Paper. Council's endorsed Housing Strategy also included relevant actions relating to these concerns.

Council staff were also involved in the Council Boarding House Working Group who provided input to the Department on a range of issues regarding boarding houses through several workshops in July and August 2019. This work resulted in *Planning for boarding house development – Report to the Minister from the Council Boarding House Working Group*, of which the recommendations from this report were a key informing factor to the EIE.

Council is supportive of measures that will increase the provision of social and affordable housing in NSW and policy that will meet the needs of the State's growing and diverse population. Council is supportive of this EIE being developed with an aim of making the provisions of the relevant SEPPs fit for purpose and aligned with Government priorities set out in the *NSW Housing Strategy – Discussion Paper* in collaboration with stakeholders such as Council. Council provides the following comment on the relevant sections of the EIE:

#### **1. Consolidate existing housing-related policies**

Council supports the consolidation and repeal of the existing housing related policies, including:

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

Notwithstanding, Council requests that following the consultation of the EIE that further consultation be provided on the new draft SEPP (in its entirety), to provide a better understanding as to how the new planning instrument will incorporate the existing and/or updated provisions of the listed SEPPs.

#### **2. Introduce new housing types and planning provisions for build to rent, purpose-built student housing and co-living developments**

Council is supportive of the proposed new housing types for build to rent, purpose-built student housing and co-living developments.



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

Council notes that it is proposed to make BTR housing a compulsory permitted use in the R4 High Density Residential, B3 Commercial Core, B4 Mixed Use and B8 Metropolitan Centre zones, and in the R3 Medium Density Residential zone where residential flat buildings are permitted. If Council were to permit BTR housing it would have to also make it permissible in the B2 Local Centre zone. Council queries what the basis is for the proposed definition of BTR housing in that it must contain “at least 50 self-contained dwellings” and questions whether a lower number of units could apply. The EIE does not provide any rationale to this minimum threshold. A minimum of 50 units would severely limit the number of sites available for this type of housing in Randwick City, an area which would benefit from increased rental housing stock.

Council notes that the EIE is seeking feedback on BTR housing in regional areas that “would generally be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments”. Council contends that there could also be some appropriate areas within metropolitan Sydney and Randwick City where smaller BTR schemes could be successful. As such, Council requests a further review of the minimum number of units for a BTR scheme in metropolitan areas.

Furthermore, Council does not support the proposal for BTR housing to be assessed as State significant development (SSD) if the development has a capital investment value of \$100 million or more. While Council notes that the NSW Government is encouraging this type of development as it responds to the need for more rental housing in the recovery from COVID-19, removing local councils as the plan making authority for BTR housing is inappropriate, regardless of the CIV of the given project. Councils’ local planning frameworks are well equipped to assess such residential developments. Council contends that BTR housing does not have the ‘state significance’ to be assessed under an SSD approval pathway, regardless of the CIV. Allowing BTR schemes to be assessed under an SSD approval pathway could result in developments that exceed local planning controls and are incompatible with the local character of the area and inconsistent with community expectations.

The EIE states that it is proposed for councils to determine relevant height and FSR controls for BTR housing in their LEPs. Council contends that the existing controls in the zones where BTR would be permissible is a more appropriate approach to ensure that development is consistent with surrounding development and the desired future character of the area. Regarding BTR car parking standards, Council suggests that a locational criteria be considered in the proposed SEPP. For example, carparking rates could be lower in the B2 Local Centre zone and higher in the R3 Medium Density Residential zone.

Council strongly believes there should be a mechanism to ensure that new BTR schemes in NSW have an affordable housing component, particularly if land tax exemptions are also granted. This would provide more stability for affordable housing tenants and promote social inclusivity, particularly in areas experiencing urban renewal. Higher rates of affordable housing should be proposed if the BTR is on government-owned land or determined through an SSD approval pathway.

Council supports mechanisms that could allow long-term tenants the opportunity to purchase their BTR unit, allowing them to transition through the housing continuum. Notwithstanding, minimum tenancy lengths must be implemented to ensure that BTR development has the desired effect of boosting rental housing stock in NSW. Council also notes that by not allowing strata subdivision of BTR schemes, a higher quality product may be realised as the entire asset would have to be managed into the future.

