

Please find my feedback summarised below.

Issue	Suggestion
Social housing needs to be not just recognised but actively supported	<p>The Intended Effects is only paying ‘lip service’ to social housing – it is not proposing much or anything to facilitate more of it through planning reforms.</p> <p>Social housing development and the provisions they need should be driven by social housing agencies but there does not appear to be a voice in this proposal that is articulating what they need. (this may be a Housing NSW issue and not a planning issue)</p>
Planning concessions are not the preferred type of concession to promote Build to Rent	<p>A planning ‘support’ of this in terms of having the new land use may instil investor confidence to complement land tax discounts.</p> <p>However, development standards should not be reduced to facilitate this type and the proposed code is already teetering on the boundary of what could be considered ‘too much’ support in terms of compromising the planning system.</p> <p>Maybe other departments, agencies or approaches can be used to better support build to rent – such as frameworks for a path to ownership or reference long term lease agreements that allow tenant improvements.</p>
“Boarding Houses”, “Student Housing” and “Co-Living” are all essentially the same thing – a unified approach would be better.	<p>These distinctions will create increased complexity and confusion with no clear public benefit. Commercial developers can determine what demand is and the consent process can determine whether a proposal adds the value to the community and prospective residents – there is no need to try to write this complexity into the planning system.</p> <p>As with all bureaucratic complexity – the complexity will have the undesired effect of encouraging ‘moulded’ solutions that manage to pass a complex code which in turn encourages more complexity in the code and the planning system, ever more ‘moulded’ and inappropriate development, ever more bureaucracy and increasingly unaffordable and undelivered housing.</p> <p>It would be simpler and more facilitative of a diverse housing stock to just have one set of control across the whole co-habitation concept, for example.</p> <p>Development for co-habitation</p> <ol style="list-style-type: none"> 1. Rooms must not be less than 11 square meters or more than 35 square meters 2. Must not have more than 12 rooms if development is in a low density residential area 3. Must not have more than 25 rooms for development in medium density area 4. Must not have more than 50 rooms for development in high density areas <p>My concern is around developments that are providing enormous numbers of units in limited spaces and the code – despite its complexity – seems to miss the point in failing to address this concern.</p>

A limit on the number of rooms in a co-habitation type development (with shared areas) should be applied to medium and high density areas	I am worried this will lead to localised overdevelopment and more localised overcrowding, and I would like to see a limit on the maximum number of Co-Living rooms at a site.
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Thanks & Regards



Sandy June Pty Ltd - Owner Operator & KINGS Consulting Services

Proposed – NSW Government New Housing Diversity
State Environmental Planning Policy

Submission – 9 September 2020

Dear Honourable Minister Robert Stokes MP,

As a New Generation Boarding House "NGBH" owner and register operator Sandy June Pty Ltd, Kings Consulting Services Pty Ltd a property and business consultant, and individually an experienced property developer and investor, and who has a strong association to a number property housing body groups nationally, who are also focused on the issue of delivering affordable housing solutions to multiple sections of the community, we appreciate the opportunity to provide comment and feedback on the proposed new Housing Diversity State Environmental Planning Policy (SEPP) of the ARHSEPP.

It has become more than ever, a requirement of a growing variety of demographic groups which there are multiple, whether being community services front line personnel in sectors of, health and medical services of nurses, relief doctors other medical professions, teachers, front lines services of police, fire and rescue, ambulance, mining personnel or construction contractors on employment assignments supporting local communities, are unable to access affordable housing in their preferred location, or whether being under privileged or vulnerable persons, or victims violence (women and children) in our community or students living away from home, these demographics often have to leave their community, of families, friends and support networks, to find somewhere they can afford to live.

There is huge amount of information data available I continue research which supports the numbers and proves, that 60 to 80 percent of the people that are looking for rental accommodation are singles, separated or widowed people, and couples, (which all is growing demographics). Unfortunately at the same time, 60 to 80 percent of the rental properties available on the market today, are three, four and five bedroom houses, and is not what these demographic groups are wanting, they're preferring a small, low maintenance, safe and convenient location living accommodation. A high number of Australians are not wanting too or at this point ready to live vertically in cramped unit apartment living complexes which is expensive, also which is why there is an oversupply of units around most of the capital cities nationally.

State and Federal government's role will always be pivotal in the provision of affordable housing, however, the responsibility to resolve the housing crisis is not their sole responsibility or ability to deliver, without the private sector investment, which is why open dialogue, co-operation, transparency, reduced red tape and reducing costs, would greatly assist to achieve the balance of availability of affordable housing shortages.

Our association with property group networks, other New Generation Boarding House owner/operators and ourselves, regularly encourage the input from investors in the Private sector to assist the Governments in their ability to address the issue of Housing Affordability and shortage. We believe that this would be extraordinarily successful if strategies were developed for successful collaboration and partnerships between the Government, Private Sector and the Community Housing Organisations and that leverage investment into the supply of more affordable housing. Referring to below link as not what not to deliver.

<https://theconversation.com/informal-and-illegal-housing-on-the-rise-as-our-cities-fail-to-offer-affordable-places-to-live-116065>

Our sole focus and purpose now in property development is to increase the supply of affordable housing by ourselves and partner with the private sector investors, to those who need it most.

We undertake ourselves and work with private sector investors, property groups, Community Groups and Local Governments, to understand and to deliver requirements of affordability of housing in local markets and implement practical solutions and to deliver quality fully self- contained affordable housing developments.

We are focused with our purpose built New Generation Boarding Houses, in targeting to supporting community services personnel in sectors of, health, medical professions, medical services nurses, relief doctors, State Government front line Services staff, mining, infrastructure investment construction, contractors staff on employment assignments supporting local communities and their economic grow.

We agree with the amalgamation of the 3 existing housing SEPPS as it will make it easier for assessment from mum and dad investors, full time private investors, institutional investors and government.

In the proposed new definition, we strongly do not agree that smaller style boarding houses or New Generation Boarding Houses completed fully self-contained except for common room to share to meet up with other residents, are not to be managed only by Community Housing Providers.

It is a wrong and should not be the approach to blanket policies on all affordable living accommodation solutions i.e. New Generation Boarding Houses, Boarding Houses and Co-Living accommodation types, and not to only be managed only by Community Housing Providers. Community Housing providers cannot deliver the multiple levels of accommodation required, and is why private sector investors, owners and operators are required to assist to address affordable housing solutions.

With our, other developers and private investors experience, Local Government bodies, do not appreciate or are aware of the greater community requirements, as always looking at ways to block and decline affordable housing solutions, and on reactions of local communities in R2 or even from the other the 6 zonings, who are not informed or understand, know the compliance and codes requirements to be met, and the requirements of housing affordability in the community.

There is demand for “hidden’ segments of the community

Affordable housing is a key challenge across Australia. The government is struggling to ensure and deliver that sufficient, safe, affordable and secure housing is accessible for all NSW residents.

Despite public perceptions (lack of knowledge and understanding), these groups are not limited to the stereotypical “public housing” those living in public housing or seeking support from Government. There is a silent population that exists- health and medical personnel, front line government service staff, young professional arriving in (or returning to) NSW young people seeking to leave home and largest (and potentially most concerning area) demographic of Australians being the 55-years old plus single women (widowed or separated) becoming homeless through unaffordability.

General Housing Shortage

Before the COVID-19 pandemic, figures released in January from the Australian Bureau of Statistics showed that in NSW, over the September quarter, commencements of new housing had already dropped to their lowest level in five years. Our adult children own a new home building company and have seen the decrease in new home demand in this period.

Compared to the previous year, there was a 34% drop in new construction activity and a 26% drop in detached house commencements.

<https://www.realestate.com.au/news/housing-shortage-looming-new-building-projects-drop-to-lowest-level-in-five-years/>

Australian Housing and Research Institute (AHURI) Research

At the end of 2019, according to the Australian Housing and Research Institute (AHURI), demand for affordable rental properties for the bottom 20% of income earners, exceeded supply by around 212,000 homes.

The Greater Sydney area is expecting to reach a population of about 7 million by 2041, the government estimates about 40,000 new homes will be needed each year in Sydney for the next 20 years to meet that growth.

AHURI, in their latest policy brief states that there was a shortage of 478,000 affordable and available private rental dwellings for low-income households in 2016”

For very low-income households who earn up to \$673 a week, there is a shortage of 305,000 homes that are available and affordable and for low-income households who earn from \$674 to \$1200 a week, there is a shortage of 173,000 homes appropriate for their circumstances

Master Builders Association (MBA)

The Master Builders Association anticipates that new home buildings will be just under 116,000 in the 2020 – 21 period compared to their original forecasts of 159,000.

The MBA has also stated that the number of people employed directly by the construction industry is 1.2 million and those in other sectors dependent on construction work number 440,000.

They envisage that 464,300 construction jobs could be lost with another 171,600 lost in those other jobs depending on construction as a result of COVID-19.

As the below chart shows, the MBA's April Survey indicates an average 40% drop in contracts across all sectors.

**Comparison of Master Builders Forecasts for New Home Building:
Before & After COVID-19**

	Pre COVID-19 Forecast (February 2020)	Updated Master Builders Forecasts (April 2020)	Forecast Downgrade	Forecast Downgrade (%)
2019/20	160,132	151,772	-8,360	-5.2%
2020/21	159,268	115,822	-43,446	-27.3%
2021/22	169,026	133,719	-35,307	-20.9%
2022/23	181,838	137,425	-44,413	-24.4%
2023/24	193,632	152,922	-40,709	-21.0%
2024/25	203,909	178,220	-25,689	-12.6%

Source: Master Builders Australia analysis

Need for social and affordable homes by state

State	Social housing shortfall 2019	Affordable housing shortfall 2019	Projected extra social housing needed by 2036	Projected affordable housing needed by 2036	Total needed by 2036
NSW	137,000	79,400	76,100	24,100	316,766

SOURCE: UNSW CITY FUTURES RESEARCH CENTRE, CHIA NSW

https://www.ahuri.edu.au/_data/assets/pdf_file/0027/36972/Australia-will-need-1-million-more-social,-affordable-homes-by-2036.pdf

COVID slowed down the building industry, and equals to less houses and other housing accommodation on the market.

Which will create an increase in rental and property prices making them more unaffordable.

If we look at the change in households in NSW between 2011 and 2016, the number of those without children increased by a figure of 69,183.

With the dramatic shortage of appropriate housing stock for one and two person households, further highlights the need for flexible housing options. New Generation Boarding Houses and Co-Living greatly assist with this requirement and demand.

<https://aifs.gov.au/facts-and-figures/population-and-households>

In relation to the new housing diversity SEPP (NHDSEPP)

KEY COMPONENTS – POINTS TO ADDRESS

Definition of Affordability –.

Under the context of affordability, we would like to ask what set of provisions would be required to determine that a boarding house is affordable?

We believe there needs to be a set of [rules and guidelines](#) that clearly sets out what affordability is.

An affordable housing option cannot consist of just a set figure because, as we know, the definition of affordability is paying no more than 30% of a person's gross wage

In which case, a property in the Eastern suburbs of Sydney would of course have a different definition of affordability to that of a property in the Western Suburbs of Sydney or regional areas.

[Noting investment required as an example, the per square meter rate for construction costs can vary based on location, for low, medium and a high level finishes inclusions in NGBH suite room, to including land cost, furnishings fit out, financing costs, and State and Local government fees, contributions and taxes, costs will range from \\$3,000 to \\$5,000 per square meter and even higher in other examples pending the area.](#)

This also contributes the rental amounts required, to be viable to develop NGBH affordable housing alternatives, so it is not all about private investors or developers focused on making high return profits rental amounts. **As purpose built affordable housing has a cost associated, which Local Government or local communities do not appreciate or understand, as they have no financial investment involvement or cost associated.**

We suggest that a definition of affordability be created, based on the number factors, costs to create affordable housing and income earnings of the applicant moving down to a minimum set figure for rent.

As an example, if the minimum set figure for a single occupied room in a boarding house was \$300pw without services being provided that would be the very minimum that could be charged. So, when a different level types of affordable housing is provided, there cannot be just a set figure that applies to demographic requirements to finish level of a New Generation Boarding Houses fully self-contained suite room, or Boarding House room accommodation.

Because the market itself will then dictate the maximum chargeable amount for someone living in a New Generation boarding house or Boarding House.

The utilisation of our proposed form of accommodation has the potential to reduce the Public and Social Housing, waiting list by as much as 40% and provide key relief to the private rental market.

It provides a solution to:

- Front Line Services staff on employment supporting local communities
- Professionals arriving (and returning to) to NSW for the first time while they get settled
- Older singles (such as the +55-year divorced or widowed women) who want to remain in the community they have spent most of their life in.
- Young couples trying to save for their first home
- Women and children escaping domestic violence
- Young People leaving home care
- Students looking for a place to live while they work and study

Location and Access

Accessibility requirements are important – especially in relation to parking.

Amending the SEPP. For the council LEP to prevail we believe is an issue in NSW to create affordable accommodation.

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.

We interpret this, as a condition of any DA consent, 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.

These types of levy's must be removed as they are not right and will have catastrophic affect and will discourage investment and supply of housing under the median rent and therefore crush affordable market supply.

Fast Facts of costs

The restrictions and requirements that are being suggested in the changes will preclude the average investor due to the size and significant cost of creating these developments.

Please note the per square meter rate for NGBH construction costs can vary based on location, being a low, medium and a high level NGBH suite room, including land cost, furnishings fit out, financing costs **and State and Local government fees, contributions and taxes, cost will range from \$3,000 to \$5,000 per square meter and even higher in other examples pending the area location.**

This also contributes the rental amounts required, to be viable to develop the affordable housing, so it is not all about private investors or developers focused making high profits from rents. As purpose built affordable housing has a cost associated, which Local Government or communities do not appreciate or understand, as they have no financial investment involvement.

We agree that the New Generation Boarding Houses that are self-contained have met the requirements and have increased the growth of single person household in NSW.

However, we do not agree with placing further obstacles in way with adopting the recommendations of all the Council's Boarding House Working Group.

We also agree with the conclusion many people are willing to trade size for access to desirable living locations and, at an affordable rate.

Fast Facts & Room Sizes

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Factsheets-and-faqs/fact-sheet-sepp-affordable-rental-housing-boarding-houses-2019-02-28.pdf>

Affordable Rental Housing SEPP (ARHSEPP)

We completely support the New Generation Boarding House Policy in all seven (7) zones with some very strategic adjustment within the R2 zone.

We do not agree with the views of the Council Boarding House Working Group and community and that ARHSEPP created unaffordable New Generation Boarding House rooms.

Our New Generation Boarding House is an example, 50% leased in 14 days and 100% leased within 35 days of in final inspection compliance and Occupational Certificate issued. This result is an extraordinarily strong indicator for requirement from the market for affordable housing, for us from services staff employees wanting to be close to where they are working.

The reason those rooms are available to the market, are considered unaffordable is because of the restriction of approvals from the councils because of the pressure they obtain and feel from the community. We had a NGBH DA declined even though had Local Council, council officer's agreement on design for a New Generation Boarding Housing after 12 months of consultation with a and agreement of meeting all requirements and including achieving 1 carparking space per NGBH room. The DA was then decline after council officers recommend to councillors not approved after community objections, "not wanted in my back yard" not meeting character of area, when in fact 5 councillors disagreed it did meet character of area and was the best use of the land property. We incurred costs of approximately \$90,000 to \$100,000 lost and not recoverable.

Our Private investors partners did not want loose more money or time by taking to the DA declined NSW Land and Environment Court even though we complied 100% of ARHSEPP and over delivered of the development requirements.

These private investors are now not interested to invest further due to lose in investment, and will not look at any further investment in affordable housing developments thanks to Local government council and the community. We cannot count to number of other examples we know of, of this same situation.

Refer to following Addendum A, example point 3

The original policy was created to increase the amount of 1 and 2 bedroom dwellings. The net effect of non-approvals has meant that we have an undersupply for a style of property that has 'overdemand'.

In any market when demand outstrips supply there is likely to be a stability and sometimes an increase in rent.

We also disagree that this style of property did not create affordable accommodation. People would not rent these properties if they had more options both financially and desirability.

In relation to the report that was prepared by the Council's Boarding House Working Group we do not agree with quite a several number of recommendations made, per below link.

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

In the proposed new definition, we do not agree that smaller style boarding houses are to be managed only by Community Housing Providers.

Car Parking

We agree that the car parking requirements should remain at .5 or .2 for Community housing providers.

However, in relation to car parking, with options like car sharing and Uber increasing, car ownership is in decline.

In metro areas near quality public transport nodes, the parking requirement should be lowered to 0.2 for Boarding Houses, with motor vehicle ownership decrease in younger generations.

Affordability

We agree that the size and bulk of properties in the R2 zones have influenced the character in some suburbs and therefore created negative sentiments from within those communities.

We also agree that diverse housing should be permitted as broadly as possible, and would suggest that there be a size limit like that of the current 12 room maximum in R2 zones where it is appropriate to accommodate those negative sentiments.

We have delivered New Generation Boarding Houses that are not bulk in design and street scape appearance, in fact we have received a high number of incredibly positive comments on our NGBH development.

Refer to included Addendum A point 1

The removal of boarding houses in R2 zones should also not be considered, due high land costs impacts on development feasibility.

With the proposed requirement of New Generation Boarding Houses to be rented for 10 years at an affordable rate, and then reverting back to normal market rates, we do not agree, and owner operators should not be restricted, as different demographics require this type of affordable accommodation as well. It is unclear what is the real definition of 'Affordable' really means.

The affordability of a property in Eastern Suburbs is hugely different to what is considered an affordable property in Western or South Western Sydney.

In relation to removing boarding houses from the R2 zones, **we consider that this proposal is strongly a wrong approach, unjust and not with the spirit of creating a diverse demographic of residents within a neighbourhood,** and will create instead and lead to an increase in illegal share-houses.

Have to offer to resident at Market Rate – what is that? Valuer General, Financial institutions require NGBH's properties to have valuations which will be much higher with land and buildings invested.

Individual Valuation – 2 Individual Valuations? Expensive to obtain!

How will that benefit both parties?

Why would someone develop and sell below market rate? not viable!

Private Market

Strategies can be implemented to ensure that developers are not just building to capitalise on the provision in the affordable housing policies for monetary return as a prime motive. Rather build to benefit community needs and also be able to continue to make a profit.

Some of the advantages of housing that is produced by private developers include the fact that they already have the knowledge, experience and flexibility in the creation of a product and the ability to independently produce outcomes with creative design and intelligent use of space.

This does reduce cost on Government and of the Community Housing Sector, who would have to train or employ staff who have the necessary knowledge and experience to create a quality and workable product, and mitigates constraints created by inter-departmental ownership which slows up the time involved process.

In addition, due to a property being under their personal radar, private investors are much more likely to be aware of maintenance issues when they arise, to have invested in an area that they see is attractive to tenants and be able to create diversification in their product as demand arises as opposed to the conditions that have underutilised social housing that is currently vacant.

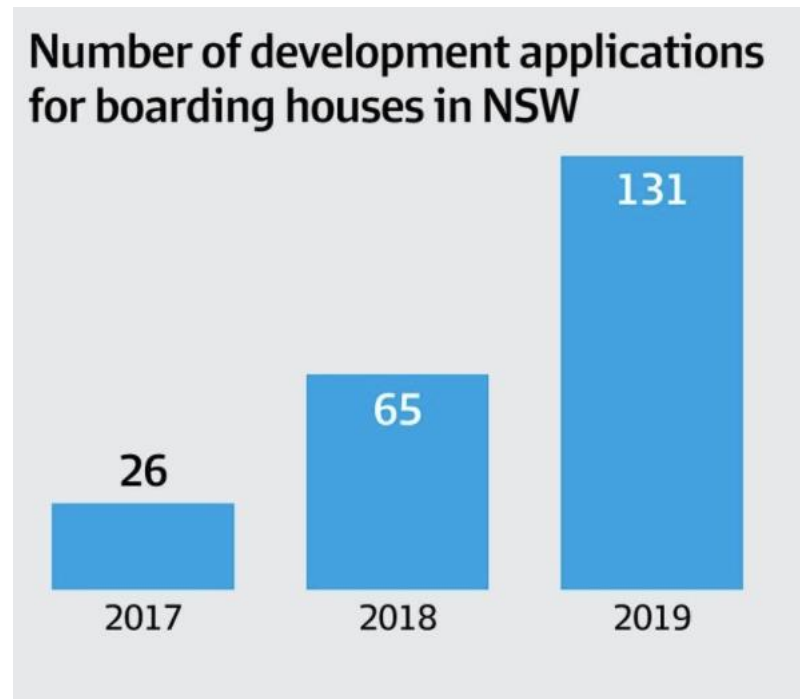
These proposed changes would see the pendulum further swinging away from private middle-class developers. With Australia having the greatest middle class in the world which is underpinned by property investment.

We do not believe that the private market should be excluded from owning and managing boarding houses.

Many families have owned, run and contributed extensively to boarding houses in NSW for Multiple generations.

These families, the 'Mum and Dad' investors of Australia are not necessarily rich or wealthy but have simply invested for the financial security of their family and to assist the greater community.

The restrictions and requirements that are being suggested in the changes, will preclude the average investor due to the size and significant cost of creating these developments.



<https://www.afr.com/property/commercial/the-mum-and-dad-revolution-in-boarding-houses-20200213-p540fy>

Exemptions

No LAND TAX at all for New Generation Boarding House or boarding Houses Group Homes and co-living development, for new purpose-built developments.

No local government contributions to council's for at all for new generation boarding houses or boarding house and Group Homes.

NSW Government requires to assist with exemptions, and open pathways for investment in affordable housing to attract investment and not burden with local government agendas and red tape, creating obstacles, long time delays and additional expense costs incurred, particularly without having financial investment in the game.

Incentivisation

The question I have , why couldn't the Government not use incentives, in order to stimulate greater diversity and investment and create more affordability housing, especially in the mid-range affordable market, we strongly believe that concessions in the form of land tax or development concessions should be applied.

Rather than applying the suggested punitive levies, incentives could also be paid directly to suppliers who meet the rental targets for multiple demographics with a set minimum amount that can rise in line with that particular LGA's market rents.

These concessions on sites that have multi-dwellings also would reduce the current drain that the public and social housing model has on taxpayers of NSW tax money spent.

This may not address the demand for the very low-cost housing market, this is where defiantly the NSW Government will have the ability to specifically target that segment and make a difference to the very vulnerable in the community.

Please refer to following Addendum A, example points 1, 2 & 3

Greg Kings
Director
Sandy June Pty Ltd - Owner Operator registered New Generation Boarding Houses
and
Kings Consulting Service Pty Ltd

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Addendum A

Point 1: Example of our New Generation Boarding Houses - Class 3 buildings

Single story 2 buildings, of 6 x Typical and 1x Assessable suite rooms, with private courtyard, and a shared common room per building for residents to use and meet up, land size 1228m².

Design is fitting keeping within character of local area, being R2 Zone.



Typical suite room interior fully self-contained



Typical suite room self-contained Laundry and ensuite bathroom



Private Courtyard



Assessable suite room interior



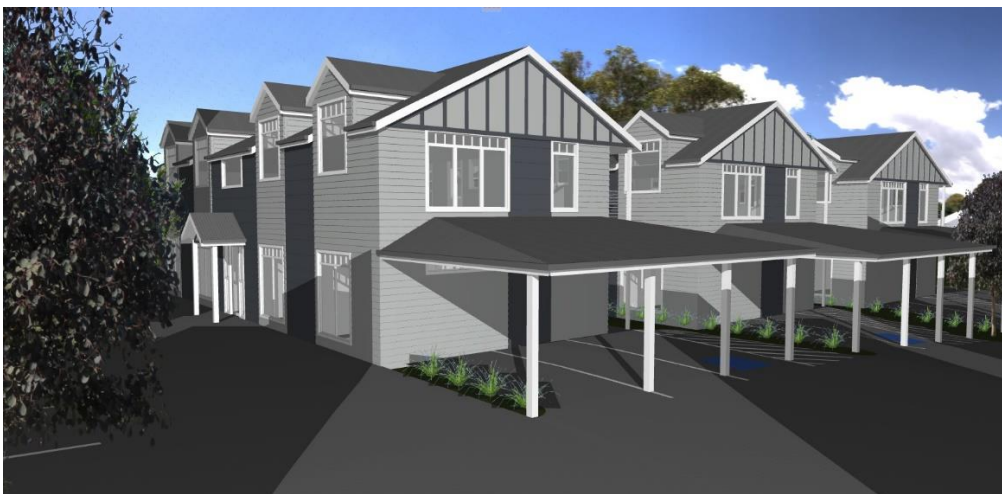
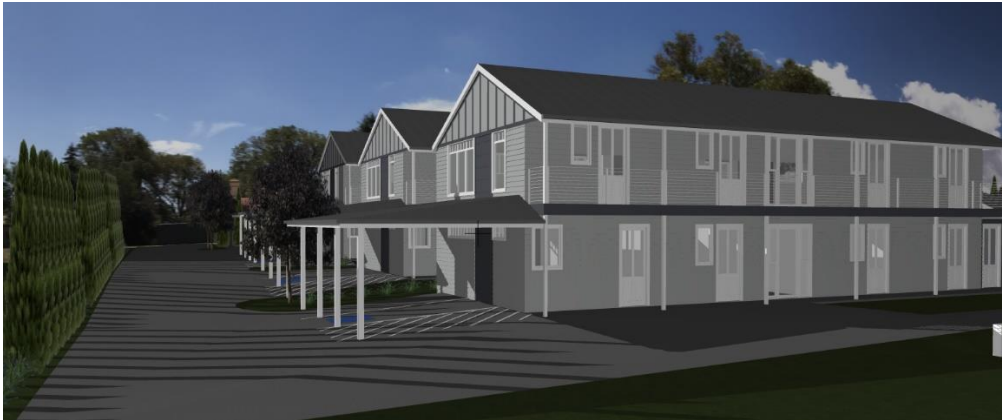
Point 2: New Generation Boarding House – Class 1B buildings

Major country area NSW DA approved in R1 zone – 4 x Two Story buildings, 22 suite rooms total, 14 carparking on-site, Land size 2004m²



Point 3 - New Generation Boarding House – Class 1B buildings

Major country area NSW - DA declined in R1 zone – 3 x Two Story buildings, 24 suite rooms total, 24 carparking onsite, Land size 2004m2. Although 5 councillors disagreed, NGBH development was in keeping of character of area, even with community objections “not our back yard” even being infill site.



My submission

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.

We 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.

ABS figures from January showed that in NSW, There has been a 34% drop in new construction and a 26% drop in detached house commencements from last year.

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”

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

We **do not agree** that smaller style boarding houses should only be managed by Community Housing Providers. This will increase cost of each room to rent for all

Submitted on Mon, 24/08/2020 - 15:40

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: [REDACTED]

Last Name: [REDACTED]

Email: [REDACTED]

Suburb/Town & Postcode: Newtown

Submission:

I support the consolidation of the 3 SEPPs.

I would like to see an update on the definition of 'accessible' areas and 'affordable housing'. It is currently determined by an arbitrary distance to public transport, however this differs between neighbourhoods/LGAs and misses opportunities for some really accessible sites. It would be good to see how the interpretation can be further defined through the use of mapping.

EPlanning is already great, and an added search functionality, and the use of collaborative transport data would improve a more tailored definition of 'accessible areas'.