## **Purpose-built student housing (PBSH)**

Since the ARHSEPP was introduced in 2009, Council has seen a number of development applications for new generation boarding house developments, with the majority of these have been intended and used for PBSH.

More recently, PBSH providers have lodged major development applications under the new generation boarding house provisions of the ARHSEPP. Some of these applications are for developments in excess of 250 rooms and have all utilised the floor space bonus provisions of the ARHSEPP without

the guarantee for any affordable rental housing. As such, Council reiterates its support for a new definition in the Standard Instrument LEP for purpose-built student accommodation in the EIE.

In relation to development standards and affordability requirements of PBSH, Council requests that consideration be given to ensuring that a portion of student rooms within a PBSA development are also affordable. We also request that the minimum room size should be at least 12-16m<sup>2</sup> not 10m<sup>2</sup>. Locational criteria should also apply to PBSH – this type of residential accommodation should only be permissible in accessible locations close to town centres and light rail and heavy rail stops and within 5km of a tertiary establishment. Communal areas should have minimum sunlight access and co-located with outdoor private open space. Each communal area should have minimum area of 20m<sup>2</sup> or 15m<sup>2</sup> per 12 students whichever is greater and minimum dimension of 3m<sup>2</sup>.

Council supports the development of new design guidance like SEPP 65 ADG to ensure that rooms have adequate amenity and circulation including shared facilities.

A key component of the design guidance for PBSH should be the requirement to provide a character statement to demonstrate that the built form relates to the desired future character and surrounding context to ensure high-quality built form outcome and public/private interface at ground level.

### **Co-living**

Council is supportive of co-living as its own definition in the standard instrument LEP noting that there is demand for this type of housing, particularly in areas close to transport and services. Council acknowledges that co-living housing replaces the existing new generation boarding houses under the ARHSEPP without the density bonus afforded under the policy. Council is supportive of this change. We query however why the proposed definition includes a minimum requirement of more than 10 rooms. Council contends that encouraging smaller developments of this kind will help to address unmet need of smaller more affordable types of rental accommodation. Council also suggests that locational car parking rates be applied based on proximity to services and frequent transport. Nevertheless, the development of design guidelines are also strongly supported to ensure internal amenity, solar access and natural ventilation are provided.

### **3. Proposed changes to the ARHSEPP and Seniors SEPP**

Council is supportive of changes to the boarding house provisions of the ARHSEPP and in particular, changes arising from dialogue between Council, LGNSW and the Department as part of the Council Boarding House Working Group. Council recommends that similar Working Groups should be established in the future to assist in collaborative policy development.

Council supports the proposed changes to the definition of 'boarding house' to include the requirement that boarding house rooms are affordable. Council's position is that these rooms should be affordable in perpetuity and as such does not support the proposal to apply a time limit of 10 years for new boarding houses to require rooms to be rented at affordable rates, after which they could revert to market rates. This would not increase the supply of genuine affordable rental units, providing housing assistance to those in need.

Council supports the removal of boarding houses as a mandated permissible use in the R2 Low Density Residential zone but does not support the proposal for LAHC to be able to develop boarding houses on government-owned land in the R2 Low Density Residential zone. This is on the basis that if a council determines that a boarding house is not a permissible use in the R2 Low Density Residential zone then it should not be permitted in this zone, regardless if it is to be developed and/or self-assessed by LAHC, as proposed. Moreover, allowing boarding houses to be developed only by LAHC in a R2 Low Density Residential zone could lead to stigmatisation and community opposition of this type of housing. Boarding houses should not be relied upon as a long term rental housing option given the small size of rooms. This type of housing is better suited to areas close to transport, jobs and services and not in the more suburban areas typically zoned R2 Low Density Residential.

Despite this, Council supports the proposed reduction in the FSR bonus to a flat 20% above existing maximum FSR, in zones where residential flat buildings are permissible. It was Council's position

previously that FSR bonuses must be linked to an affordability requirement. FSR bonuses under the existing ARHSEPP has been a key concern raised by the community, whereby a density bonus is provided to new generation boarding houses without the need to provide affordable rental housing.

But Council queries whether this is enough of an incentive for the community housing provider sector to deliver boarding houses. Council notes that CHPs already do not pay land tax meaning tax concessions like those provided for BTR schemes are not an appropriate incentive. The Department should consider further incentives for CHPs to deliver boarding houses as the need for affordable housing in metropolitan Sydney continues to rise. This need could be exacerbated by the COVID-19 pandemic.