The definition of affordable housing is for the median income of all of Greater Sydney, however this differs greatly, from north - south, east - west. Hopefully this is also something that can be improved to support affordable housing for all types of people.

RESPONSE TO PROPOSED NEW HOUSING DIVERSITY SEPP

Executive Summary

The *Explanation of Intended Effect for a New Housing Diversity SEPP (EIE)* prepared by the NSW Department of Planning, Industry and Environment is an acknowledgement that the planning framework needs to be updated to reflect the broader shift in the housing needs of our community.

In particular, the inclusion of ‘co-living’ as a specific housing type and the recognition of the opportunity to increase investment in the ‘Build to Rent’ market reflects the evolution of demand for diversity and flexibility in terms of rental assets throughout NSW.

Further, an important stated objective of the EIE is to support NSW’s post Covid-19 economic recovery through facilitating new projects that will significantly contribute to the creation and retention of jobs. Given that up to 25% of the workforce is currently employed either in construction or in the construction-related industry, continuing investment and development is critical.

Unfortunately, the practical effect of the changes proposed in the proposed SEPP will make the development of co-living commercially unfeasible. In particular, the removal of all FSR bonuses, increase to a 30sqm minimum room size and the additional requirements for car parking and open space will make it impossible for developers to consider co-living as a potential ‘highest and best use’. This would be a disappointing outcome, as the successful growth and development of co-living as an affordable housing choice is clearly in the interests of both the wider community and potential residents.

Further, the proposals set out in the New Housing SEPP regarding the emerging ‘Build to Rent’ market do not seem to provide a sufficient practical incentive for increasing investment in BTR by either developers or institutions. In particular, adding a requirement for minimum 3-year lease terms would diminish the value and feasibility of these assets as it removes the ability of BTR owners to manage their asset through the provision flexible lease terms driven by consumer demand. Furthermore, setting a minimum number of 50 apartments only serves to reward the large players in the market, and unfairly penalises the mid-tier developers who are quite capable of delivering a more personalised rental offering tailored to underlying market demand. Research demonstrates that communities ranging from 10-20 persons provide a far greater social interactive outcome. We strongly urge the State Government to reconsider these limitations.

Developer/Investor demand for Co-living

There is no doubt that the development of co-living as a separate asset class provides a much-needed addition to the housing market. Research by established co-living providers such as UKO shows that the concept of co-living has been enthusiastically embraced by a broad demographic of renters including young professionals, key workers, first time renters and even crisis accommodation.

In comparison to traditional rental accommodation, co-living developments are seen as ‘communities’ providing flexible, affordable and secure spaces within well maintained and well-located buildings. Generally co-living ‘micro apartments’ are also fully furnished further consolidating their important place in providing housing flexibility.

As a developer, we expect the demand for co-living to continue to increase as the economy struggles to recover from the effects of the Covid pandemic. Throughout the pandemic, even many ‘traditional’ renters have shown an increased desire for flexibility, and a willingness to move more regularly to take advantage of improved rental options.

On this basis, there is a strong level of interest from developers to investigate the feasibility of developing high quality co-living communities to meet the expected increase in demand.

For example, Sasco Developments is currently navigating the DA process under the existing Boarding House framework for 2 co-living developments (Alexandria and Meadowbank) with the potential to deliver a total of 229 micro apartments.

It is important to note that despite strong underlying demand, there are already significant challenges using the existing (and currently more generous) Boarding House SEPP that make it difficult for co-living developments to compete with alternative uses such as residential, office or hotel. The commercial reality is that any proposed site must be assessed by developers based on its ‘highest and best use’.

A number of the proposed changes to the SEPP as it relates to co-living will unfortunately have the effect of making it impossible for developers to consider co-living as a feasible use for most sites, leading to a failure of the objective set out in the EIE to encourage the development of and investment in a diverse range of housing options.

Practical Impact of proposed changes to SEPP

Even under the existing ‘Boarding House’ framework, the development of co-living projects has generally been difficult to justify on a commercial basis. Developers must weigh up the additional capital outlay per sqm of delivering co-living space, question whether the additional cost is compensated for via rental income, and finally take into account the end value of the asset. Taking these factors into account, the following proposed changes to development controls for co-living will inhibit any further development of this important asset class:

FSR Bonus – removing the current FSR bonus will ensure that co-living developments are no longer financially viable when considered in the context of residential development alternatives. As it now stands, with the current 0.5 FSR bonus under existing boarding house rules, we are currently breaking even compared to a standard residential unit development site. Therefore, despite strong demand for the co-living products, developers will be forced to consider more traditional ‘build to sell’ residential projects that generate appropriate returns given underlying development/market risk.

30sqm minimum room size – setting a 30sqm minimum room size will impact both the feasibility of co-living development and the affordability of co-living rooms. Successful co-living developments (for examples see current UKO buildings) have already proven that well-designed micro apartments can be delivered within the 18-28sqm range. By increasing the required minimum space to 30sqm, the consequential increase in price will place co-living apartments at a premium to a standard 1-bedroom residential apartment. This will remove co-living as an affordable housing option and will remove diversity from the market in terms of both pricing and choice in apartment size and amenity. Our most recent DA lodgement at 5 Ralph St Alexandria (**plans attached**) demonstrate quite clearly that room sizes in this development ranging from 22 – 28sqm (including DDA compliant) are capable of delivering a very high level of amenity to it’s residents.

Increasing private open space to 4sqm – in an already challenging development environment, placing an additional requirement for 4 sqm of private open space will have a substantial impact on the feasibility of co-living development. We note that many of the most successful examples of purpose-built co-living developments would not meet this criteria. In any event, successful existing co-living projects demonstrate that private open space is not a major driver for demand. From a practical perspective residents place greater value on the quality and design of communal areas and the feeling of community created within a co-living development.

Car parking .5 spaces per room – the increase to construction costs through requiring additional car parking will further impact the feasibility of co-living development. From a practical perspective, feedback from current co-living residents suggests a clear preference towards car-sharing facilities, the use of mopeds/motorbikes/bicycles and public transport. This is particularly the case in inner city environments and at locations in proximity to public transport.

The cumulative effect of the above changes would be to effectively end any developer consideration of purpose built co-living assets as a genuine alternative to more traditional residential unit development.

Suggested Co-living SEPP Framework

Development standard	Sasco Developments Proposal
Room size	Unit sizes of 16 – 30 sqm (including kitchen and bathroom).
Height of buildings	Some flexibility allowed to LEP standards, merit based on design and amenity
Building envelope controls	Merit-based concessions to be considered to accommodate the 20-30% FSR bonus where appropriate
Floor space ratio	FSR bonus of 20 – 30%
Communal living space	Minimum 20 m2, + 2 m2 per room above 10 rooms (as per current draft SEPP)
Communal open space	<p>25% of site area, with some flexibility (merit-based) where one or more of the following factors apply to the development:</p> <ul style="list-style-type: none"> ○ appropriate communal open space in a landscaped roof top terrace; ○ internal common space in excess of the minimum requirements; ○ private open space for many of the apartments; or ○ proximity to public open space and facilities and/or provides contributions to public open space.
Car parking	<p>Non-discretionary ‘must not refuse’ provision of 0.2 car parking spaces per room</p> <p>This would allow councils to approve a co-living development with less parking when appropriate.</p> <p>Encourage provision of car share facilities by counting as equivalent to 10 private car spaces</p>

Strata subdivision	Not permitted (as per current draft SEPP)
Private open space	No private open space requirement for individual units
Length of Stay	20% 1-3 months, 80% greater than 3 months
Minimum Rooms	25 – required to justify on site management and preserve the concept of ‘community’ which are both central to the concept of co-living

Conclusion

Sasco Developments strongly supports the drive to establish co-living as a desirable and affordable housing option. We believe that the provision of well-designed purpose built co-living micro apartments delivers amenity, community and affordability to a diverse range of renters who may otherwise find themselves marginalised from the traditional rental market.

Acknowledging the importance of the construction industry in driving NSW’s recovery from the economic effects of the Covid pandemic, we encourage the NSW Government to consider feedback provided by key stakeholders in the emerging co-living market to encourage continuing investment of this important residential asset class.



9 September 2020

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Ref: Co-Living Industry Submission

Re: Proposed NSW Housing Diversity SEPP: Co-Living Industry Submission

Founded in 1855 in the UK, Savills is a world leading cross-sector global property adviser. Listed on the London Stock Exchange (FTSE 250) Savills has more than 600 offices and 39,000 employees in over 60 countries.

Savills Australia, is an industry leader in the Valuation, Advisory and Transaction of Operational Residential Real Estate in Australia and Globally. Following the release by the NSW government of the details around the proposed Housing Diversity SEPP, a large number of Co-living Industry participants indicated strong concerns with the proposed SEPP. Savills has co-ordinated a Co-living Industry round table in relation to the proposed Housing Diversity SEPP Co-living standards.

Through this round table discussion, there was a strong consensus amongst all stakeholders that the proposed Housing Diversity SEPP provisions in relation to Co-living were highly problematic, and would in effect prohibit the development of Co-living in NSW by virtue of the fact it would render Co-living projects as uneconomical, and unable to compete with other land uses on a level playing field.

The Co-living Industry welcomes the idea of addressing housing diversity and affordability via the proposed Housing Diversity SEPP, and recognises the need for specific controls for this emerging sector of Build-to-Rent investment.

Due to growing urbanisation, in-migration and changing demographics, NSW, and specifically areas within Sydney have struggled to meet housing demand. Recent studies have shown that single people struggle to afford to pay the rent in traditional housing models and many are willing to sacrifice private spaces for a good location and access to amenities.

With the median age for first marriage in NSW climbing up for both men and women from around 27 in 1998 to 30.5 in 2018, the need for more options for rental housing for singles is increasing with the deferment of marriage. Unlike previous generations, homes are not the same emotional investments as they used to be. Rather, homes are viewed as a consumption product which suits housing requirements in a particular phase of life.

Co-living is an alternative form of housing which combines private living spaces with shared communal facilities. Co-living is based on the 4Cs principle, which is a major unique selling point for the target population – Convenience, Community, Collaboration and Cost. The idea of Co-living is to create a community-centred environment that not only provides privacy in living arrangements but also promotes social contact through community events.

The demand drivers of Co-living are robust, yet the asset class has thus far been largely ignored by the institutional real estate community. This is rapidly changing with Invesco Real Estate estimating that more than USD \$1.6 billion of funding has been placed into the sector across Asia in recent years (June 2019). Savills Research shows that there are 2,080 Co-living units either complete or in planning throughout Australia, with an 81% weighting to Sydney. Operational Co-living units increased by 46% in the past year, highlighting the recent emergence of, and significant investment into, the Australian Co-living sector.

This submission is not intended to highlight in detail the key issues or the proposed recommendations for the Department of Planning, Industry and Environment to consider, but to raise the collective voice of the wider Industry in addressing concerns raised by the proposed Co-living development standards.

We strongly ask the Department to engage with the Co-living Industry in order to set development controls for Co-living that are feasible, practical and will support the delivery of high quality Co-living facilities throughout NSW. As currently drafted, the proposed controls will mean all potential investment into this emerging, diverse and affordable housing sector will be directed away from NSW and address housing need in other jurisdictions.

Yours sincerely

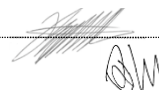















Conal Newland
National Director, Savills



Paul Savitz
Director, Savills

The following Co-living Industry stakeholders participated in the round table, and have countersigned this submission. Some of these groups will also submit individual submissions.

Jason Eggleton	Co-Founder	Adjani	
Luke Reinecke	Director	Corpartners	
Edward Fernon	Managing Director	Freedom Development Group	
Christo Winters	Managing Director	Innovate RE	
Kim Jones	Principal Architect	JSA Studio Architects	
Mark Shapiro	Principal	Mark Shapiro Architects	
Larry Sperling	Founder	Meadpoint	
Michael Ossage	Founder & CEO	micro.space	
Dejan Radanovic	Principal	Micronest	
Ashkan Mostaghim	Director	Mostaghim & Associates	
Graham Zink	President APAC	Opendoor	
Kenny Phillips	Co-Founder	Urbico	
Rhys Williams	Co-Founder	UKO	
Shashank Narayan	Vice President	Weave Living	



Scape Australia

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Sydney NSW 2000

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 Effects for a new Housing Diversity SEPP

Scape Australia ("Scape") welcomes the opportunity to provide the Department of Planning Industry and Environment ("DPIE") with comments on the Explanation of Intended Effects ("EIE") for a new Housing Diversity State Environmental Planning Policy ("SEPP").

Scape is a best-in-class student accommodation sector specialist with a focus on direct let 'off campus' assets. We are a fully-integrated developer, owner and manager of premium purpose-built student accommodation ("PBSA") and are now Australia's largest provider. Our Scape global platform has grown to provide over 25,000 beds across the United Kingdom, Australia, Ireland and the United States by 2023.

We would like to commend the Department of Planning, Industry and Environment ("DPIE") on preparing the 'EIE' and outlining the intent of consolidating the three (3) housing SEPPs to achieve a clearer planning pathway for new emerging rental housing product in New South Wales ("NSW").

As sector specialists in PBSA and Build-to-Rent (BTR) housing, we would like to highlight that the proposed 'EIE' for a new SEPP would essentially destroy the viability of PBSA, BTR, Co-Living and Boarding House product in NSW.

These housing products will be rendered unviable with the proposed removal of floor space ratio ("FSR") bonus incentives currently available under the Affordable Rental Housing State Planning Policy 2009 ("ARH SEPP"). Furthermore, the proposed planning controls on room sizes, parking rates, lease tenures and design guidelines (although some are yet to be drafted) would have a detrimental impact on the future feasibility of these projects.

We would like to highlight that no detail on saving provisions and transitional arrangements has been included in the 'EIE' for current ARH SEPP Boarding House Development Applications ("DA"). This places all current proposed boarding house developments at risk and creates significant uncertainty on their delivery. This is a counterproductive outcome to generating 'economic stimulus' and will have a detrimental effect on the delivery of PBSA, BTR and Co-Living housing in the short to medium term within NSW. Scape currently has seven boarding house projects in Sydney that are in town planning (preapproval) with over \$450m in construction value.

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Submission to EIE for the Draft Housing Diversity SEPP
Scape Australia

This Submission outlines key considerations for NSW Government to consider in any future draft Housing Diversity SEPP and has been informed by Scape's current operations in PBSA and BTR accommodation both locally and globally.

1.0 OUR RECOMMENDATIONS:

Scape provide this submission as a direct response to the 'EIE' and request that the department consider these in the preparation of any future 'Housing Diversity SEPP' including:

1. Inclusion of a 'Savings Provision' for projects currently in planning;
2. Ensure the adequate provision of affordable rental housing choice and supply;
3. Recommendation on 'Student Housing' definition and introduction of new "Purpose-Built Education and Health Accommodation" land use definition;
4. Discretion for the relevant Local Authority/Council to mandate zones in which student housing and co-living developments are permissible;
5. Recommendation on Build-To-Rent Definition;
6. Recommendation on Co-Living Definition; and
7. Recommendation on Boarding House Definition.

Further information on these points is discussed in the ensuing sections of this Submission.

1. INCLUSION OF A 'SAVINGS PROVISION'

Details surrounding the implementation of a savings provision have not been addressed within the 'EIE'. We request that a savings provision relating to development applications is implemented for this proposed new instrument.

As outlined in the 'EIE' and based on the media release issued by the Minister of Planning and Public Spaces on 3 April 2020, the NSW Treasurer outlined that the property and construction industry is one of the key drivers of jobs and investment in NSW, where one in four people are employed in this industry.

Development applications for boarding houses under the ARH SEPP which are currently in the planning system or are due to be lodged, would have only considered existing legislation. The ARH SEPP includes FSR incentives, that have been a commercial consideration when undertaking any feasibility review of a proposal. The removal of such FSR incentives, absent the implementation of a savings provision will jeopardise the delivery of future projects and counteract the extensive work undertaken by the DPIE to stimulate this important sector of the NSW economy.

Notwithstanding the above and regardless of the COVID-19 pandemic, based on the number of proposed amendments to the instruments, it is considered only appropriate that a savings provision is implemented to ensure that existing development applications and future construction jobs are not compromised as a result.

Additionally, given the uncertainty of the EIE and the timing of when a draft SEPP may be made available, savings and transitional provisions should be catered for to ensure the EIE does not impact the supply of affordable housing. Such planning uncertainty would negatively impact the delivery of affordable rental housing solutions and counteract NSW Government's intent to support employment and economic development. Suggested wording for the Savings Provision is recommended as follows:

"A development application that has been made but not finally determined before the commencement of this Policy, or an amendment to this Policy, must be determined as if this Policy or the amendment had not commenced".

We request that the Department include and implement a 'savings provision' for all current development applications that would be affected by the proposed updates to the ARH SEPP and or the introduction of any new Diversity Housing SEPP.

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2. ENSURE THE ADEQUATE PROVISION OF AFFORDABLE RENTAL HOUSING CHOICE AND SUPPLY

Housing affordability is a major issue in NSW, particularly in the Sydney metropolitan area. Home ownership rates are falling and there is a greater need for rental accommodation solutions in accessible locations with proximity to employment centres and connectivity to public transport infrastructure. The widening gap between dwelling prices and incomes has put further pressure on NSW government to update planning frameworks that enable the delivery of diverse rental housing solutions.

The removal of FSR incentives and the introduction of new prescriptive controls covering tenants, accommodation room sizes, and operator requirements limit Build-to-Rent, Co-Living and Purpose Built Student Accommodation ("PBSA") developers' ability to acquire land in key employment areas. These uses would not be able to compete with mixed use and build-to-sell developers from a land pricing valuation perspective given the proposed controls.

We request that any future Housing Diversity SEPP maintain a FSR bonus and product specific planning incentives for PBSA, Co-Living and BTR definitions to enable their delivery.

3. RECOMMENDATION ON STUDENT HOUSING DEFINITION AND INTRODUCTION OF PURPOSE-BUILT HEALTH AND EDUCATION ACCOMMODATION LAND USE DEFINITION

The EIE proposes to define "student housing" as this is currently not a defined land use in the Standard Instrument Principal LEP. According to the EIE, the proposed definition for 'student housing' is proposed to read as follows:

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

We strongly suggest that the definition is broadened to allow for the use of the "student housing" outside of teaching periods and that the restriction on the end user is removed.

In addition, we also recommend that the "student housing" definition is either broadened or an additional land use definition is introduced to the Standard Instrument Principal LEP.

The proposed definition in the 'EIE' only allows for accommodation to be provided during teaching periods and is limited to students only. We don't see this as aligning with the accommodation needs of our major education and health precincts in NSW where other end user groups such as key workers, academics, post-graduates, doctors and travelling professionals participating in these precincts require access to well located, rental accommodation solutions.

Two (2) such health precincts located in the Sydney region are located in Westmead and Randwick, these precincts need to be supported by well-located, affordable rental housing solutions.

The 20% FSR incentive should be retained for this use to apply downward pressure on rental prices particularly for health education professionals.

The importance of providing key worker accommodation in proximate locations to health facilities is paramount. Should a "student housing" definition, which does not allow for flexibility in the end user result, this would further price key workers out of the rental market in these precincts.

We recommend that flexibility on the 'end-user' in the proposed "student housing" definition be provided. A new land use definition, 'Purpose-Built Education and Health Accommodation' is recommended to cater specifically for people working, studying or participating in health and educational precincts and those closely associated with teaching institutions.

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4. DISCRETION OF THE LOCAL AUTHORITY TO PERMIT STUDENT HOUSING

It is not recommended or supported that discretion should remain with the relevant Council to determine the permissibility of "student housing". Such discretion will result in the inconsistent and impromptu delivery of student housing. This is a high probability as "student housing" will not be a mandatory permissible use in any land use zones. This puts further pressure on the housing market as students would look to rent residential properties (dwelling houses and RFB's and the like) close to educational establishments if there is insufficient access to "student housing".

Certain parameters should be introduced for areas suitable for potential "student housing" based on their proximity to tertiary institutions for all residential and business zones or within a land use zone that is equivalent to any of those zones.

The same logic could be applied for the proposed land use definition "Purpose-Built Education and Health Accommodation" which may be permissible in certain zones, based on their proximity to a health and education precinct.

5. RECOMMENDATIONS FOR BUILD-TO-RENT:

The Build to Rent ("BTR") definition is welcomed in the proposed future Diversity Housing SEPP.

There are some significant hurdles that need to be resolved both on a state and federal level before this asset class can be considered viable to deliver, these include:

- State Significant Development Pathway
- Strata Subdivision Requirements
- Affordable Housing Requirements
- Land Use Definitions
- FSR Incentives
- Lease Tenure
- Car Parking
- Design Guidance and the application of the ADG and SEPP 65
- Tax Arrangements

5.1 State Significant Development Pathway

The EIE proposes that a build-to-rent model would be assessed as State Significant Development (SSD) where the Capital Investment Value (CIV) is in excess of \$100 million and the City of Sydney would be exempt from SSD designation in all instances.

This is not supported and developments with a CIV in excess of \$50 million, whether they are located within the City of Sydney local government area (LGA), metropolitan Sydney or regional Sydney should remain with the DPIE for assessment.

A CIV of \$100 million is considered excessive based on the existing thresholds nominated in Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011 and little to no thresholds in excess of \$50 million are catered for within this instruments schedules.

5.2 Strata Subdivision Requirements

As the build-to-rent asset will be held in single ownership, flexibility over time is much easier to manage. Whilst it is understood that the intent is to provide long term rental options, 15 years is considered excessive and a reduction to 7 years before the option of considering strata subdivision for a build-to-rent product is sought.

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5.3 Affordable Housing Requirements

The EIE is proposing to allow local councils to mandate 'affordable' requirements on rent thresholds.

We suggest that the build-to-rent sector should be dictated by rental market demand and not controlled by local government authorities as this would limit the ability to deliver this type of housing.

5.4 Land Use Definition

The build-to-rent land use definition is proposed to be permitted in all B3 Commercial Core zones presents concerns surrounding land use conflicts. Many councils do not permit residential accommodation in its Commercial Core (B3 zone) to maintain sufficient availability of employment-generating floor space. Consideration for the permissibility of build-to-rent in the B3 zone where it is situated close to public transport would result in an enhanced outcome which does not incur pressure on employment generating land uses.

BTR is not proposed to be mandatory in the following zones:

- R1 General Residential;
- R2 Low Density Residential;
- B1 Neighbourhood Centres; and
- B2 Local Centres zones.

The exclusion of these zones provides limited permissible land use areas for the delivery of Build-to-rent. Whilst we acknowledge the delivery of 50 self-contained dwellings in an R2 zone may not meet the objectives of the R2 Low Density Residential zone in all cases, we do suggest consideration be given to the use as mandatory for the R1, B1 and B2 zones. Additionally, consideration to allow build-to-rent as a permissible use in the B5 and B6 zones, on the basis of proximity to public transport, is also recommended.

5.5 FSR Incentives:

The removal of floor space incentives limit the ability to deliver affordable build-to-rent product in key employment areas. We request that the floor space incentives (20% additional FSR) be included in the build-to-rent definition.

5.6 Lease Tenure:

A three (3) year lease is considered excessive and a reduced lease term to at least 3 – 6 months minimum needs to be considered. Given the current circumstances surrounding the COVID-19 pandemic, many rental consumers would not be enticed into a three (3) year lease where a shorter lease term may be sought.

5.7 Car Parking Requirements:

The application of 0.5 parking spaces per build-to-rent dwelling is considered excessive and should be merit based taking into consideration its location and proximity to surrounding public transport infrastructure, supported with the implementation of a Green Travel Plan (GTP).

5.8 Design Guidance and the application of the ADG and SEPP 65

The application of a Design Guide which is guided by the principles of the Apartment Design Guide (ADG) and State Environmental Planning Policy No 65 (Design Quality for Residential Apartment Development) (SEPP 65) will not result in an enhanced outcome for the build-to-rent typology. Simply put, the build-to-rent model will not be able to compete with the typical build-to-sell model and the delivery of the build-to-rent typology will be unviable. The application of minimum unit sizes, strict compliance with solar access and

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building separation to name a few of the typical controls outlined within the ADG will impede the viability of build-to-rent.

5.9 Tax Arrangements

The concessional land tax and stamp duty amendments introduced by the NSW Government for the build-to-rent sector aligns the treatment of build-to-rent with purpose-built student accommodation (PBSA) assets within NSW. However, the level of income tax and GST imposed on build-to-rent projects (in comparison to PBSA) make these projects costly, unattractive and inefficient once income tax and GST are considered.

Until such time that the income tax rates are reduced, and concessional GST treatment is provided for build-to-rent projects, it remains difficult to attract investment into the build-to-rent sector.

We request that a further review is undertaken on these key items by both state and federal governments to enable a viable pathway for a future build-to-rent sector.

Taking into consideration the stringent lease tenures recommended, little to no details surrounding tax incentives, no clarity surrounding potential reduction in contribution or levies and potential application of ADG controls similar to build-to-sell typologies, the incentive to deliver build-to-rent is largely diminished. In the absence of any meaningful discussion surrounding tax incentives, lack of floor space ratio incentives, restrictive minimum lease term and excessive parking rates do not appear to ensure a long-term viable option for developers.

6. RECOMMENDATIONS FOR "STUDENT HOUSING"

The definition of "student housing" is welcomed (subject to the aforementioned amendments), as this is currently not defined in the industry. The EIE outlines that concerns have been raised by Councils and communities surrounding the use of the ARHSEPP and the incentives to deliver such developments (typically boarding houses). The EIE further outlines that in response to these concerns purpose-built student accommodation (PBSA) can assist in providing emergency accommodation in a situation such as COVID-19, where there is significantly reduced demand from international students.

Whilst this is a pro-active and appropriate response, the proposed controls for this new definition would make PBSA unviable to deliver in NSW.

It appears that the response and loss of the FSR incentive is paying a lip service to appease community backlash, as opposed to encouraging diverse and affordable housing and the delivery of PBSA and emergency accommodation.

The below provides a list of recommendations that need to be resolved for a new 'student housing' definition:

- FSR Incentives
- Motorcycle Parking
- Design Guidelines
- Outdoor space

6.1 FSR Incentives

Whilst we do not disagree with the minimum 10m² room size proposed for student housing, a more suitable outcome would be to retain the minimum 12m² room size, as permitted for current boarding houses pursuant to the ARH SEPP and retain the 20% bonus FSR. This will retain suitable room sizes and internal amenity for occupants whilst incentivising the development.

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6.2 Motorcycle Parking

Providing one (1) motorcycle space per five (5) rooms is queried based on existing student accommodation providers and the minimal motorcycle ownership which exists in such accommodation.

We request that one (1) motorcycle space per ten (10) bedrooms (if not a higher figure) should be considered. Feedback should be sought from existing student accommodation providers to understand the demand for motorcycle spaces and motorcycle ownership within a typical student housing development. We would be happy to provide this analysis across our national portfolio.

The logic surrounding on-site car parking is applauded and should be discretionary on the basis that student housing will be located in areas that are in close proximity to educational establishments where the demand for on-site parking will be minimal to none.

6.3 Design Guidelines

It is strongly advocated that a Design Guideline is not developed separately from a future 'Diversity Housing SEPP' and should be informed by industry who have strong insight into the needs and demands affecting this asset class and its occupants.

In addition, room sizes and any potential Design Guideline should not be determined in isolation from one another. We request that the Department provide a Design Guideline as part of a draft Diversity Housing SEPP should the intent be to include this.

6.4 Outdoor Space

In locations which are located in excess of 400m from a tertiary institution an additional 2.5m² of outdoor space per student is recommended. This is an onerous request as land which is located within 1km of a tertiary institution are difficult to acquire as they are typically located in high density urban locations where land availability is limited.

We request that the location is extended to 1.5km and the 2.5m² is a target that considers both indoor and outdoor communal space as part of the calculation.

7. RECOMMENDATIONS FOR "CO-LIVING":

The Co-living typology is a new definition that has been introduced to capture what is currently labelled as "new generation" boarding houses under the ARH SEPP.

- FSR Incentives
- Room Sizes
- Car Parking
- Private open space
- Design Guidelines

7.1 FSR Incentives

Consideration is sought to the retention of the additional 20% FSR bonus made available under the provision of the ARH SEPP to ensure the viability of delivering this product

7.2 Room Sizes

The 'EIE' standard room size recommended for the Co-Living typology is 35m² which is well above the current minimum of 12m² permitted for boarding houses pursuant to the ARH SEPP. We would request that the minimum room sizes is reduced to 12m².

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Scape Australia

7.3 Car Parking

It appears that only reduced parking requirements are incentivised on a discretionary basis for the Co-Living use. The discretionary "reason not to refuse" provision in relation to car parking provision is viewed as a sensible response, which takes into consideration location and proximity to train or light rail stations.

7.4 Private Open Space

A minimum 4m² private open space, in addition to 25% of the site to be dedicated to communal open space is considered excessive. Basing the private open spaces areas proposed for new generation boarding houses on requirements similar to that provided in the ADG for studio apartments does not align. Reductions to the private open space areas and room sizes should be given considerable consideration to ascertain the viability of such a use from a commercial perspective.

7.5 Design Guidelines

The introduction of a Design Guide will not result in an enhanced outcome for the Co-Living typology and it is strongly recommended that such guidelines in addition to the proposed development standards are not introduced.

It is queried if enough incentives have been provided for the provision of Co-Living which was previously attractive to developers as a result of the bonus FSR which could be sought subject to residential flat buildings being permitted in the zone (pursuant to the ARH SEPP). This housing typology, absent any FSR bonus, will no longer be supplied due to the business model no longer being financially viable.

8. RECOMMENDATIONS FOR "BOARDING HOUSE" DEFINITION:

The boarding house definition should not be changed from what is currently existing. However, if the DPIE are speaking sincerely about encouraging affordable developments managed by not-for-profit community housing providers (CHPs), additional incentives, in excess of the 20% bonus, should be offered for land with an FSR in excess of 2.5:1.

Changes to the ARH SEPP in terms of obtaining additional density will have a detrimental impact upon the supply of boarding houses. The current boarding house product requires the bonus floor space to be viable particularly in urban areas located close to transport, as a result of significant land prices.

Reconsideration of the proposed boarding house definition is sought.

TOWN PLANNING SUBMISSION

Submission to EIE for the Draft Housing Diversity SEPP
Scape Australia

Table Summary of Recommendations:

	Build-to-rent Housing	Co-Living	Student Housing	Boarding Housing	Purpose-Built Education and Health Accommodation
Tenant	No restriction for market rent dwellings	No Restriction	Students Any person participating in an education related institution	Eligibility based on income	Any person participating in a health or education related institution
Affordable	Local Provisions Apply No minimum requirement. (the market will dictate rental prices)	No Minimum requirement	No Minimum requirement	Yes – 100%	No Minimum requirement
Tenancy	3 years or more No minimum	Minimum 3 months No minimum	No Minimum	Minimum 3 months	No Minimum
Communal Living Area	New design guidance will be developed	Required	Required	Required	Required
Room/Apartment Size	Minimum 25 sqm	30-35sqm Minimum 12 sqm	Minimum 10sqm	Minimum 12 sqm	Minimum 12sqm
Minimum car parking provision	0.5 spaces per dwelling 0.2 spaces per dwelling for housing Providers, Subject to Green Travel Plan	No minimum requirement	No minimum requirement	0.5 spaces per room or 0.2 spaces for social housing providers.	No minimum requirement
20% Bonus FSR	20% bonus FSR to be maintained to encourage the delivery of a diverse range of rental housing stock in NSW.	20% bonus FSR to be maintained to encourage the delivery of a diverse range of rental housing stock in NSW.	20% bonus FSR to be maintained to encourage the delivery of a diverse range of rental housing stock in NSW.	20% Additional FSR.	20% bonus FSR to be maintained to encourage the delivery of a diverse range of rental housing stock in NSW particularly for key workers.

TOWN PLANNING SUBMISSION

Submission to EIE for the Draft Housing Diversity SEPP
Scape Australia

CONCLUSION AND SUMMARY

The intention of the draft SEPP facilitating the delivery of rental housing options and addressing the State's growing population is broadly supported.

The proposed amendments detailed in the 'EIE' would not allow the effective and feasible delivery of PBSA, BTR and Co-Living developments. Most importantly, the removal of planning incentives and requirements on each new 'definition' regarding end users, operator requirements, room sizes and lease tenures are highly misaligned and restrictive. These will have a detrimental impact on housing delivery in this sector. In addition, uncertainty surrounding clarity on saving provisions and future transitional arrangements place current boarding house developments at risk.

The 'EIE' as drafted is fundamentally flawed, we are of the firm view that if this proposed policy proceeds as drafted it would destroy the viability of 'PBSA' 'BTR' & 'Co-Living'.

Further, the Design Guidelines for each product cannot be prepared independently of the 'EIE' as these are critical to understanding viability and useability of the proposed definitions.

We would welcome further explanation from the DPIE on the 'EIE' and their response to the items raised in this submission. We recommend that a detailed analysis of the BTR, PBSA and Co-Living models be undertaken with further consultation with industry prior to releasing a draft instrument.

Should you wish to discuss the matters outlined in this submission further, please do not hesitate to contact Scape.

Yours faithfully,



Adam Trent
Director of Acquisitions and Development

Submitted on Wed, 09/09/2020 - 00:06
Submitted by: Anonymous
Submitted values are:
Submission Type:I am making a personal submission
First Name: Sergey
Last Name: Babeshko
Name Withheld: No
Email: s_baben@hotmail.com
Suburb/Town & Postcode: Cammeray
Submission file: [webform_submission:values:submission_file]
Submission:

I would like to suggest 2 different share housing: not more than 6 people in R2 and more 6 people in other zones that can be approved by a private certifier. Also, if house build before 2011 no disability access to be provided. All properties to be upgraded to 1b building standards, eg. Fire & safety equipment, evac. plans etc. No unrelated parties to share a room. Only couple or siblings can live in one room. I believe if minimum 10 rooms per property to be implemented this will create just more illegal shared houses.

I also don't think the boarding houses should be managed by Community Housing Providers. Small Boarding Houses, eg up to 20 people, can be managed by licenced real estate agents
Thank you

9 September 2020

NSW Department of Planning, Industry and Environment
Housing Diversity SEPP Explanation of Intended Effect
Submission

Housing Diversity SEPP

SGS Economics & Planning Pty Ltd (SGS) appreciates the opportunity to make a submission on the NSW Department of Planning, Industry and Environment, on the Proposed Housing Diversity SEPP – Explanation of Intended Effect.

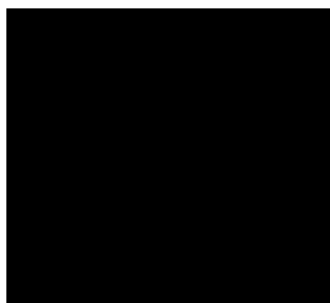
SGS is an urban policy consultancy and certified B Corp (Benefit Corporation). An employee-owned business with high standards of accountability and transparency, it plays a critical role as independent and trusted advisors to the governments and organisations that shape Australia's cities and regions. We deliver planning and strategy services that comprehensively analyse the potential of a site, precinct, district or metropolitan or regional area. We have worked with State and local governments in NSW on housing policy, including social and affordable housing, for over 20 years.

We commend the team in the Department for its work to make a diversity of housing types a focus, and simplifying the number and types of State Environmental Planning Policies. We support most of proposed steps in this Explanation of Intended Effect (EIE). The attached submission sets out a number of recommendations that would strengthen the effort. The submission covers the following topics:

- Affordable housing
- Parking requirements
- Build to rent housing
- Co-living and boarding houses
- Purpose built student accommodation

Thank you for the opportunity to make a submission. We would be more than happy to elaborate on any of the points raised in this letter, should the Department find this useful.

Yours sincerely,



SGS Economics & Planning Pty Ltd
Offices in Canberra, Hobart, Melbourne and Sydney



Affordable housing

- A new housing Diversity SEPP is an important opportunity to provide specific mechanisms to deliver affordable housing through the planning system.
- Serious consideration should be given to providing support for Councils to implement broad-based inclusionary zoning mechanism to support the provision of social and affordable housing.
- The lack of state guidance on these matters in the Victorian context has led to the development of a range of affordable housing policy approaches by Councils, causing significant duplication of work, and, if left unchecked, will give rise to many idiosyncratic approaches, adding unnecessary complexity and making the planning system more onerous for land owners, developers and community housing providers alike.

Parking requirements

- The parking response should be tailored to individual accessibility profiles.
- The City of Sydney uses a “Public Transport Accessibility Level” (PTAL) measure, to determine parking rates for development.
- SGS recommends the use of PTAL, as an appropriate measure.
- PTAL is a widely used metric internationally. It can be calculated from open source data and regularly updated.
- Once the raw PTAL score is calculated it can be converted into a standardised index either using an international standard or using a relative scale specific to the local city/catchment.

Build to rent housing

- SGS is concerned about suggestions that built to rent (BTR) would be a mandatory permissible use in every B3 zone (despite the limitation on subdivision). This could compromise commercial capacity in employment centres outside of the Sydney CBD, and the ability of Sydney to develop along poly-centric lines.
- SGS suggest advocating a flexible approach, with councils able to determine if BTR is permissible in the B3 zone or not following from detailed local planning and analysis.
- The rationale for BTR development in the B3 being under single ownership is understood, and, in theory at least, permits future change of use to employment floor space. However, there remains concern that BTR residential will be a higher-value land use than commercial in office markets outside of the CBD and will potentially occupy crucial employment land capacity for the longer term. The prospect of future conversation will also be limited without any requirements BTR development to provide for floor to floor heights and/or floor plans that will easily accommodate conversion to employment uses.
- The EIE states “New design guidance will be developed” for apartment sizes in BTR, and “The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology.” It is not clear that Apartment Design Guidelines for apartment sizes would apply. However, we would suggest that a minimum dwelling size of 50sqm would be a disincentive to smaller and more affordable BTR dwellings. SGS supports a lower minimum dwelling size, with qualitative amenity standards appropriate to dwellings intended for long-term occupancy (not short-term accommodation).

Co-living and boarding houses

- Recommendations regarding clear standards for FSR and height bonuses are sensible, it is important to ensure that only development which provides affordable housing receive bonuses.
- On the FSR bonus to affordable co-living— SGS supports the 20% across the board removes as it removes inconsistency that might double the permissible floor space (e.g. 0.5:1 to 1:1) in lower density areas.

Purpose built student accommodation

- There are clear distinctions between purpose built student accommodation (PBSA) and boarding houses, including the intended residents, the size of development (PBSA are typically much larger), the expected length of stay, whether the accommodation is expected to be affordable and the economics of development.
- SGS supports their proposed separation into two different definitions in the Housing Diversity SEPP, with different design standards for each reflecting the inherent differences in end user requirements. This is in line with our findings from multiple studies.
- This would also allow clearer incentives and bonuses to be developed which facilitate the delivery of truly affordable accommodation, given the PBSA is often not highly affordable, even if it is an important product to cater to the international and domestic tertiary student market.
- Large amounts of PBSA development has occurred in recent years, dramatically increasing the stock levels and catering to rapid rises in international student numbers. While the tertiary student market (especially international) is likely to be highly disrupted by COVID-19, it is important to continue to plan for the longer term in which there may be continued demand for high density PBSA near universities.

Council reference: ECM 11522894

8 September 2020

The Manager
Housing Policy
Department of Planning, Industry and Environment

Proposed Housing Diversity State Environmental Planning Policy – Explanation of Intended Effect

Dear Sir/Madam

Thank you for the opportunity to comment on the proposed Housing Diversity State Environmental Planning Policy – Explanation of Intended Effect (EIE).

Council staff have reviewed the EIE and provide the following comments.

Build to rent housing (BTRH)

If the intention is to encourage BTRH in non - metro areas, the definitional requirement of at least 50 dwellings, may be too high in regional areas such as Shellharbour and needs to be reconsidered by DPIE.

Due to its high density nature mandating BTRH is opposed in any residential zones except the R3 Medium Density Residential zone.

Mandating BTRH is opposed in any of Council's business zone except the B4 Mixed Use zone as this is the only business zone which permits residential flat buildings. Allowing BTRH in other business zones would dilute the commercial and employment potential of these zones.

It is noted that DPIE is to develop design guidance for BTRH and it's considered that this would need to provide for compatibility with built form that currently exists.

The proposed minimum parking requirement of .5 spaces per dwelling while potentially suitable in well serviced metropolitan areas is inadequate for regional areas such as Shellharbour. Unless there is evidence to the contrary it is considered that parking rates for BTRH should be as per Council's Development Control Plan.

Any support as qualified above, for BTRH is contingent on the adequacy of DPIE's associated future design guidance which would supplement SEPP 65.

The Manager, Housing Policy
Department of Planning, Industry and Environment

Purpose – built student housing (PBSH)

It is noted that it's not proposed to make PBSH a compulsory permitted use in any zone. It is understood that these provisions would cater for university students and there is a clear need for tailored university student accommodation. DPIE is requested to clarify whether it is the intent of PBSH to also cater for TAFE students and whether the TAFE student demographic has a suitable demand for this type of accommodation. This is particularly relevant to LGAs that do not have universities, or universities within a practical travel distance.

In the interests of sustainability and avoiding PBSH being developed for other end uses, it is recommended that any final definition require its location to be appropriately serviced by public transport. This in turn may also go some way in validating any zero parking requirement.

The zero parking requirement would be unsuitable in regional areas such as Shellharbour which generally have limited access to public transport and especially if PBSH is self-contained.

Given the long continuous periods over which students have semester breaks, consideration needs to be given to how PBSH may be used when not needed by students. The character of such alternate uses could vary according to the wide range of tenancy types, for instance short term rental housing or women's refuges; and will strongly influence PBSH's potential to impact neighbouring amenity and reciprocally how neighbouring uses may impact PBSH.

Definitional considerations could include distances from relevant education facilities and public transport.

Given many Councils would not have DCP type guidance for PBSH, it is considered these should be prepared by DPIE and ready to be in place with the any introduction of this new definition.

Co – living development

The proposed minimum parking requirement of .5 spaces per room while potentially suitable in well serviced metropolitan areas is considered inadequate for regional areas such as Shellharbour. Unless there is evidence to the contrary it is considered that parking rates for co – living development should be at least 1 space per room (given multiple persons can occupy a room).

It is noted, this type of land use may have the potential to be a separate self - contained dwelling (domicile) in its own right.

This land use is not supported in zones where residential flat buildings are not permitted.

To prevent co – living from being used for tourism, careful consideration needs to be given to a minimum lease period requirement. Six months may be appropriate.

The Manager, Housing Policy
Department of Planning, Industry and Environment

Given many Councils would not have DCP type guidance for co – living, it is considered these should be prepared by DPIE and ready to be in place with the any introduction of this new definition.

Updating existing provisions

Boarding houses

Any provision that removes the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone is supported.

There is no mention of changing/replacing the standard instrument's existing boarding house definition. This should be clarified by DPIE.

Any proposed FSR bonus for boarding house development should be limited to a maximum of 10% as 20% is more likely to be at odds with surrounding built form, bulk and scale and more likely to have neighbourhood amenity impact.

Group homes

Any change to allow existing dwelling's conversion to group homes as complying development would need to include appropriate Building Code of Australia requirements, especially for fire. Standards should perform along the lines of newly constructed boarding houses.

Seniors housing - application of local development standards

Any proposed FSR bonus for seniors housing under the Seniors SEPP should be limited to a maximum of 10% as 20% is more likely to be at odds with surrounding built form, bulk and scale and more likely to have neighbourhood amenity impact.

Seniors housing – increasing the number of dwellings that LAHC can self - assess

Any increase from 20 to 60 dwellings would need to be in association with updating relevant guidelines to reflect contemporary practice.

Car parking requirements for LAHC development

A blanket .5 car spaces per dwelling is not supported. Lower numerical parking standards may be appropriate in well serviced metropolitan areas. In regional areas such as Shellharbour there is limited access to public transport. Council's DCP should be used in the absence of evidence to the contrary.

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

Council opposes manor housing in its R2 Low Density Residential zone based on local character impacts manor housing would pose in that zone. For this reason, Council opposes including manor housing (including any associated FSR bonus) as development that can be carried out under Division 1.

Proposed changes to social housing provisions of the Senior SEPP – parking concessions for seniors housing

The Manager, Housing Policy
Department of Planning, Industry and Environment

Any reduced parking rate applying to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government owned land is opposed, unless there is evidence to support the viability of such a concession.

NSW Housing Strategy Discussion Paper

DPIE's proposal to prepare a NSW Housing Strategy is noted. Shellharbour City Council made a submission earlier in 2020 on the Discussion Paper. Any housing diversity SEPP should be consistent and compatible with any NSW Housing Strategy.

Other

Consideration should be given to including in the definition of community housing provider, a requirement that it be not for profit.

Consideration should be given to including SEPP 36 Manufactured Home Estates in the subject rationalisation of SEPPs, given there is significant demand for this type of product amongst seniors.

Council requests that any draft housing diversity SEPP be publicly exhibited to provide opportunity for comment.

If you would like to discuss further, please contact me on telephone (02) 4221 6126 in the first instance.

Yours sincerely



Michael Tuffy
Senior Strategic Planner

9 September 2020

To whom it may concern,

RE: Proposed new Housing Diversity SEPP - Explanation of Intended Effect

Shelter NSW welcomes the development of the proposed Housing Diversity SEPP (HD-SEPP). As the peak body for housing advocacy in NSW, we value the opportunity to share our views on planning policies that aim to facilitate the supply of diverse and affordable housing throughout the state.

The Explanation of Intended Effect (EIE) has closely followed the exhibition of related reforms including the *NSW Housing Strategy, Design & Place SEPP* and *Infrastructure Contributions Review*. As such, it marks a significant period for housing policy reform in NSW at a time that COVID-19 has pulled the significance of secure housing into sharp relief for the entire community.

We approach all of these matters from the perspective of low-income households who struggle to afford good-quality and well-located housing in the private market. In identifying the challenges and solutions to providing secure housing to this group, Australia is fortunate to benefit from a highly developed research sector that provides an evidence base for our submission.

This includes reports on the potential to deliver affordable housing through Built-to-Rent schemes (Pawson et al 2019) as well as multiple reports evaluating the efficacy of the Affordable Rental Housing SEPP (ARH-SEPP) (Gurran et al 2018; Troy et al 2018). Shelter NSW has itself commissioned reports on the growth of the boarding house sector in NSW (Martin 2019) and the potential dwelling yields from the Greater Sydney Commission's inclusionary planning scheme (Phibbs & King 2018).

Based on this research, we have organised our comments on the HD-SEPP to both indicate support for particular provisions and recommend a series of changes. Beyond commenting on its general aims and potential outcomes, our feedback largely focuses on the new and amended provisions for Build-to-Rent and compact dwelling uses summarised in an appendix to this submission.

Overall, we support intended effect of the HD-SEPP to facilitate the supply of Build-to-Rent as a more professional and secure form of private rental housing. Where this new use is developed by registered community housing providers, we hope to see part of this sector support the supply of affordable rental housing. To that end, we also welcome the new provisions for boarding houses.

However, we remain concerned at the lack of strategic aims of the HD-SEPP. In not being linked to a broader strategy to increase the nominal supply of affordable housing, we expect it only to produce similar results to the ARH-SEPP which have been unpredictable, unmonitored and underwhelming.

To discuss any of our feedback, Shelter NSW would be pleased to participate in any further consultation on the development of the HD-SEPP. Please contact our Senior Policy Officer Ryan Harris at ryan@shelternsw.org.au or on 0422 073 786 to do so.

Best wishes,

John Engeler
CEO
Shelter NSW

General comments on aims, monitoring and principles

The HD-SEPP should give effect to an affordable housing strategy with measurable targets

While we welcome the consolidation of existing SEPPs into a single instrument, the HD-SEPP does not appear to have a strategic aim in relation to affordable housing. Notably, the EIE has been exhibited before the release of the final NSW Housing Strategy for which Shelter has made a submission advocating a coordinated approach to increasing supply.

Without this link, we expect that the HD-SEPP will produce similar results as the ARH-SEPP. AHURI research estimates that instrument facilitated the supply of over 13,000 new dwellings between 2009 and 2016, amounting to less than 1% of Greater Sydney's housing supply. However, the types of dwellings delivered under the ARH-SEPP have not achieved its intended affordability aims. This includes nearly 11,000 secondary dwellings, over 2,000 boarding rooms and roughly 1,200 infill dwellings, most of which were not subject to on-going affordability requirements.

The HD-SEPP can and should play an important role in increasing the supply of affordable housing. To do so, its provisions should be designed to support a coordinated strategy with measurable targets. As it stands, it is unclear what outcomes it will deliver.

Data on its outcomes should be centrally collected, published and evaluated on a regular basis

Multiple reports have noted insufficient data collection on development facilitated by the ARH-SEPP. In attempting to evaluate its outcomes, researchers have had to manually review individual development applications and bond registries in the absence of a central source of information. The Department should remedy this by collecting and publishing information on the number, location and rent levels of dwellings facilitated by the HD-SEPP. This should include the duration of any affordability requirements in order to monitor any expiring supply.

Planning privileges should be directed to regulated non-profit providers of affordable housing

Shelter NSW is a strong supporter of using the planning system to support affordable housing. However, the outcomes of the ARH-SEPP have demonstrated that applying bonuses, concessions and exemptions to private development has not produced a significant or permanent supply. As a principle, then, we believe that any future planning benefits with an affordability objective should be restricted to community housing providers. This provides a cost-effective and assured means of achieving their intended purpose given that CHPs can leverage other concessions associated with their charitable status and compliance regimes.

Comments on Build-to-Rent

We welcome the introduction of a distinct land use for Build-to-Rent housing

Shelter NSW supports the emergence of a Build-to-Rent asset class in Australia. This potentially marks the professionalisation of the private rental market which is currently dominated by amateur landlords focused on capital gains rather than long-term rental income. Accompanied by appropriate regulation, Build-to-Rent could help achieve important housing policy objectives of greater security of tenure, better construction quality and improved maintenance in the private rental market.

However, we do not view the private model of Build-to-Rent as a vehicle for affordable housing. As an immature market with thin feasibility margins, we expect it to provide a premium rental product in well-located areas with added services and amenities. Where we do see its potential for delivering affordable housing is in community housing providers developing such projects.

Any additional privileges for Build-to-Rent should be directed to community housing providers

The HD-SEPP appears to offer only limited benefits to Build-to-Rent uses including expanded permissibility, lower rates of parking and a state approval pathway. We do not hold strong views on these privileges which, on top of previously announced tax concessions, may provide initial support for the industry in establishing itself. However, we would be cautious of any additional benefits being accorded to private developments where these are intended to improve affordability outcomes. As previously suggested, any additional privileges should be directed to community housing providers who can leverage them based on their regulated charity status.

Subdivision of Build-to-Rent developments should require a change of use

We note that the HD-SEPP's conditional provision for subdivision of Build-to-Rent developments after 15 years supports a particular business model of Build-to-Sell-Later. This contrasts with our conception of Build-to-Rent as an asset class resembling infrastructure with investors focused on long-term rental income rather than (delayed) capital gain. Given the commercial implications of restricting subdivision outright, we do not hold especially strong views on the matter.

However, if a development is approved under a Build-to-Rent use then it stands to reason that a new application should be lodged to change its use at the intended time of subdivision. This would provide an opportunity to ensure compliance with any development standards that would have otherwise applied. In the event that the development also included low-cost rental housing, the change of use would potentially trigger contributions for its loss provided for by the HD-SEPP.

The Design and Place SEPP should provide specific design guidance for Build-to-Rent

Shelter NSW recognises that Build-to-Rent developments have positive design and management features which distinguish it from traditional Build-to-Sell developments. As such, it is appropriate that specific design guidance be developed to address such matters including the operational requirements associated with long-term asset management and community facilities.

Given its specific purpose and concurrent development, we recommend that the Design and Place SEPP, and not the Housing Diversity SEPP, be the instrument that provides for these matters. We would have confidence in the Government Architect to prepare specific guidelines that are consistent with *Better Placed* and ensure residential and public domain amenity without exceptions based on the ownership model. Shelter NSW has lodged a separate submission on that SEPP.

Comments on boarding houses, co-living and student housing

We welcome the introduction of distinct uses for student housing, co-living and boarding houses

One of the most significant outcomes of the ARH-SEPP was the creation of so-called new generation boarding houses. At around 12-25 sqm, these developments were more akin to micro-apartments, being largely self-contained and leased under standard tenancy agreements. While arguably exposing a demand for luxury studios, they blurred the definitional line of traditional boarding houses which generally provide less privacy and tenure security. Defining these uses separately is therefore a welcome development as it allows for more appropriate regulation.

We support the affordability and management requirements applying to boarding houses

The development of new generation boarding houses under the ARH-SEPP is a case study in how lowering the cost of private rental housing has not produced affordable housing. In its amendments to the boarding house provisions, the EIE appears to acknowledge this outcome and we welcome its moves to remedy it. The new definition of a boarding house as an affordable rental product that is managed by a community housing provider offers a valuable opportunity to expand the supply of this housing type for its intended purpose.

Our only concern is the EIE's consideration of a 10-year duration limit on the affordability requirement. Ideally, the HD-SEPP should negate this need by extending the definition of a boarding house to be a type of affordable housing that is both owned and managed by a community housing provider. In any case, the provisions should not limit the development and management of boarding houses by the Land and Housing Corporation.

We support the concessions and bonuses for boarding houses—they should not be extended

We note that the updated density bonus of 20% for boarding houses has not been extended to co-living and student housing uses. While some concessions such as reduced parking requirements may have merit in their own right, we affirm the decision not to provide benefits intended to produce affordable housing to privately owned and managed rental housing. As a minor point of clarification, we otherwise note that the parking rate of 0.2 spaces for social housing providers should be stated to specifically include community housing providers.

Distinct leasing provisions should apply to co-living and boarding house developments

Consistent with their perception as private apartments, most new generation boarding houses developed under the ARH-SEPP appear to have been leased under residential tenancy agreements. To clearly distinguish their respective uses, the HD-SEPP should provide for co-living uses to be leased under residential tenancy agreements and boarding houses to be leased under occupancy agreements consistent with the Boarding Houses Act.