Council supports the proposed amendment to Part 3 of the ARHSEPP to remove reference to 28 January 2000 and instead apply a 5 year time period preceding the lodgement of the development application, to demonstrate that a building was a low-rental residential building. In particular, Council supports the clarification that the onus for providing evidence that a building did not contain a low-rental dwelling will rest with the applicant. However, Council requests that any monetary contributions levied by the Council to offset the loss of dwellings that were low rental be retained by the Council only where the Council has an existing affordable housing program and/or affordable rental housing contributions scheme in place.

In regard to the proposed changes to the Seniors SEPP, Council provides its in principle support. In particular:

- The updating of Schedule 1 – Environmentally Sensitive Land. Council suggests that Schedule 1, as well as other sections of the Seniors SEPP should be monitored and updated more regularly in the future, where appropriate.
- Changes to the provisions for 'location and access to facilities' in the Seniors SEPP for development in metropolitan Sydney so that point-to-point transport cannot be used for the purpose of meeting the accessibility requirement.
- Provisions so that site compatibility certificates (SCCs) are valid for 5 years, so long as a development application is lodged within 12 months of the SCC being issued.
- Amendments to provisions to clarify that development standards in an LEP prevail when there is inconsistency with the SEPP

Council reiterates its support for these changes to the Seniors SEPP. Notwithstanding, Council notes that site compatibility certificates allow for a registered club on land zoned RE2 Private Recreation to effectively change its land use without a planning proposal. Often, this type of recreational land use forms an integral part of the overall network of existing recreational spaces which serves the local as well as broader residential community. The spatial structure of a local area is evaluated and confirmed as part of the making of an LEP with land uses being distributed so that they are compatible and complementary to each other. In this context, Council's position is that a local planning response to seniors housing through the making of a LEP is the best means by which to consider factors such as local character and deliver this type of housing for its community.

#### **4. Proposed changes to the ARHSEPP and Seniors SEPP to facilitate the delivery of new housing by or on behalf of LAHC on government-owned land**

Council raises concern and does not support the proposed changes which increases the number of dwellings that LAHC can self-approve from 20 to 60 units including the subdivision of government-owned land without consent. While Council acknowledges the urgent need for the delivery of social and affordable housing, Council needs to retain its role as the consent authority in the approval of such development projects, particularly when they include 60 or more dwellings. This is based on the fact that the environmental and amenity impact including infrastructure capacity of the site and surrounding area needs to be appropriately considered and the wider community needs to be consulted.

This becomes particularly pertinent in understanding the cumulative impact of development projects as proposed where Council is not the consent authority, and of which the increase in density has not been planned for as part of a comprehensive plan for housing growth across the LGA. Take in point the

preparation of the Local Strategic Planning Statement by all councils. This involved the assessment of development capacity, development trends and population growth to identify a housing target which could meet the projected population demands. The self-assessment of development projects as large as 60 dwellings undermines this important strategic work as there is no forecasting housing supply through self-approval projects. In addition, there is no guarantee that self-approving projects will be of a standard to ensure the quality, durability and safety of housing is guaranteed.

Moreover, Council raises concern in relation to the proposed provisions to allow subdivision of Government-owned land without consent. This may facilitate the selling off of government land for commercial purposes without the consideration required as part of the assessment of a subdivision application by the local consent authority.

In addition, Council requests that the threshold of LAHC projects and others to be classified as State Significant Development remain at \$30M. There is not enough justification in the EIE to warrant an increase in the Capital Investment Value to be classified as State Significant Development.

#### **Timeframe for finalisation**

Council notes that there is limited information regarding the timeframe for the making of the proposed SEPP. Council is currently preparing its comprehensive planning proposal that will implement the directions and actions of the endorsed Local Strategic Planning Statement (LSPS) and Housing Strategy. Council will need to take into consideration the implications of the new proposed SEPP into its future planning in relation to land use zone permissibility of the new housing types contained in the proposed SEPP. In addition, Council may wish to remove boarding houses as a permissible use in the R2 zone as it will no longer be mandated as a permissible use under the proposed SEPP. As such, Council requests confirmation as to when the proposed SEPP will come into effect and whether consideration of the SEPP can be made in the comprehensive planning proposal.