The Design and Place SEPP should provide specific design guidance for compact dwellings

While the inclusion of minimum development standards in the HD-SEPP may provide additional certainty for proponents, they do not draw a clear link to minimum standards of amenity. Given its intended purpose and concurrent development, the HD-SEPP should defer all design matters to the Design and Place SEPP. In making this comment, we note that the HD-SEPP has set a minimum room size for co-living dwellings of 30-35 sqm which may restrict its development. Whether the planning system should allow or prohibit micro-apartments in the private rental sector is a question worthy of further discussion for which the Design and Place SEPP provides an opportunity.

Comments on inclusionary planning provisions

In-fill bonuses should only be offered to registered providers of permanent affordable housing

Shelter NSW supports the expanded use of both voluntary and mandatory inclusionary planning mechanisms. However, we do not believe the density bonus that currently applies to in-fill housing should be provided to private developers of time-limited affordable housing. Restricting these benefits to community housing providers can produce additional value for government in that they can leverage other concessions afforded by their charitable status.

The definition of affordable housing under the ARH-SEPP should also be amended to account for local rental markets. Currently, it applies to housing that costs no more than 30% of household income for households earning up to 120% of the median household income in Greater Sydney. This can lead to perverse outcomes where benefitting developments can be rented out at \$630 per week in areas where median rents and household incomes are significantly lower. Amending the bonus to account for local conditions and restrict its use would help community housing providers compete more effectively in acquiring sites and cater to a diverse range of income profiles.

We welcome the retention of the SEPP 70 provisions and urge more ambitious targets

We note that the HD-SEPP will incorporate the SEPP 70 provisions which allow for the creation of affordable housing contribution schemes by local councils. While it is beyond the scope of the HD-SEPP to mandate targets for these schemes, we reiterate the need for the HD-SEPP to be linked to a broader affordable housing strategy with nominal supply targets. As it stands, the outcomes of these schemes are unpredictable with research commissioned by Shelter estimating the yield of the GSC's percentage target of 5-10% producing a huge variance of between 3,000-12,000 dwellings. These schemes can and should be planned to deliver more.

The HD-SEPP should record and map all Affordable Housing Contribution Schemes

As with the ARH-SEPP, monitoring of the retained SEPP 70 provisions will be hampered by a lack of centralised data collection. Once these schemes are prepared, there does not appear to be a single source of information for checking where they apply and what contributions they require. This will require both planners and developers to check individual schemes with individual councils. To enhance the usefulness of the HD-SEPP, it should therefore include both a schedule and maps of all Affordable Housing Contribution Schemes that apply across NSW.

General comments pertaining to other provisions

We acknowledge that the HD-SEPP will make additional amendments to provisions related to group homes, low-cost rental housing and secondary dwellings. Being relatively minor and positive changes, we do not hold strong views on these matters. In relation to seniors housing, we note an apparent inconsistency in the definition of this use under the Standard Instrument and otherwise reiterate our support for the Design and Place SEPP to provide for all design matters.

We also acknowledge the multiple amendments to provisions related to development by the NSW Land and Housing Corporation. While Shelter NSW holds concerns about the redevelopment of social housing in NSW, these issues pertain to matters of social housing policy rather than planning provisions. We therefore do not hold strong views on these amendments.

References

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- Martin, C. (2019) *Boarding houses in New South Wales: growth, change and implications for equitable density*, Report prepared for Shelter NSW, City Futures Research Centre: Sydney.
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Appendix: Overview of proposed provisions applying to Build-to-Rent and compact dwellings

PROVISION	BUILD-TO-RENT	STUDENT HOUSING	CO-LIVING	BOARDING HOUSES
Definition	Building with min. 50 self-contained rental dwellings held in single ownership, managed by single entity inc. on-site management	Accommodation and communal facilities for enrolled students which may inc. self-contained dwellings	Building with min. 50 private rooms and communal facilities, though may inc. self-contained dwellings, held in single ownership with on-site management, providing a principal place of residence for min. 3 months	Affordable rental building managed by a CHP with share facilities and rooms that may have private kitchen/bathroom, providing one-to-two adult lodgers with principal place of residence for min. 3 months.
Permissibility	Compulsory in R4, B3, B4 and B8 zones, and R3 where RFBs permissible	Not compulsory in any zone	Unspecified	No longer compulsory in R2 zone (exc. LAHC on public land)
Approvals	State Significant Development pathway for projects over \$100m (exc. City of Sydney) or \$50m in regional areas	Unspecified	Unspecified	Unchanged
Size	Unspecified	Min. room size 10 sqm (smaller if adequate amenity demonstrated)	Min. room size 30-35 sqm; min. private open space 4 sqm per room	Unchanged (12-25 sqm)
Facilities	Unspecified	Min. indoor common area 15 sqm per 12 students; min. outdoor common area 2.5 sqm if located 400m away from university	Min. communal space 20 sqm + 2 sqm per room above 10; min. communal open space 25% of site (lower if all private open space exceeds min. size)	Unchanged
Design	Specific guidance to be developed	Specific guidance to be developed	Specific guidance to be developed	Unchanged
Parking	0.5 car spaces per dwelling	0 car spaces required, 1 bicycle space per 3 rooms; 1 motorbike space per 5 rooms	0.5 car spaces per room	0.5 spaces per room, 0.2 for social housing providers (councils can accept fewer)
Leasing	Min. term (potentially 3 years)	Unspecified	Unspecified	Unspecified
Subdivision	Prohibited for first 15 years, and in-perpetuity in B3 zones;	Unspecified	Prohibited	Unspecified
Strata	Mechanisms to be developed e.g. right-to-buy, retention of affordable housing	Unspecified	Inapplicable	Unspecified
Location	Regional area provisions to be developed for medium density	Area requirements to be considered	Unspecified	Unspecified
Affordability	Unspecified	Unspecified	Unspecified	Requirement applies; expiration after 10 years to be considered
Bonuses	Unspecified	Unspecified	Unspecified	+20% FSR



Shoalhaven City Council – Submission to:

Proposed Housing Diversity SEPP – Explanation of Intended Effect (NSW Department of Industry, Environment & Planning)

Endorsed by Strategy & Assets Committee 8 September 2020

Support for greater housing affordability

Shoalhaven City Council (Council) is generally supportive of continued NSW Government actions to provide for greater housing diversity and affordability across the state.

Council is also committed to implementing its [Affordable Housing Strategy](#) to assisting in achieving improved housing affordability outcomes locally with the assistance of the NSW Government and others.

General Comments

It is acknowledged that the proposed Housing Diversity State Environmental Planning Policy (SEPP) will consolidate the provisions of the following existing SEPP's:

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

The consolidation of SEPP's is generally supported, particularly where this helps simplify the planning system and also supports local planning. However, consolidated SEPP's need to be as user-friendly and concise as possible. In this regard, the proposed SEPP will contain a considerable range of provisions, which could limit its ability to be user-friendly. In addition, the title of the new SEPP could cause some confusion with the recently introduced Low Rise Housing Diversity Code section of the Exempt and Complying Development SEPP. The term 'affordable housing' will also, it appears, be removed from the title of the SEPP. Whilst it is acknowledged that the SEPP will not exclusively deal with affordable housing types, supporting greater affordability is a key aim of the recently exhibited Housing Strategy for NSW. The consolidated Housing Diversity SEPP must ensure it remains focused on and facilitates increasing the provision of good affordable housing, both public and private.

Housing needs of regional communities

The proposed changes to create a consolidated Housing Diversity SEPP appear to be very metro focused, with few additional or new mechanisms proposed to help deliver affordable forms of housing in regional areas in a manner that is sensitive to different housing needs and experiences of communities in regional areas.

For example, the housing aspirations of many regional households are likely to be home ownership over long-term renting, as the benefits of long-term renting in regional areas are often not as pronounced as in city areas. Long-term renters in city areas benefit from closer proximity to jobs and higher order services, areas with higher local amenity, public transport and the like. In higher value city

areas, residents will often trade-off (most likely unaffordable) home ownership and mortgages for rentals to be able to experience the lifestyle benefits (and for some the proximity to highly paid job markets) associated with these locations.

However, regional areas for those unable to afford home ownership, increased supply of well-located rental dwellings (often in short supply in regional areas, especially at lower price points) and increased security of tenure are highly desirable. Rental dwellings, especially at lower price points suitable for lower-income earners, are often in short supply in regional areas. The [Shoalhaven Affordable Housing Background Report](#) (Judith Stubbs 2016) notes that in Shoalhaven private renters experience a much higher rate of housing stress (46%) compared to Greater Sydney (39%), due to a much lower income profile.

Despite the opportunity for proposed build-to-rent and co-living type developments to offer greater rental security and potentially improved rental housing design, the new housing types currently envisaged within the proposed SEPP are unlikely to deliver improved rental outcomes or increased housing affordability for regional areas like Shoalhaven. This is because the proposed SEPP enables only larger-scale city centric type developments (e.g. build to rent of 50+ units) which could be rented at or above market-rate rental prices, therefore doing little to provide secure rental housing for those on lower incomes. It is important that the potential benefits of these new housing types is recognised and encouraged where possible in regional markets (especially greater security of tenure) with tailored provisions in the SEPP (or within other policies) to also help meet regional area needs and aspirations where possible.

As another example of the need for non-metro specific provision, many regional areas such as Shoalhaven, are generally not well-served by public transport infrastructure. Therefore, private vehicle use is prominent in accessing services and employment regardless of what type of dwelling a household resides within. Thus, applying city-centric parking standards to higher-density housing developments in regional areas without easy public and active transport access, often leads to parking area shortfalls, exacerbating local opposition to diverse housing types and higher density development. Where diverse housing developments (designed according to allowable city-centres standards) are facilitated in locations without adequate public transport access and proximity to other services (a more common scenario in regional areas compared to well-served city areas), this can also place increased strain on local infrastructure and have adverse character impacts on local neighbourhoods.

Character considerations for diverse housing types in regional areas

The need for greater housing diversity in Shoalhaven is supported; however, the character of appropriate housing development in regional areas is different in scale and necessitates different design responses to housing development in city areas.

Development enabled by state-wide codes in metro (city) areas may not necessarily be appropriate in regional areas and may result in overdevelopment and place strain on local infrastructure capacity. Poorly designed developments for regional contexts can also exacerbate neighbourhood opposition to different housing types and increase the negative view of social and affordable housing developments. Whilst Council is supportive of additional affordable and diverse housing types, these need to be of high quality design and construction. It is crucial that provisions in SEPP's respond to regional experiences and character. Enabling smaller-scale, context-sensitive diverse housing developments in regional areas may also assist with economic feasibility as profit maximisation approaches could lead to the largest allowable development (designed with a city context in mind) being initially pursued on a site, thus disincentivising and disadvantaging those who seek to pursue smaller scale developments more in keeping with the existing character of towns and villages.

It is requested that the proposed SEPP and any associated design guidelines do not have a 'one-size-fits-all' approach and should include provisions and design considerations tailored for regional areas and housing markets.

Proposed changes - Boarding house provisions

The following boarding house related amendments detailed in the Explanation of Intended Effects (EIE) for the proposed SEPP are generally supported:

- *remove the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;*
- *amend the floor space ratio (FSR) bonus for boarding house development to a standard 20%; and*
- *include a requirement for affordability of boarding house developments.*

Amendments that enable Councils to potentially tailor mandatory uses are beneficial, as local government-driven planning processes are often the most appropriate mechanism to decide on suitable land uses within land use zones for local areas. Council also strongly supports continued and further recognition of the role that boarding houses play in providing affordable housing. This will hopefully rectify situations where boarding houses are developed as affordable housing, but then largely catering to people able to pay relatively high rental prices for small rooms in desirable locations, at the cost of those more in need of affordable housing such as low income earners or more transient households (e.g. seasonal or temporary workers, newly arrived migrants, people escaping family violence). It is important that boarding houses should remain an affordable housing form and not revert back to market rates without a separate evaluation/assessment process which evaluates the impact of a potential loss of affordable housing in the locality.

The changes to the boarding house definition requiring management by a registered not-for profit provider (e.g. Community Housing Provider) are supported in principle given that this will lead to improved outcomes for tenants. This approach is consistent with the Shoalhaven Affordable Housing Strategy.

The issues mentioned above in relation to parking standards that, when applied in regional areas, can lead to a shortfall in on-site parking provision having wider impacts on the neighbourhood is reiterated. In regional contexts where access to required services and transport is not within suitable walking distance, then a 1 parking space per room requirement should apply.

Boarding house design enabled by the current SEPP can often be unsympathetic in a regional context, although it is recognised recent amendments have sought to address this issue. In response to the Covid-19 pandemic, experience internationally and recently in Victoria notes that vulnerable populations living in close proximity are exposed to higher levels of risk. New housing design therefore must be liveable and healthy, and design and building standards may need to be reviewed (ensuring adequate ventilation, access to open space, privacy etc) given emerging experiences with this form of development.

Continued monitoring of boarding house design, construction and management is important to ensure high quality outcomes and benefits for both tenants and neighbours.

Proposed new land use - Co-living development

The demand for co-living development is likely to be greater in city areas, notwithstanding recent applications and development within Shoalhaven of new-generation boarding house development which could be considered to be similar in operation to the new co-living definition.

In regional contexts where access to required services and public transport is not within suitable walking distance, then a 1 parking space per room requirement should apply.

Development standards for co-living developments that defer to local LEP planning provisions are generally supported as this gives local areas greater control over development outcomes, it also enables development to be tailored to different contexts.

The introduction of guidelines to ensure high quality design and construction outcomes, similar in intent and application to the Apartment Design Guide under SEPP 65, is supported. Resident comfort and sustainability should also be key focus areas for the guidelines. Any development under centralised

management provides opportunities for increased building sustainability outcomes, leading also to ongoing cost-savings for both managers and residents. Access to open space and improved ventilation also requires additional consideration in response to the Covid-19 experience – private open space and outdoor area requirements may need revisiting to ensure resident comfort and physical and mental health can be maintained in smaller living areas. It is also not clear how co-living developments will contribute to rental affordability or security as suggested in the EIE.

Existing smaller scale co-living developments elsewhere that have been developed by a small housing collective of local residents rather than traditional housing developers (e.g. Baugruppen, co-housing) should be reviewed/investigated. These smaller scale, grassroots type of developments could also be popular in some regional areas but require additional planning consideration to ensure they are well-located close to services, and appropriately designed.

Proposed new land use – Build-to-rent housing

The demand for build-to-rent housing as envisaged by the proposed SEPP is likely to be higher in metropolitan areas, as opposed to regional areas such as Shoalhaven. Housing market conditions in Shoalhaven are unlikely to attract large scale, high-density BTR development as envisaged by the proposed SEPP for the foreseeable future.

It is difficult to comment on the impact of this proposed new land use based on the level of detail within the EIE. However the general intent behind enabling build-to-rent development, to encourage greater rental security in the private rental market, with appropriate regulatory support and oversight is supported. It is important for BTR developments to include management mechanisms that provide benefits to renters, for example capped rental increases. There are recognised opportunities arising from BTR development which make introduction of this new land use worthwhile.

Design guidance for the new land use types, such as BTR, is crucial and it is essential that this include a review of proposed high density micro and small apartment development in the context of COVID-19 experiences. The desirability of these housing types post-COVID-19 also needs to be re-evaluated; especially as rental prices drop in inner city areas (but staying steady/rising in lifestyle-focused regional areas). These types of development often rely on residents trading off personal and private space and living in very small spaces (hotel-style living) for proximity to employment, cafes, restaurants, entertainment, public open spaces, travel opportunities and other lifestyle benefits (such as communal areas and shared facilities). Providing healthy and liveable homes is of utmost importance; accordingly, room sizes, private open spaces/balconies, access to natural ventilation and light etc requires increased design consideration. It is acknowledged that some social benefits (e.g. reduced isolation) may result from living in close proximity to neighbours, although not in all circumstances and generally only where buildings are well-designed to foster community connections. Any development under central management also provides excellent opportunities for increased building sustainability outcomes, which should be mandated, leading also to ongoing cost-savings for building management and residents.

BTR development currently does not appear to necessarily be geared towards improving housing affordability, as emerging metropolitan BTR developments appear to attract a similar or higher rental price compared to the median in Sydney¹. For those not necessarily able to afford home ownership, greater security in rental tenure is highly desirable. However, it is not clear how these types of developments will improve housing affordability as they will not provide for those most in need of private rental security, being very-low and low-income households.

Land tax and other financial incentives for other forms of desirable housing diversity developments should be explored, for example capped profit developments (e.g. Nightingale Housing model) and low-income targeted shared equity homebuyer schemes.

¹ Domain Research, 'Is build to rent all it is built up to be?' Eliza Owen, April 2019:
<https://www.domain.com.au/research/is-build-to-rent-all-it-is-built-up-to-be-830255/>

Proposed new land use – Student housing

The suggested introduction of the new land use, student housing, is generally supported. It is noted that the definition as proposed relates to 'educational establishments'. Whilst the EIE refers to the intent of the land use being to provide for university students, this should be clarified in the definition (e.g. referring to tertiary education, for fee-paying students or the like). The requested clarification will ensure loopholes are not created that could allow student housing to be considered adjacent to primary or secondary schools or colleges for example.

Proposed changes - SEPP Housing for Seniors and People with a Disability (Seniors SEPP)

The proposed update of Schedule 1 – Environmentally Sensitive Land to exclude Seniors Housing in environmentally sensitive and high risk locations is supported and consistent with the policy intent. Updating the land use definitions to match those in the Standard Instrument LEP is supported, but it is suggested that the definition of 'people with a disability' be reviewed to ensure it is respectful and inclusive. The amendment of the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement is supported.

Proposed changes - Social housing provisions applying to Land and Housing Corporation

Design guidance for social housing developments by LAHC should be reviewed and shared with all stakeholders, including local government. Social housing that is poorly designed or is not sensitive to context can often exacerbate community opposition to this important form development and also future tenants. However well-designed development can also contribute to community pride and provide increased acceptance of social housing, promoting greater social cohesion. In regional areas social housing development that meets the needs of local communities in a manner that is also sensitive to neighbourhood character is important.

Any mixed tenure proposals (e.g. mix of private/market-rate and social and affordable housing) must also be designed to ensure that they deliver equitable outcomes and well-designed homes for social and affordable housing tenants. In addition, an increased focus on building sustainability and energy efficiency for social housing developments is required. More sustainable social housing buildings utilising well-established design and construction methods and technologies will help reduce ongoing heating and cooling costs for occupants and could also stimulate job creation in existing and emerging industries.

Whilst the proposed changes applying to the LAHC for social housing developments are supported in principle, additional planning policies and financial mechanisms are needed to stimulate provision of more social and affordable housing on the ground. Council urges the NSW Government to continue to explore and implement multiple policy avenues to create more affordable housing for residents of NSW. In particular, Council supports additional government investment in, and direct funding of, additional social and affordable housing construction, to provide much needed long-term housing for low income community members as well as providing economic stimulus and support for the construction industry.

Implementation and Monitoring - Housing Diversity SEPP

It is critical that a draft SEPP is shared with Councils before the instrument becomes operational. The EIE provides only a brief overview of the proposed SEPP. It is not possible to comment with any certainty on the efficiency or future operation of the proposed SEPP, and any future challenges also cannot be assessed at this level of detail. The current ARHSEPP and Seniors SEPP are frequently referred to and used by Councils, industry and the community. Therefore, it is requested that the draft SEPP be shared to enable closer examination of detailed provisions to better understand the potential planning implications. At the very least, an additional workshop or presentation should be delivered to Council staff before the SEPP is made.

Council supports the collection and sharing of data, to monitor the effectiveness of planning policies in delivering intended outcomes, in this case the provision of more affordable housing across NSW. However, data collection and monitoring processes must be robust and user-friendly, delivering real

benefits for decision-makers and not simply an administration exercise which burdens already stretched Council resources. Therefore, it is requested that simplified, resource-friendly data collection and monitoring processes be developed to ensure reliable, user-friendly data is produced that can assist all levels of government in better planning for affordable housing.

Submitted on Mon, 31/08/2020 - 07:09
Submitted by: Anonymous
Submitted values are:
Submission Type:I am making a personal submission
First Name: Simon
Last Name: Wright
Name Withheld: No
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Suburb/Town & Postcode: 2042
Submission file: [webform_submission:values:submission_file]

Submission: These proposed changes have a detrimental impact on small developers seeking to develop smaller boarding house developments in B2 zonings and their tenants. There are many smaller ageing building in Sydney local commercial zones that can under current regulations be potentially converted to small boarding house developments. Many of these buildings are often vacant for extended periods and local areas are suffering with for lease signs everywhere across Sydney. Boarding house conversions of such buildings would be disallowed under the proposed changes and for this reason the current arrangements should be retained. Not all boarding house tenants want to live in standardised large complexes of small studio rooms. It is important that the state government support maximum housing diversity. Having extra common areas within such buildings can allow tenants to pursue entrepreneurial activities by having for example a small office, workshop or storage space within the building. For example a tenant could run a weekend market stall or have an office for desk based self employment that clients can visit under current arrangements. This can be particularly useful in B2 zones as it allows synergies with existing commercial zones. Renting tenants single rooms is fine if they have traditional employment but doesn't really work for those who work from home or have micro businesses. Society is entering a period of high unemployment and significant social change and planning flexibility should be as broad as possible to support non-traditional modes of working and living. Please keep the current arrangements for small boarding house developments the have been in place fr many years and have been largely successful.



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

Attn: Housing Policy

11 September 2020

Re: Public Exhibition of Proposed new Housing Diversity SEPP Explanation of Intended Effect

Dear Sir/Madam,

I refer to the exhibited Explanation of Intended Effect (EIE) for the proposed Housing Diversity State Environmental Planning Policy (SEPP).

SJB represents the owners of 263 and 277-279 Broadway, Glebe (the 'site'). The site located directly opposite the University of Sydney and within 500 metres of the University of Technology, making it ideal for student accommodation.

Without the opportunity to review the draft instrument, in particular the consequential amendments to other planning instruments, we are unable to determine the implications for our client's site. We are concerned that the proposed SEPP will impact on our client's ability to realise the quantum of student housing that was intended under the planning framework that the City of Sydney (the City) implemented for the site. This submission provides a brief description of the controls and framework applying to the site and a discussion of the elements of the proposed SEPP that will adversely impact on this framework. To resolve these concerns, we have included recommendations relating to the proposed Draft SEPP, including the opportunity to review and comment on the draft instrument itself.

Planning Framework 263 and 277-279 Broadway, Glebe

The site is zoned B2 Local Centre under the Sydney Local Environmental Plan 2012 (SLEP) which permits boarding houses and residential flat buildings. The SLEP specifies a base floor space ratio (FSR) control of 2:1 for the site. In addition, Clause 6.48(3)(b) of the SLEP 2012 provides a bonus FSR of 1:1 where development for the purpose of a boarding house for student accommodation. This bonus is in addition to the 20% bonus applicable under Clause 29(1)(c)(ii) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP). A copy of the Clause 6.48 of the SLEP is included at Attachment 1. Furthermore, the site is also potentially eligible for further 10% design excellence bonus under Clause 6.21 of the SLEP.

Clause 6.48 was the outcome of a Planning Proposal (PP) for 225-279 Broadway Glebe that amended the SLEP via Amendment No. 54 on 29 November 2019. A major component of the PP was FSR bonuses for student housing and other strategic non-residential land uses to support the Camperdown-Ultimo health and education precinct. The PP identified the site as ideal for student accommodation given its location adjacent to the University of Sydney and within walking distance of multiple educational institutions, as well as jobs, retail and services.

The FSR provision contained in Clause 6.48 are supplemented by a maximum building height control in the SLEP 2012 and site-specific built form controls contained in the Sydney Development Control Plan 2012 (SDCP). As detailed in the extract of the PP included at Attachment 2, based on urban design testing, the City determined that a FSR of approximately 4:1 could be achieved across the site within the height controls. This included a base FSR of 2:1; 1:1 bonus for student housing, a 20% bonus available under the ARHSEPP and a design excellence bonus of 10%. The bonus for student housing under Clause 6.48 is less than the bonus FSR of 1.6:1 that is available for commercial and other non-residential uses. The student housing bonus was limited to 1:1 due to the 20% bonus that was available under the ARHSEPP. On this basis, it is apparent that the intent of the PP and the resultant planning framework, was to allow for a FSR of up to 4:1 to be achieved on the site where a boarding house is used for student accommodation by utilising a bonus of FSR 1:1 under Clause 6.48 and the 20% bonus applicable under the ARHSEPP.

Proposed Housing Diversity SEPP and Implications

Based on our review of the EIE, we understand it is proposed to consolidate the following three (3) SEPPs into a single Housing Diversity SEPP:

- 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) (SEPP70).

Key changes arising from the consolidation that have implications for our client's site are briefly outlined below.

The introduction of a definition for student housing

The new definition is to be included in the Standard Instrument Local Environmental Plan. As a separate, defined use, student housing could no longer be delivered as a boarding house. Consequently, student housing would no longer be eligible for the 20% FSR bonus applying to boarding houses. In the case of our client's site, they would also be ineligible for the FSR bonus under Clause 6.48 of the SLEP as it only applies to a 'boarding house development used as student housing'.

The introduction of planning provisions for student housing

While the EIE outlines some of the proposed development standards for student housing, full details of student housing provisions will be determined in consultation with stakeholders.

We note that it is proposed to not make student housing a compulsory permitted use in any land use zone but allow councils to determine this. The zones in which student accommodation will be permitted should be identified. Student housing (as a boarding house) is currently permitted in the B2 Local Zone applying to our client's site and it is critical that it remain permissible, particularly given its location directly opposite Sydney University and proximity to other education institutions.

Recommendations

It is not clear how the provisions of the SEPP will affect existing provisions within the SLEP. Due to the specific nature of the SLEP provisions it is important that the intent of Clause 6.48 is maintained in the proposed Draft SEPP through appropriate consequential amendments.

On this basis we request the following:

- (1) That student housing remains a permissible use within the B2 Local Centre Zone;

- (2) Assuming that the definition of student housing is adopted, and no bonus is FSR is allocated to student housing in the Draft SEPP, include consequential amendments in the SEPP to amend Clause 6.48(3) of the SLEP to identify that a bonus FSR of 1.6:1 applies to student housing (existing 1:1 plus 20% under ARHSEPP). The amended subclause 6.48(3) is provided below:

6.48(3) Despite clause 4.4, the consent authority may grant development consent to a building on the subject land that exceeds the floor space ratio shown for the land on the Floor Space Ratio Map by an amount no greater than—

(a) 1.6:1 if the development is for any of the following purposes—

- (i) commercial premises,*
- (ii) educational establishments,*
- (iii) entertainment facilities,*
- (iv) health services facilities,*
- (v) hotel or motel accommodation,*
- (vi) information and education facilities,*
- (vii) light industries, ~~or~~*
- viii) student housing***

~~(b) 1:1 if the development is for the purpose of boarding houses used for student accommodation.~~

- (3) Include savings and transitional provisions in the Draft SEPP to ensure any development applications lodged prior to its gazettal will continue to benefit from the existing provisions of the (ARHSEPP).

Having regard to the above and the inherent complexities associated with the consolidating three (3) planning instruments into a single instrument, it is critical that we have the opportunity to review the full drafting of the SEPP and any associated consequential amendments to existing EPIs to ensure the intent and purpose of existing provisions in the SLEP are maintained and not undermined.

We welcome the opportunity to discuss this submission with the Department. Please do not hesitate to contact me on (02) 9380 9911 or by email at amccabe@sjb.com.au.

Yours sincerely



Alison McCabe
Director

Cc: Nicola Reeve – City of Sydney

Attachment 1: Clause 6.48 Sydney Local Environmental Plan 2012

Sydney Local Environmental Plan 2012

Current version for 13 August 2020 to date (accessed 9 September 2020 at 14:45)

[Part 6](#) > [Division 5](#) > Section 6.48

6.48 225–279 Broadway, Glebe—floor space

- (1) The objective of this clause is to provide for additional floor space on certain land to encourage—
 - (a) commercial, education, health, cultural and tourism sectors and associated industries in the Camperdown-Ultimo area, and
 - (b) development capable of achieving certain ecologically sustainable development ratings.
- (2) This clause applies to the land identified on the [Locality and Site Identification Map](#) as “Broadway Gateway” (the *subject land*).
- (3) Despite clause 4.4, the consent authority may grant development consent to a building on the subject land that exceeds the floor space ratio shown for the land on the [Floor Space Ratio Map](#) by an amount no greater than—
 - (a) 1.6:1 if the development is for any of the following purposes—
 - (i) commercial premises,
 - (ii) educational establishments,
 - (iii) entertainment facilities,
 - (iv) health services facilities,
 - (v) hotel or motel accommodation,
 - (vi) information and education facilities,
 - (vii) light industries, or
 - (b) 1:1 if the development is for the purpose of boarding houses used for student accommodation.
- (4) The amount of floor space granted that exceeds the floor space ratio only applies to the part of the building used for a purpose specified in subclause (3).

- (5) The reference to the floor space ratio shown for the land on the [Floor Space Ratio Map](#) in clause 6.21(7)(b)(i) is taken, in its application to a building on the subject land, to be a reference to the floor space ratio that includes an amount exceeding the floor space ratio granted in accordance with subclause (3).
- (6) For the purpose of this clause, floor space below ground level of Broadway along the frontage of the site may be excluded from the calculation of gross floor area.
- (7) Development consent must not be granted under subclause (3) for development that results in a mixed use development that includes residential accommodation other than a boarding house.
- (8) Before granting consent to development under subclause (3), the consent authority is to consider whether the development promotes uses that attract pedestrian traffic along ground floor street frontages on Grose Street, Glebe.
- (9) Development promotes uses that attract pedestrian traffic under subclause (8) if, after the erection of a building, or the change of use of a building—
- (a) all premises on the ground floor of the building that face the street will be used for the purposes of business premises or retail premises, and
 - (b) the premises will have active street frontages.
- (10) Subclause (8) does not apply for any part of a building to be used for any of the following—
- (a) entrances and lobbies (including as part of mixed use development),
 - (b) access for fire services,
 - (c) vehicular access.
- (11) The consent authority must not grant consent to development under subclause (3) for the purposes of commercial premises or hotel or motel accommodation, unless it is satisfied that appropriate measures will be taken to ensure the development is capable of achieving—
- (a) for commercial premises—a 5.5 star NABERS Energy rating, or
 - (b) for hotel or motel accommodation—a 4.5 star NABERS Energy rating.
- (12) In this clause—
- NABERS Energy rating*** (also known as the National Australian Built Environment Rating System Energy rating) means a star rating for the environmental performance of a building, given in accordance with the national rating system that determines building performance for the purpose of the [Building Energy Efficiency Disclosure Act 2010](#) of the Commonwealth.

Attachment 2: Extract of City of Sydney Planning Proposal 225 – 279 Broadway, Glebe – Amendment to Sydney Local Environmental Plan 2012, Item 6 - Traffic, Heritage and Planning Committee, 12 August 2019

The floor space incentive will enable approximately 4:1 to be achieved consistently within the proposed height control and across all lots in the block inclusive of any other bonuses, such as up to 10 per cent design excellence, that may be awarded. The FSR is based on urban design testing and exclude any floor space below the level of Parramatta Road to accommodate changing levels. The incentive for boarding houses is less because a 20 per cent bonus is possible under the NSW Government's State Environmental Planning Policy (Affordable Rental Housing) 2009. Given the location, it is considered appropriate that any boarding house use be reserved exclusively for the purposes of student accommodation. The floor space incentive will only be awarded where the development meets relevant sustainability targets and the proposal has considered the activation of Grose Street. The total floor space ratio achievable is shown in the table below.

Proposed Floor Space Ratio Controls

Land use	Current FSR	Proposed Bonus	Affordable Housing SEPP	Design Excellence	Total
<i>Commercial, hotel, education, health, light industry, entertainment</i>	2	1.6	N/A	10%	3.96
<i>Boarding House</i>	2:1	1	20%	10%	3.96
<i>Residential</i>	2	N/A	N/A	10%	2.2

Enquiries Alex Adkins
Our Ref Housing Diversity SEPP Submission
 Cooma Office
Your Ref Housing Diversity SEPP EIE

9 September 2020

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

Dear Sir/Madam

Housing Diversity SEPP - Explanation of Intended Effect

Thank you for an opportunity to comment on the proposed housing diversity SEPP explanation of intended effect (EIE). Snowy Monaro Regional Council is a rural Council that experiences significant housing pressures related to tourism, seasonal workers and proximity to Canberra. Councils Strategy Development unit has reviewed this document and has provided the following comments.

The general rationalisation and consolidation of State Environmental Planning Policies are supported. The housing diversity SEPP is seeking to consolidate the Affordable Rental Housing, Affordable Housing (Revised Scheme) and Housing for Seniors and people with a disability SEPPs. The consolidation of these SEPPs is supported and provides a long-overdue opportunity to evaluate their performance and provide much-needed changes to address a lack of housing affordability and diversity in NSW.

The EIE seeks to examine the potential introduction of three new land use definitions and proposes amending the land use definition of boarding houses. The three new land-use terms offered are Build-to-rent housing, Purpose-built student housing and Co-living (new generation boarding houses). It is considered unlikely that student housing would be a suitable land use definition to include in land use zones throughout the Snowy Monaro due to a lack of large scale educational establishments. This may need to be reviewed following the completion of the Snowy Mountains SAP Masterplanning Process.

Build to rent housing proposes a definition in which dwellings are held in single ownership. It is not clear how the land use is different from a 'residential flat building' or 'multi-dwelling housing' other than the properties tenure. Ability to regulate the strata subdivision has been an ongoing challenge in the NSW Planning System and land uses and land use zones would benefit from the flexibility in local planning instruments to regulate when strata subdivision can occur.

SMRC agrees that BTR definition would have to be different for regional areas as a minimum of 50 dwellings is unlikely to be a scale of development seen in rural towns across the state. In the regions, we suspect that build to rent would look like terrace houses, multi-dwelling housing or small scale apartment/unit buildings of at least four dwellings. It is considered that this smaller-scale BTR development could be complying

development if consistent with low rise housing diversity code in the complying development SEPP.

Appropriate incentives should also be considered for BTR for developers to develop BTR rather than traditional RFB's which are then strata titled. Incentives should be considered from an all of government approach rather than just land-use planning, such as current land tax incentives available. SMRC is supportive of the potential use of BTR in zone B3 Commercial Centre; however, further information would be required as to how strata subdivision can be prohibited in perpetuity.

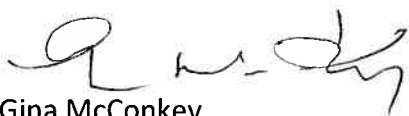
Co-living land use definition raises both concern and opportunity for the Snowy Monaro Region. The concern centres on the potential illegal use of this type of development for STRA and the compliance burden this will place on Council, this is particularly of concern in high tourism areas such as Jindabyne. However, if compliance issues were overcome, and this land use is appropriately implemented, it could be used to address housing supply issues for seasonal workers.

The amendment to the definitions of boarding houses is supported; this will provide a clear avenue for CHPs to deliver a diverse range of affordable rental housing options. It is noted that the EIE proposes changing the definition of 'accessible area' outside of the Sydney Region to include the definition for the Sydney Region. The 400 meters from land zone B2 Local Centre should still apply along with land within 800 meters of zone B3 Commercial Core.

The EIE proposes creating a complying development avenue for Secondary dwellings in rural zones, noting that Councils can prohibit Secondary Dwellings in rural zones if the land use is not supported/suitable. There should be a requirement to locate the secondary dwelling in rural areas within a certain distance of the primary dwelling (e.g. within at least 800m) and access to the secondary dwelling must be via the same lawful access as the principal dwellings. These two additional controls will solve several issues regarding access and sterilisation of primary production land.

Should you have any queries regarding this submission, please contact Council's Strategy Development Unit on (02) 6455 1907.

Yours faithfully



Gina McConkey

Coordinator Strategy Development

09 September 2020

Housing Policy Team
Department of Planning, Industry & Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2124

RE: PROPOSED HOUSING DIVERSITY SEPP SUBMISSION

We have recently been made aware of the proposed amendments to the boarding house and co-living controls in the form of a new Housing Diversity SEPP housing. We have expertise in this housing typology, having undertaken a number of recent boarding house and co-living projects.

We are concerned with the proposed amendments outlined in the recent Explanation of Intended Effect, in particular to the co-living and boarding houses sectors. We fear that the policy recommendations will disincentivise developers to invest in this sector and result in a reduction of housing diversity, the opposite of the intended outcome.

This building typology currently serves the community by providing an affordable and more flexible alternative to a standard rental property and bridges the gap between a more expensive, long term lease and the public /affordable housing sector. By taking away the

FSR bonus for co-living developments (and only allowing this for properties managed by a registered not-for-profit community housing provider) developers will not be motivated to invest in this market, reducing the pool of properties available, impacting affordability and forcing a larger proportion of the community either into affordable/social housing or into the boutique co-living market, polarising the sector and significantly affecting the middle tier of properties.

This issue will be further exacerbated by the proposed increase in room sizes for co-living spaces from 12-25sq.m to 30-35sq.m. Developers will not only face diminished incentives to develop in the non-affordable sector due to the removal of the FSR bonus but also be forced into providing a more expensive offering to tenants due to the requirement to provide a larger physically sized product, squeezing the lower stratum of tenants out of the market.

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We have undertaken a short study of the implications of the proposed amendments on 3 of our more recent co-living projects which clearly illustrates the implications on affordability - room rentals would have to rise substantially (approximately 30-43%) to maintain project returns on investment and feasibility.

	Current Controls	Proposed Amendments
Project 1		
Site Area	386.3 sq.m	386.3 sq.m
FSR control	2.5:1	2:1
Permissible GFA	966 sq.m	773 sq.m
Number of rooms	25 rooms	19 rooms
Size of rooms	17-25 sq.m	30-35 sq.m
Required weekly rent return - current controls	\$350 /room	
Required weekly rent return for development	\$8,750	
Required weekly rent return- amended controls		\$460 /room
Increase in weekly rental cost		31.4%
Project 2		
Site Area	2,070 sq.m	2,070 sq.m
FSR	3:1 & 4.5:1	3:1 & 4.5:1
GFA for residential component	3,856.5 sq.m	3,501 sq.m
Number of rooms	103 rooms	77 rooms
Size of rooms	25-30 sq.m	30-35 sq.m
Required weekly rent return - current controls	\$400 /room	
Required weekly rent return for development	\$41,200	
Required weekly rent return- amended controls		\$570 /room
Increase in weekly rental cost		42.5%
Project 3		
Site Area	3,467 sq.m	3,467 sq.m
FSR	2.5:1	2:1
Permissible GFA	8,668 sq.m	6,934 sq.m
Number of rooms	300 rooms	145 rooms
Size of rooms	15-25 sq.m	30-35 sq.m
Required weekly rent return - current controls	\$450 /room	
Required weekly rent return for development	\$135,000	
Required weekly rent return- amended controls		\$625 /room
Increase in weekly rental cost		38.9%

TABLE 1
Impact of Proposed Amendments to Co-Living & Boarding Houses on Rental Return

The table above clearly illustrates that either the affordability of coliving properties will suffer or the housing stock will not be available because developers will not invest in the market given the reduction in incentives.

We support the goal of increased housing diversity however our knowledge of the market and investors who drive this type development suggests that the proposed policy in practice will have the opposite effect. It will reduce housing opportunities, increase inequity and ultimately burden the affordable housing market.

We oppose the current recommendations of the Housing Diversity SEPP and suggest additional consultation be undertaken with a larger sphere of stakeholders including architects, planners and developers.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'V. Squillace', with a stylized, fluid script.

Vince Squillace
Director



10 September 2020

Department of Planning Industry and Environment

Submitted via email to

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

To whom it may concern

Re: Submission to the proposed Housing Diversity SEPP – Explanation of Intended Effect

Thank you for the opportunity to make a submission to the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) Explanation of Intended Effect and agreeing to our request for a short extension to 10 September 2020, for SSROC to provide our feedback.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.7 million, one third of the population of Sydney. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

SSROC population and housing data¹, in the period from 2011 to 2016, reveals a very diverse socio-economic area marked by rapidly rising numbers of dwellings and underlying growth in the number of households in the area. The estimated resident population increased by over 150,000 during this five year census period.

As our area underwent rapid densification, it has increasingly been characterised by mounting numbers of households renting privately, many of whom continue to experience high rental stress. Analysis of weekly rental payments of households in the SSROC region show a larger proportion of households paying high rental payments (\$450 per week or more), and a smaller proportion of households with low rental payments (less than \$250 per week) when compared to Greater Sydney.

Many of the live issues and forces that aim to be addressed by the proposed SEPP are currently impacting the councils and their communities in SSROC.

¹ Source: Australian Bureau of Statistics, Census of population and Housing 2011 and 2016, compiled by id
<https://profile.id.com.au/ssroc/>

Background

The Housing Diversity SEPP (HDSEPP) aims to consolidate the following three existing SEPPs:

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

SSROC welcomes the opportunity to make a constructive contribution to the exhibition of the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) Explanation of Intended Effect (EIE) and has the following comments and feedback on the EIE.

SSROC has advocated extensively for amendments to the ARHSEPP, pointing out key flaws in this instrument that prevented it from being used in the way it was intended.

Overview of the submission

This submission is organised in three sections:

1. General Comments
2. A detailed discussion about Affordable Housing provision;
3. The significant new changes that are planned and were not in the previous SEPPs.

Each of these sections will focus on the more significant changes being proposed as relevant to SSROC. This submission makes a number of recommendations along with supporting rationales.

1.0 General Comments

SSROC welcomes the proposal to consolidate the SEPPs.

However, the EIE makes the assumption that the consolidation of the affordable housing SEPPs will be a straight-forward process. SSROC fundamentally questions this assumption, based on research commissioned by SSROC, and makes a number of recommendations to improve the policy and its outcomes for communities and businesses.

The consolidation of the three SEPPs provides an important opportunity to a shift to a more principles-based approach that provides clearer intent, flexibility as well as policy certainty for diverse and affordable housing types. Adopting a clear conceptual framework should be considered instead of simply consolidating the three SEPPs and the addition of new provisions.

However, the proposed additions are generally positive and supported – with some important provisos particularly about the treatment of Build To Rent.

1.1 NSW Housing Strategy

SSROC strongly welcomes the Government's commitment to develop a NSW Housing Strategy and its use as a strategic frame for positioning the Housing Diversity SEPP.

The Government's Discussion Paper flags a broad and inclusive vision² for the role housing needs to play in NSW, to help provide ...

"Housing that supports security, comfort and choice for all people at all stages of their lives, achieved through supply that meets the demand for diverse, affordable and resilient housing and responds to environmental, cultural, social and economic contexts."

An obvious constraint, however, is that there is not yet a NSW Housing Strategy, only a consultation Discussion Paper, with some key Housing themes and possible directions indicated. At the time of writing, there are no new adopted housing strategies and related actions to align and compare with the new SEPP and the EIE.

As a consequence, our and other stakeholders' comments are necessarily preliminary and conditional on unrealised assumptions. Good consultation practice suggests that the draft 'Housing Diversity' SEPP is consulted upon once the NSW Housing Strategy has been adopted, or, the Strategy is at least provided for public consultation.

1.2 Housing Diversity

The market is a primary mechanism for delivering housing diversity, responding to the demands of diverse consumers' and investors' needs supplying housing products and services that respond to different households' income, savings and borrowing capacity. Essentially the property industry provides a multiplicity housing choices of different building types and locations, across different tenures, at a variety of price points that people are prepared to pay and trade-offs.

The state and local planning system has evolved to support and facilitate this outcome to meet the housing needs of a growing population while protecting existing community and individual interests and rights.

As a state government intervention, the Housing Diversity SEPP should seek to facilitate more and improved housing choices through the planning system, to meet identified gaps and respond to opportunities in both market and non-market housing as well as address market failure and market 'blind spots'.

The new SEPP should seek to complement rather duplicate the housing diversity that the housing industry and local planning is delivering successfully. This is to enable a better and broader mix of housing choices in keeping with the goal of everyone being able to access the benefits of stable housing.

The provision of affordable and social housing is a critical and essential part of delivering housing diversity for those at the lower end of the income scale. These households often cannot effectively meet their housing needs in the housing market because of financial hardship from rental stress and tenancy insecurity.

The NSW Housing Strategy Discussion Paper also highlighted that a mix of dwelling configurations as well as housing types will be needed to effectively provide more appropriate housing diversity. Ensuring an adequate number of large apartments is important for accommodating families in apartments. There are probably too many 2-bed (investor grade) apartments. Similarly challenging is ensuring sufficient new dwellings meeting universal design standards so that we can successfully house our growing ageing population. It is unclear whether (and how) these needs for a more diverse housing mix will be addressed in the new SEPP.

² NSW Government, *Discussion Paper, A Housing Strategy for NSW* May 2020, page 10.

1.3 Changing role and structure of SEPPs

In a well-ordered planning system, the strategic plans adopted by Government should have primacy over SEPPs. SEPPs should then follow through on these strategic directions and help to deliver their outcomes.

As a general rule, if Councils are undertaking their planning responsibilities effectively, the need for SEPPs should diminish dramatically over time. The adoption by the NSW Government of a strong coherent, integrated, strategic planning approach (e.g. through Greater Sydney District Plans) will create coherent positive local council policy and planning alignments (e.g. through Local Environmental Plans and Local Housing Strategies) that are sensitive to their contexts. This will greatly reduce the need and case for retaining a SEPP, and promote more local flexibility and enrich diversity based on outcomes and evidence.

A shift to a principles -based SEPP that is also supported by clear planning provisions and key minimum standards is welcomed as it will drive better planning practice and enable more flexibility to suit different local contexts. It could also create room for a local council to be deemed to comply and be granted approval to opt out of a SEPP, where it can demonstrate that the objectives of a SEPP and its planning provisions are being satisfied through a local council's adopted planning instruments.

It is of concern that the proposed consolidation of the SEPPs noted in EIE may not adequately consider a number of the current inconsistencies and gaps that will persist or emerge if the planning instruments are simply brought together into one, without further changes. Harmonisation of the SEPPs needs to acknowledge and address these gaps. The inclusion of a new set of integrated planning principles to inform and support specific provisions could go a long way to addressing this issue.

2.0 Affordable Housing

2.1 Background

Over a three-year period SSROC commissioned the City Futures Research Centre, UNSW to research the effectiveness of the Affordable Rental Housing (ARH) State Environmental Planning Policy (SEPP) in delivering affordable housing in the Eastern City and South Districts:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP) in Southern and Central Sydney, June 2018, <https://cityfutures.be.unsw.edu.au/research/projects/affordable-housing-sepp-and-southern-sydney/>
- Occupant Survey of recent Boarding House Developments in Central and Southern Sydney, June 2019, <https://cityfutures.be.unsw.edu.au/research/projects/boarding-houses-central-and-southern-sydney/>
- Secondary Dwellings in Central and Southern Sydney, May 2020, <https://ssroc.nsw.gov.au/occupancy-survey-of-residents-living-in-secondary-dwellings/>

This research uncovered a number of issues and gaps between planning intention and outcomes: most notably the low levels of affordable rental housing that is actually being provided under the

planning instrument. The research found that boarding houses and secondary dwellings are providing forms of lower cost housing but are not providing affordable housing outcomes for low and very low income households in inner city and middle ring areas. Notably the research shows that diverse supply does not necessarily lead to more affordable housing.

Housing unaffordability remains an outstanding and increasing problem, disrupting the policy goal of providing appropriate housing for everyone. Accordingly, SSROC makes a number of recommendations to improve the new SEPP, specific to the provision of affordable housing.

Affordable Housing Recommendations

Recommendation 2.1.1

The Housing Diversity SEPP be renamed the Diversity and Affordable Housing SEPP

Rationale for change

- Housing affordability is the most limiting choice many NSW households face. It can powerfully exclude many from living securely in locations and in ways that are most appropriate to a household, productive for the economy and conducive for a household's well-being.
- The proposed planning instrument is combining two existing SEPPs focussed on primarily housing affordability and affordable housing in particular. Conceptually it is completely fitting and appropriate that the new SEPP retains 'Affordable Housing' (or similar) within its title.
- Based on any analysis of the built housing of our cities and regions, housing affordability is a principal point of market failure necessitating the Government's intervention in the planning system through a state environmental planning policy (SEPP). Private market housing in NSW and particularly Sydney is recognised over decades as being some of the most unaffordable in the world. Supplying housing that is affordable is just as, or perhaps more, critical to realising the goal of delivering housing for everyone as providing housing diversity.
- The delivery of Affordable Housing forms a key object of the Environmental Planning and Assessment Act (1.3 (d))³ as well as a critical liveability outcome that aligns with the NSW Government's policy shift to outcomes-based programs. Referencing affordable housing also provides a better and more accurate alignment to the NSW Government's Greater Sydney Region Plan's strategic objective 11: that *Housing is more affordable and diverse*.
- The NSW Housing Strategy Discussion Paper similarly has recognised diversity and affordability as two distinct themes to inform strategies and actions:
 - Diverse housing for diverse needs
 - Housing that is more affordable.

³ Environmental Planning and Assessment Act 1979 No 23, Part 1.3, Objects of the Act 1 (d) 'to promote the delivery and maintenance of affordable housing'. The Act states that '**affordable housing** means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.'

- Housing affordability is paramount to people's success at housing transitions and changing life stages. A range of housing choices, including affordable rental housing reduces the need for people to go into social housing or residential care and also supports a pathway for people to move out of social housing. It provides a housing context where households can save a deposit for home purchase.
- As the COVID-19 situation continues to evolve, the wellbeing of vulnerable people on JobKeeper and JobSeeker living in insecure rental housing remains priority.
- Housing affordability should form an important dimension or layer across the spectrum of diverse housing forms and types. The adoption of both a housing affordability goal and the delivery of affordable rental housing as guiding principles for shaping the new SEPP will help to ensure our communities are more inclusive and socially cohesive places to live.
- Diversity by itself, is a means to an end for giving people appropriate housing choices.
- Providing diversity without housing affordability is a cruel hoax for half the population on household incomes less than the median, if the diversity is unattainable.
- The supply of affordable rental housing is critical to delivering meaningful outcomes for communities and ensuring housing is affordable for those households in housing rental stress.

Recommendation 2.1.2

The new SEPP incorporate a set of principles which seek to guide the growth of diverse housing affordability outcomes for very low, low and moderate-income households, in accordance with a system-wide policy shift⁴ to redesign all NSW State Environmental Planning Policies to be principles-based.

Rationale for change

- The principles would seek to shape an integrated and coherent suite of policy settings for growing both diverse and affordable housing and then apply them consistently to different housing types, housing management and use change requirements across tenures and housing forms focused on ensuring these housing outcomes continue to be delivered over time. The principles would inform the application of specific provisions and requirements.
- The principles should recognise the need for market and policy interventions to facilitate more affordable housing options across diverse ways of living, different household types and population cohorts:
 - Families
 - Singles
 - Students
 - Singles
 - Seniors.

⁴ As outlined by Minister Stokes on 25 August 2020 during a Committee for Sydney webinar entitled *The Future of Housing Diversity with the Hon. Rob Stokes MP* <https://sydney.org.au/committee-for-sydney-live-event/webinars/the-future-of-housing-diversity-with-the-hon-rob-stokes-mp/>

- Clearly without these policy interventions affordable housing will not be provided by the market nor by many government bodies (such as Transport and Education) tasked with other service outcomes with sufficient amounts of supply to meet our growing population's housing needs.
- The prime focus should be on subsidised and private market rental housing where most of these target households will be found. It should also include provision for affordable home ownership, while noting that this cohort is generally in stronger financial circumstances than those eligible for affordable rental housing.

Draft Guiding principles for optimising Affordable Rental Housing supply

Principle 1 A key focus on affordable rental housing in the SEPP

Provide a conceptual framework for affordable housing, that clearly distinguishes between goals to improve housing affordability for the whole community and growing affordable rental housing as a distinct housing management type for eligible lower and moderate-income households.

Principle 2 Preserving affordable housing and recycling scarce housing subsidies and planning contributions

Government and developer subsidies, planning bonuses and past sunk investment in social and affordable housing is protected and preserved for their affordable housing purpose while enabling the housing's built-forms and density to change and be renewed over time.

- This principle reflects the growing and enduring need for affordable and social housing and the current inadequate level of affordable housing provision.
- Levies from private developers and public subsidies should be preserved, especially when there is a change of use and or redevelopment.
- Accordingly, the proposed update of the provisions of Part 3 to ensure that councils can mitigate the loss of affordable housing by levying monetary contributions is strongly supported.
- Affordable housing should be long term, wherever possible, and contributions secured permanently and in perpetuity. The housing affordability problem is long term and growing. Affordable housing tenants should not be displaced because of insecure tenure or ownership as occurs with time limited affordable housing programs such as currently occurs under the ARHSEPP.
- The NSW registration legislation⁵ governing the regulation of community housing providers needs to be amended to protect and preserve affordable housing subsidies derived from the NSW planning system. Alternatively, this outcome should be achieved through a standard contractual instrument for use by local councils and Government.

⁵ National Regulatory System for Community Housing (NRSCH)

- If affordable housing is converted to private housing or other planning uses, an additional financial contribution should be made to an affordable housing contribution fund to capture and preserve the public value of previous planning concessions.

Principle 3 Government agencies to contribute more than private developers

The rezoning and redevelopment of Government land should as the general rule lead to the contribution of land and/or a financial affordable housing contribution towards affordable housing provision in line with the NSW Government's strategic commitment to promoting mixed tenure, inclusive communities.

- Government investment in social and affordable housing needs to lead, complement and exceed the financial levies and contributions made by the private sector undertaking redevelopments. Housing provision for those in need remains a key Government responsibility and accountability.
- Established affordable housing targets of 5–10 per cent for housing in private developments, where viable in areas of uplift, as established in District Plans should be exceeded in developments on Government owned land. The targets set for private developments should not be applied, as the Government is not constrained by the same commercial viability constraints and imperatives to provide market returns to private shareholders that apply to private developers.
- Accordingly, a minimum 15% affordable housing target on large Government owned sites should apply. A higher minimum 20% affordable housing target (in addition to social housing) should apply to land owned by the NSW Land and Housing Corporation, that will involve mixed tenure redevelopments.

Principle 4 Mandating community housing management for public confidence in outcomes

The delivery of an assured affordable housing outcome is protected over time by prescribing the use of a registered and regulated community housing provider operating under the National Regulatory System for Community Housing to manage affordable housing that is facilitated and supported by the NSW planning system.