Randwick City Council appreciates the opportunity to comment on the EIE and notes that it addresses key concerns raised by Council particularly in regard to boarding house and purpose built student housing development.

Should you have any questions or queries regarding Randwick City Council's submission, please contact Timothy Walsh, Environmental Planning Officer on 9093 6741 or [timothy.walsh@randwick.nsw.gov.au](mailto:timothy.walsh@randwick.nsw.gov.au).

Sincerely,



**Kerry Kyriacou**  
Director City Planning

Submitted on Thu, 03/09/2020 - 11:16  
Submitted by: Anonymous  
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Submission Type: I am making a personal submission  
First Name: robert  
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Submission file:

[submission-re-co-living-3-9-2020.docx](#)

Submission: See attached - any difficulties please phone me at 0416 229 428.

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

## **Housing Diversity SEPP – Submission -3 September 2020**

**I make the following comments and observations relate to Co-living:**

- 1. The concept of affordability flies out the window once you start imposing constraints and limitations as proposed for Co-living as a new type of development.**
- 2. Car Parking requires much greater flexibility to consider nearness to transport and other facilities and car-sharing services.**
- 3. Increasing the area by up to 30% will increase cost and decrease affordability. I suggest it should 20m<sup>2</sup> up to 50m<sup>2</sup> to allow flexibility.**
- 4. Any requirement for on-site management is either not necessary or only optional where there are 20 or more rooms.**
- 5. in Table 3 I see it as being for boarding Houses as Co-living is in reality private boarding houses which are for the general market with no income restrictions and slightly larger. Thus, no need for massive private open space as does not fit boarding house occupation and will force projects out of proximity to shops and transport etc. The suggestion for communal open space is beset by the same issues.**
- 6. What does 25% of site area mean? If literal this will kill this type of development.**

**7. You advise there is demand and I agree but the demand is not for residential flat buildings rather for boarding houses with communal facilities. Co-living should be subject to requirements as for boarding houses.**

**8. In summary it seems you are trying to create something which will not be developed by the market- place as your proposal appears to regulate what is in demand out of existence.**

**Robert Yandell   3<sup>rd</sup> September 2020   [robert.yandell@hotmail.com](mailto:robert.yandell@hotmail.com)**

Sent via online submission portal

## SUBMISSION ON EXPLANATION OF INTENDED EFFECT FOR A NEW HOUSING DIVERSITY SEPP

Roche Group Pty Limited and its associated companies is a large private developer that has been developing residential communities over a sustained period. We have multiple large scale residential developments in the Lower Hunter (within Lake Macquarie City Council and Maitland Council LGA's) and on the Mid North Coast (within MidCoast Council LGA).

Our submission specifically relates to 'Build-to-Rent Housing' (BTR Housing).

We note the Department is seeking feedback on appropriate provisions for BTR Housing in regional areas. We also note its recognition that these developments would generally be of a smaller scale and of alternative form to apartments in regional areas.

### ***Proposed Definition***

*There is a need to encourage and support all housing types and numbers rather than arbitrarily regulating and limiting housing product.*

In terms of the proposed definition, we do not believe a numerical control regarding a minimum number of dwellings should be imposed. Whether in metropolitan or regional areas, the developer should be able to determine what is a feasible scale for BTR Housing depending on their specific circumstances and business models. The requirement for on-site management is also problematic when looking at alternative housing product forms. The definition should recognise that housing product could include any dwelling type (including a single freestanding dwelling on its own lot) and not just apartments, whereby on-site management could not be achieved.

### ***Proposed Planning Provisions***

*Consider BTR Housing being permissible in all zones that self-contained dwellings are permissible.*

Restricting BTR Housing to the zones currently identified (R3, R4, B3, B4 and B8) does not recognise that many of the regional Council's that utilise fewer zones in their LEP permit most forms of self-contained dwellings within the R1 General Residential Zone. MidCoast Council's LEP for Greater Taree for example includes the following housing types in its permitted with consent land use table that would be suitable for BTR housing:

#### **3 Permitted with consent**

**Attached dwellings;** Boarding houses; Centre-based child care facilities; Community facilities; **Dwelling houses;** Group homes; Home businesses; Home industries; Hostels; **Multi dwelling housing;** Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; **Residential flat buildings;** Respite day care centres; Restaurants or cafes; Roads; **Semi-detached dwellings;** **Seniors housing;** **Shop top housing;** Tank-based aquaculture; Any other development not specified in item 2 or 4



The Housing Diversity SEPP proposes to introduce the following new housing types:

- Build-to-Rent housing,
- Purpose-Built student housing; and
- Co-Living

We would strongly encourage the Department to consider the introduction of Land Lease Communities (LLC's) and/or Residential Parks in the Housing Diversity SEPP. A Discussion Paper was released by the Department in 2015, outlining the opportunities that these forms of development/housing types could also provide in terms of housing diversity and affordability.

BTR, LLC's and Residential Parks are all development/housing types that Roche Group would be very interested in discussing further with the Department with the view to establishing an appropriate planning framework that would facilitate the delivery of housing diversity within its regional projects.

We appreciate the opportunity to comment on the exhibited documentation regarding a new Housing Diversity SEPP and trust that our submission will be fully considered by the Department. We would welcome the opportunity to meet and discuss our submission further.

Please do not hesitate to contact me on 9270 6003 or 0402 872 562 should you wish to discuss, schedule a meeting or require any further information.

Kind regards,

A handwritten signature in black ink, appearing to read 'Wes van der Gardner', with a stylized, cursive script.

Wes van der Gardner

**General Manager – Development**

**From:** [noreply@feedback.planningportal.nsw.gov.au](mailto:noreply@feedback.planningportal.nsw.gov.au) on behalf of [Planning Portal - Department of Planning and Environment](#)  
**To:** [DPE PS ePlanning Exhibitions Mailbox](#)  
**Subject:** Webform submission from: Proposed new Housing Diversity SEPP Explanation of Intended Effect  
**Date:** Wednesday, 9 September 2020 1:20:33 PM

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Submitted on Wed, 09/09/2020 - 13:12

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: [REDACTED]

Last Name: [REDACTED]

Name Withheld: Yes

Email: [REDACTED]

Suburb/Town & Postcode: [REDACTED]

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

Submission: Affordable Rental Housing SEPP (ARHSEPP) \_\_\_\_\_ New Generation Boarding House Policy should be allowable in all zones People will rent these properties if the financial and location options are available to them Management by Community Housing Providers We do not agree that smaller style boarding houses should only be managed by Community Housing Providers. Affordability Boarding houses in R2 zones can be removed – only if co-living properties are allowable. Removing boarding houses from the R2 zones does not create a diverse demographic of residents. These proposed changes would make it difficult for private middle-class developers because of the high cost of development. Families have owned and operated NSW boarding houses for generations.

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

Ron and Cynthia

21 September 2020

NSW Planning Industry and Environment  
Division Planning Policy  
Attention: Janelle Brooks  
Housing Policy  
Dear Janelle

**Proposed Diversity Housing SEPP**

Thank you for allowing us the opportunity to make a submission on this important proposed SEPP.

We live in the Northern Beaches Local Government area in zone R2 WLEP2011.

We applaud the proposal to provide that boarding Houses (under the affordable rental Housing SEPP) will not be mandatory in the R2 zones.

Boarding Houses are intense high density developments with very little onsite parking.

Even the recent amendment to limit the number of boarding rooms to 12 in one lot still imposes a high density development in a low density area.

This is a backdoor way to rezone extremely low density land and adversely impacts the amenity of the existing residents who have selected to live in a low density zone.

Although the existing SEPP for Affordable Rental Housing lists the planning zones that the SEPP applies to, developers submit development applications for Boarding Houses in other areas and Councils are obliged to consider these applications as there are no controls to prevent developers from making these applications.

In the Northern Beaches Local Government area we are referring to the "Deferred Matter" areas in WLEP2011 which remain under the planning controls of Locality C8 North Belrose and Locality B2 in WLEP2000.

The housing density is extremely low in Localities C8 and B2, being one dwelling for each 20ha and retaining existing use rights where there are existing dwellings on smaller lots. These Localities have highly sensitive bushland with extensive biodiversity and eco systems.

The process of making submissions on intense urban development proposals in the deferred areas by residents and assessments by Council staff and Planning Panels takes many days.

We consider that this process is inefficient and takes up many wasted days of resident's time and Council staff time in assessing these inappropriate applications in the very low density deferred areas; where as there is a simple solution by providing a few extra words in the SEPP to prevent application being made for high density developments in low density areas.