- The National Regulatory System for Community Housing⁶ aims to ensure a well governed, well managed and viable community housing sector that meets the housing needs of tenants and provides assurance for government and investors.
- This regulatory approach operating in NSW will help to ensure eligible applicants have transparent and fair access to available vacancies, and that tenants only pay agreed affordable rents and receive appropriate tenancy rights and protections.
- Accordingly, the proposed new SEPP definition for a boarding house being a building 'managed by a registered not-for-profit community housing provider' is strongly supported.

⁶ <https://www.nrsch.gov.au>

- The National Regulatory System for Community Housing (NRSCH) is outcomes based and enables for-profit housing providers⁷ to also register, subject to them complying with the community housing registration standards.

Principle 5 Facilitating private finance to accelerate and expand the growth of affordable housing supply

The policy settings for the use of Affordable Housing developer contributions and planning bonuses be designed to enable the attraction of additional resources and funds to increase and significantly expand the supply of affordable rental housing

- In light of an enormous, chronic shortage of affordable housing⁸, the EIE is an important opportunity to promote and enable new ways to collaborate to deliver better affordable housing outcomes by leveraging low-risk finance and partnering.
- The National Housing Finance and Investment Corporation (NHFIC) provides low cost, long-term loans to registered community housing providers (CHPs) to support the provision of more social and affordable housing. NHFIC is a corporate Commonwealth entity dedicated to improving housing outcomes, with a particular focus on affordable housing. Loans are structured to be supported by affordable tenant rents.

Potentially the use of low-cost private finance can be used to grow the supply of affordable and social housing by mixing borrowings with affordable housing contribution grants.

Recommendation 2.1.3

Take the opportunity to consolidate, harmonise, improve and then transition the affordable housing provisions currently in the ARH SEPP and SEPP 70 (and relevant provisions in the Seniors SEPP) into a single, new coherent SEPP to strengthen the provisions for delivering more affordable housing opportunities.

SSROC would welcome a more holistic review. As a minimum, the new SEPP should include provisions that provide more stability and certainty:

- A simple, consistent policy approach that is straight forward, transparent and fair for communities, councils and developers
- Clarity around the need and goal of providing long term affordable housing outcomes for sub-regional and local housing markets

⁷ the NRSCH allows for the registration of for-profit providers
http://www.nrsch.gov.au/__data/assets/pdf_file/0009/644760/NRSCH-Review-Discussion-Paper.pdf

⁸ According to the City Futures Research Centre, in 2019 the social and affordable housing shortfall in NSW was estimated to be 137,100 and 79,400 units respectively. The research also projected an additional 76,100 social housing and 24,100 affordable housing units will be needed by 2036, bringing the combined housing shortfall in NSW to 316,700.

Troy, L., van den Nouwelant, R. & Randolph, B. 2019. 'Estimating need and costs of a social and affordable housing delivery', City Futures Research Centre, UNSW Built Environment, UNSW Sydney.

- Early determination of affordable housing contribution areas and contribution requirements prior to making rezoning decisions
- Confidence in operational outcomes through a regulated provider (registered community housing providers) and more rigorous monitoring.

Rationale for change

- The harmonisation and simplification of requirements is an urgent policy priority given the large and growing gap between affordable housing supply and unmet demand. Currently low and moderate-income private renters remain under real financial strain and their private rental housing at risk. This is because many people are now in insecure work arrangements (such as JobKeeper and JobSeeker) and the tenancy moratorium on evictions that is soon ending, as Australia reels from the sharpest economic shock since 1930s.
- Under a simple consolidation approach that is implied by the EIE, various land use planning rules about affordable housing will be brought together into a single document. An exact repetition of the current settings of the two affordable housing SEPPs is likely to result in an approach to affordable housing provision that is disjointed, inadequate⁹, inexplicable to the general public, and inconsistently connected to both housing need and those locations suitable for providing affordable housing. In addition it is likely to be frustrating and confusing for developers.
- The research SSROC commissioned into the ARH SEPP has shown very little affordable housing has been delivered over the last decade of this SEPP's implementation.
- The progressive adoption of local affordable housing contribution schemes (SEPP 70 provisions) will occur side by side to land with no such contribution requirements, adjacent sites with Voluntary Planning Agreements producing time limited infill affordable housing and other sites involving the loss of low-cost accommodation requiring a monetary contribution.
- In many urban locations, such a planning instrument is likely to give rise to a rather confusing patchwork or 'crazy paving' of planning rules and affordable housing contribution requirements that are difficult to predict, often changing and likely to provide a major source of disputation between councils and developers.
- This patchwork pattern will be ever shifting. Affordable housing requirements will be continuously changing due to:
 - new transport infrastructure announcements and related up zonings that follow;
 - the feasibility of private developments in location specific affordable housing schemes that will fluctuate in a dynamic housing market;

⁹ The current SEPP 70 Affordable Housing Contributions Scheme system, as outlined in the NSW Government Guideline, limits contributions to affordable housing equivalent to a nominated percentage of floorspace (i.e. 5-10% dependent on viability) only in areas where up-zoning occurs. They are therefore only a partial mechanism for affordable housing and is not likely to be established in many regional areas where rezonings will be limited.

- an individual council's ability to introduce and gain approval for a new affordable housing contribution area in a timely way. This timing is already highly unpredictable, despite the provision of a DPIE guide;
 - the opportunities and the continued willingness of developers to enter into Voluntary Planning Agreements to deliver infill affordable housing through floor space bonuses;
 - the type of new housing proposed (e.g. boarding house); and,
 - a council's housing policy requiring contributions for the loss of low-cost housing in an area.
- On the other hand, some major developments displacing significant numbers of low-income renters will generate intense demand for affordable housing. However, these may have no affordable housing requirements.
 - Under these site/location-specific mechanisms, adjacent sites may require significant affordable housing contributions on one side and its neighbouring site requiring no affordable housing contributions to be made.
 - This situation will also make it very difficult for councils to align and deliver their Local Housing Strategies and to concertededly increase the supply affordable housing locally, especially when a large proportion of the affordable housing supply provisions will expire after 10 years - leading to the dwellings moving back into the private housing market.
 - This baffling complexity would be the opposite to a simple, streamlined, inexpensive rationale planning process for councils, communities and developers and consultants. Frankly such a model is indefensible when one takes a regional perspective. It defies a logical explanation when put in the context of the Government consolidating the existing affordable housing measures.

Opportunity for Improving the Policy Settings

- There is an opportunity to adopt a more coherent strategy that enables a transition to a simpler, more predictable and well-integrated affordable housing schemes, like the one that which applies a relatively low charge simply to most developments over a certain threshold in key parts of the City of Sydney, as applies in Pyrmont Ultimo and Green Square. These inclusionary zoning schemes have proven to be effective and resilient over time in a range of market conditions.
- Alternatively, Affordable Housing Contribution schemes could be broadened and consolidated into a single, comprehensively applied system of value capture through the implementation of Development Licence Fees or a betterment levy.¹⁰
- In light of the many detrimental impacts that are present in the current arrangements, it is recommended that these schemas should be actively investigated, as part of the making the new SEPP, or failing that, be committed to in a review of the policy settings, to then feed into the new SEPP's formal review set for two-years' time.

¹⁰ SGS Occasional Paper, Value Capture through development licence fees, February 2017, Marcus Spiller, Andrew Spencer, Patrick Fensham

Recommendation 2.1.4

Introduce an accountability and compliance regime administered by the Department to monitor affordable housing supply arising from the planning system to ensure improved compliance.

- While the affordable housing rental subsidies created by offering below market rents are significant (thousands of dollars per year per household), there is very little accountability for these housing outcomes.
- There is no central, searchable record of affordable housing supply and related planning conditions. There is no capacity for systematic and routine reporting.
- Potentially key parts of this regime could be achieved at limited cost, as part of the NSW Government's e-planning reforms (Construct NSW) and the use of the Planning Portal to digitally record all affordable housing supply obligations along with other building compliance matters and approved design and as built plans.
- This record should also capture the current housing organisation managing the affordable housing and responsible for ensuring that what is being delivered is actually meeting a genuine affordable housing need.
- A digital affordable housing monitor published annually could promote stronger compliance and provide reporting to the public that informed communities, assisted councils to plan, and helped people seeking affordable housing to find it.

3.0 Proposed New SEPP Changes

3.1 Affordable Rental Housing SEPP

Reducing the FSR bonus incentive for providing affordable housing from 0.5:1 increase to a 20% increase.

Proposed change

Currently, clause 29 of the ARHSEPP includes a floor space ratio (FSR) bonus on land within a zone in which residential flat buildings are permitted of:

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

It should be noted that the bonus only applies in zones where residential flat buildings are permissible.

Rationale for change

In the case of an existing maximum FSR of 2.5:1 or less, when the existing FSR is low, for example 0.5:1, the 0.5:1 bonus effectively doubles the allowable FSR and can contribute to excessive bulk and scale of boarding house development. For example, in an R3 zone where residential flat buildings are permissible with an existing maximum 0.7:1 FSR, the current bonus would allow boarding house development to have an FSR of 1.2:1, which is significantly higher than that of other development.

SSROC position

Support this proposed change. The existing ARHSEPP is not effectively delivering affordable rental housing (even with 0.5 FSR bonus and reduced parking) and this new SEPP does not appear to go far enough in remedying these issues.

Capping this bonus to 20% will ensure developments remain sensitive to the surrounding context whilst still providing an affordable housing option. However, if a boarding house is proposed to be developed by a Community Housing Provider (CHP) for the purposes of 100% affordable housing (in perpetuity), then the DPIE could consider whether a 0.5:1 FSR bonus would be appropriate in this circumstance; albeit subject to it being consistent with the prevailing character and density of the surrounding area.

3.2 Boarding houses will not be mandated in the R2 Low Density Residential zone

Proposed change

Boarding houses are currently mandated in the R2 Low Density Residential zone. It is now proposed that boarding houses will not be mandated within the R2 zone.

It is proposed that provisions will be included in the new SEPP to ensure NSW Land and Housing Corporation (LAHC) will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. Where boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply.

Rationale for change

Some councils and communities consider that boarding houses are fundamentally incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. In February 2019, in response to these concerns, the ARHSEPP was amended so boarding houses are limited to a maximum of 12 boarding rooms per site within the R2 zone to better reflect the scale and built form of the surrounding area. The DPIE has gone one step further and is no longer mandating them as a permissible use in the R2 zone.

SSROC position

SSROC supports the proposed change to allow Councils to decide the permissibility of boarding houses in the R2 zone. This will allow Councils to determine if boarding house developments are suitable within the existing context in the R2 zones.

In relation to LAHC developments being permissible in the R2 zone, SSROC would not support any development that could contravene the objectives of this zone. However, given the significant need for new social and affordable housing stock, this proposal may be acceptable as long as there were sufficient safeguards ensuring new development would be in keeping with the context of the surrounding area.

3.3 Boarding houses will now have to provide affordable housing as a requirement

Proposed change

The NSW Government is proposing to change the 'boarding house' definition to require this product to be affordable housing and be managed by a registered not-for-profit CHP.

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.

Rationale for change

Since the introduction of the ARHSEPP, councils and communities have raised concerns about the boarding house provisions in the ARHSEPP. Key community and council concerns have centred around the lack of affordability of boarding house rooms; the use of the boarding house provisions to develop student housing; the excessive scale and bulk of some boarding house developments; the compatibility of boarding house development with low-density residential areas; and the clustering of boarding house development in certain areas.

SSROC position

SSROC supports the proposed changes to the definition of boarding houses to include the requirement that boarding house rooms be affordable. SSROC funded studies on the ARHSEPP, found that boarding houses were not providing an affordable housing product for their target group. The report found that 'new generation' boarding houses have no requirement to be let as affordable housing and are often charged at market or above market rates for similar sized residential products; particularly on a dollar per square metre basis.

SSROC considers that providing affordable boarding house rooms for a period of only 10 years is an inadequate solution to the long-term affordable housing supply problem. After the 10 years period these rooms would revert to market rates and as such the supply of affordable housing in an LGA would decrease and the boarders displaced.

However, if the DPIE decides to pursue a 10-year quarantining of rents before reverting to market rate rentals, then the DPIE could consider a two-tier system:

- 10-year affordable rate boarding houses with a 20% FSR bonus and an affordable housing contribution being paid at its conversion to market rates, or
- boarding houses affordable in perpetuity, managed by a CHP with access to an 0.5:1 FSR bonus.

3.4 'Student Housing' will be a new LEP definition so that developers can no longer use boarding houses primarily for student accommodation. Student accommodation will not get a bonus FSR

Proposed change

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

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

Rationale for change

Under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the ARHSEPP, including their incentives, are used to develop student housing. Councils and communities have raised concerns with the use of boarding house provisions in the ARHSEPP to facilitate student housing developments. The issues raised include the parking rates, compatibility with local character and lack of affordability.

SSROC position

SSROC supports the creation of the 'student housing' land use definition to be added to the Standard Instrument LEP. Further consideration should be given to implementing more controls relating to proximity of the student housing to educational establishments. In order for this housing to be truly beneficial to students it needs to be close to the educational establishment and have good access to public transport. Consideration should also be given to increasing the room size from 10m² to 12-16m² as used in the standards set for boarding houses.

SSROC supports the proposal to develop design guidelines that would further inform this type of development similar to relationship between the Apartment Design Guide and SEPP 65.

It is recommended that student accommodation managed by a registered not-for-profit CHP and let at an affordable rent to low income students have access to an 0.5:1 FSR bonus.

3.5 Removing the January 28, 2000 date for low rental housing analysis and the onus of proving that the dwelling did not contain low-rental housing is on the applicant

Proposed change

Clause 49 of the ARHSEPP states that Part 3 of the ARHSEPP only applies to buildings that were low-rental residential buildings as at 28 January 2000. This date was transferred directly from SEPP 10 – Retention of Low-Cost Rental Accommodation (SEPP 10), when its provisions were rolled into the ARHSEPP in 2009.

It is proposed to amend the provisions by removing the reference to the 28 January 2000 date. The proposed SEPP will instead allow a council to levy monetary contributions to offset the loss of dwellings that were low rental at any time within the 5 years preceding the lodgement of the development application.

The Department is also aware of concerns with the application of Part 3 of the ARHSEPP following a 2016 court case¹¹ which found that the onus of proving that a building contained a low-rental dwelling at the relevant date rests with the local council. To address this concern, it is proposed to clarify in the new SEPP that the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time rests with the applicant.

Rationale for change

Councils and industry groups have advised the Department that some 20 years later, it can be difficult to establish whether a building was a low-rental residential building as at the 28 January 2000 date because rental data from that period is not readily available.

SSROC position

SSROC strongly supports this change as this clause has undermined the purpose of Part 3 of the ARHSEPP and prevents it from operating as intended. Applicants regularly challenge the application of Part 3 'Retention of existing affordable rental housing' and subsequently avoid the payment of affordable housing contributions.

This results in a significant loss of affordable housing contributions at a time when housing affordability generally has emerged as a critical issue of State significance. For example, in 2020

¹¹ Hampstead Home Units Pty Limited v Woollahra Municipal Council [2016] NSWLEC 169

Waverley Council has forgone some \$825,000 in affordable housing contributions due to the issue of the 28 January 2000 date.

Currently funds raised as a result from Part 3 are to generally be sent to the NSW Government. SSROC proposes that the SEPP be revised to allow any contributions levied from Part 3 of the ARHSEPP to be collected by the local council provided they are paid into an affordable housing fund. This would support a place-based approach to planning and ensure that the loss of affordable housing is offset in the affected LGA.

Seniors Housing SEPP

3.6 Application of LEP development standards to prevail over the SEPP development standards

Proposed change

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out despite the provisions of any other environmental planning instrument'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.

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

Rationale for change

A detailed rationale has not been provided by the DPIE; however, it seems that this change is to ensure that any new seniors housing is consistent with the local character of an area.

SSROC position

SSROC supports the proposal to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.

SSROC accepts that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP to a maximum of 20% as long as sufficient justification is provided. However, further clarity around how this variation would relate to a conflict with a Council's development standards needs to be provided.

3.7 Proposal to remove point-to-point transport (taxis, rideshares etc.) from meeting the location and access to facilities requirement of the Seniors Housing SEPP

Proposed change

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

Rationale for change

A detailed rationale has not been provided by the DPIE, but it seems that this change would ensure that new Seniors Housing is located in areas accessible to public transport.

SSROC position

SSROC supports the proposed change as this is not a type of transport option that is cost effective for many seniors when compared with the cost of using public transport with a senior's concession card. This will help to ensure that Seniors Housing is built closer to public transport nodes, services and facilities.

3.8 Site compatibility certificate (SCC) five year validity timeframe

Proposed change

A Site Compatibility Certificate (SCC) is usually valid for 24 months. Once an SCC has been issued, development consent is sought through a development application lodged with the consent authority, which is usually the local council.

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

Rationale for change

Given the time needed to prepare and assess seniors housing proposals, SCCs sometimes expire before a development application has been determined.

SSROC position

SSROC supports the proposed change providing a development application is lodged within 12 months of the approval of the SCC. The NSW Housing Strategy Fact Book (2020) projects that approximately 200,000 people over 65 will need to be accommodated in SSROC (South and Eastern City Districts) in the period 2016-2041. The proposed changes will provide certainty for developers, Council, the community and importantly the populace who will occupy the seniors housing.

3.9 Co-living (new age boarding houses) added as a land use term

Proposed change

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

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

Rationale for change

As with student housing, the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments, otherwise known as 'new generation boarding houses'. These are developments that share many features with traditional boarding houses, such as small private rooms for one or two people and access to communal living areas and other facilities. However, new generation boarding rooms are typically self-contained, with private bathroom and kitchenette facilities. 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 advantaged in the planning system.

SSROC position

SSROC supports the addition of the co-living development term to the Standard Instrument LEP. The new age boarding houses, which have been a popular development in high land value areas such as inner-city areas in recent years, can currently access the bonus FSR incentive under the ARHSEPP with no commitment to providing housing that is affordable to its residents. The boarding house post-occupancy study¹² undertaken by City Futures on behalf of SSROC provides strong evidence for this conclusion and recommends similar policy changes.

Separating this type of development from the traditional boarding house is a positive change as there is a demand for it in the market. It allows boarding houses delivering affordable housing to be clearly distinguished from Co-living accommodation in terms of access to planning bonuses. It will help to ensure subsidies and incentives are used to produce genuine affordable housing outcomes.

3.10 Build-to-rent

Definition and mandating in the B3 Commercial Core Zone

Proposed change

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

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

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. It will also be permitted in R3 Medium Density Residential where residential flat buildings are permitted. Councils could make BTR housing permissible in other land use zones through amendments to their LEPs.

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

BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation.

BTR housing is a different investment product to traditional residential flat buildings. Because it is held in single ownership, it will be much easier for the asset to be recycled at a later date. With this in mind, it is proposed that it would not be possible to strata subdivide a BTR housing development

▪ ¹² Occupant Survey of recent Boarding House Developments in Central and Southern Sydney, June 2019, <https://cityfutures.be.unsw.edu.au/research/projects/boarding-houses-central-and-southern-sydney/>

for the first 15 years and to prohibit subdivision in a B3 –Commercial Core zone, in perpetuity. BTR development would be subject to a 50% land tax discount, as well as other tax concessions that are currently being determined by the NSW and Commonwealth Governments.

Rationale for change

In recognition of the growing need for secure, long term rental options and to support new investment, especially in the recovery phase of COVID-19, the Government is proposing to incentivise the delivery of build-to-rent (BTR) housing through the NSW planning system.

BTR housing is purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector. BTR housing has been an established sector in the United States over several decades. It has also recently experienced rapid growth in the United Kingdom.

According to the DPIE, BTR housing has the potential to provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Increased rental security may also have wider social and economic benefits, with tenants better able to establish themselves in a community.

SSROC position

On inspection, the justification for the creation of this new land use definition in the Standard Instrument LEP appears to be weak. BTR is not a land use planning problem. Arguably there is a taxation issue. BTR is already permissible in key residential and mixed use zones. Institutional owners can develop a residential flat building, with additional amenities and services, and hold the asset rather than sell. Similarly, the only difference between BTR and 'serviced apartments' is that the former requires stays longer than 3 months and the latter less than 3 months. Meriton and other providers have been able to develop serviced apartment towers across Sydney without subsidy.

Notwithstanding the above reservations, SSROC does not have strong objections to the creation of this new defined land use. However, SSROC objects to the detail around some of the key policy settings, which are addressed in detail below:

- BTR should not be a compulsory land use in the B3 Commercial Core zone
- SEPP 65 should apply to BTR.
- Housing related subsidies should be retained and directed to those who need them. Potentially a portion of new BTR developments should be mandated as affordable rental, given the provision of generous government subsidies.

BTR should not be a compulsory land use in the B3 Commercial Core zone

Mandating BTR as a compulsory permissible land use in the B3 Commercial Core zone undercuts the purpose of this zone and would contradict key strategic planning principles for centres and undermine efforts that have been long-standing in this regard since the post-war era. Indeed, one of the general objectives of Sydney 1968 *Sydney Region Outline Plan* was for “a wider and more balanced distribution of commercial activity should be established so that over-concentration of the metropolitan centre is avoided.”

A similar sentiment has been taken up in the Greater Sydney Region Plan for the 30-minute city. This is the idea that we can plan and engineer our cities so that home, work and play are all accessible within 30 minutes. Strategic Centres, as dispersed commercial employment hubs, have an important role in reducing commutes.

It is clear from the current suite of GSC plans, including the Region and District Plans, that employment is the main strategic objective of Strategic Centres. According to the Eastern City District Plan, 20% of jobs are within the trade gateways and strategic centres. Inclusion of BTR in the B3 zone is inconsistent with the many councils' plans for job growth targets and encouraging commercial development.

The very purpose of the B3 Commercial Core zone is to facilitate commercial development, rather than residential development. The B3 zone (and its various previous iterations) has prohibited residential development for several decades. Councils do not permit residential accommodation in the B3 Commercial Core to reduce land use conflicts between commercial development and residential namely to prevent residential development supplanting commercial floor space potential in its commercial cores. Mandating BTR as a permissible use in the B3 zone would not only be inconsistent with the objectives of that zone but would also have adverse economic and land use impacts (despite the fact that it would not be allowed to be subdivided).

Strategic Centres across Sydney, including larger ones on the North Shore / Macquarie Park office market play a significant role in meeting the State's employment targets and GDP outputs. There is a risk of displacing employment and compromising an important contributor to GDP and growth.

Residential development can erode the commercial character and the desirability of centres for businesses – a centres 'corporate identity' or 'sense of commercial address'. Research indicates that businesses want to locate with other businesses and do not like to be co-located with residential development.

The B3 zone provide an 'easy, attractive target' for BTR developments as their land values are much lower than the B4 zone. Without access to these lower land values, it is very difficult for commercial development to compete with residential. In addition, to the access to lower land values, developers will get a 50% discount to land tax for developing BTR, however, the BTR product will not be affordable to households on lower incomes. With no limits on the amount of BTR in these zones, the attractiveness of this option could have quite adverse unintended consequences on some centres where there was a significant concentration of BTR developments.

Residential use can also make it more difficult for neighbouring sites to develop for business uses by having to address impacts of overshadowing and views. This is supported by the literature on the importance of business clustering and agglomeration benefits. Businesses rarely try to locate in residential areas but have recognised the benefit of co-locating with other businesses. Changes to zones cannot be considered only from a housing supply viewpoint but also their effect on the other strategic planning objectives for the zone.

The proposed justifications for allowing BTR in the B3 include ready access to stations, the COVID related decline in demand for office space and that BTR could be converted to offices in the future. Understandably, BTR should be located in accessible locations, which typically means near train stations. However, there are 175 stations in Greater Sydney but only 14 with B3 zones surrounding stations; of these most are surrounded by B4 Mixed Use or R4 High Density Residential zones. Therefore, precluding BTR from the B3 could still facilitate BTR development near stations.

While COVID will likely result in structural changes to the way people work, it is too early to understand the long-term implications. Planning must maintain a long-term and strategic view, embodied by a precautionary approach, over a short-term, construction and employment focussed one.

The other justification that BTR can be converted to office in the future, is completely at odds with the fact that residential development is more profitable than commercial development (especially

given the record high prices in Sydney) and the empirical evidence across Sydney of office towers being converted to residential; not the other way around.

SEPP 65 should apply to BTR

SEPP 65 should apply to BTR developments. These design standards are all about maintaining a certain liveability and quality standard.

The ownership of a home should not change the expected amenity of a home. Given that BTR can be strata subdivided after a relatively short time of 15 years (in the context of a buildings life), not applying SEPP 65 could create a class of potentially substandard dwellings in the near future.

If there are rules in the for-sale market, then they should apply in rental as well, especially if they are allowed to be strata subdivided later on.

If BTR is to be truly a valuable long-term secure housing option, it is unclear why it is proposed that this new asset class for investment should have the capacity to be subdivided? Without a more convincing rationale, SSROC does not support the ability of BTR housing to be able to strata subdivided after 15 years. Actual contingency issues that emerge can be dealt with in subsequent reviews of the SEPP.

BTR building and design quality will need to be high as the owners maintain responsibility for the building's operation and letting. Tenants will pay above average rentals for the accommodation and service package. It is unclear why there is a case for SEPP 65 standards to be relaxed. Exemptions, if contemplated, should not permit a reduction in minimum apartment sizes nor a reduction in solar access (e.g. windowless bedrooms).

Notwithstanding the above, the strata subdivision on any building should not be permitted if it has been given exemptions from SEPP 65. This is particularly the case for BTR. It is critically important this proposed provision cannot be used as a pathway to reduce the minimum amenity standards of units and mix of units that would later see them end up in the normal for-sale apartment market.

Housing related 'subsidies' should be captured

It was not clear why bonuses and subsidies for BTR are on offer. BTR is described by all stakeholders and proponents as leasing at above market rental rates and therefore designed to be attractive to those on medium to higher incomes. Using the example of the recently completed Mirvac *Liv Indigo* BTR development at Sydney Olympic Park, BTR achieves rents on average 20-40% higher than the median rental price for the suburb.

Given generous subsidies and tax concessions are to be offered, it is proposed a portion of new BTR developments should be mandated as affordable housing for essential workers (or an equivalent monetary contribution made).

Alternately a financial contribution to a local affordable housing fund should be made if and when BTR properties are converted into strata units or shorter-term tenancies. Where strata subdivision is an option, then concessions should not be given away on the basis that it is BTR, only to see it converted into a product for sale later on.

4.0 Conclusion

SSROC member councils cover a large portion of Greater Sydney and have a direct interest in supporting and advocating for changes to improve and diversify the delivery of housing that meets the needs of our current and future communities by maintaining supply and increasing housing choice. Affordable housing is perhaps the most critical option or choice for lower income earners

struggling in the private housing market. This issue needs to be kept in tightly focus by the new SEPP.

In order to make this submission within the timeframe for receiving comments, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed.

If you have any queries please do not hesitate to contact me or Mark Nutting, SSROC's Strategic Planning Manager on 8396 3800.

Again, thank you for the opportunity to comment on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) Explanation of Intended Effect and we are keen to participate in any further consultation stages for the introduction of the new SEPP, in particular consultations about changes that will particularly impact on local councils.