There are bonuses for Boarding Houses provided in the SEPP. These should not be available for developments in zones and other areas (e.g. deferred areas in WLEP2011) not listed in the SEPP for Affordable Housing.

In considering the appropriate areas for boarding it is essential to consider the housing density. In this regard it needs to be noted that the Land and Environment Court has determined that each room in a Boarding House is a separate dwelling. This needs to be made very clear in the proposed SEPP.

Further in regard to the maximum distance to public transport the Land and Environment court has determined that the maximum distance to a bus stop should be to the closest bus stops on each side of the road. The SEPP indicates a bus stop where the returning bus stop on the other side of the road can be much further if a safe place to cross the road is much further. This needs to be made very clear in proposed SEPP.

We would encourage a study of all the decisions of the Land and Environment Court regarding Boarding Houses to ensure that all relevant decisions are incorporated in the proposed SEPP.

We note that in the SEPP (exempt and complying codes) 2008, the following clause is included: "1.6 Interpretation references to Land use zones

(1A) Land identified as "Deferred Matter" on the Land Application Map within the meaning of WLEP2011 is, for the purposes of this Policy, taken to be in zone E3 Environmental Zone."

We consider that this clause should be included in the proposed SEPP.

This would provide more certainty for appropriate developments in the deferred areas and prevent applications for inappropriate developments e.g. Boarding Houses Seniors Living etc.

Over the last 5 years developers have cleared land and continue to clear bushland so they can make applications for intense urban development and to obtain an urban zoning in the proposed new LEP for the Northern Beaches council area.

Diverse bushland and wetlands in urban areas contribute to the health and wellbeing of all residents.

Urban bushland has health benefits beyond being a great place to go for a walk. It filters our air and water, helps cities avoid extremes in temperatures, and is linked to lower rates of chronic disease.

But these and other health benefits are virtually never accounted for in local and state land development processes.

Urban planners need to consider these health benefits when making decisions about the future of our cities.

If some urban bushland, wetlands or other landscape assets have been retained, the pressure on them from development is relentless.

Planning processes need to use ways to assess what we might lose and what we might gain from clearing bushland.

A comparison should be made by decision makers, to be able to judge the true worth of a development against retaining the Bushland.

Currently the Northern Beaches Council is preparing an LEP for the whole of the Northern Beaches Council area.

This LEP will consolidate the existing four separate LEPs including the deferred areas. This preparation includes many relevant studies particularly through the deferred areas that contain extensive areas of natural bushland environment with threatened and endangered species.

It is essential that these areas are protected through appropriate planning controls including this proposed SEPP.

The Council have provided a program to prepare this new LEP and it is estimated that the earliest that the new LEP will be implemented is some time in 2023. Therefore it is essential that the suggestions above are seriously considered for inclusion in the proposed SEPP.

The inappropriate applications for intense urban development in the deferred areas also apply to Seniors Living.

There are many applications and some have been constructed where large areas of the natural bushland environment have been destroyed.

The Seniors Living extends large extensive aged care facilities that have an extensive adverse impact on the natural environment and the adjoining low density residential areas.

Amendments were made to the Seniors Living SEPP on 29 July 2020 to prevent new proposals for Seniors Housing on land within the Metropolitan rural Areas (MRA) identified by the Greater Sydney Commission.

We welcome this decision as a section of the deferred areas is included in the MRA. However, there are large sections of the deferred areas that are not included in the MRA. These sections include the whole of the C8 Locality WLEP2000 and large sections of Locality B2 WLEP2000.

Both of these localities have extensive natural bushland areas that need to be preserved.

As mentioned above, the preparation of the LEP for the whole of the Northern Beaches Council area includes studies currently being prepared to determine the appropriate zonings for the deferred areas.

It is pre-emptive to continue allowing intense urban developments in any of the deferred areas at this stage.

All areas of the deferred areas should be included in the Metropolitan Rural Area so that this amendment to the Seniors Living to prevent further Seniors Living will apply to the whole of the deferred areas.

These inappropriate intense urban developments need to be prevented in the deferred areas by appropriate clauses in the proposed SEPP.

We would appreciate your serious consideration to the above submissions so that ordered planning can be achieved in this area.

Yours Sincerely

Ron and Cynthia Patton