Yours sincerely



Helen Sloan
Acting General Manager
Southern Sydney Regional Organisation of Council

9 September 2020

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

Via online submission

Dear Mr Betts

Re: Proposed Housing Diversity SEPP

Thank you for the opportunity to provide a response to the proposed *Housing Diversity SEPP*. Our submission draws on our expertise as managers and developers of long-term sub-market housing. We have a 35-year history in delivering and operating social and affordable housing and manage the largest portfolio of community housing tenancies in Sydney.

Currently we manage over 6,600 homes, housing more than 11,000 people and are delivering a pipeline of over 1,000 new purpose built social and affordable homes. This includes a combination of social and affordable housing that we own and housing we manage on behalf of the NSW Government, local councils and private developers.

Build to Rent Housing

We welcome the inclusion of Build to Rent Housing provisions in the proposed *Housing Diversity SEPP*. The new provisions will support an important structural reform of the rental market, introducing a form of institutional ownership and providing increased housing security and choices for renters. A strong Build to Rent Housing market delivered at scale will provide new market housing options for a range of economically empowered people who will benefit from the security of tenure. It is important to recognise though, that market Build to Rent Housing will not address affordability for lower income households and there is a need for specific interventions to provide secure and affordable rental housing.

As part of the introduction of Build to Rent Housing market there is a real opportunity to enable the delivery of sub-market rental housing – affordable rental housing delivered at below market rates and targeted to eligible households.

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Fairfield	Ground Floor, 61-63 Smart Street, Fairfield NSW 2165
Riverwood	Ground Floor, 9B Washington Avenue, Riverwood NSW 2210
Sutherland	Room 12, 3A Stapleton Avenue, Sutherland NSW 2232
St Leonards	Ground Floor, 14-16 Chandos St, St Leonards NSW 2065 P (02) 8974 9797

Affordable housing currently delivered by not-for-profit community housing providers shares many of the same characteristics as market-based Build to Rent Housing:

- Institutional ownership of a building
- Long term ownership of a building in one line
- Professional management

This approach would strengthen the delivery of submarket rental housing – using planning levers and pathways to support the delivery of affordable rental housing at a cost lower than the market could otherwise deliver – to provide both a safety net for those facing life’s challenges, and a springboard for those who can then progress into market housing.

Including Affordable Rental Housing as a submarket of the Build to Rent Housing and providing a more efficient planning pathway for affordable housing proposed by not for profit community housing providers could make a significant contribution to supporting the State’s economic recovery following COVID-19. People who can afford to live near education, training and employment are more likely to be able to grasp opportunities and contribute to the economy.

Recommendations:

- Reframe the provisions to include affordable housing delivered by not for profit community housing providers as a sub-market of Build to Rent Housing.
- Declare developments by not for profit community housing providers State Significant Development where projects are valued over \$50m and the housing will be held and operated as affordable for a minimum 15 years – mirroring the proposed planning pathway for market Build to Rent Housing and mixed use Communities Plus projects but at a lower threshold to reflect the scale and size most appropriate for larger stand-alone social and affordable housing projects.
- For eligible not for profit community housing provider developments that will deliver long term social housing and/or affordable housing make the NSW Land Housing Corporation (LAHC) or the Department the approval authority using assessment criteria and processes that mirror the self-assessment provisions allowed for LAHC developments. This recognises the importance of affordable housing as critical social infrastructure by streamlining approval pathways and ensuring LAHC and community housing provider projects are assessed using a similar process and criteria.

Affordable Housing

After more than ten years of operation it is timely to review the provisions of the *Affordable Rental Housing SEPP* that relate to the delivery of affordable housing through floor space ratio (FSR) density bonus provisions. While there are many aspects of the *Affordable Rental Housing SEPP* that are working well there are number of areas for improvement in the way

the provisions support the feasibility of development and ensure long term community benefits.

SGCH have had over 900 units of social and affordable housing approved under the provisions of the *Affordable Rental Housing SEPP* across eight different local council areas in Sydney. In our experience, we have achieved differing site yields in different locations for very similar sites and design approaches. A more detailed review of the provisions of the *Affordable Rental Housing SEPP* would provide an opportunity to consider the planning levers that could be adjusted to contribute to an increased supply of well-located housing for diverse income groups.

For example, we have found it difficult to achieve the full applicable FSR bonus when Councils have not been willing to consider changes to building height to accommodate the permissible FSR. We have successfully negotiated with one Council on a number of occasions to assess a proposed height breach on the merit of the application. We believe this achieved both a great design and community outcome, but it did take time to negotiate and created uncertainty about development feasibility during the site acquisition process. In another Council area, variations in height have not been supported which has had a direct consequence on the development feasibility and the number of people on low incomes that we can provide homes for – reducing the number of homes we could have delivered by five units in one project.

The NSW Community Housing Industry Association have recently undertaken an analysis (detailed in their submission) that suggests it would also be useful to review the affordable housing provisions of the *Affordable Housing Rental SEPP* in more detail to ensure that FSR density provisions provide a community benefit. It is important to ensure that an affordable housing outcome is achieved through the management of the units by a registered community housing provider.

Recommendations:

- Establish an Affordable Rental Housing Working Group with not-for-profit community housing providers of affordable housing (along the lines of the Boarding House Working Group) to input into revised affordable housing provisions that support good development outcomes and improved development feasibility.
- Change the SEPP to allow the FSR bonus for affordable housing to work with increased building heights. Without this the FSR bonus cannot be maximised despite the development providing a minimum amount of affordable housing.

Boarding Houses

We note the inclusion of Co-Living Housing as part of the proposed *Housing Diversity SEPP* and welcome the introduction of a slightly larger unit option along the same lines as new generation boarding house units. Co-Living Housing is a positive name for this new housing

option, and we suggest that new generation boarding house units could also benefit from a name change. There is significant stigma associated with boarding house developments and a name change to “Micro-Apartments” or “Affordable Co-Living” would support a more positive conversation with communities about the benefits of this type of housing.

Recommendations:

- Rename “Boarding Houses” to “Micro-Apartments” or “Affordable Co-Living”
- Management only by registered not for profit community housing provider and remove requirement for onsite management
- Affordable for minimum 10 years where no FSR bonus (defined as sub 75% of area median rents)
- Affordable in perpetuity where FSR bonus (defined as sub 75% of area median rents)

If you would like to discuss our submission in more detail please contact Renée Wirth, Group Executive on 9001 4327 or renee.wirth@sgch.com.au. We are keen to contribute to the work of the Department of Planning, Industry and Environment to ensure that the *Housing Diversity SEPP* is fit for purpose and delivers a more diverse and affordable housing supply to meet the needs of our community.

Yours sincerely



Scott Langford
Group CEO

Submitted on Tue, 04/08/2020 - 09:05

First Name: [REDACTED]

Last Name: [REDACTED]

Email: [REDACTED]

Suburb/Town & Postcode: [REDACTED]

Submission:

Please provide clear definitions for how floor area is to be calculated for secondary dwellings when a DA is lodged. Also please provide a more clear definition for boarding rooms and what constitutes a kitchen facility.

I really appreciate what the EIE proposal is trying to do, helping the NSW economy as well as solving the housing problem. I have read the full proposal. Being a long-term property investor, I will look at this as how I can help NSW solving the housing problem and getting rewarded fairly as well. At the end of the day, we all have finite resources and funds to ensure we provide to our family, to our community, to our state and to our country. Fair dinkum.

Anyway, looking at the **Table 1**.

- **Tenant type** - I agree with the Tenant type for all 4 new housing types.
- **Affordable** - I generally agree although I am not sure what Local Provisions will be under Built-to-Rent Housing.
- **Tenancy** - Generally, I have no issues with these. However, some clarity on Build-to-Rent housing of 3 years or more tenancy is needed. This type of housing can always allow long term rental from 3, 6 months up to 3 years or more! Do you mean the whole complex of the build (after it is done building) needs to be able to provide tenancy for 3 years or more? I don't believe any investor who purpose-built this would want tenancy any less than the 3 years, etc. So this should be fine.
- **Communal Living Area** - this would be fine and generally most people would not mind self-contained space or room to themselves, especially they like the flexibility of not going outside to the communal area (like COVID situation). Anyway, it is nice to have communal living area if they choose to use it.
- **Room/Apartment size** - Why there is a difference to co-living houses? We should just allow standard room size on co-living houses too. Also, it will make the requirement easier to remember across all standard housing types. Please make Co-living room similar to Boarding houses' 12-25 m² would be sufficient. That could exclude private bathroom or kitchen if investor likes to over-capitalise their investment. No one would complain if they get more facility for their money. Also, make Student housing room between 10-25m² if you want the option for 10m² room.
- **Minimum car parking provision** - Not too sure about these and it should really depend on the location and proximity to public transport. If the home is less than 400m from public transport with regular buses and trains in normal residential area, then the requirement for parking can be less, I suppose.

Build-to-Rent Building

- Why minimum 50 self-contained dwelling? Shouldn't that be according to FSR and room sizes? You won't want all the BTR building to be massive and all clustered together.
- BTR housing in regional areas - agree with your comments. It would generally be smaller scale and still be adhere to local LEP.

Student Housing

- Makes sense in general.

Co-Living Housing

- It should not require on-site management if the place is well-managed with rules and management experience.
- It does not need to have at least 10 private rooms. It can have up to 5 or 6 bedrooms because you don't want to have Co-Living Houses that do not blend in well with surrounding houses.
- You already have enough housing solution for R3 and R4 zoning. This sort of housing should be allowed in normal R2 zoning.

- You could even have limitation of 5 or 6 unrelated parties and up to 5 or 6 bedrooms in a house. That way, it will make more sense!

- Of course, like all normal rental housing, you would need suitable fire safety as well so that the occupants are all protected (no less than the any normal rental housing).

- As commented before, we should just allow standard room size on co-living houses too. Also, it will make the requirement easier to remember across all standard housing types. Please make Co-living room similar to Boarding houses' 12-25 m2 would be sufficient. That could exclude private bathroom or kitchen if investor likes to over-capitalise their investment. No one would complain if they get more facility/space for their rent.

- Private open space is probably not required as this is "CO" living so the open space should be shared, just like the communal space. Most people likes their private space to be their room so they can relax so that would suffice.

- Communal open space of 25%? Do we have to limit any standard home kitchen to be 25% of the house area? I think as long as it is practical, it should be fine. This limit is meaningless too.

- My suggestion is NOT to make Co-Living Housing another BIG development like all the other boarding houses and student housing. We have enough of those already. Keep this one to the smaller scale end :)

Then we will have TRUE DIVERSITY in housing types :)

ARHSEPP

- Why must boarding houses be managed by a registered not-for-profit community housing provider (CHP)? We want to improve red tape and address the real community problem privately. It should be allowed to be managed by any good manager with experience, with good house rules and with safe environment for the residents!

- Boarding house should still be allowed in R2 and accessible areas. As pointed out before, there are too many different housing in R3 and R4 already. Let's allow co-living (lower room number) and boarding house (higher room number) with good management in R2 residential zone.

FSR

- Seems OK

Car Parking

- Looks OK but it should really depend on the location and proximity to public transport. If the home is less than 400m from public transport with regular buses and trains in normal residential area, then the requirement for parking can be less, I suppose.

Group Homes & Seniors Home

- I have no ideas of these!

- I suppose as long as the end products look after those people, that will be the most important part.

- Maybe have some type of Compliance Development Rulings so that the developer who knows these sort of solution can provide them with less red tape, which will in terms help the NSW government in providing housing solutions for those special group of residents too.

Stockland

Level 25, 133 Castlereagh Street
Sydney NSW 2000
www.stockland.com.au



9 September 2020

Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment

Stockland Submission to the Housing Diversity SEPP EIE

Thank you for the opportunity to provide Stockland's submission to the *Explanation of Intended Effect for a new Housing Diversity SEPP* (the EIE).

Stockland is Australia's largest diversified property group and largest residential developer, with over \$8 billion invested across NSW within our residential, retail, retirement, logistics and workplace portfolios.

Stockland is a top three retirement living operator in Australia, with 63 established villages. In the communities space, Stockland is a leading residential developer in Australia and is focused on delivering a range of master planned communities and medium density housing in growth areas across the country, with a residential development pipeline including land, apartment and mixed use developments.

Given the extent of Stockland's involvement in home and community creation, we welcome any policy which seeks to ensure there is a diverse and adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live.

We wish to provide feedback on a number of the policy initiatives outlined in Housing Diversity EIE. While the EIE proposes to introduce new housing concepts such as Build to Rent (BTR), we believe that the Housing Diversity SEPP may, on balance, have the overall effect of discouraging, rather than encouraging, diverse and adequate housing supply in locations where people want to live.

We have provided a total of **14 recommendations**, structured around the following topics of particular interest to Stockland at the present time:

- Overall comments on the EIE
- Seniors Housing
- Build to Rent

Overall comments on the EIE

The EIE proposes to consolidate three existing SEPPs into one, as well as introduce new concepts and associated development standards for the new land uses of BTR, Student Housing, and Co-Living. The detail of the consolidation and new standards are not provided in the EIE. Further, our experience tells us that the legal drafting of the SEPP and associated guidelines will significantly influence the application and effect of the legislative changes.

Due to the significant implications around the changes to the Seniors and ARH SEPP, and the details sitting alongside the new land use definitions, we request that industry be provided the opportunity to both engage and review further detail prior to finalisation.

Recommendation 1: Engage with industry, service providers and users in the preparation of the Housing Diversity SEPP, any development standards and associated guidelines.

Recommendation 2: Exhibit the draft Housing Diversity SEPP instrument, Regulatory Impact Statement and draft Guidelines for public comment prior to finalisation

Seniors SEPP Changes

Ageing Populations and the role of the Seniors SEPP

Australia's ageing population is forcing a rethink of the way we build new homes. Retirement Villages, land-lease communities, seniors rentals, and age exclusive communities all play a vital role in giving seniors an option to affordably downsize, access community and improve their access to health and lifestyle services.

Over the next 20 years, 100,000 homes are required to be built for seniors in the retirement village industry alone, a figure we are a long way from meeting. The needs of seniors also continue to change and many older-style retirement villages are no longer meeting the requirements of the current generation, often with large numbers of stairs, inadequate parking and without access to health, community and active lifestyle facilities.

Seniors housing has larger floorplates, provision of communal facilities, slower sales rates (due to funding requirements of purchaser to sell their existing home) and a legislative structure that does not allow for presales certainty which can hinder project funding for any developer relying on bank finance to facilitate commencement.

These factors ultimately make seniors housing less commercially attractive than general residential. Without supply targets, similar to those being implemented for broader residential housing, it is unlikely seniors housing projects will be competitive. This will continue to discourage downsizing and provide limited options to age-in-place for those who decide to do so.

Another key factor is planning frameworks. The existing Seniors SEPP (and its predecessor, SEPP 5) has provided a pathway for countless Australians to access housing and aged care. The Seniors SEPP was introduced in recognition that our population is ageing and that there is a specific need to plan for this type of accommodation in our communities so that people can age in place and remain connected with their community. At the time it was observed that the local planning provisions did not encourage or cater for the demand for seniors housing and many seniors were being forced to relocate out of their communities to find suitable and affordable accommodation. To overcome this issue the Seniors SEPP was introduced which allowed for seniors housing to be delivered where it

would have otherwise been prohibited and also to incentivise seniors housing by making it more competitive in the residential market.

The ongoing relevance and necessity of the Seniors SEPP is evidenced by the fact that almost all of the development applications proposing seniors housing rely on the provisions of the Seniors SEPP for both permissibility and/or viability reasons.

The SEPP is a beneficial and facultative instrument that has the effect, for applications that are otherwise compliant with SEPP, of setting aside barriers which would otherwise arise under local environmental plans, in specified circumstances where it was considered that the social policy objectives of the SEPP warranted this occurring.

For this reason, the proposed changes – which continue a number of changes which have ‘watered down’ the SEPP over the years, including the recent July 2020 ‘Metropolitan Rural Areas Exclusion Zone’ amendments - are of concern.

Recommendation 3: Recognise the vital role that the Seniors SEPP plays in incentivising and accommodating a diverse range of housing for our aging population, and do not render it ineffectual through continued amendments.

Modernise the SEPP through a root and branch review

While we support the identified minor amendments to the SEPP – such as an update to the definition of building height and environmentally sensitive land – this does not go far enough. The SEPP is overdue for modernisation, consolidation and simplification, and clarification of known issues with interpretation and application.

Amendments to the SEPP requires a root and branch approach in consultation with industry. Importantly, DPIE needs to ensure that any legislative changes do not have the effect of rendering development under the SEPP unviable.

Recommendation 4: Modernise and update the SEPP provisions in consultation with industry.

Relationship between the SEPP and local controls

The EIE intends that the SEPP will “clarify” that development standards in an LEP shall prevail to the extent there is any inconsistency with the SEPP.

This is not a clarification, this is a major change in the operation of the SEPP. Further, it fundamentally runs counter to the existing and accepted hierarchy of planning controls, whereby under Section 3.28 of the Act, there is a general presumption that a SEPP prevails over an LEP in the event of any inconsistency (notwithstanding that it is open to statute writers to provide for a different way of resolving inconsistency in a particular instrument).

In the case of housing for seniors and aged care, enabling individual LEPs - and potentially development controls in DCPs – to prevail over the SEPP is particularly concerning.

Councils can establish more stringent controls which would run counter to the SEPP's objectives to support and encourage housing for seniors. Further, individual Councils lack an understanding of the various housing types and the implications of controls – such as solar access to aged care rooms – on the viability, design and operation of various Seniors housing typologies. For this reason, a consistent, state-government-led approach is considered to be essential.

Recommendation 5: Ensure that the SEPP continues to prevail over local development standards and development controls, including LEPs and DCPs, to recognise the need for a consistent and supportive approach to the numerous forms of seniors accommodated.

Use of Clause 4.6 to vary development standards

Development standards are a means to achieving an environmental planning objective and can be numerical or performance based. Some developments may achieve planning objectives despite not meeting the required development standards. Through Clause 4.6 and SEPP 1, the planning system provides flexibility to allow these objectives to still be met while varying development standards.

The EIE proposes that development standards of the SEPP may be varied through Clause 4.6, but only up to a maximum of 20%. This approach is not supported. Further, it is inconsistent with the standard approach to Clause 4.6 where, apart from certain limited and site specific controls (for example, development in Parramatta CBD cannot exceed the FSR standard by more than 15%), there is not a blanket imposition of a limit on the exceedance of standards.

Essentially, if it is unreasonable and unnecessary to comply with a development standard then it should not matter what percentage the variation is, and any variation should be assessed on its merits.

Recommendation 6: The flexibility afforded by Clause 4.6 must not be restricted by a numerical limit such as 20%. Any variation should be assessed on its merits in accordance with the Clause and established case law.

Impact of Metropolitan Rural Zone Exclusion

The July 2020 amendment to the Seniors SEPP entirely excludes all land within the Metropolitan Rural Area MRA from the operation of the SEPP. Stockland does not support this change, which was implemented without notice or consultation with industry. This approach to policy implementation is not in keeping with the NSW Government's commitment to improving transparency and engagement within the planning system.

Removing the ability for Government to issue Site Compatibility Certificates for housing within the MRA will make it challenging to deliver seniors housing in some areas, as it is uncompetitive against residential in zoned areas.

Of greater concern, the exclusion goes well beyond the primary issue identified by the Greater Sydney Commission of the 'creep' of retirement villages into the MRA. Instead, the exclusion impacts on countless metropolitan suburbs and villages which, for whatever reason, have been mapped within the MRA despite having an urban zoning.

In a number of instances, the Seniors SEPP facilitated the ability to deliver different forms of seniors housing in the R2 Low Density Residential zone. For instance, SEPP Seniors previously enabled Seniors Housing developments within the R1 and R2 zoned in the Blue Mountains and within the R2 zone within the Hills. This served to provide opportunities for people to age in place within their communities. The recent amendment to the SEPP now means that new and existing Seniors facilities in these locations are unable to utilise the beneficial provisions of the SEPP. This policy approach is a departure from the State's Housing Strategy discussion paper that specifically sought feedback to ensure seniors housing.

If the primary concern is the creep of seniors housing into rural land, a more nuanced approach would be to refine the provisions that apply to Site Compatibility Certificates for rural zoned land rather than a blanket exclusion.

The changes impact on two existing Stockland suburban villages:

- Waratah Highlands in Bargo (132 unit village, opened in 2002) and
- Macquarie Grove in Tahmoor (43 dwellings, completed in 1996).

As a result of this, any upgrade, intensification, expansion or renewal of these villages would be subject to Council's LEP and DCP. This may be highly problematic, given that the existing villages were developed under SEPP 5.

Another impacted asset is The Gables, a residential community that Stockland purchased earlier this year. The land is zoned for urban purposes, however it is impacted by the MRA overlay and will now be excluded from the operation of the Seniors SEPP. In terms of context, The Gables (Box Hill North) is located to the immediate north of the North West Growth Area that freely permits seniors housing over similar land use zones and that is not encumbered by the MRA map. Whilst R3 and R4 zoned parts of The Gables can still pursue development consent from The Hills Shire Council outside of the SEPP as it is permitted within the zones, this is not the highest and best use of the land and as such will not come to fruition. Stockland, in wanting to deliver a diverse community for our residents and provide greater housing options, have considered the potential for Seniors Housing development over part of the R2 zoned area of The Gables that would meet all of the necessary access and amenity criteria under the Seniors SEPP. However, due to the MRA mapping in this location not considering the underlying zoning of the land, this opportunity has been removed with no consultation.

Recommendation 7: The Seniors SEPP MRA 'exemption' mapping should be urgently reviewed in detail to ensure that existing retirement communities and suburbs zoned for urban use within the MRA are not excluded from the SEPP.

Recommendation 8: The Seniors SEPP MRA map should be amended to remove its application to urban zoned land at The Gables (Box Hill North).

Renewal of Existing Villages

Renewing and redeveloping aging villages to meet changing needs is challenging, for operators and for residents. Construction costs are considerable, design requirements greater, and costs increased due to the need to construct in a way that minimises impacts. As a result, an uplift in density is often required to make renewal of the village feasible. It is also very disruptive for residents, despite staged construction, and generally requires some internal movement for small groups of residents.

Redundant villages that don't meet current standards are not attractive to current and future retirees. This not only impacts operators but also existing residents that see the value of units decline due to saleability. Facilitating the orderly redevelopment and increasing density would allow exiting residents to maximise the units value while delivering increased seniors housing in an established area with established networks.

A solution to the above would be to adopt a similar proposal to the Brisbane City Council which will allow additional gross floor area / additional levels for renewed seniors housing over standard residential.

Recommendation 9: Expand the SEPP to incentivise the redevelopment and renewal of aging seniors housing.

Build to Rent

Stockland welcomes moves to encourage Build to Rent (BTR) housing in NSW.

BTR housing is purpose built, institutionally owned and professionally managed private rental accommodation. Distinct from traditional private rental accommodation, BTR typically involves one owner of the entire development that retains long term ownership and rents the units long term. According to research by Ashurst BTR is an established sector in the US where the total value of BTR properties is estimated to be USD 3.3 trillion dollars. In the UK, the BTR market is expected to be worth £70 billion by 2020.

As the EIE acknowledges, BTR housing has the potential to provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Increased rental security may also have wider social and economic benefits, with tenants better able to establish themselves in a community.

Despite this, the BTR asset class has been slow to take off. Challenges to achieve feasibility requires a range of considerations to address the Government tax settings that disadvantage BTR compared to traditional build to sell housing and 'mum and dad' investors. The NSW government has taken an initial step to address feasibility by cutting the amount of land tax payable on new BTR projects.

There are currently no impediments in the planning system to the development of new housing for rental purposes. However, given the potential social and economic benefits of expanding the local BTR industry, the NSW Government is seeking to provide more certainty

for this type of development with a proposed new definition and specific planning provisions. According to the EIE, the Government is encouraging the development of BTR housing as it responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

Stockland is pleased to see the growing recognition of BTR as an asset class and its proposed identification as a stand-alone land use in the NSW planning system. The following recommendations are provided for consideration.

Recommendation 10: In relation to mandated zoning:

- **Because residential development is currently prohibited in B3 Commercial Core zones in some city and town centres, also insert a mandated land use objective referencing BTR into to the B3 zone objectives in the standard instrument.**
- **Consider permitting BTR as a mandated permitted use in the B2 Local Centre zone. In many instances, this land may be more suited than the B3 core.**

Recommendation 11: In relation to the proposed definition and prescribed elements:

- **The three year minimum tenancy agreement should be clarified as an offer for a tenancy period of three years. Tenants should be able to enter into a shorter tenancy period if they wish – for example if the tenant prefers, to sign a 12 month contract containing options to renew for a further two 12 month periods.**
- **Minimum dwelling sizes can be considerably smaller than that prescribed under the Apartment Design Guide, due to the provision of communal spaces. It is recommended that dwelling sizes be market led.**
- **A minimum car parking of 0.5 spaces per dwelling (or less where supported by Council's DCP) may be too high in locations with excellent access to public transport. The ability to vary this rate through appropriate justification and merit assessment should be included.**

Recommendation 12: Clarity is required around a scenario where there is combination of BTR with traditional residential uses within a single development. This may be within a single building, or separate buildings but constructed over a shared basement and podium.

Recommendation 13: Work with industry on design guidelines and quality standards for BTR. While the principles of SEPP 65 are relevant, the Apartment Design Guide as a whole should not be applied.

Recommendation 14: In relation to affordable BTR housing:

- **Establish clear guidelines at the State level around affordable BTR housing to set reasonable expectations.**

- According to the EIE, individual Councils will be able to introduce sweeping affordable housing obligations to BTR product. This could occur with little notice. High percentage rates of affordable product, the potential need to dedicate to third party managers, or extensive rent capping would significantly undermine the feasibility and of BTR developments and may impact the operating model.

Recommendation 15: Consider the necessity to incentivise the provision of BTR housing to ensure uptake, through an FSR bonus in the Housing Diversity SEPP. If this recommendation is not adopted at the commencement of the SEPP, it should be highlighted in the SEPP as a clause which may be added in the future should market uptake be weak.

Conclusion

Stockland appreciates the opportunity to comment on the EIE and welcomes any further opportunity to be part of future discussions on this topic. Stockland also provides extensive input to our industry advocacy groups to assist with their detailed submissions.

Please feel free to contact me or organise a meeting to discuss any of the comments or recommendations above. Alison Brown, Planning Manager NSW (02 9035 3779 alison.brown@stockland.com.au) is the contact for your office.

Kind Regards



Ben Cantwell
General Manager, Built Form Communities
Stockland

B4 Mixed-Use zones. Council request further information on the operation of the prohibition on strata subdivision.

Recommendation

Council recommends clarification of the practical operation of any rent control measures and how any administrative burden to Council will be re-couped. Council recommends that any masterplans, for areas around stations is included in site-specific controls to be approved by Council.

2.0 Student Housing

Generally, the Council welcome the proposed changes and the introduction of the new definition for 'student housing.' The EIE notes that Councils can include the new definition of student housing in their Local Environmental Plan (LEP). Many universities are zoned Special Purpose (SP); however, it is not clear how the new definition would be included. Many forms of infrastructure share the land-use zoning SP2; including railway-lines and roads. Would the inclusion of student housing as permitted-with-consent mean that this would equally apply to railway and roadway land? Council request further information on the practical operation of the integration of permissibility in the Standard Instrument.

Council note that it is not proposed to make student housing a compulsory permitted use in any of the land use zones and the Local councils would determine permissibility under their LEPs. Council have concerns regarding the potential development of student housing within Strathfield Local Government Area.

Recommendation

Council requests clarification on the practical operation of the new definition in SP2 zones.

3.0 Co-living Housing

Generally, the Council welcome the proposed change and the introduction of the new definition for 'Co-living Housing;' however, the Council have the following concerns:

The EIE proposes that Co-living developments will be mandatorily permitted whenever Residential Flat Buildings (RFB) are currently allowed. Council is concerned that Co-living developments will compete with SEPP 65 compliant RFBs, and may undermine the development of SEPP65 and Apartment Design Guide compliant developments, and it may undermine the provision of Serviced-Apartments. Council is concerned that great emphasis is placed on the proposed design guidelines, and if the guidelines are less stringent than the Apartment Design Guidelines (ADG) it could lead to a reduced in RFB completions. Council request that the same Design Quality Principles in Schedule 1 of SEPP 65 apply equally to Co-living Developments, and in the case of an inconsistency between the new design guideline and the Apartment Design Guide, the Apartment Design Guide should prevail to the extent of the inconsistency.

Council also notes that it is unclear how the provisions will operate in developments that mix uses, and greater clarity is needed. Council is concerned that where RFBs and Co-living housing are in the same development, the Co-living provisions may introduce a dwelling-type smaller than a studio to a predominantly RFB development, and seek to use the same communal open space, parking etc. as the RFB. The lack of clarity in the application of the standard to the different parts of the development will cause greater difficulty for planning assessment officers. Council request that in the case of any inconsistency that SEPP 65 and the Apartment Design Guide provision will prevail.

Recommendation

Council recommends the removal of the mandatory requirement for Co-living development wherever Residential Flat Buildings are allowed, or the development includes the supremacy of the Apartment Design Guide as discussed above.

4.0 Implication of Consolidating SEPPs

Council welcome that the Seniors SEPP will no longer prevail over an LEP, to the extent of the inconsistency; however, Council note the following issues:

Whereas Council welcomes the provision of sorely needed social and affordable housing, Council is concerned with the scope of the increased powers of the LAHC to self-assess development, and that this will undermine Councils power to control development.

Recommendation

Council recommends that the LAHC's powers to self-assess are not increased.

Council is also concerned at the continued inability to refuse Boarding Houses on the grounds of Density & Scale if the development complies with the FSR controls. Council request that Boarding Houses can be refused on the grounds of non-compliance with FSR, or (clause 30A) local character explicitly states that compatibility with surrounding FSR is a part of compliance with local character. Updating clause 30A would accord with case-law ruling such as Salanitro-Chafei v Ashfield Council [2005] NSWLEC 366.

Recommendation

Council recommends that clause 30A be updated to explicitly say that compatibility with surrounding FSR is a part of compliance with local character and accord with case-law, or a Boarding House can be refused on the grounds of non-compliance with FSR.

5.0 CONCLUSION

This submission identifies and discusses a range of issues the proposed Housing Diversity SEPP present for Strathfield Local Government Area. Council welcomes most of the changes, but despite this, there are several areas where the Council seek clarification and request that the Department take into consideration the recommendation listed in this submission.

If you have any further queries, please do not hesitate to contact **Jeffrey Cooke** Senior Planner in Councils Land-Use, Planning and Development team on **02 9748 9639**.

Yours faithfully,

per 

Stephen Clements

**Deputy CEO, GM Planning, Environment & Urban Services, Planning,
Environment & Urban Services**

8 September 2020

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment

Dear Mr Betts,

RE: Housing Diversity SEPP – Explanation of Intended Effect

SummitCare is a private Aged Care provider established more than 50 years ago. With more than 1000 residents across 10 Aged Care homes throughout Sydney & Newcastle, SummitCare is a leading Aged Care provider in the Sydney region, as well as the leading private provider of concessional resident care places in the South West of Sydney

At SummitCare, our purpose is to enable wellbeing for our communities. Our Vision, Mission, Culture and Values underpins our Wellbeing Framework for our residents and staff every day.

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

However, SummitCare remains acutely concerned that the EIE as currently drafted will generate significant obstacles to obtain approval for the types of residential accommodation we provide and that the intended outcome will not be achieved.

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

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

Our key recommendations are:

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

Use of Seniors SEPP

The Seniors SEPP was written almost 30 years ago and both the demographic of people housed and built environment that it fits into has changed significantly. In terms of Seniors Living, people are often entering it later, beyond 55 and wanting to stay within their community or move to higher services areas with urban and rural settings. In terms of RACFs the average age has increased from 75 to 85 years of age and the average stay has decreased from 3 years to around 13 months. Aged Care is moved closer to Palliative Care in many cases, but not all. Across all aspects, diversity remains essential.

Many LEPs do not cater for seniors housing and do not make it a permissible use within their residential zones as this was not seen as necessary given the permissibility granted by the SEPP.

This approach has also allowed for consistency in the seniors housing directions and controls. While the controls would need to be updated across all Council LEP's, the potential for a lack of consistency and varying degrees of for Aged Care operators' ability to provide the consistent level of care to our older Australians that we, and no doubt the NSW Government, seek to provide.

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

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

Localisation of Seniors Housing Controls

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

This proposed change will now mean that all development standards of an applicable LEP will prevail over the development standards of the Seniors SEPP where there is an inconsistency. So not only will the building height and FSR development standards of the LEP prevail, but this could lead to councils seeking to impose seniors housing specific development standards (such as access to services, increased parking rates etc) to further control or restrict seniors development in their respective LGA.

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

The Seniors SEPP currently compensates for this by offering the floorspace incentives for vertical villages and Residential Aged Care Facilities to make a level playing field.

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

At the time it was observed that the local planning provisions did not encourage or cater for the demand for seniors housing and many seniors were being forced to relocate out of their communities to find suitable and affordable accommodation. To overcome this issue the Seniors SEPP was introduced which allowed for seniors housing to be delivered where it would have otherwise been prohibited and also to incentivise seniors housing by making it more competitive in the residential market.

Implications of Specific Changes

Floor space

It appears that the proposal suggests that floor space will be determined by the LEP, as most low density residential zones have an FSR of 0.5:1 or lower this will mean a reduction in the permissible FSR of seniors development and in particular RACFs which will see a reduction in floorspace down from 1:1 to 0.5:1. The impacts of this are enormous on services already struggling with the removal of significant federal funding 3 years ago and now dealing with COVID.

If the intention is to improve delivery, this will do the opposite. Most providers operate with models of 96 residents or 144 residents, but essentially on average a RACF building in a Residential zoned R2 or R3 for 96 residents will require a site area of 5,000-5,500sqm and 7,000-8,000sqm for 144 residents. The changes as proposed could double the required site area, this will significantly impact the cost of future RACF projects and cripple the feasibility of sites already purchased by providers. The suggested Clause 4.6 path to a potential maximum 20% increase is both uncertain and will fall significantly short of the required outcome to facilitate the delivery of Seniors Living projects.

Limit of Clause 4.6 variations

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP1 This has been an important function of the Seniors SEPP and has allowed for site specific responses to be provided where appropriate and of merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which appears to be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of merit.

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

Conclusion

We believe that it is crucial that the Seniors SEPP is retained and that it has precedence over LEP controls.

Without this:

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

As the population ages and baby boomer generation moves into older age of the next 10-15 years, it is becoming increasingly important that we have sufficient accommodation which is especially designed to be able to cater for our older Australians to age in place.

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

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

Kind Regards



Michelle Sloane
Chief Operating Officer



File Ref: 2020/385142

2 September 2020

Sandy Chappel
Director, Housing Policy
Planning Policy
NSW Department of Planning, Industry and Environment
Locked Bag 4009
Ashfield BC, NSW 1800
www.planningportal.nsw.gov.au/draftplans/on-exhibition

Dear Ms Chappel,

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

Thank you for the opportunity to comment on the Explanation of Intended Effect for a new Housing Diversity SEPP. Council supports the consolidation of three existing SEPPs into a single SEPP which covers a range of housing typologies and a number of the changes proposed to the existing controls, as detailed below.

The importance of Good Design

Good building design has been identified as important for healthy, safe and liveable communities and for resident wellbeing. The current pandemic has reinforced the importance of dwellings providing amenity for residents who have spent more time at home over recent months. Anticipated changes in work and study practice arising from the pandemic further highlight the importance of well designed homes for resident wellbeing.

Good design also contributes to the urban form and streetscape. The proposed Build-to-Rent, Student Housing and Co-living forms are likely to be expressed externally as residential flat-style buildings, due to their proposed location in the higher density residential zones, mixed-use zones and business zones. Similarly, there are increasing numbers of boarding houses in residential flat-type forms in business zones.

Clear design guidance is required for these proposed housing forms, and should be set out in the proposed SEPP. SEPP65 and the Apartment Design Guide have delivered significant improvements to residential design. These design requirements should be applied to Build-to-Rent, Student Housing, Co-Living and Boarding houses where these forms meet the requirements that trigger the application of SEPP65 and the ADG viz. buildings that are three or more storeys, and that have four or more dwellings where the development consists of the erection of a new building, substantial redevelopment or refurbishment of an existing building or conversion of an existing building to any of these proposed uses.

Residents in these forms of housing are entitled to the same amenity as residents in apartments. There shouldn't be different standards applied to different uses. This is particularly pertinent if there is long-term opportunity for residential units to be purchased. The design guidance in the ADG ensures that the responsibility for maintaining amenity for residents in adjoining developments is equitably shared. For example, ADG establishes building separation requirements.

If the ADG is not applied to a Build-to-Rent development or a boarding house in the R4 and B3 zones, the ability to meet the setback requirements to deliver solar amenity and privacy to units in an adjoining residential flat building development will be inequitably borne by the adjoining residential flat building, and may mean that the amenity of occupants of adjoining sites is compromised. This is a concern as not all Development Control Plans have building envelopes, particularly in the R4 zone where there is reliance on proposed developments meeting the Apartment Design Guide requirements. It is suggested that Parts 3 and 4 of the Apartment Design Guide apply to these forms of development.

Build to Rent

The proposed introduction of a Build-to-Rent housing type is intended to encourage institutional investment in housing (by supporting tax concessions), to provide options for longer term secure rental tenancy. The proposed definitional requirement of at least 50 self-contained dwellings is a large scale development. This is in contrast with the trend in our local market towards smaller residential flat building developments, following the local residential development boom of 2017-2019.

If Build-to-Rent developments are defined as 50 dwellings or more, this form of development will be out of context and scale in parts of the R4 High Density zone. It may also not respond to local market preferences in housing types. Consideration should be given to a defining build-to-rent as a smaller development i.e. permitting few dwellings in a build-to-rent project.

Build-to-rent housing is proposed to be mandated in the R4 – High Density Residential, B3 – Commercial Core, B4 – Mixed Use and B8 Metropolitan Centre zones. At first glance, this seems sensible. However, councils have different emphases in these zones, especially the B zones, as expressed in council specific objectives for the zones and applicable development controls. Mandating Build-to-rent housing in the B zones, may undermine council's ability to require a minimum percentage of commercial premises in a development, and limit the ability to ensure active street frontages and achieve employment targets. Councils should be able to choose in which of these zones to make Build-to-Rent housing permissible.

Student Housing

Council supports a separate land use for Student Housing, as this will remove student housing from being provided under the guise of the Boarding House provisions of the ARHSEPP. While the proposal to not make this a compulsory permitted use in any land use zone is supported, it is suggested that there be some requirement for student housing to be located close to educational facilities, perhaps through the introduction of a local provision. This supports the proposed parking concession, and will help ensure that 'student housing' does not become a mechanism to provide cheaper residential accommodation with poor amenity.

In addition to the application of the identified sections of the ADG and SEPP65, the proposed room size of 10 m² must be reviewed, increased and should not be a discretionary standard as suggested in the EIE. The design guidance must also require that communal areas (indoor) are provided on each floor of any proposed development. This will improve residential amenity and serve the intended occupants well.

The EIE is unclear on the mechanisms to ensure that student housing is occupied only by students, and is also unclear on whether this would be available for short-term accommodation uses outside of teaching periods e.g. accommodation for short courses, conferences etc.

Co-Living

Council supports a separate land use for Co-Living housing, as this will separate co-living developments from being provided under the Boarding House provisions of the ARHSEPP. Design guidance must require that communal areas (indoor) are provided on each floor of any proposed development. This will improve residential amenity and serve the intended occupants well.

Boarding Houses

Council supports the requirement for boarding houses to be an 'affordable rental' for occupants. The proposed removal of boarding houses from the mandated uses in the R2 Low Density Residential zone is also supported. The proposed 20% FSR for boarding houses is supported. Clear design guidance is required, especially the inclusion of a requirement that communal areas are provided on each floor of any proposed development of 3 storeys or more.

Proposed amendments to the seniors housing provisions

The EIE proposes the update of Schedule 1 – Environmentally Sensitive Land. This is long overdue and supported. Sutherland Shire Local Environmental Plan 2015 includes local provisions relating to Environmentally Sensitive Land:

- terrestrial biodiversity,
- groundwater vulnerability,
- riparian land and watercourses, and
- environmental and scenic qualities of natural landforms.

Please ensure that these are captured in the definition/description of environmentally sensitive land in Schedule 1. Also, could there be clarification of the application of the term 'environmental protection' contained in Schedule 1. It is assumed that this refers to all the 'E' zones categorised as 'Environmental Protection Zones' in PN11-001. Whilst it is clear that this would apply to E1 and E2 zones, we have assumed this also captures E3 and E4 zones.

The proposed amendments relating to registered clubs and applications for Site Compatibility Statements, requirements to meet local development standards and the exclusion of point to-point transport as a means to meet accessibility requirements are supported.

It is noted that there is some inconsistency - the requirement for developments reliant on SCCs to meet local development standards are not applicable to development of residential flat buildings reliant on SCCs issued under Division 5 of the ARHSEPP, yet is proposed to be introduced for seniors housing developments reliant on SCCs.

Social Housing

Council has concerns about the proposal to increase the maximum number of dwellings that LAHC can self-assess up to 60 dwellings, including private dwellings in LAHC's new model of development. This would permit a large development that does not need to comply with local development controls, and so may not contribute to the local character of, and community expectations for, its location. It will also result in disparities between the amenity outcomes expected for dwellings based on landownership and the development model.

Group Homes

The EIE introduces a proposal to allow a quicker and easier path for an existing dwelling to be used as a group home. Further detail is required to clarify whether this is proposed to be through a complying development pathway, and the proposed controls.

Parking concessions/requirements

The proposed parking concessions/requirements provide for lower parking rates than community expectations in many, particularly outer ring LGAs and areas such as Sutherland Shire where future investment in transport infrastructure is a long way off and car ownership is high. This will result in either community concern about cars on streets or developers providing more parking in the development, using up FSR and reducing dwelling yield.

Given time frames and reporting deadlines it has not been possible to report this matter to Council before the end of the exhibition period on 9 September 2020. Accordingly this is an unendorsed submission to be reported to Council at the next available Council meeting. Following this an endorsed submission will be forwarded.

Should you require any further information please contact Mark Carlon, Manager Strategic Planning on 9710 0523.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Mark Carlon', with a long horizontal line extending to the right.

Mark Carlon
Manager Strategic Planning

9 September 2020



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

Sydney Business Chamber

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**Uploaded online: Department of Planning, Industry and Environment*

Response to the proposed new Housing Diversity SEPP

Sydney Business Chamber is a leading advocate for Sydney as a competitive and global city. A division of Business NSW, formerly NSW Business Chamber, Sydney Business Chamber represents over 145 leading corporations. We identify, develop, and promote public policy to drive the economic growth and sustainability of our great City. Housing diversity and affordability is critical to the economic sustainability and prosperity of Sydney and this can only be achieved where there are suitable measures that facilitate supply in the right locations and at the right time, enabling housing choice.

In that light Sydney Business Chamber values, the opportunity to comment on the draft Housing Diversity SEPP and supports the Government's efforts to streamline and simplify the current planning regulations controlling new housing developments in NSW. The Chamber is supportive of recent efforts to remove unnecessary 'red tape' as a way of stimulating the NSW economy and we endorse the Government's approach to do likewise with this SEPP.

The consolidation of regulations covering all parts of the housing system into a single policy document is supported. This should ensure a more consistent approach from Government and make it easier for industry to navigate. Also supported is the recognition of new and emerging housing formats, in particular Student Accommodation, Co-living and Build-to-Rent (BTR). These new housing typologies have the potential to provide our citizens with more affordable housing choices and in formats better suited to their needs. Importantly, the facilitation and encouragement of housing choice by the planning system, will generate much needed economic and employment growth over coming years.

The proposed reforms outlined in the SEPP go some way to support the delivery of housing diversity and affordability, however there are some sections of the Explanation of Intended Effect (EIE), which should be amended and some other sections which should be reconsidered prior to the Policy being adopted.

In outlining the areas for change we have adopted the format of the EIE and deal with each in course.

Build-to-Rent (BTR)

The desire of Government to encourage this form of housing development is strongly supported. The current way we provide new housing in NSW is increasingly inadequate for providing the sort of accommodation our citizens need and with the type of tenure that suits them best. Not everyone can afford, or wants, to be a homeowner, so the provision of alternative housing on the rental market is warranted.

However, the current means of providing rental accommodation is particularly poor in Australia, especially when compared to other international jurisdictions where there is more mature and professionalised industry. In NSW rental accommodation is essentially provided by individuals forming a 'cottage industry' that often produces expensive and unaffordable accommodation, delivered in a punitive manner where the interests of tenants are largely of secondary concern.

With approximately half of Sydney's population now reliant on the rental market for shelter, this situation is unacceptable. BTR has the potential to remedy this. With careful design and incentives, this form of development will

attract strong institutional investment and should significantly increase the supply and diversity of housing. Importantly it will also provide a more secure form of tenure and a higher quality and better maintained housing asset class.

Further, we support making this form of housing tenure in land zoned for commercial core and town centre and we support making this tenure unrestricted and for market rent. While the Chamber has always believed that our city's main town centres should be predominantly reserved as places for commercial exchange and economic activity, BTR, being relatively temporary, has the potential to revitalise out centres while still leaving long term capacity for economic growth and agglomeration. It is however critical to allow the market to set the rent for BTR as this is the only way of ensuring this housing typology is economically viable and attracts the level of interest from the private sector it deserves.

The development of a sustainable and quality BTR market needs to balance scale with flexibility. We believe the draft regulations outlined in the EIE therefore need to be refined and amended to improve the operation of the SEPP. In particular, the suggestion that this form of housing is limited to development with more than fifty units should be reconsidered. While we support the need for scale to ensure that these properties can be professionally managed and operated, there is scope for significantly smaller developments to be included in the scheme. Adopting a minimum threshold of twenty units would enable growth of this housing form in more places and ensure more granular urban infill development. In many places, smaller BTR development is better placed to provide good urban design outcomes while also supporting greater social diversity. Furthermore, we believe companies that specialise in owning and managing BTR should be allowed to build BTR on an even smaller scale, if they already have the resources and scale to manage them professionally.

We also question the need for 'onsite' management for BTR properties. While this is not clearly defined in the EIE, we presume this refers to having an onsite manager who lives in a caretaker dwelling. Experience from our members who currently manage properties that if built today, would be classified as BTR, is that having a physical and permanent presence onsite is neither necessary nor affordable. The guiding principle should be to ensure that the properties are managed in the interests of the tenants, have a robust maintenance regime, and that tenants have access to timely and responsive management should issues arise. This is best achieved through requiring providers to have clear and public management and maintenance plans and by allowing meaningful input from tenants into how a building operates and is curated. The need for onsite management should be reconsidered or at least restricted to larger development over 100 units.

In terms of parking, we support the position that these types of developments should have a lower requirement for parking, however there should be more flexibility for developments which occur in the **B2, B3 and B8 zones** in the Sydney Metropolitan area. These zones only apply to areas which are well serviced by mass transport. In many instances the provision of less than 0.5 parking space per dwelling should be permitted.

Flexibility should also be introduced at a local level to allow those local Councils that seek to encourage BTR to make it permissible in other zoning. Many LEP's do allow some form of residential development, such as serviced apartments, hotels, and co-living, in the **B5 and B6 zones** and in many circumstances these zones could also accommodate BTR.

We support in principle that these developments should be governed by the design guides set out in SEPP 65, but these should be further refined through future guidelines from the Department to ensure they are both relevant and not too restrictive. We do not support the suggestion the Council should be allowed to determine specific height and FSR limits for BTR developments, but rather these are determined in accordance with what the existing LEP allows. It is critical that the long-standing principle that a house is a house, regardless of its tenure or ownership, should apply so that the use as outlined in the LEP, stands regardless of tenure or ownership type. If given the opportunity, many Councils will use their LEP's to unnecessarily restrict BTR in the future.

Finally, there should be some flexibility on the length of tenure for rental agreements. Many renters will be reluctant to commit to a three-year contract and such long tenures often do not reflect what many people either want or need. While we understand the aim of the new policy is to provide greater certainty for renters, a three-year minimum will not work for many people and this may affect viability. We believe the intent of SEPP is best served by prohibiting rental agreements of less than one year.

Student Housing and Co-living

The Chamber supports the inclusion of definitions for new format housing typologies in the SEPP. In relation to Student Housing, the draft development standards suggested in the SEPP reflect existing best practice. However, there is scope to allow greater FSR beyond what is usually permitted within the Local Environment Plan. Because of the nature of Student Housing, which generates little traffic or other environmental impacts, there is scope for great density in many circumstances, particularly in outer metropolitan and regional areas. There should be capacity for those Councils that want to encourage student housing in their areas to make provision in the LEP for FSR bonuses.

In relation to Co-living, we support the draft development standards outlined in the SEPP.

However, we do think there should be some scope to reduce the parking requirements for Co-living developments in close proximity to major transport nodes, especially in the Eastern City. We are also concerned that there may be some overlap in the needs for a minimum amount of **Communal Living Space** and **Communal Open Space** and this should be clarified by the Department before the SEPP is adopted.

Proposed changes to the Boarding house provisions in the ARHSEPP:

The Chamber supports the changes outlined in the EIE in relation to Boarding Houses. This form of housing has been a point of strong community concern for some time and far out of proportion to the sector's contribution to overall housing supply. Facilitating BTR and Co living housing formats are better policy mechanisms for supplying flexible, for market rent, residential accommodation. We support the retention and encouragement of boarding house development only for non-market or sub-market rentals.

We do however believe that further information is needed before it is adopted. In particular, how are existing boarding houses to be treated as they come up for renewal or renovation? Without some form of grandfathering or preserving of existing use rights, many existing 'for profit' boarding houses could be lost as they will become unviable if they are required to comply with the new development standards.

Conclusion:

Notwithstanding some of the minor amendments suggested above, the Chamber supports the implementation of the new Housing SEPP. The establishment of a pathway for investment in and development of Build-to-Rent housing is critical as NSW emerges from the current health and economic crisis. Housing construction offers the potential to generate significant new employment growth while also providing much needed accommodation for our citizens. Importantly, these new housing formats will lead to the creation of a new asset class which will attract much needed investment from superannuation funds and institutional investors.

Should you have any questions about this submission or would like to discuss in more detail, please feel free to contact me at katherine.oregan@thechamber.com.au

Yours sincerely



Katherine O'Regan
Executive Director
Sydney Business Chamber

13 August 2020

Department of Planning, Industry and Environment

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

Re: Submission by Sydney Church of England Grammar School (Shore) on the Explanation of Intended Effect for a new Housing Diversity SEPP

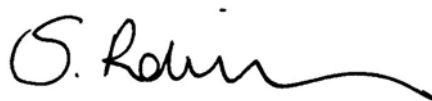
Dear Sir/Madam

On behalf of Sydney Church of England Grammar School (**Shore**), located on Blue Street at North Sydney, Robinson Urban Planning Pty Ltd (**RUP**) has reviewed the Explanation of Intended Effect for a new Housing Diversity SEPP.

It is noted that the Explanation of Intended Effect does not address savings provisions for the new Housing Diversity SEPP. It is Shore's view that the new SEPP should include a savings provision which states that if a development application or application for modification has been made before the commencement of the Policy and the application has not been finally determined before that commencement, the application must be determined as if this Policy had not commenced. In requesting this provision, it is noted that:

1. It is unfair to impose the new SEPP on any development application or application for modification that was prepared and lodged well before the commencement of the new SEPP given the time and cost associated with preparing development and modification applications;
2. Other contemporary SEPPs include savings provisions including the following:
 - (a) SEPP (Coastal Management) 2018
 - (b) SEPP (Vegetation in Non-Rural Areas) 2017
 - (c) SEPP (Educational Establishments and Child Care Facilities) 2017
 - (d) SEPP (Infrastructure) 2007; and
3. In the absence of a savings provision, there is a real risk that councils will delay determination of lawfully made applications so that they can be refused under the provisions of the new SEPP. This would be a deliberate and unfair manipulation of the law that could be readily prevented by the inclusion of a savings provision.

Yours sincerely



Sandra Robinson BTP (Hons) MPIA
Director

9 September 2020

Housing Policy Team

Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
Ph: 1300 305 695

Via NSW Planning Portal

RE: Housing Diversity SEPP Explanation of Intended Effect

Dear Sir or Madam,

Please find enclosed Sydney Water's commentary on the proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) which:

- Introduces new definitions for build-to-rent housing, student housing and co-living;
- Amends some state-level planning provisions, particularly for boarding house and seniors housing development;
- Amends some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (LAHC) on government-owned land; and
- Consolidates three housing-related SEPPs

Sydney Water has no objections to the Housing Diversity SEPP however we wish to raise two points for consideration in taking the SEPP forward.

Secondary dwellings greater than 60 sqm

Secondary dwellings currently over 60 sqm are referred to Sydney Water for assessment, as noted in our guidelines. These generally require a Building Plan Approval or Section 73 application to assess and connect. This can be particularly important in rural areas, where there are capacity constraints, especially where the proposed development sits within a Priority Sewerage Scheme (PSPs). Currently this mechanism is controlled via the Council's LEP and the SEPPs existing complying development clauses and we would ask that the amendments note these requirements to ensure that secondary dwellings above 60 sqm are still referred to Sydney Water and not processed via complying development.

NSW Land and Housing Corporation (LAHC) increase to development size under complying development

Sydney Water notes the proposal to enable LAHC to develop housing projects of up to 60 dwellings without Council approval, this being an increase from the previously agreed 20 dwellings.

The impact of sixty dwellings on existing water and wastewater services can be significant, especially in areas where other substantial growth is occurring. Whilst these applications for connection would come to Sydney Water under the Section 73 application process, in order to plan for services as effectively as possible, we would recommend that LAHC approaches Sydney Water in advance of the S73 process to advise of any development above the original 20 units to ensure that the development needs can be met. This should be done via contact with their account manager or via the feasibility process.

I hope this meets with your understanding. If you require any further information please do not hesitate to contact me directly on: kristine.leitch@sydneywater.com.au and 0439 042 522.

Yours sincerely

A handwritten signature in black ink, appearing to read "K. Leitch", enclosed within a large, loopy oval stroke.

Kristine Leitch

Growth Intelligence Manager, City Growth and Development